

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Prepared by Sue Hoffman

Dear reader,

About these notes

I was present at almost all of the trial and took extensive notes, most of which I typed up within a day or two of the note-taking. I've made only minor editing changes to the notes since then.

I take notes by writing down as accurately as I can exactly what is being said; if I can't get it all down, then I write down key phrases. So most of these notes are verbatim. Where they are not, ie I have reported on what happened, it should be self-evident.

The accuracy of my notes can be checked against the official court transcript should anyone want to do so, available at Brisbane Supreme Court.

Sue Hoffman
Perth WA
July 11th 2005

KD is Khaleed Daoed
AQ is Abu Quassey
MM is Maitham
MS is Maiser

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DAY ONE TUESDAY 17th May 2005

There was concern about the kind of publicity around the trial – to example this, the ABC interview with me was played in the courtroom before jury came in.

Judge to direct witnesses that the trial is about people-smuggling not the deaths.

Previous weeks' submission by counsel anticipated wide reporting of the trial, so what I said on radio wasn't a problem, more an example of what counsel was concerned about.

The deaths of 353 people not relevant to the case. The focus is on the organisation of the trip. Not how or why the deaths occurred.

The charges are that Khaleed aided in the commission of an offence committed by Abu Qassey, of bringing people illegally to Australia. Charge one relates to SIEV X and charge two to another vessel,

Prosecution's summary of the case

Both charges relate to involvement in people smuggling activities July to October 2001, in Indonesia, base for smuggling to Australia.

First carried 147 passengers and reached Christmas Island 4/8/01

Second carried 400+.

Each charge alleges KD assisted AQ.

All witnesses tell similar story of how they came to be in Indonesia in 2001.

Second Count SIEV X

Fourteen witnesses for SIEV X. AFP officer, 5 from Finland, 4 from New Zealand, others from Sydney, New Zealand.

Khaleed was born Kuwait 1967, and worked as a goldsmith in Baghdad. He had a wife and 4 kids.

Specifics of KD involvement in people-smuggling re SIEV X

- 1 Present at and participated in promotional meetings with prospective passengers, described the boat, held Q & A sessions.
- 2 Negotiated price and terms of travel; sometimes with Abu Qassey, with AQ and Maitham and his brother Maiser present, sometimes on his own
- 3 Receiving payments and with MM keeping records of payments
- 4 Provided information to passengers about the timing of departure
- 5 Assisted in transferring passages between places of accommodation
- 6 Re bus trips, KD assisted in boarding of passengers onto the buses
- 7 Accompanied passengers to Sumatra with AQ & MM
- 8 Collected passengers' mobile phones before bus journeys commenced
- 9 At hotel in Sumatra (last stop) gave instructions to passengers re embarkation
- 10 At point of embarkation, KD assisted to ferry them to SIEV X which was moored metres away

In Khaleed's interview with police; he was a refugee living in Sweden, arrested there and

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extradited to Australia. The video of his interview with AFP will be shown.

Khaleed gave his role as interpreting, that Abu Qassey's staff were Indonesian., that he Khaleed merely interpreted between staff and passengers. Khaleed said he had relatives in the group, he was there because of them to say goodbye to them. Crown said probably not referring to blood relatives but members of his Sabean Mandeian group ie the group that disembarked.

Second count Yambuk

Similar in style, smaller in scale to SIEV X charges - 147 passengers and Khaleed had lesser involvement – was on the bus trip accompanying passengers to the boat. He said he helped by calling out people's names – humanitarian help.

.....

Two charges, return guilty verdict if beyond reasonable doubt of defendant's guilt. Compelling evidence. Re witnesses, you will meet Iraqi refugees. A range of personalities, normal people who happen to have come from a troubled country.

NOT IN DISPUTE

- 1 Yambuk set sail for CI, 147 people, passengers not Australian citizens, no visas arrived CI 4/8/01
- 2 Early 18/10/01, SIEV X set sail for CI. Passengers not Australians, no visas. After 7 hours, 23 passengers disembarked. During journey, engines and water pump broke 3pm 19/10/2001. Majority drowned, 45 rescued, returned to Indonesia.

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WITNESS ONE

Sadeq Razaq Toullah Al Abodei (spelling as per his UN refugee document that he showed me later, DOB 1/7/75. His daughter's name spelt Kawthar Sadeq Razaq Al Abodei DOB 15/11/99)

(Youngish man, smartly dressed, well-groomed in conservative style. Very clear in his answers. One of Perth men says he comes from his home town Naseriya and knows of him, knows his relatives. Mr Al Abodei's wife died in SIEV X, he saved his daughter's life by carrying her on his shoulders)

Settled in Finland 2001
Born Iraq 1975, then to Iran

Destination Australia. People smugglers waiting at Malaysia airport to take them to Indonesia.

\$500 for him, wife and child for small boat from Malaysia to Indonesia.

The whole group arrested by police, spent about 40 days in detention then to Jakarta.

Wife and daughter, witness travelled with another Iraqi family.

In Jakarta went to IOM office, rented a hotel room referred by IOM.

Other Iraqis there? Y

Between US\$800 and US\$1000 per person, no charge for 2 year old daughter. Cousin with him and two friends. There was balance to pay of \$800. Money held by guarantor, it was paid to Khaleed before being allowed to board boat.

Passengers moved between hotels/villas – why? Khaleed said security reasons – someone had notified the police.

Up to the point you boarded the buses, had you contact with Abu Qassey? No we knew him through Khaleed. First time saw Abu Qassey at the coast when going to board the boat. Bus was crowded with youth standing. Buses started 12 midnight.

At night Indonesians came and said get ready, time to go. From hotel to where boat was leaving from, women and children first, husbands next then single people. Small bus. Abu Qassey, Khaleed, MAitham and Maiser all there.

How long from hotel to where small boat was? 5-10 minutes Small boat took 15-20, 25 or 30 people to big boat.

Could you see big boat from shore? No it was dark.

Abu Qassey at the hotel as people were leaving to go to the coast? I saw AQ in the hotel, then on small boat with Khaleed. Calling people to take up the anchor.

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Who was taking them on little boat to big boat? Indonesian people.

When you were taken to the big boat, describe it? Small boat moving with the waves, from small boat to big boat not easy. Not easy, not enough space. After 1- 2 hours, reached my wife, did not where they were seated.

Diagram of boat shown on video screen. Shows extra deck on top. That passengers inside the boat and below, in storage area.

Witness asked to explain further:

Inside boat, hard for people to breathe. People sitting on top of engine and on top of captains cabin. Top of captains cabin, roof covered with asphalt. Waves come in one side and out of the other as boat rolls.

At end of process of boarding “pull up anchor” did you see AQ again? No, it set sail then.

Witness then showed series of photos with Khaleed’s photo circled and he confirmed these had been shown to him by police some time ago.

.....
Then I think jury retired, discussion between counsel and judge around relevance of questioning re condition of the boat, not that on its own it indicates smuggling, but along with secrecy, fares etc, points to a smuggling operation. Two relevant states of mind, of the principal (AQ) and Khaleed. So need to describe enough about the whole venture to support state of mind. Description of boat to be limited to size, occupancy and similar – acknowledged difficulty with this matter, re sensitivities of the issue. Also interpreter speaking quickly, can jury pick it all up. Discussion about giving interpreter a break.

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DAY TWO WEDNESDAY 18th May 2005

X examination of Mr Al Abodei

You now live in Finland, you speak with other Finnish men?
After boat sank, you were brought back to Indonesia? People from UN who were asking questions from the group about what happened. Indonesians also asked questions.

UN representatives made arrangements for your accommodation in Indonesia after you were brought back to Indonesia, you stayed in Indonesia for some months, in that time, you spoke to others who had been on the boat about what happened, through UN you made application to go to Finland?

I didn't ask to go to Finland, the Finnish sent us an application.

Before you got on the boat, you knew you could apply through UN to go to another country, didn't you? Yes I had applied through UN

You knew that process was very slow? Yes

You knew that from talking to other refugees in Indonesia and other places didn't you?
Yes

You knew some people had waited years after making applications? Yes

That's why you wanted to look for a smuggler to take you to Australia? My only ambition was to go to Australia through UN but as so slow I wanted to go with other groups, yes.

After you went to Finland, some AFP visited you there didn't they? Y

And you spoke with AFP in April 2003? Yes

That time you knew that AFP wanted to speak with you about Khaleed? I didn't know he was going to talk about Khaleed, I knew they would talk about the boat.

Didn't you know the AFP wanted you to talk about Khaleed? You knew the police were looking to charge him with an offence re the boat? This happened in the second interview when they brought photos. They asked us questions about AQ and all the smugglers.

In the first interview, you knew they were interested in talking about Khaleed? They wanted explanation for the whole case, they asked about smugglers then they asked about Khaleed.

When you spoke to AFP, obviously using your memory to think back to 2001? Is that right? Yes

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You had no other written document to refer to, to help you? You mean my biography about what happened to me.

Did you have any notes or anything else to refer to? No, from my memory

When you were speaking with AFP, an interpreter? Yes

And what police officers did, they recorded a statement from what you told them, you saw that statement being prepared and written down in English? Yes

You don't speak English much do you? Correct

What languages when in Indonesia did you speak? Arabic, Farsi.

That means no English? I only speak bits for the market

In Indonesia you picked up the language? Yes

So in Indonesia you had the assistance of others to deal with Indonesian people? Used then to go to UN office, in city or go by myself.

Surely sometimes others who spoke some Indonesian would assist? It happens

Whilst in Indonesia, you made contact with other refugees and other Iraqis? Yes

These people, the refugees, tended to help each other? Yes

If you are with other people and having trouble talking to another Indonesian, another Iraqi may help you? Possible

Your statement in Finland, when it was recorded in English, interpreter read it through to you in your language? Yes

The statement was typed in English? Yes

At the end the interpreter read it through in your language? Yes

Explained to you that AFP wanted you to indicate that what was recorded was correctly recorded, one way was to sign the statement, it was correct? Yes I did that

That was explained to you, that signing means true and correct statement? Yes

The interpreter you had at that time spoke your language well? Yes she understands Arabic and English

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Questions about leaving Iraq and Iran, you went from Iraq to Iran, then decided to leave Iran, and try to come to Australia? Yes

You knew before leaving Iran that it might be possible to find people in Indonesia who might help you to Australia? My first aim to get to area and meet UN. The procedure is not what we had in mind, so decided on Australia.

Weren't you told in speaking to people in Iran that people could smuggle you from Iran to Malaysia to Indonesia? People in Iran told me I can go to Malaysia.

People who think about leaving talk between themselves and pass on information like names of smugglers? They talk about smugglers in Malaysia. When I went to Indonesia I heard about people smugglers in Indonesia.

You learnt about them talking to other refugees in Indonesia? What about when you were in Iran? You heard about ways to get to Australia? They talked about people smugglers but not about people in particular

When you left Iran, you knew you needed money for accommodation, transport and perhaps to pay people smugglers? Yes

You told us yesterday after you arrived in Malaysia, you made arrangements to go to Indonesia? And there was a group of 57 other people who went with you? Yes

Did you find your way into that group by talking to others within that group? Part of the people came with me from Iran, I met them at Iran airport, others I met in Indonesia, yes.

Surely before you got on boat from Malaysia to Indonesia, you talked to others about that? Yes

You would talk to other refugees that you met, what you have heard about this? What do you mean...

Wouldn't you speak to other refugees and ask questions like "what do you think about this proposal?"? In Malaysia? Yes

Even with your own people, refugees you discussed this didn't you? Of course

Ask questions like "have you heard of this particular person?", particular person meaning the smuggler? Maybe some people knew him, I didn't but they met us at the airport.

You told us yesterday, there were choices of people smuggler, many of them? Of course, present at airport

At some stage, you had to decide which one to choose? The group I was with decided, I went with them.

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Discussion between the group? Not long discussion, because some we knew from Iran we knew who was most suitable, so decision semi-final, part of the group heard that, others didn't

When you set out on this journey, you knew you needed to be careful who you dealt with, danger some might cheat you of your money? From the start we didn't trust any people smugglers.

I say that's why you discussed this with other people? You would speak with other refugees, Arabic people? We talked to them, smuggler came several times to hotel and we spoke money, and argue with them about this.

Sometimes other people in your group would say "I heard this about someone?" eg a particular smuggler was good, trustworthy? All the smugglers the same, not good –we were looking for most suitable re price to pay

Did you also want to know the people smuggler would get you to where you wanted to go? Its up to what he tells us, and he said he would take us to this particular place

You made arrangements to go from Malaysia to Indonesia?.....

(I've pages of notes of questions about negotiations, moving from hotels and villas etc, not typed. Jump to questions about the last place from where people bussed to coast – small boat – big boat)

Bus drivers Indonesian? Yes

Other Indonesians with the group when you were getting on the buses? Didn't see. There were the guards on the villas when we arrived.

What do you mean, guards on villas? Supervisors, workers there, no authority to say leave or stay.

When you were told to leave, and getting on the buses, did you get onto the bus early or late in the process? Maybe in last third of the people.

While you waiting to get on your bus, you can see who is there? The person you now know is AQ, did you see him near the buses at all? No

If he was there, you would have seen him, wouldn't you? Yes but if I saw him, it was crowded and it was dark.

You say no Indonesian men wearing uniforms? No

Later on in cross...

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AQ was at beach when people got onto boats? First time I saw him at hotel, then on small boat I saw him.

Were you on early or late boats, to get to big boat? I was in middle, first women and children then men.

You spoke of some kind of wireless AQ had? Indonesians there as you got on boat? Yes
Did some wear uniforms? I suspect uniforms and carrying guns, I saw one with a gun.

Do you remember towards end of trips getting people on small boats, some left and returned to shore? Yes

The small boat came back out to large boat, where you were? Yes

Were you able to see AQ on that boat? Not exactly but I heard his voice

Did someone call for anchor to be pulled up? I heard Khaleed's voice.

Boat ready to go but anchor not pulled? Yes boat far from beach.

Before that, did anyone ask from the boat if anyone wanted to get off? No-one asked – some people came to board, but no space so they went back.

Did you hear anyone ask if anyone else wanted to get off? No

Then excruciating Q & A about inconsistencies between AFP 2003 statement, committal hearing 2004 and current – mainly around how much, who it covered, when it was paid.
Witness maintained interpreter error or confusion

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WITNESS TWO second day after lunch

Karim Jabbar Hussein Al-Saaedy

Lives Finland, settled there 2002. Iraqi, born 1960, left for Iran in 1991

In 2001 was married with son and daughter

He and son left for Malaysia in 2001

He was taken through story of how he got to Indonesia, who he spoke with, how much was paid etc etc

`While you were at second set of villas in Cicanas, did you meet with Abu Qassey? Yes

Where? 7pm Maiman arrive, I went with my three friends to Elite Hotel Jakarta and met AQ who ordered breakfast and drinks for us.

Why did you and other men go to that meeting? We're representing the group, if all spoke we would not reach agreement. So we represented 140 to ask when boat would come and when the problem resolved.

Who else at this meeting? Introduced us to coastal officer in charge of guards in Sumatra. Maiman.

What was said? He assured us boat good. 18 metres long, 2 engines, 2 water pumps, very strong. And this officer in charge of the coast and Indonesian police is with us. We should leave soon, God willing.

More testimony re being moved to final accommodation nr coast then to coast, small boats, big boats

How did you know you had to leave at 10pm? Bus arrived, medium sized, another truck arrived – like those that carry fertilizer – they came, AQ, Maiser, myself, Indonesians arrived with armed police – because they were armed, no-one talked – people moved quickly, we took women and children first.

Who told you to leave hotel? AQ, KD, MM arrived, cars ready, they said get ready
Where did people wait their turn to get on the bus and truck? They said we will move people to a big building , boats there, there were carrying people, 13 to 14 people on little boat. Big boat 500 metres away, dark no-one could see big boat
How many people at a time in bus/truck? Took children and women first, bus medium sized, people taken quickly

Did you wait your turn to board bus or truck? Of course

They took women and children first? KD helping people to board the bus – the uniformed people were armed.

Did you get on bus or truck? Bus

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Did AQ, KD, MMM or police go on that journey? On you bus trip, who with you? KD
Where were you taken to at end of bus trip? We boarded the boats to get to big boat to
start the trip.

How ere people taken from shore to big boat? Same technique, women and children first
to big boat.

How? By small boat taking 15 people

Who was taking people with small boats? How many boats? 2 small boats, the area like a
marine, many boats

Was AQ and KD there? When I was on small boat. AQ take me to main boat.

When you were taken out to big boat, how big was it?

<The witness spoke rapidly in Arabic and broke down. Left witness box
Interpreter read out from her notes what he'd last said>

The boat was opposite to what they described. 9 metres long, 4 metres wide, too many
people, people confused. At that time, some jumped into the water. Khaleed and Abu
Qassey refused when people asked them – he hear me now – people wanted to go back
but they refused to let them do so.

Iraqi men in the public gallery told me he also said that passengers were forced onto the
boat at gunpoint.

ADJOURNED TILL NEXT DAY

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

DAY THREE Thursday 19th May 2005

Previous witness unable to resume

So Witness three, Raid Sabah Sharmookh

Lives in Sydney, born Iraq 1983, now 21 years old

(He was dressed smartly in suit, but his testimony was like getting blood out of a stone. And when he thought he was being asked stupid questions, mainly on cross, it came out in his voice. At times he behaved like you'd expect for a 21yr old who's fed up)

He said after being granted refugee status by UN, he waited 2years and 1 month and heard nothing about resettlement, so turned to people smugglers. He said it cost him \$500 or \$600, he can't remember.

Some excerpts from his testimony

At the coast, what did you see? On the beach we gathered there, there was a boat carry 20, take people to big boat. We were waiting in the queue, so each wait to go on the boat.

Did you see anything of Khaleed at this time? We were talking just normal, talk like a friend cos I knew him before as a friend.

See Maiman? At that time, no.

See AQ? No

What as the big boat like? Normal boat, another roof on it to take people inside and on top. Night it looked OK and when we saw it in the morning, condition was bad. Wooden boat.

When all boarded, was it crowded? Overcrowded – it was small could not carry all these people.

Could you walk around? No I was sitting on the roof.

Could you stretch your legs out? No, many people

This witness was part of group that got off....

How did you make contact with another boat to get off?

After set sail, 1am or 2am, we stayed till second day. Midday, waves were high 1- 2 metres. Captain said can't sail, we go to nearest island and wait there till waves get smaller. My group agreed we would leave boat as waves high and boat not strong. On island, fishermen, we asked them to take us back.

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Did you speak Indonesian at that point? Yes

Your group? Not religious group, group is people I talked to

Then cross examination by Defence

Of the 23 who got off, all Sabean? Yes

When you came to Australia? 2001, sixth month

Almost 4 years ago? No 2002, sixth month, I have been here 3 years.

Are you here on TPV? Yes 5 years visa

Is it your hope at end of the 5 years, the government will let you stay? I should have that at the start, I am UN refugee

Then many hours of excruciating Q and A, about his journey, the money, the deals; discrepancies between his AFP statement, testimony at committal hearing, current trial.

Witness said the AFP interview was from 1pm to 10 pm, part of his story was about a time he nearly drowned, he was hysterical, psychologically disturbed very tired.

Was he forced to sign the AFP statement? Why didn't he say he was tired and they should come back next day? (he would have been 18yrs old when AFP interviewed him)

Defence suggested that he never gave money to Khaleed.

About uniforms...

Were there Indonesians in Cicanas? Workers in the complex

Indonesians in uniform? Yes

Guards? Maybe at the entrance, 1 or 2

Were bus drivers Indonesians? Yes

Indonesians after hotel at the ferry? Few.

In uniform? Don't know

At the beach, Khaleed there? Yes I saw Khaleed there, having normal conversation with them

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Before big boat set sail, did you see some people get off big boat and go back to shore?
Yes

And some refuse to get on at all? Yes I think it was the last boat because they noticed it was full so they refused.

They were taken in back to small boat to shore? Yes

Then questions move to when the group of 23 had left SIEV X and paid a fisherman to return them to whence they came - the fisherman's boat was in trouble and the group between them had a mobile phone they hadn't handed in when mobiles were collected, allegedly by Khaleed, before leaving for the small boats.

This witness was used as spokesperson cos he'd picked up Indonesian. Counsel suggested that he'd told members of his group to give false names to police when they were later picked up to avoid detention – these false names were in fact names of relatives they knew had UN refugee status. Witness said it was a group decision, he didn't tell people to do that.

Then counsel suggested he's doing things as it might go better for him with Australian authorities. That when his TPV runs out, maybe government will let him stay permanently. He responded that's got nothing to do with it.

Fourth witness – Hadar Ata Essa Qeiaswand
Finland since Jan 2000, born Iraq 1969

Iraq to Iran in 1981

Prosecution took him to the point where he's arrived in Malaysia, took maybe 5 – 10 minutes.

What help did you get to get to Jakarta? An Indonesian girl arrived, she said from AQ's group and would take people to Jakarta. I had my 2 children and my wife.

Witness collapsed.

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Day 4 Friday 20th May 2005

Ali Ismail Kahrachman witness 5

Finland since Jan 2002, Born Iraq 1971, left for Iran when 9 years old,, flew to Malaysia in 2001

10.00am or so prosecution takes him through details of journey, payments, etc

...Who was taking people out on the beach, to the small boat? Khaleed, Maiman, another man and the Indonesians. They were contacting each other, clearing the way with apparatus....

Cross examination by defence starts 11.15am

Trying to establish that Iraqi refugees help each other, talk to each other, reliant on those that can speak Indonesian/English

AQ and Khaleed had a radio, wireless, I suggest that's not right, Khaleed did not have a radio? Khaleed used something similar to a wireless and a mobile

Then defence starts to attack witness about his memory...witness says some things he remembers, others he forgets. Then questioning returns to the beach...

You saw Indonesians on the beach with AQ, some of them in uniforms? Some of them similar to soldiers but not whole uniform, half of it.

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Still Friday day 5, witness 6

Moosa Dholdholi

Settled Finland 2002, born Iraq 1960m, went to Iran 1980, left Iran for Malaysia 2001

Went through how he made journey, similar tale as others told

They moved women and children first, then our turn. AQ there with ???? Indonesians there too. AQ had wireless.

Defence seemed to be pushing a line that this witness was assuming that Maiser was part of same group as Khaleed, that the witness dealt with Maiser and assumed Khaleed was involved – but had no first hand experience of that.

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Monday 23rd June 2005, start of week 2

Cross examination of Moosa Gholgholi continued

You knew you could reach UN representatives in Indonesia when you were there? Yes

It was possible wasn't it to make application through UN to be in Indonesia? Correct, people stay there 4 years, 2 years. That's why we wanted to come as quickly as possible

You were there in Indonesia illegally? All people staying there illegally.

Iraqis with UN approval didn't have to worry about being arrested? Correct

This line of questioning continued, to indicate that Iraqis illegally (ie not assessed as refugees by UN) in Indonesia relied upon Iraqis recognised by UN as refugees to do all sorts of errands around town. Khaleed was recognised as refugee by UN so in a position to help other Iraqis.

Generally, Iraqis there illegally in groups of 6 or 7 – one would do the shopping for the group to reduce risk of them all being picked up by police.

Questioning went for some time about fare paid – negotiated at \$300, but witness saying as he did to Crown that only \$200 was ever paid.

The onto his AFP statement made in Finland which said that he paid the balance of \$100 before boarding the boat. Moosa maintained error in statement.

He called out in English (up to this point he'd testified in Arabic, his English is not great) Why do you talk about \$100 – why not talk about 353 people died in the water?

Defence just ignored it and continued questioning about the \$100 and suggested that not only did he never pay the \$100, he never paid any money to KD and never made any arrangement with him.

Defence then said that Khaleed didn't give a description of the boat as having a strong engine as Moosa described in evidence to Crown. Moosa gave a lengthy response in Arabic. Interpreter started to translate

Who said that, did he say that? He denied it, of course he denies everything, maybe he denies 353 died...interpreter asked to stop translating, witness excused

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Hadar called to witness box (this is one of the men who collapsed)

In describing the time he saw Qassey, he said

He doesn't talk <with people>, he give speech like president. All his talk to glorify himself, I am best known people smuggler, all coastal guard, all police under my sovereignty.

What was your deal with him? I said to him my wife and two children are with me, young children. I ask about route, they will not be harmed, money does not worry me. At last we reach agreement to pay him US\$6600.

Then detailed Q and A about where they stayed, moving hotels and the like. Witness said there were Indonesian police and coastal guards on the beach for protection of travellers

Cross examination of Hadar started about 11.20am Monday morning

Q about getting on buses etc

Then a set of questions put to many of witnesses during X

You come here from Finland to give evidence? Yes

You've been here for some days with others from Finland? Y

You and others have spoken about court case and type of questions witnesses have been asked? Not at all

You haven't spoken to any of the others what it was like in the court room? Never because we are Muslims, committed and sworn to.

The back to his AFP statement, picking up on discrepancies between that and current testimony.

Counsel is saying at one point Hadar said he couldn't remember who issued specific instructions to separate women and kids from men, ready to board buses, other times he says it was Qassey who gave the instructions, other times Khaleed

I can't remember, 4 years, they prohibited us from leaving hotel or swimming in the sea. Of course Qassey gave instructions, he was responsible, the boss, first and last, head of the snake. These are minor things <exactly who said which sentence> the big issue is 450 (sic) killed, drowned. 4 years, no can't remember.

Counsel says – Or is it that he is only one who is here you can point your finger at?

Then about Indonesians at beach...

They were wearing police uniform

Two types of police, armed too.

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People moved from little boats to big boat (SIEV X)...

Did anyone unboard? He wouldn't allow anyone to unboard.

Who? Khaleed. He got out his gun and said if anyone leaves I will shoot.

That's just not true? Yes

Q and A continues for some time...

Hadar explains he travelled to Jakarta in a group of 31 people, that became known as group 31

Who was in that group?

My group – all of them died. And unfortunately I am still alive.

Counsel moved to next question – You saw AQ at the hotel? Etc etc

Lunch time

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Monday afternoon 23/5/2005

Came in late after lunch, the other man who collapsed is now on the stand

Describes his journey through Indonesia, making contact with people smugglers etc. He says that Maiser doing/saying things that previous witness attributed to Khaleed.

This witness also confirmed men on the beach who were police in uniform and carrying guns. He said he didn't see the man at the breakfast meeting that AQ had introduced as being in charge of coast guard.

As questions continue, the witness says Can I explain something, told yes and goes on to talk in Arabic.

Defendants interpreter writes down translation, defence team look at it, and through judge the witness' interpreter asked not to translate it to the whole court. No other Arabic speakers in court at the time.

Then later on...

You wanted to go to Australia? Yes

You're not letting what later occurred affect your recollection are you? I don't understand this question.

Is the way you are remembering and explaining this now affected by what happened to the boat? This is the truth

Then onto detailed Q & A about fare price, agreed at \$1000, and whether paid in \$200 or \$400 instalments and when these were made, went on for ages

Why did you not correct <AFP statement> when read back to you? This is not important, most important this accident took place, this man helped with this thing, this man committed an offence and killed 420 (sic) people

Judge addresses jury, we said at the outset this case involves a tragedy, must focus on the evidence that relates to the offence. As you consider evidence, you must focus on actual facts, occurrences, conversation – was there a meeting, money handed over. What the witness has just said does not fall into the category. Please put it out of your mind.

Q and A about witness' AFP statement continues.

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Tuesday 24th May

Cross continues from previous day (Mr Alsaedi) but not for very long, nitpicky stuff about his AFP statement.

Next witness

Guson Karim, Sabi living in NZ she got off boat as part of group of 23

Tall, vivacious, fiery, long dark hair dressed in smart leather jacket and jeans, (she knew Perth men's families well, played with their kids) Gave evidence in English with occasional assistance from interpreter

Born Iraq in 1978. Established how she made her way to Indonesia and linked up with people smugglers. In a hotel she overheard a conversation about the route and decided it was too risky, that possibility they would be arrested by police if they took that route. So she told MM she changed her mind who said he needed to discuss that with Khaleed. Decided first they would lock her up till boat left, then she cried and they agreed to take her back to Jakarta, but she had to keep quiet about it, and didn't get her money back

Cross examination

Was found to be refugee by UN but advised that as single person unlikely to be settled anywhere, got refused by Holland, so decided to try with people smugglers.

She got impatient with questions she was being asked, during questions about making contact with Khaleed and Maiser,

Ask what did he do to the people, what...I wish he die

Jury asked to leave, Judge spoke to her and asked her to restrict her answers to questions asked.

Jury back in.

Questioning continued for some time then they asked her

After the boat left, after the accident, did you see Bashir and Shahmood and Raed (of the group of 23 Sabi)? And talk about what happened? Y

Did you talk to anyone about what happened after the boat trip, did you discuss Khaleed's role? We talk about the people who are dead, not about Khaleed – we were very upset. Maybe did and maybe didn't.

Did you come to know a man called Sitar? Were others unhappy about your relationship with Sitar? My personal life none of your business, ask a real question.

Witness and jury asked to leave, when they were out counsel and judge discuss this –

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

question goes to possible reason behind discord between defendant and witness, if Khaleed confronted witness about her relationship with this man.
Risk that things could be said that would affect the whole case – ie she has much stronger reason to dislike the accused (the tragedy) than a personal relationship thing that happened long time before. Question is provocative.

Jury, witness brought back in.

You became upset with Khaleed and others about a relationship? He is not my father, my brother, he is nothing. That is my personal life.

Witness excused.

Tuesday 24th Amy, next witness starts at 12.25pm, Abdul Egsar, lives in NZ, born Iraq 1962, around 200 went to Iran, then 2001 flew to Malaysia, with hope to travel to Australia

Other Iraqis on Kuala Lumpur flight? Plane three quarter full Iraqis.

Who met you at airport? Abdul

Took him through journey across Malaysia to Indonesia

Do you know KD? When we came to Indonesia we knew smugglers and who work for him, he is right hand. Re the smuggler we see little of him but his right arm and his assistants are there

Where did you first see KD? Our hotel Wisma Palar

Did you hear him speak? Yes

Did you speak to him? Yes I talked to him, paid him money second meeting

Who was present first meeting? He was giving the talk and MM, would write down anything. Even his arrival was secret

How many at meeting? Room was small, too many people, number of people outside the room too. How strong the boat, three storey, praising the boat a lot.

Anything else? He would praise AQ

What boat did he refer to? Expired fishing boat they fix in some way. To prove that, when the accident happened, it was dismantled second day because of storm, the toilet...

Translator is interrupted

First meeting, did you speak to KD? No. He used to display like a salesman

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

What did you see? His display was talking about the boat and AQ. At the time, more than one smuggler

Did you speak with KD another occasion? Second time he came I had to pay \$800. I paid \$400 by hand and said to MM write down.

What talk with KD before you money? We agreed upon pay first half, then second half later. We had to pay money to Abu Ali.

Prie for you was? I paid 2 people, \$400 first instalment. But I didn't pay Abu Ali directly.

Did you pay the money second time you met KD or another time? Second time I paid him

Did you see record kept of your payment? Yes. This was illegal so I had to be accurate

Who kept record? MM Wrote down, he had record book

Where did payment occur? In hotel

Were you alone with KD, MM? No a group of people

Anyone else in the group making payment? More than one. One person had no money but they note his name down Because this person doesn't have any money, KD rang AQ. KD rang AQ and call him Haj, Taib Al Haj

Is that nickname or has meaning? Nickname, someone who is senior or old man or you work under him, like Haji - uncle.

Did you see others in room make payments also? Yes He would take money, MM would write down

Khaleed took mobile phones from us

What happened to money given to third person? We nominated him, KD nominated him. Money supposed to be handed over after arrival in Australia. KD said something happened, need money now

How did you know time had come to go on the bus? He came by himself as a group, now is the move, they call out names , 10 or 11pm it concluded about 3 or 4am

Khaleed called out names – MM reading names – KD would repeat because his voice was loud. Then when name called, would board the bus

How many travellers? 5 to 6 buses, crammed so much KD screaming 'put up with it' only a short period of travel

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

How long till the coast? Because buses were crowded, we tolerated it
As part of journey, did you go on ferry? Yes

How long it took onto ferry? Can't remember

Daylight? Night time

Got to ferry night time? No daylight We left at night, arrived during the day

More driving after the ferry? Yes

Do you know where in Indonesia you were taken to? No

Type of place? Close to coast

All stayed there? When we arrived there, they invite inside women and who had wives,
single men stayed outside

Who split you up that way? More than one, but person with loudest voice is Khaleed's
voice

How long you stay there? 3, 4, 5 days

Did KD stay there with travellers? The place like a secret thing, MM MS KD would hang
around

In these few days, did you see KD?

Where, what was he doing? He was busy, many people

What you see him do? Yes with his loud voice in the end when they move us to coast, he
was on eof them who arranged it

How did you know when time to move to coast? Who told you? Can't remember

Khaleed calling out in loud voice, what did you hear? With loud voice he say, calm
down. All of you will board boat, noone will stay

Because another incident happened with another people smuggler, Ahmed the
Indonesian, part of the group boarded, the others weren't allowed to. So we wanted to be
first to be sure we'd be on the boat. There were two cars outside, KD would call names,
people would board. Last time they ask women and children to leave first.

Had you seen AQ? Yes.

First time you saw him? Night you left hotel to go to beach did you see him then? Twice
in the hotel. First time, 2 armed people wit him, so I thought this is AQ. We were dealing
with KD

What time of day, hotel to coast? Night

What did you see, your turn came? They moved us with a group to the beach. When we
arrived KD arrived, another man with him, I don't know who he was.

How were people getting from beach to big boat? Small boat, 2 people boarded, 20 to 30
people barded boat, everything done discretely and quietly.

Who did you see on the small boat apart from travellers? Many faces

Did you see a small boat carry a group other than yours? Yes

How many groups? I imagine 3

Who took people out? Can't remember

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Time for your group to go small boat to big boat? Who else on the boat? There was big number

Who drove it? Don't know, it was very secretive. Boat driver was Indonesian

Was your group, beginning, middle, end? Last group, towards the end, say last quarter

By the time process finished, how crowded on big boat? When they moved us to big boat, I expected a bigger boat – no place to sit down. Opposite to what KD told us about the boat

What KD told you boat would be like? He didn't address me

What you heard from KD himself? In the middle of talking he said boat is strong, 3 storeys, life jackets available, food and water

Where were you when you heard this? In Wisma Palar Hotel

What was last you saw of AQ that night you boarded? Last thing was KD's voice he said, "Who wants to leave" and to prove that, there was a man on the upper storey, who jumped off and was rescued

Could you see KD or just her his voice? I saw KD, MM and AQ on the small boat

Last thing he said, God be with you, arrive safely

Where was small boat at this point in relation to big boat? Less than 20 metres, I can see them

After you heard KD say anyone want to get off, what happened? After that, your boat left? About 15 people got off and some didn't get off.

Did you see people leave big boat and go onto small boat? Yes. I met these people after we were rescued

Who wants to get off? If he wanted them to leave, more would have got off

Did small boat return? No

Cross examination by defence

You just said about 15 people got off? Yes

You're not just saying now, no time to get off, because of what later happened? What do you mean

The fact you had to be rescued from the water and returned to Indonesia? Don't understand.

The way people got on big boat, some people went back to shore on small boat? Yes

I suggest the little boat came out again to big boat? Yes

And AQ was in the little boat at that time? No on another boat

And KD in little boat as well? With AQ

They called out, KD called out, if anyone else wanted to get off? Yes KD called out

No one else got off at that time? People who were close to the boat got off. I was on the third storey, retarded person through his luggage but couldn't get off before boat sank.

400 people, each had point of view.

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

After 15 went back on little boat, did you hear others say they wanted to get off?

People in groups, each group had a representative, you not representative for your group, so much of what you heard was what you were told? So when you heard to move from hotel, your group got a message?

Do you have problems with your memory about all of these things that happened? What do you mean

Did you have difficulty remembering some of Wisma Palar Hotel? After the accident, because the names are strange to us, and places strange to us, I don't bother with names.

Strong memory lapse after being in hospital for some time after rescued and returned to Indonesia? Yes.

And you explained that was one reason why you couldn't remember hotel name? yes

And later you revised your case and could name the hotel? Yes

I expect that revising included speaking with others and asking if they remembered name of hotel? No Maybe if I was myself now I remember

Do you stay in contact with other survivors? No

Before you left Indonesia you would have had contact with others brought back after the tragedy? Yes they came and lived with us. All survivors went to Wisma Palar Hotel You could talk with them what happened in Indonesia and about getting on the boat and leaving? Normal

At that time, people spoke about blaming KD, as one person? KD was one person people spoke about in Indonesia? Yes

AQ another one? We didn't deal with AQ, the closer to us was KD

You knew the people smuggler was AQ? Yes but we dealt with KD not AQ

You saw and heard AQ give instructions at that hotel and down at the beach? Yes He was speaking, KD speaking, MM speaking too.

At the coast, Indonesians you saw, guards right? Yes

And when you went to get on the boat, many Indonesian-looking people there? Many, no

Were some Indonesian people you saw wearing uniforms? Yes

Are you sure you didn't see AQ at Wisma Palar Hotel? Yes

Did any of your group representatives talk to you about seeing AQ at Wisma Palar Hotel? No

People did talk about AQ at that hotel didn't they? In Iran we speak about all people smugglers including AQ, so how come in Indonesia we don't

So one of topics was that AQ had sent a boat that made it to Australia? I heard that from KD in first meeting. He was praising AQ

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Surely that was something Iraqi people in hotels were talking about themselves? Sure, normal

But you say also heard them from KD? Because I swore on Koran

You say there was some of the money paid to Abu Ali, you didn't pay money directly to Abu Ali? No

So you sent your share with representative from your group? So you sent your payment with someone else to be given to Abu Ali? We trust Iraqis, both sides nominated Abu Ali

Important to you to see record of what you paid? Yes

You say your real name wasn't written down? I put down Abu Muslim. Even when I went to Indonesia, I changed my name. Because I was scared of Saddam regime, I was worried about my family.

Its just not correct to say you paid money to KD? I gave him \$400m. Said to him to count it. And he said ask MM to record it. Record book was red in colour, many people present. KD opposite me, we were sitting on the floor

You don't have memory difficulties? Noone can forget that. Possible I forget name, but not this. If money lost, I am lost. Well known, if you have money OK, Of not, that's it.

In relation to earlier meeting mentioned, lots of people, small room, were you inside or outside of room? First meeting outside of room and the room was on the right when you climb the stairs

Could you hear what was said inside the room? KD speak, we all hear, we need KD

Did you hear other voices from the room? Yes

Did it sometimes happen that others outside the room repeated what was said inside? Not needed

You heard voices coming from inside the room, without seeing who was talking? No I can see KD

Can you be sure AQ was not in the room? No

I suggest you got it wrong saying that KD spoke about the boat, it was AQ? No it was KD. During that period I hadn't seen AQ. When I paid money, KD praised AQ

You referred to AQ as Haj? He spoke to him over the phone, Saeed Ahmed – he went on more than one boat. KD said he wouldn't resolve it, needed to speak with AQ.

Sometimes boats break down, authorities send them back to beach, sometimes dangerous to leave, sea is rough

Your reference to name Haj, not mentioned last year in committal hearing? Poble m not with Haj, but to resolve the problem

Did you just remember the reference to Haj? This is extra confirmation.

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

You didn't mention it before, last year or to AFP? I thought not necessary to affirm what I said.

Mobile phones at villas? Did you have one? No
Did you see phones being collected or did others tell you about it? I saw him collect them and he took Sayeb my friends phone, 5 to 7 mobiles and put them in a towel, he wanted to convince us to make it more secretive – nothing will be leaked

When you spoke about this before, you mentioned third person with KD when phones collected? Yes, his name was MS, not sure

Was it explained that other people wanted phones taken? At the time to be collected, did you say AQ say phones to be collected? We consider when KD speaks, it is AQ

Difficult to say now, what he said about phones being collected? No not difficult

What else was said apart from secrecy? When
When phones collected? He took the money, we were told by representatives
What were you told? He said other half of money will go to him

Its not right to say KD reading out list of names as you left to go to ferry? True, he was calling out names

Also not correct to say, to dividing up singles and families? Last stage, no names. Women and children in the front, men at the back
Didn't AQ organise that? Till now I don't see AQ
Did you know where to go because someone in your group told you where go? No

End of testimony

Next witness called, Mohamad Jowish, lives in Melbourne speaks some English. Was Yambuk passenger

Been in Australia since August 2001

Born Syria 1961, left to Syria for Jordan May 2001, plane to Jakarta. Travelled alone

He said "I forgot most of what happened to me then."

<I left at that point, no more notes for Tuesday 24th May>

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Wednesday 25th May 2005

Continuation from previous day, witness Mr Jowish, man living in Melbourne, Arab but not Iraqi.

You said you and group moved from hotel to tourist building for 10 days? 7pm on 10th day

<witness must have said that he'd changed his mind about going>

AQ came to his room with gun and said he would kill him, KD and MM stop him, hold him and take him outside.

In the end you want on the journey? Yes

At end of three days staying at hotel, how did you know time to go? When left room, went outside, AQ telling everyone to get ready, start moving. Got to beach by walk, hotel on the beach

Did you see KD after told you to get on the beach? Yes. Small boat on beach, 10 persons to big boat. KD was on the small boat, KD, MM, AQ accompany us on small boat to big boat, we all boarded the big boat to another place. KD MM AQ all got on the big boat. Boat was small, AQ was standing on a shelf. No spot to move. When it didn't work, took us to another beach and asked us to wait there.

Engine of boat didn't start first time, then started and stopped after 5 minutes. He said - move to another place, wait for another big boat. We stayed at beach - nothing there - we waited there.

Who waited apart from travellers? MM, AQ, KD, we all waited, next day about 3pm. 2 small boats came to that beach, take us to big boat. KD still there. Last time I saw him when we move from beach to big boat. I'd paid \$750 first. KD and MM didn't board the boat, AQ will follow you, but no-one followed us, no-one came.

Cross examination started at 10.30am

The time AQ came to you with gun, when he came to your room, he was angry, aggressive and shouted at you? KD and MM follow him into the room.

KD & MM helped by taking AQ away from you

When you arrived in Jakarta, an official made you pay \$200 bribe to get out? Yes

You arrived in Australia August 2001, 4 months after Dec 2001 you gave statement to AFP? You could remember events well then, fresh in your mind? Now your memory not so good? Four years <ago>

Is it your best recollection now that the person who came to the hotel, to say boat will be late, you think AQ? You do recall that AQ came to hotel to say boat will be late? Not sure for this one.

Do you think you could be mistaken when you say KD or MM? AQ I remember, I'm not

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

sure whether KD or MM

Do you read some English now, Mr Jowish? Yes

<Janet Sabba, the interpreter in may/june 2005 trial, interpreted for Mr Jowsih when he gave his AFP statement, but he can't remember its her, he just remembers its a woman>

In AFP statement, all about AQ? AFP never asked if I saw KD or not
Do you agree in other parts of your statement you mention KD? Maybe I was asked the question, for example did KD help you board the bus, so I said yes.

At that time, I don't know if KD smuggler or not, I know he help AQ. We knew KD was assisting AQ

At end of stay in hotel, you didn't think KD was helping AQ? Maybe helping him in another way, not as a smuggler. We knew later he helped him officially

At hotel in the mountains, were there Indonesians helping AQ? Yes
Were Indonesians helping with the buses? Yes
At the coast, Indonesians helping AQ? Yes
They did as AQ directed? Yes

You know a person called Alla Abdul Aziz Al Sadawi? As a passenger on the boat?
Maybe if I saw his picture

Now you can't remember his name? <interpreter repeats name with Arabic pronunciation>

Now I remember him as a passenger, wife and two daughters, wife a big lady

Do you remember KD helped her onto the boat, she was having trouble? Possible, can't remember

2 big boats, first boat broken, then another boat, 2nd boat, how did you board second big boat? 2 fishing boats took us to big boat. Different to the boats used previous day to get to first big boat that broke down.

Repay money in AQ, in instalments? cos the figure you had agreed to pay was \$1500?
Yes. some coming free, some paid much less.

Were you annoyed about this? Someone else apid \$3000, why I;m not happy, others didn't have the money

YOU still owed \$300 to AQ? did you discuss with AQ about \$300 you owed him? He said he would collect it later when we board the boat.

YOU didn't pay \$300 to AQ as he didn't come to the boat? Of course we were 15 people who owed money, as he didn't come, no-one paid

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

He came to villa at coast? Yes

Time to go to beach, he directed passengers to share? Yes

You saw him standing on mound on sand? Yes

So he was at the beach? I didn't say beach, I said he didn't come to second big boat

First boat was very small, people said, We won't travel on this, and engine broke down.

Second boat, plenty of food, and news got back to Indonesia that boat arrived safely

Next witness Wed 25th May Bashar Zabori, born Iraq 1973, now lives NZ, Sabi, one of the 23 who got off

He said Khaleed was his friend, not a people smuggler.

During cross

When you decided to get off the boat, were others on the boat saying your religion was dirty? Y

Some of the Muslim passengers said this? Y

Passengers saying that Sabi people were jinxing boat, with them on board it wouldn't arrive safely? Yes

Witness said he told people they wouldn't arrive, water pump didn't work, manual one didn't work. There was water in the boat, I told them it wasn't safe, better we go back and be arrested than die here

But Muslim passengers did not agree? Of course

This witness then quizzed about Shmaouks testimony, basically agreed with what Shamouk said

Wed, didn't attend court for afternoon session, during which next witness also Sabi started his evidence

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Thursday 26th May

Second Sabi witness was being cross examined

Towards the end he spoke about the area where the little boats were being boarded to get to the big boat, that there were Indonesians wearing army uniforms and with guns, other Indonesians in ordinary clothes, that a high fence was being guarded by police. He said he took photos, available on a CD, that he sent to Al Jazeera (Arabic media).

I left after that for a couple of hours, came back 12.15pm, a new witness was being sworn in, Salma, professional interpreter who lives in Sydney.

She travelled to Sweden June 2003 with AFP to assist in Khaleed interview.

This established and witness excused

New witness at 12.20pm, Haydar Ali Saeid, lives in Adelaide, Yambuk, didn't stay for his evidence.

After he finished Andrew Wharton AFP officer started his testimony, showed tapes of Khaleed's interview with him

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Friday 27th May.

Continue viewing tapes of Khaleed interview

Khaleed refers to the incident.

What is the incident? Of the ship, I heard from people and seen on TV and in newspaper, that the boat sunk, that 45 survivors. He said he didn't know why, that he had nothing to do with it. It was to do with Qassey

Suspicion I'd been working with AQ and Indonesian government wanted myself and MM, I haven't done anything. If I had done anything, I would have run away.

When did you first see the boat? On the day the passengers, same as passengers.
Only time you saw the boat? Yes

Did AQ pay you money? N
Did you work for him? N

You said you helped with certain people in that group? I didn't say I was helping, I was helping on a humanitarian basis. I wasn't helping AQ

What were you doing to help the people? So that they would not be taken for a ride, or lose money. I was helping my relatives because all passengers would have someone they trust.

How many relatives? Only one

Of all the people on the boat, how many would you have spoken to? Some hello and things like that. They ask what does this Indonesian person want

Did you negotiate price with people? Their agreement is with AQ directly

Did you ever negotiate price with anyone to travel to Australia? Just to help reduce the price. Because I am Iraqi and a refugee and a long time in Indonesia, other refugees ask em to push AQ to reduce the price

Did you travel with people? Yes with relatives, my relative and 22 people Sabeen who survived the accident

What languages does AQ speak? Arabic, Indonesian

Why would he need for you to speak to passengers in Arabic? He wasn't in same area

AQ put refugees in hotel, I was in different hotel. I didn't want to be in hotel with refugees who were to be smuggled in case of trouble with police

I was in same hotel as AQ who had a suite and paid for me and MM to have a room

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

This was so he keep an eye on us, so we wouldn't leak information to police

Did AQ have a gun when the boat left? I don't think so but some Indonesian police had automatic guns, small guns

Did you have a gun? No

Did you tell people to get on the boat? Yes this was the help I gave, Indonesian AQ staff couldn't understand, passengers didn't know what to do

Do you think what AQ was doing was wrong, against Australian law? Wrong all over the world

Condition of boat? Not my job to look at condition of boat

Did you take mobile phones off passengers? Yes. Not me personally, AQ Indonesian staff could not understand passengers, they asked me to interpret, that AQ wanted people's phones for secrecy

Did anyone force you to help I this? No one can force me to help

Did you think people on boat had lawful right to go to Australia? Did any passengers have visas to go to Australia? Did you ever ask this? I have no need to know. Did any passengers have permission from Australian government to go to Australia? I don't have the right to ask. Where did you think it was travelling to? Christmas Island, everyone knows this

The boat please describe it to me? Wooden boat, 15-20 metres, I had nothing to do with it, I had no income or financial interest in this

Did you think by interpreting, you were helping people to go to Australia unlawfully? I had nothing to do with this

Did you think that was illegal? Of course

Did you think that by interpreting, you also did something illegal? Khaleed, interpreter or not, they would have made themselves understood

How did you find out about boat had sunk? Newspapers

How long after boat sunk were you in prison? Why do you think you were in prison? 45 people who survived thought I helped AQ and from UN and police investigations. If UN thought I was people smuggler they would cancel my refugee status

What happened to your relative on the boat? He's dead

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

KHaleed asked if he travelled with passengers as they were moved between hotels/villas. I went with car that suits me, I didn't need to go on bus

Myself, MM and others in same car

Why did MM go? He guaranteed money of relative who were passengers, I went because I was concerned about MM

Sabis, what happened to them? The boat left in the morning, according to what they said when they came back. I told you passengers leave because they wanted to leave

Sabi work in gold – do not need to launder money – we feel its profane to take money, we don't care much about money, these 22 people do not pay attention to dollars paid, they pay attention to life

I stayed with Sabi when they returned to Indonesia.

How long after they returned did you hear about sinking? 2 days.

Who told you? Lots of telephone calls, internet, news travels very fast

Why only Sabo got off the boat? Good luck. People who did not get on boat were not Sabi <he's referring to small number who refused to board boat initially and were returned to shore>, religion had nothing to do with it

When you heard the boat had sunk, did AQ contact? Nothing to do with that
You and MM must have discussed it? MM lives same place. Mandeans want money back, they contacted AQ for their money back.

Who did return the money? Guarantor returned the money

After the boat left, last time you saw AQ? When 50% money returned. Guarantor rang MM and myself, we went together to place AQ decided, we gave him money and left. Cash. We didn't see money but think US\$s

What did you do after boat sunk? Just went on with my life but I was sad, nothing to do with me

Did you try and help survivors? Yes

What did you do? I tried to put AQ to return some of the money, by telephone

Did you visit survivors? Why not? For sure be angry with me

Why? Just bad luck, they believe I am one of helpers of AQ

Weren't you worried about your relative? Did you go and try and find him? I told you in seconds, the names of these people were known – the 5 of our sect all died.

Did you ever receive any benefit for receiving money? Expenses like taxi, few rupiahs
How reimbursed? AQ

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Did you pay and get him to pay you back? What sort of expenses would you be reimbursed for? If I spend 100 rupiah from my pocket, I took it from the money

How many times? Long time ago, I can't remember.

I hear one person paid gold, that person said she gave you gold jewellery, earrings, bangles to pay for the journey?

People thought I was helping AQ, before the incident it didn't bother me, but after – if you lose someone dear to you, you want to take revenge

Various witnesses say you forced people to get on the boat, and had a gun to force them, that was your job? No I don't have a job, only to say goodbye to relative

ADJOURNED TILL MONDAY

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

WEEK THREE

Monday 30th May 2005

Playing of AFP interview video held off – two more witnesses, both count one

12.45 – AFP tapes resume, soon move to count one ie Yambuk.

AFP officer Andrew Warton excused as tapes finish

Jury asked to leave

Crown ready to close its case

Defence has outstanding matter, being concerns about translation during AFP interview.

Basically agreed that time needed to review tapes, so jury recalled and told to be back 2pm next day (Tuesday)

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Tuesday 31st May 2pm

Defence advised a number of corrections in translation, Crown agrees a schedule be provided to jury to be looked at in conjunction with the transcript they have of AFP interview. (No indication that any were of major significance)

Jury back

The schedule explained to them

Jury dismissed at 2.15pm

Submission by defence that no case to answer on count 1, discussion ensues between counsel and judge re 'intent', 'aiding', accessory based on UK and Australian decisions, this went on for rest of afternoon

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Wednesday 1st June

Judge rules there is a case to answer on count 1 (Yambuk).

Sufficient that accessory provides assistance knowing the offence will be committed even if he doesn't want the offence committed

Jury in at 10.20am

Defence says defendant has elected to give evidence – not his obligation to prove his innocence, it is Crown's obligation to prove their case

For next hour, defence tells us what Khaleed will tell the court, so straight to Khaleed's testimony, he takes the stand at 11.15am and answers questions from defence

Born Kuwait 1967, grew up there with parents and one sister, one parent Iraqi
Went to school between 5 and 18 years old, worked 3 years in pharmaceutical company in Kuwait

Saddam invaded Kuwait, we were forced to leave and went to Iraq, me, my parents, sister and my wife just pregnant. Married 1989 or 1990

Children

1st pregnancy twin daughters, Samara and Tamara
3 years later. 3rd daughter Tara, then a boy born 1996

Went to live in Basra in south Iraq, mainly Shia. I am not Muslim, I am Sabi, John the Baptist, minority group in Iraq and around the world

Later moved to Baghdad, as a result of harassment by Shia including assassination attempts, especially re Sabi from Kuwait. Shia believe they are rich.

I went with wife and kids, sister and parents. We sold Basra house and with that money rent house then bought shop for me and shop for my dad, and lived in the shops. I bought jewellery shop, Sabi are goldsmith and my father's shop repair cars and generators

Difficult life decide to leave Iraq, many reasons

Harassment from society by Shia to Sabi

Persecution from Saddam of all people

Discussion that all people from Kuwait should leave Iraq

My mother and father died

People came to my shop to sell gold/jewellery (I didn't follow this story but basically he purchased what turned out to be stolen jewellery, and found himself caught between two high ranking officials)

So forced to leave with family, sell business and run. Went to Jordan, travelled with

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

neighbour Athir also Sabi

We find that Sabi went to Australia. In Jordan, smuggler named Abu Raad, heard about him in Baghdad. Myself and Athir flew out of Jordan to Malaysia, Kuala Lumpur

Met with many Iraqi Sabi

Stayed in KL 3 days, met Ayad then left Malaysia as a group on a boat

I learnt English in school 10 years ago and try to befriend boat driver, give him food

We were arrested, refugees taken into custody

We don't know what to do

We were detained as a group for 6 months, we had handed our papers over to smugglers

UN contacted, me and person called Bushra plus dictionary, we contact UN say we need help. People get bitten by insects, allergies and rashes so I go to hospital with people

many times

UN send a person from church to assist

IOM knew I took people to UN, hospitals, my English start to improve

All of our group got refugee status – 31 Sabi and two Muslims

Meant we could be sent to 3rd country and our residence in Indonesia is now legal. IOM

took us from detention in Sumatra, Tangem Bali, to Jakarta, 3 day journey

Then you lived in Jakarta, became aware of other Iraqi refugees? Yes we are all refugees and talk with each other

Did you realise some of the people you talk with did not have refugee status in

Indonesia? Yes of course we talk about everything

How you know about people smugglers? We meet in Jakarta, UN building about three klms from MacDonalds. After UN interview we go to MacDonalds, airconditioned, juice and ice cream cheap

We talk about where to live, cheap food, because we have no job, just wait for interview

Ahmed the Indonesian and other people smugglers stay in MacDonalds and offer

icecream to refugees

I heard of AQ as a smuggler but not aware he sent a boat yet. In Jakarta we hear from

refugee that AQ has a boat reach Australia – through the internet

In Jakarta, in the beginning we lived all 31 in a hotel. Then to another area in Jakarta, no a house with many bedrooms, with me was Athir, Maithem (MM) wife, daughter Maiser (MS) and a couple of other families. Another house close by, other Sabi including Ghooson Karem (GK – she is the fiery witness)

We support ourselves from payment from UN US\$50 pm

Each group of refugees try to rent big house and share it with as many people so we can manage.

To buy food, person who knows English, Indonesian, but we go together as a group

GK, she is part of Sabi group, When we were in detention she tried to build a relationship with Sitar a Sabi

We believe if not under the eye of family and society, not correct. She said she had fiancé in Jordan, so not correct

Whole group including women did not accept her behaviour

It is my duty to like her and protect her, she is a woman

Myself, Athir, Sayeed, Abu Nashwan, as older people in the group had private

conversation with her while we transferred from Sumatra to Jakarta

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

We hear Jakarta is open city, if she need anything, I will help her. I am concerned about reputation of Sabi. Spoke to Sitar, the man involved, of course, must speak to both parties GK reaction, she thought we interfered. We consider it protection not interference.

Whilst in Jakarta, we apply to go to any democratic country, freedom for future for self my family. Told to wait, wait, wait, 2 and a half years

We are all refugees we talk to people we talk to UN, we know some are planning to travel by people smugglers

We get very frustrated by UN and their promises

Alla and his family decide to use smugglers and talk with me about it. Alla try to contact AQ and agreed to meet with him. I went with Alla as support, he is a friend, and we didn't know Cipanas and he doesn't speak English

Alla asked me to go with him as company

We went to Cipanas and met AQ

Between Alla and AQ, nothing to do with me. I sit at table, 3rd person, make joke – I do not take part in talk about price, that's between refugee and smuggler

They agree about \$400. Alla said he lost about \$10,000 with Abu Raad, and others have same experience

Alla does not trust smugglers and will put money to guarantor – small amount to stay with Khaleed. I said I am Khaleed, I am refugee.

Alla argued <with AQ> his daughters attached to Khaleed, and as Sabi very close, I want Khaleed to be my guarantor and farewell me at the beach.

Alla, wife and two daughters were to travel

I moved from Jakarta to Cisarua, cheap rent, cooler and to join Alla. It contains most of UN refugees, Athir, MM, MS, Marwon and others and we share a house.

After meeting AQ in the bar, did you see him again? Saw him next on the buses between Cisarua and Cipanas. I just stood with Alla and his family

There was a group of Sabi, Alla introduced these people to me, I didn't know them before I stood till buses started to move, Alla and his family, I moved as well

Did you go to Sumatra hotel? AQ took refugees there, I travelled on buses with refugee with Alla on green mini bus

AQ came in his landcruiser, spoke to his Indonesian staff not to refugees

Because I understand a bit of Indonesian, I understand a bit of what he said

At end of bus trip, you went to hotel? People went to their rooms, I stayed with Alla in the day, at night I sleep in hotel, AQ rented in that hotel, I get room for myself

I stayed there 2-3 days.

AQ bought cartons and got youth to move them, and I helped, cartons for journey, food and drink.

Did you think you were helping AQ? Never I had nothing to do with him. I help refugee, my friend and relatives

Some people ask em what AQ say and I tell them

Even when Indonesian speak, people ask me what they say and I tell them

Indonesian call Arabic name, doesn't pronounce it properly. I realise the correct name and say to people, this is for you. Other refugees do similar

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

AQ came and say time now, one or two days, time to pray. This spread quickly through refugees.

Group went to beach area, walking distance. I went with Alla and family to beach. I didn't help AQ, but fat lady, old man, a person with bad leg, yes I help, all refugees do that.

Boat that went to Australia, I didn't see it, didn't go to it

He started engine of boat, on and off. People started to ask about the boat that it won't get to Australia, small boat came and took broken boat away. From night till early morning, we slept where we were.

I don't ask AQ, I ask Indonesian, I don't approach AQ, I'm like refugee

AQ's assistants are there around

Everyone else eventually got on another boat, people started to move food. I stayed on beach area, didn't go on the boat. AQ shake my hand and say goodbye

I make my way back to Cisarua. I ask assistant or AQ how to get back and maybe they give me a lift. There are others who come to say goodbye to travellers

I got back with AQ to be under his eyes, need to keep area safe, he took me and other refugees who'd been there to say goodbye

Me, MM, an Afghani, AQ's driver and an Indonesian in AQs landcruiser

Back in Cisarua we hear from internet and news, that boat has arrived

A refugee in Australia ring other refugee, we saw photo of Alla and Sayeed, so in Indonesia they know boat arrived – and 30 minutes all news spread to all refugees

When Athir hear that Alla arrive safe with AQ, he said I will go too

I told him no, you are UN refugee, be patient, the route is dangerous, you cannot swim

Athir said he would contact AQ – his decision

I would help him as I help others, he is my dearest friend

He contact AQ by phone, Athir has no money

Price is \$300, Athir says I have only \$150 – he asked me to negotiate. For Alla, wife and 2 kids, he took \$400, so me for \$150 why not? So we decide to talk to AQ. AQ agreed

\$150 and gold ring from Athir

Athir waited for a boat to Australia

In that time, AQ asked me to help an Iraqi family find accommodation. During that time, many boats to Australia vis different people smugglers. News spread and a wave of people smugglers from Iran to Jakarta, Cisarua got very crowded

Did you travel with other refugees to meet AQ? For smuggling, no

Did you see AQ in hotels speaking to groups of people? Yes

Did you help people with transport, like mini bus, taxis? For smuggling, no

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Did you attend meetings when AQ addressed refugees? To deal with refugees, yes. We have nothing to do, we hear AQ is coming to this area, MM, Marwon, MS, Athir, myself and others – many refugees we go and sit with passengers. We sit and hear what they are saying. This is normal conversation, we all talk, and hear about it

Did you ever see AQ at Wisma Palar Hotel? Yes. I was at home, phone call from MS MM or Athir and he said, Khaleed come with us. AQ is coming. With him is Rami, a passenger. We saw Rami sitting with him in the car. We went to meeting just to listen

Did you ever negotiate amount that AQ would charge people to go on the boat? Never
Did you see MM receive money from refugees? Or record names in a book? No
Defence asks about an incident between refugees and neighbours, and beer bottles thrown in gardens. KD says he was asked to help sort it as he spoke English and Indonesian that's all

About collecting mobile phones, he said AQ Indonesian assistants were getting angry that refugees didn't understand what they wanted so he translated and helped refugees
Did you interpret for some people what the Indonesians said about mobiles? Did you do that to help AQ? No I have nothing to do with AQ and his group
If they want to collect mobile phones up to them
If they want to give mobiles, up to them

Now to when buses were leaving Cipanas? I was with Adir, he call me on the phone
Did you see AQ at the villas? I saw him
Did he have other people with him? Yes
Any in uniforms? In Cipanas, no, only employee of hotel in uniform
Did you see refugees get onto buses? AQ arrived and buses arrived as well
When people got onto buses? I was there, all refugee passengers there. Refugees who were not going to board wait in different area off to the side
AQ started to read the names – when he got tired, he passes list on – to refugee, hotel employee – and asked them to read. MM, MS, Marwon, Afghani, if he speak Arabic, anyone
I didn't take list, I am with Athir
Did you repeat names that were read out? No need for that, people listen carefully, not a big area
GK, her name read out? I don't know, she was on eof passengers, a Sabi in our group
She is a single woman, young, as part of our culture, I look out for her. She came crying to me – I am more concerned about her than Athir. She said she didn't want to go, I told her if you don't want to travel, noone can force you – she went to AQ and told him
Did you speak to AQ about that? No
When buses full, you on them, what did you do then? I supposed to go with Athir.
Because GK refused to go, I stayed with her, a culture thing, I cannot accept she go back by herself. I left villas and went with GK. AQ said he's take her home – I couldn't accept that, he is a stranger to her.
Myself, GK, MM, AQ and Indonesian <travel together>, MS on bus with Athir
That is why I was in AQ car, to escort GK

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

I don't know AQ, that's why I went with him although I should be with Athir at this time. I had no choice, buses had gone, I had to go with AQ to be with Athir

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Thursday June 2nd 2005

Khaleed continues his evidence

The last hotel on the beach, how long there? 2 days

Did you stay there? I was with Athir and refugees, only when time to go to bed I went to other hotel, next door, a room with MM

Who paid for it? Not me, AQ pay for all accommodation for passengers and refugee, and I amongst them, only when I need to sleep, I go to other hotel, cheap hotel

Did AQ speak to you about going to other hotel? Usually AQ tell people who are not going to travel – to keep eye on them

AQ knows we have UN ID and so we can go out and AQ has fear about us – maybe we will tell police, damage his plan for trip. So he likes to keep an eye on us

During daytime you were with Athir and other refugees? Yes

Did you ever leave the hotel area? Maybe for shopping for myself and Athir, maybe 5 minutes, and sometimes with employee of hotel

Hotel where passengers stayed, did you see AQ there during these few days? He is always coming and going - his passengers.

Did you speak with AQ when the boat would leave? No I swear on God, that is up to him, he decide that.

Did you speak with travellers about what was happening? We talk 24 hours about that, anyone hear any news – not myself go to AQ – what we hear, myself and other refugees – if we hear something we tell other refugees

Events that led up to passengers leaving hotel to go to beach?

We were in the hotel next door, we hear time to move – we went to hotel <where travellers are> I just heard words, I stay with Athir. AQ came it was indication that tome has come, people prepared themselves. AQ gave instructions who go first, last. Refugees who are single should go last, I was with them. Families in the front

I hear bus and trucks arrive. In my way, to go to Athir, say get ready, AQ is here, this is normal thing to do

I was in back of hotel with Athir, I didn't hear in the front of hotel, I didn't see names read out "Go to the truck" that is all

Did you go to the beach area? With Athir and with refugee passengers. We went to bus, from hotel to beach, 5 to 10 minutes, night time through a gate, you can see beach and a building, and boats on the sand and in the water

Did you see any Indonesian people you'd seen at the hotel? Yes and additional - I cannot be sure they are same people on hotel and beach, as appearance of Indonesians is similar Uniforms? Lots

With weapons? Most of them

AQ at the beach? Obviously

Don't know if AQ had a weapon, I saw him, I did not see a weapon

Radio or wireless? Yes he always carry mobile and I saw something like wireless. But I have no right to ask him. All I have to do is farewell Athir. How can I ask him when people in uniform carry weapon.

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

You carry weapon or radio? My mobile has card only for Jakarta

At hotel were you in room with AQ when he went to toilet? Did you go into a bedroom with AQ, he went to the toilet and you held radio and wireless? I don't think I involved in something like that...he has own bodyguard

Back to beach...after seeing the boats, what happened? Reach beach, before us many groups already there. Some already from small to big boat. We saw a queue. I stand next to Athir, talking to him sometimes, sometimes with other refugees. I don't have to stay in queue as I'm not going on the boat. Sometimes I sit on the sand, or piece of wood or box. Then Athir turn, I hold his hand and went with him to boat and got in small boat. I went with Athir.

When you went onto small boat, groups of passengers and Athir on the boat? When it left to go to big boat, other passengers left on beach? No my intention to stay with Athir as long as possible so I think I was at the end. AQ, his assistant, people in uniform stay on the beach.

Where MM? Don't know, too many Sabi, talking with them.

What happened when small boat arrived at big boat? Night time, waves, boat moving, I hold Athir hand when he went to big boat. Normal also, I see woman, I help her. I stay talking to Athir. "Be careful you don't know swimming" Some refugees didn't want to travel – I have nothing to do with that – all my responsibility is Athir. Refugees who don't want to speak better Indonesian than me. I have no authority

Driver of small boat started to move, taking some passengers back to beach? Yes
<as small boat returning to beach> Calls from big boat? Yes "I want to go back, I want to go back"

According to my ethic, I must tell AQ that some people want to go back, AQ is on the beach

Even people who return from big boat told him that.

We all told him people want to go back

He said , come with me. Others busy with luggage, children, I went with him back to big boat. On small boat is AQ, Indonesians and MM who is worried about me and to farewell others last time.

Did small boat go near big boat? Attached between boats

What happened? AQ gave instruction that big boat should start to move – we hear noise but boat doesn't move. Its normal that MM, myself who were on the beach but now on small boat, call other people "Goodbye, goodbye". We hear AQ shout "That's enough, pull nanchor, pull anchor"

Because my voice is bigger than that, we hear people on beach farewell their relatives. I shout "Pull the anchor"

Anything else said about people wanting to get off? I was busy with Athir – I hear

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

passengers say “We fix everything”

After the boat start to move off, you came back to beach on small boat? Immediately we went back.

Then you find your way to Cisarua? Correct, back to house I live in, with AQ in the car – I was comfortable Athir was OK. Because I was guarantor of Athir I want to give AQ money back. Others who went back, stayed on bus. AQ say “Come with me”, some Indonesians were there too. He gave us a lift to the city. He said “Come with me, my car is empty and you on my way”

Do you recall if you threw luggage onto big boat from small boat? Whys hould I do that, each has responsibility for his own, even Athir, <who is> most important <to me>. I help people go to big boat, elderly women, children

At Cipanas, did you speak to people about the journey and look at map where to go?
Never happened like that

Did you ever go to Jakarta airport to meet people on behalf of AQ? Only went to airport to go to Sweden

You became guarantor for Alla, after that boat left, you paid money to AQ? That’s normal, all the guarantors, that is the agreement

Do you recall Mr Jowish describing an incident where AQ argue with him at last hotel? I remember that, all in the room, rooms in the shape of square, when we heard loud argument and check what is happening. We heard noise from bedroom, we consider all people are friends. I went with MM, Alla, Salim, we went to room, there were people who stay there, we have no rights to interfere, we just watch

When argument get big, we get closer, if argument get bad we interfere

AQ pulled a weapon, we cannot just watch

Some people too Jowish to one side. AQ near door, we pulled AQ outside

I am not assistant, just to prevent problem happening. Just a natural human being

Questions then to clarify that KD didn’t travel with AQ an earlier time, that he’d got mixed up with questions during AFP interview

Back to Cisarua after 2nd boat left, did you hear that 2nd boat sank? After 2- 3 days

Did you hear people including Athir had died? Yes

Did you hear things about there being a local interest in what happened? Yes, not only local, internationally

Did you hear AQ’s name? All media and newspapers

Did you hear your name? Never not TV, newspaper, media

Did you continue to have contact with UN in Jakarta? Yes as usual.

After some time you hear Marwon taken into custody? We went to UN to ask why, MM and me.

You speak to UN? Yes with supervisor, Tony from US. They like me there as I help

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

people in hospitals and many areas

On his advice you went to authorities to be questioned about what happened? Yes
He explained to me because they took Marwon, some of 45 survivors mentioned MM, MS, Marwon, Athir a passenger as well, only the Sabi – we only people who were mentioned

Did you understand this could affect your application to go to another country? If they clear we had involvement in that, UN investigation completed and no-one can have doubt in their decision

You went to Indonesian police to be questioned about it? I was under supervision of UN
Did they ask you about AQ? That name? No, Motaz. He show me photo, I say this is AQ
Were you then held in custody for 3-4 months? Yes
Released and then told accepted for Sweden.

You were not charged? No

Your travel to Sweden arranged over next two months, Yes I live normal life, my name is clean

After about 8 months in Sweden, you awake one morning to find police in your apartment, kept in custody some weeks, then 12/6/03 interviewed by AFP officers, then extradited to Australia, then through court proceedings leading to today? Yes

Defence finished, Mr Rice starts X for Crown

Spoke a lot of MM? Man of solid build? No normal my body build is stronger than him
He looks 25-30, is that right? Yes

By the time of bus trip, not true to say you had only spoken with AQ only once? That is correct. I have no relationship with AQ

You met with AQ several months prior to last trip? No

In reality, by the time of Alla's trip, you knew AQ well and AQ knew you well? I knew AQ through Alla when he met with him for agreement

Night of Alla's bus trip, where were you when Alla rang you? In my home

What time he ring? Don't remember after sunset, early night, maybe 7 or 8pm

Did you go that place? Yes to buses.

Did you travel there yourself? With MM

So MM at home with you when Alla rang? Don't remember

Whether at home or not, you and MM went together? I'm not sure where he was

Did you go together? I think that's what happened

How long to get there? 15-20 minutes

Who was there when you got there? We saw buses, refugees, AQ, Alla and his wife

How long after that did buses leave? Short period or hours? Medium time

In fact buses didn't leave till well after midnight? I didn't check time

Did you stay at place where buses were, from where you were to when they left? Yes

You had been out in the course of that night collecting passengers to go to the buses? I don't collect them, how can I

You arrived at the buses with a group of travellers? No I went in journey in a van

Prior to leaving on buses, you helped a range of people? No

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Did you pay for bus trip, the one you went on with Alla? No I was like other refugees

You say you only went to farewell Alla? I swear to God only

MM went too? Just as a wellwisher like you? Exactly like me, and other refugees to farewell their relatives

You mentioned an Afghani man in that category? Did MM have a person of special interest like Alla was to you? I believe a Sabi person called Salam with his family

Other wellwishers in that category? Not sure about that

If there were, they would be left on the beach after the others went on the boat? Sure, others left on the beach. Because its daytime, normal, anyone who wants to go back, can go back.

You did travel in AQ's car, Alla's trip? No

MM also travelled with you and AQ in the landcruiser? I was in the green van, MM in the bus with Salim. I didn't see him in AQ car

Did you pay for your room at Sumatra? No. I am like other refugees and passengers. AQ paid for that room? He paid for all hotel and my room.

Who did you stay with in your room? MM, no-one else, small room. Just four sleeping.

You said single people stayed in rooms big enough for 7 or 8 people? Correct

You and MM stayed in a room by yourselves? Yes small room

Incident with Mohamad Jowish, caused concern amongst passengers? For the people who were there, not the ones in their rooms – most families, women did not come

Mohamad known as Mohamad the Syrian? I did not know before but in the hotel, because we sit altogether night time, we talk. And the beach behind the hotel, we go for walk.

Did you learn they were concerned AQ had pulled a gun on Jowish and threatened to kill him? Not aware

Did you not hear talk about the incident? Among the people I mix with, Sabi, they didn't talk about it.

You were present during that altercation? Myself, other passengers and MM and Alla and Maher

Cause of disagreement – Mohamad the Syrian had decided he didn't want to travel?

Don't know, between him and AQ, I'm not involved in that

What you heard? Shouting, shouting, shouting, you, you, you

You can't remember? I swear God, I don't hear I have no interest, only that no problem Sumatra Hotel, you gave groups of people instructions? I am always in the hotel

You would go to groups of people. Give information about when boats would leave?

Nothing I do like that

Various things you said yesterday like distribute life jackets, get food for the group, carry food to beach, small ways you made arrangements for trip? Nothing happened like that

You were with AQ when he was telling people to get ready, time to leave hotel? I was among passengers and Indonesians

On eof the things you did was help load some of the food for big boat, onto the small boat? Nothing happened in that way

You went on the small boat out to first boat that was broken to wave goodbye to Alla?

Yes

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Wasn't until everyone had boarded, that it turned out a problem with the engine? My mission with Alla finish, I didn't know he wasn't at last stage

After all had boarded boat, it was found a problem with engine? Yes. After all had boarded? Yes

<next is confusing part where Khaleed asked to find location of hotel on a map, inconclusive>

After boat broke down, you and passengers wait on beach, they become agitated, didn't they? Not that sort of agitated, each say, why, why, why, each ask the other – in the nature of human being

They ask you? No, no nothing happened. Normal questions, yes

I suggest others did ask you, and you asked AQ about the matter? Nothing happened

I understand you correctly yesterday, you made your arrangements to return to Cisurua after everyone had left? I didn't make arrangement – me, MM, and Afghani He said my car is empty, you can come

First time AQ offered you return trip? Yes

Isn't it true you were present on the buses, at the hotel, on the boat, by arrangement with AQ to help him out with whatever he needed doing? In the bus, on the boat, in the hotel, I was there by arrangement with Alla, I am ready to swear on any book you suggest

You were going around hotels in Cisurua, speaking to groups of people, praising AQ and trying to recruit passengers? No

You knew shortly after Alla's boat trip, AQ was starting to organise another? I don't know, I hear like other refugees who hear that. Any smuggler organise a trip, news spread quickly

Memory jogger? You went to hotel, you spoke to a group of 15 -20 people, you told people you worked for AQ who was preparing a boat for another trip? Nothing happened, all the people if Arabic speaking or not, they don't need person like AQ to tell them that, they know from each other.

Didn't you tell refugees they'd be charged \$800 to \$1000 each? Nothing happened.

You went on another occasion to Bali Hotel to speak to group of 50 to 70 to tell them how good Ali is, the best smuggler, to try and recruit passengers? Nothing happened

Similar instances to these two examples? Nothing happened. If I go to Hotel Bali, because its mentioned by UN.

Bali Hotel one place you knew recently arrived people from Middle East would come to stay? They can go here from Jakarta

You made many deals with passengers for a place in boat that Athir travelled on? I swear on God I have nothing to do with all this arrangement. I check my memory very well. I knew the refugees, I knew the group. All the information, they have already in Iran, they more intelligent than me. They don't have to come to Khaleed, a normal person and a refugee

You told people at hotel, they need to pay deposit to secure a spot? Nothing happened. As they mentioned, they cannot trust smuggler

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Radd Shamoukh, member of Sabi group? Y

He came to your house, you and he discussed him taking a place on AQ's trip and you agreed to accept \$600? Agreement about money, travel, NO. Coming to my house, that always happens. We meet together in street, market, in that context, yes

You told Raad Shamoukh you were AQ's middle man "whatever he wants, I will get"?
No. He knows me very well, that I help refugees, in hospitals, in UN.

Karim Al Saedi, you met him in cafe in Jakarta, how much it cost him and son to go on AQ's boat? Cafe 3 to 4 klms from UN office, we all meet there, sit there, if I see you look Arabic, i come and talk to you eg where is cheap area, where is cheap food.

You saw him give evidence - did you remember him? I can't remember.

You made a deal with so many people, you can't remember them? No deals, no deals, no deals

Did you know many people who did make deals, paid deposits, and gave balance to guarantor? Talk goes around we all hear that. For example, Salim a Sabi - guarantor, others I don't know them

Before bus trip, you went around to many travellers and insisted balance left with gaurantor be paid? No, agreement between, AQ, guarantor and refugees

Did you say "we need money to buy food for the trip, or journey cannot take place?" No thats just talk

Many people gave you money for their place on boat that sunk? They give to guarantors they knew

Raad Shamoukh gave you money? Nothing happened

Gosoon Karim gave you money? No, she is a relative and I worry about her, but I don't interfere in her future

A few more hours of testimony, now jump to address by defence

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Friday 3rd June

Defence address to jury on behalf of client

In our system of criminal justice, fundamental principle is accused person is presumed to be innocent

Other party has to prove their allegations, and proved to a high standard, ie beyond reasonable doubt

No obligation for defendant to go in witness box, and subject himself to cross examination

Jury has benefit of his evidence to assess along with rest of evidence, nit his job to prove his innocence, jury has also see the AFP video

There needs to be linkage in what Khaleed did and his intention, to purpose of AQ. To explain, the boat trip could not happen without the passengers involvement but its difficult to contend that each passenger is aiding in AQ's offence of bringing 5 or more people to Australia. Consider the position of the passengers and extend that to a person who was helping the passengers, such as a guarantor or trusted person. Or Khaleed's position in assisting passengers, is different to aiding AQ in his purpose.

Defence then went to give examples where witnesses statements indicated Khaleed had done something, but under cross, it emeegred someone had told them about it, ie they hadn't see it with own eyes. But just a couple of examples, none of huge significance in themselves - and the message seemed to be, maybe this has happened other times. And generally to invoke a sense of not being able to trust the evidence. In counsel's words "worthless testimony, should be disregarded"

He then brought jury's attention to inconsistencies between witnesses, and for individual witnesses, between their AFP statement, committal hearing and current trial Whereas Khaleed;s explanations have been consistent throughout.

He gave examples where translation errors had occurred eg Formerly instead of for me too, And that where doubt about what was said or meant, benefit of the doubt should go to his client

Defence then said

In judging evidence of this group of people, take into account their life experiences

their hardships, all have endured as refugees

their environment in Indonesia, living together

the trauma they are exposed to, including - not to dwell on it - what happened on the second boat

and different religious denominations, Sabi on the one hand and Christian on the other, that Sabi jinxing the boat, SIEV X

Not wanting to appeal to feelings of sympathy towards people but yardstick against

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

which to measure evidence

With SIEV X, some aspects of the evidence coloured by discussion after the event, or trauma of what occurred

Cultural ways of expression, not a reason to put aside or explain away generalisations, inconsistencies

Credibility issues, can you accept crown witnesses as honest and reliable

You may decide that witnesses claiming he was involved in collecting fares for the trip, many people repeat this allegation but inconsistencies between them
Witness after witness, commonality between them, such a recurring feature - has it come out of them discussing the matter themselves

Defence then goes to discuss individual witnesses

Eg Mr Alsaedi, previously testified that agreed a price of \$1000, that he made an initial payment of \$400 to MM, in presence of Khaleed, and that final payment of \$550 was paid in last villa in Cipanas to MM with Khaleed present

However in cross, it came out that in his AFP statement, he made payments of \$200 and \$800.

Also, Mr Alsaedi testified that at a breakfast meeting with AQ, a man was introduced as being in charge of coastguard, and that he didn't see this man at the beach. In his AFP statement, he said he had seen him at the beach. Did he or didn't he see the coastguard man?

Eg Mr Gholgholi whose fare was \$300, he paid \$200 and owed \$100. He testified he never paid the \$100. This contradicted his AFP statement wher he said he did pay the \$100. Both times he says he dealt directly with Khaleed but can he be relied upon.

When challenged about this, he became emotional. "Why ask about this, why not ask other questions, why not ask about the people who are dead?"
Can you rely on this witness, was he responding as someone would who was caught out.

Defence gave similar examples about Mr Salman, Mr Karachman, Mr Qaisand, Mr Egsar, Mr Yousef, Mr Shamoukh, Gooson Karim.

Eg Gooson

She said she made deal with AQ, and told her account of how she paid money to Khaleed
<he then read from transcript>

I explained I only jave \$200 and am refugee, and he accepted that I could pay him and he would get me on the next trip

He said Khaleed or MM would ring me and I would go with them

Did you know them? Yes

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

After 3 days, Khaleed rang me and asked me to be ready in 5 minutes, van at end of road.
Van at end of road with three men in there

Where did he take you to? Cipanas from Cisuara

You started to live in Cisuara, did you speak to Khaleed that night, give him money? Yes \$100, then after other \$100

First \$100 in the van, second \$100 in the villa? I already told you I gave \$100 in the van and \$100 in the villa

<Defence continues> she made emotional outburst, not to get caught up in the emotion, might raise a question in you as to whether she is a reliable witness

She was asked about Sitar <the man she was too friendly with> and how she reacted, refusing to answer the question, in fact getting upset. Helps to assess her and her evidence against Khaleed, she might have some antipathy towards Khaleed

She was also challenged about how payments were made, previously she'd said 2 x \$100 notes in the van. She explained this by saying that she hadn't been asked that question previously, exactly where payments had been made.

Witness says AFP didn't ask her certain questions so certain things did not emerge. Defence is saying she is trying to wriggle out of inconsistencies.

Are these concerns that impeach her credibility?

Rice for the crown started at 3.10pm on Friday

Review evidence with you but first preliminary observations

Each charge says aided and abetted AQ in an offence. AQ did commit both offences, and Khaleed acknowledged knowing the illegality of what AQ did

Aiding has no special meaning in law, as in every day language, means helping, assisting

Two components, physical, ie done something, and mental, intention to participate

You need to be satisfied of some form of intentional assistance - don't have to accept all of what Crown is saying to find Khaleed guilty

It's possible to have an intention to assist with people smuggling operation AND have a regard for an individual passenger or group of passengers, eg Athir was a close friend, but helping him doesn't preclude intention to assist in people smuggling operation

Now to witnesses and matter of credibility

You saw each witness for a long time, most cross examined at length over minute details
Gave you good opportunity to assess whether witnesses told lies

Someone in this case has been telling lies. Crown witnesses, protracted opportunity to assess them. Not one would have any cause to doubt them, there were no liars in that

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

group. You saw how seriously the Muslim witnesses considered taking an oath on the Koran

Could a person be wrong or mistaken over a small detail? Of course

Most of the trial taken up while defence tried to show inconsistencies -most of the time, the exercise fell flat

Efforts through cross focussed on matters of inconsequential detail

Gosoon Karim, inconsistency a reason to reject her evidence? eg how many people in the van not important, what was important was that she was collected at all
Raed Shamoukh, did he pay money at or before buses at Cipanas, what was important was that he paid money at all

Moosa Gholgholi, the deal was for \$300, about the \$100 - important thing was the deal was made and money paid

Some inconsistencies are not

Gosoon explained clearly that she was asked by AFP how many smugglers in the van she said one, Khaleed was alone. When asked at another time how many in the van, she said three. ie three men, still only one smuggler. Inconsistency NO, miscommunication, YES

What gets written down depends on what questions are asked, many explained small discrepancies by saying they weren't asked that particular question before.
AFP statements in English depend on translator. Even good ones, you get the sense of the answer, rather than perfect grammar. Easy to understand but matters of fine detail get lost

About witnesses having statements read back <AFP statements written in English, at end of interview the interpreter reads them back in Arabic, translating as s/he goes, and witness signs them as true and correct, but wouldn't know if interpreter made a mistake>

For example, Sharmoukh told us his interview started at 1pm and finished at 11pm, 10 hours. He was tired, down - some of his interview covered a time he thought he would drown. During cross he insisted "I'm telling you the truth now, it was written down wrongly before"

Reading back statements, identifying mistakes, depends on translator and how well the witness can concentrate, after 10 hours. One statement is 33 typed pages, if mistakes not picked up, its not surprising.

Its not the detail that matters, its the theme of the evidence, day to day basis, leading up to departure, Khaleed was the one they were dealing with.

They may over the years forget small details, what you can rely on is their honesty and what they tell you about who they paid their money to.

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Now to go through evidence for count 2, summarising according to type of activity as referred to by Crown when trial opened

1 Promotional meetings with prospective passengers

<Rice reminds us of 5 witnesses who spoke of such meetings, and a concise summary of what they said>

1st witness spoke of meeting in upstairs room, 15-20 people heard KD say he worked on behalf of AQ, and they'd need \$800 to \$1000 each

Egsar spoke of meeting in a room, 15-20 people, that KD spoke about the boat, how strong it would be and about AQ

Salman spoke about larger group, 50-70, how KD praised AQ

Haydar Qaisand spoke of group 60-70, that AQ met with this group, speaking from a higher place, spoke like a president with KD and MM at his side

2 Negotiating prices

<Rice gives concise description of 7 witnesses who negotiated prices direct with Khaleed>

3 Receipt of money

<he summarises the accounts of 9 witnesses who said they paid money to in or in presence of KD>

4 Providing info to passengers

<instances cited by 6 witnesses>

5 assistance in moving passengers between accommodation

<instances cited by 8 witnesses>

6 boarding of passengers, names read off a list by KD and/or MM

<every witness nominated KD as participant in this activity>

7 escorting of passengers on bus trip to Sumatra

mentioned by only two passengers, makes sense as passengers told to stay in buses and keep curtains drawn

Monday 6th June

John Rice continuing summing up for Crown

8 Collection of mobile phones

<3 witnesses mentioned this, and in AFP interview, Khaleed said he was involved in collecting phones, interpreting/helping as AQ's staff Indonesian>

9 Last hotel in Sumatra, nr beach, assisting transfer of passengers, boarding bus

<10 witnesses spoke of KD involvement in speaking to groups of passengers about when

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

to go and other arrangements ,and with MM involved in calling names for people to board buses>

10 On the beach, ferrying passengers small boat to big boat

<4 witnesses spoke about this, not all did but it took many hours as people moved in batches – some at hotel, some in buses, some on the beach, some in the small boat, some on the big boat all at the same time,>

Conflict in witness' evidence re the last stage

Al Saidi and Qaisand said no offer for people to get off the boat.

Egsar said he heard KD say “who wants to leave, who wants to get off”

Can't resolve this contradiction, but recognise it doesn't mean witnesses unreliable – it was dark, 400+ people crowded onto the boat, families separated from their men. Point of maximum emotional turmoil at that point of embarkation

A few observations about KDs main claims at being present

- a bystander who was interested in farewelling relatives
- for humanitarian help to refugees

Relatives, he includes Sabi passengers. Three Sabi testified

Gosoon – said he collected her, she heard him call to people to get ready, MM discussed with KD about her not wanting to go, “KD said he'd lock me in room till trip would be completed. After I cried, he gave me choices. Me a relative, girl on my own, no money, 3a.m.”

Raed Sharmoukh – also Sabi – made deal with KD. Raed said KD told him he was AQ's middle man “Whatever AQ wants, I will do it”

Sharmoukh said he forgot KDs name at AFP interview initially – they had another name for him – the mediator

Shabari – another Sabi – he nominated KD a number of times as participating in people smuggling activities

KD travelled to Cipanas in AQs vehicle, he gave reason as Gosoon's protector

And in hotel, KD and MM shared a room paid for by AQ whereas others like Athir slept outside

Easy to dismiss notion that only there to farewell relatives

No witness indicated there were Indonesians struggling to give instructions, and KD helped or intervened. Weight of evidence suggests otherwise

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

YAMBUK

Rice's suggesting that preparation for 2nd trip hot on heels of first.

First count, evidence did not suggest KD was as involved, played a less prominent role.

KD emerges at the end phase of passenger movement.

Number of events, circumstances, from which you'd conclude AQ involved.

Men arrived with vehicles, KD seen arriving with a group of passengers – proposition is that he went around collecting them.

Mr Jowish said KD helped everyone go on the buses

Story about 1 of 2 buses getting a flat tyre and that KD was the person who passed on the info

KD & AQ in the same vehicle together was not challenged. Only contested by KD in evidence later

Mr Saed asked about number of people in the car when bus had flat tyre, he saw AQ and KD

KD & MM shared a room together at hotel

Jowish talked about examples of KD talking to various groups of passengers, giving info

Alatafi observed that KD brought food for travellers

Alatiwi saw KD bring food and water for the boats, and AQ and KD put food and water in the boat

Jowish said he saw KD help people board the small boat

When passengers finished boarding, AQ and KD boarded the boat, engine started and stopped, so people taken to a beach where they stayed till next afternoon and a second boat brought

Only two categories of people present – travellers and staff

AQ angry because he scared of police, so people spoke to KD who said another boat would come soon

After this, Khaleed returned to Cisuarua with AQ and MM

No mention of other people

Innocent explanation? Farewell Alla and his family

You'd need to reject/doubt evidence of collecting passengers AND being there to farewell Alla

Also means AQ happy to have non-paying customers and in fact to pay for hotel, bus etc, hanging around. Would AQ want non-travellers around, security concerns?

If you're going to farewell someone, would you embark on a trip of this type or just say goodbye at his home, or his hotel or on the beach?

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

If merely to farewell, why go out to the boat, board the boat?

And no arrangement made to go home so has to ask AQ?

Doesn't have the ring of truth about it. You have to conclude KD was on the staff

AQs role – self promoting himself as best people smuggler, touting for business

John Rice then went on to describe AQs role to establish himself as the organiser of people smuggler operation and not concerned if they have visas etc

Rice concludes

Case obviously involves great sadness – but can't make decisions based on sympathy or prejudice – or like or dislike witnesses – decisions to be reached on basis of evidence – part of what makes us a civilised society

Evidence in this case well and truly justifies a guilty verdict on each count, bring it in.

11.40am Judges summing up

Two offences – aided in commission of offence against law of Commonwealth

Judge to ensure trial is conducted according to law

Jury to judge facts of case, what evidence to accept, what not to accept

Your verdict must be unanimous

What is evidence eg exhibits,

Not evidence – exclude anything you've learnt or heard outside the courtroom

Comments, questions by lawyers not evidence

Take into account lawyers arguments, how much you accept is up to you

Some evidence directly proves eg I saw I heard

Exhibits, documents can directly prove

You can draw inferences, conclusion from facts

Eg if A happened, then B happened (if its wet its been raining)

Must be reasonable inferences, ie not intuition or guessing

If two inferences go for the one that benefits the defendant

Burden of proof on prosecution

No burden on defence – assumed innocence

Prove beyond reasonable doubt that guilty.

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Dismiss all feelings of sympathy or prejudice – no emotion

I witnesses versions differ, could be innocently mistaken but wrong Could be wrong on some things but not others. Question of your judgement.

General considerations –

How they present

Most not used to giving evidence

Witness and opportunity of witnesses to see hear and know

Previous times witnesses gave accounts

You have evidence in form of video tapes, transcripts of video tapes. You must accept accuracy of interpreters translation and you can only act upon English translation

Mr Rice said defendant told lies – you as jury have to decide about that. However telling lie is not evidence of guilt

Consider each charge separately, verdict must be unanimous

Prosecution laid out a number of ??? – you don't have to arrive at same place through the same route – but end result must be the same

Defendant does not have to give evidence but chose to do so, does not mean he has to prove his innocence. About defence evidence –

- 1) defence evidence credible, reliable and answers prosecution case
- 2) defendants evidence not convincing but leaves you in position of reasonable doubt
- 3) defence evidence unconvincing, does not mean guilty – go back to prosecution evidence

Each charge has several elements

Prosecution must prove that AQ committed the offence (otherwise cannot convict aiding him) even though AQ not on trial

AQ reckless in organising people smuggling

Its admitted that group of 147 brought to Australia. Did AQ do this?

Organise, ordinary meaning – coordinate or manage activities

If satisfied AQ did this, can consider elements of offence

- did they have visas
- whilst AQ organised he was recklessly indifferent as to whether passengers had right to come to Australia

Then did defendant aid in committing an offence

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Concept of aiding

- physical element, some act performed by defendant and mere presence is not enough

Consider only what witnesses saw and heard, no hearsay.

What witnesses hears from someone else cannot be tested or examined

- mental element – prosecution must prove things about defendant’s state of mind, that defendant knew of offence by AQ

Prosecution must then prove defendant knew AQ was organising groups of 5 people or more, who are not Australian citizens, did not have visas etc

AQ reckless as to whether they had visas

No visas and not Australian, admitted facts, not disputed

Prosecution must prove intention on part of defendant, that he wanted to assist AQ.

Element of intention and important element

Prosecution argues KD worked with AQ

Defence argues he assists venture or process

Doesn’t have to prove his motive just his intention

Above relates to first charge

Now to second charge, organised proposed entry to Australia, reckless as to whether have legal right to enter

Terms of this charge different, group did not arrive

That difference not significant in your considerations

If you are not satisfied AQ committed the offence, then you must acquit defendant

Summary of rival contentions

Defence arguments

- defendant must be shown to have aided AQ
- difference to having objective or desire that people arrive here
- a proper distinction to make
- that he did not work for AQ, was not a participant
- evidence by witnesses, has been gone through by defence

Mr Long spoke, witness by witness, of inconsistencies – these were significant, against

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

earlier statements or between witnesses

Defence argues, no explanation for inconsistency

Defence says inconsistency and difference in matters of detail goes to whether you accept the evidence as a whole, credibility and reliability of that witness

If inconsistency, eg about money, can you accept that money paid at all?

If an outburst, would that be that witness is uneasy when pressed upon a matter about which s/he not sure?

Witness added to previous version to make story more convincing

Careful & thorough cross examination and explanation of it gone through by defence.

Need to distinguish evidence ie not hearsay, under cross some examples of this revealed, whereas previously it wasn't apparent evidence was hearsay

Defence counsel – essence of their case is that defendant's assistance was not to assist AQ but to assist group members

Defence submission also pointed to, there is an explanation that occurs to you between consistency across witnesses – they've had opportunity to speak amongst themselves, and when they first returned to Indonesia.

The defendant's presence explained by having time on his hands, there was a distinct community of Iraqi refugees in Indonesia. So his behaviour can be reasonably explained given the unusual circumstance in which the defendant found himself.

Prosecution case

Mr Rice told everyone on Friday that defendant not charged with being AQ 2nd in command

That defendant has some particular place in hierarchy

Can further argue – if in fact you felt defendant wanted to help Athir, that would not preclude assisting in the operation

Re inconsistencies, Mr Rice said reasonably explained in a way that's consistent with the evidence – that some inconsistencies are trivial and should not cause you concern. And re events at beach and boat, the circumstances there could explain inconsistencies.

Particulars can be summarised

- 1) Attendance or participation by defendant at meetings
- 2) Negotiation
- 3) Receiving money
- 4) PR role with passengers, provision of information

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

- 5) Assisting transfer of passengers place to place
- 6) Boarding of passengers
- 7) Escort them to Sumatra
- 8) Collecting phones
- 9) Gave instructions on beach area
- 10) Involved in ferrying people beach to boat

Prosecution contends that defendant did these things, proof is in the evidence

Mr Rice also addressed count 1, collection of passengers

Any person present was either passenger or traveller

Defence says, third possibility, that there to farewell

Summing up concluded just before 1pm

Monday evening at 8.15pm, redirection

<everyone except jury called back into courtroom; judge, defence, prosecution, Khaleed, interpreters. Reporters who were hanging around came back in, and me. Judge discusses jury's question with barristers>

Question from jury, not essential to be answered tonight

Judge asked counsel if they could agree on passage to which question refers, concerns Abdul Egsar's evidence, how much he paid when and where.

Counsel agreed which parts of evidence to read from transcript to jury.

Jury brought in

Judge addresses jury, explains that both counsel have agreed which passages to be read out. Passages read out, then we all went home till next day

A I paid \$800, \$400 by hand and said to MM write down

Q What talk with KD?

A We agreed pay first half, then second half later

Q Price?

A I paid for two people, \$400 the half. \$400 to Abu Ali

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Q Did you pay money second time you met KD?

A Payment made in Hotel Wisma Palar

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Tuesday 7th June

Jury continued deliberations

Late afternoon, jury has another question, so all back into court (except for jury).

Judge back in court at 16.50, spoke with counsel about note from jury concerning something translated from AFP interview that wasn't relied upon by Crown as part of their case.

The passage in question had the potential to mean that KD was given a house to live in by AQ, but problem with translation so unclear.

Rice said he couldn't identify what the jury is asking

Judge said, up to them what they make of it. No evidence that touched on the matter of renting a house

Rice said not possible to see why that passage has raised a query

Judge – prosecution doesn't argue that they find from that passage that AQ rented a house for the defendant?

Rice – doesn't make sense, maybe that was what was meant but from English can't make that conclusion

Judge – tell jury that can't say if AQ rented house to KD, no other evidence that relates to that passage

Jury in at 17.10

Judge addresses them;

I've discussed your note with counsel

The passage you've inquired about at 57 of interview transcript

“AQ in return for this service to rent a house because I spoke Indonesian and passengers learn there is a connection between me and AQ”

Prosecution doesn't agree that this shows AQ rented a house for the defendant

Judge then said he would not take a verdict before 10.30am next morning which meant we could go home although jury likely to continue their deliberations

NOTES FROM TRIAL OF KHALEED DAOED MAY/JUNE 2005

Wednesday 8th June

10.45 advised jury has a verdict

Judge and jury in at 11am, jury stood in front of witness box

Not guilty on count 1

Guilty on count 2

Defence asked to adjourn re sentencing, time to prepare psychological assessment on KD
Needs weeks rather than days

Date for sentencing to be set on 24th June
