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Judge Tomoko Akane
Judge Kimberly Prost

SITUATION IN THE REPUBLIC OF MALI

**IN THE CASE OF
*THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED
AG MAHMOUD***

Public

With public redacted versions of Annexes 1-4

**Public redacted version of ‘Second corrigendum to the “Prosecution closing brief”,
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I. Introduction

1. The evidence shows, beyond reasonable doubt, that AL HASSAN Ag ABDOUL AZIZ Ag Mohamed Ag Mahmoud (“AL HASSAN” or “P-0398”) is responsible for the war crimes and crimes against humanity with which he is charged, and which took place during the occupation¹ of Timbuktu by the armed groups Ansar Dine and Al Qaeda in the Islamic Maghreb (“AQIM”) in 2012-2013.
2. The charged crimes took place in the context of a non-international armed conflict in Mali between the State and non-State organised armed groups such as Ansar Dine and AQIM. At times, the conflict was also between certain non-State organised armed groups such as Ansar Dine/AQIM on one side, and their former ally, the *Mouvement National de Liberation de l’Azawad* (“MNLA”), on the other. The conflict began by at least 17 January 2012 and continued thereafter at all material times.
3. AL HASSAN, a Malian citizen, voluntarily joined Ansar Dine/AQIM when they arrived in Timbuktu in early April 2012 and quickly became a senior member of its Islamic Police. He adopted, endorsed, and was at the centre of an oppressive, coercive and persecutory system imposed by Ansar Dine/AQIM. He used his authority and power within the Islamic Police to directly commit, assist in or contribute to the commission of war crimes and crimes against humanity by Ansar Dine/AQIM members and people associated with them.
4. The Malian authorities had governed Timbuktu until late March 2012, when they retreated and left the city due to the arrival of the armed groups that had already taken over Aguelhok, Tessalit, Kidal and Gao in North Mali. With the departure of the civilian and military authorities from Timbuktu, and the MNLA confined to the Timbuktu airport, Ansar Dine/AQIM became the new masters of the city.
5. Prior to the arrival of Ansar Dine/AQIM, Timbuktu was a city with a great cultural and religious past.² It was a cosmopolitan city, with around 780,000 inhabitants,³ comprising a mix of communities, cultures, and religions, with the majority being of the Muslim faith. People were free to practise their religion as they wished and could exercise their fundamental rights and traditions in accordance with the secular Malian Constitution.⁴ This changed under Ansar Dine/AQIM.⁵
6. Ansar Dine/AQIM took over and occupied Timbuktu from around 1 April 2012 to 28 January 2013 with the objective of establishing their power and control over the population of the city and its region and to impose upon them their ideological and religious vision, on all aspects of life including gender,

¹ “Occupation” is used here as a factual description, not as a legal term under international humanitarian law. See ICC-01/12-01/18-461-Conf-Corr (“Confirmation Decision”), para.225.

² [MLI-D28-0004-3335](#), p.3335; Report, [MLI-OTP-0001-0042](#), p.0043.

³ [MLI-OTP-0065-0655](#).

⁴ See below section X.B.

⁵ See e.g. P-0639:T-136, p.22, l.22-p.24, l.14; P-0114:T-060, p.18, l.12, p.21, l. 5, p.29, l.11-p.30, l.15, p.31, l.7-15; [MLI-OTP-0023-0344-R02](#), p.0373, para.127-130; P-0608:T-153, p.74, l.2-p.75, l.18; P-0004:T-164, p.15, l.6-p.18, l.5, p.55, l.20-p.56, l.7; P-0538:T-161, p.15, l.19-p.16, l. 2, p.16, l.24-p.17, l.2.

by any and all means available.

7. Ansar Dine/AQIM publicly rejected anything that went against their religious views. Determined to assert total authority and control over the inhabitants and impose their sole ideological and religious vision, Ansar Dine/AQIM put in place various organs that acted together: the Security Battalion, the morality brigade (*Hesbah*), the Islamic Tribunal, the Media Office, the *Sharia* committee, and the Islamic Police, of which **AL HASSAN** was an important member.

8. Ansar Dine/AQIM severely and systematically violated the fundamental rights and liberties of Timbuktu's population, subjecting it to multiple oppressive and discriminatory new rules,⁶ and sanctioning violations by "*des méthodes et des moyens d'action moyenâgeux*"⁷ and brutal public punishments to deter the population through fear. These were completely new to the population of Timbuktu and affected all aspects of life.

9. The civilian population of Timbuktu was the target of a widespread and systematic attack launched by Ansar Dine/AQIM, comprising multiple acts under the Statute. Ansar Dine/AQIM persecuted the population of Timbuktu on religious and/or gender grounds because they perceived them as not adhering to its ideological and religious vision.

10. The Islamic Police, the *Hesbah* and the Security Battalion patrolled the city with heavy arms day and night. Inhabitants who infringed the new rules were publicly flogged or beaten, for instance, for having relationships outside marriage, for wearing talismans, drinking alcohol, or smoking cigarettes. They were also arbitrarily arrested and detained. A man's hand was even amputated in a case of theft. As **AL HASSAN** stated: "We do have a lot of work, [...] it involves [...] correcting objectionable acts: any type of reprehensible act which has been forbidden [...]"⁸

11. Women and girls were specifically targeted on gender grounds with controls on almost every aspect of their lives. In particular, some women and girls were subjected to violent punishment for breaking dress code rules, imprisonment,⁹ movement restrictions, forced marriages, sexual slavery, and rape by their so-called "husbands". Other women were raped while detained. As a result, some women were even afraid of leaving their homes; and the population of Timbuktu lived in an atmosphere of fear, violence, oppression and humiliation.

12. A media article mentioned: "[d]epuis huis mois, à Tombouctou, [...], tout est haram, illicite, interdit."¹⁰ Moreover, a notable from Timbuktu, member of the *Comité de crise* created to represent the

⁶ P-0641:T-137, p.14, l.7-11.

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l.13-p.62, l.8(Conf); Article, [MLI-OTP-0035-0895](#).

¹⁰ Article, [MLI-OTP-0001-4887](#), p.4889; P-0114:[MLI-OTP-0023-0344-R02](#), p.0376, para. 144.

P-0065:T-041, p.56,

community, described the state of the city in the following manner: “*la ville est devenue une ville fantôme. Morte en ce sens que toutes les populations étaient terrées dans leur maison, de peur d’être réprimées, de peur d’être humiliées, de peur d’être brutalisées, de peur d’être violentées [...]*”.¹¹

13. **AL HASSAN** was first part of the Security Battalion under Abou Talha, an AQIM member. He then acted as *commissaire* and deputy to the first two heads/“Emirs” of the Islamic Police – Adama and Khaled – before becoming himself head of this organ in late 2012, prior to the departure of Ansar Dine/AQIM from Timbuktu in early 2013.

14. The Islamic Police was one of the main organs put in place by Ansar Dine/AQIM to ensure their grip on Timbuktu, and the imposition of their ideological and religious vision by violent and brutal measures and harsh sanctions. As **AL HASSAN** stated: “*ces punitions [les habitants] ne les connaissaient pas. C’est la première fois qu’ils... qu’ils les voient. [...] Ils ne pouvaient rien faire. Tout le monde craignait, avait peur du mot ‘jihadiste’ [...]. Ils craignaient la punition*”.¹³

15. Beyond his title and rank in the Islamic Police, **AL HASSAN** had a key role in this organ, exercised an important degree of authority, and acted wilfully and with zeal in the performance of his functions. As a native of the region who could express himself in different local languages including Songhai, **AL HASSAN**’s knowledge of the city and its inhabitants made him a critical player/interface in the implementation of the prohibitions by Ansar Dine/AQIM and the sanctioning of their violations by *inter alia* the Islamic Police. His personal mobile phone number was even displayed on the front of the first police headquarters, at the *Banque Malienne de Solidarité* (BMS).

16. **AL HASSAN** played an important role in the daily management, organisation, and work of the Islamic Police, including the designation and dispatchment of the patrols that roamed the streets to make sure that the new rules and prohibitions were respected. **AL HASSAN** also investigated alleged violations of these new rules and prohibitions during which torture or threats were used to extract confessions; submitted his reports to the Islamic Tribunal and referred suspects to it so that they could be judged on the basis of his reports; transported prisoners to and from hearings; meted out punishment to those who violated the rules and prohibitions, and disseminated Ansar Dine/AQIM’s vision.

17. By these and other means described in detail below, **AL HASSAN** directly perpetrated the commission of the charged crimes or contributed to their commission by Ansar Dine/AQIM members including through acts of practical assistance and moral encouragement.

¹¹ Video, [MLI-OTP-0017-0027](#), 00:01:59:00-00:02:27:30, transcript [MLI-OTP-0033-5228](#), p.5231, 1.62-73, translation [MLI-OTP-0033-5405](#), p.5409, 1.63-74.

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¹³ P-0398:[MLI-OTP-0051-1099](#), p.1102-1103, 1.87-103.

18. In particular, **AL HASSAN** is responsible for: the crimes of torture, cruel treatment, other inhumane acts and outrages upon personal dignity (Counts 1-5),¹⁴ and the crime of mutilation;¹⁵ the crimes of passing of sentences and attacking protected objects (Counts 6-7);¹⁶ crimes of forced marriage (as other inhumane act) and associated crimes of rape and sexual slavery in the context of forced marriages, and rapes in detention (Counts 8-12);¹⁷ and the crime of persecution on religious and/or gender grounds (Count 13). He contributed to the commission of these crimes, under article 25(3)(d), in the context of Ansar Dine/AQIM's objective to control Timbuktu and impose their ideological and religious vision, on all aspects of life, including gender, by any and all means available (the "Common Purpose").¹⁸ For some crimes, he is also responsible as a direct perpetrator under article 25(3)(a) or an aider and abettor under article 25(3)(c).

II. The takeover of Timbuktu by Ansar Dine/AQIM in early April 2012, and the establishment of a new regime¹⁹

19. In late March 2012, just prior to the takeover of Timbuktu, there were reports related to an upcoming offensive by armed groups against Timbuktu.²⁰ P-0646²¹ explained that there were several *messages portés* between 28 and 31 March 2012 sent to the minister of defence and chief of general staff of the armies regarding the preparations of attacks on Timbuktu.²² P-0646 noted that at the beginning of these preparations, the *Mouvement National de Libération de l'Azawad* ("MNLA") chief of staff met with the population of Timbuktu to request that they dissociate themselves from the state and to accept the possibility of an attack. At the same time, around a dozen vehicles were moving towards Timbuktu in what were preparatory activities towards an attack on the city.²³

20. Against that background, the Malian civilian authorities and Malian Armed Forces ("FAMa") "*en*

¹⁴ Crimes against humanity of torture (Count 1) and other inhumane acts (Count 2); war crimes of torture (Count 3), cruel treatment (Count 4) and outrages upon personal dignity (Count 5).

¹⁵ On 17 December 2020, the Trial Chamber considered that one confirmed incident may be characterised as a war crime of mutilation under an additional count and gave notice pursuant to regulation 55 of such possibility. *See* ICC-01/12-01/18-1211-Red, para.86 and p.45.

¹⁶ War crimes of sentencing without due process (Count 6) and directing attacks against protected objects (Count 7).

¹⁷ Crimes against humanity of other inhumane acts in the form of forced marriage (Count 8), sexual slavery (Count 9) and rape (Count 11); war crimes of sexual slavery (Count 10) and rape (Count 12).

¹⁸ ICC-01/12-01/18-461, para. 957; ICC-01/12-01/18-923-Conf-AnxA, para. 4; *See below inter alia* Section V.A.

¹⁹ On the background of Mali, *see* P-0152: [MLI-OTP-0031-0496](#).

²⁰ P-0654:T-127, p.47, l.1-17, p.50, l.17-p.51, l.3; P-0125: [MLI-OTP-0023-0004-R03](#), p.0008-0009, para.20; *Messages*, [MLI-OTP-0012-0628](#); [MLI-OTP-0012-0653](#); [MLI-OTP-0012-0655](#); [MLI-OTP-0012-0656](#).

²¹ P-0646:T-075, p.7, l.25-p.9, l.6.

²² P-0646:T-077, p.27, l.23-p.28, l.23.

²³ P-0646:T-077, p.28, l.14-p.29, l.4.

pleine dérouté”,²⁴ decided to leave the city.²⁵ Many inhabitants did the same (*see* section XIII.B.2.).²⁶

21. Then, on the morning of Sunday, 1 April 2012, a local Arab militia²⁷ took advantage of this situation to pillage public buildings²⁸ and then withdrew.²⁹ On the same morning, the MNLA arrived in Timbuktu.³⁰ A pickup with the MNLA flag was seen in Timbuktu at 11h00 on that day.³¹ The MNLA was going around town and then set themselves up in the military camp.³² P-0004 saw the MNLA go through the city, firing gunshots.³³ P-0603 witnessed the MNLA damaging the BMS building [REDACTED]

[REDACTED]³⁴ P-0608 heard that the MNLA took equipment and medication from the hospital.³⁵ And D-0093 stated that when the MNLA arrived, “*ils ont saccagé les services publi[ques] et ont pris tout ce qu’ils pouvaient.*”³⁶

22. Later on, on 1 or 2 April 2012, Ansar Dine and AQIM entered the city,³⁷ P-0654 saw vehicles covered in mud,³⁸ with black flags on which “Allah Akbar” was written in white, blocking the

²⁴ P-0114: [MLI-OTP-0028-0126-R01](#), p.0126.

²⁵ *Bulletin*, [MLI-OTP-0012-0119](#), p.0119; P-0065:T-037, p.40, l.1-17; P-0065:T-038, p.10, l.3-9; P-0065:T-046, p.49, l.23-p.50, l.1(Conf); P-0125: [MLI-OTP-0023-0004-R03](#), p.0009, para.21; [REDACTED]; [REDACTED]; P-0654:T-127, p.46, l.1-8, p.47, l.1-7, p.50, l.14-p.51, l.3; P-1086:T-121, p.23, l.24-p.24, l.5; P-0099:T-145, p.16, l.22-24; P-0099:T-147, p.5, l.15-p.6, l.7, p.8, l.13-p.9, l.5; P-0646:T-078, p.48, l.3-19; D-0093: [MLI-D28-0006-4212-R01](#), p.4214, para.11; D-0093:T-211, p.24, l.18-p.25, l.1(Conf); P-0608:T-153, p.74, l.2-7; P-0004:T-164, p.29, l.14-18, p.55, l.17-p.56, l.7; Video, [MLI-OTP-0011-0423](#), 00:02:09:00-00:02:19:00, transcript [MLI-OTP-0015-0071](#), translation [MLI-OTP-0016-0439](#), p.0443, l.75-80.

²⁶ Article, [MLI-OTP-0068-4817](#), p.4817; D-0093:T-211, p.17, l.10-p.18, l.1; [REDACTED]; [REDACTED]; P-0608:T-153, p.71, l.2-11, l.22-25, p.72, l.1-11, p.72, l.22-p.73, l.11(Conf), p.73, l.20-23 on [MLI-OTP-0060-9497](#); P-0065:T-050, p.34, l.15-p.35, l.10.

²⁷ P-0065:T-038, p.9, l.13-24; [REDACTED]; P-0004:T-164, p.27, l.10-17, p.28, l.8-20, p.32, l.24-p.33, l.10; P-1086:T-121, p.22, l.20-p.23, l.14; P-0654:T-127, p.49, l.16-p.50, l.12.

²⁸ [REDACTED]; P-1086:T-121, p.23, l.17-p.24, l.3; P-0099:T-147, p.8, l.13-17; P-0654:T-134, p.4, l.25-p.6, l.16(Conf) on [MLI-D28-0005-7037](#); P-0004:T-164, p.29, l.19-24; P-0065:T-045, p.11, l.13-p.12, l.1(Conf); [REDACTED]; [REDACTED].

²⁹ [REDACTED] P-0099:T-147, p.8, l.13-17.

³⁰ P-0065:T-045, p.14, l.11-17; P-0099:T-145, p.16, l.15-18; P-0608:T-153, p.59, l.20-23; P-0603:T-125, p.8, l.18-p.9, l.8, p.9, l.21-25(Conf); P-0654:T-127, p.45, l.13-19, p.51, l.7-p.52, l.10; P-0654:T-134, p.8, l.10-11; P-0004:T-164, p.29, l.25-p.30, l.3, p.31, l.10-15; Facebook post, [MLI-D28-0005-7037](#), p.7037.

³¹ P-0654:T-127, p.51, l.7-16; p.52, l.21-25, p.53, l.12-p.54, l.9. *See also* P-0004:T-164, p.29, l.25-p.30, l.1.

³² P-0654:T-127, p.51, l.8-p.52, l.10; P-0654:T-134, p.8, l.10-11, l.14-15.

³³ P-0004:T-164, p.29, l.25-p.30, l.3.

³⁴ P-0603:T-125, p.8, l.18-p.9, l.8; p.9, l.21-p.13, l.4(Conf).

³⁵ P-0608:T-154, p.91, l.23-p.92, l.3.

³⁶ D-0093: [MLI-D28-0006-4212-R01](#), p.4214, para.12.

³⁷ P-0114: [MLI-OTP-0023-0344-R02](#), p.0372-0373, para.126-127; P-0099:T-147, p.13, l.24-p.14, l.4; P-0004:T-164, p.31, l.21-p.32, l.4, p.36, l.8-18, p.39, l.11-16, p.40, l.10-14(Conf); P-0099:T-147, p.8, l.13-p.9, l.5; T-145, p.16, l.15-p.17, l.2, p.20, l.10-13; D-0093:T-211, p.24, l.5-8(Conf); P-0608:T-153, p.56, l.7-p.58, l.20; P-0608:T-153, p.63, l.1-13(Conf), p.64, l.10-21, p.65, l.8-p.66, l.9(Conf) p.66, l.21-p.67, l.10 on [MLI-OTP-0060-9496](#), p.67, l.12-p.68, l.3, p.68, l.14-20(Conf) on [MLI-OTP-0060-9493](#), p.69, l.5-17, p.70, l.2-10(Conf) on [MLI-OTP-0060-9495](#); P-0654:T-134, p.8, l.11-23; P-0603:T-125, p.14, l.8-15; [REDACTED]; P-0602:T-084, p.74, l.4-p.77, l.1; P-1086:T-121, p.29, l.13-14; P-0125: [MLI-OTP-0023-0004-R03](#), p.0014, para.45; Video, [MLI-OTP-0011-0259](#), 00:02:56:00-00:05:13:00, 00:06:50:00-00:07:32:00, transcript [MLI-OTP-0033-5211](#), p.5213-5214, l.71-148, p.5217, l.195-210, translation [MLI-OTP-0033-5358](#), p.5361-5363, l.71-148, p.5365, l.195-210; *Message*, [MLI-OTP-0012-0157](#).

³⁸ P-0602:T-084, p.76, l.1-14.

crossroads in Timbuktu.³⁹ He witnessed how the “islamists” raised their flag on the *Gouvernorat* building.⁴⁰ P-0004 also saw how Ansar Dine/AQIM were bearing their black flag with the Arabic inscription “God is unique” when they entered Timbuktu that day.⁴¹ He heard them say: “Allah Akbar. Allah Akbar. God is great.”⁴² Upon arriving, the “islamists” attacked the bars and places of worship.⁴³

23. The MNLA was quickly driven out of town by the “islamists”⁴⁴ and were forced to retreat a few kilometres away to the airport, Kabara and by the River Niger.⁴⁵ Ansar Dine/AQIM became the new masters in Timbuktu.⁴⁶ “[T]hey were showing their muscles [...] in the streets of the city every day”⁴⁷ and were moving around town heavily armed and even entered the hospital with their weapons.⁴⁸

24. The MNLA members could still enter the city of Timbuktu, but “gradually tensions increased until the MNLA men could no longer enter Timbuktu with their weapons”⁴⁹ or display their flag.⁵⁰ There were also restrictions for MNLA vehicles to enter into town.⁵¹ This came about after an incident in April 2012 between a patrol led by Abou Talha and a vehicle with MNLA members. Ansar Dine/AQIM told the MNLA that they could not raise their flags in the city. After the exchanges had become stormy, shots were fired at an MNLA officer, who was grazed by a bullet.⁵²

25. Then, after the 25/26 May 2012 agreement signed in Gao between Ansar Dine and the MNLA fell out (see below section XI.B.), many MNLA members who were present in Timbuktu joined Ansar

³⁹ P-0654:T-127, p.51, l.20-p.52, l.3.

⁴⁰ P-0654:T-134, p.8, l.11-17; P-0654:T-127, p.53, l.1-2.

⁴¹ P-0004:T-164, p.31, l.19-p.32, l.4.

⁴² P-0004:T-164, p.39, l.11-16, p.40, l.10-14(Conf).

⁴³ P-0654:T-134, p.6, l.9-16(Conf).

⁴⁴ P-0654:T-127, p.54, l.18-25; P-0654:T-128, p.11, l.11-24(Conf); P-0608:T-153, p.58, l.24-p.59, l.19; P-0557:T-056, p.6, l.1-13; [REDACTED]; P-0603:T-125, p.14, l.8-15; P-0125:[MLI-OTP-0023-0004-R03](#), p.0009, para.23; *Message*, [MLI-OTP-0012-0157](#).

⁴⁵ P-0065:T-037, p.14, l.10-20; [REDACTED]; P-1086:T-121, p.25, l.3-20; P-1086:T-122, p.23, l.7-8; P-0099:T-145, p.16, l.20-21; P-0654:T-127, p.54, l.24-25; P-0654:T-128, p.11, l.13-24(Conf); P-0603:T-125, p.14, l.11-15, p.14, l.23-p.15, l.1; P-0004:T-164, p.36, l.25-p.37, l.13; P-0557:T-056, p.6, l.1-13; P-0125:[MLI-OTP-0023-0004-R03](#), p.0009, para.23, p.0013, para.41; Video, [MLI-OTP-0011-0259](#), 00:00:10:00-00:02:46:00, transcript [MLI-OTP-0033-5211](#), p.5212-5213, l.3-69, translation [MLI-OTP-0033-5358](#), p.5360-5361, l.3-69; *Message*, [MLI-OTP-0012-0938](#); Report, [MLI-OTP-0012-0154](#), p.0156.

⁴⁶ P-0654:T-127, p.51, l.20-p.52, l.3, p.54, l.10-p.56, l.22; P-0654:T-129, p.12, l.16-19(Conf); P-0654:T-134, p.8, l.9-17; P-1086:T-121, p.26, l.14-p.27, l.1; P-0099:T-145, p.44, l.1-12, p.44, l.13-14(Conf); P-0608:T-153, p.59, l.24-p.60, l.25, p.61, l.19-23, p.62, l.11-14. [REDACTED]

⁴⁷ [REDACTED]. *See also* [REDACTED]; [REDACTED] [MLI-OTP-0015-0495](#), 00:27:21:13-00:27:49:10, 00:29:15:16.

⁴⁸ D-0093:[MLI-D28-0006-4212-R01](#), p.4219, para.39; D-0093:T-211, p.32, l.22-24, p.34, l.3-8.

⁴⁹ P-1086:T-121, p.29, l.19-20. *See also* P-1086:T-121, p.31, l.13-22, p.46, l.4-p.47, l.1(Conf); D-0202:T-200, p.59, l.25-p.60, l.5; P-0654:T-134, p.15, l.5-7; [MLI-OTP-0024-0015](#), p.0031-0032.

⁵⁰ P-1086:T-121, p.31, l.13-22; [REDACTED]; Article, [MLI-OTP-0010-0088](#), translation [MLI-OTP-0024-0015](#), p.0031-0032.

⁵¹ [REDACTED] P-0065:T-038, p.14, l.5-18; Article, [MLI-OTP-0010-0088](#), translation [MLI-OTP-0024-0015](#), p.0031-0032.

⁵² P-1086:T-121, p.29, l.13-p.31, l.10.

Dine.⁵³ Eventually, on or around 28 June 2012, the MNLA withdrew from Timbuktu altogether after Ansar Dine/AQIM gave them the ultimatum to align themselves with them or leave.⁵⁴

26. Overall, Ansar Dine/AQIM were in control of the city for approximately ten months throughout the period from early April 2012 up to January 2013 and imposed by force their ideological and religious vision, on all aspects of life including gender, resulting in a systematic and widespread attack against the civilian population (see below sections V.A. and XII).

27. Contrary to the Defence's allegation, Ansar Dine/AQIM did not come to Timbuktu to help secure the population. They created the instability in North Mali and started the conflict with the official objective of imposing their religious views over the entire Malian territory,⁵⁵ including Timbuktu, Goundam⁵⁶ and anywhere else. They were already positioned around Timbuktu, far away from their base hundreds of kilometres away in Kidal,⁵⁷ ready and waiting for a pretext to take over the city, after the departure of the FAMa which had received the ultimatum to leave.⁵⁸

28. Similarly, any protection or services offered by Ansar Dine/AQIM in Timbuktu,⁵⁹ which is contested⁶⁰ considering *inter alia* “la destruction du tissu économique”,⁶¹ would simply have been opportunistic, part of their exercise of power and control over the population, and thus ultimately have been in pursuance of their Common Purpose (see section V.A.).

⁵³

P-0065:T-045, p.28, l.17-23(Conf), p.36, l.25-p.37, l.2(Conf); D-0529:T-189, p.36, l.24-p.37, l.2; [MLI-OTP-0012-0949](#).

⁵⁴ P-1086:T-121, p.33, l.13-p.34, l.14; [REDACTED]

[REDACTED]; P-0654:T-134, p.18, l.12-p.20, l.14; P-0004:T-164, p.37, l.14-p.38, l.12, p.57, l.1-22, p.60, l.2-12; [REDACTED]

P-0065:T-043, p.48, l.22-p.51, l.1(Conf).

⁵⁵

[REDACTED] Article, [MLI-OTP-0038-0870](#), translation [MLI-OTP-0039-0937](#), p.0939 [MLI-OTP-0010-0088](#), translation [MLI-OTP-0024-0015](#), p.0027.

⁵⁶

[REDACTED]

⁵⁷ Map, [MLI-OTP-0010-0126](#).

⁵⁸

P-0004:T-164, p.24, l.17-20, p.25, l.6-p.26, l.21(Conf).

⁵⁹ ICC-01/12-01/18-2395-Conf, para.12.

⁶⁰

[REDACTED]

⁶¹

III. The new administration established in Timbuktu by Ansar Dine/AQIM in 2012

III.A. The new leadership in Timbuktu

29. The main leaders of Ansar Dine/AQIM during the ten months of occupation and oppression in the town and region of Timbuktu were the following: a) Iyad Ag Ghaly, the founder and chief of Ansar Dine, who was present in Timbuktu at the very beginning of the occupation and explained Ansar Dine's objectives at various meetings with locals;⁶² b) Abou Zeid,⁶³ a long-time member of AQIM and chief of the *Tarek Ibn Ziyad* battalion,⁶⁴ who was appointed as the "chief" / "governor" of Timbuktu;⁶⁵ c) Yahia Abou Al Hammam, head of the AQIM *Al Fourqane* battalion, who became the "Emir of the Sahel" in late 2012;⁶⁶ and d) Abdallah Al Chinguetti, a prominent religious scholar and member of the AQIM *Al Fourqane* battalion, who succeeded Yahia Abou Al Hammam as its head⁶⁷ in late 2012.⁶⁸

30. After having been present in Timbuktu in the early days of the occupation, Iyad Ag Ghaly returned to Kidal, where his residence was situated,⁶⁹ that is hundreds of kilometres far from Timbuktu.⁷⁰ Despite being mainly in Kidal, he nevertheless remained informed of, and sent his instructions regarding matters in Timbuktu. There was nearly daily communication between Iyad and Abou Zeid in which the latter would update Iyad on all new developments. For instance

[REDACTED]

[REDACTED] ⁷¹

31. Iyad Ag Ghaly also came back to Timbuktu⁷² on important occasions,⁷³ like the negotiations between Ansar Dine and MNLA in May 2012,⁷⁴ and a training/meeting with leaders of different armed groups in Aryao near Farach in November 2012, following which he visited Timbuktu in December

⁶² [MLI-OTP-0038-0870](#), translation [MLI-OTP-0039-0937](#), *inter alia* p. 0939-0940; [REDACTED] P-0125; [MLI-OTP-0023-0004-R03](#), p.0012, para.36.

⁶³ Abou Zeid signed the instructions [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#).

⁶⁴ P-0065:T-038, p.30, l.27-p.31, l.4, p.32, l.22-p.34, l.26 (identifying Abou Zeid in [MLI-OTP-0018-0014](#) at 00:01:26:08); [REDACTED] *Bulletin*, [MLI-OTP-0012-0083](#); P-0646:T-077, p.40, l.1-9.

⁶⁵ [REDACTED]; [MLI-OTP-0010-0088](#), translation [MLI-OTP-0024-0015](#), p.0017.

⁶⁶ Photograph, [MLI-OTP-0022-0491](#), [REDACTED]; [MLI-OTP-0067-0270](#); [MLI-OTP-0001-4601](#).

⁶⁷ P-0065:T-039, p.8, l.23-p.9, l.10; P-0626:T-142, p.9, l.2-22(Conf); [REDACTED]

⁶⁸ Except for Iyad Ag Ghaly, all of them have died.

⁶⁹ DSM report, [MLI-OTP-0012-0987](#).

⁷⁰ Map, [MLI-OTP-0010-0126](#).

⁷¹ [REDACTED]

⁷² [REDACTED]

⁷³ P-0065:T-045, p.21, l.7-14; [REDACTED]

⁷⁴ P-0065:T-043, p.48, l.24-p.49, l.4, T-045, p.21, l.7-14. [REDACTED]

2012.⁷⁵

32. For the day-to-day management of Timbuktu and its region, Ansar Dine/AQIM established various organs of control and repression as described below. They worked under the supervision of the “presidency”/“emirate”, which included Yahia Abou Al Hammam, Abdallah Al Chinguetti and Abou Zeid⁷⁶ who, as the “governor” of Timbuktu, had the authority to issue instructions and orders to these organs.⁷⁷

III.B. Ansar Dine/AQIM’s use of Timbuktu locals to facilitate their control and authority

33. Ansar Dine and AQIM had a policy of appointing certain locals to important positions to avoid clashes with the local population and to facilitate their control and imposition of their views and rules.⁷⁸ Such locals included: a) **AL HASSAN**, who is from the important Kel Ansar tribe and was quickly appointed to the Islamic Police;⁷⁹ b) Mohamed Ibn Alhousseyni aka Houka, from the Kel Ansar tribe, who was the Presiding Judge of the Islamic Tribunal, and at some point in time pledged allegiance to AQIM;⁸⁰ c) Al Mahdi, from the Kel Ansar tribe, who was the first head of the *Hesbah* and a member of the AQIM *Tarek Ibn Ziyad* battalion;⁸¹ d) Al Mahdi’s successor at the head of the *Hesbah*,⁸² Mohamed Moussa, from the Kel Essouk tribe, who was the sheikh and had a mosque in Timbuktu;⁸³ and Mohamed Ag Mohamed Emetta, from the Kel Ansar tribe, who was put in charge of the prison (see below section III.C.1.a.).⁸⁴

34. Other individuals from the Timbuktu region, who had been members of AQIM for some time, were also placed at the forefront, such as Sanda Ould Boumama who was appointed to the Media Office and acted as an official spokesperson of Ansar Dine.⁸⁵ This was also the case of Abou Talha, who was

⁷⁵ P-0654:T-130, p.64, l.11-p.69, l.20(Conf); [MLI-OTP-0012-2009](#); [REDACTED]

⁷⁶ P-0398:[MLI-OTP-0051-0376](#), p.0386, l.323-p.0389, l.416; P-0626:T-141, p.27, l.20-p.28, l.8(Conf); P-0065:T-045, p.19, l.6-11; [REDACTED]

⁷⁷ [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); P-0398:[MLI-OTP-0051-0407](#), p.0419, l.371-p.420, l.408; [REDACTED]

⁷⁸ [REDACTED]

⁷⁹ [REDACTED]

⁸⁰ P-0626:T-141, p.26, l.6-p.27, l.23(Conf); [REDACTED]

⁸¹ [REDACTED]

⁸² See e.g. reports signed by Mohamed Moussa [MLI-OTP-0055-1813](#), translation [MLI-OTP-0054-0341](#) and [MLI-OTP-0055-1022](#), translation [MLI-OTP-0054-0337](#); [REDACTED]. Report of the *Hesbah*, 25 November 2012, [MLI-OTP-0055-1024](#), translation [MLI-OTP-0054-0339](#).

⁸³ [REDACTED]; D-0202:T-202, p.94, l.1-6; D-0605:T-194, p.48, l.9-11(Conf).

⁸⁴ P-0398:[MLI-OTP-0051-0513](#), p.0527, l.447-475.

⁸⁵ P-0065:T-038, p.23, l.1-p.24, l.11(Conf); T-039, p.13, l.21-p.14, l.2(Conf); P-0004:T-164, p.84, l.1-4(Conf); [REDACTED] Video, [MLI-OTP-0015-0495](#), 00:35:23:00-00:35:40:00, transcript [MLI-OTP-0033-5189](#), translation [MLI-OTP-0033-5288](#), p.5293, l.133-144; DSM document, 7 May 2012, [MLI-OTP-0012-0166](#); P-0646:T-077, p.51, l.18-22.

born in Zorho and lived in Libya,⁸⁶ and acted as head of the Security Battalion.⁸⁷

35. Moreover, Ansar Dine and AQIM agreed that all decisions and actions taken by them had to be adopted and announced as those of Ansar Dine, which had an apparent local origin and agenda.⁸⁸ In line with this policy, Ansar Dine/AQIM would also task locals from Timbuktu, such as **AL HASSAN** or Al Mahdi, to talk to the media about certain topics.⁸⁹

III.C. Organs established by Ansar Dine and AQIM in Timbuktu

36. Different organs worked together, with personnel who could be moved from one organ to another.⁹⁰

III.C.1. Islamic Police, key organ of repression in Timbuktu

III.C.1.a. Creation and structure of the Islamic Police

37. Ansar Dine and AQIM created the Islamic Police (“Police”) in late April 2012/early May 2012, shortly after their arrival in Timbuktu.⁹¹ According to [REDACTED] the creation of the Police was Talha’s initiative, who sought to relieve the Security Battalion from certain tasks.⁹²

38. The Police was formally headed by an Emir or “director” who received orders from, and reported to Abou Zeid.⁹³ According to **AL HASSAN**, each month, the Emir would receive the money to cover the Police’s needs from an individual named Yazid, who worked for Abou Zeid.⁹⁴

39. The first Police Emir was a Mauritanian called Adama.⁹⁵ After complaints from the population against Adama regarding beatings of locals,⁹⁶ he was replaced around July/August 2012 by Khaled

⁸⁶ [REDACTED] Video, [MLI-OTP-0015-0495](#), 00:27:59:20-00:28:50:00, transcript [MLI-OTP-0033-5189](#), translation [MLI-OTP-0033-5288](#), p.5290, l.11-28; D-0529:T-189, p.11, l.13-p.12, l.1; D-0605:T-192, p.75, l.7-p.78, l.22.

⁸⁷ [REDACTED]

⁸⁸ [REDACTED] regarding Sandaould Boumama.

⁸⁹ [REDACTED]

⁹⁰ P-0065:T-039, p.43, l.13-16(Conf).

⁹¹ Article, Saturday 28 April 2012, [MLI-OTP-0033-2995](#), referring to a “*police islamique*” established at the BMS “*ce vendredi*” (likely referring to 27 April 2012); Article, 28 April 2012, [MLI-OTP-0001-3860](#), p.3861; Article, [MLI-OTP-0033-2980](#); [REDACTED]

⁹² [REDACTED]

⁹³ [REDACTED]; P-0582:[MLI-OTP-0062-3820-R02](#), p.3840, l.686-690; [MLI-OTP-0062-3710-R02](#), p.3725, l.515- p.3726, l.539; [REDACTED], [REDACTED]

⁹⁴ P-0398:[MLI-OTP-0051-0376](#), p.0405, l.983-p.0406, l.1008; [MLI-OTP-0051-0407](#), p.0409, l.37-61.

⁹⁵ [REDACTED] P-0398:[MLI-OTP-0051-1184](#), p.1199, l.502-p.1201, l.539; P-0065:T-040, p.55, l.17(Conf); [REDACTED]

⁹⁶ P-0654:T-128, p.20, l.4-20; [REDACTED] P-0398:[MLI-OTP-0051-1213](#), p.1218, l.134-p.1220, l.214.

Abou Souleymane, a Sahraoui,⁹⁷ until the time of the preparation of the Konna attack in late 2012⁹⁸ (see below section IV.B.2.b).

40. Around 30-40 people of various ethnicities from Timbuktu, other parts of Mali and even other countries were part of the Police.⁹⁹ While the number and composition of its members changed,¹⁰⁰ they included, among others:

- **AL HASSAN**, who played a critical role *inter alia* as *commissaire* in the functioning and activities of the Police throughout the occupation (see section IV.).
- Abou Dhar,¹⁰¹ aka Al-Bambari, originating from the south of Mali.¹⁰² He was of Al Fula (Peul) ethnicity,¹⁰³ and described as an important member of the Police.¹⁰⁴
- Demba Demba or Elhadj/Al Hadijja, a former rapper,¹⁰⁵ living in a village outside Timbuktu until he joined the Police.¹⁰⁶ He was often named by victims, including for being one of the persons responsible for floggings and other physical violence.¹⁰⁷
- (P-0582), who joined the Police¹⁰⁸ [REDACTED]
[REDACTED]¹⁰⁹ [REDACTED].
- Mohamed Ag Mohamed Emetta,¹¹⁰ a Kel Ansar who worked initially with the *Hesbah* for one or two months, then moved to the Police and later on was the Emir of the prison.¹¹¹

⁹⁷ [REDACTED]; P-0065:T-040, p.55, l.19-p.56, l.11(Conf); P-0398:[MLI-OTP-0051-1184](#), p.1199, l.477-501, [MLI-OTP-0051-1213](#), p.1217, l.128-p.1219, l.188; P-0582:[MLI-OTP-0062-3679-R02](#), p.3686, l.223-239.

⁹⁸ [REDACTED]

⁹⁹ P-0398:[MLI-OTP-0051-1257](#), p.1288, l.1020-1040; [REDACTED]; P-0654:T-128, p.34, l.23-p.35, l.8; P-0582:[MLI-OTP-0062-3710-R02](#), p.3721, l.357-p.3722, l.392; P-0626:T-144, p.83, l.10-11(Conf); P-0125:[MLI-OTP-0023-0004-R03](#), p.0014, para.47.

¹⁰⁰ P-0582:[MLI-OTP-0062-3710-R02](#), p.3719, l.305-313.

¹⁰¹ His name is variously spelled as: Abou Thar, Abou Zhar, Abou Dhar Al Foulani, Abou Zahr, Ayman Al Bambari.

¹⁰² P-0582: [MLI-OTP-0062-4075-R02](#), p.4077, l.39-p.4079, l.123, [MLI-OTP-0062-3760-R02](#), p.3767, l.243-p.3768, l.247; [REDACTED]

[REDACTED] [MLI-REG-0001-0063](#), translation [MLI-REG-0001-0163](#).

¹⁰³ P-0065:T-037, p.26, l.13-21; P-0398:[MLI-OTP-0051-1184](#), p.1202, l.595-602.

¹⁰⁴ P-0582:[MLI-OTP-0062-3760-R02](#), p.3767-3768, l.243-248; [MLI-OTP-0062-4012-R02](#), p.4035, l.755-772, p.4036, l.793-804; P-0398:[MLI-OTP-0060-1580](#), p.1593, l.424-p.1594, l.466; [MLI-OTP-0060-1539](#), p.1554, l.482-p.1555, l.532; [MLI-OTP-0060-1631](#), p.1643, l.383-p.1644, l.412.

¹⁰⁵ P-0608:T-153, p.80, l.17-p.81, l.12.

¹⁰⁶ [REDACTED] P-0622:[MLI-OTP-0065-0558-R02](#), p.0568, para.52; P-0582:[MLI-OTP-0062-4075-R02](#), p.4076, l.10-23, [REDACTED]; P-0398:[MLI-OTP-0060-1752](#), p.1755, l.99-p.1757, l.158.

¹⁰⁷ [REDACTED] [MLI-OTP-0039-0920](#), p.0927-0928.

¹⁰⁸ P-0582:[MLI-OTP-0062-3641-R02](#), p.3647, l.203-p.3648, l.218.

¹⁰⁹ P-0582:[MLI-OTP-0062-3641-R02](#), p.3644, l.85-p.3645, l.127; p.3652, l.388-p.3653, l.412.

¹¹⁰ P-0398:[MLI-OTP-0051-0513](#), p.0527, l.447-471.

¹¹¹ [REDACTED]
[REDACTED] P-0398:[MLI-OTP-0051-0513](#), p.0527, l.447-475.

- Khoubaib, a Mauritanian, active within the Police at the beginning of the occupation.¹¹²
- Abdallah Burkinabe.¹¹³

41. Key or well-known members of the Police were AQIM members, including Adama from the *Al Fourqane* battalion,¹¹⁴ Khaled from the *Tarek Ibn Ziyad* battalion,¹¹⁵ Abou Dhar from the *Al Fourqane* battalion,¹¹⁶ and Khoubaib.¹¹⁷ This was well-known by other members of the Police. For example [REDACTED] in the Police, knew that Adama and Khoubaib¹¹⁸ were from AQIM. AL HASSAN also knew that Adama¹¹⁹ and Abou Talha – with whom he worked in April 2012 – were from AQIM.¹²⁰

III.C.1.b. Seat and facilities of the Police

42. The Police was initially based at the *Banque Malienne de Solidarité* (“BMS”)¹²¹ near the Yoboutao market, also referred to as “small market”.¹²² Around September 2012, the Police moved to the *Gouvernorat*,¹²³ which is the most important administrative building in Timbuktu and its entire region, reflecting the importance of the Police.

43. When the Police was based at the BMS, there were rooms used to detain people.¹²⁴ AL HASSAN specifically referred to a room outside the BMS,¹²⁵ which D-0605 described as the ATM room, at the corner outside the building. D-0605 specified that it was used by Adama to detain women during an incident that led to his dismissal.¹²⁶

44. In addition, a small prison was created at the *Banque de l’Habitat du Mali* (BHM). However, “*ce n’était pas convenable*” because it was located in the town centre and many prisoners escaped.¹²⁷ As a

¹¹² [REDACTED]

¹¹³ P-0398:MLI-OTP-0051-1184, p.1202, l.595-p.1203, l.609; P-0582:MLI-OTP-0062-4117-R02, p.4121, l.128-p.4123, l.175; [REDACTED] See also P-0065:T-041, p.54, l.4-25(Conf); [REDACTED], [REDACTED]

¹¹⁴ D-0605:T-192, p.79, l.6-9.

¹¹⁵ [REDACTED]

¹¹⁶ P-0065:T-037, p.26, l.13-21; P-0582:MLI-OTP-0062-4012-R02, p.4032, l.653-676.

¹¹⁷ D-0605:T-192, p.79, l.3-5; [REDACTED]

¹¹⁸ [REDACTED]

¹¹⁹ P-0398:MLI-OTP-0051-1184, p.1199, l.502-p.1201, l.539.

¹²⁰ P-0398:MLI-OTP-0051-0422, p.0454, l.1054-1057.

¹²¹ P-0065:T-038, p.49, l.5-8(Conf), p.49, l.5-p.51, l.7, Video MLI-OTP-0015-0495, 00:28:55:13, and T-039, p.17, l.7-25; P-0654:T-128, p.30, l.3-13; P-0641:T-137, p.13, l.10-18; P-0398:MLI-OTP-0051-1032, p.1042, l.318-325; [REDACTED]; Video MLI-OTP-0015-0495, 00:28:52:12.

¹²² P-0654:T-134, p.84, l.13-14; P-0622:MLI-OTP-0065-0558-R02, p.0564, para.32-33; [REDACTED]

¹²³ P-0065:T-038, p.49, l.8-10, MLI-REG-0001-0008; P-0654:T-128, p.30, l.14-19; P-0398:MLI-OTP-0051-1032, p.1042, l.327-338; P-0065:T-039, p.18, l.3-20 on MLI-OTP-0040-0406; [REDACTED]; [REDACTED]

¹²⁴ [REDACTED] Photographs, MLI-OTP-0006-1511, MLI-OTP-0006-1512; [REDACTED] P-0582:MLI-OTP-0062-3921-R02, p.3931, l.323-p.3934, l.427, MLI-OTP-0054-0028.

¹²⁵ P-0398:MLI-OTP-0051-1032, p.1046, l.457-p.1047, l.493.

¹²⁶ D-0605:T-194, p.16, l.23-p.18, l.9; p.29, l.12-p.30, l.3.

¹²⁷ P-0398:MLI-OTP-0051-1032, p.1043, l.371-p.1045, l.422; MLI-OTP-0060-1511, p.1522, l.362-p.1524, l.425.

result, the central prison near the military camp, which existed from before the occupation, became the main prison from around June or July 2012.¹²⁸ The central prison (which had an area for men and an area for women) initially fell under the responsibility of the Police, whose members acted as guards, until the Security Battalion took it over during the last three months of the occupation.¹²⁹ **AL HASSAN** sometimes visited the prison to check prisoners' condition.¹³⁰

45. Despite the establishment of the central prison, the Police still detained persons at its headquarters for short periods, even after it moved to the *Gouvernorat*.¹³¹ [REDACTED]¹³²

[REDACTED]¹³³ **AL HASSAN** explained: "*Nous avons une prison ici pour interroger les gens et nous avons la prison générale. [...] ça ne dépasse pas... l'enquête... [...] pas 24 heures. Ensuite [...]... si le cas... requiert [...]... que la personne reste en prison en attendant d'être jugé... ou s'il devait rester quelques jours... on l'envoie à la prison générale.*"¹³⁴

46. The BMS and the *Gouvernorat* had a room equipped with a computer, which was primarily used by **AL HASSAN** as his office.¹³⁵ There were separate waiting rooms for men and women.¹³⁶

III.C.1.c. Roles of the Police

47. In [REDACTED] 2012 (see below section IV.A.2.f), **AL HASSAN** explained the mission of the Police as follows: "[w]e do have a lot of work, [...] it involves patrols within the town, and correcting objectionable acts: any type of reprehensible act which has been forbidden [...] we correct, such as drinking alcohol, smoking, and a woman adorning herself, and other such acts [...] In Timbuktu, only one hand has been chopped off and only one murderer has been executed. And then two or three perpetrators have been flogged [...]"¹³⁷

48. [REDACTED] specified that "objectionable acts" means "different things, including the – the appearance, which we believe is [...] the -- a woman's outfit. That streets be free from any display of things that we deem in violation of god's Sharia. For example, posters and billboards that may contain unethical words

¹²⁸ P-0398:[MLI-OTP-0051-1032](#), p.1042, l.339-p.1043, l.368; [REDACTED]

¹²⁹ P-0398:[MLI-OTP-0051-0513](#), p.0516, l.72-p.0519, l.194, p.0528, l.482-501.

¹³⁰ P-0398:[MLI-OTP-0051-1032](#), p.1041, l.303-p.1042, l.317.

¹³¹ [REDACTED] P-0582:[MLI-OTP-0062-3921-R02](#), p.3928, l.229-287, p.3937, l.551-p.3944, l.777, [MLI-OTP-0054-0027](#). P-0626:T-142, p.57, l.16-p.58, l.9.

¹³² [REDACTED]

¹³³ [REDACTED]

¹³⁴ [REDACTED]

¹³⁵ [REDACTED]

[REDACTED] P-0582:[MLI-OTP-0062-3921-R02](#), p.3931, l.323-346 (re. sketch [MLI-OTP-0054-0028](#)) and p.3943, l.741-p.3944, l.769; P-0398:[MLI-OTP-0060-1453](#), p.1459, l.177-p.1461, l.253.

¹³⁶ P-0389:[MLI-OTP-0060-1453](#), p.1461, l.255.

¹³⁷ [REDACTED]

[...] preventing people from smoking and also preventing the play of music. [...] Also, to remove all pictures. [...] In addition to what Mr [AL HASSAN] was referring to [...].¹³⁸

III.C.1.d. Geographical scope of activities of the Police

49. The Police operated within and, frequently, outside the city of Timbuktu.¹³⁹

Demba Demba would come to his village outside Timbuktu to enforce the rules, such as the prohibition on selling cigarettes and the dress code for women.¹⁴⁰ [REDACTED] AL HASSAN [REDACTED] sending a car to a village near Ber, about 60 km from the Timbuktu city, to arrest people accused of theft.¹⁴¹ AL HASSAN also acknowledged that the Police was “always dispatching vehicles” to rural areas and remote desert zones¹⁴² (see also section IV.B.4.b.iv.a below).

III.C.1.e. Operations/activities of the Police

50. The Police kept a close watch on the civilian population of Timbuktu and patrolled with heavy weapons and talkie-walkies, day and night throughout the city by car, motorcycles and on foot.¹⁴³ As seen in many videos, members of the Police typically carried Kalashnikovs,¹⁴⁴ and many wore blue vests with “Islamic Police” written in Arabic and French.¹⁴⁵ Control posts also existed, such as to control the markets.¹⁴⁶

51. These patrols and controls ensured, *inter alia*, that women complied with the requirement to cover their body with a veil, and that men and women did not mingle unless they were married or siblings.¹⁴⁷ [REDACTED] two members of the Police on a motorcycle patrolling the town and requiring a woman at the market to cover her head and put a veil correctly.¹⁴⁸ The Police also

¹³⁸

¹³⁹ P-0398: [MLI-OTP-0060-1729](#), p.1734, l.150-p.1735, l.195, p.1737, l.246-p.1738, l.303, p.1740, l.352-p.1744, l.513.

¹⁴⁰ P-0622: [MLI-OTP-0065-0558-R02](#), p.0560, para.14, p.0565-0566, para.41.

¹⁴¹ [REDACTED]

¹⁴² [REDACTED]

¹⁴³ Video, [MLI-OTP-0015-0495](#), 00:27:48:14; [REDACTED] 0065:T-038, p.48, l.8-10(Conf); T-039, p.21, l.9-p.24, l.7; P-0582: [MLI-OTP-0062-3736-R02](#), p.3747, l.375-383; P-0398: [MLI-OTP-0051-1184](#), p.1198, l.460-465; P-0125: [MLI-OTP-0023-0004-R03](#), p.0015, para.50.

¹⁴⁴ Video, [MLI-OTP-0015-0495](#), 00:27:22:00-00:27:30:13, [REDACTED] P-0654:T-132, p.65, l.9-25.

¹⁴⁵ P-0065:T-038, n.48, l.24-n.49, l.4; P-0641:T-137, n.13, l.19-n.14, l.4; [REDACTED]

[REDACTED] Video, [MLI-OTP-0015-0495](#), 00:27:26:04-00:27:31:03.

¹⁴⁶ [REDACTED]

[REDACTED]; [REDACTED] P-0065:T-038, p.54, l.6-p.55, l.24(Conf).

¹⁴⁷ P-0398: [MLI-OTP-0051-0457](#), p.0469, l.390-p.0471, l.449; [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#), p.2367.

¹⁴⁸ [REDACTED]

controlled whether people listened to non-religious music,¹⁴⁹ practised magic or wore amulets, rings and bracelets.¹⁵⁰

52. Those found violating the rules were pursued, stopped, cautioned, and/or arrested and, in certain cases, severely punished.¹⁵¹ For example, after Adama, Demba Demba and others arrested [REDACTED] they also stopped two young men who were smoking and took all three of them to the BMS.¹⁵² P-0641 also saw several times members of the Police arresting people accused of violating the new rules.¹⁵³ The Police was allowed to impose discretionary penalties (so-called “*Ta’zir*”) on those who violated certain rules.¹⁵⁴ The punishment could take the form of floggings, imprisonment or fine.¹⁵⁵ AL HASSAN acknowledged that the Police Emir had the power to decide whether or not to apply *Ta’zir* for minor “offences”, such as, for a man to be in the company of a woman, drink alcohol or smoke in the streets.¹⁵⁶ There was a list issued by Abou Zeid with for example: “*le fumeur*” “*10 coups de fouets*”.¹⁵⁷ AL HASSAN acknowledged that 10-20 lashes given as *Ta’zir* occurred “*tout le temps à la police*”¹⁵⁸ (see for more details section VI.A. below).

III.C.1.f. Synergy between the Police and other organs

53. The Police worked closely with the other organs, especially the *Hesbah*, the Islamic Tribunal and the Security Battalion, as described below. For example, the Police and the *Hesbah* would conduct joint patrols and shared personnel and vehicles with each other when needed.¹⁵⁹ Some other activities were also joint, like the destruction of mausoleums, which involved the Police, the *Hesbah* and the Security Battalion.¹⁶⁰

54. More generally, the Police worked closely with the Tribunal. The Police conducted investigations based on complaints it received from the population on various issues¹⁶¹ but also *proprio motu* in the

¹⁴⁹ P-0582: [MLI-OTP-0062-3736-R02](#), p.3752, 1.542-543. [REDACTED]

¹⁵⁰ [REDACTED]

[REDACTED] Police report, [MLI-OTP-0001-7543](#), translation [MLI-OTP-0052-0029](#), p.0030.

¹⁵¹ P-0626:T-141, p.55, 1.2-p.56, 1.3; P-0125: [MLI-OTP-0023-0004-R03](#), p.0017, para.58; [REDACTED] D-0202:T-203, p.95, 1.21-p.96, 1.15.

¹⁵² [REDACTED]

¹⁵³ P-0641:T-137, p.14, 1.5-19.

¹⁵⁴ P-0626:T-141, p.55, 1.13-p.56, 1.2; [REDACTED]

¹⁵⁵ P-0626:T-142, p.52, 1.3-11; P-0398: [MLI-OTP-0051-1184](#), p.1208, 1.793-p.1209, 1.834; P-0582: [MLI-OTP-0062-3845-R02](#), p.3848, 1.96-101, p.3862, 1.594-p.3864, 1.648.

¹⁵⁶ P-0398: [MLI-OTP-0051-1184](#), p.1205, 1.686-p.1210, 1.866.

¹⁵⁷ P-0398: [MLI-OTP-0051-1184](#), p.1205, 1.695-p.1207, 1.744.

¹⁵⁸ P-0398: [MLI-OTP-0060-1511](#), p.1531, 1.659-668.

¹⁵⁹ P-0654:T-134, p.21, 1.3-5; [REDACTED] P-0398: [MLI-OTP-0051-0483](#), p.0503, 1.613-p.0509, 1.798.

¹⁶⁰ [REDACTED]; see below section IX.

¹⁶¹ P-0065:T-038, p.48, 1.9-10(Conf); T-039, p.24, 1.9-15; P-0654:T-132, p.33, 1.10-24; P-0004:T-166, p.66, 1.8-10; [REDACTED] Reports [MLI-OTP-0001-7509](#), translation [MLI-OTP-0034-0167](#); [MLI-OTP-0001-7541](#), translation [MLI-OTP-0052-0027](#); [MLI-OTP-0053-0070](#), translation [MLI-OTP-0077-2289](#).

absence of complaints.¹⁶² It had the power to summon and¹⁶³ interrogate individuals,¹⁶⁴ and refer them to the Tribunal. For cases referred to the Tribunal, the Police would bring suspects to the Tribunal,¹⁶⁵ together with reports explaining the facts of the case, such as the circumstances of their arrest and the allegations¹⁶⁶ (see sections IV.B.4.b.v. and VII). The Police also stood guard at the Tribunal.¹⁶⁷

55. Further, the Police played the main role in the implementation of the sentences imposed by the Tribunal, with support from the *Hesbah* and other organs when deemed necessary.¹⁶⁸ After a judgment was issued by the Tribunal, the Police brought the sentenced individuals from the Tribunal to the prison or the police headquarters, or released them.¹⁶⁹ If somebody was sentenced by the Tribunal to corporal punishments, like floggings, the Police took the accused to a public site where the punishment was carried out.¹⁷⁰ It was a joint activity: the *Police*, as necessary together with the *Hesbah* and the Security Battalion, established a security perimeter around the sanction site to ensure that the population kept some distance¹⁷¹ and could not interfere with the punishment.¹⁷²

56. The Security Battalion and the Police also worked closely with each other. For example, **AL HASSAN**, in the name of the Police, and Talha, in the name of the Security, co-signed a series of permits to dig a well.¹⁷³ The Security Battalion and the Police also burnt cigarettes together¹⁷⁴.

III.C.2. Other organs created by Ansar Dine/AQIM in Timbuktu

III.C.2.a. Security Battalion

57. The Security Battalion was in place from the beginning of the occupation, before the establishment of the Police.¹⁷⁵ It was led by Abou Talha, a member of the *Al Fourqane* Battalion, originating from the

¹⁶² [REDACTED]

¹⁶³ Summons, [MLI-OTP-0001-7585](#), translation [MLI-OTP-0052-0125](#); [REDACTED], *Convocation*, [MLI-OTP-0001-7402](#), translation [MLI-OTP-0078-6025](#).

¹⁶⁴ Reports: [MLI-OTP-0001-7555](#), translation [MLI-OTP-0077-2798](#); [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#); [REDACTED].

¹⁶⁵ P-0626:T-142, p.28, l.20-p.29, l.2; [REDACTED].

¹⁶⁶ P-0626:T-142, p.30, l.22-p.31, l.1 (Conf.-R74); P-0398:[MLI-OTP-0051-0483](#), p.0509, l.801-812.

¹⁶⁷ P-0626:T-142, p.37, l.19-21 (Conf.-R74).

¹⁶⁸ P-0626:T-142, p.51, l.6-p.52, l.11 (Conf.-R74); D-0202:T-203, p.24, l.12-15; [REDACTED].

¹⁶⁹ P-0626:T-142, p.37, l.15-p.38, l.3 (Conf.-R74); [REDACTED]

¹⁷⁰ P-0065:T-038, p.48, l.6-8; T-042, p.6, l.16-p.7, l.23; *see e.g.* [REDACTED], [REDACTED].

¹⁷¹ *See e.g.* P-0065:T-046, p.55, l.16-57, l.20 (Conf), [REDACTED]
[REDACTED] P-0398:[MLI-OTP-0051-0457](#), p.0472, l.490-494. *See e.g.* [REDACTED]
[REDACTED]

¹⁷² P-0654:T-128, p.75, l.6-p.76, l.1 (identifying Talha at 00:00:04:19 and a member of the Police at 00:00:23:14 in [MLI-OTP-0012-1544](#)); p.76, l.3-20 (identifying Adama at 00:00:29:02 in [MLI-OTP-0012-1549](#)); P-0398:[MLI-OTP-0060-1298](#), p.1316, l.349-353. *See e.g.* VI.B.1.

¹⁷³ *Permis de Creuser un Puits*, [MLI-OTP-0001-7205](#), translation [MLI-OTP-0069-1682](#); [MLI-OTP-0001-7202](#), translation [MLI-OTP-0069-1678](#); [MLI-OTP-0001-7209](#), translation [MLI-OTP-0077-2740](#); [MLI-OTP-0001-7203](#), translation [MLI-OTP-0034-0043](#); [REDACTED]

¹⁷⁴ Video, [MLI-OTP-0015-0495](#), 00:29:30:00-00:30:11:00, transcript [MLI-OTP-0033-5189](#), p.5190-5191, l.35-44, translation [MLI-OTP-0033-5288](#), p.5291, l.41-50, depicting Talha and Police members.

¹⁷⁵ [REDACTED]; P-0065:T-046, p.55, l.10-15 (Conf).

region.¹⁷⁶ Members of the Security Battalion included [REDACTED]¹⁷⁷ and D-0529.¹⁷⁸ At the beginning of the occupation, before the establishment of the other Organs, the Security Battalion, as an armed branch of Ansar Dine/AQIM, took a leading role in exercising control over the population and imposing their rules, as seen, for example, in a video dated April 2012 showing Talha destroying alcoholic beverages.¹⁷⁹ The Police then took over some tasks, but the Security Battalion remained in charge of controlling gates and checkpoints within and outside Timbuktu, keeping the security outside the city.¹⁸⁰ It also issued permits for cars traveling in and out of Timbuktu.¹⁸¹ The Security Battalion had an office at the BMS while the Police was based there.¹⁸²

III.C.2.b. Hesbah (“morality brigade”)

58. The *Hesbah*, also called “*Centre Recommandation du Convenable et l'Interdiction du Blâmable*”,¹⁸³ was established in late April 2012/May 2012, around the same time as the Police.¹⁸⁴ Its mission consisted of patrolling, monitoring compliance with the rules, preaching and suppressing any behaviour deemed contrary to virtue and morals, such as social mixing between men and women and dress code violations.¹⁸⁵ It also enforced the prohibition on praying at mausoleums¹⁸⁶ and led and coordinated their destructions in June/July 2012¹⁸⁷ and December 2012.¹⁸⁸ The *Hesbah* participated in the execution of sentences imposed by the Tribunal, in particular, by announcing the judgment on site.¹⁸⁹

59. The *Hesbah* consisted of around ten members,¹⁹⁰ who were mostly scholars and imams, including: Al Mahdi; Mohamed Moussa; Abou Baccar Al Chinguetti, nicknamed Firaoun¹⁹¹ or the “Whipper”,¹⁹²

¹⁷⁶ [REDACTED]; D-0529:T-189, p.11, l.13-p.12, l.1; P-0065:T-041, p.5, l.4-15, p.6, l.9-p.7, l.17(Conf), [REDACTED] D-0605:T-192, p.75, l.7-8, p.78, l.21-22; Video, [MLI-OTP-0015-0495](#), 00:28:00:00-00:28:50:00, transcript [MLI-OTP-0033-5189](#), translation [MLI-OTP-0033-5288](#), p.5290, l.11-28.

¹⁷⁷ [REDACTED]
¹⁷⁸ D-0529:T-189, p.11, l.4-24.

¹⁷⁹ See e.g. Video, [MLI-OTP-0001-6931](#), 00:01:06:00-00:01:19:00, transcript [MLI-OTP-0056-0581](#), p.0582, l.36-39, translation [MLI-OTP-0061-1139](#), p.1141, l.34-p.1142, l.44.

¹⁸⁰ P-0065:T-041, p.8, l.16-p.9, l.2; P-0654:T-128, p.75, l.12-13; [REDACTED]
[REDACTED] D-0529:T-189, p.11, l.5-24.

¹⁸¹ [MLI-OTP-0007-0419](#), translation [MLI-OTP-0078-2284](#), [REDACTED]

¹⁸² [REDACTED] P-0114:T-060, p.73, l.15-17.

¹⁸³ [REDACTED]
¹⁸⁴ [REDACTED].

¹⁸⁵ P-0626:T-141, p.53, l.16-19; P-0065:T-038, p.46, l.14-15; P-0398:[MLI-OTP-0051-1032](#), p.1037, l.163-166; Al Mahdi’s interview, 28 September 2012, [MLI-OTP-0029-0099](#), translation [MLI-OTP-0078-7308](#). See also D-0605:T-192, p.82, l.13-23.

¹⁸⁶ See e.g. [REDACTED]
¹⁸⁷ See e.g. [REDACTED]. See also IX.A.4.

¹⁸⁸ See e.g. Article, 23 December 2012, [MLI-OTP-0024-3085](#), translation [MLI-OTP-0078-7303](#).

¹⁸⁹ [REDACTED]
¹⁹⁰ [REDACTED]

¹⁹¹ P-0654:T-128, p.40, l.22-p.41, l.6 (identifying this as Baccar’s nickname).

¹⁹² P-0065:T-041, p.9, l.12-15, p.11, l.18-p.12, l.4(Conf), [REDACTED] (referring to “Abou Baccar the Whipper”).

who worked with the *Hesbah* until around June or July 2012 when he moved to the Police;¹⁹³ Abou Mahjen; Mohamed Ag Hetti; and Mohamed Ibrahim.¹⁹⁴ After attending training in the training camps, a few more persons joined, such as Imekni Ag Abdallah aka Zakaria¹⁹⁵ and Mohamed Ismail.¹⁹⁶

60. The *Hesbah* was first headed by Al Mahdi from the beginning of its establishment until around the first week of September 2012 when he was succeeded by Mohamed Moussa.¹⁹⁷ During that period, the *Hesbah* was based at a telecommunications centre (“*télécentre*”).¹⁹⁸ When Mohamed Moussa became its head, the *Hesbah* moved to the BMS in place of the Police (which relocated to the *Gouvernorat*)¹⁹⁹ and a sign with its name (“*Centre de Recommandation du Convenable et l'Interdiction du Blâmable*”) was placed on the facade within one month approximately (October 2012);²⁰⁰ some of the *Hesbah* members also started wearing a distinctive vest with its name written in Arabic and French.²⁰¹

61. Like the Police Emir, the head of the *Hesbah* had the authority to impose *Ta'zirs*, which could vary from a warning or a fine, to imprisonment or floggings.²⁰² In practice, when Al Mahdi was its head, the *Hesbah* would generally give warnings to people found in violation of the rules, and hand over repeat offenders to the Police because the *Hesbah* did not have any prison at the time.²⁰³ Subsequently, when Mohamed Moussa was in charge, he would punish such persons, including women, at its headquarters.²⁰⁴ The *Hesbah* under his leadership also used the ATM room attached to one side of the BMS's main building as a women's prison.²⁰⁵

62. Mohamed Moussa also referred some cases to the Islamic Tribunal, as evidenced by the reports, attributed to an “Official of Hisbah, Abou-Abdallah el-Souki”,

[REDACTED] These reports are dated 25 November 2012

¹⁹³ [REDACTED]
¹⁹⁴ [REDACTED]; [REDACTED].
¹⁹⁵ [REDACTED].
¹⁹⁶ [REDACTED]
¹⁹⁷ [REDACTED] P-0398:[MLI-OTP-0051-1099](#), p.1116, l.553-p.1118, l. 641.
¹⁹⁸ P-0641:T-137, p.17, l.24-p.18, l.10; P-0398:[MLI-OTP-0051-1032](#), p.1047, l.498-509 and [MLI-OTP-0051-1099](#), p.1113, l.473-p.1115, l.521; [REDACTED] and [REDACTED]; P-0654:T-12
¹⁹⁹ P-0654:T-128, p.30, l.13-15; P-0398:[MLI-OTP-0051-1099](#), p.1118, l.630-p.1119, l.661; P-0114:[MLI-OTP-0023-0344-R02](#), p.0385, para.213; D-0605:T-192, p.87, l.14-17; P-0641:T-137, p.18, l.16-p.19, l.2.
²⁰⁰ P-0608:T-153,p.53,l.3-p.54,l.12(Conf), T-0154, p.66, l.4-8.
²⁰¹ [REDACTED], Video, [MLI-OTP-0009-1749](#), 00:07:32:00; P-0065:T-046, p.46, l.12-p.47, l.4 (Conf); P-0398:[MLI-OTP-0051-1155](#), p.1175, l.671-p.1176, l.703.
²⁰² [REDACTED]; August Instructions, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#).
²⁰³ [REDACTED]; P-0398:[MLI-OTP-0051-1124](#), p.1142, l.599-p.1145, l.686; p.1146, l.721-p.1147, l.752.
²⁰⁴ [REDACTED] P-0398:[MLI-OTP-0051-1124](#), p.1143, l.633-644; p.1145, l.689-713; [REDACTED] P-0608:T-153, p.78, l.14-p.80, l.16.
²⁰⁵ P-0641:T-137, p.54, l.13-20; T-138, p.71, l.11-p.74, l.7; P-0608:T-153, p.78, l.14-p.81, l.12; T-154, p.9, l.5-p.10, l.22; P-0654:T-134, p.87, l.7-p.88, l.21.

confirming that notwithstanding complaints from the population, Moussa still remained in place.²⁰⁶ Likewise, Mohamed Moussa was present at the military²⁰⁷ training in Aryao²⁰⁸ around end November/early December 2012²⁰⁹, which Iyad Ag Ghaly attended:²¹⁰ Moussa was in charge of ensuring “that everything in this training was in compliance with” religious rules,²¹¹ which is essentially an *Hesbah* responsibility.

63. Mohamed Moussa was still the head of the *Hesbah* during the first two weeks of December 2012.

describes an incident at the beginning of December in which Mohamed Moussa arrested around ten Bella women.²¹² Then, on 17 December 2012, D-0544 called **AL HASSAN** concerning [REDACTED] and “*était avec*” Mohamed Moussa.²¹³

64. Later on, in December 2012, Abou Al Walid, a Chadian member of the *Tarek Ibn Ziyad* Battalion, became head of the *Hesbah*:²¹⁴ [REDACTED] refers to a [REDACTED] on the destruction of mausoleums²¹⁶ (destructions around that date are confirmed by P-0064’s expert report²¹⁷).

III.C.2.c. Islamic Tribunal

65. The idea of creating an Islamic Tribunal (“Tribunal”) was discussed from the first days of the occupation during meetings involving Iyad Ag Ghaly and Abou Zeid, and a meeting with local dignitaries.²¹⁸

²⁰⁶ [REDACTED]

²⁰⁷ [REDACTED]

²⁰⁸ [REDACTED]

²⁰⁹ [REDACTED]

²¹⁰ [REDACTED]

²¹¹ [REDACTED]

²¹² [REDACTED]

²¹³ D-0544:T-196, p.53, l.11-p.55, l.1, [MLI-D28-0006-3342-R01](#), p.3346, paras 22-27.

²¹⁴ [REDACTED]
[REDACTED]; P-0398:[MLI-OTP-0051-1099](#), p.1120, l.688-p.1121, l.715. [REDACTED]

²¹⁵ Emphasis added.

²¹⁶ [REDACTED]

²¹⁷ P-0064: [MLI-OTP-0021-0006](#), p.0008, p.0013-0016.

²¹⁸ [REDACTED]

¹⁹ The Tribunal was operational around the end of April 2012 or beginning of May 2012,²²⁰ and based at the *Hôtel La Maison*.²²¹

66. Mohamed Lamine, an Arab imam and *cadi*²²² before the arrival of Ansar Dine/AQIM,²²³ was initially nominated to be the Presiding Judge of the Tribunal, but he excused himself due to his age and health.²²⁴ Houka Houka, who was a *cadi* dealing with social or family cases at his house in Timbuktu before the occupation,²²⁵ was thus appointed to the position.²²⁶

67. Other locals²²⁷ representing different ethnicities were also appointed as members of the Tribunal,²²⁸ namely: [REDACTED]²²⁹ [REDACTED]

[REDACTED]²³⁰, [REDACTED]²³¹, [REDACTED]²³², [REDACTED]²³³, [REDACTED]²³⁴, [REDACTED]²³⁵ Mohamed

²¹⁹ [REDACTED]
²²⁰ [REDACTED] Document from the Tribunal refers to events of 4 April 2012, [MLI-OTP-0055-0223](#), translation [MLI-OTP-0054-0329](#); Judgment, 21 May 2012, [MLI-OTP-0055-0233](#), translation [MLI-OTP-0054-0333](#), p.0334.

²²¹ P-0065:T-046, p.43, l.10-11(Conf); T-038, p.46, l.21-p.47, l.2; T-042, p.46, l.9-14(Conf); P-0004:T-167, p.25, l.3-8; [REDACTED]

²²² P-0643:T-083, p.17, l.15-p.18, l.19, p.52, l.2-p.53, l.10, p.63, l.16-p.67, l.18; [REDACTED]

²²³ [REDACTED] P-0398:[MLI-OTP-0051-0598](#), p.0625-0626, l.918-935. *See also* D-0202:T-202, p.91, l.20-p.92, l.1; p.95, l.14-15.

²²⁴ [REDACTED]
²²⁵ [REDACTED]
²²⁶ [REDACTED] P-0398:[MLI-OTP-0051-0598](#), p.0624-0628, l.874-1004. Notes and judgments of the Tribunal, listing attendees of its hearings indicate that in practice, Mohamed Lamine was absent from its proceedings, while Houka Houka was always present. *See e.g.* handwritten judgment, [MLI-OTP-0055-0231](#), translation [MLI-OTP-0078-6282](#); Notes, [MLI-OTP-0001-7382](#), translation [MLI-OTP-0078-4935](#), p.4936.

²²⁷ [MLI-OTP-0001-7382](#) (right), translation [MLI-OTP-0078-4935](#); [MLI-OTP-0055-0231](#) (left), translation [MLI-OTP-0078-6282](#); [MLI-REG-0001-0074](#); [MLI-REG-0001-0075](#); [MLI-OTP-0001-7369](#), translation [MLI-OTP-0077-2768](#); [REDACTED]

[REDACTED] D-0202:T-202, p.92, l.8-p.95, l.17; D-0605:T-192, p.56, l.9-p.58, l.10; P-0398:[MLI-OTP-0051-0598](#), p.0624-0627, l.879-991.

²²⁸ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²²⁹ [REDACTED]
²³⁰ [REDACTED] D-0202:T-202, p.95, l.13.

²³¹ [REDACTED]
²³² [REDACTED]
²³³ [REDACTED]
²³⁴ [REDACTED]
²³⁵ [REDACTED]

D-0202:T-202, p.93, l.19-25; p.95, l.12.

Moussa;²³⁶ and Al Mahdi.²³⁷

68. In addition, three members of AQIM attended the Tribunal proceedings to ensure that its work was in line with Ansar Dine/AQIM's objectives:²³⁸ Abdallah Al Chinguetti, who worked with the Tribunal from its establishment;²³⁹ Radwan (Aboubacar Ibn Abdullah), a member of the AQIM *Tarek Ibn Ziyad* battalion²⁴⁰ and the Media Office,²⁴¹ who started attending the Tribunal from May 2012;²⁴² and Koutaïba Al Noaman (Koutaiba), a member of the AQIM *Al Fourqane* Battalion,²⁴³ who started being present at the Tribunal toward the end of June 2012 (see for more details, section VII.A.1 below).²⁴⁴

69. The Tribunal dealt with various types of criminal cases, such as murder, theft, selling of cigarettes, sorcery, magic, and "adultery" (extra-marital sexual intercourse), as well as civil cases, such as concerning marital issues²⁴⁵ (some of which could also lead to penal sanctions).²⁴⁶ As the only tribunal in the Timbuktu region, it had the competence to decide on all cases in the region.²⁴⁷

70. The Tribunal convened hearings twice a week, with the presence of all members generally required to reach a judgment.²⁴⁸ The Tribunal had the power to summon people.²⁴⁹ In numerous cases adjudicated throughout the period of the occupation, the Tribunal imposed corporal punishments, such as floggings²⁵⁰ and in one instance, an amputation for theft.²⁵¹

71. [REDACTED],²⁵² [REDACTED]

²³⁶ [REDACTED]; P-0626:T-141, p.53, l.11-14; D-0202:T-202, p.94, l.1-25.

²³⁷ [REDACTED] P-0398:[MLI-OTP-0051-0598](#), p.0624-0625, l.879-899.

²³⁸ [REDACTED] P-0065:T-042, p.39, l.21-23(Conf).

²³⁹ [REDACTED]
²⁴⁰ [REDACTED]; Article, [MLI-OTP-0020-0124](#), translation [MLI-OTP-0078-9741](#), p.9743.

²⁴¹ [REDACTED]. P-0654:T-128, p.61, l.13-17; [REDACTED]

²⁴² [REDACTED]
See also D-0202:T-202, p.93, l.9-12.

²⁴³ [REDACTED]
²⁴⁴ [REDACTED] *See also* D-0202:T-202, p.92, l.13-21.

²⁴⁵ [MLI-OTP-0001-7356](#), translation [MLI-OTP-0034-0061](#); [REDACTED]
[REDACTED]

²⁴⁶ *See e.g.* section VII.V.10. and Annex 1, no.23.

²⁴⁷ P-0398:[MLI-OTP-0060-1453](#), p.1476-1477, l.750-798; [REDACTED]
[REDACTED]
[REDACTED]

²⁴⁸ [REDACTED] *See also* [REDACTED]
[REDACTED]

²⁴⁹ Summons issued by the Islamic Tribunal dated 4 September 2012, [MLI-OTP-0053-0258](#), translation [MLI-OTP-0078-0011](#); [REDACTED]; D-0202:T-204, p.30, l.14-22(Conf).

²⁵⁰ Judgments, [MLI-OTP-0001-7372](#), translation [MLI-OTP-0077-2770](#), p.2771; [MLI-OTP-0001-7490](#), translation [MLI-OTP-0078-1636](#), p.1637; [MLI-OTP-0001-7484](#), translation [MLI-OTP-0077-2313](#), p.2314; [MLI-OTP-0001-7483](#), translation [MLI-OTP-0077-2254](#), p.2255; [MLI-OTP-0001-7480](#), translation [MLI-OTP-0077-2248](#), p.2249; [MLI-OTP-0001-7478](#), translation [MLI-OTP-0077-2310](#), p.2311; [MLI-OTP-0001-7476](#), translation [MLI-OTP-0077-2438](#), p.2439; [MLI-OTP-0001-7461](#), translation [MLI-OTP-0077-2426](#), p.2427; [MLI-OTP-0001-7430](#), translation [MLI-OTP-0078-0200](#), p.0201; [MLI-OTP-0001-7420](#), translation [MLI-OTP-0078-1614](#), p.1616; [MLI-OTP-0001-7414](#), translation [MLI-OTP-0077-2381](#), p.2383.

²⁵¹ Judgment, [MLI-OTP-0002-0051](#), translation [MLI-OTP-0078-0276](#), p.0277.

²⁵² [REDACTED]; P-0398:[MLI-OTP-0051-0598](#), p.0627-0628, l.992-1004.

[REDACTED]²⁵³ One copy of the final versions of the judgments was given to the Police, one kept in a closet at the Tribunal's seat at the *Hôtel La Maison*,²⁵⁴ and one was also provided to the *Shura* Council.²⁵⁵ At times, members of the Tribunal would attend the execution of sentence it issued.²⁵⁶ For example, Houka Houka, Abdallah Al Chinguetti, Koutaiba, Radwan and Al Mahdi attended the execution of the sentence of floggings [REDACTED]²⁵⁷

72. The Tribunal was designed to give the appearance of legitimacy to the decisions taken by Ansar Dine/AQIM and, as a result, to avoid confrontations with the local population.²⁵⁸ However, it did not afford the essential guarantees of independence and impartiality, nor other judicial guarantees recognised as indispensable under international law (see below section VII.A.2.).²⁵⁹

III.C.2.d. Media Office

73. The Media Office was based at the building of the *Office de Radio et Télévision du Mali* (ORTM),²⁶⁰ and consisted of various members, including: Sanda Ould Boumama;²⁶¹ Radwan;²⁶² a certain Youssouf, from the *Al Fourqane* Battalion;²⁶³ and Abou Dardar, a Mauritanian from the *Al Fourqane* Battalion.²⁶⁴ They supervised all media and propaganda activities, including by issuing authorisation to journalists to film or report on certain events or activities,²⁶⁵ censoring material recorded by journalists, and authorising or recommending Ansar Dine/AQIM members' interviews with the media.²⁶⁶ To broadcast their new rules and messages, Ansar Dine/AQIM also took control of local radio

²⁵³ P-0626:T-142, p.10, l.19-p.11, l.7(Conf), p.47, l.24-p.48, l.24(Conf); [REDACTED]; D-0202:T-202, p.99, l.18-p.100, l.1(Conf).

²⁵⁴ [REDACTED]

²⁵⁵ P-0398:MLI-OTP-0051-0631, p.0652, l.695-712.

²⁵⁶ [REDACTED]; P-0626:T-142, p.56, l.3-21(Conf).

²⁵⁷ [REDACTED]

²⁵⁸ [REDACTED]

²⁵⁹ [REDACTED] See also D-0202:T-204, p.30, l.14-21(Conf); [REDACTED]; See also D-0202:T-204, p.30, l.23-p.31, l.1(Conf).

²⁶⁰ P-0065:T-038, p.17, l.9-10(Conf); P-0654:T-128, p.60, l.23-p.61, l.3.

²⁶¹ P-0065:T-038, p.23, l.1-p.24, l.11; T-039, p.13, l.21-p.14, l.2; P-0004:T-164, p.84, l.1-4; [REDACTED] MLI-OTP-0001-7322, translation MLI-OTP-0034-0051; [REDACTED]

²⁶² [REDACTED]

²⁶³ P-0065:T-039, p.13, l.13-p.14, l.7(Conf); [REDACTED]. Note MLI-OTP-0001-7322, translation MLI-OTP-0034-0051; [REDACTED]

²⁶⁴ [REDACTED] P-0654:T-130, p.44, l.15-p.45, l.6; [REDACTED]

²⁶⁵ [REDACTED] P-0099:T-145, p.32, l.8-9.

²⁶⁶ [REDACTED] MLI-OTP-0053-0008, translation MLI-OTP-0078-1650; MLI-OTP-0001-7217, translation MLI-OTP-0034-0045.

stations such as Radio Bouctou,²⁶⁷ which was managed by Abou Dardar.²⁶⁸ “[D]es rappels de lois” of “leur Charia” were broadcasted in the morning and the evening on the radio.²⁶⁹

III.C.2.e. Sharia Committee

74. The *Sharia* Committee, in charge of religious matters, was chaired by Abdallah Al Chinguetti²⁷⁰ and included other leaders, such as: Abou Al Baraa, an important AQIM preacher;²⁷¹ Radwan; Koutaiba; Al Mahdi; and Houka Houka.²⁷² The Committee was part of the decision-making process during the occupation of Timbuktu.²⁷³ For example, it was involved in the decision to destroy the mausoleums.²⁷⁴ Abdallah Al Chinguetti prepared written advice on the destruction of the mausoleums, which was then distributed to various leaders; its content was disseminated among the population.²⁷⁵ The Committee also provided advice regarding gender-mixing.²⁷⁶

III.C.2.f. Training centres

75. There were multiple training centres, including in the former *Gendarmerie Nationale*’s building, where recruits received religious and military training, before they were assigned to different organs.²⁷⁷ A document found at the former *Gendarmerie Nationale*’s building²⁷⁸ shows that they were also informed of rules regarding their conduct, including the obligation to comply with orders given.²⁷⁹

IV. AL HASSAN’s prominent role, acts, and conduct during the charged period

IV.A. AL HASSAN was an active member of the armed groups from the start of the occupation of Timbuktu in April 2012 until the groups left in January 2013

76. Throughout the occupation of the city of Timbuktu by Ansar Dine/AQIM between April 2012 and January 2013, AL HASSAN was present and living in the Hammabangou neighbourhood,²⁸⁰ which is close to the *Sans Fil* neighbourhood.²⁸¹ The Call Data Records (“CDRs”) related to AL HASSAN’s

²⁶⁷ P-0654:T-130, p.40, l.8-11.

²⁶⁸ P-0654:T-128, p.61, l.18-20; [REDACTED] P-0639:[MLI-OTP-0072-0290-R03](#), p.0295, para.24; P-0398:[MLI-OTP-0051-0483](#), p.0791, l.199-207; D-0093:T-211, p.50, l.18-24(Conf).

²⁶⁹ P-0582:[MLI-OTP-0062-3845-R02](#), p.3848, l.87-90.

²⁷⁰ [REDACTED] P-0398:[MLI-OTP-0051-1257](#), p.1291, l.1129-1133.

²⁷¹ P-0065:T-043, p.21, l.25-p.22, l.4; P-0099:T-145, p.68, l.2-3.

²⁷² [REDACTED] P-0398:[MLI-OTP-0060-1327](#), p.1340, l.414-437.

²⁷³ [REDACTED]

²⁷⁴ [REDACTED] P-0398:[MLI-OTP-0060-1327](#), p.1339-1342, l.370-502.

²⁷⁵ [REDACTED] [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#), para 5.

²⁷⁶ [REDACTED]; P-0582:[MLI-OTP-0062-3641-R02](#), p.3646-3647, l.162-206; [MLI-OTP-0062-3679-R02](#), p.3692, l.420-441; P-0398:[MLI-OTP-0051-1184](#), p.1201-1202, l.564-593; [MLI-OTP-0051-0824](#), p.0833-0845, l.292-723. D-0529:T-189, p.4, l.13-p.11, l.24.

²⁷⁸ P-0010:T-020, p.7, l.17-p.19, l.1.

²⁷⁹ Rules of Recruitment, [MLI-OTP-0002-0759](#), translation [MLI-OTP-0078-6164](#); D-0529:T-189, p.7, l.3-9.

²⁸⁰ P-0398:[MLI-OTP-0051-0741](#), p.0747, l.203-204, p.0748, l.227-233; P-0638:T-058, p.13, l.7-25(Conf); D-0544:[MLI-D28-0006-3342-R01](#), p.3343, para.6; D-0544:T-196, p.41, l.19-21(Conf); D-0605:T-195, p.21, l.13-25.

²⁸¹ D-0605:T-194, p.48, l.5-11(Conf); D-0605:T-195, p.21, l.13-25; D-0540: T-183, p.49, l.14-16.

phone number²⁸² support this.²⁸³

77. During this entire period, **AL HASSAN** consistently took part in the system set up by Ansar Dine/AQIM to control and forcibly impose their vision and rules on Timbuktu and its population, as shown by testimonial evidence, contemporary documentary evidence, expert evidence, and **AL HASSAN**'s statement to the Office of the Prosecutor ("OTP").

78. In fact, much of **AL HASSAN**'s statement is corroborated by reliable evidence on the record, save for aspects concerning his own criminal responsibility, such as the exact nature and importance of his role within the Police, which he watered down.²⁸⁴ Aside from such matters, he provided detailed and comprehensive evidence regarding significant events that occurred in Timbuktu in 2012 - consistent with someone who personally lived through them. Many parts of his statement match the picture shown/are corroborated by documentary evidence and several witnesses, including P-0626, [REDACTED] P-0099, P-0582, P-0065, P-0654 and P-0004 and, in general, by crime-based witnesses.²⁸⁵ This undermines any Defence claim that the incriminating evidence provided by **AL HASSAN** is unreliable because his cognitive abilities were allegedly affected by his detention.

79. Defence witnesses D-0020's, D-0025's and D-0502's²⁸⁶ flawed methodologies and lack of neutrality and objectivity affected the reliability of their testimony and reports, which suggested that **AL HASSAN**'s statement was unreliable because of the alleged trauma and/or other injuries or pressure he faced. Their evidence should therefore not be admitted for the truth or accuracy of their content. D-0020, D-0025 and D-0502 did not have or seek access to all relevant OTP transcripts of **AL HASSAN**'s statement;²⁸⁷ the relevant audiotapes thereof;²⁸⁸ the full medical history;²⁸⁹ and/or other relevant information regarding the potential causes for alleged trauma including in the period 2012 to 2017.²⁹⁰ They further demonstrated a lack of neutrality²⁹¹ by not fully addressing the possibility that **AL HASSAN** was not telling them the truth. For instance, D-0502, worked under the disputed assumption

²⁸² Notes, [MLI-OTP-0001-7323](#), translation [MLI-OTP-0034-0053](#); [REDACTED]; Summons, [MLI-OTP-0001-7585](#), translation [MLI-OTP-0052-0125](#); P-0398: [MLI-OTP-0060-1403](#), p.1411-1416, 1.260-413; CDR, [MLI-OTP-0031-0790](#). Calls between AL HASSAN [REDACTED] Expert report, [MLI-OTP-0061-1643](#), p.1661, p.1691.

²⁸³ P-0587: [MLI-OTP-0061-1643](#), p.1691, p.1694-1697.

²⁸⁴ ICC-02/04-01/15-2022-Red ("Ongwen AJ"), para.524, 805 (where the Appeals Chamber held that "a Trial Chamber may rely on certain aspects of a witness's evidence and consider other aspects unreliable provided that it explains why it considers the remainder of the testimony to be reliable"), and authorities cited therein.

²⁸⁵ See sections IV-X.

²⁸⁶ Chamber Decision regarding D-0502 and prior email submissions, 06/06/2022 at 16:10 and 14/06/2022 at 15:08; Chamber Decision regarding D-0020 and prior email submissions, 25/05/2022 at 08:42; Chamber Decision on Rule 68(3) application regarding D-0020, D-0025 and D-0502, ICC-01/12-01/18-2206-Conf.

²⁸⁷ D-0025:T-178, p.61, 1.1-13, p.77, 1.6-p.78, 1.25; D-0020:T-173, p.66, 1.24-p.67, 1.19, p.73, 1.10-p.74, 1.6.

²⁸⁸ D-0502:T-180, p.9, 1.21-p.12, 1.1.

²⁸⁹ D-0502:T-180, p.5, 1.24-p.6, 1.23.

²⁹⁰ D-0025:T-178, p.58, 1.15-p.59, 1.24; D-0020:T-173, p.84, 1.20-p.85, 1.12, p.85, 1.22-p.86, 1.13, p.89, 1.3-p.90, 1.13; D-0502:T-179, p.94, 1.8-13.

²⁹¹ D-0020:T-173, p.103, 1.22-p.110, 1.18; D-0502:T-180, p.16, 1.16-p.17, 1.13.

that **AL HASSAN** had been truthful in all of his accounts regarding the alleged torture that he had endured while detained.²⁹² D-0025 was never told that **AL HASSAN** had been a member of the Police or even the armed groups in 2012²⁹³ and did not have access to all of the relevant medical reports and related documents regarding **AL HASSAN**.²⁹⁴ In the end, D-0025 was not able to make a conclusive diagnostic regarding **AL HASSAN**'s injuries.²⁹⁵ Further, D-0020's report²⁹⁶ and D-0025's first report²⁹⁷ contain untested details recounted by **AL HASSAN** regarding his alleged ill-treatment during his detention in Mali, which are akin to an unsworn statement from **AL HASSAN**. As the Trial Chamber has already found,²⁹⁸ such accounts cannot be relied upon to assess **AL HASSAN**'s subjective state of mind during his interviews with the OTP. While D-0502 opined that "it is with near certainty" that the eyewitness information provided by **AL HASSAN** to the Prosecution "contains substantial error", this is merely speculative and inconsistent with the evidence on record.²⁹⁹

IV.A.1. AL HASSAN joined Ansar Dine in April 2012, and soon after he joined the Police

IV.A.1.a. AL HASSAN joined Ansar Dine in April 2012

80. **AL HASSAN** joined Ansar Dine at the start of the occupation in April 2012, even before the creation of the Police.

81. **AL HASSAN** admitted working with the occupiers from the beginning. [REDACTED]

[REDACTED] **AL HASSAN** stated in clear terms: "*Si vous étiez venus les premiers jours... On ne dormait qu'une heure ou deux par nuit. Et nos voitures... on remplissait la voiture... d'essence... le matin... et le soir... elle était déjà vide*".³⁰³ The use of "on" clearly means that **AL HASSAN** is included.

82. Additionally, witnesses saw him working with members of the armed groups in the days following the takeover of the city by Ansar Dine/AQIM:

- P-0638 knows **AL HASSAN** ³⁰⁴ P-0638 was arrested by [REDACTED]

²⁹² D-0502:T-180, p.16, l.16-p.17, l.13.

²⁹³ D-0025:T-178, p.61, l.1-13.

²⁹⁴ D-0025:T-178, p.66, l.3-p.69, l.22; [MLI-OTP-0069-9939](#).

²⁹⁵ D-0025:T-178, p.74, l.5-p.75, l.10.

²⁹⁶ [MLI-D28-0002-0535](#).

²⁹⁷ [MLI-D28-0002-0500](#).

²⁹⁸ ICC-01/12-01/18-1475-Red, para.70.

²⁹⁹ [MLI-D28-0005-9967-R01](#), p.9973.

³⁰⁰ [REDACTED]; [REDACTED]

³⁰¹ [REDACTED]

³⁰² [REDACTED].

³⁰³ [REDACTED]

[REDACTED]

³⁰⁴ P-0638:T-058, p.12, l.6-p.14, l.12(Conf).

- [REDACTED]³⁰⁵) and other Ansar Dine/AQIM members [REDACTED]
 [REDACTED]³⁰⁶ About a week later, P-0638 saw **AL HASSAN** stop at the BMS.³⁰⁷ Another week later, P-0638 saw **AL HASSAN** dressed like the “Islamists”.³⁰⁸
- D-0544 [REDACTED]³⁰⁹ Around two weeks after the arrival of Ansar Dine/AQIM, D-0544 [REDACTED] saw **AL HASSAN** commanding armed soldiers who were pillaging property.³¹⁰ About a month later, D-0544 again saw soldiers from the armed groups obeying **AL HASSAN** in similar circumstances.³¹¹
 - [REDACTED]³¹² He stated that **AL HASSAN** initially worked in the security with Abou Talha, before going to work for the Police.³¹³ [REDACTED] saw **AL HASSAN** in the last week of April 2012, working for Talha at the security office at the BMS.³¹⁴ [REDACTED] at the time, Abou Talha was relying on **AL HASSAN** to differentiate between private property and government-owned property that the groups wanted to appropriate. At that time, **AL HASSAN** was also dealing with the fights and disputes that happened at night in some areas of Timbuktu and with dispersing crowds, namely, the population’s attempted resistance to the new occupiers [REDACTED] **AL HASSAN** also carried out various office tasks for Talha related to checking vehicles coming in and out of the city and ammunition.³¹⁵
 - P-108 [REDACTED]³¹⁶ P-1086 was in Timbuktu in [REDACTED]
 [REDACTED]³¹⁷ [REDACTED] [REDACTED]
 [REDACTED] They headed towards the market, and the person in question went into a building occupied by armed people. [REDACTED]
 [REDACTED] The latter found out that **AL HASSAN** was with Ansar Dine, [REDACTED]
 [REDACTED]³¹⁸ Given the location, the building appears to correspond to the BMS. P-1086 also testified that, a few days later ir [REDACTED]
 [REDACTED]

³⁰⁵ See e.g. [REDACTED]

³⁰⁶ P-0638:T-058, p.32, l.12-p.36, l.16(Conf), p.37, l.8-14(Conf), p.38, l.17-25.

³⁰⁷ P-0638:T-058, p.14, l.14-18(Conf), p.14, l.24-p.15, l.3(Conf), p.15, l.12-16(Conf), p.57, l.22-p.59, l.23(Conf).

³⁰⁸ P-0638:T-058, p.15, l.1-11(Conf).

³⁰⁹ D-0544:MLI-D28-0006-3342-R01, p.3344, para.13.

³¹⁰ D-0544:MLI-D28-0006-3342-R01, p.3345, para.16; D-0544:T-196, p.34, l.13-p.41, l.4, p.43.

³¹¹ D-0544:MLI-D28-0006-3342-R01, p.3345, para.17; D-0544: T-196, p.48, l.15-p.51, l.1.

³¹² [REDACTED]; P-0398:MLI-OTP-0051-1099, p.1116, l.565-p.1118, l.609.

³¹³ [REDACTED].

³¹⁴ [REDACTED].

³¹⁵ [REDACTED].

³¹⁶ P-1086:T-121, p.49, l.10-p.50, l.9(Conf).

³¹⁷ P-1086:T-121, p.39, l.16-p.41, l.10(Conf), p.61, l.14-p.63, l.5.

³¹⁸ P-1086:T-121, p.48, l.21-p.49, l.9(Conf), p.51, l.21-p.53, l.18(Conf), p.55, l.15-24(Conf), p.56, l.5-23(Conf).

[REDACTED] 319

IV.A.1.b. AL HASSAN became active in the Police at least from May 2012

83. Very shortly afterwards, **AL HASSAN** joined the Police, which started operating at the end of April/early May³²⁰ at the BMS:³²¹

- P-0641 reported that, “in the first days of the setting up of the [...] Islamic Police in the BMS”, when “the Islamists were still trying to distinguish between public property and private property”,³²² **AL HASSAN** was active at the police station.³²³
- The CDRs show calls between **AL HASSAN** and Adama³²⁴ from 30 April 2012 to 25 June 2012, *i.e.* during the period when Adama was the head of the Police.³²⁵
- Early May, **AL HASSAN** dispersed a big demonstration in Timbuktu.³²⁶
- Two documents collected by Witness P-0007³²⁷ at the *Hôtel La Maison* show that **AL HASSAN** was already a member of the Police by 7 May 2012.³²⁸ The first document is a handwritten report on the death of a pregnant woman who was stoned. It bears the stamp of the Police. **AL HASSAN** acknowledged that it was his handwriting.³²⁹ On the back of this document is written “To the Islamic Court”.³³⁰ The second document is the judicial register of the Tribunal. On the right, at the bottom of the page, there is a reference to the “case involving an accusation of the murder of a pregnant woman”. The top of the left-hand page bears the date 7 May 2012.³³¹

- [REDACTED]
[REDACTED] At the BMS, a police officer took him to an office on the right, where he saw **AL HASSAN**. [REDACTED]

³¹⁹ P-1086:T-121, p.58, l.6-p.60, l.25(Conf).

³²⁰ *Mali: confusion à Tombouctou où une police islamique impose la charia*, 28 April 2012, Article, [MLI-OTP-0033-2995](#); *Quand la Police islamique fait sa loi à Tombouctou*, Article, [MLI-OTP-0033-2980](#); New Mali militia leaves Timbuktu to avoid bloodbath, Article, [MLI-OTP-0001-3860](#), p.3861.

³²¹ P-0398:[MLI-OTP-0051-1032](#), p.1042, l.318-325.

³²² P-0641:T-137, p.36, l.6-23.

³²³ P-0641:T-137, p.19, l.4-l.12, p.19, l.22-p.20, l.12(Conf), p.20, l.22-p.21, l.13, p.22, l.12-p.24, l.13, p.27, l.3-p.28, l.15, p.29, l.1-5(Conf), p.34, l.22-p.35, l.4, p.35, l.12-17(Conf), p.36, l.2-p.37, l.18.

³²⁴ [REDACTED] P-0587:[MLI-OTP-0061-1643](#), p.1674.

³²⁵ P-0398:[MLI-OTP-0051-1184](#), p.1199-1200, l.502-509; [MLI-OTP-0051-1032](#), p.1035, l.88-99; [MLI-OTP-0051-1257](#), p.1286-1287, l.962-1.994.

³²⁶ [REDACTED]

³²⁷ Referral, [MLI-OTP-0001-7563](#), translation [MLI-OTP-0052-0113](#); Notebook, [MLI-OTP-0001-7369](#), translation [MLI-OTP-0077-2768](#), p.2769.

³²⁸ Referral, [MLI-OTP-0001-7563](#), translation [MLI-OTP-0052-0113](#); P-0398:[MLI-OTP-0062-1037](#), p.1045-1046, l.238-283; [REDACTED]

³²⁹ Report, [MLI-OTP-0001-7563](#), translation [MLI-OTP-0052-0113](#); P-0398:[MLI-OTP-0062-1037](#), p.1045-1046, l.238-1.283.

³³⁰ [MLI-OTP-0001-7564](#), translation [MLI-OTP-0052-0115](#), p.0116.

³³¹ [REDACTED]

Following a discussion, **AL HASSAN** let P-0114 leave. [REDACTED]

[REDACTED]³³² While P-0114 did not recognise **AL HASSAN** on a photograph shown to him in court,³³³ the image is of low quality, a bit cut off, and showing **AL HASSAN** with his hand in front of his face. In any event, a judgment [REDACTED]³³⁴ corroborates P-0114's account.

IV.A.2. AL HASSAN was constantly active with Ansar Dine/AQIM throughout the occupation of Timbuktu up until January 2013

84. The non-exhaustive examples below reveal that over the subsequent months, **AL HASSAN** was continuously active in the Police and the armed groups occupying Timbuktu.

IV.A.2.a. AL HASSAN's activities in June 2012

85. [REDACTED]³³⁵ [REDACTED] **AL HASSAN** in an office of the Police at the BMS³³⁶ [REDACTED], [REDACTED]³³⁷ [REDACTED]³³⁸

86. Various documents from June 2012 confirm that **AL HASSAN** continued to write and sign documents on behalf of the Police. For instance, a report dated 19 June 2012 regarding a debt issue was written by **AL HASSAN** and bears the stamp of the Police. It ends with the recommendation to be harsh with the debtor.³³⁹

87. In addition, [REDACTED]³⁴⁰ videos show **AL HASSAN** present at Sankoré Square near other leaders³⁴¹ during the public flogging of a couple sentenced to 100 lashes each for adultery (see below section VI.B.1). He was visibly taking part in the security arrangements to keep the population at a safe distance from the two victims who were being sanctioned.

³³² [REDACTED]
³³³ [REDACTED] on photograph [MLI-OTP-0060-0405](#).

³³⁴ [REDACTED]
³³⁵ [REDACTED]

³³⁶ P-0398:[MLI-OTP-0060-1453](#), p.1459-1461, l.184-239.

³³⁷ P-0398: [MLI-OTP-0060-1453](#), p.1462, l.298-p.1464, l.364.

³³⁸ P-0065:T-039, p.47, l.23-p.48, l.21 (Conf).

³³⁹ Report, [MLI-OTP-0001-7546](#), 19 June 2012, translation [MLI-OTP-0054-0014](#), p.0015; P-0398:[MLI-OTP-0060-1423](#), p.1435-1437, l.382-447(as corrected on p.1423 l.02, points 5 to 8); *Permis de creuser un puits*, 17 June 2012, [MLI-OTP-0001-7205](#), translation [MLI-OTP-0069-1682](#), p.1683; P-0398:[MLI-OTP-0060-1539](#), p.1550-1551, l.344-387.

³⁴⁰ [REDACTED]
³⁴¹ [REDACTED] Video, [MLI-OTP-0009-1749](#), 00:02:46:00, 00:02:49:00, 00:05:30:07; P-0398:[MLI-OTP-0051-0936](#), p.0939-0943, l.77-224; P-0398:[MLI-OTP-0051-1184](#), p.1186-1188, l.46-116; [MLI-REG-0001-0008](#); [REDACTED]

88. Towards the end of June 2012,³⁴² **AL HASSAN** was with members of Ansar Dine/AQIM who captured Timbuktu airport after they had given the MNLA an ultimatum³⁴³ to leave the site. He entered the site in a Police car, despite the possible presence of mines, followed by the others.³⁴⁴

IV.A.2.b. AL HASSAN's activities in July 2012

89. On 8 July 2012,³⁴⁵ [REDACTED]³⁴⁶ [REDACTED] **AL HASSAN**, wearing camouflage military trousers,³⁴⁷ and Abou Dhar taking turns administering lashes³⁴⁸ to two men for consuming alcohol,³⁴⁹ 40 lashes³⁵⁰ for each of them. This took place in public in the middle of the market, near the BMS Police building (see section VI.B.3 below).³⁵¹

90. [REDACTED]
[REDACTED] P-0004 referred to **AL HASSAN** as Adama's "deputy" and "*commissaire adjoint*" (see below section IV.B.2). [REDACTED]

[REDACTED]³⁵²
91. [REDACTED]³⁵³ prove **AL HASSAN**'s involvement in a flogging on or around 14 July 2012 at the market in Timbuktu.³⁵⁴ **AL HASSAN** admitted that he was on site, together with other individuals such as Abou Baccar Al Chinguetti and Talha.³⁵⁵ [REDACTED]

[REDACTED]³⁵⁶ [REDACTED]³⁵⁷
92. Further, various reports continue to document **AL HASSAN**'s activities in the Police during July 2012. For example, **AL HASSAN** signed a police report dated 16 July 2012. It states that the suspect was tortured but did not confess (see below section VI.B.4.b.iv.b.).³⁵⁸

³⁴² [REDACTED]
[REDACTED]

P-0075:[MLI-OTP-0033-0140](#), p.0159, p.0165.

³⁴³ P-0641:T-137, p.10, l.7-15.

³⁴⁴ [REDACTED]

³⁴⁵ Article, [MLI-OTP-0033-4224](#), dated 8 July 2012; P-0065:T-040[ENG], p.57, l.7-p.58, l.16(Conf) and P-0065:T-040[FRA], p.57, l.9-p.58, l.19(Conf).

³⁴⁶ [REDACTED]

³⁴⁷ [REDACTED]

³⁴⁸ [REDACTED]

³⁴⁹ [REDACTED]

³⁵⁰ P-0398:[MLI-OTP-0051-0967](#), p.0977, l.309-310.

³⁵¹ P-0065:T-040, p.43, l.13-21(Conf); [MLI-REG-0001-0009](#); P-0065:T-040, p.59, l.11-p.60, l.2; P-0398:[MLI-OTP-0051-0967](#), p.0976, l.287-300.

³⁵² [REDACTED]

³⁵³ [REDACTED]

³⁵⁴ [REDACTED]

³⁵⁵ P-0398:[MLI-OTP-0051-0741](#), p.0749-0760, l.252-643.

³⁵⁶ P-0398:[MLI-OTP-0051-0741](#), p.0753-0754, l.414-449, p.0758-0759, l.579-606.

³⁵⁷ P-0065:T-041, p.11, l.12-p.12, l.4, p.12, l.13-22(Conf), p.13, l.9-20.

³⁵⁸ Report, [MLI-OTP-0001-7514](#) (on the right), translation [MLI-OTP-0034-0169](#); P-0398:[MLI-OTP-0060-1662](#), p.1671-1680, l.312-596.

IV.A.2.c. AL HASSAN's activities in August 2012

93. Several Police reports attest that **AL HASSAN** continued his activities with the Police in August. In particular, he signed a report dated 6 August 2012 on a theft case.³⁵⁹

94. In late August 2012/early September 2012, the police moved from the BMS to the *Gouvernorat*.³⁶⁰ Until that time, **AL HASSAN's** personal telephone number — 79262392 — (purchased years before the occupation of Timbuktu)³⁶¹ appeared on the signboard at the BMS under the caption “Islamic Police”³⁶² and remained there for some time.³⁶³

IV.A.2.d. AL HASSAN's activities in September 2012

95. In early September 2012, at the new Police premises at the *Gouvernorat*, **AL HASSAN** continued to be in control, as illustrated by a summons he drafted for a woman to appear urgently in a divorce case.³⁶⁴ **AL HASSAN** recognised his signature on this summons.³⁶⁵

IV.A.2.e. AL HASSAN's activities in October 2012

96. [REDACTED]³⁶⁶ **AL HASSAN** [REDACTED]
[REDACTED]³⁶⁷ [REDACTED]³⁶⁸ states with a natural demeanour: “[m]ost cases of theft, [...] such as the one whose hand we cut off ... he was a thief [...]” and “[f]or example, the cases of *marabouts* [...] those we refer straight to the Tribunal ... and ... of course ... thieves, fornicators, [...] and imbibers of alcohol”.³⁶⁹ [REDACTED]

[REDACTED]³⁷⁰

[REDACTED]³⁷¹

97. On 6 October 2012,³⁷² the women's demonstration organised to protest against the abuses they

³⁵⁹ Report, [MLI-OTP-0053-0078](#), translation [MLI-OTP-0077-2292](#), p.2293.

³⁶⁰ [REDACTED]
[REDACTED] P-0398:[MLI-OTP-0051-1032](#), p.1042, 1.322-338; [REDACTED]

³⁶¹ P-0398:[MLI-OTP-0060-1403](#), p.1411-1416, 1.260-413; P-0587:[MLI-OTP-0061-1643](#); CDR, [MLI-OTP-0031-0818](#), [MLI-OTP-0031-0790](#), [MLI-OTP-0031-0794](#).

³⁶² [REDACTED] P-0004:T-165, p.78, 1.12-25; [REDACTED]
[REDACTED]
[REDACTED] P-0398:[MLI-OTP-0051-0571](#), p.0593-0594, 1.724-789; [MLI-OTP-0060-1403](#), p.1411-1418, 1.260-49

³⁶³ See above para. 60.

³⁶⁴ Summons, [MLI-OTP-0001-7585](#), translation [MLI-OTP-0052-0125](#); [MLI-OTP-0001-7577](#), translation [MLI-OTP-0078-4946](#). See also Judgment, [MLI-OTP-0053-0234](#), translation [MLI-OTP-0078-0003](#).

³⁶⁵ P-0398:[MLI-OTP-0060-1423](#), [REDACTED].

³⁶⁶ [REDACTED]
[REDACTED]
[REDACTED]

³⁶⁸ [REDACTED] P-0065:T-043, p.53, 1.17-19(Conf); [REDACTED]

³⁶⁹ [REDACTED]

³⁷⁰ [REDACTED]
³⁷¹ [REDACTED]

³⁷² Article, [MLI-OTP-0001-4074](#); Article, [MLI-OTP-0033-4305](#).

were subjected to³⁷³ was dispersed by shots fired into the air by the Police.³⁷⁴ Several women were arrested and taken to the *Gouvernorat*. Sanda Ould Boumama, **AL HASSAN** and Mohamed Moussa then arrived. **AL HASSAN** was present³⁷⁵

98. On 8 October 2012, **AL HASSAN** signed a police report on witchcraft.³⁷⁶ He acknowledged writing this report.³⁷⁷ The suspect was then referred to the Tribunal.³⁷⁸

99. Subsequently, in mid-October 2012,³⁷⁹ **AL HASSAN** took part in the execution of a man by Ansar Dine/AQIM near the Gaddafi Canal in Timbuktu.³⁸⁰ [REDACTED] wearing an Islamic Police vest³⁸¹ and carrying what appears to be a Kalashnikov.³⁸²

IV.A.2.f. AL HASSAN's activities in November 2012

100. [REDACTED] **AL HASSAN**³⁸³ [REDACTED]³⁸⁴ [REDACTED]³⁸⁵ [REDACTED]³⁸⁶ described the role of the Police,³⁸⁷ and stated with visible satisfaction, “[o]nce the *Hudud* punishments were implemented, everything stopped, apart from minor things [...] and those are being dealt with”,³⁸⁸ and “[i]n Timbuktu, only one hand has been chopped off. [...] and only one murderer has been executed. And then two or three perpetrators have been flogged [...] ... two alcohol drinkers were flogged”.³⁸⁹ **AL HASSAN** recognised [REDACTED]³⁹⁰ [REDACTED]³⁹¹ [REDACTED]³⁹²

³⁷³ Audio, [MLI-OTP-0033-2814](#), transcript [MLI-OTP-0069-3232](#).

³⁷⁴ Message, [MLI-OTP-0012-0975](#); P-0603:T-125, p.36, l.3-21.

³⁷⁵ [REDACTED]

³⁷⁶ Report, [MLI-OTP-0001-7560](#) to the left, translation [MLI-OTP-0052-0031](#).

³⁷⁷ P-0398:[MLI-OTP-0060-1605](#), p.1606-1608, l.21-71.

³⁷⁸ Referral, [MLI-OTP-0001-7561](#), translation [MLI-OTP-0077-2806](#); Judgment, [MLI-OTP-0053-0160](#); [MLI-OTP-0053-0162](#), translation [MLI-OTP-0077-2227](#).

³⁷⁹ [REDACTED] P-0065:T-041, p.48, l.21-p.49, l.17(Conf).

³⁸⁰ [REDACTED] P-0065:T-041, p.23, l.1-22(Conf), p.30, l.16-p.31, l.10; [MLI-REG-0001-0010](#).

³⁸¹ [REDACTED] P-0065:T-041, p.34, l.4-12(Conf), p.35, l.1-15.

³⁸² P-0102:[MLI-OTP-0074-0575](#), p.0586, p.0607; P-0065:T-041, p.35, l.1-10.

³⁸³ P-0065:T-039, p.35, l.10-22, p.40, l.17-p.41, l.2(Conf).

³⁸⁴ [REDACTED]

³⁸⁵ [REDACTED] P-0398:[MLI-OTP-0051-0422](#), p.0430, l.257-258, p.00431, l.277-280.

³⁸⁶ [REDACTED] P-0398:[MLI-OTP-0051-0422](#), p.434, l.377-389.

³⁸⁷ P-0398:[MLI-OTP-0051-0422](#), p.0434, l.402.

³⁸⁸ P-0065:T-039, p.32, l.20-21; [REDACTED]

³⁸⁹ P-0065:T-039, p.33, l.7-10; [REDACTED]

³⁹⁰ P-0398:[MLI-OTP-0051-0422](#), p.0430-0433, l.257-341.

³⁹¹ [REDACTED]

³⁹² [REDACTED]

101. On 29 November 2012,³⁹³ **AL HASSAN** participated again in floggings inflicted for adultery, which took place near the BMS. 394

Other members of the police were present³⁹⁵ (see section VI.B.9 below).

IV.A.2.g. AL HASSAN's activities in December 2012

102. On 3 December 2012, **AL HASSAN** signed a police report on a case of cigarette trading.³⁹⁶ **AL HASSAN** acknowledged drafting this report and his signature.³⁹⁷

103. Then, **AL HASSAN** again 398

399 [REDACTED] 400

401 **AL HASSAN** 402 [REDACTED]

stated, “[w]e believe that removing [...] hostile people from positions of power in Bamako represents a positive step [...] we think that this step is insufficient and must be boldly followed by several others [...] to break the ice”.⁴⁰³ 404 [REDACTED]

405 [REDACTED] 406

104. [REDACTED] 11 December 2012, **AL HASSAN** co-signed a permit for a journalist. It bears the stamp of the Police and **AL HASSAN**'s signature.⁴⁰⁷ It contains various restrictions and censorship measures. Specifically, the journalist concerned “shall not videotape women who are not wearing Islamic dress”, “shall not perform any work unless accompanied by his designated escort” and “shall submit a copy of

393 [REDACTED]

394 [REDACTED] P-0065:T-041, p.54, 1.4-5, p.54, 1.12-p.55, 1.4(Conf); P-0398:[MLI-OTP-0051-0967](#), p.0973-0974, 1.205-212.

395 P-0065:T-041, p.52, 1.18-p.54, 1.5, p.54, 1.12-p.55, 1.16(Conf), P-0398:[MLI-OTP-0051-0967](#), p.0971-0975, 1.128-254.

396 Report, [MLI-OTP-0001-7542](#) to the right, translation [MLI-OTP-0034-0175](#).

397 P-0398:[MLI-OTP-0060-1453](#), p.1468-1470, 1.495-1.539.

398 [REDACTED] P-0398:[MLI-OTP-0051-0422](#), p.0435, 1.432, p.

399 [REDACTED] P-0075:[MLI-OTP-0062-2399](#), [REDACTED]

400 P-0398:[MLI-OTP-0051-0422](#), p.0438-0439, 1.536-541.

401 [REDACTED] P-0398:[MLI-OTP-0051-0422](#), p.0436, 1.467.

403 [REDACTED]

404 P-0398:[MLI-OTP-0051-0422](#), p.0435-0436, 1.427-452.

405 [REDACTED]

407 [MLI-OTP-0053-0006](#), translation [MLI-OTP-0078-1650](#), corresponding to the scan [MLI-OTP-0002-0016](#); P-0398:[MLI-OTP-0060-1539](#), p.1558-1560, 1.610-685.

his work to be reviewed before publication”.⁴⁰⁸

IV.A.2.h. AL HASSAN’s activities in January 2013

105. On 15 January 2013, the *Comité de crise* was convened at the Police. Present were Adama, **AL HASSAN** and Arab traders. It was explained by Adama that given the war situation, those who vandalised or simply looked into others’ houses would be considered enemies and shot.⁴⁰⁹

IV.A.3. AL HASSAN fled Timbuktu for the Tigharghâr Mountains with the armed groups in January 2013

106. Finally, when the Malian army returned to Timbuktu along with French troops, **AL HASSAN** fled Timbuktu in January/February 2013,⁴¹⁰ taking refuge in the Tigharghâr Mountains,⁴¹¹ to where Iyad Ag Ghaly and Abou Zeid had also fled with their men. There, **AL HASSAN** took care of those wounded in the bombardments.⁴¹² He remained there until around late February/early March 2013,⁴¹³ when he was able, with money,⁴¹⁴ to reach Algeria [REDACTED]⁴¹⁵ He then went to Libya.⁴¹⁶ [REDACTED]

IV.B. AL HASSAN’s role and functions during the occupation of Timbuktu

107. There is overwhelming reliable evidence demonstrating that **AL HASSAN** occupied an important role within the Police. He was not a simple interpreter as the Defence has pleaded. In fact, the Prosecution and even the Defence evidence show that, after working for Talha and the Security Battalion, **AL HASSAN** acted as a Deputy to the first two chiefs of the Police. He eventually became the chief of the Police prior to the departure of the armed groups from Timbuktu.

108. Regardless of the exact title/position that **AL HASSAN** held, he wielded an important degree of authority and power throughout his tenure with the Police and acted wilfully and with zeal in the performance of his functions. His knowledge of the city and its inhabitants made him an important stakeholder in the implementation of the prohibitions by Ansar Dine/AQIM and the sanctioning of their violations by the Tribunal. The non-exhaustive examples cited above in section IV.A already show that **AL HASSAN** conveyed to the population and ardently supported their ideology, investigated alleged infractions to the prohibitions and submitted investigative reports to the Tribunal, and even flogged individuals who violated the said prohibitions.

⁴⁰⁸ [MLI-OTP-0053-0006](#), translation [MLI-OTP-0078-1650](#).

⁴⁰⁹ [REDACTED]

⁴¹⁰ P-0398:[MLI-OTP-0051-1032](#), p.1048-1051, 1.535-617. P-0587:[MLI-OTP-0061-1643](#), p.1691, p.1698.

⁴¹¹ [REDACTED]; P-0398:[MLI-OTP-0051-1032](#), p.1048-1055, 1.530-751.

⁴¹² P-0398:[MLI-OTP-0051-1032](#), p.1056, 1.779-783, p.1057-1058, 1.834-864; [REDACTED]

⁴¹³ [REDACTED] P-0398:[MLI-OTP-0051-1032](#), p.1057, 1.812-816.

⁴¹⁴ P-0398:[MLI-OTP-0051-1032](#), p.1060, 1.920-931.

⁴¹⁵ [REDACTED] P-0398:[MLI-OTP-0051-1032](#), p.1056, 1.783-811.

⁴¹⁶ P-0398:[MLI-OTP-0051-1032](#), p.1060, 1.937.

IV.B.1. Ranks, roles, and concrete responsibilities within the Islamic Police

109. Testimonial and documentary evidence reveals that there was a set hierarchy (ranks) within the Police. More precisely:

- Witnesses testified that at the head of the Police was a person known as the “chief”, “Emir” or “*directeur*”. These terms were used interchangeably by the witnesses who were members of or worked with the armed groups. One witness also used the term “president”.⁴¹⁷ Another witness used the categories “number 1”, “number 2” and “number 3”.⁴¹⁸ As a matter of fact, the “chief” had a corresponding “deputy”/“assistant”/“vice-president”⁴¹⁹ or “number 2”. Under these two tiers were the normal members of the Police that patrolled the streets and carried out other functions such as interpretation.⁴²⁰ The evidence reveals that **AL HASSAN** quickly rose through the ranks and became the deputy of the chief of the Police and then the chief.
- Some witnesses also refer to **AL HASSAN** as *commissaire*, *de facto commissaire*, or “assistant of the commissioner”, either to position him in the Police hierarchy or simply to describe his function. It depended on the context and the witnesses, in light of what they perceived or wanted to describe:
 - For example, [REDACTED]⁴²¹ and P-0654⁴²² use the titles “*commissaire*”, “*de facto commissaire*”,⁴²³ or “assistant of the commissioner”⁴²⁴ and “sub-commissioner” as a synonym for “chief of police” or “assistant to the chief of police”⁴²⁵ respectively (see below section IV.B.2.a.i.).
 - For his part, P-0582 stated that **AL HASSAN** was the “*commissaire*”⁴²⁶ whilst specifying that the “*directeur*” of the Police was above **AL HASSAN**.⁴²⁷ In other words, P-0582 does not use the term “*commissaire*” to designate the position of head of the Police but to refer to a mere function within the Police.
- Thirdly, and fundamentally, irrespective of ranks or titles, there were the concrete responsibilities performed on a daily basis. These responsibilities ultimately reveal an individual’s importance.

⁴¹⁷ D-0202:T-204, p.7, l.23-p.9, l.1.

⁴¹⁸ D-0605:T-193, p.16, l.25-p.18, l.19.

⁴¹⁹ P-0202: T-204, p.7, l.20-p.10, l.24, p.15, l.7-p.16, l.1(Conf), p.17, l.22-p.18, l.19(Conf), P-0004:T-165, p.50, l.20-p.51, l.7.

⁴²⁰ P-0582:[MLI-OTP-0062-3679-R02](#), p.3685-3686, l.205-215.

⁴²¹ [REDACTED].

⁴²² P-0654:T-128, p.31, l.5-10(Conf).

⁴²³ [REDACTED]

⁴²⁴ [REDACTED]

⁴²⁵ [REDACTED]

⁴²⁶ P-0582:[MLI-OTP-0062-3641-R02](#), p.3654-3655, l.459-468; [MLI-OTP-0062-3679-R02](#), p.3681-3683, l.38-139; [MLI-OTP-0062-3820-R02](#), p.3840, l.677-685; [MLI-OTP-0062-3679-R02](#), p.3686, l.223-243.

⁴²⁷ P-0582:[MLI-OTP-0062-3679-R02](#), p.3686, l.223-239; P-0582:[MLI-OTP-0062-3773-R02](#), p.3781, l.254-273; [MLI-OTP-0062-3820-R02](#), p.3837-3840, l.575-674.

AL HASSAN's daily responsibilities (registration of recruits,⁴²⁸ investigations, orders, transfer of suspects to the Tribunal, and so on) show his importance within the Police and the system put in place by Ansar Dine/AQIM.

IV.B.2. AL HASSAN's ranks within the Islamic Police

110. As a member of Ansar Dine/AQIM as of April 2012, **AL HASSAN** started working *inter alia* as a clerk,⁴²⁹ but very soon joined the ranks of the new Police⁴³⁰ and was swiftly promoted⁴³¹ and considered as the deputy (besides the fact that he also quickly fulfilled the function of *commissaire*: see IV.B.3).

111. Indeed, **AL HASSAN** was the deputy of the two successive "chiefs"/"Emirs"/"directors" of the Police, Adama and Khaled.⁴³²

112. **AL HASSAN** had the right profile from Ansar Dine/AQIM's perspective: he came from the region of Timbuktu;⁴³³ he knew the local population;⁴³⁴ unlike both his successive superiors, Adama and Khaled, he spoke the local languages, including Tamasheq and Songhaï, in addition to French and Arabic; he had undertaken studies in various fields;⁴³⁵ he was both a man of the office⁴³⁶ and a man of the field, participating, for example, in patrols and in applying punishments;⁴³⁷ he was from the same Kel Ansar tribe as other Ansar Dine leaders, such as Al Mahdi and Houka Houka;⁴³⁸ he had close ties with eminent members of the groups,⁴³⁹ as demonstrated by the analysis of his telephone contacts;⁴⁴⁰ he enjoyed the trust and support of the senior leaders of Ansar Dine/AQIM in Timbuktu and people listened to him.⁴⁴¹

113. Thus, **AL HASSAN** sometimes filled in for Khaled;⁴⁴² and by December 2012/January 2013, he replaced Khaled,⁴⁴³ who was assigned to other activities.⁴⁴⁴ Overall, **AL HASSAN** was the one who provided continuity in the operation of the Police throughout the occupation as one of its permanent

⁴²⁸ P-0582:[MLI-OTP-0062-3679-R02](#), p.3696, l.562-568; P-0582:[MLI-OTP-0062-3710-R02](#), p.3719-3720, l.305-337; P-0582:[MLI-OTP-0062-3788-R02](#), p.3789, l.24-34.

⁴²⁹ [REDACTED]

⁴³⁰ [REDACTED]

⁴³¹ [REDACTED]

⁴³² [REDACTED]

⁴³³ P-0398:[MLI-OTP-0051-1257](#), p.1265, l.245-260.

⁴³⁴ [REDACTED]

⁴³⁵ P-0398:[MLI-OTP-0051-1257](#), p.1267, l.316-323, p.1267-1268, l.329-349, p.1270, l.418-439, p.1273-1274, l.537-547; P-0398:[MLI-OTP-0051-0571](#), p.0586, l.492-498.

⁴³⁶ [REDACTED]

⁴³⁷ [REDACTED]. See e.g. section VI.B.3.

⁴³⁸ P-0065:T-039, p.35, l.16-17; P-0065:T-042, p.38, l.20-23(Conf); P-0065:T-048, p.23, l.20-23(Conf); [REDACTED]

⁴³⁹ [REDACTED]

⁴³⁹ See telephone data referred to in Annex 3.

⁴⁴⁰ Frequency of telephone calls for number [REDACTED] [MLI-OTP-0061-1643](#); Annex 3.

⁴⁴¹ [REDACTED]

⁴⁴² P-0582:[MLI-OTP-0062-3820-R02](#), p.3842, l.753-756; [REDACTED]

⁴⁴³ [REDACTED]

⁴⁴⁴ [REDACTED] P-0099:T-147, p.27, l.12-p.29, l.6(Conf); P-0099:T-146, p.35, l.20-25(Conf).

pillars,⁴⁴⁵ and played a key and critical role in it.

IV.B.2.a. AL HASSAN as deputy of the chief of Police

114. AL HASSAN's role as assistant/deputy of the chief of Police is shown by Prosecution and Defence witnesses such as D-0093, [REDACTED] D-0202, [REDACTED] P-0065, P-0654, P-0099, P-0626, D-0605 and D-0551. It is also apparent from certain documents and facts.

IV.B.2.a.i. Testimonies about AL HASSAN's capacity as deputy chief of police

115. Regarding the first period, when Adama was the chief of the Police:

- The [REDACTED] show [REDACTED] "*Hassane*,⁴⁴⁶ *le commissaire adjoint*" on [REDACTED] July 2012 at the Police premises. Later, on that same day, [REDACTED] was summoned by "*le commissaire adjoint Hassane*"⁴⁴⁷.⁴⁴⁸ [REDACTED] seemingly uses the term "deputy commissioner" with the meaning of both function and hierarchical rank, that is a synonym for "deputy chief of police";⁴⁴⁹
- P-0654 had contact with the Police and AL HASSAN several times.⁴⁵⁰ He described [REDACTED] Adama as "*commissaire*" and AL HASSAN as "*sous commissaire*".⁴⁵¹ During his testimony in court, he concluded, on the basis of his observations and interactions, that "when it comes to the commissariat, [...] AL Hassan"⁴⁵² was a sub-commissioner [...]"⁴⁵³
- This evidence is corroborated by Defence Witness D-0093. D-0093's credibility is low on various matters such as the issues of marriage and rape. He nevertheless acknowledges "*j'ai entendu en ville qu'AL Hassan*"⁴⁵⁴ *était l'adjoint d'Adama*", whilst adding that he was unable to know "[...] *s'il y avait d'autres adjoints*".⁴⁵⁵

116. In relation to the second period, when Khaled was chief of the Police:

- The minutes of the *Comité de crise* dated [REDACTED] refer to a meeting with the police, namely the "*commiss. + adjoint*". [REDACTED] testified that "*adjoint*" referred to AL HASSAN;⁴⁵⁶
- D-0202 tried to avoid the question of the rank of AL HASSAN, who is, amongst other matters, [REDACTED]. His cross-examination demonstrated the truth of his prior statements to the

⁴⁴⁵ [REDACTED].

⁴⁴⁶ Emphasis added.

⁴⁴⁷ Emphasis added.

⁴⁴⁸ [REDACTED]

⁴⁴⁹ [REDACTED]

⁴⁵⁰ For example, P-0654:T-128, p.37, l.24-p.39, l.4(Conf).

⁴⁵¹ [REDACTED]

⁴⁵² Emphasis added.

⁴⁵³ P-0654:T-128, p.37, l.2-14.

⁴⁵⁴ Emphasis added.

⁴⁵⁵ D-0093:[MLI-D28-0006-4212-R01](#), p.4215, para. 17.

⁴⁵⁶ [REDACTED]

OTP in [REDACTED]⁴⁵⁷ and [REDACTED]⁴⁵⁸ that **AL HASSAN** was the “Vice-President”, and the unreliability of his testimony before the Court that **AL HASSAN** was simply a translator who fulfilled administrative functions in the Police.⁴⁵⁹ In [REDACTED] D-0202 stated to the [REDACTED] that **AL HASSAN** was Khaled’s “deputy”.⁴⁶⁰ Then he stated [REDACTED] that Khaled’s “vice-president” was **AL HASSAN**.⁴⁶¹ The Prosecution submits that D-0202 was unable to provide a credible explanation for his turnabout regarding **AL HASSAN**’s functions in the Police simply because what he originally stated unequivocally [REDACTED] - at a time when he had no reason to lie - was what he considered to be the truth;

- P-0099 stated under cross-examination: “as for my memory, I cannot **today**⁴⁶² state what the degree of responsibility was with regard to Mr **Al Hassan**⁴⁶³ and Khalid.”⁴⁶⁴ However, in an earlier statement to the Prosecution, used by the Defence during cross-examination, P-0099 had stated: “The deputy was called Hassan, and he was of Tuareg origin. The first in command of the Islamic police was called Adama. I believe that he is deceased.[...] His successor, of Mauritanian origin, was called Khalid.”⁴⁶⁵ This prior statement does concur with the rest of the evidence, in fact, until Khaled’s departure.

117. This information is confirmed by other well-informed witnesses who were present in Timbuktu during the entire occupation:

- P-0065 directly interacted with Ansar Dine and AQIM. P-0065 stated that he thinks that **AL HASSAN** “would be the second person in the Islamic police”;⁴⁶⁶
- Likewise, [REDACTED] described **AL HASSAN** as “the assistant of the commissioner” until the time when **AL HASSAN** himself became the commissioner (see below section IV.B.2.b.).⁴⁶⁷

118. As mentioned above, P-0065, [REDACTED] and P-0654 all use the terms “*commissaire*”, “assistant of the commissioner”⁴⁶⁸ as synonyms for “chief of police” or “deputy of the chief of police”.⁴⁶⁹

119. While P-0626, D-0605 and D-0551 make “diverging” statements with regard to **AL HASSAN**’s rank, their testimony confirm that **AL HASSAN** was one of the leaders of the Police. In any case, these

⁴⁵⁷ D-0202:T-204, p.7, l.11-p.10, l.1.

⁴⁵⁸ D-0202:T-204, p.17, l.13-p.18, l.19(Conf).

⁴⁵⁹ D-0202:T-203, p.40, l.18-24.

⁴⁶⁰ D-0202:T-204, p.10, l.12-24, p.10, l.25-p.15, l.17(Conf) and T-204[FRA], p.14, l.15-24(Conf) referring to the term “deputy”.

⁴⁶¹ D-0202:T-204, p.7, l.23-p.9, l.1.

⁴⁶² Emphasis added.

⁴⁶³ Emphasis added.

⁴⁶⁴ P-0099:T-147, p.48, l.2-3.

⁴⁶⁵ P-0099:T-147, p.24, l.15, p.25, l.2(Conf).

⁴⁶⁶ P-0065:T-040, p.54, l.12-14(Conf).

⁴⁶⁷ [REDACTED]

⁴⁶⁸ [REDACTED]

⁴⁶⁹ [REDACTED]

variations have an explanation:

- D-0605 mentioned that **AL HASSAN** was one of the leaders of the Police at the time. In fact, this was public knowledge.⁴⁷⁰ D-0605⁴⁷¹
[REDACTED] He specified that during this period, **AL HASSAN** “was after Abou Zhar always, and Abou Zhar was the second, he had the second rank. So [we can] say that [**AL HASSAN**]’s rank was the third one at the police.”⁴⁷² No other evidence on the record corroborates the fact that Abou Dhar was number two (see the CDR in Annex 3). It appears that Abou Dhar, who spoke Bambara,⁴⁷³ was only responsible for “[l]es Noirs qui étaient à la police et qui parlaient Bambara, et qui venaient du sud”⁴⁷⁴. In any event, D-0605’s testimony shows that **AL HASSAN** was one of the highest-ranking officers in the Police.⁴⁷⁵
- P-0626 [REDACTED] states that “Al Hassan Abdel Aziz, [wa]s the chief of the police in Timbuktu”. He explains this by saying, “he is the one who would be contacted with regard to the affairs of certain people, and he would also conduct the investigation and write the investigation report. He would be in charge of imprisoning people or sending them to the Islamic Court”.⁴⁷⁶
- D-0551 was questioned on **AL HASSAN**’s role at the time the Police was located at the *Gouvernorat*. He replied that **AL HASSAN** “was the chief, he was the person in charge because everybody would address him”.⁴⁷⁷ This confirms that **AL HASSAN** was a key figure to the residents.

IV.B.2.a.ii.Facts/documents showing that AL HASSAN was deputy chief of police

120. In addition to these testimonies, **AL HASSAN**’s function as deputy/ assistant to the chief of police is apparent from the various factors/facts and documents set out below:

- **AL HASSAN** was in direct contact with Adama. [REDACTED]

⁴⁷⁰ P-0641:T-137, p.19, l.3-12.

⁴⁷¹ D-0605:T-194, p.50, l.21-p.51, l.16(Conf), p.52, l.18-p.54, l.11, p.59, l.9-p.61, l.22(Conf), p.64, l.9-20, p.66, l.25-p.69, l.3, p.70, l.20-p.71, l.5.

⁴⁷² D-0605:T-193, p.16, l.25-p.18, l.19.

⁴⁷³ P-0582:[MLI-OTP-0062-3760-R02](#), p.3767-3768, l.243-247; [MLI-OTP-0062-4075-R02](#), p.4077-4079, l.39-123; P-0398:[MLI-OTP-0051-1184](#), p.1202, l.595-605; [REDACTED]

⁴⁷⁴ P-0582:[MLI-OTP-0062-3760-R02](#), p.3767-3768, l.243-248; [MLI-OTP-0062-4012-R02](#), p.4035, l.755-772, p.4036, l.793-804.

⁴⁷⁵ See also P-0641:T-137, p.19, l.3-7.

⁴⁷⁶ P-0626:T-142, p.29, l.7-15(Conf).

⁴⁷⁷ D-0551:T-201, p.12, l.18-21.

[REDACTED] referred to above in section IV.A.2.a [REDACTED] Adama and **AL HASSAN** sitting side by side.⁴⁷⁸ Adama would also fetch **AL HASSAN** from home to take him to work.⁴⁷⁹ Also, CDRs show 241 calls between **AL HASSAN** and Adama (see Annex 3).

- **AL HASSAN** was in direct contact with Khaled: they shared the same office, and they were both present when minor *Sharia* punishments were implemented at the Police headquarters.⁴⁸⁰
- **AL HASSAN** would receive instructions directly from the chief/director of the Police. For example, in relation to the flogging on 20 June 2012 at Place Sankoré [REDACTED]

[REDACTED]⁴⁸¹

- **AL HASSAN** reported directly to the director of the Police.⁴⁸² This is mentioned by [REDACTED] P-0582, [REDACTED]⁴⁸³ Further, [REDACTED]⁴⁸⁴ [REDACTED] **AL HASSAN** calling Khaled to inform him of a theft in Ber and asking him to come.⁴⁸⁵
- Once, Abou Zeid was seen coming out of **AL HASSAN**'s office, which is indicative of the latter's seniority.⁴⁸⁶
- **AL HASSAN** appears to be the only one signing police documents.⁴⁸⁷ **AL HASSAN** signed documents in the name of the Emir of the Police, as evidenced by various authorisations, one dated 17 June 2012⁴⁸⁸ (on which **AL HASSAN** has acknowledged his signature and in respect of which he stated that he was authorised to sign on behalf of the Emir of the Police⁴⁸⁹). Other documents, dated October and November 2012, confirm this.⁴⁹⁰ **AL HASSAN** also signed directly on behalf of the Police, for example in December 2012 with regards to an authorisation

⁴⁷⁸ [REDACTED]

⁴⁷⁹ P-0398: [MLI-OTP-0051-0658](#), p.0677, l.622.

⁴⁸⁰ P-0582: [MLI-OTP-0062-4089-R02](#), p.4096, l.235-241; P-0398: [MLI-OTP-0060-1453](#), p.1459-1461, l.193-255; [MLI-OTP-0062-3872-R02](#), p.3880, l.263-274.

⁴⁸¹ P-0065:T-042, p.39, l.13-p.41, l.19(Conf) and p.43, l.2-22(Conf); *See also* P-0654:T-128, p.38, l.3-9(Conf).

⁴⁸² P-0582: [MLI-OTP-0062-3641-R02](#), p.3654, l.459-p.3655, l.465.

⁴⁸³ P-0582: [MLI-OTP-0062-3679-R02](#), p.3696, l.565-568; [MLI-OTP-0062-3820-R02](#), p.3841, l.703-707; [MLI-OTP-0062-3641-R02](#), p.3653, l.398-412.

⁴⁸⁴ Video, [MLI-OTP-0069-3712](#), transcript [MLI-OTP-0078-4567](#), translation [MLI-OTP-0078-4633](#); P-0075: [MLI-OTP-0069-5868](#), p.6181.

⁴⁸⁵ [REDACTED]

⁴⁸⁶ [REDACTED]

⁴⁸⁷ [REDACTED]

See also Annex 2.

⁴⁸⁸ *Permis de Creuser un Puits*, [MLI-OTP-0001-7205](#), translation [MLI-OTP-0069-1682](#).

⁴⁸⁹ P-0398: [MLI-OTP-0060-1539](#), p.1550-1552, l.344-415.

⁴⁹⁰ *Permis de Creuser un Puits*, [MLI-OTP-0001-7209](#), translation [MLI-OTP-0077-2740](#); *Permis de Creuser un Puits*, 5 November 2012, [MLI-OTP-0001-7204](#), translation [MLI-OTP-0069-1680](#); *Permis de Creuser un Puits*, [MLI-OTP-0001-7203](#), translation [MLI-OTP-0034-0043](#); *Permis de Creuser un Puits*, [MLI-OTP-0001-7202](#), translation [MLI-OTP-0069-1678](#).

██████████ as **AL HASSAN** acknowledged.⁴⁹¹

- More generally, ██████████ explained that “in all the activities of the Islamic police we would see [AL HASSAN] present and overseeing the activities”.⁴⁹² For instance, in mid-October 2012,⁴⁹³ **AL HASSAN** took part in the execution of a man by the armed groups⁴⁹⁴ in Timbuktu,⁴⁹⁵ and accompanied the sentenced man to the place where he was killed.⁴⁹⁶
- In this vein, the evidence shows that **AL HASSAN** gave orders to Police members, for example the order to bring in a police officer who had fired a shot in the city.⁴⁹⁷
- Moreover, **AL HASSAN** made decisions on disagreements and disputes. As mentioned above in section IV.A.2.a., ██████████ from June 2012 ██████████ at the BMS settling a dispute about the purchase of machine guns.⁴⁹⁸ ██████████ **AL HASSAN** ruled on a dispute between two women in the presence of the director of the Police, Adama.⁴⁹⁹ Also, on 30 October 2012, **AL HASSAN** settled a conflict between two individuals in his office at the *Gouvernorat*.⁵⁰⁰
- Furthermore, when Khaled was absent from Timbuktu for a week, “*il n’a pas été remplacé, en ce moment, c’est Al Hassan*”⁵⁰¹ *qui était là*”.⁵⁰²
- In fact, **AL HASSAN** was in close contact with various leaders and key members of Ansar Dine and AQIM, as evidenced by his telephone contacts⁵⁰³ at the time: Yahya Abou Al Hammam,⁵⁰⁴ Abou Talha,⁵⁰⁵ Sanda Ould Boumama,⁵⁰⁶ Mohamed Moussa,⁵⁰⁷ Al Mahdi (from 2011),⁵⁰⁸

⁴⁹¹ P-0398: [MLI-OTP-0060-1539](#), p.1558, 1.604-p.1560, 1.695; [MLI-OTP-0053-0006](#), translation [MLI-OTP-0078-0292](#); P-0654:T-128, p.22, 1.9-p.29, 1.15(Conf.), and [MLI-OTP-0012-1966](#), [MLI-OTP-0012-1368](#), translation [MLI-OTP-0014-5619](#).

⁴⁹² ██████████.

⁴⁹³ ██████████; P-0065:T-041, p.48, 1.21-p.49, 1.17(Conf.).

⁴⁹⁴ ██████████; P-0065:T-041, p.23, 1.1-22(Conf.).

⁴⁹⁵ ██████████

⁴⁹⁶ ██████████

⁴⁹⁷ P-0582: [MLI-OTP-0062-3788-R02](#), p.3802, 1.463-p.3803, 1.505, p.3806, 1.604-630.

⁴⁹⁸ ██████████; P-0075’s report, [MLI-OTP-0062-0625-R01](#)-R01; P-0398: [MLI-OTP-0060-1453](#), p.1459-1465, 1.184-399.

⁴⁹⁹ P-0582: [MLI-OTP-0062-3679-R02](#), p.3684, 1.161-p.3685, 1.194 and p.3686, 1.212-p.2687, 1.257.

⁵⁰⁰ ██████████; P-0075: [MLI-OTP-0069-5868](#), p.6173.

⁵⁰¹ Emphasis added.

⁵⁰² P-0582: [MLI-OTP-0062-3820-R02](#), p.3841, 1.708-p.3842, 1.756.

⁵⁰³ Federal Judicial Police analysis report by P-0587 and P-0617: [MLI-OTP-0061-1643](#).

⁵⁰⁴ P-0099: [MLI-OTP-0013-2752](#), p.2760, and P-0587: [MLI-OTP-0061-1643](#), p.1664.

⁵⁰⁵ [MLI-OTP-0001-7309](#), translation [MLI-OTP-0077-2752](#); ██████████

[MLI-OTP-0031-1331](#), tab 73449080, 1.515; and P-0587: [MLI-](#)

⁵⁰⁶ ██████████ [MLI-OTP-0001-7322](#), translation [MLI-OTP-0034-0051](#), together with [MLI-OTP-0022-0203](#); ██████████ P-0587: [MLI-OTP-0061-1643](#), p.1675, p.1672.

⁵⁰⁷ [MLI-OTP-0031-0766](#), tab ██████████ 1.6618; P-0587: [MLI-OTP-0061-1643](#), p.1665.

⁵⁰⁸ [MLI-OTP-0001-7323](#), translation [MLI-OTP-0034-0053](#); ██████████

██████████; P-0587: [MLI-OTP-0061-1643](#), p.1662.

Lamine (from Intelligence),⁵⁰⁹ and Yusuf from the *Al Fourqane* Battalion⁵¹⁰ and, Adama⁵¹¹ and Abou Dhar⁵¹² of the Police. The reliability of the CDR has been established not only by P-0587 and P-0617 but also by Defence⁵¹³ and Prosecution witnesses,⁵¹⁴ who confirmed their own telephone numbers and having made calls at the indicated time period. In particular, the chart in the table in Annex 3 shows that **AL HASSAN** was in contact with these individuals much more frequently than Abou Dhar, with the exception of contacts with Yahia Abou Al Hammam.

121. [REDACTED] **Al Hassan**⁵¹⁵ was tasked with all the missions that Khaled was supposed to do”. He specified that “[t]he appearance of **Al Hassan**⁵¹⁶ as the leader of the police station [...] well, we used to see **Al Hassan**⁵¹⁷ in the office organising everything, whether Khaled was in the city or not”.⁵¹⁸ “Khaled’s signature does not even appear on documents, [...]. Because [...], it was as if Khaled delegated the chief’s duties to **Al Hassan**⁵¹⁹”⁵²⁰ with the exception of missions outside Timbuktu,⁵²¹ which explains the aforementioned walkie-talkie conversation between **AL HASSAN** and Khaled.⁵²² Even when Adama was the Police chief, the latter only co-signed one of the collected documents, only as a witness.⁵²³

IV.B.2.b. AL HASSAN as last Chief of the Islamic Police

122. Towards the end of the occupation, when Ansar Dine/AQIM was preparing to go down to Bamako,⁵²⁴ and Khaled became unavailable, **AL HASSAN** became chief of the Police.⁵²⁵ Khaled - “historically” an AQIM fighter⁵²⁶ with ties to Abou Zeid - was occupied with the offensive towards the

⁵⁰⁹ [MLI-OTP-0001-7305](#), translation [MLI-OTP-0077-2748](#); [REDACTED].
⁵¹⁰ [MLI-OTP-0001-7322](#), translation [MLI-OTP-0034-0051](#); [REDACTED].

⁵¹¹ [REDACTED]; P-0587: [MLI-OTP-0061-1643](#), p.1674 [REDACTED].

⁵¹² P-0099: [MLI-OTP-0013-2752](#), p.2760, and P-0587: [MLI-OTP-0061-1643](#), p.1654.

⁵¹³ D-0240:T-191, p.51, l.13-25, p.52, l.1-p.56, l.10(Conf), [MLI-OTP-0031-0818](#).

⁵¹⁴ P-0623:T-030, p.33, l.15-20(Conf), p.35, l.16-25(Conf), p.36, l.18-p.37, l.6(Conf), p.38, l.1-p.39, l.10(Conf), [MLI-OTP-0051-0139](#), at line 2627; P-0605: T-194, p.64, l.9-20, p.67, l.2-p.68, l.16, with [MLI-OTP-0031-0704](#), at line 4899.

⁵¹⁵ Emphasis added.

⁵¹⁶ Emphasis added.

⁵¹⁷ Emphasis added.

⁵¹⁸ [REDACTED].

⁵¹⁹ Emphasis added.

⁵²⁰ [REDACTED].

⁵²¹ [REDACTED].

⁵²² [REDACTED].

⁵²³ Police report, [MLI-OTP-0001-7546](#), translation [MLI-OTP-0054-0014](#).

⁵²⁴ [REDACTED].

⁵²⁵ [REDACTED].

⁵²⁶ In the common meaning of the term rather than within the meaning in the law of armed conflicts.

south of Mali and was sent on mission.⁵²⁷ Even though he⁵²⁸ was seen at Yoboutao early January 2013⁵²⁹

⁵³⁰ he took part in the attack in

Diabaly whereas **AL HASSAN** remained in Timbuktu.⁵³¹

123. **AL HASSAN** replaced him⁵³² because he was held in esteem by the Emirs and fighters in Timbuktu;⁵³³ and was already performing the essential tasks of the Police. “[T]he main tasks at that time, such as managing the patrols in the city and organising the traffic and also organising the external patrols [...], all of these tasks were assigned to **Al Hassan**⁵³⁴.

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124. This is confirmed by two Defence witnesses: in 2020, D-0202 stated to the Prosecution that **AL HASSAN** was “the emir of the police. That is the truth”, adding that if he ultimately testified that this would harm **AL HASSAN**.⁵³⁷ D-0605 also acknowledged that **AL HASSAN** was the head of the police after Khaled.⁵³⁸

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IV.B.3. **AL HASSAN’s role as Commissioner of the Islamic Police**

125. **AL HASSAN** also performed the function of *commissaire* shortly after the creation of the Police:

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[MLI-OTP-0062-1218](#), p.1219-1237, l.31-611.

⁵³¹ P-0582:[MLI-OTP-0062-3820-R02](#), p.3830-3834, l.339-479.

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⁵³⁴ Emphasis added.

⁵³⁵ Emphasis added.

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⁵³⁷ D-0202:T-204, p.17, l.22-p.20, l.4(Conf).

⁵³⁸ D-0605:T-192, p.83, l.1-3.

⁵³⁹ Emphasis added by the Prosecution.

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- [REDACTED] was taken to the Police [REDACTED]. He states that “*AL HASSAN*⁵⁴¹ *semblait fier de montrer son rôle de commissaire*”.⁵⁴²
 - P-0582, was a member of the Police [REDACTED]⁵⁴³
⁵⁴⁴ AL HASSAN [REDACTED]. He stated that throughout his presence at the Police, AL HASSAN was the commissioner.⁵⁴⁵
 - P-0638 stated that AL HASSAN was the commissioner, at the BMS and the *Gouvernorat*.⁵⁴⁶
126. [REDACTED] confirm that AL HASSAN was acting as [REDACTED] of the Police:
- [REDACTED]⁵⁴⁷ [REDACTED] 30 October 2012⁵⁴⁸ [REDACTED]
[REDACTED]
[REDACTED]⁵⁴⁹ [REDACTED]
[REDACTED]⁵⁵⁰ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵⁵¹ The “*commissaire*” mentioned is very likely AL HASSAN.⁵⁵²
 - [REDACTED]⁵⁵³ [REDACTED]⁵⁵⁴ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁵⁵⁵ [REDACTED]⁵⁵⁶ [REDACTED]⁵⁵⁷ [REDACTED]

⁵⁴¹ Emphasis added.

⁵⁴² [REDACTED].

⁵⁴³ P-0582: [MLI-OTP-0062-3641-R02](#), p.3653, 1.398-412; [MLI-OTP-0062-3710-R02](#), p.3720, 1.321-327; [MLI-OTP-0062-3679-R02](#), p.3686, 1.223-226 and p.3687, 1.265-p.3688, 1.313-339 and p.3691, 1.385-402; p.3697, 1.595-605; [MLI-OTP-0062-3641-R02](#), p.3646, 1.162-173 and p.3647, 1.203-208.

⁵⁴⁴ P-0582: [MLI-OTP-0062-3641-R02](#), p.3647, 1.203-p.3648, 1.218 and [MLI-OTP-0062-3679-R02](#), p.3706, 1.919-931.

⁵⁴⁵ P-0582: [MLI-OTP-0062-3788-R02](#), p.3801, 1.432-444; [MLI-OTP-0062-4012-R02](#), p.4035, 1.761-p.4036, 1.804.

⁵⁴⁶ P-0638: T-058-Fra, p.19, 1.8-17; T-058-Eng, p.18, 1.4-13(Conf); T-059, p.19, 1.4-p.20, 1.6(Conf).

⁵⁴⁷ [REDACTED].

⁵⁴⁸ [REDACTED].

⁵⁴⁹ [REDACTED].

⁵⁵⁰ Emphasis added.

⁵⁵¹ [REDACTED].

⁵⁵² [REDACTED].

[REDACTED].

⁵⁵³ [REDACTED].

⁵⁵⁴ [REDACTED].

⁵⁵⁵ [REDACTED].

[REDACTED].

⁵⁵⁶ [REDACTED].

⁵⁵⁷ [REDACTED].

- [REDACTED]⁵⁵⁸ [REDACTED]
[REDACTED]
- [REDACTED]⁵⁵⁹ [REDACTED]⁵⁶⁰ [REDACTED]⁵⁶¹ [REDACTED]
[REDACTED]
[REDACTED] The “*commissaire*” concerned can only be AL HASSAN.⁵⁶²
- [REDACTED]⁵⁶³ [REDACTED]
[REDACTED]⁵⁶⁴ [REDACTED]
[REDACTED]⁵⁶⁵

127. Later on, on 15 January 2013, [REDACTED] refers to AL HASSAN as the “*commissaire*”.⁵⁶⁶

128. Last, several years after the events, AL HASSAN said [REDACTED]⁵⁶⁷ that he had been “*commissaire de Police Islamique*”⁵⁶⁸ in Timbuktu during the occupation.

IV.B.4. AL HASSAN’s multiple responsibilities

129. As indicated above in section IV.B.1, regardless of the titles that the Ansar Dine/AQIM members and the population used for AL HASSAN, he was a key pillar of the Police. He ensured the Police’s functioning and assumed key powers and tasks, thus contributing to the commission of the crimes by Ansar Dine/AQIM in Timbuktu.

IV.B.4.a. AL HASSAN’s powers and responsibilities within the Islamic Police

130. AL HASSAN had a good educational level.⁵⁶⁹ This enabled him to support the Police’s operations and exercise essential, varied, and multiple powers within the Police. AL HASSAN, “*le commissaire*”,⁵⁷⁰ was responsible for what took place at the Police: “*la police, [...], le responsable c’est le commissaire, tout ce qui se fait à la police, le responsable c’est le commissaire*”.⁵⁷¹

558 [REDACTED]
559 [REDACTED]
560 [REDACTED]
561 [REDACTED]
562 [REDACTED]
563 [REDACTED]
564 [REDACTED]
565 [REDACTED]
566 [REDACTED]
567 [REDACTED]
568 [REDACTED]
569 [REDACTED]

⁵⁷⁰ P-0582: [MLI-OTP-0062-3788-R02](#), p.3801, l.432-444; [MLI-OTP-0062-4012-R02](#), p.4035, l.755-p.4036, l.804; [MLI-OTP-0062-3641-R02](#), p.3654, l.459-p.3655, l.468.

⁵⁷¹ P-0582: [MLI-OTP-0062-3736-R02](#), p.3748, l.403-411.

IV.B.4.a.i. Supervisory duties within the Police

131. **AL HASSAN** held a position as supervisor.⁵⁷² He could give orders, as confirmed by Defence Witness [REDACTED],⁵⁷³ and illustrated by several witnesses and documents:

- [REDACTED] May 2012, as mentioned above in section IV.A.1.b, [REDACTED] saw **AL HASSAN** tell a Police member to handcuff a suspect and lock him up.⁵⁷⁴
- On 8 July 2012, **AL HASSAN** was visibly in charge of the public flogging regarding two people accused of having drunk alcohol⁵⁷⁵: he ordered one of the victims to sit down,⁵⁷⁶ he was carrying the whip, and the keys to the handcuffs and gave them to Abou Dhar⁵⁷⁷ before the lashes were inflicted, under his supervision (see sections VI.B.3. below). [REDACTED] specified that “when the police arrested someone in the street, and they saw that they would be beaten, then the leader of the patrol was the one who inflicted the beating because they were the ones who had the authority and wanted to get the blessing of inflicting the punishment”.⁵⁷⁸
- In late August 2012, a woman filed a complaint for rape by a police officer. **AL HASSAN** “prevented all the police officers from leaving at that moment in order to identify the rapist”.⁵⁷⁹ He “[REDACTED] And once he had got them all together, [... **AL HASSAN**] said, “No one is allowed to leave until we find out who the criminal or rapist is””.⁵⁸⁰
- On 6 October 2012, the women organised a protest march in Timbuktu.⁵⁸¹ [REDACTED] stated that **AL HASSAN** gave orders to some Police members to take up their positions during this protest⁵⁸² (see also one example given in IV.B.2.a.ii regarding a shot fired in town).

132. Furthermore, **AL HASSAN** admitted having written and signed a Police report⁵⁸³ regarding a complaint filed by an individual called Abdoul Djalil, an AQIM member, against the Police Emir at the time, Adama, and interviewing them.⁵⁸⁴ This also proves **AL HASSAN**’s seniority.

IV.B.4.a.ii. Organisation and management of the Police’s work in the city

133. **AL HASSAN** was also directly involved in the organisation and management of the Police’s day-

⁵⁷² See e.g. P-0582: [MLI-OTP-0062-3641-R02](#), p.3654, 1.459-p.3655, 1.465; [MLI-OTP-0062-3679-R02](#), p.3696, 1.562-p.3697, 1.568. P-0641:T-137, p.28, 1.2-6.

⁵⁷³ [REDACTED]

⁵⁷⁴ [REDACTED]

⁵⁷⁵ [REDACTED]

⁵⁷⁶ P-0398:[MLI-OTP-0051-0967](#), p.0975, 1.257-p.0984, 1.581. [REDACTED]

⁵⁷⁷ [REDACTED]

⁵⁷⁸ [REDACTED] P-0398:[MLI-OTP-0051-0967](#), p.0975, 1.257-267 and p.0984, 1.564-573.

⁵⁷⁹ [REDACTED]

⁵⁸⁰ [REDACTED]

⁵⁸¹ Newspaper articles [MLI-OTP-0001-4074](#) and [MLI-OTP-0033-4305](#), as well as blog [MLI-OTP-0061-0007](#).

⁵⁸² [REDACTED]

⁵⁸³ Police report, [MLI-OTP-0001-7515](#) (right of the image), translation [MLI-OTP-0052-0019](#), p.0020 (on the top).

⁵⁸⁴ P-0398: [MLI-OTP-0060-1605](#), p.1622, 1.573-p.1627, 1.740; [MLI-OTP-0060-1631](#), p.1632, 1.31-p.1634, 1.92.

to-day work and its members' daily tasks. He stated in 2017 and 2018 to the Prosecution that he “*organis[ait] les patrouilles, les gardes, ... la circulation*” and, in this context, was having contact with the *Hesbah*, Tribunal and prison.⁵⁸⁵ He organised the Police work. Every day, he “*inscrivai[t...] les noms des hommes*” for guarding certain locations or for patrolling,⁵⁸⁶ after receiving from the Emir the names of the “people available”, **AL HASSAN** would call them for a motorised patrol in the streets, day and night, in particular, for “*la convention du convenable et l'interdiction du blâmable*” because it was “*le travail de tout le monde pas seulement la Hesbah*”.⁵⁸⁷ **AL HASSAN** himself made patrols.⁵⁸⁸

134. This is consistent with **AL HASSAN**'s⁵⁸⁹ comments on the police ⁵⁹⁰ November 2012,⁵⁹¹ ⁵⁹² where he gave details similar to what he said in 2017/2018 about the Police's work, which “involve[d] patrols within the town, and correcting objectionable acts: any type of reprehensible act which has been forbidden [...]. It involves running the town's affairs, [...] with respect to [...] traffic, the market, and elsewhere, and ensuring the whole town's security, day and night”.⁵⁹³

135. The patrols that **AL HASSAN** organised were crucial for controlling the population, carrying out arrests and, if necessary, repressing offenders of the new rules and bans imposed by Ansar Dine/AQIM, including the ban on adultery, controls of women's dress, wearing talismans and practising sorcery.

IV.B.4.a.iii. Duties as Police spokesperson to the media

136. Moreover, **AL HASSAN** acted as the spokesperson for the Police. Around June/July 2012, he justified the enforcement of the new rules of Ansar Dine/AQIM in Timbuktu regarding inter alia women.⁵⁹⁴ As mentioned above, **AL HASSAN** gave two recorded interviews on the role and importance of the Police: at the beginning of October 2012,⁵⁹⁵ and on November 2012.⁵⁹⁶ Abou Dhar

⁵⁸⁵ P-0398:[MLI-OTP-0051-1032](#), p.1036, 1.110-139. [MLI-OTP-0062-1194](#), p.1206, 1.389-p.1208, 1.475;

⁵⁸⁶ P-0398:[MLI-OTP-0051-1257](#), p.1287, 1.1008-p.1288, 1.1034. P-0641:T-138, p.13, 1.13-p.14, 1.11(Conf).

⁵⁸⁷ P-0398:[MLI-OTP-0051-0457](#), p.0466-0467, 1.278-326.

⁵⁸⁸ P-0398:[MLI-OTP-0051-0457](#), p.0469, 1.390-394.

⁵⁸⁹ P-0641:T-137, p.28, 1.6-10(Conf); P-0398:[MLI-OTP-0051-0457](#), p.0469, 1.390-394.

⁵⁹⁰ [REDACTED]

⁵⁹¹ [REDACTED]

⁵⁹² [REDACTED]

⁵⁹³ [REDACTED]

⁵⁹⁴ [REDACTED]

⁵⁹⁵ [REDACTED]

⁵⁹⁶ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

was present [REDACTED]⁵⁹⁷ [REDACTED] playing a secondary role.

137. **AL HASSAN** thus directly took part in the propaganda of the Ansar Dine/AQIM's ideological and religious vision, on all aspects of life including gender. [REDACTED] explained that "it was very important that when any declaration [...] is made in Timbuktu, it must be made [...] by people who are known in Timbuktu. [...] And I think [...] these statements were made by Al Hassan [...] as he was a highly regarded person in Timbuktu and he was appointed to a high position in the Islamic police".⁵⁹⁸

IV.B.4.a.iv. Acting as a key interface between the Police and the population

138. In [REDACTED] 2012 [REDACTED] at the *Gouvernorat*, **AL HASSAN** highlighted that the Police had a lot of contacts with the local population regarding most aspects of their lives. He stated that "[t]here are crowds of inhabitants in front of the police [station] every day. There are ... social issues, and so forth, divorce, and all sorts of issues every day."⁵⁹⁹

139. **AL HASSAN** was the appropriate person to address these issues: he came from the region, knew the local population well and could speak the regional languages such as Songhaï. This set him apart from Adama and his successor Khaled, who could not do so,⁶⁰⁰ and was useful in dealings with the inhabitants. In other words, **AL HASSAN**'s presence was necessary to establish a local footing, which was essential for the Police in order to keep relations with the population as relaxed as possible, avoid a strong backlash, and implement the common purpose to impose their control and power, based on their own ideological and religious vision upon the civilian population of Timbuktu town and region, by any and all means available (see below section V.A).

140. Many examples show that **AL HASSAN** was on the front line and formed the actual interface between the Police and the residents of Timbuktu and its region throughout the occupation:

- As mentioned above in section IV.A.2.c., his telephone number was displayed at the BMS.
- **AL HASSAN** was a key interlocutor for the population. P-0582 explained that people "*dans la plupart des cas [...] quand ils arrivent ils s'adressent directement au commissaire*" (**AL HASSAN**⁶⁰¹) because he was better known than the Emir of the Police, Khaled who does not understand their language.⁶⁰²
- On or around 12 August 2012, **AL HASSAN** attended a meeting between the *Comité de crise*,

⁵⁹⁷ [REDACTED]

⁵⁹⁸ [REDACTED]

[REDACTED]

⁵⁹⁹ [REDACTED]

[REDACTED]

⁶⁰⁰ P-0398: [MLI-OTP-0051-1257](#), p.1285, 1.942-p.1286, 1.971, [MLI-OTP-0051-0571](#), p.0586, 1.492-498.

⁶⁰¹ P-0582: [MLI-OTP-0062-3710-R02](#), p.3720, 1.327.

⁶⁰² P-0582: [MLI-OTP-0062-3773-R02](#), p.3784, 1.378-p.3785, 1.388.

representing the local population, and Ansar Dine/AQIM's senior leaders.⁶⁰³

- **AL HASSAN** was one of the most senior leaders of the Police present in October 2012, when women demonstrated⁶⁰⁴ to protest against the infringement of their rights.⁶⁰⁵
- As mentioned above, **AL HASSAN** was with Adama around 15 January 2013 (at the time of the Konna battle) at the Islamic Police station, where they met members of the *Comité de Crise*. On that occasion, threats were made against the inhabitants.⁶⁰⁶

IV.B.4.a.v. Administrative duties

141. **AL HASSAN** registered members of the Police and new members,⁶⁰⁷ and even screened P-0582.⁶⁰⁸ Also, shortly before Adama left his post as Emir of the Police, **AL HASSAN** wrote a collective request for payment to cover the food requirements of the families of police members; as a result, Abou Zeid set up a monthly salary of 40,000 CFA francs for the Police.⁶⁰⁹

IV.B.4.a.vi. Various other functions within or for the Police

142. **AL HASSAN** was also involved in other tasks related to the Police staff, performing various other functions to further the ideological and religious vision of Ansar Dine/AQIM. He visited the prison to check prisoners' condition.⁶¹⁰ He attended a meeting at Bouctou Hotel around 10 September 2012 between the *Comité de crise* and a committee coming from the Dogon area: he was there to make a report to the Police Emir.⁶¹¹ Further, **AL HASSAN** signed/processed various authorisations regarding various matters.⁶¹² He assisted members of the Police to write requests to the Police Emir or Abou Zeid for assistance in the payment of dowries, and even directly helped Abou DHAR to marry.⁶¹³ Last, **AL HASSAN** acted as a relay for residents wanting an interview with Houka Houka,

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IV.B.4.b. AL HASSAN's various activities in repressing violations of the new rules

143. As detailed below, from at least May 2012, **AL HASSAN** played an important role within the

⁶⁰³ P-0398:MLI-OTP-0051-0557, p.0562, l.155-163; MLI-OTP-0051-1099, p.1104, l.152-156; Notes from the crisis committee, session of 12 August 2012, MLI-OTP-0030-1044-R01, p.1067-1070.

⁶⁰⁴ Article, 9 October 2012, MLI-OTP-0033-4305; P-0582:MLI-OTP-0062-4157-R02, p.4179-4180, l.780-816.

⁶⁰⁵ P-0654:T-134, p.88, l.16-21(Conf); P-0547:T-153, p.3, l.17-p.4, l.6; [REDACTED]; DSM report, MLI-OTP-0012-0975; P-0603:T-125, p.35, l.8-18.

⁶⁰⁶ [REDACTED]; [REDACTED]; P-0398:MLI-OTP-0051-0598, p.0614, l.522-586.

⁶⁰⁷ P-0582:MLI-OTP-0062-3710-R02, p.3719, l.305-p.3720, l.331.

⁶⁰⁸ [REDACTED].

⁶⁰⁹ P-0398:MLI-OTP-0051-0891, p.0903, l.389-p.0904, l.431.

⁶¹⁰ P-0398:MLI-OTP-0051-1032, p.1041, l.281-p.1042, l.317.

⁶¹¹ [REDACTED].

⁶¹² See e.g. [REDACTED].
D-0551:T-200, p.85, l.12-20.

⁶¹³ P-0398:MLI-OTP-0051-0891, p.0901, l.344-p.0902, l.373, p.0906-0907, l.501-550.

⁶¹⁴ [REDACTED].

system of repression and persecution adopted by Ansar Dine/AQIM, in enforcing their ideological and religious vision, on all aspects of life including gender, and in dealing *inter alia* with “criminal” cases brought before the Tribunal.

IV.B.4.b.i. Receipt of complaints

144. **AL HASSAN** received the complaints and the people who came to lodge them in his office,⁶¹⁵ as illustrated by multiple examples⁶¹⁶ and documents from the Police, such as a Police report dated 16 July 2012,⁶¹⁷ which the Prosecution argues was drafted and signed by **AL HASSAN**. D-0551 confirmed that **AL HASSAN** was receiving complaints.⁶¹⁸ **AL HASSAN** himself admitted that he received complaints.⁶¹⁹

IV.B.4.b.ii. Summons of people

145. **AL HASSAN** issued summons to people to appear at the Police station. It is evidenced by a form dated 3 September 2012, with the Police stamp and **AL HASSAN**’s handwriting and signature, which he acknowledged.⁶²⁰

IV.B.4.b.iii. Arrest of people

146. **AL HASSAN** admitted that he and Adama arrested and handcuffed Dédéou Maiga (who was later amputated).⁶²¹ D-0605 saw **AL HASSAN** arresting a Police member.⁶²² P-0641 confirms that **AL HASSAN** was arresting people.⁶²³

IV.B.4.b.iv. Investigations, including by using force/violence

IV.B.4.b.iv.a. Investigation and drafting of reports

147. **AL HASSAN** examined/investigated criminal cases,⁶²⁴ as evidenced by various witnesses:

- [REDACTED] saw **AL HASSAN** “*fai[re] un interrogatoire avec [un] jeune Touareg et il prenait un procès-verbal*” in an apparent theft case. [REDACTED] adds that “*Al Hassan a fait signer*

⁶¹⁵ [REDACTED]; P-0582: [MLI-OTP-0062-3845-R02](#), p.3846, l.27-p.3847, l.63.

⁶¹⁶ [REDACTED]

⁶¹⁷ Report, 16 July 2012, [MLI-OTP-0001-7511](#) translation [MLI-OTP-0052-0075](#), p.0076.

⁶¹⁸ D-0551:T-200, p.85, l.12-p.86, l.4.

⁶¹⁹ P-0398: [MLI-OTP-0051-0457](#), p.0473, l.530-p.0476, l.617; [MLI-OTP-0051-1155](#), p.1172, l.566-p.1173, l.591; [MLI-OTP-0060-1423](#), p.1424, l.30-p.1425, l.51; [MLI-OTP-0060-1446](#), p.1447, l.26-p.1449, l.74 and p.1452, l.170-195; [MLI-OTP-0060-1453](#), p.1456, l.101-p.1458, l.149, and p.1473, l.659-p.1475, l.718; [MLI-OTP-0060-1605](#), p.1622, l.573-1626, l.689; [MLI-OTP-0060-1631](#), p.1632, l.31-p.1634, l.82; [MLI-OTP-0062-1037](#), p.1045, l.238-p.1048, l.339; [MLI-OTP-0060-1453](#), p.1462, l.298-p.1464, l.364.

⁶²⁰ Convocation, 3 September 2012, [MLI-OTP-0001-7585](#), translation [MLI-OTP-0052-0125](#), p.0126. [MLI-OTP-0001-7577](#), translation [MLI-OTP-0078-4946](#); P-0398: [MLI-OTP-0060-1423](#), p.1430, l.211-226; p.1433, l.327-p.1435, l.379; [MLI-OTP-0051-0457](#), p.0476, l.624-629. See also P-0641:T-137, p.38, l.6-24.(Conf).

⁶²¹ P-0398: [MLI-OTP-0051-0658](#), p.0676, l.607-p.0678, l.670; List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#)(no.3); [REDACTED]; [MLI-OTP-0060-1298](#), p.1310, l.399-p.1312, l.471.

⁶²² D-0605:T-193, p.19, l.11-12.

⁶²³ P-0641:T-137, p.20, l.22-p.21, l.1.

⁶²⁴ D-0605:T-193, p.19, l.6, p.37, l.8-23, p.40, l.23-p.41, l.8 and p.44, l.21-22.

au jeune Touareg le procès-verbal".⁶²⁵

- [REDACTED] **AL HASSAN** "used to write the reports and [...] undertake the investigations and interrogations".⁶²⁶ [REDACTED]
[REDACTED]
[REDACTED]⁶²⁷ [REDACTED]
[REDACTED]⁶²⁸
- [REDACTED] also stated that **AL HASSAN** "would also conduct the investigations and write the investigation report"; "and sign them".⁶²⁹ [REDACTED] could not tell whether **AL HASSAN** "*était la seule personne à le faire, [...]ou s'il y en avait d'autres qui étaient là également*",⁶³⁰ but he specified that **AL HASSAN** "is the one who wrote the document and signed it. He also did the Investigation [...]";⁶³¹ "at the police headquarters [...] that was previously used as a bank".⁶³²
- P-0582 stated the following about interrogations: "*Khalid le faisait, AL HASSAN également*". P-0582 specified that both (Khaled and **AL HASSAN**) were able to conduct interrogations alone.⁶³³
- P-0641 reported that a friend of him was interrogated by **AL HASSAN** at the police station.⁶³⁴
- [REDACTED] testimony suggests that **AL HASSAN** also investigated case implicating people working "with the intelligence against the mujahidin", and wrote a report, including a summary of Talha's testimony.⁶³⁵

148. Although Defence Witness D-0605 gave an example where Abou Dhar supposedly conducted an interview,⁶³⁶ he also admitted that **AL HASSAN** could carry out investigations, stressing that it was under Adam's order.⁶³⁷ D-0605 provided the example of a woman who had come at the end of August 2012 to complain that she had been raped by a police member. D-0605 reported that **AL HASSAN** heard the complainant and conducted his investigation.⁶³⁸ D-0605 also stated that **AL HASSAN** investigated a case of rape committed by a slave and was in charge of this case.⁶³⁹

149. **AL HASSAN**'s role in investigation is corroborated by documentary evidence, namely a Police

⁶²⁵ [REDACTED]

⁶²⁶ [REDACTED]

⁶²⁷ [REDACTED]

⁶²⁸ [REDACTED]

⁶²⁹ [REDACTED]

⁶³⁰ [REDACTED]

[REDACTED]

⁶³¹ [REDACTED]

⁶³² [REDACTED]

⁶³³ P-0582: [MLI-OTP-0065-0602-R02](#), p.0615, l.453-p.0616, l.473, [MLI-OTP-0065-0637-R02](#), p.0638, l.23-34.

⁶³⁴ P-0641:T-137, p.19, l.4-p.24, l.13, p.27, l.3-p.29, l.5, p.36, l.6-p.37, l.18(Conf).

⁶³⁵ Police report, [MLI-OTP-0002-0031](#), translation [MLI-OTP-0052-0037](#), p.0038; [REDACTED]

⁶³⁶ D-0605:T-194, p.21, l.10-16.

⁶³⁷ D-0605:T-192, p.90, l.5-14, p.91, l.22-25 (Conf.).

⁶³⁸ P-0605:T-193, p.37, l.19-24, p.40, l.23-p.41, l.7, p.44, l.21-24 (Conf.).

⁶³⁹ P-0605:T-193, p.59, l.22-p.60, l.4; T-194, p.6, l.15-p.7, l.5 (Conf.).

report dated 23 May 2012.⁶⁴⁰ **AL HASSAN** acknowledged having drafted and signed this document. He signed it in his capacity as “*enquêteur*”.⁶⁴¹ He also brought back and forth defendants from detention locations to the investigation office.⁶⁴²

150. **AL HASSAN** exercised his functions throughout the region of Timbuktu. At the time when the MNLA still controlled Goundam, he went there on mission with the Police Emir regarding a theft case.⁶⁴³ Goundam is around 100 km away from Timbuktu.⁶⁴⁴ **AL HASSAN** also heard the complainants in a case⁶⁴⁵ and processed/was involved in other cases⁶⁴⁶ that had happened in Goundam. He worked on a complaint against a former member of the “*Mouvement de l’Azawad*” arrested in Tagharoust and accused of drinking alcohol.⁶⁴⁷ [REDACTED]⁶⁴⁸ **AL HASSAN** directly handling a case of theft in Ber, 70 km east of Timbuktu.⁶⁴⁹ He sent missions to arrest people in distant locations such as areas close to the border of Mauritania.⁶⁵⁰ He heard an individual arrested for sorcery in Léré, that is 400 km away from Tombouctou.⁶⁵¹

151. The Prosecution submits that **AL HASSAN** investigated and wrote all reports on violations of the various new rules stemming from the ideological and religious vision of Ansar Dine/AQIM, such as concerning practising magic or using talismans;⁶⁵² the fact that a man could be in the company of a woman who is “neither his wife nor his sister”;⁶⁵³ allegations of “*adultère*”;⁶⁵⁴ divorce matters leading to detention,⁶⁵⁵ sale or consumption of alcohol;⁶⁵⁶ sale or consumption of cigarettes⁶⁵⁷ (see Annex 2).

⁶⁴⁰ Police report of 23 May 2012, [MLI-OTP-0001-7528](#) translation [MLI-OTP-0077-2795](#), p.2797, also depicted on [MLI-OTP-0001-7527](#); P-0620, graphology, [MLI-OTP-0064-0175](#), p.0302 (re. signatures).

⁶⁴¹ P-0398:[MLI-OTP-0060-1511](#), p.1512, 1.24-p.1518, 1.205; [MLI-OTP-0060-1662](#), p.1667-1668, 1.162-183.

⁶⁴² [REDACTED].

⁶⁴³ P-0398:[MLI-OTP-0060-1729](#), p.1738, 1.291-p.1741, 1.399.

⁶⁴⁴ Map [MLI-OTP-0009-1754](#).

⁶⁴⁵ Report, [MLI-OTP-0002-0041](#), translation [MLI-OTP-0077-2407](#), p.2408; P-0398:[MLI-OTP-0060-1631](#), p.1636, 1.147-p.1640, 1.275; [MLI-OTP-0060-1729](#), p.1733, 1.125-p.1734, 1.158.

⁶⁴⁶ Report, [MLI-OTP-0055-1179](#), translation [MLI-OTP-0054-0318](#), p.0319; Judgment, [MLI-OTP-0001-7425](#), translation [MLI-OTP-0078-0185](#), p.0186; P-0398:[MLI-OTP-0051-0967](#), p.0971, 1.128-p.0975, 1.254, p.986, 1.637-p.990, 1.787; List of prisoners collected, [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#)

⁶⁴⁷ Police report, [MLI-OTP-0002-0037](#), translation [MLI-OTP-0078-0272](#), p.0273.

⁶⁴⁸ [REDACTED]
[REDACTED]; P-0075: expert report [MLI-OTP-0069-5868](#), p.6181.

⁶⁴⁹ [REDACTED]

⁶⁵⁰ [REDACTED].

⁶⁵¹ Report, [MLI-OTP-0001-7543](#), translation [MLI-OTP-0052-0029](#), p.0030; P-0398:[MLI-OTP-0060-1580](#), p.1599, 1.622-p.1602, 1.740, [MLI-OTP-0060-1729](#), p.1734, 1.150-158; Judgment, 25 December 2012, [MLI-OTP-0001-7417](#), translation [MLI-OTP-0077-2392](#), [REDACTED]

⁶⁵² Report, [MLI-OTP-0001-7543](#), translation [MLI-OTP-0052-0029](#), p.0030.

⁶⁵³ Report, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170 (on the right).

⁶⁵⁴ Report, [MLI-OTP-0001-7509](#), translation [MLI-OTP-0034-0167](#), p.0168; Report of 26 November 2012, [MLI-OTP-0001-7549](#), translation [MLI-OTP-0034-0177](#), p.0178.

⁶⁵⁵ P-0538:T-162, p.15, 1.2-5, p.35, 1.14-p.38, 1.8(Conf), p.8, 1.21-p.9, 1.10; [REDACTED]
[REDACTED]

⁶⁵⁶ Report of 16 July 2017, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170.

⁶⁵⁷ Report of 19 November 2012, [MLI-OTP-0001-7555](#), translation [MLI-OTP-0077-2798](#), p.2799; Report of 3 December 2012, [MLI-OTP-0001-7542](#), translation [MLI-OTP-0034-0175](#), p.0176.

152. **AL HASSAN** tried to minimise his own involvement in the investigations and report-writing. He claimed that the Emirs of the Police and Abou Dhar also drafted such reports.⁶⁵⁸ However, none of the documents seized at the Police or the Tribunal attest to this argument. The Prosecution collected a large number of signed and unsigned Police reports. All the signed Police reports bear **AL HASSAN**'s signature, on one occasion with Adama's signature as "witnesses".⁶⁵⁹ None of these reports bear the signature of Khaled or Abou Dhar. Most importantly, **AL HASSAN** acknowledged that, in the absence of the Police emir, his own signature was sufficient.⁶⁶⁰

153. The documentary and graphological expert report confirmed the authenticity of the original reports examined. This report also states "*il peut être établi que les signatures*" on 28 reports "*pourraient avoir été tracées par*" **AL HASSAN**.⁶⁶¹ Significantly, the Defence handwriting expert does not contradict this conclusion since he was never requested by Defence to examine the signatures.⁶⁶²

IV.B.4.b.iv.b. Use of violent methods during interrogations, including torture

154. ██████ explained "that there was a general language used during interrogations which facilitated admission of guilt because this happened a lot"; people "were advised on a religious basis and [...] they were told that it's better to be purified during this life".⁶⁶³ With that said, he specified that there was no police training,⁶⁶⁴ and pointed out that there was an option to resort to torture in certain cases.⁶⁶⁵

155. **AL HASSAN** explained the Police's methods regarding interrogations. He stated that if a person refused to confess in a case involving public property or money, "*il faut [lui faire] sortir la vérité*" so that the goods are given back to the population.⁶⁶⁶ He acknowledged that if the suspect did not confess after being advised to do so, and despite showing him the evidence, "*il faut la menace*"⁶⁶⁷, "*normal comme menace; on va vous faire ça, [...] on va vous torturer*".⁶⁶⁸ "*S'il n'admet pas par la menace, il faut [le] torturer*",⁶⁶⁹ "*tabassant la personne*", "*frapper la personne*".⁶⁷⁰ For example, ██████ mentions that ██████ was blindfolded, brought to an unknown location where he

⁶⁵⁸ P-0398: [MLI-OTP-0060-1423](#), p.1431, 1.260-268; p.1432, 1.272-280.

⁶⁵⁹ Report, [MLI-OTP-0001-7546](#), translation [MLI-OTP-0054-0014](#), p.0015; P-0398: [MLI-OTP-0060-1423](#), p.1441, 1.573-604.

⁶⁶⁰ P-0398: [MLI-OTP-0060-1423](#), p.1441, 1.573-604.

⁶⁶¹ P-0620 and P-0621, expert report, [MLI-OTP-0064-0175](#), p.0301-0302. *See also*, for instance: ██████; P-0626:T-143, p.4, 1.18-p.5, 1.24(Conf), p.12.1.6-18(Conf), T-144, p.71.1.3-p.73, 1.18(Conf).

⁶⁶² [MLI-D28-0005-9928-R01](#), p.9930.

⁶⁶³ ██████.

⁶⁶⁴ ██████.

⁶⁶⁵ ██████.

⁶⁶⁶ P-0398: [MLI-OTP-0060-1662](#), p.1670, 1.257-p.1671, 1.283.

⁶⁶⁷ P-0398: [MLI-OTP-0060-1662](#), p.1671, 1.303-312.

⁶⁶⁸ P-0398: [MLI-OTP-0060-1662](#), p.1672, 1.331-337.

⁶⁶⁹ P-0398: [MLI-OTP-0060-1662](#), p.1672, 1.314.

⁶⁷⁰ P-0398: [MLI-OTP-0060-1662](#), p.1672, 1.338-346.

was suspended and beaten until he lost consciousness (see incident 18 in section VII.C.11).⁶⁷¹

156. Although, **AL HASSAN** denies having used torture himself during interrogations,⁶⁷² this is contradicted by reliable evidence. For example, the Police report drafted and signed by **AL HASSAN** on 16 July 2012 explicitly mentions the use of torture during an interrogation.⁶⁷³ [REDACTED] testified that “in the first days of the setting up of” the Police in the BMS⁶⁷⁴ [REDACTED] was arrested by **AL HASSAN**, who “got out a knife, told [him] to put his hand on the table and threatened to cut it off” “if he did not say the truth”.⁶⁷⁵

IV.B.4.b.v. Referral of cases to the Tribunal and transportation of prisoners

157. **AL HASSAN** addressed his reports to the Tribunal,⁶⁷⁶ particularly in cases where the new rules of the groups were allegedly violated by acts of adultery, theft, murder, smuggling of tobacco, the use of alcohol, magic and talismans, or in cases of land conflicts or debts, matrimonial and “social” cases. Annex 2 lists 39 cases with referrals made by **AL HASSAN** (see column “Referral of the case to the Tribunal”).

158. Additionally, [REDACTED] specified that **AL HASSAN** “is the one who used to bring the interviewees or the people who are under investigation” to the Tribunal⁶⁷⁷ and that he “would bring” suspects “or would ask other members of the police to bring them to court”.⁶⁷⁸ [REDACTED] confirmed that **AL HASSAN** would take prisoners to the Tribunal, even though he was not the only one who did so.⁶⁷⁹

159. Not only did **AL HASSAN** bring the suspects to the Tribunal, he also brought their case files.⁶⁸⁰ **AL HASSAN** acknowledged that “[il] par[tait] au tribunal pour soumettre un dossier”.⁶⁸¹ Where relevant it was with a recommendation. This is illustrated by a report of 19 June 2012 urging “the members of the Court to be harsher with this man because he has taken money from a lot of people”.⁶⁸²

⁶⁷¹ [REDACTED]

⁶⁷² P-0398: [MLI-OTP-0060-1662](#), p.1672, l.342.

⁶⁷³ [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170; [REDACTED].

⁶⁷⁴ [REDACTED]

⁶⁷⁵ [REDACTED]

⁶⁷⁶ P-0398: [MLI-OTP-0051-1257](#), p.1287, l.996-997; [MLI-OTP-0051-1032](#), p.1035, l.105-p.1036, l.111. Referrals with **AL HASSAN**’s handwriting: [MLI-OTP-0001-7363](#), translation [MLI-OTP-0078-5992](#); [MLI-OTP-0001-7559](#), translation [MLI-OTP-0077-2804](#); [MLI-OTP-0001-7565](#), translation [MLI-OTP-0077-2808](#); [MLI-OTP-0001-7570](#), translation [MLI-OTP-0077-2812](#); [MLI-OTP-0002-0024](#), translation [MLI-OTP-0077-2263](#); [MLI-OTP-0002-0028](#), translation [MLI-OTP-0077-2267](#); [MLI-OTP-0002-0030](#), translation [MLI-OTP-0078-0262](#); [MLI-OTP-0002-0033](#), translation [MLI-OTP-0078-0264](#); [MLI-OTP-0002-0039](#), translation [MLI-OTP-0077-2403](#); [REDACTED]; P-0626:T-142, p.60.l.11-p.62, l.2(Conf).

⁶⁷⁷ [REDACTED]

⁶⁷⁸ [REDACTED]; [REDACTED].

⁶⁷⁹ [REDACTED]

⁶⁸⁰ [REDACTED]

⁶⁸¹ P-0398: [MLI-OTP-0051-0422](#), p.0428, l.184.

⁶⁸² P-0398: [MLI-OTP-0060-1423](#), p.1435-1437, l.385-447(as corrected on p.1423_01, points 5 to 8). Report, 19 June 2012, [MLI-OTP-0001-7546](#), translation, [MLI-OTP-0054-0014](#), p.0015.

Although **AL HASSAN** claims that he wrote this as dictated by the emir of the Police,⁶⁸³ the report bears his handwriting, his signature and the words “I urge”, which can only be attributed to **AL HASSAN** himself, aligning with the rest of the document concerned⁶⁸⁴ and the evidence on his role.

160. The Tribunal read the reports/documents written by **AL HASSAN** and asked questions to see whether the person brought in “confirm[ed] or den[ied]” the information in these reports.⁶⁸⁵ **AL HASSAN** then transported the prisoners back “from the court to the prison or [...] to the place where *ta'zir* or *hadd* would take place”.⁶⁸⁶ He confirmed that he would visit the prisoners at the prison.⁶⁸⁷

161. A large number of cases that **AL HASSAN** referred to the Tribunal concluded with corporal punishment inflicted on the residents of Timbuktu (see below sections VI and VII).

IV.B.4.b.vi. Participation in inflicting punishment on the residents

IV.B.4.b.vi.a. Participation in punishment and abuses inflicted as a result of the judgments of the Tribunal

162. **AL HASSAN** personally inflicted punishments on civilians ordered by the Tribunal. He also admitted to attending the flogging of a couple being punished for adultery in June 2012,⁶⁸⁸ securing the location with other members of Ansar Dine/AQIM⁶⁸⁹ (see sections IV.A.2.a, VI.B.1).

IV.B.4.b.vi.b. Participation in punishment and abuses inflicted by the Police without a judgment by the Tribunal

163. **AL HASSAN** was also present and took part in the corporal punishment inflicted on civilians without any decision of the Tribunal. This generally happened for “minor offences” at the Police station and in the presence of both Khaled and **AL HASSAN**, as well as other police officers.⁶⁹⁰ **AL HASSAN** admitted to having personally flogged two men at the market because they had drunk alcohol. [REDACTED]
[REDACTED]: no judgment is being read out (see below section VI.B.3), which indicates that it was a *Ta'zir* (see below section VI.A).

IV.B.4.c. Power to mediate, settle disputes and process all types of cases related to the Ansar Dine/AQIM's ideological and religious vision

164. [REDACTED] mentioned above in section IV.A.2.a., **AL HASSAN** [REDACTED] in his office at the

⁶⁸³ P-0398: [MLI-OTP-0060-1423](#), p.1436, 1.420-p.437, 1.447.

⁶⁸⁴ See *mutatis mutandis* [REDACTED].

⁶⁸⁵ [REDACTED].

⁶⁸⁶ [REDACTED].

⁶⁸⁷ P-0398: [MLI-OTP-0051-1032](#), p.1041, 1.289-p.1042, 1.317.

⁶⁸⁸ P-0398: [MLI-OTP-0051-0936](#), p.0939, 1.77-p.0951, 1.492.

⁶⁸⁹ Video, [MLI-OTP-0009-1749](#), 00:05:32:00-00:06:01:00. **AL HASSAN** identified himself at 00:05:32:00 of the video, [MLI-OTP-0051-0936](#), p.0948-0949, 1.389 & 1.408; [REDACTED].

⁶⁹⁰ P-0582: [MLI-OTP-0062-3845-R02](#), p.3862, 1.594-p.3864, 1.648, [MLI-OTP-0062-3872-R02](#), p.3878, 1.186-p.3880, 1.283.

BMS mediating a disagreement between two men.⁶⁹¹ Likewise, in a report of 5 November 2012, drafted and signed by **AL HASSAN**, the latter refers to “[o]ur attempt at reconciliation between the two of them has failed”.⁶⁹² He also made a decision regarding a conflict between two women,⁶⁹³ and so on.

165. Overall, **AL HASSAN** dealt with a broad variety of cases regarding alleged violations of Ansar Dine/AQIM’s ideological and religious vision, including on gender (see Annex 2).

IV.B.5. AL HASSAN was not a simple interpreter

166. The Defence’s portrayal of **AL HASAN** as a simple interpreter without any power/ influence is unsupported by the evidence, which in fact demonstrates his key role and variety of functions in the Police.

167. Even if he mastered local languages and acted as an interpreter from time to time,⁶⁹⁴ his role and actions clearly went beyond those of a mere interpreter [REDACTED]

[REDACTED]⁶⁹⁵ [REDACTED]

[REDACTED]⁶⁹⁶ [REDACTED] does not recall there being any other interpreter.⁶⁹⁷

168. In fact, **AL HASSAN**’s authority within the Police is also demonstrated by Defence witnesses who testified on how he successfully interceded on their behalf with high-level members of the armed groups such as Mohamed Moussa when they called on him for serious issues, including the arrest of female family members (see below section XIII.E.).

IV.B.6. There is no confusion between the *Hesbah* and the Islamic Police, and between Mohamed Moussa and *commissaire* AL HASSAN

169. The Defence suggests that Mohamed Moussa – and not **AL HASSAN** – was responsible for the acts attributed to the latter because of an alleged case of confusion between the *Hesbah* and the Police and mistaken identity. The Defence relies on anecdotal evidence to substantiate its sweeping claims that, in the minds of the residents of Timbuktu, there was confusion a) between the Police – to which **AL HASSAN** belonged – and the *Hesbah* – headed by Mohamed Moussa, and b) between **AL HASSAN** and Mohamed Moussa – who would have also been considered as *commissaire* of the Police. This is unsupported by the evidence when assessed in its totality.

170. First, all organs set up by Ansar Dine/AQIM were acting together with the common purpose, which encompassed the execution of the charged crimes, and **AL HASSAN** contributed to their commission. P-0608 gave the example of a young girl who was flogged in October 2012 at the BMS

⁶⁹¹ [REDACTED]
[REDACTED] P-0398: [MLI-OTP-0060-1453](#), p.1459, l.184-p.1465, l.364.
Report, 5 November 2012, [MLI-OTP-0001-7571](#), translation [MLI-OTP-0052-0119](#), p.0120.

⁶⁹³ P-0582: [MLI-OTP-0062-4117-R02](#), p.4136, l.642-p.4137, l.657.

⁶⁹⁴ P-0582: [MLI-OTP-0062-3788-R02](#), p.3807, l.639-652; [MLI-OTP-0062-3820-R02](#), p.3823, l.87-94.

⁶⁹⁵ [REDACTED].

⁶⁹⁶ [REDACTED].

⁶⁹⁷ [REDACTED].

(that is *Hesbah*'s headquarter) with the participation of Demba Demba⁶⁹⁸ (who was from the police).

171. Second, even though some witnesses testified that Mohamed Moussa was called "*commissaire*", the totality of the evidence shows that:

- Those who had direct interactions with the groups, were able to confirm and distinguish the different roles and duties of Mohamed Moussa and **AL HASSAN**. P-0004 distinguishes between Mohamad Moussa, who "played the role of *commissaire* in the **morality**⁶⁹⁹ police", and "*Adama, ou Al Hassan*,⁷⁰⁰ qui était à un certain moment le commissaire adjoint de la Police islamique".⁷⁰¹
- In some cases, the reference to Mohamed Moussa as a member of the "*commissariat islamique*" / "*commissariat de police*" can be attributed to a mere manner of speaking. This is the case [REDACTED].
[REDACTED] He clarified: "[t]o be clear, [Moussa] was the leader of the morals brigade [...] And perhaps [...] it was hurried at the time. Maybe [...] that's the reason why we spoke about the commissariat police, but actually, it was rather the morals brigade"⁷⁰² (the rest of [REDACTED] explanation of what the local population might have thought is pure speculation⁷⁰³).
- In other cases, the description of Mohamed Moussa as "*commissaire*" of the Police can be explained by people's limited knowledge of the organs. For example, P-0608 spent little time in Timbuktu and did not really understand that the Police had moved to the *Gouvernorat*.⁷⁰⁴ Likewise, D-0551 confuses matters altogether, since he also states *inter alia* that Mohamed Moussa was replaced by Adama.⁷⁰⁵ Additionally, any alleged confusion made by external media⁷⁰⁶ is irrelevant to the case.

172. Third, there were differences between the Police and the *Hesbah*, even if both patrolled the streets and reported suspects to the Tribunal. For example:

- The *Hesbah* and Police were two independent institutions.⁷⁰⁷
- The Police and *Hesbah* members (under Mohamed Moussa's leadership) wore different vests

⁶⁹⁸ P-0608:T-153, p.78, l.5-p.81, l.12.

⁶⁹⁹ Emphasis added.

⁷⁰⁰ Emphasis added.

⁷⁰¹ P-0004: T-164[FRA], p.16, l.2-5 and T-164[ENG], p.17, l.8-11; T-166, p.90, l.14-17.

⁷⁰² [REDACTED]

⁷⁰³ [REDACTED]

⁷⁰⁴ P-0608: T-153, p.80, l.22-23; T-154, p.65, l.18- p.66, l.12.

⁷⁰⁵ D-0551:T-200, p.81, l.10-p.82, l.1, p.84, l.3-7.

⁷⁰⁶ [REDACTED]

⁷⁰⁷ [REDACTED]

with corresponding insignia,⁷⁰⁸ and their respective names written on it.⁷⁰⁹ D-0213 even indicated that the Police had a specific uniform that was different to others.⁷¹⁰

- The *Hesbah* and Police were based in separate premises: the *Hesbah* was first based at a telecommunications centre (“*télécentre*”);⁷¹¹ and after Mohamed Moussa became its head, the *Hesbah* moved to the BMS in place of the Police, which relocated to the *Gouvernorat*;⁷¹² and, after some point,⁷¹³ a sign with its name was placed on the façade of the BMS,⁷¹⁴ while a sign reading “Islamic Police” was put at the entrance to the *Gouvernorat*.⁷¹⁵

173. Fourth, the *Hesbah* was first headed by Al Mahdi and at that point there was no risk of confusing *commissaire* **AL HASSAN** and Mohamed Moussa.

174. Fifth, and most importantly, even supposing that Mohamed Moussa was also considered a *commissaire*, this has no impact on **AL HASSAN**’s responsibility. The evidence listed in this brief and incriminating **AL HASSAN** clearly refers to and identify him: [REDACTED] with him or [REDACTED] attending/applying sanctions, documents written and/or signed by him, testimonies of Prosecution and Defence witnesses who knew him well [REDACTED] P-0626, D-0605, D-0551, P-0638, D-0202, D-0243, P-0641, P-0099, P-0582, P-0654).

IV.B.7.

175. [REDACTED]
[REDACTED]
[REDACTED]⁷¹⁶ [REDACTED]
[REDACTED]

176. [REDACTED]
[REDACTED]
[REDACTED]⁷¹⁷ [REDACTED]

⁷⁰⁸ P-0065:T-038, p.48, l.24-p.49, l.4; P-0654:T-128, p.34, l.12-22; [REDACTED]; Video, [MLI-OTP-0015-0495](#), 00:27:26:04-00:27:35:00, transcript [MLI-OTP-0033-5189](#), translation [MLI-OTP-0033-5288](#); [REDACTED]; P-0065:T-046, p.46, l.12-p.47, l.4; Video, [MLI-OTP-0009-1749](#) at 00:03:31:00-00:03:41:00 and 00:07:30:00-00:07:33:00; [REDACTED] 0398:[MLI-OTP-0051-1155](#), p.1175-1176, l.671-708.

⁷⁰⁹ P-0582:[MLI-OTP-0062-3679-R02](#), p.3701, l.745-765; [MLI-OTP-0062-3986-R02](#), p.3996, l.312-334.

⁷¹⁰ D-0213:T-197, p.17, l.20-22, p.24, l.21-p.25, l.1.

⁷¹¹ P-0641:T-137, p.17, l.24-p.18, l.10; P-0654:T-128, p.54, l.12-24; P-0398:[MLI-OTP-0051-1032](#), p.1047, l.498-509 and [MLI-OTP-0051-1099](#), p.1113-1115, l.473-528.

⁷¹² P-0654:T-128, p.30, l.13-15; P-0398:[MLI-OTP-0051-1099](#), p.1118-1119, l.630-661; P-0114, [MLI-OTP-0023-0344-R02](#), p.0385, para.213; D-0605:T-192, p.87, l.14-17.

⁷¹³ [REDACTED]
⁷¹⁴ [REDACTED]
⁷¹⁵ [REDACTED]
⁷¹⁶ [REDACTED]
[REDACTED]

⁷¹⁷ ICC-01/04-02/06-2666-Red, (“*Ntaganda* AJ”), para. 655.

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[REDACTED]

[REDACTED] 720

[REDACTED]

[REDACTED] 721

[REDACTED]

[REDACTED] 722

177. [REDACTED]

[REDACTED] 23 [REDACTED]

[REDACTED] 724 [REDACTED] 725 [REDACTED]

[REDACTED] 726 [REDACTED] 727 [REDACTED] 728 [REDACTED]

[REDACTED]

718 [REDACTED]; ICC-01/12-01/15-171.

719 [REDACTED].

720 [REDACTED].

721 [REDACTED].

722 [REDACTED].

723 [REDACTED].

724 [REDACTED]

[REDACTED]

[REDACTED]

725 [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

726 [REDACTED]

[REDACTED]

727 [REDACTED].

728 [REDACTED]

[REDACTED].

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V. AL HASSAN's criminal responsibility for crimes committed by Ansar Dine/AQIM members pursuant to their Common Purpose

178. **AL HASSAN** contributed, pursuant to article 25(3)(d), to the commission of all the crimes by members of Ansar Dine/AQIM in the context of their common purpose⁷³³ to establish their power and control over the population of the Timbuktu and its region and to impose upon them their ideological and religious vision, on all aspects of life including gender, by any and all means available, including by acts and measures which led to violations of their fundamental rights and the commission of crimes charged in this case (the “Common Purpose”). For some incidents, **AL HASSAN** is also (or alternatively) responsible as a direct perpetrator (Counts 1-5) and/or as an aider and abettor (Counts 1-6), under articles 25(3)(a) and (c).

V.A. Ansar Dine/AQIM constitute a “group of persons acting with a common purpose”

179. The crimes against humanity and war crimes charged in this case⁷³⁴ were committed by members of Ansar Dine and AQIM which constituted “a group of persons acting with a common purpose” within the meaning of article 25(3)(d).

180. The existence of the Common Purpose can be inferred from the statements of the top leader of Ansar Dine, Iyad Ag Ghaly, before the takeover of Timbuktu and its region by Ansar Dine and AQIM in April 2012 and throughout the period of the occupation. For example:

- In an interview published on 19 January 2012, Iyad Ag Ghaly declared that his group started to mobilise against the Malian government to achieve its principal objective of “*diffuser la charia dans tout le pays et de la substituer à la Constitution malienne*”.⁷³⁵
- In a speech published on 4 April 2012, Iyad Ag Ghaly stated that their goals included to “establish the rule of religion” and in order to achieve their goals, they will use “all possible and legitimate means”. He added that: “our greatest tool for establishing the rule of religion is jihad and fighting

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⁷³³ The Prosecution understands the definition of common purpose used by the Pre-Trial Chamber to include the aspects described therein. See Confirmation Decision, para. 957; ICC-01/12-01/18-923-Conf-AnxA, para. 4.

⁷³⁴ Confirmation Decision, p. 451.

⁷³⁵ [MLI-OTP-0020-0111](#), translation [MLI-OTP-0032-0301](#), p.0303.

against those who oppose sharia [...]”.⁷³⁶

- In a speech recorded in an audio file dated 24 May 2012

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Iyad Ag Ghaly explained that “*notre objectif est la façon d’instaurer la religion sur [...]ce territoire [...] afin qu’elle puisse s’établir. La religion est piétinée ! La charia inexistante ! C’est-à-dire que personne n’est en mesure d’empêcher le vice même évident.*”⁷³⁸

- In a speech recorded in an audio file dated 4 November 2012

⁷³⁹ Iyad Ag Ghaly stated that his group had been created with four principles: (i) “*le jihad [...]*”; (ii) “*renier le tyran, la Constitution et les lois établies par le législateur. La laïcité et la démocratie*”; (iii) “*l’arbitrage par la charia*”; and (iv) “*l’établissement de la religion*”.⁷⁴⁰

- In another audio file dated 4 November 2012,⁷⁴¹ Iyad Ag Ghaly stated: “*Nous voilà en train d’édifier la religion d’Allah, [...], nous avons établi des règles par-ci, des limitations par-là euh, interdisons la cigarette, demandons de raccourcir les tenues. Nous avons administré des coups à un fornicateur et une fornicatrice par-ci, coupé la main d’un voleur par-là.*”⁷⁴²

181. The Common Purpose can also be inferred from various statements made by other key members of Ansar Dine and AQIM. For example:

- In a video published on 11 March 2012, an individual called Cheik Ag Aoussa,⁷⁴³ stated: “*Nous sommes du groupe Ansar Dine, notre guide est Iyad Ag GHALY. [...] Nous avons vu [...] l’obligation d’appliquer la loi de la charia à nous-mêmes, à notre peuple [...]*”.⁷⁴⁴
- In an interview dated 16 April 2012, Sanda Ould Boumama declared that: “*We in [...] Ansar Al-Din [...] we reject all the [...] ideas and solutions that contradict with our religion [...] like democracy and secularism [...]. What we demand and work for is to live under the [...] rule of the [...] Sharia, and we reject every constitution or system except the Sharia [...]*”.⁷⁴⁵
- In a video published on 6 May 2012, Sanda Ould Boumama justified the destruction of the monument Al Farouk, which represents the patron saint/protector of Timbuktu,⁷⁴⁶ stating that: “*La*

⁷³⁶ [MLI-OTP-0038-0870](#), translation [MLI-OTP-0039-0937](#), p.0939. See also [MLI-OTP-0010-0088](#), translation [MLI-OTP-0024-0015](#), p.0027.

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⁷⁴⁴ Video, [MLI-OTP-0011-0007](#), transcript [MLI-OTP-0040-0425](#), translation [MLI-OTP-0040-0430](#), p.0434, 1.106-111.

⁷⁴⁵ [MLI-OTP-0001-3271](#), p.3272.

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[phon.] fait qu'on l'a fait ça, Al Farouk, les gens pensent que c'est Al Farouk qui gouverne [phon.] la ville, hein. [...] on ne peut pas l'accepter parce que c'est contre notre religion [...]".⁷⁴⁷

- A video recorded in August 2012 shows Abdallah Al Chinguetti at a mosque in Timbuktu urging people that "[v]ous devez ordonner le bien, lutter contre les pratiques déviationnistes".⁷⁴⁸
- In an interview published on 11 September 2012, Sanda Ould Boumama stated: "*Nous avons bien coupé la main d'un voleur, flagellé des buveurs d'alcool, [...] un couple non marié et détruit les mausolées qui sont une hérésie [...] Que cela choque [...] n'est pas notre souci*".⁷⁴⁹
- Similarly, in an interview [REDACTED] Sanda Ould Boumama also explained that the objective of Ansar Dine was "*d'appliquer la loi islamique*".⁷⁵⁰
- In November 2012, **AL HASSAN** spoke of the work of the Police as "correcting objectionable acts: any type of reprehensible act which has been forbidden [...], such as drinking alcohol, smoking, and a woman adorning herself [...]"⁷⁵¹

182. The existence of the Common Purpose can also be inferred from the meetings held by Iyad Ag Ghaly and/or other Ansar Dine/AQIM leaders with influential members of the local population of Timbuktu and its region, such as imams, notables and scholars, to explain their objectives of implementing their religious vision, and to seek their cooperation.⁷⁵² For example:

- On the first day of the fall of Timbuktu, a group of 20 locals went to the military camp to meet Iyad Ag Ghaly.⁷⁵³ The latter explained Ansar Dine's objective and told them "[c]'était lui le chef maintenant et [REDACTED] son groupe, Ansar Dine, était en charge de la ville. [REDACTED] étaient venus pour instaurer l'islam. [REDACTED] celui qui vit dans le [REDACTED] de ce qui est dit dans le coran n'aura pas de problème avec lui. Les autres auront des problèmes avec lui et son groupe",⁷⁵⁴
- On 2 April 2012, Iyad Ag Ghaly held a meeting at the Sankore mosque to inform the population of his mission to apply *Sharia* in the region.⁷⁵⁵
- Shortly thereafter, on 4 April 2012, Iyad Ag Ghaly, together with Abou Zeid, organised a meeting with *notables*, imams, school headmasters, and scholars from different communities at the Hotel Bouctou.⁷⁵⁶ Iyad Ag Ghaly spoke about assigning the imams the mission of sensitising the

⁷⁴⁷ [MLI-OTP-0011-0402](#), 00:00:51:00-00:01:06:00, transcript [MLI-OTP-0020-0612](#), p.0613, l.26-29.

⁷⁴⁸ Video, [MLI-OTP-0009-1749](#), 00:08:57:00-00:09:24:00, transcript [MLI-OTP-0028-0839](#), p.0846, l.200-209.

⁷⁴⁹ Article, 11 September 2012, [MLI-OTP-0037-1567](#), p.1567.

⁷⁵⁰ [REDACTED]

⁷⁵¹ [REDACTED]

⁷⁵² [REDACTED]

⁷⁵³ [REDACTED]

⁷⁵⁴ [REDACTED]; D-0551:T-200, p.60, l.24-p.65, l.10.

⁷⁵⁵ P-0125:[MLI-OTP-0023-0004-R03](#), p.0011-0012, para.30-35.

⁷⁵⁶ P-0125:[MLI-OTP-0023-0004-R03](#), p.0012, para.36.

⁷⁵⁷ DSM Report, 3 April 2012, [MLI-OTP-0012-0933](#).

⁷⁵⁸ [REDACTED]; D-0551:T-200, p.66, l.7-16; P-0641:T-137, p.11, l.7-8.

population, and wanted to ensure that the scholars and the imams were in agreement with the group's objectives in order to avoid any objections.⁷⁵⁷ Iyad Ag Ghaly requested their cooperation in the implementation of their religious vision in Timbuktu.⁷⁵⁸ "The attendees didn't have any choice, other than just agree with what Iyad said" because Ansar Dine and AQIM were "showing their muscles and their power in the streets of the city every day", with the Security Battalion's cars "patrolling the city. And these cars were full of soldiers and weapons".⁷⁵⁹

- During the first month of the occupation, Iyad Ag Ghaly also met separately with some locals, such as Houka Houka, Mohamed Moussa, Daoud Ali Jomaa and Daoud Ali Maiga, whom he wanted to persuade to cooperate more extensively with the judiciary.⁷⁶⁰ All of them later became members of the Tribunal.⁷⁶¹
- Two or three months after the beginning of the occupation, a meeting was organised in the Timbuktu city hall⁷⁶²

During the meeting, Sanda Ould Boumama spoke about the way people were expected to behave. "For example, all men were supposed to go to the mosque on Friday and shut their shops and

- Around June/July 2012, the *Comité de crise* was invited to a meeting with the leaders, including Iyad Ag Ghaly.⁷⁶⁴ [REDACTED]
[REDACTED] when the *Comité* raised "*les exactions, les humiliations, les pillages dont les populations sont quotidiennement victimes*", Iyad responded: "*en [être] conscient*" but that "*chaque régime a ses avantages et ses inconvénients*".⁷⁶⁵

183. In addition, Ansar Dine/AQIM set up at the entrance of the city a billboard which read: "*Tombouctou, la porte de l'application de la (charia) vous souhaite la bienvenue*"⁷⁶⁶ and others within the city that read: "*La ville de Tombouctou est fondée sur l'Islam et elle ne sera jugée que par la législation Islamique (charia)*".⁷⁶⁷ There were also flags on the main buildings of the city bearing

⁷⁵⁷ [REDACTED].
⁷⁵⁸ [REDACTED].
⁷⁵⁹ [REDACTED].
⁷⁶⁰ [REDACTED].
⁷⁶¹ [REDACTED].
⁷⁶² [REDACTED].
⁷⁶³ [REDACTED]; [REDACTED].
⁷⁶⁴ [REDACTED]; DSM Report, 19 July 2012, [MLI-OTP-0012-0963](#).
⁷⁶⁵ [MLI-OTP-0030-1084](#), p.1134-1136.
⁷⁶⁶ [REDACTED]; Video, [MLI-OTP-0009-1749](#), 00:03:50:00-00:04:05:00.
⁷⁶⁷ [REDACTED]; P-0608:T-154, p.40, l.1-15(Conf); [MLI-OTP-0061-0047](#).

religious writings: “il n’y a qu’un seul Dieu ...”.⁷⁶⁸

184. Ansar Dine/AQIM’s Common Purpose is also evidenced by the media and communication campaigns they organised, “during which they explained to people what the new attitude was to be adopted.”⁷⁶⁹ Ansar Dine/AQIM controlled⁷⁷⁰ and used the local radio stations to spread its propaganda,⁷⁷¹ broadcasting religious programming on Radio Bouctou.⁷⁷² They were giving public sermons and preaching in the streets,⁷⁷³ sometimes with microphones as they drove around,⁷⁷⁴ to correct alleged “vices”. P-0114 stated that “the messages [communicating the restrictions referred] to God who, in their belief, was requesting the population to do things whose implementation the jihadists were enforcing”.⁷⁷⁵ The document “*La voile intégrale a huit conditions [sic]*” was distributed in Timbuktu and demonstrates that women and girls from Timbuktu were specifically targeted.⁷⁷⁶

185. The gender aspect of the Common Purpose is demonstrated, *inter alia*, by public statements made by leaders about controls over females, documents about what females should wear, strict enforcement of those dress code rules, the system put in place by Ansar Dine/AQIM for short terms marriages of females/marriages, the difficulty for females from getting out of forced marriages, the separation of females from males in schools, the controls over how females were publicly to be depicted and about who they could be seen with in public (see *inter alia* section X.D. below).

186. Members of Ansar Dine and AQIM present in Timbuktu perceived the role of women to be limited to “running the household, raising the kids in their early stage”, and “to stay home and leave home only if it is necessary”.⁷⁷⁷

187. AQIM preacher Abou Al Baraa stated in a mosque in Timbuktu: “*Notre Dieu [...] a ordonné aux femmes de porter le voile. [...]. Elles ne doivent pas marcher en faisant des claquements. Elles doivent cacher leurs parures et elles doivent porter des vêtements qui couvrent leurs corps tout entier.*”⁷⁷⁹

⁷⁶⁸ [REDACTED]; P-0004:T-164, p.31, l.21-p.32, l.4.

⁷⁶⁹ P-0654:T-128, p.63, l.18-p.64, l.1.

⁷⁷⁰ [REDACTED]; Article, [MLI-OTP-0023-0330](#), p.0332.

⁷⁷¹ [REDACTED]; P-0654:T-128, p.9, l.17-19(Conf).

⁷⁷² P-0582:[MLI-OTP-0062-3845-R02](#), p.3848, l.87-90; P-0984:T-068, p.55, l.24-p.57, l.8; Article, [MLI-OTP-0023-0330](#), p.0331.

⁷⁷³ P-0398:[MLI-OTP-0051-1032](#), p.1037, l.163-172; P-0984:T-068, p.55, l.24-p.57, l.8; Video, [MLI-OTP-0009-1749](#), 00:07:07:00-00:09:30:00, transcript [MLI-OTP-0028-0839](#), p.0845-0846, l.172-211.

⁷⁷⁴ P-0984:T-068, p.56, l.5-10.

⁷⁷⁵ [REDACTED].

⁷⁷⁶ [MLI-OTP-0053-0020](#), p.0020; P-0654:T-128, p.63, l.18-21.

⁷⁷⁷ [REDACTED].

⁷⁷⁸ [REDACTED].

⁷⁷⁹ Video, [MLI-OTP-0015-0495](#), 00:36:14:00-00:37:07:00, transcript [MLI-OTP-0033-5189](#), p.5193, l.140-147, translation [MLI-OTP-0033-5288](#), p.5294, l.162-165. [REDACTED].

188. The strict enforcement of these rules imposed on females by the Police, of which **AL HASSAN** was a senior member, and by the *Hesbah* under the leadership of Al Mahdi and later Mohamed Moussa, and by the Security Battalion, was also part of the Common Purpose.

189. Abou Zeid's instructions dated 15 August 2012 mentioned above specifically authorised the imposition of the *Ta'zir* on women who repeatedly violated the requirement to wear a veil in public.⁷⁸⁰

190. After Mohamed Moussa became head of the *Hesbah* around the end of August/early September 2012 and started to detain women who did not comply with the dress code, a discussion was held among the senior leaders. They still concluded that in principle, it was possible to imprison women for violation

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782 27 September 2012, explained: "*Nous les policiers avons décidé de demander aux femmes de la ville de porter le voile islamique quand elles sortent [...] il est parfois nécessaire que ceux qui sont chargés de surveiller des bonnes mœurs exercent une pression*".⁷⁸³

Al Mahdi further confirmed that "on the rare occasions that some young woman behaves obstinately, [...] the *Hisbah* may be obliged to impose a *ta'zir* penalty on the spot or else to refer her to a special place of confinement."⁷⁸⁴

191. In a video, members of the Police can be seen conducting patrols and strictly enforcing the dress code rules imposed on females.⁷⁸⁵

192. The actions against women led women to organise a demonstration⁷⁸⁶ and the *Comité de crise* directly raised the issue in a meeting with Abou Zeid in early October 2012.⁷⁸⁷ A video dated shows that this meeting was attended by key members of Ansar Dine and AQIM and various organs, including Abdallah Al Chinguetti, Radwan, Sanda Ould Boumama, Al Mahdi, Houka Houka, Khaled and Mohamed Moussa.⁷⁸⁸

193. Despite Abou Zeid's promise to address the matter and his general advice given to the *Hesbah*,

⁷⁸⁰ August Instructions [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#), p.2367; [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#), p.2370.

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⁷⁸⁶ P-0603:T-125, p.36, 1.6-p.38, 1.3(Conf); P-0654:T-129, p.39, 1.17-p.43, 1.8(Conf). See also ; DSM report, [MLI-OTP-0012-0975](#); Article, [MLI-OTP-0001-4074](#); Article, [MLI-OTP-0033-4305](#); Audio interview, [MLI-OTP-0033-2814](#), transcript [MLI-OTP-0069-3232](#); [MLI-OTP-0061-0007](#).

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the Police and the Security Battalion,⁷⁸⁹ the leadership effectively allowed abuses and harassment against women to continue. For example:

- [REDACTED], P-0004 [REDACTED] in relation to 9 November 2012: “*Mohamed Mossa continue ses exactions*”. P-0004 further specified that [REDACTED]
[REDACTED]⁷⁹⁰
- The weekly report on the sanitary situation covering the week of 12-18 November 2012 refers to the “*[p]oursuite de l’humiliation des populations surtout les femmes avec les violences verbales et physiques et son lot de psychose*”.⁷⁹¹
- [REDACTED] 18 November 2012 states: “*Dans les divers : le cas M^{ed} Mossa est encore posé. Mandat a été donné, aux émissaires du Comité de crise, devant rencontrer les occupants, autour du problème de l’énergie et de l’école, de faire d’une pierre deux* [REDACTED]⁷⁹²
- [REDACTED]⁷⁹³ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]⁷⁹⁴
- On 25 November 2012, Mohamed Moussa was still very much in charge. He signed a report on adultery and referred the case to the Tribunal, bearing the signature as “Official of Hisbah, Abou-Abdallah el-Souki”⁷⁹⁵ (see section III.C.2.b). On the same day, he processed a case on sorcery.⁷⁹⁶
- [REDACTED] 29 November 2012 mention: “*Hamed Mossa est au centre des problèmes – toutes sortes exactions et dire que c’est au nom de la religion. Mossa agit avec leur assentiment.*”⁷⁹⁷ [REDACTED] explained “exactions” as referring to abuse and violence against women.⁷⁹⁸ A longer version [REDACTED] mentions: “[REDACTED] les exactions commises par Ahmed Mossa sur les populations, les conséquences [...] qu’elles ont

789 [REDACTED].
790 [REDACTED]
791 [REDACTED].
792 [MLI-OTP-0030-1177](#), p.1232-1235, more precisely on p.1234.

MLI-OTP-0055-1022, translation MLI-OTP-0054-0337.

796 MLI-OTP-0055-1813, translation MLI-OTP-0054-0341:

797 [REDACTED]

798 [REDACTED]

- [REDACTED] mention that “[REDACTED] *a instruit, à la mission, devant s’entretenir avec les islamistes, de réserver une large part, aux exactions commises par Ahmed Mossa, sur les populations*”.⁸⁰⁰
- [REDACTED] also describes an incident at the beginning of December 2012 in which Mohamed Moussa arrested around ten Bella women.⁸⁰¹
- Last, on 17 December 2012, [REDACTED] wife was arrested and “*était avec*” Mohamed Moussa.⁸⁰²

194. All of this shows that Mohamed Moussa was acting pursuant to Ansar Dine/AQIM’s policy. Nobody stopped or punished him. Mohamed Moussa’s actions were in line with Ansar Dine/AQIM’s ideology, including regarding females, which the senior leaders only deemed to be a problem when they triggered more widespread discord with the local population.⁸⁰³ Mohamed Moussa was replaced only in the course of December 2012, when Iyad Ag Ghaly decided to go with him to Konna.⁸⁰⁴ Around this time, Abou Al Walid took over the *Hesbah*’s leadership.⁸⁰⁵ This timing matches with P-0065’s testimony according to which the head of the *Hesbah* changed every three months.⁸⁰⁶

195. Finally, the existence of the Common Purpose can be inferred from the concerted action of Ansar Dine/AQIM members which led to the commission of the crimes charged. As discussed in section XI.A, Ansar Dine and AQIM constituted “organised armed groups”, each with its own structure and goals. While there were some differences in their focus, with Ansar Dine having a more “national” project than the “global” project of AQIM,⁸⁰⁷ they both were united in their religious and ideological vision, including views of females, and acted as a group with the Common Purpose in 2012 in Timbuktu. This is obvious from Iyad Ag Ghaly’s speech recorded in an audio file dated 4 November 2012.⁸⁰⁸ He stated therein: “*Nous partageons tout avec Al-Qaïda, nous partageons la religion, nous partageons la même approche, nous partageons la doctrine, nous partageons tout, nous partageons tout.[...]*”⁸⁰⁹

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; P-0398:[MLI-OTP-0051-1099](#), p.1120-1121, 1.688-715 and [MLI-OTP-0051-1124](#), p.1149-1151, 1.823-889.

; Note referring to Abou Al-Walid as responsible of the *Hesbah*, [MLI-OTP-0001-7391](#), translation [MLI-OTP-0077-2826](#), p.2828.

⁸⁰⁶ P-0065:T-043, p.4, 1.18-19.

⁸⁰⁷ P-0065:T-048, p.33, 1.9-17; T-050, p.37, 1.3-p.38, 1.3; [REDACTED]

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196. The crimes charged in this case were committed by members of Ansar Dine and AQIM acting with the Common Purpose. For instance, **AL HASSAN** himself admitted that he joined Ansar Dine, and so did many others, including Mohamed Moussa.⁸¹⁰ P-0582 explained that those who came from outside of Mali, such as Adama, belonged to AQIM whereas for those who came from Mali

*“on les inscrit directement pour le compte de Ansar Dine”;*⁸¹¹ and even if not all perpetrators, including members of different organs, may have formally pledged allegiance to or officially become members of Ansar Dine or AQIM, they all executed tasks for, and under the control of Ansar Dine/AQIM in pursuance of their Common Purpose.⁸¹² Most importantly, Ansar Dine/AQIM members shared a sense of commitment to their objective of implementing their own ideological and religious vision, including views of females.⁸¹³ **AL HASSAN** specified how he was convinced to work with Ansar Dine/AQIM after he met Abdallah Al Chinguetti and Abou Al Baraa, who talked to him about the *“nécessité du jihad”*.⁸¹⁴ Similarly, P-0582 went to Timbuktu after hearing on the radio about *“un groupe [...], qui veulent appliquer la charia.”*⁸¹⁵

V.B. AL HASSAN was aware of the Common Purpose, shared it and contributed to its implementation

197. A holistic assessment of the evidence, including **AL HASSAN**'s contemporaneous interviews, show that he was aware of the Common Purpose and made intentional contributions to its implementation. Although not legally required for responsibility under article 25(3)(d),⁸¹⁶ the evidence shows further that he shared the Common Purpose. For instance, he agreed with Ansar Dine/AQIM that behaviour opposed to their ideology should be repressed and shared the Ansar Dine/AQIM policy of implementing their repressive rules⁸¹⁷ (see sections IV, V.B. and XIII.B.1).

198. As detailed above in section V.A., members of Ansar Dine and AQIM shared the Common Purpose, resorting to any and all means.⁸¹⁸ The “common purpose” within the meaning of article 25(3)(d) does not need to be specifically directed at the commission of a crime and a group with a

⁸¹⁰ [REDACTED].

⁸¹¹ [REDACTED].

⁸¹² [REDACTED].

⁸¹³ P-0582: [MLI-OTP-0062-3641-R02](#), p.3645-3646, l.117-173; P-0398: [MLI-OTP-0051-1257](#), p.1285, l.913-945; D-0605:T-192, p.37, l.5-12; [REDACTED].

⁸¹⁴ [REDACTED].

⁸¹⁵ [REDACTED].

⁸¹⁶ See similarly Confirmation Decision, para.942; ICC-01/04-01/10-465-Red (“Mbarushimana CD”), para.275.

⁸¹⁷ [REDACTED].

[REDACTED].

[REDACTED].

[REDACTED]; P-0654:T-128, p.31, l.5-10(Conf); T-132, p.65, l.9-25; [REDACTED].

⁸¹⁸ Confirmation Decision, para.957.

political and strategic goal which also entails criminality or the execution of a crime may constitute a “group acting with a common purpose”.⁸¹⁹ In the present case, the Common Purpose included the commission of the crimes charged and described in the following sections VI-X. The Defence’s suggestions that Ansar Dine’s goal may have also included “advocating for development, social justice and protection for Azawadi peoples” is irrelevant. **AL HASSAN** contributed to the commission of the charged crimes through diverse and wide-ranging actions as a member of Ansar Dine and the Security Battalion from the start of the occupation, but most notably in his subsequent role and functions as a senior member of the Police since at least early May 2012.

199. For responsibility under article 25(3)(d), a person’s contribution need not be significant nor meet a specific threshold;⁸²⁰ it suffices that the person’s conduct has an effect/bearing on the commission (or attempted commission) of the crime(s) in any way.⁸²¹ This requires a fact-specific assessment.⁸²² **AL HASSAN**’s contributions, assessed holistically,⁸²³ undoubtedly had such an impact with respect to all the charged crimes.⁸²⁴ As described below in sections VI-X, he contributed to both the material elements of the crimes and to the subjective elements (including by providing encouragement and moral support).⁸²⁵

200. **AL HASSAN** had the required *mens rea* under article 25(3)(d)(i).⁸²⁶ He meant to engage in his conduct and was aware that he contributed to the criminal activities of the group.⁸²⁷ In addition, as described below in sections VI-X, he contributed to the crimes with the aim of furthering the criminal activity or criminal purpose of the group. In particular, **AL HASSAN** knew and contributed to the coercive, violent and discriminatory system set out by Ansar Dine/AQIM. He knew how the different organs established by Ansar Dine/AQIM worked, their missions, and that they resorted to torture and other brutal punishments. He also knew the new rules and prohibitions and the group’s ideology,

⁸¹⁹ Confirmation Decision, para.940; ICC-01/04-01/07-3436-tENG (“*Katanga TJ*”), para.1627; *Mbarushimana CD*, para.271. It may be express or implied, previously arranged or materialise extemporaneously. It can be inferred from the concerted actions of the group of persons.

⁸²⁰ Confirmation Decision, para. 948; *see also* ICC-02/04-01/15-422-Red (“*Ongwen CD*”), para.44, ICC-01/12-01/15-84-Red (“*Al-Mahdi CD*”), para. 27; ICC-01/09-01/11-373 (“*Ruto et al. CD*”), para.353-354; *contra Katanga TJ*, para.1632, *Mbarushimana CD*, para.276-285.

⁸²¹ Confirmation Decision, para.948; *Ongwen CD*, para.44; *Al-Mahdi CD*, para.27; *Ruto et al. CD*, para.353-354.

⁸²² Like article 25(3)(c), the contribution can take place before and during the commission of the crime. The contribution can also take place after the commission of the crime when there is a prior understanding that the person will provide such *post facto* contribution. Confirmation Decision, para. 947; *Mbarushimana CD*, para.286-287. For article 25(3)(c): *Bemba et al. AJ*, para.1399; *see also Haradinaj TJ*, para.145.

⁸²³ *See similarly* for co-perpetration: *Ntaganda AJ*, para.1060, 1064.

⁸²⁴ The person’s contributions must be assessed with respect to the type of crimes (for example, rape or torture) and not with respect to each criminal act constituting these crimes. Likewise, the contributions need not be made directly to the physical perpetrators or to the crime. Proximity of the person to the crime is not required: Confirmation Decision, para.945, 950; *Katanga TJ*, para.1635.

⁸²⁵ Confirmation Decision, para.945, 948; *Katanga TJ*, para.1635.

⁸²⁶ ICC-01/12-01/18-1211-Red, para. 129, confirming that the Chamber understands the charges to include article 25(3)(d)(i) and (ii).

⁸²⁷ *Katanga TJ*, para.1638-1639; *Mbarushimana CD*, para.288.

including their views on female gender. He knew that they entailed a radical change from the previous system in Timbuktu and its region. As a matter of fact, **AL HASSAN** acted with discriminatory intent to target the population on religious and/or gender grounds. **AL HASSAN** knew well, endorsed and contributed to the groups' ideology and its control over all aspects of the persons' lives, in particular, women and girls. In the alternative under article 25(3)(d)(ii), **AL HASSAN** at least knew of the intention of the groups to commit the charged crimes.⁸²⁸

VI. Torture, cruel treatment, other inhumane acts, and outrages upon personal dignity (counts 1-5) and mutilation

201. With respect to all incidents described below in section VI.B, **AL HASSAN** is criminally responsible for the crimes of torture (articles 7(1)(f) and 8(2)(c)(i)), cruel treatment (article 8(2)(c)(i)), other inhumane acts (article 7(1)(k)), outrages upon personal dignity (article 8(2)(c)(ii)) and one incident of mutilation (article 8(2)(c)(i)) under article 25(3)(d), including by directly participating in arrest, detention and floggings of civilians accused of violating the rules imposed by Ansar Dine/AQIM. He is also (or alternatively) criminally responsible for some incidents under article 25(3)(a) and/or 25(3)(c).

VI.A. The imposition of so-called “*Hudud*” and “*Ta’zir*”, and use of violence in interrogations

202. Members of the Ansar Dine/AQIM and the organs they set up in Timbuktu violently punished any alleged transgression of the new mandatory rules. Cases concerning violations that could be subject to a prescribed penalty (so-called “*Hudud*”),⁸²⁹ such as “adultery” or theft, were referred to the Tribunal⁸³⁰ (even if conditions for imposing *Hudud* were not satisfied, the Tribunal could impose a discretionary punishment of so-called “*Ta’zir*”⁸³¹). The sentences pronounced by the Tribunal included corporal punishments, such as floggings⁸³² and amputation.⁸³³ The execution of such punishments were announced to the public on the radio in advance.⁸³⁴ The sentence was typically read out by a member of the *Hesbah*⁸³⁵ and executed in public to deter the population from committing violations of the rules.⁸³⁶ Members of Ansar Dine/AQIM, in particular, those from the Police and the Security Battalion, secured the location on such occasions [REDACTED] this was to showcase their power and

⁸²⁸ Katanga TJ, para.1642.

⁸²⁹ [REDACTED]; P-0398:MLI-OTP-0051-1067, p.1092-1093, 1.829-867.

⁸³⁰ P-0582:MLI-OTP-0062-3736-R02, p.3741-3742, 1.172-200; MLI-OTP-0062-3820-R02, p.3825-3826, 1.165-186. See also [REDACTED].

⁸³¹ P-0065:T-041, p.51, 1.5-17; p.53, 1.9-25; [REDACTED]. See e.g. Judgment, MLI-OTP-0001-7413, translation MLI-OTP-0077-2378, p.2379.

⁸³² See e.g. Judgment, MLI-OTP-0001-7425, translation MLI-OTP-0078-0185, p.0186.

⁸³³ Judgment, MLI-OTP-0002-0051, translation MLI-OTP-0078-0276, p.0277.

⁸³⁴ [REDACTED]; P-0582:MLI-OTP-0062-3736-R02, p.3743, 1.211-218. See also P-0639:MLI-OTP-0072-0290-R03, p.0308, para.62.

⁸³⁵ [REDACTED]

⁸³⁶ P-0626:T-142, p.53, 1.25-p.54, 1.10; P-0065:T-040, p.29, 1.21-p.30, 1.2.

terrorise the population.⁸³⁷ The Police played the major role in enforcing the Tribunal sentences.⁸³⁸

203. Cases concerning violations that could be subject to discretionary penalties (“*Ta’zir*”) were, in principle, directly dealt with by members of Ansar Dine/AQIM, in particular, the Police and the *Hesbah*, without a prior determination by a court.

204. Various acts were punished by *Ta’zir*, including drinking or selling alcohol⁸³⁹ (see below incident 8), smoking or selling cigarettes⁸⁴⁰ (see below incident 10), listening to music,⁸⁴¹ women not wearing a veil or not being properly covered up⁸⁴² (see below *inter alia* incidents 7, 27, 35, 36), not wearing loose garments, wearing garments with images on them,⁸⁴³ inter-sex mixing,⁸⁴⁴ or not closing a store on Fridays (see below incident 22).

205. The punishment could take the form of beatings, floggings, imprisonment and/or fine.⁸⁴⁵ For example, the Police would arrest smokers in the streets, confiscate their cigarettes, and sometimes beat them in the “small market”.⁸⁴⁶ Similarly, P-0626 confirmed that the Police arrested people for violating the rules, judged them, and imposed sanctions such as beating, imprisonment or fines.⁸⁴⁷

206. In fact, particularly at the beginning of the occupation of Timbuktu, any members of Ansar Dine/AQIM, including members of the Police, were directly imposing *Ta’zir* in the streets on those who violated certain rules.⁸⁴⁸ [REDACTED] whenever they saw so-called sins or objectionable acts, including inter-sex mixing, the members of groups circulating in the streets would separate these people, and beat those who were perceived as stubborn, brought them to the *Hesbah* and to the Police, and referred some to the Tribunal.⁸⁴⁹ On 14 August 2012 or the 27th day of Ramadan when marriage celebrations are traditionally held, many women were harassed by members of the Police for allegedly violating the dress code, with some chased after into their houses and flogged.⁸⁵⁰ As a result of the

⁸³⁷ [REDACTED].

⁸³⁸ P-0626:T-142, p.53, l.13-24(Conf); P-0065:T-038, p.48, l.6-8(Conf); [REDACTED].

⁸³⁹ P-0065:T-040, p.43, l.13-p.49, l.6(Conf); P-0638:T-057, p.61, l.11-12; D-0202:T-203, p.95, l.21-p.97, l.19.

⁸⁴⁰ [REDACTED]; P-0984:T-068, p.60, l.2-13.

⁸⁴¹ [REDACTED]

⁸⁴² [REDACTED]; P-0641:T-137, p.14, l.5-19.

⁸⁴³ [REDACTED].

⁸⁴⁴ [REDACTED]; [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#), p.2367; P-0398:[MLI-OTP-0051-0457](#), p.0470-0472, l.433-512, p.0481-0482, l.804-820.

⁸⁴⁵ P-0626:T-141, p.55, l.13-p.56, l.23(Conf); T-142, p.52, l.3-11; [REDACTED]; P-0398:[MLI-OTP-0051-1184](#), p.1208-1209, l.793-834; P-0398:[MLI-OTP-0060-1511](#), p.1531, l.659-668; P-0582:[MLI-OTP-0062-3845-R02](#), p.3848, l.96-101, p.3862-3864, l.594-648.

⁸⁴⁶ [REDACTED]; D-0202: T-203, p.95, l.21-p.97, l.19.

⁸⁴⁷ P-0626:T-141, p.55, l.2-p.56, l.24.

⁸⁴⁸ [REDACTED].

⁸⁴⁹ [REDACTED]. See also P-0398: [MLI-OTP-0051-0457](#), p.0467-0471, l.333-449.

⁸⁵⁰ P-0004:T-165, p.29, l.14-p.30, l.3, p.30, l.4-p.31, l.21(Conf), p.31, l.22-p.34, l.8; [MLI-OTP-0030-1044-R01](#), p.1068; [MLI-OTP-0003-0195-R02](#), p.0196, transcript [MLI-OTP-0064-0701-R02](#), p.0728-0731; P-0654:T-128, p.20, l.8-15; P-0547:T-152, p.18, l.13-p.20, l.1; P-0398:[MLI-OTP-0051-0483](#), p.0500-0501, l.506-543; [MLI-OTP-0051-1213](#), p.1218-1220, l.134-214; D-0213:T-197, p.14, l.4-p.17, l.22.

subsequent complaints communicated by the *Comité de crise*,⁸⁵¹ Abou Zeid issued written instructions dated 15 August 2012, in which he restricted the imposition of *Ta'zir* at the headquarters of the Police or the *Hesbah*.⁸⁵² This essentially confirmed the authority of the Police and the *Hesbah* to impose *Ta'zir*, and simply regulated the manner of its execution to avoid public reproach from the population. *Ta'zirs* continued to be applied to forcibly implement the new rules.⁸⁵³

207. **AL HASSAN** confirmed that there were many “*petits cas*”, which were not sent to the Tribunal.⁸⁵⁴ For those cases, pursuant to Abou Zeid’s written instructions, the Police decided and executed the sentences, such as flogging and imprisonment, without Abou Zeid’s involvement.⁸⁵⁵

208. Around the beginning of September 2012,⁸⁵⁶ Mohamed Moussa became the new head of the *Hesbah*. The latter started to take on a greater role in forcibly implementing the rules, in particular, by detaining women accused of violating the dress code.⁸⁵⁷ Women were specifically harassed, chased into their houses and flogged or detained, for violating the dress code⁸⁵⁸ (see below incidents 7, 27, 35, 36, 44 to 47) or for being outside alone at night.⁸⁵⁹ This led to the 6 October 2012 women’s demonstrations, asking to close the women’s prison and to dismiss Mohamed Moussa.⁸⁶⁰ While the *Comité de crise* met with Ansar Dine/AQIM leaders, including Abou Zeid, to discuss this issue,⁸⁶¹ abuse and violence against women continued (see above section V.A).⁸⁶²

209. Last, in addition to corporal punishments imposed by the Tribunal, the *Hesbah* or the Police, the Police used physical violence and threats as a method of interrogation and sanction (see sections

⁸⁵¹ [REDACTED];

⁸⁵² [REDACTED]; August Instructions, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); P-0398:[MLI-OTP-0051-0483](#), p.0486-0503, l.81-609; [MLI-OTP-0051-1184](#), p.1210-1211, l.857-894.

⁸⁵³ [REDACTED]; [REDACTED]; P-0004:T-165, p.44, [REDACTED]; [MLI-OTP-0030-1177](#), p.1253.

⁸⁵⁴ P-0398:[MLI-OTP-0060-1453](#), p.1454, l.26-42; [MLI-OTP-0062-1058](#), p.1072, l.446-473; [REDACTED]. See also P-0582:[MLI-OTP-0062-3872-R02](#), p.3878-3880, l.183-283,

⁸⁵⁵ P-0398:[MLI-OTP-0051-1184](#), p.1205-1211, l.682-894; [MLI-OTP-0051-0483](#), p.0493-0494, l.294-322.

⁸⁵⁶ [REDACTED]

⁸⁵⁷ [REDACTED]; P-0398:[MLI-OTP-0051-1155](#), p.1156-1177, l.20-732.

⁸⁵⁸ [REDACTED]; P-0004:T-165, p.43, l.20-p.44, l.24(Conf), p.50, l.17-p.51, l.7(Conf); P-0984:T-068, p.58, l.3-p.59, l.13; P-0099:T-145, p.40, l.16-p.41, l.4(Conf), p.60, l.19-p.61, l.19; P-0654:T-129, p.31, l.25-p.38, l.14(Conf); P-0125:[MLI-OTP-0023-0004-R03](#), p.0024-0025, para.96-99; P-0602:T-084, p.80, l.4-24; P-0638:T-057, p.70, l.5-17.

⁸⁵⁹ [REDACTED]; [REDACTED]; P-0608:T-153, p.75, l.3-6, p.77, l.18-22.

⁸⁶⁰ P-0603:T-125, p.36, l.6-p.38, l.3; P-0654:T-129, p.45, l.5-p.46, l.15(Conf); [REDACTED]; DSM report, [MLI-OTP-0012-0975](#); Article, [MLI-OTP-0001-4074](#); Article, [MLI-OTP-0033-4305](#); [REDACTED], [MLI-OTP-0061-0007](#); Video, [MLI-OTP-0033-2814](#), transcript [MLI-OTP-0069-3232](#), p.3233.

⁸⁶¹ [REDACTED]; [REDACTED].

⁸⁶² P-0004:T-165, p.60, l.3-8; [MLI-OTP-0030-1177](#), p.1194, l.222-1223; [REDACTED]; P-0654:T-129, p.39, l.17-p.43, l.8(Conf); [REDACTED]; P-0099:T-146, p.17, l.17-p.20, l.8; P-0398:[MLI-OTP-0051-1155](#), p.1167, l.372-404.

IV.B.4.b.iv.b. and VI.B.).⁸⁶³ **AL HASSAN** himself stated that if the case concerned public property and the suspect did not confess, he may be threatened, failing which, “*il faut torturer*”.⁸⁶⁴ **AL HASSAN** stated that he heard from the *emir* of the Police that torture would generally mean beating the person.⁸⁶⁵ The use of torture must be authorised by the judge of the Tribunal, who may grant the authorisation without having read the case record or the report (see below section VII.A.2).⁸⁶⁶ **AL HASSAN** also confirmed that in addition to the judge, Abou Zeid, in his capacity as the “*émir général*”, had the power to authorise torture.⁸⁶⁷ As mentioned in section IV.B.4.b.iv. above, [REDACTED] also testified that he saw **AL HASSAN** and another Police member bring [REDACTED] to the BMS [REDACTED]

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210. In all the charged incidents described below, pain and suffering were inflicted to civilians who were in the custody or under the control of Ansar Dine/AQIM members for the purpose of punishment or obtaining information or a confession. None of the incidents arose from “lawful sanctions” within the meaning of article 7(2)(e).⁸⁶⁹

VI.B. Incidents

211. **AL HASSAN** is responsible for the following incidents of torture and other ill-treatment committed against 23 civilians during the charged period. He not only contributed to these crimes with regard to the cases in which he was personally involved, but also through his contributions to the system of punishment and control put in place by Ansar Dine/AQIM, in particular, the activities of the Police.

212. In the absence of supporting evidence, the Prosecution withdraws the incidents regarding [REDACTED]

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VI.B.1. Incident 5 & 6: P-0565 and P-0557⁸⁷¹

213. [REDACTED] 872 [REDACTED]

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⁸⁶³ Report, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170; P-0626:T-141, p.57, l.19-p.61, l.4; Judgment, [MLI-OTP-0068-4781](#), translation [MLI-OTP-0078-1770](#), p.1771; [REDACTED]; [REDACTED]. See also D-0202:T-203, p.8, l.19-22, p.12, l.17-20, T-204, p.40, l.19-p.41, l.3.

⁸⁶⁴ P-0398:[MLI-OTP-0060-1662](#), p.1670-1672, l.257-314.

⁸⁶⁵ P-0398:[MLI-OTP-0060-1662](#), p.1672-1673, l.338-355.

⁸⁶⁶ P-0398:[MLI-OTP-0060-1662](#), p.1673-1674, l.370-407; [MLI-OTP-0062-1122](#), p.1138-1142, l.513-669.

⁸⁶⁷ P-0398: [MLI-OTP-0062-1143](#), p.1151-1152, l.265-302.

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⁸⁶⁹ See e.g. Confirmation Decision, para.236-250.

⁸⁷⁰ P-0542's incident was charged under counts 2, 4, 5, 6, 11, 12 and 13; P-0574's incident under counts 1-6, 11-13; P-0580's mother under counts 1-6; P-1728 under count 5.

⁸⁷¹ Charged under counts 1, 2, 3, 4, 5 and 6.

⁸⁷² P-0557:T-054, p.29, l.14-p.30, l.20. See also Notes [MLI-OTP-0055-0238](#) (left of the image), translation [MLI-OTP-0069-2932](#); [REDACTED].

⁸⁷³ P-0565:T-051, p.16, l.11-p.18, l.13(Conf).

⁸⁷⁴ P-0557 was detained in a small room without access to a lawyer for three days.⁸⁷⁵

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[REDACTED]⁸⁷⁷
 [REDACTED]
 [REDACTED]⁸⁷⁸
 [REDACTED]⁸⁷⁹
 [REDACTED]⁸⁸⁰
 [REDACTED]
 [REDACTED]⁸⁸¹
 [REDACTED]⁸⁸²

214. The next day of P-0557's arrest, P-0565 was also arrested and brought to the BMS where she was detained in a small room with no toilet or window, without access to food or a lawyer, during daytime for a period of three days.⁸⁸³ On the third day, she was brought before a judge, who was a blind elderly man, in a small office [REDACTED]⁸⁸⁴

[REDACTED]
 [REDACTED]⁸⁸⁵
 [REDACTED]⁸⁸⁶

215. P-0603 [REDACTED] learned that they were going to be flogged because Ansar Dine/AQIM members went around with loudspeakers to summon the population and to announce that they were "going to apply *Sharia*".⁸⁸⁷ [REDACTED] P-0557 and P-0565 were taken to [REDACTED]⁸⁸⁸ [REDACTED]. P-0557 recalled

⁸⁷⁴ P-0557:T-054, p.44, l.14-p.46, l.4.

⁸⁷⁵ P-0557:T-054, p.30, l.7-25, p.40, l.16-p.44, l.4.

⁸⁷⁶ P-0557:T-055, p.6, l.9-17.

⁸⁷⁷ [REDACTED]; [REDACTED]. See also [REDACTED]: [MLI-D28-0006-4222-R01](#), p.4229, l.2-23.

⁸⁷⁸ P-0557: T-055, p.6, l.22-p.7, l.13.

⁸⁷⁹ P-0557:T-055, p.8, l.2-13.

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⁸⁸³ P-0565:T-051, p.19, l.20-p.26, l.20.

⁸⁸⁴ P-0565:T-051, p.29, l.24-p.30, l.5, p.36, l.25-p.37, l.6.

⁸⁸⁵ P-0565: T-051, p.32, l.6-11.

⁸⁸⁶ P-0565:T-051[ENG], p.32, l.22-24 and T-051[FRA], p.32, l.6-8.

⁸⁸⁷ P-0603:T-125, p.54, l.13-p.55, l.13(Conf); p.55, l.25-p.56, l.3.

⁸⁸⁸ [REDACTED]; [REDACTED]; P-0565:T-051, p.38, l.18-p.40, l.10; P-0557:T-055, p.17, l.2-25; [REDACTED].

being “afraid and ashamed” [REDACTED].⁸⁸⁹

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[REDACTED]⁸⁹¹

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216. Both P-0565 and P-0557 testified about the pain they had felt while being flogged.⁸⁹⁵

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217. **AL HASSAN** was visibly part of the Police forces present on site for the implementation of the sanction [REDACTED]). He also formed part of the members of Ansar Dine/AQIM who secured the location, with members of the Security Battalion,⁸⁹⁹ and contributed to Ansar Dine/AQIM’s demonstration of power and control, as confirmed by P-0065⁹⁰⁰ and **AL HASSAN**.⁹⁰¹

[REDACTED] **AL HASSAN** wearing a Police jacket, sitting on the ground close to Adama while the sentence against P-0557 and P-0565 is being announced,⁹⁰² **AL HASSAN** standing near a vehicle during P-0557’s flogging,⁹⁰³ and **AL HASSAN** forming part of the cordon around P-0565 during her flogging.⁹⁰⁴

[REDACTED]⁹⁰⁵ [REDACTED]⁹⁰⁶ The CDRs also indicate that **AL HASSAN** was in town that day.⁹⁰⁷ Several other key members of Ansar Dine/AQIM were also present, such as Abdallah Al Chinguetti, Koutaiba, Sanda Ould Boumama and Houka Houka.⁹⁰⁸ [REDACTED]

⁸⁸⁹ P-0557:T-055, p.18, l.1-2(Conf).

⁸⁹⁰ [REDACTED]; [REDACTED]
[REDACTED]. See [REDACTED]
[REDACTED]. P-0565:T-051, p.40, l.20-p.41, l.11(Conf)

⁸⁹¹ [REDACTED] P-0565:T-051, p.42, l.5-13(Conf).

⁸⁹² [REDACTED]; [MLI-OTP-0017-0027](#) at 00:04:15:00-00:04:36:00, transcript [MLI-OTP-0033-5228](#), p.5233, l.131-137, translation, [MLI-OTP-0033-5405](#), p.5411, l.134-140.

⁸⁹³ [REDACTED].

⁸⁹⁴ [REDACTED].

⁸⁹⁵ P-0565:T-052, p.11, l.15-16; P-0557:T-055, p.56, l.10-19.

⁸⁹⁶ [REDACTED].

⁸⁹⁷ [REDACTED]; [REDACTED]; [REDACTED]
[REDACTED]; [MLI-OTP-0009-1749](#); [REDACTED]
[REDACTED].

⁸⁹⁸ [REDACTED]; [REDACTED]
[REDACTED]. See also France 2 video published on 20
June 2012: [MLI-OTP-0001-6954](#), transcript [MLI-OTP-0056-0605](#).

⁸⁹⁹ [REDACTED]; [REDACTED]
[REDACTED]; P-0398:[MLI-OTP-0051-0457](#), p.0472, l.490-494.

⁹⁰⁰ P-0065:T-040, p.10, l.16-23;T-042, p.43, l.2-20(Conf).

⁹⁰¹ P-0398:[MLI-OTP-0051-1184](#), p.1186-1189, l.46-158.

⁹⁰² [REDACTED]; [REDACTED].

⁹⁰³ [REDACTED].

⁹⁰⁴ [REDACTED].

⁹⁰⁵ [REDACTED].

⁹⁰⁶ P-0398:[MLI-OTP-0051-0936](#), p.0949, l.408-432, on [MLI-OTP-0009-1749](#).

⁹⁰⁷ P-0587’s report, [MLI-OTP-0061-1643](#), p.1691, p.1694.

⁹⁰⁸ [REDACTED]; [REDACTED]
[REDACTED]. See also P-0398:[MLI-OTP-0051-0936](#), p.0939-0950, l.77-479 on [MLI-OTP-0009-1749](#); [REDACTED].

218.

[REDACTED]⁹¹⁰ [REDACTED]
 [REDACTED]⁹¹¹ [REDACTED]
 [REDACTED]⁹¹² [REDACTED]
 [REDACTED]⁹¹³ [REDACTED]

219. P-0565, who was only an adolescent at the time,⁹¹⁴ testified that after she had come home, her whole back was hurting with red bruising so that she had to sleep on her chest.⁹¹⁵ [REDACTED]

[REDACTED]⁹¹⁶ [REDACTED]
 [REDACTED]⁹¹⁷ [REDACTED]
 [REDACTED]⁹¹⁸ There are still some scars on P-0557's body as a result of the flogging [REDACTED]⁹¹⁹ Defence expert on scarring, D-0500, recognised that [REDACTED]

[REDACTED]
 [REDACTED]⁹²⁰ [REDACTED]⁹²¹

VI.B.2.

[REDACTED]⁹²² [REDACTED]
 220. [REDACTED]
 [REDACTED]
 [REDACTED]⁹²³ [REDACTED]
 [REDACTED]⁹²⁴ [REDACTED]
 [REDACTED]⁹²⁵ [REDACTED]⁹²⁶
 [REDACTED]⁹²⁷ [REDACTED]

221. [REDACTED]

⁹⁰⁹ [REDACTED] ([MLI-OTP-0009-1749](#)).

⁹¹⁰ P-0557:T-054, p.31, l.4-8; P-0565:T-051, p.43, l.12-p.45, l.14.

⁹¹¹ P-0557:T-054, p.31, l.9-10; T-055, p.26, l.10-18.

⁹¹² P-0557:T-054, p.31, l.13-14; T-055, p.26, l.19-23.

⁹¹³ P-0557:T-055, p.27, l.5-19; T-056, p.41, l.12-20; P-0565:T-051, p.46, l.12-21.

⁹¹⁴ P-0565:T-052, p.12, l.8-10; T-051, p.7, l.24-25 ([REDACTED]).

⁹¹⁵ P-0565:T-052, p.11, l.9-p.12, l.7.

⁹¹⁶ P-0557:T-055, p.23, l.4-18.

⁹¹⁷ P-0557:T-055, p.23, l.12-p.24, l.6.

⁹¹⁸ P-0557:T-056, p.48, l.10-19, p.50, l.1-18.

⁹¹⁹ P-0557:T-055, p.24, l.9-13, p.29, l.21-p.31, l.13 (on [MLI-OTP-0046-9035](#); [MLI-OTP-0046-9039](#); [MLI-OTP-0046-9042](#); [MLI-OTP-0046-9043](#); [MLI-OTP-0046-9044](#)).

⁹²⁰ D-0500's report, [MLI-D28-0006-2725-R01](#), p.2727.

⁹²¹ P-0557:T-055, p.53, l.10-p.54, l.14(Conf).

⁹²² Charged under counts 2, 4, 5 and 6, and in relation to her rape in detention, under count 11, 12, 13.

⁹²³ [REDACTED]
⁹²⁴ [REDACTED]
⁹²⁵ [REDACTED]
⁹²⁶ [REDACTED]
⁹²⁷ [REDACTED]

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VI.B.3. Incident 8: Two men flogged at Yoboutao on or around 8 July 2012⁹⁵⁶

226. On or around 8 July 2012,⁹⁵⁷ two men accused of drinking alcohol were flogged 80 times each in front of members of the population in Timbuktu.⁹⁵⁸ [REDACTED] **AL HASSAN**, accompanied by other Police members, took the two men, tied with handcuffs to each other, to the intersection of Yoboutao, next to BMS.⁹⁵⁹ The scene was secured by *inter alia* members of the Police.⁹⁶⁰ [REDACTED] **AL HASSAN** handing over a key of the handcuffs to Abou Dhar before the floggings.⁹⁶¹ [REDACTED] Abou Dhar starting to flog the man with blue clothes, and handing over the whip to **AL HASSAN** who can be seen administering at least 34 lashes on him.⁹⁶² Abou Dhar then flogged the second victim with a striped t-shirt, again followed by **AL HASSAN** who appears to administer at least 36 lashes.⁹⁶³ [REDACTED] demonstrate the violence of the lashes and the pain and suffering, which are visible from the victims' grimaced faces and attempts to protect their backs with their arms from the force of lashes.⁹⁶⁴

227. [REDACTED], the persons overseeing the execution of these punishments appeared to be

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953 See below section VI.B.6.

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955 [REDACTED]; [MLI-OTP-0003-0195-R02](#), p.0196; [REDACTED]; [MLI-OTP-0033-4224](#).

956 Charged under counts 1, 2, 3, 4, 5 and 6.

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958 Article, [MLI-OTP-0033-4224](#); DSM report, [MLI-OTP-0012-0271](#); [REDACTED]

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[REDACTED]. The location was also identified [REDACTED] and P-0639. [REDACTED]; P-0639; [MLI-OTP-0072-0290-R03](#), p.0315.

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AL HASSAN and Abou Dhar.⁹⁶⁵

[REDACTED] suggest that the punishment of the two young men was a *Ta'zir* imposed directly by the Police, instead of the execution of sentence pronounced by the Tribunal (see above *a contrario* for P-0557 and P-0565 in section VI.B.1).⁹⁶⁶ [REDACTED]⁹⁶⁷

[REDACTED] members of Ansar Dine, who executed the punishment of 80 lashes against the two drinkers, explained that the two had been subjected to this punishment in the past but did not appear to have renounced drinking.⁹⁶⁸

228. The CDRs indicate that AL HASSAN was in town on that day.⁹⁶⁹ Several witnesses, including [REDACTED]

[REDACTED]⁹⁷⁰ [REDACTED]⁹⁷¹ P-0582⁹⁷² and P-0638⁹⁷³ identified AL HASSAN as the one flogging the victims [REDACTED]

[REDACTED]⁹⁷⁴ AL HASSAN himself acknowledged that the Police had arrested the two men accused of drinking alcohol and that he and Abou Dhar flogged them.⁹⁷⁵

VI.B.4. Incident 9: [REDACTED]⁹⁷⁶ from around June to around 16 July 2012

229. [REDACTED] was arrested by the Police for possessing alcohol and for being with a woman with whom he had no family connection.⁹⁷⁷ According to AL HASSAN, [REDACTED] was detained for around two months.⁹⁷⁸ He was interrogated and tortured by the Police so he would give the name of his alcohol provider.⁹⁷⁹ AL HASSAN then drafted and signed a report [REDACTED] specifically noting that [REDACTED]⁹⁸⁰ was “interrogated and tortured, but to no avail”.⁹⁸¹ [REDACTED]⁹⁸² [REDACTED]⁹⁸³ recognised the Police’s stamp and AL HASSAN’s signature on it.

230. Following AL HASSAN’s referral of the case,⁹⁸⁴ that same day the Tribunal sentenced [REDACTED]

⁹⁶⁵ [REDACTED].

⁹⁶⁶ [REDACTED].

⁹⁶⁷ [REDACTED].

⁹⁶⁸ Article, [MLI-OTP-0033-4224](#).

⁹⁶⁹ P-0587’s report, [MLI-OTP-0061-1643](#), p.1691, p.1695.

⁹⁷⁰ [REDACTED].

⁹⁷¹ [REDACTED].

⁹⁷² P-0582: [MLI-OTP-0062-4318-R02](#), p.4325, l.215-235.

⁹⁷³ P-0638: T-058, p.69, l.3-p.73, l.24 ([REDACTED]).

⁹⁷⁴ [REDACTED].

⁹⁷⁵ [REDACTED].

⁹⁷⁶ Charged under counts 1, 2, 3, 4, 5 and 6.

⁹⁷⁷ Report, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170; Judgment, [MLI-OTP-0053-0372](#), translation [MLI-OTP-0078-0049](#), p.0050.

⁹⁷⁸ P-0398: [MLI-OTP-0060-1511](#), p.1525-1527, l.448-525; [MLI-OTP-0062-1143](#), p.1160, l.562-569.

⁹⁷⁹ Report, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170; P-0398: [MLI-OTP-0060-1662](#), p.1676-1679, l.478-587.

⁹⁸⁰ P-0398: [MLI-OTP-0060-1511](#), p.1525, l.446-465.

⁹⁸¹ Report, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#), p.0170.

⁹⁸² [REDACTED].

⁹⁸³ [REDACTED].

⁹⁸⁴ [REDACTED].

██████████ to 40 lashes, a fine ██████████
 ██████████'. The judgment notes that he had admitted to drinking ██████████⁹⁸⁵ ██████████
 ██████████

██████████⁹⁸⁶ An article dated 16 July 2012 corroborates the incident: it reports that an individual accused of drinking alcohol received 40 lashes at the market, and was brought to the hospital,⁹⁸⁷ which demonstrates the severity of his injuries.

VI.B.5. Incident 10: ██████████⁹⁸⁸ before Ramadan 2012 (20 July to 18 August 2012)

231. ██████████ testified that sometime before Ramadan in 2012, she witnessed a tall man with dark skin called “Faroun”⁹⁸⁹ flog ██████████ in the street ██████████.⁹⁹⁰ Members of Ansar Dine/AQIM wanted to take ██████████ by force, and when he refused, he was flogged on the spot.⁹⁹¹ ██████████ described the impact of the incident ██████████ stating that since the incident, ██████████.⁹⁹²

VI.B.6. Incident 17: Dédéou Maiga⁹⁹³ in August and September 2012

232. AL HASSAN admitted that he and Adama had arrested Dédéou Maiga from the latter’s house for alleged theft and brought him to the Police headquarters.⁹⁹⁴ AL HASSAN then drafted a police report on the case.⁹⁹⁵ The list of detainees indicates that Dédéou Maiga was imprisoned from 9 August 2012.⁹⁹⁶ According to a judgment dated 12 September 2012, after he was brought before the Tribunal and confessed to theft, Dédéou Maiga was convicted and sentenced to amputation of his hand.⁹⁹⁷

233 ██████████⁹⁹⁸ ██████████
 ██████████

⁹⁸⁵ Judgment, [MLI-OTP-0053-0372](#), translation [MLI-OTP-0078-0049](#), p.0050. *See also* [MLI-OTP-0001-7378](#) (left of the image), translation [MLI-OTP-0078-5999](#), p.6000.

⁹⁸⁶ ██████████.

⁹⁸⁷ [MLI-D28-0004-3116](#).

⁹⁸⁸ Charged under counts 2, 4, 5 and 6.

⁹⁸⁹ P-0654:T-128, p.40, l.22-p.41, l.6 (identifying this as Abou Baccar Al Chinguetti’s nickname.)

⁹⁹⁰ ██████████

⁹⁹¹ ██████████

⁹⁹² ██████████.

⁹⁹³ Charged under counts 1, 2, 3, 4, 5 and 6 as well as a war crime of mutilation.

⁹⁹⁴ P-0398:[MLI-OTP-0051-0658](#), p.0676-0678, l.607-670; [MLI-OTP-0069-3710](#), transcript [MLI-OTP-0078-4564](#), translation [MLI-OTP-0078-4629](#), p.4631-4632, l.38-42. *See also* [MLI-OTP-0032-0320-R02](#), p.0321.

⁹⁹⁵ P-0398:[MLI-OTP-0060-1298](#), p.1312, l.467-471.

⁹⁹⁶ List, [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#), p.0064 (no.3).

⁹⁹⁷ Judgment, [MLI-OTP-0053-0156](#)(original), translation [MLI-OTP-0077-2225](#); [MLI-OTP-0002-0051](#)(P-0188’s scanned version), translation [MLI-OTP-0078-0276](#); [MLI-OTP-0001-7474](#) (P-0007’s photograph of printed version), translation [MLI-OTP-0077-2242](#); translation [MLI-OTP-0078-6009](#); [MLI-OTP-0068-4704](#)(Word version), translation [MLI-OTP-0078-1710](#); [MLI-OTP-0001-7392](#) (P-0007’s photograph of handwritten version).

⁹⁹⁸ ██████████.

⁹⁹⁹ Yet, later, the plan to execute the sentence of amputation was announced on the radio.¹⁰⁰⁰

234.

¹⁰⁰¹ P-0654 saw Dédéou Maiga brought out of a van and sat on a chair with his hands tied to its arms.¹⁰⁰²

¹⁰⁰³ After the accusation and the sentence decided against him were announced to the public, Abou Baccar Al Chinguetti proceeded to cut off Dédéou Maiga's hand from his elbow.¹⁰⁰⁴

235.

¹⁰⁰⁵ P-0639 watched the amputation and described the shock felt by the cruelty of the act.¹⁰⁰⁶ Expert P-0598 stated that the amputation of the hand involved *"importantes souffrances, notamment lors de la réalisation de l'acte, mais aussi de la prise en charge thérapeutique secondaire, même dans l'hypothèse où la victime aurait été possiblement droguée."*¹⁰⁰⁷

236. ¹⁰⁰⁸ armed members of Ansar Dine/AQIM, including Talha, Adama and other members of the Police, securing the location.¹⁰⁰⁹

¹⁰¹⁰

237. Immediately after the amputation, the chopped-off hand was wrapped in a handkerchief.¹⁰¹¹ The doctor, who was present, was asked to take care of Dédéou Maiga, who was then taken to the hospital.¹⁰¹²

238. P-0654 described how the event broke the morale and spirit of the population.¹⁰¹³ It was the first time that people saw someone having his hand cut off, which surprised them.¹⁰¹⁴ also noted at the time that: *"C'est comme une douche froide jetée sur la ville."*¹⁰¹⁵

⁹⁹⁹ [REDACTED]; Video, [MLI-OTP-0001-7077](#), 00:19:13:00-00:20:36:00, transcript [MLI-OTP-0069-9140](#), p.9157-9158, 1.554-579, translation [MLI-OTP-0069-9161](#), p.9179-9180, 1.555-580; *Procès-verbal*, [MLI-OTP-0032-0320-R02](#), p.0322.

¹⁰⁰⁰ P-0639: [MLI-OTP-0072-0290-R03](#), p.0308, para.62.

¹⁰⁰¹ P-0654:T-128, p.66, 1.15-p.67, 1.11(Conf).

¹⁰⁰² P-0654:T-128, p.69, 1.3-4.

¹⁰⁰³ P-0654:T-128, p.69, 1.6-8(Conf).

¹⁰⁰⁴ P-0654:T-128, p.69, 1.9-20, p.72, 1.13-19; [REDACTED].

¹⁰⁰⁵ P-0654:T-128, p.68, 1.12-18. *See also* p.76, 1.21-p.77, 1.9 ([REDACTED]).

¹⁰⁰⁶ P-0639: [MLI-OTP-0072-0290-R03](#), p.0308-0309, para.62-63.

¹⁰⁰⁷ P-0598: [MLI-OTP-0060-9465-R01](#), p.9467.

¹⁰⁰⁸ [REDACTED]; [REDACTED]

¹⁰⁰⁹ P-0654:T-128, p.75, 1.6-p.76, 1.1 ([REDACTED]); p.76, 1.3-20 ([REDACTED]). *See also* P-0398: [MLI-OTP-0060-1298](#), p.1306-1309, 1.274-353.

¹⁰¹⁰ [REDACTED]

¹⁰¹¹ P-0654:T-128, p.69, 1.21.

¹⁰¹² P-0654:T-128, p.69, 1.22; [REDACTED]; P-0603:T-125, p.19, 1.18-p.20, 1.3; Medical certificate, 16 September 2012, [MLI-OTP-0058-0219](#).

¹⁰¹³ P-0654:T-128, p.73, 1.9-15; p.74, 1.12-24; [REDACTED].

¹⁰¹⁴ P-0654:T-128, p.74, 1.18-21.

¹⁰¹⁵ [REDACTED].

239. The day after the amputation, Sanda Ould Boumama came to the hospital.¹⁰¹⁶

¹⁰¹⁷ This further intimidated the population.

240. About four days later, Dédéou Maiga went to Bamako to seek further medical care and received a prosthesis and other assistance by the ICRC.¹⁰¹⁸ Nevertheless, P-0654 saw that Dédéou Maiga was socially rejected and that he had lost his hope.¹⁰¹⁹ Following his return to Timbuktu in 2013,¹⁰²⁰ Dédéou Maiga became ill and passed away in December 2017.¹⁰²¹

VI.B.7. Incident 22: P-1708¹⁰²² during or after September 2012

241. P-0641 testified that one Friday, P-1708, a young man who was not mentally stable, was arrested at a market in Timbuktu and detained at the ATM corner of the BMS.¹⁰²³ The incident occurred when Mohamed Moussa asked for the market to be closed on Fridays.¹⁰²⁴ After leaving the mosque, P-0641 heard P-1708 shout.¹⁰²⁵

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242. While the closure of the market during prayer hours on Fridays appears to have been imposed from around July 2012,¹⁰²⁷ the fact that P-1708 was detained by Mohamed Moussa at the BMS suggests that his incident occurred after the BMS became the headquarters of the *Hesbah* around September 2012.¹⁰²⁸

VI.B.8. Incident 27: P-0547¹⁰²⁹ during or after October 2012

243. P-0547 testified that one day during the occupation, while she was sweeping in front of her house, she saw people come by in a vehicle with a black flag with white lettering.¹⁰³⁰ She ran into her garden because she was afraid of them.¹⁰³¹ Three armed men came out of the vehicle and chased after her.¹⁰³² One of them told her that he was going to take her with them because she was not covered up

¹⁰¹⁶ P-0654:T-128, p.70, l.4-8(Conf); [REDACTED].

¹⁰¹⁷ [REDACTED]
[REDACTED]
[REDACTED].

¹⁰¹⁸ [REDACTED].

¹⁰¹⁹ P-0654:T-128, p.93, l.12-16.

¹⁰²⁰ [REDACTED].

¹⁰²¹ [REDACTED]; P-0654:T-128, p.93, l.9-21.

¹⁰²² Charged under counts 2, 4 and 6.

¹⁰²³ P-0641:T-138, p.79, l.7-20.

¹⁰²⁴ P-0641:T-138, p.79, l.11-12.

¹⁰²⁵ P-0641:T-138, p.79, l.14.

¹⁰²⁶ [REDACTED].

¹⁰²⁷ DSM report dated 9 July 2012, [MLI-OTP-0012-0472](#), p.0473.

¹⁰²⁸ [REDACTED]; P-0398:[MLI-OTP-0051-1032](#), p.1042, l.326-338.

¹⁰²⁹ Charged under counts 2, 4, 5 and 6, and in relation to her rape in detention, under count 11, 12, 13.

¹⁰³⁰ P-0547:T-151, p.19, l.24-25, p.22, l.9-25.

¹⁰³¹ P-0547:T-151, p.19, l.25; p.23, l.1-9.

¹⁰³² P-0547:T-151, p.20, l.1-2; p.23, l.10-24.

properly.¹⁰³³

244. After a long discussion, P-0547 was flogged with a whip, which left scars on her back.¹⁰³⁴ P-0547 was then taken to the BMS, and brought inside through a small door in the back of the building.¹⁰³⁵ She was then taken to a very small cell where she found three other women, including one younger woman who was crying.¹⁰³⁶ She did not notice any window in the room, but the sunlight came in through the window in the door which was broken.¹⁰³⁷ Photographs taken by P-0055 and P-0057 at the BMS in 2013 support her description of the broken window on the door,¹⁰³⁸ and the sunlight coming inside the building.¹⁰³⁹ P-0547 and other detained women had to relieve themselves on a mat in the room,¹⁰⁴⁰ which was locked, and received nothing to eat or drink.¹⁰⁴¹

¹⁰⁴² ¹⁰⁴³ ¹⁰⁴⁴ ¹⁰⁴⁵ ¹⁰⁴⁶ ¹⁰⁴⁷ ¹⁰⁴⁸ He pointed his weapon at her, laid down on top of her and “made love to her”.¹⁰⁴⁹

¹⁰⁵⁰ the other women asked her about what had happened, but she only mentioned that she was asked some questions ¹⁰⁵¹

245. P-0547, together with the other three detained women, was released in the evening that day.¹⁰⁵²

¹⁰⁵³

¹⁰³³ P-0547:T-151, p.20, l.2-3.

¹⁰³⁴ P-0547:T-151, p.20, l.4-5; p.24, l.2-p.25, l.11; ¹⁰³⁵

P-0547:T-151, p.20, l.20, p.25, l.13-p.29, l.14; T-152, p.59, l.18-p.60, l.5; [MLI-REG-0001-0212](#).

¹⁰³⁶ P-0547:T-151, p.26, l.24-p.27, l.1; T-152, p.6, l.7-13.

¹⁰³⁷ ¹⁰³⁸ ¹⁰³⁹ ¹⁰⁴⁰ ¹⁰⁴¹ ¹⁰⁴² ¹⁰⁴³ ¹⁰⁴⁴ ¹⁰⁴⁵ ¹⁰⁴⁶ ¹⁰⁴⁷ ¹⁰⁴⁸ ¹⁰⁴⁹ ¹⁰⁵⁰ ¹⁰⁵¹ ¹⁰⁵² ¹⁰⁵³

¹⁰³⁷ P-0547:T-152, p.5, l.23-p.6, l.1; T-153, p.4, l.10-16.

¹⁰³⁸ [MLI-OTP-0006-1877](#); [MLI-OTP-0006-1878](#); [MLI-OTP-0006-1879](#).

¹⁰³⁹ [MLI-OTP-0006-1649](#); [MLI-OTP-0006-1538](#); [MLI-OTP-0006-1511](#); P-0055 & P-0057's Report, [MLI-OTP-0060-1920](#), p.1946-1952.

¹⁰⁴⁰ P-0547:T-151, p.27, l.1-2.

¹⁰⁴¹ P-0547:T-152, p.5, l.15-22.

¹⁰⁴² P-0547:T-152, p.9, l.14-22(Conf).

¹⁰⁴³ P-0547:T-152, p.9, l.22-24(Conf).

¹⁰⁴⁴ P-0547:T-152, p.10, l.24-p.11, l.14(Conf).

¹⁰⁴⁵ P-0547:T-152, p.9, l.25-p.10, l.2; p.14, l.5-11(Conf).

¹⁰⁴⁶ P-0547:T-152, p.10, l.2-3(Conf).

¹⁰⁴⁷ P-0547:T-152, p.10, l.4-5(Conf).

¹⁰⁴⁸ P-0547:T-152, p.10, l.6-7(Conf).

¹⁰⁴⁹ P-0547:T-152, p.11, l.18-p.12, l.14, p.13, l.16-25(Conf).

¹⁰⁵⁰ P-0547:T-152, p.14, l.18-20(Conf).

¹⁰⁵¹ P-0547:T-152, p.15, l.11-12; p.16, l.24-p.17, l.4(Conf).

¹⁰⁵² P-0547:T-152, p.15, l.13-p.16, l.1.

¹⁰⁵³ P-0547:T-152, p.16, l.17-21(Conf).

and brought to Timbuktu

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The Police report dated [REDACTED] describes their accounts, and contains a referral to the Tribunal.¹⁰⁷² **AL HASSAN** acknowledged having drafted and signed it.¹⁰⁷³ This is supported by P-0620's report on signatures.¹⁰⁷⁴ In a judgment dated [REDACTED] they were sentenced to 100 lashes as *Hudud* for "adultery" [REDACTED]

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250. [REDACTED] were arrested by the *Hesbah* on [REDACTED]
[REDACTED]¹⁰⁷⁶ In a judgment dated [REDACTED] they were also condemned to 100 lashes each for "adultery", based on their confessions to the Tribunal and to the *Hesbah* that they committed extra-marital sexual intercourse several times.¹⁰⁷⁷

251 [REDACTED]
[REDACTED]¹⁰⁷⁸ There were at least a hundred people gathered to watch the floggings.¹⁰⁷⁹
The CDRs indicate that **AL HASSAN** was in town on that day.¹⁰⁸⁰ **AL HASSAN** admitted that he had been present and that he flogged one of the six people punished, [REDACTED]¹⁰⁸¹ [REDACTED]¹⁰⁸², P-0654,¹⁰⁸³ P-0638¹⁰⁸⁴ and P-0582¹⁰⁸⁵ identified **AL HASSAN** in the photographs taken at the scene.¹⁰⁸⁶

1071 [REDACTED]
1072 [REDACTED]
[REDACTED]
[REDACTED]
1073 P-0398: [MLI-OTP-0060-1446](#), p.1450-1452, l.131-195; [REDACTED]
[REDACTED]
1074 P-0620's report, [MLI-OTP-0064-0175](#), p.0302.
1075 [REDACTED]
[REDACTED]
[REDACTED]
1076 [REDACTED]
[REDACTED]
1077 [REDACTED]
[REDACTED]
1078 [REDACTED]
[REDACTED]
[REDACTED]
1079 [REDACTED]
1080 P-0587's report, [MLI-OTP-0061-1643](#), p.1691, p.1697.
1081 P-0398:[MLI-OTP-0051-0967](#), p.0986-0990, l.637-781; P-0398:[MLI-OTP-0062-1058](#), p.1078-1082, l.660-793(especially p.1081-1082, l.786-793).
1082 [REDACTED]
1083 P-0641:T-138, p.57, l.4-p.14 ([REDACTED]).
1084 P-0638:T-058, p.75, l.8-p.76, l.17 (identifying **AL HASSAN** [REDACTED]). [REDACTED]
1085 P-0582:[MLI-OTP-0062-4117-R02](#), p.4121-4122, l.130-168.
1086 [REDACTED]
[REDACTED]

AL HASSAN also recognised himself.¹⁰⁸⁷ The photographs also depicts other Police members, such as Abou Dhar and Abdallah Burkinabe.¹⁰⁸⁸

VI.B.10. Incident 35: P-1134¹⁰⁸⁹ around November 2012

252. P-1134, was arrested by Ansar Dine/AQIM members while they were sitting in front of their house because P-1134 was not wearing a veil.¹⁰⁹⁰ Two armed men came out of a pickup and followed P-1134, who ran into their house.¹⁰⁹¹ They grabbed P-1134 by her hand and when she resisted arrest, hit her with their hands.¹⁰⁹² They threw her into the back of the pickup to take her to the “*commissariat*” at the BMS.¹⁰⁹³

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[REDACTED]
[REDACTED]¹⁰⁹⁵ [REDACTED]¹⁰⁹⁶ [REDACTED]
[REDACTED]¹⁰⁹⁷
[REDACTED]¹⁰⁹⁸ [REDACTED]
[REDACTED] who saw P-1134 detained inside the ATM corner of the BMS [REDACTED]
[REDACTED]¹⁰⁹⁹

253. P-0603 also saw P-1134 [REDACTED]¹¹⁰⁰ According to the accounts P-

[REDACTED]
[REDACTED]¹¹⁰¹ The guards refused to treat P-1134, leaving her bleeding overnight. She was taken to the hospital the next day where she received a basic treatment before being returned to her cell. She was unable to walk. [REDACTED]
[REDACTED]¹¹⁰²

¹⁰⁸⁷ P-0398: [MLI-OTP-0051-0967](#), p.0971-0974, l.131-212.

¹⁰⁸⁸ [REDACTED]
[REDACTED]
[REDACTED]

¹⁰⁸⁹ Charged under counts 1, 2, 3, 4, 5, 6, 11 and 12.

¹⁰⁹⁰ [REDACTED]

¹⁰⁹¹ P-0639: [MLI-OTP-0072-0290-R03](#), p.0303, para.46.

¹⁰⁹² P-0639: [MLI-OTP-0072-0290-R03](#), p.0303, para.46.

¹⁰⁹³ P-0639: [MLI-OTP-0072-0290-R03](#), p.0303, para.47.

¹⁰⁹⁴ P-0639: [MLI-OTP-0072-0290-R03](#), p.0303, para.48.

¹⁰⁹⁵ P-0639: [MLI-OTP-0072-0290-R03](#), p.0304, para.50.

¹⁰⁹⁶ P-0639: [MLI-OTP-0072-0290-R03](#), p.0304, para.50, p.0305, para.52-53.

¹⁰⁹⁷ P-0639: [MLI-OTP-0072-0290-R03](#), p.0305, para.53.

¹⁰⁹⁸ P-0639: [MLI-OTP-0072-0290-R03](#), p.0305, para.53.

¹⁰⁹⁹ [REDACTED]
¹¹⁰⁰ [REDACTED]
¹¹⁰¹ [REDACTED]

¹¹⁰² [REDACTED]
[REDACTED]

She was threatened with a gun and was told that if she said a word, she would be dead.¹¹⁰³

254. According to P-0641, after many people begged for her release, Abou Zeid came to the BMS and saw P-1134, but Mohamed Moussa did not accept to release her.¹¹⁰⁴ She was finally released the following morning,¹¹⁰⁵ and taken back to her house [REDACTED].¹¹⁰⁶

255 [REDACTED]¹¹⁰⁷ but her accounts are supported

[REDACTED]¹¹⁰⁸

[REDACTED]¹¹⁰⁹

[REDACTED]¹¹¹⁰

[REDACTED]¹¹¹¹

[REDACTED]¹¹¹² which corresponds to P-1134's background.¹¹¹³

256. After her release, P-1134 was hospitalised [REDACTED]¹¹¹⁴

[REDACTED]¹¹¹⁵

VI.B.11. Incident 36: P-0636¹¹¹⁶ around November/December 2012

257. Sometime during the occupation of Timbuktu, P-0636, [REDACTED]

[REDACTED]¹¹¹⁷ was arrested by members of Ansar Dine/AQIM because her veil fell [REDACTED]

[REDACTED]¹¹¹⁸ Two armed men pushed her into their vehicle and took her to a place called the "Islamic Police".¹¹¹⁹ [REDACTED]

[REDACTED]¹¹²⁰

[REDACTED]¹¹²¹

[REDACTED]¹¹²²

¹¹⁰³ [REDACTED]

¹¹⁰⁴ P-0641:T-138, p.73, l.2-25.

¹¹⁰⁵ [REDACTED]

¹¹⁰⁶ P-0641:T-138, p.73, l.3-12.

¹¹⁰⁷ P-0639:[MLI-OTP-0072-0290-R03](#), p.0305-0306, para.54-55.

¹¹⁰⁸ [REDACTED].

¹¹⁰⁹ [REDACTED].

¹¹¹⁰ [REDACTED].

¹¹¹¹ [REDACTED].

¹¹¹² [REDACTED].

¹¹¹³ P-0639:[MLI-OTP-0072-0290-R03](#), p.0293, para.17; p.0298-0302, para.37-45.

¹¹¹⁴ [REDACTED]

¹¹¹⁵ P-0639:[MLI-OTP-0072-0290-R03](#), p.0305-0306, para.54.

¹¹¹⁶ Charged under counts 2, 4, 5, 6, 11 and 12.

¹¹¹⁷ P-0636:T-071, p.12, l.4-19(Conf).

¹¹¹⁸ P-0636:T-071, p.19, l.17-p.20, l.11.

¹¹¹⁹ P-0636:T-071, p.20, l.10-p.22, l.11.

¹¹²⁰ P-0636:T-071, p.26, l.4-p.27, l.18(Conf).

¹¹²¹ P-0636:T-071, p.25, l.5-7, p.29, l.22-p.30, l.13, p.33, l.8-17(Conf).

¹¹²² P-0636:T-071, p.30, l.19-p.31, l.9(Conf).

1123 [REDACTED] 1124

[REDACTED] 1125

258. [REDACTED] 1126 [REDACTED]

1127 [REDACTED] 1128 [REDACTED]

[REDACTED] 1129 [REDACTED]

[REDACTED] 1130 [REDACTED]

259. [REDACTED]

[REDACTED] 1131 [REDACTED]

[REDACTED] 1132 [REDACTED] 1133 [REDACTED]

[REDACTED] 1134 [REDACTED]

260. P-0636's incident appears to have occurred around November 2012 given that: (i) she testified that the destruction of mausoleums occurred after her detention;¹¹³⁵ (ii) after the first wave of destructions in June/July 2012, some mausoleums were also destroyed in November/December 2012;¹¹³⁶ and [REDACTED]

VI.B.12. Incident 37: P-0580 and his family members between April 2012 and January 2013¹¹³⁷

261 [REDACTED] 1138

262. P-0580 was arrested in Timbuktu for selling cigarettes [REDACTED] 1139 [REDACTED]

[REDACTED]

[REDACTED] 1140 Upon return home, they told [REDACTED] that they saw him sitting in the [REDACTED]

[REDACTED] 1141 [REDACTED] went to see P-0580 and on her way [REDACTED] she saw men beating P-0580 with [REDACTED]

¹¹²³ P-0636:T-071, p.31, l.10-16(Conf).

¹¹²⁴ P-0636:T-071, p.32, l.3-18(Conf); [MLI-REG-0001-0020](#).

¹¹²⁵ P-0636:T-071, p.33, l.2-3(Conf).

¹¹²⁶ P-0636:T-071, p.33, l.23-p.34, l.1(Conf).

¹¹²⁷ P-0636:T-071, p.34, l.24-p.35, l.2(Conf).

¹¹²⁸ P-0636:T-071, p.34, l.8-12(Conf).

¹¹²⁹ P-0636:T-071, p.37, l.24-p.38, l.7(Conf).

¹¹³⁰ P-0636:T-071, p.38, l.15-21(Conf).

¹¹³¹ [REDACTED]

¹¹³² [REDACTED]

¹¹³³ [REDACTED]

¹¹³⁴ [REDACTED]

¹¹³⁵ P-0636:T-071, p.60, l.24-p.61, l.22 (stating that the destruction of mausoleums happened after her detention).

¹¹³⁶ P-0114:[MLI-OTP-0023-0344-R02](#), p.0374, para.133; Article, [MLI-OTP-0024-3085](#), Translation, [MLI-OTP-0078-7303](#); P-0064:[MLI-OTP-0017-0029](#), p.0039; [MLI-OTP-0014-6070](#), p.6076.

¹¹³⁷ P-0580 and P-0580's daughter's incidents: Charged under counts 1, 2, 3, 4, 5 and 6.

¹¹³⁸ P-0642:T-156, p.9, l.4-6.

¹¹³⁹ P-0642:T-156, p.11, l.11-p.12, l.7.

¹¹⁴⁰ P-0642:T-156, p.17, l.19-p.19, l.25, p.20, l.14-19(Conf).

¹¹⁴¹ [REDACTED].

a whip on the tarmac road, and P-0580 falling.¹¹⁴² When she saw what happened, [REDACTED]

[REDACTED]¹¹⁴³

[REDACTED]¹¹⁴⁴

[REDACTED]¹¹⁴⁵

263. The family was requested to pay money to secure the release of P-0580.¹¹⁴⁶ P-0580 remained detained [REDACTED]¹¹⁴⁷

He was brought back home in a motorcycle as he could not walk.¹¹⁴⁸ P-0580 was vomiting blood and had bruises and bumps on his skin all over his body.¹¹⁴⁹ P-0580 attributed these injuries to the lashes he had received.¹¹⁵⁰ [REDACTED]

[REDACTED]¹¹⁵¹ [REDACTED] to this date, P-0580 has scars from these injuries.¹¹⁵² [REDACTED]

[REDACTED]¹¹⁵³

[REDACTED]¹¹⁵⁴

264. When P-0580 was arrested, Ansar Dine/AQIM members also hit P-0580 [REDACTED]

[REDACTED]¹¹⁵⁵

[REDACTED]¹¹⁵⁶

265. Since P-0580 became unable to provide for the family [REDACTED] had to find ways to meet their needs.¹¹⁵⁷ Then, Mohamed Moussa, accompanied by Demba Demba and others,¹¹⁵⁸ all armed with rifles and whips, came to their house and told [REDACTED] that women could no longer go out.¹¹⁵⁹ When she blamed them for the family's lack of means of subsistence, Mohamed Moussa flogged [REDACTED] leaving scars on her hand and her back.¹¹⁶⁰ Mohamed Moussa, accompanied by three men, later came back to

¹¹⁴² P-0642:T-156, p.21, l.22-p.22, l.11.

¹¹⁴³ [REDACTED].

¹¹⁴⁴ [REDACTED].

¹¹⁴⁵ [REDACTED].

¹¹⁴⁶ P-0642:T-156, p.23, l.17-18.

¹¹⁴⁷ [REDACTED].

¹¹⁴⁸ P-0642:T-156, p.26, l.4-9.

¹¹⁴⁹ P-0642:T-156, p.26, l.10-18.

¹¹⁵⁰ P-0642:T-156, p.26, l.20-22.

¹¹⁵¹ [REDACTED].

¹¹⁵² P-0642:T-156, p.27, l.15-19.

¹¹⁵³ [REDACTED].

¹¹⁵⁴ P-0641:T-139, p.6, l.25-p.9, l.1 (Conf); T-140, p.13, l.25-p.14, l.25.

¹¹⁵⁵ P-0642:T-156, p.14, l.19-p.16, l.7.

¹¹⁵⁶ [REDACTED].

¹¹⁵⁷ P-0642:T-156, p.28, l.15-23.

¹¹⁵⁸ P-0642:T-157, p.40, l.3-p.41, l.11.

¹¹⁵⁹ P-0642:T-156, p.28, l.9-p.30, l.15.

¹¹⁶⁰ P-0642:T-156, p.31, l.7-p.32, l.2. See also p.44, l.1-13 on [MLI-OTP-0072-0496](#) to [MLI-OTP-0072-0503](#).

her house and slapped her because she had been outside without a veil.¹¹⁶¹ On another occasion, was arrested by Mohamed Moussa because she was found in the street

¹¹⁶² and detained at the BMS for three days, without anything to eat or drink.¹¹⁶³ When Mohamed Moussa took back home, he whipped her three times at the entrance, causing her to lose consciousness.¹¹⁶⁴ To this day, there are times when she has the impression that her “heart is torn”.¹¹⁶⁵

VI.B.13. Incidents 42 & 43: [REDACTED] and [REDACTED]¹¹⁶⁶ on or around [REDACTED]

266. On or around [REDACTED],¹¹⁶⁷ members of Ansar Dine/AQIM, including members of the *Hesbah* and the Police, including [REDACTED]¹¹⁶⁸ and [REDACTED] from the Police,¹¹⁶⁹ flogged [REDACTED] at Yoboutao.¹¹⁷⁰

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¹¹⁶¹ P-0642:T-156, p.32, l.3-25. *See also* p.43, l.12-24 on photograph [MLI-OTP-0072-0499](#); D-0500, [MLI-D28-0006-2737-R01](#), p.2738 on [MLI-OTP-0072-0499](#).

¹¹⁶² P-0642:T-156, p.34, l.21-p.35, l.1.

¹¹⁶³ P-0642:T-156, p.35, l.4-p.37, l.14.

¹¹⁶⁴ P-0642:T-156, p.35, l.4-6; p.37, l.14-16.

¹¹⁶⁵ P-0642:T-156, p.45, l.2-13.

¹¹⁶⁶ Charged under counts 1, 2, 3, 4, 5 and 6.

¹¹⁶⁷ [REDACTED];

[REDACTED];

[REDACTED];

¹¹⁶⁸ [REDACTED].

¹¹⁶⁹ [REDACTED].

¹¹⁷⁰ [REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

[REDACTED];

¹¹⁷¹ [REDACTED];

¹¹⁷² [REDACTED];

¹¹⁷³ [REDACTED];

¹¹⁷⁴ [REDACTED];

¹¹⁷⁵ [REDACTED];

¹¹⁷⁶ [REDACTED];

¹¹⁷⁷ [REDACTED];

¹¹⁷⁸ [REDACTED];

1179

[REDACTED] 1180 [REDACTED] 1181
[REDACTED] 1182

269. [REDACTED]

[REDACTED] 1183 There was no sanitary facility in the room and they only brought her some milk once. 1184 [REDACTED] 1185

[REDACTED] 1186 During the proceedings lasting for about an hour, [REDACTED]

[REDACTED] 1187 No one was able to speak on her behalf and she had no opportunity to call a witness. 1188 They issued a judgment sentencing her to imprisonment and flogging. [REDACTED]

[REDACTED] 1189

270. [REDACTED]

[REDACTED] 1190 While the requirements for imposing *Hudud* for extra-marital sexual intercourse had not been met, on account of the “extremely strong accusation against her”, [REDACTED] 1191 [REDACTED]

[REDACTED] 1192
271. [REDACTED]

[REDACTED], was brought before the Tribunal. Since he denied the charge and no eyewitnesses were found, [REDACTED] 1193

272. On the day of the flogging, [REDACTED] was taken to a house where Ansar Dine/AQIM members prepared whips with which she was going to be flogged, and then taken by car to Yoboutao. 1194 [REDACTED]

1179 [REDACTED]
1180 [REDACTED]
1181 [MLI-OTP-0001-7391](#), translation [MLI-OTP-0077-2826](#), p.2828.

1182 [REDACTED]
1183 [REDACTED]
1184 [REDACTED]
1185 [REDACTED]
1186 [REDACTED]
1187 [REDACTED]
1188 [REDACTED]
1189 [REDACTED]
1190 [REDACTED]
[REDACTED]
1191 [REDACTED]
[REDACTED]
1192 [REDACTED]
1193 [REDACTED]
[REDACTED]
1194 [REDACTED]

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¹¹⁹⁶ which multiple witnesses identified as a white vehicle of the Police.¹¹⁹⁷ After the judgment against him was announced by a member of the *Hesbah* in front of a large crowd,¹¹⁹⁸ [REDACTED]

[REDACTED] and [REDACTED]¹¹⁹⁹ started flogging him.¹²⁰⁰

[REDACTED] was then flogged by a member of the Police called [REDACTED].¹²⁰¹

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273.

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1207 [REDACTED]

1208 [REDACTED]

[REDACTED],¹²⁰⁹ [REDACTED]

[REDACTED]¹²¹⁰ [REDACTED] cried in agony and moved

1195 [REDACTED]

1196 [REDACTED]

1197 [REDACTED]; [REDACTED]

1198 [REDACTED];

1199 [REDACTED]

1200 [REDACTED]

1201 [REDACTED];

1202 [REDACTED];

1203 [REDACTED]; [REDACTED]

1204 *See e.g.* [REDACTED];

[REDACTED]; P-0065:T-042, p.4, l.5-p.28, l.14(Conf);

1205 [REDACTED]; [REDACTED]

1206 [REDACTED]

1207 [REDACTED]

1208 [REDACTED]

1209 [REDACTED]; [REDACTED]

1210 [REDACTED]

around, [REDACTED], and crouched down onto the ground.¹²¹¹ [REDACTED]

[REDACTED]¹²¹²

[REDACTED] a total of around [REDACTED] lashes inflicted [REDACTED]¹²¹³

274 [REDACTED] she still had scars on her back and shoulders, which hurt a lot.¹²¹⁴ She experiences health and blood pressure issues and is unable to sit down.¹²¹⁵ [REDACTED] can no longer go out or talk to her friends in public because even now, people talk to her children about the incident.¹²¹⁶ [REDACTED] was very ashamed and her whole body was in pain.¹²¹⁷

VI.B.14. Incident 48: P-0609¹²¹⁸ [REDACTED]

275. According to the *procès-verbal* taken by a Malian judge, and the civil party complaint, one morning, P-0609 [REDACTED] who was between [REDACTED] years old at the time, was arrested at her house and imprisoned at the BMS by men driving a Hulux with a black flag with white letters.¹²¹⁹ Her captors flogged her one after another until she bled, which left scars on her body.¹²²⁰ [REDACTED] men came to P-0609's house and asked her father to let her marry, which he refused.¹²²¹ [REDACTED] they came back and threatened P-0609's father with death.¹²²² After a religious marriage celebration, P-0609 was brought to a house in [REDACTED] where she also found three other women in detention.¹²²³ During her detention, [REDACTED] she was raped by three men, who had white skin and spoke Arabic, each night.¹²²⁴ If she resisted, she was beaten.¹²²⁵ P-0609 was freed [REDACTED]

[REDACTED]¹²²⁶ [REDACTED]¹²²⁷

276. [REDACTED]

[REDACTED]

[REDACTED]¹²²⁸ P-0524 recalled that P-0609 appeared quite traumatised.¹²²⁹

¹²¹¹ [REDACTED].

¹²¹² [REDACTED]; [REDACTED]

[REDACTED]; [REDACTED]; [REDACTED].

¹²¹³ [REDACTED]; [REDACTED]; [REDACTED].

¹²¹⁴ [REDACTED]

¹²¹⁵ [REDACTED]

¹²¹⁶ [REDACTED]

¹²¹⁷ [REDACTED]

¹²¹⁸ Charged under counts 1, 2, 3, 4, 5, 8, 9, 10, 11 and 12.

¹²¹⁹ *Procès-verbal*, [MLI-OTP-0037-1571-R03](#), p.1571; Civil party complaint, [MLI-OTP-0024-2814](#), p.2827.

¹²²⁰ *Procès-verbal*, [MLI-OTP-0037-1571-R03](#), p.1572; Civil party complaint, [MLI-OTP-0024-2814](#), p.2827.

¹²²¹ [REDACTED]

¹²²² [REDACTED]

¹²²³ *Procès-verbal*, [MLI-OTP-0037-1571-R03](#), p.1572; Civil party complaint, [MLI-OTP-0024-2814](#), p.2828.

¹²²⁴ *Procès-verbal*, [MLI-OTP-0037-1571-R03](#), p.1572; Civil party complaint, [MLI-OTP-0024-2814](#), p.2828.

¹²²⁵ Civil party complaint, [MLI-OTP-0024-2814](#), p.2828.

¹²²⁶ *Procès-verbal*, [MLI-OTP-0037-1571-R03](#), p.1572; Civil party complaint, [MLI-OTP-0024-2814](#), p.2828.

¹²²⁷ *Procès-verbal*, [MLI-OTP-0037-1571-R03](#), p.1573; Civil party complaint, [MLI-OTP-0024-2814](#), p.2828.

¹²²⁸ P-0524: [MLI-OTP-0071-0246-R12](#), p.0261, para.90-95.

¹²²⁹ P-0524: [MLI-OTP-0071-0246-R12](#), p.0262, para.96.

VI.C. AL HASSAN's criminal responsibility for the crimes under counts 1-5 and mutilation

VI.C.1. Article 25(3)(a) of the Statute

277. As described above in sections VI.B.3 and VI.b.9, **AL HASSAN** personally flogged two men in Yoboutao on or around 8 July 2012 and [REDACTED] on or around [REDACTED]

VI.C.2. Article 25(3)(c) of the Statute

278. **AL HASSAN** assisted in the commission of the crimes under counts 1-5 against nine victims of Incidents 5, 6, 9, 32, 33 and 34:

- As described in section VI.B.1, **AL HASSAN** assisted the floggings of [REDACTED] including by being present in the proximity of victims and the direct perpetrators and participating in securing the location where the floggings took place, together with other members of Ansar Dine/AQIM. He can be seen on several videos, including close to Adama. Given his position of authority, his physical presence at the floggings constituted not only practical assistance but also moral encouragement for the direct perpetrators of the floggings.
- As described in section VI.B.4, **AL HASSAN** assisted the torture of [REDACTED] including by drafting and signing the report of the Police, with specific reference to the use of torture during his interrogations, after the commission of the crime. By the time of this incident on or around 16 July 2012, **AL HASSAN** was *inter alia* in charge of preparing police reports, which summarised the facts related to each case handled by the Police, including the result of its interrogations of suspects and witnesses.¹²³⁰ **AL HASSAN** also knew about the practice within the Police of using torture as a method of interrogation to extract confessions or information.¹²³¹ The fact that he included in his report a reference to the use of torture during [REDACTED] interrogations also shows that it was part of the ordinary practice of the Police and that information obtained through torture would be transmitted to, and used by the Tribunal. Based on all the circumstances, an agreement between **AL HASSAN** and the physical perpetrators existed before [REDACTED] torture and the physical perpetrators acted upon the understanding that **AL HASSAN** endorsed this practice and/or with knowledge of his subsequent assistance (see section VI.A.).¹²³²
- As described in section VI.B.9, **AL HASSAN** assisted the floggings of three couples accused of adultery [REDACTED], including by: (i) being present in the proximity of victims and the direct perpetrators and participating in securing the location where the floggings took place, together with other members of the Police, such as Abdallah Burkinabe and Abou

¹²³⁰ See section VI.B.4.

¹²³¹ See e.g. P-0398: [MLI-OTP-0060-1662](#), p.1670-1674, 1.257-408.

¹²³² See Confirmation Decision, para. 921-922; ICC-01/05-01/13-2275-Red, para. 1399.

Dhar; and (ii) personally flogging one of the victims, [REDACTED] Given his position of authority, his physical presence at the floggings of the three couples and his direct perpetration of the floggings of one victim constituted not only practical assistance but also moral encouragement for the other perpetrators. In addition, with respect to [REDACTED] and [REDACTED] [REDACTED] he provided practical assistance by drafting and signing the Police report and referring their case to the Tribunal, which was a prerequisite for them to be judged and sentenced to floggings by the Tribunal.

279. In light of his general contributions to the system of corporal punishments implemented by Ansar Dine/AQIM and his endorsement thereof,¹²³³ **AL HASSAN** provided his assistance for the purpose of facilitating the commission of the crimes against these victims.

280. With respect to the P-0580's incident, the Prosecution retains the charge under article 25(3)(d) only.

VI.C.3. Article 25(3)(d) of the Statute

281. Further or alternatively, **AL HASSAN** intentionally contributed in other ways to the commission of the crimes alleged in counts 1-5 and the crime of mutilation by members of Ansar Dine/AQIM regarding all the incidents described in this section.

VI.C.3.a. The crimes under counts 1-5 and mutilation were part of the Common Purpose

282. The crimes described in this section were committed by Ansar Dine/AQIM members pursuant to their Common Purpose. Members of Ansar Dine and AQIM shared the intention to impose rules and restrictions on the population and punish any violators by force and violence, which amounted to torture, cruel treatment, other inhumane acts, outrages upon personal dignity and in one instance, mutilation. This is clear from the charged incidents described above, which followed the same/similar *modus operandi*. In addition, for example:

- In an interview published on 1 June 2012, Sanda Ould Boumama declared that “[...] *je sais qu'on va couper des mains. [...] Mais on va couper aussi des têtes si Charia nous ... nous dit ça. Donc on n'a pas de complexes de ça.*”¹²³⁴ [REDACTED]

[REDACTED]¹²³⁵ In fact, the enforcement of the sentence of amputation as *hudud* marked “a major victory” for Ansar Dine/AQIM, which sought to demonstrate to the world their determination to impose their power

¹²³³ [REDACTED]

¹²³⁴ Video, [MLI-OTP-0001-0052](#), at 01:21:08:00-01:21:30:10, transcript [MLI-OTP-0033-5148](#), translation [MLI-OTP-0033-5296](#), p.5330, l.1263-1265.

¹²³⁵ [REDACTED]

and their own ideological and religious vision.¹²³⁶ As P-0654 recalled, after the amputation, the town became “as silent as a cemetery” because nobody had the courage to go out.¹²³⁷

- The day after the amputation of Dédéou Maiga’s hand, Sanda Ould Boumama explained: “*c’est dans [...] notre programme de l’application de charia*”.¹²³⁸
- [REDACTED] **AL HASSAN** defended the application of corporal punishment and the imposition of the rules based on Ansar Dine/AQIM’s religious vision, stating: “*Nous avons appliquées des règles... sur l’adultère... les femmes non voilées et les buveurs d’alcool... sur les voleurs en leur coupant la main [...] [...] La loi des mécréants sévissait depuis 120 ans... [...] au Mali... maintenant ces 120 années sont... terminées... une page noire... nous devons ici [...] appliquer la loi islamique... et défendre... la loi islamique... jusqu’à la mort.*”¹²³⁹
- On 14 August 2012 or the 27th day of Ramadan, members of the Police, including Adama, harassed many women for not respecting the dress code, with some chased into their homes and flogged.¹²⁴⁰

VI.C.3.b. AL HASSAN’s contributions to the commission of the crimes under counts 1-5 and mutilation

283. **AL HASSAN** contributed to the commission of these crimes through his roles and functions as a senior member of the Police, which had a key role in the system of control and punishment established by Ansar Dine/AQIM. **AL HASSAN**’s contributions included, *inter alia*: his important functions and powers within the Police generally, such as by organising its daily work; his role in drafting police reports and referring cases to the Tribunal; his participation in the arrest and interrogations of persons suspected of violating the new rules;¹²⁴¹ his direct participation in, and presence at the execution of sentences pronounced by the Tribunal; and his interviews to the media describing the role of the Police in “correcting objectionable acts” such as drinking alcohol and a woman adorning herself, and defending the application of corporal punishments¹²⁴² (see above section III.C.1.c.). These contributions had an effect of practically assisting or encouraging other Ansar Dine/AQIM members to commit these crimes.

VI.C.3.c. AL HASSAN’s intent and knowledge regarding the crime under counts 1-5 and mutilation

284. The evidence also establishes that **AL HASSAN** meant to engage in the above conduct. He made

¹²³⁶ [REDACTED]

¹²³⁷ P-0654:T-128, p.73, l.9-15; p.74, l.12-24.

¹²³⁸ [REDACTED]

[REDACTED]; P-0654:T-128, p.71, l.11-23(Conf).

¹²³⁹ [REDACTED]

¹²⁴⁰ P-0004:T-165, p.29, l.14-p.30, l.3, p.30, l.4-p.31, l.21(Conf), p.31, l.22-p.34, l.8; [MLI-OTP-0030-1044-R01](#), p.1068; [MLI-OTP-0003-0195-R02](#), p.0196; P-0547:T-152, p.18, l.13-p.20, l.1; P-0398:[MLI-OTP-0051-0483](#), p.0500-0501, l.506-543; [MLI-OTP-0051-1213](#), p.1218-1220, l.134-214; D-0213:T-197, p.14, l.4-p.17, l.22.

¹²⁴¹ See e.g. section IV.B.4.b.iii regarding the arrest of Dédéou Maiga.

¹²⁴² See e.g. [REDACTED].

his contributions “with the aim of furthering the criminal activity or criminal purpose” of Ansar Dine and AQIM and/or at least “in the knowledge of [their] intention [...] to commit the crimes”.

285. In addition to the facts relating to his contributions to the commission of the crimes as described in section VI.C.3.b, his intent and knowledge can be inferred from, *inter alia*: his contact with the population, receiving their complaints and concerns;¹²⁴³ his role in investigating complaints and alleged violations of the rules, which led in many instances to the punishments discussed above;¹²⁴⁴ his participation in the meetings with the *Comité de crise* where complaints from the population were discussed, such as the meeting on 9 September 2012,¹²⁴⁵ a meeting at the *Gouvernorat*¹²⁴⁶ and the meeting on 18 January 2013;¹²⁴⁷ his presence at the women’s demonstration on 6 October 2012,¹²⁴⁸ which concerned the imposition of the dress code and detention of women,¹²⁴⁹ [REDACTED]

[REDACTED]¹²⁵⁰ statements and instructions from Ansar Dine/AQIM members condoning or encouraging the commission of the crimes,¹²⁵¹ such as Abou Zeid’s written instructions regarding *Ta’zir*¹²⁵² and media interviews given by members regarding the implementation of *Hudud* punishments;¹²⁵³ coordination between the Police and other organs, including the *Hesbah* and the Tribunal, in enforcing the new rules by force/ violence;¹²⁵⁴ the widespread and systematic nature of the acts of violence;¹²⁵⁵ contemporaneous reporting on violence committed against the population,¹²⁵⁶ including detention and floggings of women;¹²⁵⁷ and his participation in Ansar

¹²⁴³ [REDACTED]
[REDACTED] D-0544:[MLI-D28-0006-3342-R01](#), p.3345, para.16-21, p.3346, para.22-24; D-0551:T-200, p.85, l.12-p.87, l.4.

¹²⁴⁴ See section IV.B.4.b.iv above.

¹²⁴⁵ Minutes, [MLI-OTP-0030-1177](#), p.1249; P-0004:T-165, p.46, l.1-p.47, l.10, p.50, l.17-p.51, l.7.

¹²⁴⁶ P-0398:[MLI-OTP-0051-1099](#), p.1104, l.151-156; [MLI-OTP-0051-0557](#), p.0562-0564, l.155-222; [MLI-OTP-0051-0571](#), p.0576-0581, l.163-334.

¹²⁴⁷ [REDACTED]; P-0004:T-165,p.86, l.19-p.87, l.12; P-0398:[MLI-OTP-0051-0598](#), p.0614, l.522-586.

¹²⁴⁸ P-0582:[MLI-OTP-0062-4157-R02](#), p.4179-4181, l.764-855; [MLI-OTP-0062-4185-R02](#), p.4189-4193, l.122-280.

¹²⁴⁹ [REDACTED]; [MLI-OTP-0033-2814](#), transcript [MLI-OTP-0069-3232](#); P-0603:T-125, p.35, l.15-p.36, l.6-17.

¹²⁵⁰ [REDACTED].

¹²⁵¹ See sections V.A and VI.C.3.a above.

¹²⁵² August Instructions, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#).

¹²⁵³ Video, [MLI-OTP-0020-0103](#), transcript [MLI-OTP-0056-0787](#), translation [MLI-OTP-0061-1128](#); [REDACTED]. Article, [MLI-OTP-0020-0117](#), translation [MLI-OTP-0078-9744](#).

¹²⁵⁴ See section III.C.1.f above.

¹²⁵⁵ See section XII below.

¹²⁵⁶ Report, 16 May 2012, [MLI-OTP-0001-2265](#), p.2281-2282; Video, 20 June 2012, [MLI-OTP-0001-6954](#); Article, 8 July 2012, [MLI-OTP-0033-4224](#); Article, 16 July 2012, [MLI-D28-0004-3116](#); Article, 17 September 2012, [MLI-OTP-0001-1904](#); Report, 20 September 2012, [MLI-OTP-0001-2393](#), p.2396-2400; Article, 29 November 2012, [MLI-OTP-0001-4878](#); Article, 3 January 2013, [MLI-OTP-0023-0494](#), translation [MLI-OTP-0025-0105](#), p.0106.

¹²⁵⁷ Article, 21 September 2012, [MLI-OTP-0035-0887](#); Article, 25 September 2012, [MLI-OTP-0001-2409](#).

Dine/AQIM activities throughout the charged period.¹²⁵⁸

VII. Passing sentence without due process (count 6)

286. The evidence shows beyond a reasonable doubt that Ansar Dine/AQIM members committed the crime of passing sentence without due process under article 8(2)(c)(iv). The *actus reus* of the offence is satisfied *either* by the passing of the sentence without due process, or the carrying out of the punishment without any judgment pronounced by a court.

287. As explained in section III.C.2.c, Ansar Dine/AQIM set up a Tribunal in Timbuktu around the end of April 2012 or the beginning of May 2012,¹²⁵⁹ presided over by Houka Houka and based at the *Hôtel La Maison*.¹²⁶⁰ This Tribunal was not a regularly constituted court, and in particular was neither independent nor impartial, nor provided the guarantees generally recognised as indispensable in international law. Notwithstanding these fundamental defects, which were manifest to those passing sentence or who contributed to its activities, it issued at least 54 judgments imposing sanctions.¹²⁶¹

288. In addition, Ansar Dine/AQIM members, especially members of the Police and the *Hesbah*, punished members of the civilian population without any judicial process at all for some offences, such as dress code violations. They knew this, and considered themselves authorised to act on this.

289. All the victims were civilians taking no active part in the hostilities. The perpetrators could not have failed to be aware of the facts establishing this status, given the circumstances of the victims themselves and the manner in which they became subject to punishment.

290. **AL HASSAN** was at the heart of the work of the Police and the Tribunal. He played a key role in the commission of this crime and is criminally responsible under articles 25(3)(c) and/or (d).

VII.A. The Tribunal was not a “regularly constituted court” affording all judicial guarantees generally recognised as indispensable

291. The Tribunal established by Ansar Dine/AQIM was not a regularly constituted court affording the essential guarantees of independence and impartiality, or all other judicial guarantees generally recognised as indispensable under international law.

VII.A.1. The Tribunal was not independent or impartial

292. Ansar Dine/AQIM established the Tribunal as a tool to ensure their power and control, and to

¹²⁵⁸ See section IV above.

¹²⁵⁹ ; Document from the Tribunal refers to events of 4 April 2012, [MLI-OTP-0055-0223](#), translation [MLI-OTP-0054-0329](#); Judgment, [MLI-OTP-0055-0233](#), translation [MLI-OTP-0054-0333](#), p.0334.

¹²⁶⁰ P-0065:T-046, p.43, l.10-11(Conf); T-038, p.46, l.19-p.47, l.2; T-042, p.39, l.1-2, p.35, l.4-16(Conf), p.51, l.12-25(Conf); P-0004:T-167, p.25, l.3-8; P-0557:T-055, p.6, l.9-p.8, l.25(Conf); P-0595:[MLI-OTP-0058-0196-R02](#) at 0202, para.36; P-0638:T-058, p.32, l.25-p.33, l.6(Conf), p.20, l.15-19, p.41, l.25-p.42, l.13, p.44, l.18-23; [REDACTED]; [REDACTED];

[REDACTED]; D-0605:T-192, p.53, l.5-22.

¹²⁶¹ See Annex 1.

consistent with those of Ansar Dine/AQIM.¹²⁶⁹ He also pledged allegiance to AQIM,¹²⁷⁰ which was incompatible with the independence or impartiality required of a judge. [REDACTED]

[REDACTED]¹²⁷¹

295. Second, Houka Houka sought to advance Ansar Dine/AQIM policies in a manner that further affected and undermined both his independence and impartiality. [REDACTED]

[REDACTED]¹²⁷²

[REDACTED]¹²⁷³ He also participated in other meetings: (i) to discuss the application of the new rules to other areas in the region;¹²⁷⁴ (ii) to discuss the issue of money from drug trafficking, and to plan and discuss the military attack in Konna;¹²⁷⁵ and (iii) along with Ansar Dine/AQIM leaders, representatives of the population and the *Comité de crise*, including to plan demonstrations opposing military intervention against Ansar Dine/AQIM.¹²⁷⁶

296. Third, several Tribunal members were also members of the “executive” arm of Ansar Dine/AQIM,¹²⁷⁷ and exercised these functions concurrently with their “judicial” functions.¹²⁷⁸ This was the case of Abdallah Al Chinguetti (AQIM, member of the Presidency and head of the *Sharia* Committee),¹²⁷⁹ Koutaïba Al Noaman (AQIM judge, member of the *Sharia* Committee and member of

1269 [REDACTED]

1270 [REDACTED]

1271 [REDACTED]

1272 [REDACTED]

1273 [REDACTED]

1274 [REDACTED]

¹²⁷⁵ P-0398:[MLI-OTP-0051-0376](#), p.0391-0397, l.486-697; P-0004:T-165, p.62, l.17-p.65, l.15, p.82, l.16-p.87, l.12(Conf).

¹²⁷⁶ [REDACTED] P-0398:[MLI-OTP-0051-0598](#), p.0614-0623, l.522-839; [REDACTED].

¹²⁷⁷ [REDACTED] P-0065:T-042, p.39, l.17-p.40, l.22(Conf); T-050, p.31, l.5-15(Conf); P-0626:T-142, p.9, l.2-23(Conf); P-0398:[MLI-OTP-0051-1032](#), p.1039-1041, l.222-l.275; [REDACTED]; D-0202:T-203, p.18, l.7-17(Conf); [MLI-OTP-0001-7597](#), translation [MLI-OTP-0077-2818](#); [MLI-OTP-0055-0267](#), translation [MLI-OTP-0054-0335](#).

¹²⁷⁸ P-0065:T-042, p.36, l.11-22(Conf); p.39, l.17-p.40, l.22(Conf); p.45, l.2-11(Conf), p.52, l.21-25(Conf), p.59, l.19-p.61, l.12(Conf); [REDACTED]

[REDACTED] P-0398:[MLI-OTP-0051-1032](#), p.1039-1041, l.222-275; [MLI-OTP-0001-7369](#) to the left of the image, translation [MLI-OTP-0077-2768](#); [MLI-OTP-0055-0231](#) to the left of the image, translation [MLI-OTP-0078-6282](#); [REDACTED].

1279 [REDACTED]

[REDACTED] T-099, p.58, l.3-6(Conf), p.60, l.17-p.61, l.12(Conf); T-100, p.20, l.16-p.21, l.18(Conf); T-102, p.42, l.20-p.43, l.24(Conf); T-095, p.61, l.22-p.62, l.8(Conf); T-092, p.31, l.9-16(Conf); T-096, p.35, l.3-p.36, l.16(Conf); P-0626:T-142, p.9, l.2-22(Conf); D-0202:T-203, p.18, l.7-17(Conf); P-0398:[MLI-OTP-0051-1257](#), p.1291, l.1129-1133.

AQIM's *Al Fourqane* battalion),¹²⁸⁰ Al Mahdi (AQIM, first head of the *Hesbah* and member of the *Sharia* Committee),¹²⁸¹ Mohamed Moussa (second head of the *Hesbah* and member of the *Sharia* Committee),¹²⁸² Mohamed Ibrahim (member of the *Hesbah*),¹²⁸³ and Radwan (AQIM, member of the Media Office and the *Sharia* Committee).¹²⁸⁴ Houka Houka and Daoud Ali Maiga were also members of both the Tribunal and of the *Sharia* Committee.¹²⁸⁵

297. Not only did these concurrent roles preclude even any appearance of independence, but it meant there was no protection for Tribunal members against external pressures. Al Chinguetti, Radwan and Koutaiba, all from AQIM, significantly influenced the decision-making process.¹²⁸⁶

298. Fourth, the Tribunal was not impartial because its members had relationships with and/or allegiances to some of the parties in dispute before it.¹²⁸⁷ confirmed that Tribunal members showed favouritism to parties in some cases before the Tribunal.¹²⁸⁸

299. Fifth, Abou Zeid controlled the funding and functioning of the Tribunal.¹²⁸⁹ Members of the Tribunal were paid a monthly salary from Abou Zeid's funds.¹²⁹⁰

300. Sixth, the Tribunal was not permitted to exercise independent judgment on cases which the Ansar Dine/AQIM leadership considered to be too "important".¹²⁹¹ For example, Iyad Ag Ghaly decided the amputation of Dédéou Maiga, and Abou Zeid approved the *Hudud* related cases.¹²⁹² Abou Zeid was not

¹²⁸⁰ [REDACTED]
[REDACTED] P-0065:T-042, p.36, l.11-22(Conf); p.39, l.17-p.40, l.22(Conf); p.52, l.21-25(Conf); p.60, l.9-p.61, l.12(Conf); [REDACTED].

¹²⁸¹ P-0065:T-042, p.60, l.4-11; P-0626:T-142, p.9, l.24-p.10, l.1(Conf); [MLI-REG-0001-0089](#), translation [MLI-REG-0001-0201](#);

¹²⁸² [REDACTED] P-0065:T-042, p.45, l.2-11(Conf).

¹²⁸³ [REDACTED] [MLI-REG-0001-0087](#).

¹²⁸⁴ [REDACTED];
[REDACTED];
P-0654:T-128, p.61, l.13-17; P-0398:[MLI-OTP-0051-1032](#), p.1039-1041, l.222-275, [MLI-OTP-0051-0598](#), p.0627, l.965-977, [MLI-OTP-0060-1327](#), p.1340, l.414-437; List:[MLI-OTP-0001-7369](#) to the left of the image, translation [MLI-OTP-0077-2768](#); List:[MLI-OTP-0055-0231](#) to the left of the image, translation [MLI-OTP-0078-6282](#); [MLI-REG-0001-0089](#), translation [MLI-REG-0001-0201](#).

¹²⁸⁵ P-0398:[MLI-OTP-0060-1327](#), p.1339-1342, l.370-502.

¹²⁸⁶ [REDACTED]; [REDACTED]
¹²⁸⁷ Remarks, [MLI-OTP-0055-0267](#), translation [MLI-OTP-0054-0335](#); [MLI-OTP-0001-7597](#), translation [MLI-OTP-0077-2818](#).

¹²⁸⁸ [REDACTED].

¹²⁸⁹ P-0626:T-141, p.25, l.5-p.28, l.21(Conf), T-142, p.6, l.9-p.9, l.22; [REDACTED]
[REDACTED]

[REDACTED] P-0654:T-128, p.36, l.5-21; P-0398:[MLI-OTP-0051-0631](#), p.0642-0644, l.359-431.

¹²⁹⁰ [REDACTED]; Monthly budget for the Tribunal, [MLI-OTP-0009-2390](#), p.2428.

¹²⁹¹ P-0398:[MLI-OTP-0051-0658](#), p.0674, l.513-517.

¹²⁹² P-0398:[MLI-OTP-0051-0658](#), p.0676-0680, l.607-720(as corrected on p.0658_01, points 7 to 10); P-0654:T-128, p.36, l.5-21; [REDACTED]; [REDACTED]

[REDACTED] [MLI-OTP-0040-0458](#), p.0459; *Liste des victimes*, [MLI-OTP-0041-0021](#), p.0021; Judgment, [MLI-OTP-0053-0156](#), translation [MLI-OTP-0077-2225](#).

a member of the Tribunal, but he nonetheless intervened in the Tribunal's work.¹²⁹³ **AL HASSAN** himself confirmed that the judgments issued by the Tribunal were sent for approval to Abou Zeid, who was the one who ordered whether they were implemented or abandoned.¹²⁹⁴ Abou Zeid not only intervened in judicial affairs¹²⁹⁵ but also in some interrogations.¹²⁹⁶ **AL HASSAN**'s recollections in this respect are corroborated by other evidence,¹²⁹⁷

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301. Finally, the Tribunal members applied the new rules based on Ansar Dine/AQIM's ideological and religious vision, rather than the laws previously and already in effect in Mali.¹²⁹⁹ The Tribunal itself admitted that "*Sharia* was not enforced" in Mali before Ansar Dine/AQIM's arrival in Timbuktu.¹³⁰⁰ When **AL HASSAN** was asked how the population perceived the punishments applied by Ansar Dine/AQIM, he stated that: "*ces punitions ils ne les connaissaient pas [...] C'est la première fois qu'ils ... qu'ils les voient*". Even **AL HASSAN** had never previously seen such sanctions applied. He further stated that "*C'est plus fort qu'eux. Ils ne pouvaient rien faire [...] Tout le monde craignait, avait peur du mot « jihadiste », « terroristes » [...] Ils craignaient la punition.*"¹³⁰¹ In an interview

AL HASSAN had himself declared that: "*La loi des mécréants sévissait depuis 120 ans... [...] au Mali... maintenant ces 120 années sont... terminées... une page noire... nous devons ici [...] appliquer la loi islamique... et défendre... la loi islamique... jusqu'à la mort*".¹³⁰²

VII.A.2. The Islamic Tribunal did not afford all judicial guarantees generally recognised as indispensable under international law

302. At least 54 judgments issued by the Tribunal imposing sanctions failed to respect judicial

¹²⁹³ See section VII.A. See also Report, [MLI-OTP-0001-7522](#), translation [MLI-OTP-0052-0083](#), Referral of this report (signed), [MLI-OTP-0001-7523](#) to the left of the image, translation [MLI-OTP-0052-0085](#).

¹²⁹⁴ P-0398: [MLI-OTP-0051-0631](#), p.0642-0644, 1.359-431, [MLI-OTP-0051-1184](#), p.1207-1208, 1.766-792, [MLI-OTP-0062-1143](#), p.1155, 1.384-402.

¹²⁹⁵ P-0398: [MLI-OTP-0062-1143](#), p.1151-1153, 1.265-341.

¹²⁹⁶ P-0398: [MLI-OTP-0062-1143](#), p.1153-1154, 1.314-367.

¹²⁹⁷ Remarks, [MLI-OTP-0001-7597](#), translation, [MLI-OTP-0077-2818](#), [MLI-OTP-0055-0267](#), translation, [MLI-OTP-0054-0335](#); Audio recording of Iyad Ag Ghaly, [MLI-OTP-0002-0257](#), 00:35:00:00-00:36:58:00, translation, [MLI-OTP-0063-1002](#), p.1013, 1.346-347; Audio recording of Iyad Ag Ghaly, [MLI-OTP-0038-0888](#), translation, [MLI-OTP-0063-1041](#), p.1052, 1.346-347. See also above incident 17.

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¹²⁹⁹ [MLI-OTP-0001-7522](#), p.1155, 1.384-402. See also below incidents 23 and 40.

¹³⁰⁰ See below incidents 3 and 28, Judgment, [MLI-OTP-0001-7437](#) to the right of the image, translation [MLI-OTP-0078-0212](#); [MLI-OTP-0001-7438](#) to the left of the image, translation [MLI-OTP-0078-0215](#); Judgment, [MLI-OTP-0001-7373](#) (third judgment in the document), translation [MLI-OTP-0077-2371](#).

¹³⁰¹ P-0398: [MLI-OTP-0051-1099](#), p.1102-1103, 1.82-103.

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guarantees recognised as indispensable under international law.¹³⁰³ The proceedings were summarily conducted without affording suspects time and facilities to prepare their defence. Suspects appeared before the Tribunal without *inter alia*: (i) a lawyer; (ii) time to bring witnesses to testify on their behalf; and/or (iii) the possibility to express themselves. This lack of respect for the rights of the suspect appears to have been systematic, and proceedings were often summary in nature.¹³⁰⁴ Overall, the individual or cumulative effect of various factors, as further described below, rendered the proceedings of the Tribunal unfair. [REDACTED],¹³⁰⁵ the Tribunal did not establish the truth to the best of its abilities and, in any case, did not have the means to do so.¹³⁰⁶

303. First, people arrested or detained had no access to a lawyer and no right to challenge the legality of their detention before a court.¹³⁰⁷ Suspects were detained for the duration of the investigation, without provisional release, until a decision was rendered by the Tribunal¹³⁰⁸ (see *e.g.* below incidents 2, 3, 12, 13, 14, 18 and 20).

304. Second, the Tribunal supported the use of torture (including threats and beatings) of suspects during interrogations by the Police if they did not confess¹³⁰⁹ (see *e.g.* above incident 9 and below incident 41). Specifically, the Police would contact the Tribunal when they wished to torture a suspect, and this could be authorised by the Tribunal (see section IV.B.4.b.iv.b).¹³¹⁰ This authorisation was sometimes given by telephone.¹³¹¹ In one case, the Tribunal clearly authorised the use of torture in order to secure the cooperation of the suspect by deciding that: “[the suspect] shall be kept in detention at a location pending the investigation, whilst authorizing the police to use any possible pressuring means within the limits of

¹³⁰³ See Annex 1.

¹³⁰⁴ P-0557:T-055, p.8, l.24-p.9, l.18(Conf), p.11, l.15-19(Conf); P-0565:T-051, p.31, l.1-15; P-0638:T-058, p.51, l.5-12(Conf); P-0595:[MLI-OTP-0058-0196-R02](#), p.0201, para.31; P-0595:T-070, p.15, l.20-p.16, l.9; P-0626:T-142, p.37, l.6-10(Conf); [REDACTED] D-0202:T-204, p.30, l.14-21(Conf); Remarks, [MLI-OTP-0055-0267](#), translation [MLI-OTP-0054-0335](#), g, translation [MLI-OTP-0077-2818](#). See above incidents 5, 6, 9, 17, 32 to 34, 42, 43 and below incidents 1 to 4, 11 to 16, 18 to 21, 23 to 26, 28 to 31 and 38 to 41. See also Annex 1.

¹³⁰⁵ [REDACTED].

¹³⁰⁶ [REDACTED]

¹³⁰⁷ [REDACTED]; P-0638:T-058, p.38, l.18-p.44, l.25(Conf). [REDACTED]

[REDACTED]; P-0641:T-138, p.72, l.18, p.76, l.9(Conf).
¹³⁰⁸ P-0557:T-055, p.6, l.6-p.11, l.20(Conf); [REDACTED] P-0595:[MLI-OTP-0058-0196-R02](#), p.0201, para.28, p.202-203, paras.37-38, p.0204, para.48; P-0638:T-058, p.38, l.17-p.44, l.11(Conf); P-0642:T-156, p.35, l.10-p.37, l.16(Conf); P-0398:[MLI-OTP-0062-1143](#), p.1158-1159, l.500-516, p.1160, l.550-569, [MLI-OTP-0051-0631](#), p.0634-0635, l.76-132, [MLI-OTP-0062-1122](#), p.1138-1142, l.513-669.

¹³⁰⁹ [REDACTED]; [REDACTED]

[REDACTED] [MLI-OTP-0001-7597](#), translation [MLI-OTP-0077-2818](#); [MLI-OTP-0001-7367](#), translation [MLI-OTP-0069-1724](#), [MLI-OTP-0001-7366](#) (the continuation of Document), translation [MLI-OTP-0062-1122](#); Video, [MLI-OTP-0025-0010](#), 00:05:32:00-00:05:55:00, translation [MLI-OTP-0033-5488](#), p.5492, l.99-110, transcript [MLI-OTP-0033-5244](#), p.5247, l.84-91; P-0398:[MLI-OTP-0060-1662](#), p.1670-1680, l.267-597, [MLI-OTP-0062-1122](#), p.1138-1142, l.513-669.

¹³¹⁰ P-0398:[MLI-OTP-0060-1662](#), p.1670-1680, l.267-597, [MLI-OTP-0062-1122](#), p.1138-1142, l.513-669; Judgment, [MLI-OTP-0055-0229](#), translation [MLI-OTP-0054-0331](#).

¹³¹¹ P-0398:[MLI-OTP-0060-1662](#), p.1673-1674, l.370-407.

what is humanely tolerable”.¹³¹²

305. Third, the Tribunal members were present in court with Kalashnikovs while hearing cases.¹³¹³ Like the flag of AQIM,¹³¹⁴ this not only undermined any appearance of their impartiality but was also intimidating for any suspect. Members of the Tribunal further contributed to this by their own conduct.

[REDACTED]

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306. Fourth, suspects were not represented by lawyers in proceedings before the Tribunal. There is no mention of any legal representative of the suspect in at least 54 judgments issued by the Tribunal imposing sanctions.¹³¹⁶ In fact, [REDACTED] considered that Judge Houka Houka acted as the prosecutor, the lawyer for the defendant, and the judge.¹³¹⁷ Legal assistance was not even provided for children, some of whom the Tribunal sentenced to severe penalties such as flogging¹³¹⁸ (see *e.g.* below incidents 25 and 28).

307. Fifth, the Tribunal did not take adequate time to study and investigate the cases on which it ruled¹³¹⁹ (see *e.g.* above incidents 9, 32 to 34 and below incidents 1, 16, 24, 28, 30, 38). For example, **AL HASSAN** admitted that it was not totally organised,¹³²⁰ and [REDACTED] affirmed that the Tribunal’s working methods were inadequate in terms of verification of evidence, investigation and translation: [REDACTED]

[REDACTED]

¹³¹² [REDACTED]; Judgment, [MLI-OTP-0055-0229](#), translation [MLI-OTP-0054-0331](#); P-0398:[MLI-OTP-0062-1143](#), p.1148-1155, l.168-402, [MLI-OTP-0062-1122](#), p.1138-1142, l.513-669.

¹³¹³ [REDACTED]; P-0638:T-058, p.48, l.6-20; P-0065:T-042, p.51, l.12-p.53, l.5; [REDACTED], [MLI-OTP-0009-1749](#), 00:09:40:00-00:10:19:00, transcript [MLI-OTP-0028-0839](#); [MLI-OTP-0025-0010](#), 00:10:08:00-00:10:29:00, transcript [MLI-OTP-0033-5244](#), translation [MLI-OTP-0033-5488](#), p.5494, l.180-184.

¹³¹⁴ [REDACTED] [MLI-OTP-0009-1749](#), 00:09:40:00-00:10:19:00, transcript [MLI-OTP-0028-0839](#); [MLI-OTP-0025-0010](#), 00:10:08:00-00:10:29:00, transcript [MLI-OTP-0033-5244](#), translation [MLI-OTP-0033-5488](#), p.5494, l.180-184.

¹³¹⁵ [REDACTED]

¹³¹⁶ See above incidents 5, 6, 9, 17, 32 to 34, 42, 43 and below incidents 1 to 4, 11 to 16, 18 to 21, 23 to 26, 28 to 31 and 38 to 41. See Annex 1.

¹³¹⁷ [REDACTED]

¹³¹⁸ [REDACTED]

¹³¹⁹ P-0398:[MLI-OTP-0062-0988](#), p.0995, l.209-221; [REDACTED] P-0582:[MLI-OTP-0062-3736-R02](#), p.3738, l.61-65, [MLI-OTP-0062-3788-R02](#), p.3807-3808, l.659-672.

¹³²⁰ P-0398:[MLI-OTP-0051-0631](#), p.0649, l.587-p.0651, l.654.

[REDACTED]

[REDACTED]¹³²¹ [REDACTED] added that defendants were sentenced because they were not able to defend themselves against the Police reports.¹³²² Defendants could be found guilty based solely on Police reports¹³²³ (see *e.g.* below incidents 13 and 15). In this context, no weight can be attributed to [REDACTED] claim that Tribunal members would not take the reports of the Police and *Hesbah* into consideration during their deliberations¹³²⁴ - especially since he confirmed [REDACTED]¹³²⁵ His evidence regarding how the Tribunal rendered decisions is speculative or based on hearsay.

308. Sixth, relatedly, the Tribunal violated the presumption of innocence, and found suspects guilty and/or sentenced them on the basis of mere suspicions. On other occasions, despite lack of evidence, it found them guilty because of perceived weaknesses in suspects' arguments refuting allegations against them¹³²⁶ (see *e.g.* above incidents 42, 43 and below incidents 2, 13, 15, 16 and 41).

309. Seventh, suspects before the Tribunal had no right against self-incrimination. In addition to authorising the use of torture during police interrogations, the Tribunal convicted people based on confessions that it knew were obtained through torture, and condemned them to severe corporal punishments.¹³²⁷ For example, in relation to incident 9 (see above in section VI.B.4), based on a Police report written and signed by **AL HASSAN** that explicitly mentions the use of torture during the interrogation,¹³²⁸ the Tribunal convicted and sentenced this defendant to flogging¹³²⁹ (see also *e.g.* below incident 41). Similarly, the Tribunal relied on information or confessions extracted from people who had been detained as a means of coercion¹³³⁰ (see *e.g.* below incident 30).

¹³²¹ [REDACTED].

¹³²² [REDACTED].

¹³²³ [REDACTED] P-0398:[MLI-OTP-0062-0988](#), p.0993-0995, 1.147-230; [MLI-OTP-0001-7552](#), translation [MLI-OTP-0034-0179](#); [MLI-OTP-0001-7437](#) (to the right of the image), translation [MLI-OTP-0078-0212](#).

¹³²⁴ P-0398:[MLI-OTP-0062-0988](#), p.0993-0995, 1.147-230, [REDACTED].

¹³²⁵ [REDACTED].

¹³²⁶ [REDACTED] P-0398:[MLI-OTP-0062-0988](#), p.0993-0995, 1.147-230; [MLI-OTP-0001-7552](#), translation [MLI-OTP-0034-0179](#); [MLI-OTP-0001-7437](#) (to the right of the image), translation [MLI-OTP-0078-0212](#).

¹³²⁷ See *e.g.* P-0398:[MLI-OTP-0060-1662](#), p.1669-1674, 1.221-408.

¹³²⁸ Report, [MLI-OTP-0001-7514](#) to the right of the image, translation [MLI-OTP-0034-0169](#); [REDACTED] P-0398:[MLI-OTP-0060-1511](#), p.1522-1532, 1.360-691; Referral, [MLI-OTP-0001-7515](#) to the left of the image, translation [MLI-OTP-0052-0019](#).

¹³²⁹ [REDACTED] P-0398:[MLI-OTP-0060-1511](#), p.1525-1532, 1.446-691, [MLI-OTP-0062-1095](#), p.1097-1102, 1.64-239; Judgment, [MLI-OTP-0053-0372](#), translation [MLI-OTP-0078-0049](#).

¹³³⁰ Report, [MLI-OTP-0001-7514](#), translation [MLI-OTP-0034-0169](#); Judgment, [MLI-OTP-0055-0229](#), translation [MLI-OTP-0054-0331](#); [REDACTED]; [REDACTED].

310. Eighth, the Tribunal condemned and punished suspects even when it accepted that they were unaware of the criminality of their acts under the new rules established and applied by Ansar Dine/AQIM¹³³¹ (see *e.g.* below incidents 19, 23 and 40).

311. Ninth, similarly, the Tribunal condemned and punished suspects retroactively. In several cases, the Tribunal recognised that the acts occurred *before* the arrival of Ansar Dine/AQIM and the implementation of their new rules. Nevertheless, suspects in such cases were sentenced to severe corporal punishments¹³³² (see *e.g.* above incident 33 and below incidents 3 and 28).

312. Tenth, the Tribunal imposed arbitrary punishments not provided by law.¹³³³ These included, for example, shaving a person's head and covering it with tar (see below incident 2), and forcing people to walk down the street with allegedly stolen items in order to humiliate them (see below incident 4). Furthermore, in some cases, the Tribunal imposed indeterminate terms of imprisonment¹³³⁴ (see *e.g.* below incidents 11, 14, 21 and 25).

313. Moreover, sanctions sometimes unduly affected the defendants' family. In some civil cases, the Tribunal imposed an indeterminate period of imprisonment for failing to pay a debt within the prescribed time period,¹³³⁵ or decided that the debtor should remain in prison until the debt was paid¹³³⁶ (see *e.g.* below incident 21). It sometimes decided similarly where its sentence included payment of a fine. Such practices unfairly shifted the burden of the debt or fine to the defendants' family¹³³⁷ (see *e.g.* below incidents 18, 21, 25).

314. Eleventh, judgments were often rendered the same day as the hearing, which, given the broader context, further suggests the summary nature of the proceedings¹³³⁸ (see *e.g.* above incidents 5, 6, 9, 17, 32 to 34, 42, 43 and below incidents 1 to 4, 11 to 16, 18 to 21, 23 to 26, 28 to 31, 38 to 41) - and, in some cases, even on the same day as the Police report¹³³⁹ (see *e.g.* above incident 9 and below incidents 1, 16, 28, 30, 38).

_____; [MLI-OTP-0001-7597](#), translation [MLI-OTP-0077-2818](#).

¹³³¹ P-0638:T-058, p.36, l.3, p.37, l.7(Conf).

¹³³² P-0638:T-058, p.34, l.15, p.37, l.14(Conf). *See also*: Judgment, [MLI-OTP-0001-7373](#) (third judgment in the document), translation [MLI-OTP-0077-2371](#).

¹³³³ *See* above incidents 5, 6, 9, 17, 32 to 34, 42, 43 and below incidents 1 to 4, 11 to 16, 18 to 21, 23 to 26, 28 to 31 and 38 to 41. *See also*: Annex 1., _____ Judgment, [MLI-OTP-0053-0180](#), translation [MLI-OTP-0077-2414](#).

¹³³⁴ _____; Judgments, [MLI-OTP-0001-7512](#), translation [MLI-OTP-0077-2791](#), [MLI-OTP-0053-0358](#), translation [MLI-OTP-0078-0045](#).

¹³³⁵ _____; Judgment, [MLI-OTP-0053-0358](#), translation [MLI-OTP-0078-0045](#).

¹³³⁶ _____.

¹³³⁷ _____; Judgments: [MLI-OTP-0068-4725](#), translation [MLI-OTP-0069-3202](#), [MLI-OTP-0068-4739](#), translation [MLI-OTP-0069-3222](#), [MLI-OTP-0068-4786](#), translation [MLI-OTP-0069-3227](#).

¹³³⁸ *See* Annex 1.

¹³³⁹ P-0398: [MLI-OTP-0062-0988](#), p.0993-0995, l.147-230; [MLI-OTP-0001-7552](#), translation [MLI-OTP-0034-0179](#); [MLI-OTP-0001-7438](#), translation [MLI-OTP-0078-0215](#); P-0582: [MLI-OTP-0062-3736-R02](#), p.3738, l.61-65, [MLI-OTP-0062-3788-R02](#), p.3807-3808, l.659-672. *See also* for other examples Annex 2, no. 9 and 17.

315. Twelfth, as confirmed by [REDACTED] and D-0202, there was no possibility of appeal against any judgment issued by the Tribunal.¹³⁴⁰ AL HASSAN confirmed this.¹³⁴¹ In fact, sentences were sometimes pronounced and simply communicated by telephone to the Police.¹³⁴² They were generally carried out within one or two days after sentence was passed.¹³⁴³

VII.B. Members of Ansar Dine and AQIM carried out extra-judicial punishments

316. Furthermore, Ansar Dine/AQIM members, including AL HASSAN, also directly imposed violent punishment on civilians for alleged transgression of the new rules even without any judgment of the Tribunal, and considered themselves authorised to do so. As described in more detail in section VI.A above, members of the Police and the *Hesbah* routinely subjected the population of Timbuktu to direct extra-judicial punishments known as *Ta'zir* or discretionary punishments¹³⁴⁴ (see *e.g.* above incidents 7, 8, 10, 22, 27, 35 to 37 and below incidents 44 to 47).

317. With respect to the Police, [REDACTED] specified that the manner in which *Ta'zir* was applied depended on the assessment of the Police member dealing with the problem.¹³⁴⁵ AL HASSAN acknowledged that the *emir* of the Police had the power to decide whether or not to apply *Ta'zir* in the form of flogging or imprisonment for minor “offences”, including social mixing between men and women, drinking alcohol, and smoking in the streets.¹³⁴⁶ The Police were prominent in imposing *Ta'zir* in the streets

¹³⁴⁰ P-0557:T-055, p.11, 1.3-6 (Conf); T-054, p.30, 1.5-p.40, 1.1(Conf); T-056, p.13, 1.1-p.23, 1.22(conf), p.42, 1.9-10(Conf), p.63, 1.5-21(Conf); T-057, p.7, 1.18-p.8, 1.3(Conf); P-0565:T-051, p.15, 1.11-p.18, 1.19(Conf), p.23, 1.6-p.32, 1.24(Conf), p.36, 1.4-p.37, 1.10(Conf), p.42, 1.7-p.45, 1.21(Conf); P-0638:T-058, p.49, 1.4-p.54, 1.13(Conf); [REDACTED]. See also: above incidents 5, 6, 9, 17, 32 to 34, 42, 43 and below incidents 1 to 4, 11 to 16, 18 to 21, 23 to 26, 28 to 31, 38 to 41. Annex 1 and sections VII.A.2 and VII.C.

¹³⁴¹ P-0398:[MLI-OTP-0051-0658](#) p.0688-0689, 1.987-1042.

¹³⁴² P-0582:[MLI-OTP-0062-3736-R02](#), p.3738, 1.61-65; [MLI-OTP-0062-3788-R02](#), p.3807-3808, 1.659-672.

¹³⁴³ P-0398:[MLI-OTP-0062-1058](#), p.1059-1060, 1.31-58. See also above incidents 32 to 34, 42 and 43.

¹³⁴⁴ [REDACTED]; [REDACTED]. P-0642:T-156, p.28, 1.8-p.38, 1.17(Conf), p.14, 1.7-p.15, 1.22(Conf), p.16, 1.11-p.27, 1.8(Conf); P-0398:[MLI-OTP-0051-1184](#), p.1208-1211, 1.793-894, [MLI-OTP-0051-0483](#), p.0493-0494, 1.290-322, [MLI-OTP-0060-1511](#), p.1531, 1.659-668; P-0582:[MLI-OTP-0062-3845-R02](#), p.3848, 1.96-101, p.3862-3864, 1.594-648, [MLI-OTP-0062-3788-R02](#), p.3807-3808, 1.659-672; [REDACTED]. August Instructions, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); Audio, [MLI-OTP-0043-0274](#), transcript [MLI-OTP-0063-0946](#), p.0980, 1.46-58, translation [MLI-OTP-0063-0977](#), 1.46-58, 125-130, 173-175.

¹³⁴⁵ [REDACTED]

¹³⁴⁶ P-0398:[MLI-OTP-0051-1184](#), p.1205-1210, 1.682-866.

during patrols,¹³⁴⁷ and occasionally in the Police headquarters in **AL HASSAN**'s presence.¹³⁴⁸

VII.C. Incidents

318. In most of the 47 incidents charged under count 6, a sentence was pronounced by the Tribunal, which did not afford the essential guarantees of independence and impartiality or other judicial guarantees generally recognised as indispensable. A number of incidents were characterised by punishments without any judgment at all (see above incidents 7, 8, 10, 22, 27, 35, 36, 37 and below 44 to 47). Given the absence of supporting evidence, the Prosecution withdraws the incidents regarding P-0542, P-0574, P-0580's [REDACTED] and, with respect to P-0580's [REDACTED] it retains this incident under the mode of liability 25(3)(d) only. The Prosecution refers to section VI.B. above regarding Incidents 5 to 10, 17, 22, 27, 32 to 37, 42, and 43,¹³⁴⁹ and discusses only the remaining incidents below.

VII.C.1. Incident 1: Case of [REDACTED]

319. On [REDACTED] 2012, **AL HASSAN** investigated a case of theft against [REDACTED] Based on the Police report written and signed by **AL HASSAN**,¹³⁵⁰ [REDACTED] appeared before the Tribunal, which sentenced him on the same day to ten lashes as a *Ta'zir*, and to [REDACTED]

[REDACTED]¹³⁵¹

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[REDACTED]¹³⁵² The signature expert, P-0620, concluded that the signature in this document may have been **AL HASSAN**'s.¹³⁵³ **AL HASSAN** confirmed that he was indeed the investigator in this case, who wrote this report, and

¹³⁴⁷ P-0626:T-141, p.54, l.25-p.64, l.15(Conf); [REDACTED] P-0638:T-057, p.63, l.4-p.67, l.24, p.70, l.3-p.72, l.8(Conf); P-0602:T-084, p.78, l.4-p.79, l.23; p.82, l.12-p.84, l.10; P-0582:[MLI-OTP-0062-3872-R02](#), p.3878-3880, l.186-283, [MLI-OTP-0062-3845-R02](#), p.3848, l.96-101, p.3862-3864, l.594-648; [MLI-OTP-0062-3820-R02](#), p.3825-3826, l.164-186; P-0398:[MLI-OTP-0051-1124](#), p.1145-1146, l.694-720, [MLI-OTP-0051-1184](#), p.1208-1211, l.793-894; [MLI-OTP-0051-0483](#), p.0493-0494, l.297-322; [MLI-OTP-0051-1067](#), p.1095-1096, l.908-973. August Instructions, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); P-0547:T-153, p.74, l. 25-p.80, l.16; Civil party complaint, [MLI-OTP-0024-2814](#), p.2837; [REDACTED].

¹³⁴⁸ P-0582:[MLI-OTP-0062-3872-R02](#), p.3878-3880, l.183-283.

¹³⁴⁹ [REDACTED]

¹³⁵⁰ [REDACTED]

¹³⁵¹ [REDACTED]

¹³⁵² [REDACTED]

¹³⁵³ P-0620:[MLI-OTP-0064-0175](#), [REDACTED]; Report, [MLI-OTP-0001-7527](#), translation [MLI-OTP-0052-0089](#).

recognised his signature beneath the word “investigator”. **AL HASSAN** gave details about the case, including that

¹³⁵⁴ **AL HASSAN** also recognised the judgment in this case and made the connection with his Police report.¹³⁵⁵

VII.C.2. Incident 2: Case of [REDACTED]

321. On [REDACTED] 2012, [REDACTED] accused of burgling a house in Timbuktu, appeared before the Tribunal. The Tribunal noted that the defendant denied the facts and there was no evidence of the burglary, but still sentenced him to a *Ta'zir* [REDACTED]. While the judgment also specified that the sentence should not be applied because the defendant had “remained in prison pending investigation for a long period of time”,¹³⁵⁶ this does not alter the fact that the sentence was pronounced.

VII.C.3. Incident 3: Case of [REDACTED]

322. [REDACTED] was accused of burgling a house in Timbuktu, and appeared before the Tribunal or [REDACTED] 2012. He admitted that he did so out of need. The Tribunal found that the burglary took place prior to the arrival of Ansar Dine/AQIM. The Tribunal nevertheless sentenced him to 10 lashes as a *Ta'zir*, but again decided to suspend it due to the long period of his pre-trial detention.¹³⁵⁷

VII.C.4. Incident 4: Case of [REDACTED]

323. In [REDACTED] 2012,¹³⁵⁸ [REDACTED] accused of [REDACTED] appeared before the Tribunal.¹³⁵⁹ Taken as a whole, the evidence indicates that the Police report supporting their conviction was authored and signed by **AL HASSAN**.¹³⁶⁰ According to the notes written on a page before the handwritten judgment of the Tribunal, the defendants had been arrested by [REDACTED] and when questioned about its ownership, [REDACTED] provided the owner’s name out of fear [REDACTED].¹³⁶¹ The Tribunal sentenced both defendants to 25 lashes each as a *Ta'zir*, and ordered them [REDACTED] where the population could see them.¹³⁶² [REDACTED]

¹³⁵⁴ P-0398: [MLI-OTP-0060-1511](#), p.1512-1518, l.24-206.

¹³⁵⁵ P-0398: [MLI-OTP-0060-1511](#), p.1518-1519, l.209-249.

¹³⁵⁶ [REDACTED]

¹³⁵⁷ [REDACTED]

¹³⁵⁸ The date is based on the fact that this handwritten judgment is found the middle of a notebook, between cases decided on 23 May 2012 ([MLI-OTP-0001-7373](#), translation [MLI-OTP-0077-2371](#)) and another case decided on 11 June 2012 ([MLI-OTP-0001-7377](#), translation [MLI-OTP-0077-2773](#)).

¹³⁵⁹ [REDACTED]

¹³⁶⁰ [REDACTED]

¹³⁶¹ [REDACTED]

¹³⁶² *Idem*; Judgment, [REDACTED] to the right of the image, translation [REDACTED].

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VII.C.5. Incident 11: Case of**- Case**

324. **AL HASSAN** wrote and signed a Police report dated [REDACTED] 2012 regarding

[REDACTED] who were accused of burgling [REDACTED]

[REDACTED]¹³⁶⁴ The defendants appeared a week later before the Tribunal, which sentenced them on the same day to imprisonment as a *Ta'zir* and to complete a *Sharia* course. The term of their imprisonment was indeterminate, depending on their progress in this *Sharia* course.¹³⁶⁵

325 [REDACTED]

[REDACTED]¹³⁶⁶ He confirmed that the sentence was imprisonment by way of *Ta'zir* and that the duration of the imprisonment was indeterminate.¹³⁶⁷ He also stated that the carpet seen in the background of the Police report photographed by P-0007¹³⁶⁸ is the carpet at the seat of the Tribunal.¹³⁶⁹ **AL HASSAN** admitted having written and signed this Police report and confirmed that the defendants were tried and imprisoned.¹³⁷⁰

VII.C.6. Incident 12: Case of [REDACTED] - Case [REDACTED]

326. A list of detainees found by P-0007 ("List of Detainees") at *Hôtel La Maison* shows that [REDACTED] accused of theft, was detained from [REDACTED] 2012. His name, his village [REDACTED] his date of imprisonment, and a note indicating his crime (theft) appear [REDACTED].¹³⁷¹ On [REDACTED] 2012, he appeared before the Tribunal for "having been found in the company of an individual accused of theft, and helping him [REDACTED]" and was sentenced on the same day to imprisonment and reprimand by way of *Ta'zir*. The Tribunal nevertheless considered the two weeks

¹³⁶³ [REDACTED].

¹³⁶⁴ Report (on two pages), [REDACTED], translations, [REDACTED] to the left of the image, translation [REDACTED].

¹³⁶⁵ Judgment, [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188's scanned version), translation [REDACTED]; [REDACTED] (P-0007's photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED]. (Note that the date [REDACTED]); [REDACTED].

¹³⁶⁶ [REDACTED].

¹³⁶⁷ [REDACTED].

¹³⁶⁸ [REDACTED], translation [REDACTED]

¹³⁶⁹ [REDACTED].

¹³⁷⁰ P-0398; [REDACTED].

¹³⁷¹ List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED].

that he had spent in prison to be an “adequate punishment”.¹³⁷²

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VII.C.7. Incident 13: Case of – Case

327. accused of theft, was detained from 2012. His name, his village his date of imprisonment, and a note indicating his crime (theft) appears [REDACTED].¹³⁷⁴ On 2012, he appeared before the Tribunal, which recognised that there was insufficient evidence against him and that he denied the allegation. Yet, it still decided to sentence him on the same day to 27 days of imprisonment as a *Ta'zir*, given that he was accused of a “major crime”.¹³⁷⁵

¹³⁷⁶ He stated that, for the Tribunal to punish this man, the evidence of the Police and their report that he stole or attempted to steal was sufficient; and that, despite the absence of other proof and his denials, the defendant would be convicted and punished for theft.¹³⁷⁷

VII.C.8. Incident 14: Case of – Case

328. accused of “adultery” (extra-marital sexual intercourse), was detained from 2012. His name, his date of imprisonment, his village and his crime appears in row 2 on the List of Detainees.¹³⁷⁸ On 2012, he and appeared before the Tribunal, which sentenced each of them on the same day to 100 lashes. Additionally, it sentenced to imprisonment for an indeterminate period, pending further consideration of an additional punishment of “banishment”.¹³⁷⁹

¹³⁷² Judgment, [REDACTED] translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188's scanned version), translation [REDACTED]; [REDACTED] (P-0007's photograph of printed version), translation [REDACTED]; [REDACTED] to the right of the image (P-0007's photograph of handwritten version), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED]. See also [REDACTED] (to the left of the image), translation [REDACTED]; [REDACTED] (to the right of the image), translation [REDACTED]; List: [REDACTED] ([REDACTED] referring to the name of the accomplice), translation [REDACTED].

¹³⁷³ [REDACTED].

¹³⁷⁴ List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED].

¹³⁷⁵ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188's scanned version), translation [REDACTED]; [REDACTED] (P-0007's photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹³⁷⁶ [REDACTED]; List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED].

¹³⁷⁷ [REDACTED].

¹³⁷⁸ List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED].

¹³⁷⁹ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188's scanned version), translation [REDACTED]; [REDACTED] (P-0007's photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

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VII.C.9. Incident 15: Case of**- Case**

329. On [REDACTED] 2012, the Tribunal sentenced [REDACTED] to 15 days of imprisonment for an attempted theft because their arguments were “weak, conflicting and insufficient to dispel the suspicion”.¹³⁸¹

[REDACTED]¹³⁸² and the rug seen in the background of one version as that of the Tribunal.¹³⁸³ When shown the judgment in this case [REDACTED] even in the absence of evidence, defendants could be “sentenced on the basis of the police statement”.¹³⁸⁴

VII.C.10. Incident 16: Case of 2012**– Case**

330. A Police report dated [REDACTED] 2012 describes a “matrimonial issue” regarding [REDACTED] who reported various issues with her husband including that he hit her because she did not get along with his mother, and wanted a divorce to be with another man.¹³⁸⁵

331. On the same day, based on her husband’s claim that [REDACTED] had acted insubordinately and that a man named [REDACTED] had taken her to his village, the case was brought to the Tribunal, which sentenced [REDACTED] to 40 lashes for “her insubordination to her husband” and “associating with a marriageable man”, and [REDACTED] to a *Ta’zir* of one week imprisonment for “having accompanied a marriageable woman”.¹³⁸⁶

332 [REDACTED]¹³⁸⁷ [REDACTED]
[REDACTED]¹³⁸⁸ [REDACTED] was punished for two reasons, that is, insubordination to her husband and mingling with another man, which are clearly defined crimes in the eyes of the “hard-line group”.¹³⁸⁹

¹³⁸⁰ [REDACTED]; [REDACTED].

¹³⁸¹ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED]-0007’s photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹³⁸² [REDACTED].

¹³⁸³ [REDACTED].

¹³⁸⁴ [REDACTED].

¹³⁸⁵ Report, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED].

¹³⁸⁶ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s version scanned), translation [REDACTED]; [REDACTED] (P-0007’s photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED]; Report, [REDACTED], translation [REDACTED]; [REDACTED], translation [REDACTED].

¹³⁸⁷ [REDACTED].

¹³⁸⁸ [REDACTED].

¹³⁸⁹ [REDACTED].

333. He also stated that the word “associating” here is the lightest punishable form of sexual relationship, and means that there was no proven sexual intercourse between the two people but that they were in a location where no one else was present.¹³⁹⁰

334. According to the title of the report,¹³⁹¹ this case, which was originally civil in nature, became a criminal one in which the woman was punished with a severe corporal punishment of 40 lashes.¹³⁹²

VII.C.11. Incident 18: Case of [REDACTED] – Case [REDACTED]

335. [REDACTED] were detained from [REDACTED] 2012. Their names, their date of imprisonment, their village [REDACTED] and a note indicating their crime (theft) appear on the List of Detainees and the list of individuals summoned to the Tribunal.¹³⁹³

336. On [REDACTED] 2012, the defendants appeared before the Tribunal and were each sentenced to pay 100,000 francs for [REDACTED]. Additionally, [REDACTED] [REDACTED] was sentenced to 20 lashes. The defendants were also ordered to remain in prison until they paid their fines.¹³⁹⁴ [REDACTED]¹³⁹⁵ The civil party complaint regarding a victim [REDACTED] who appears to correspond to one of the defendants in this case, indicates that even after his family paid the fine, an additional amount was demanded and he was released only when the town was liberated from Ansar Dine/AQIM’s control.¹³⁹⁶

VII.C.12. Incident 19: Case of [REDACTED] – Case [REDACTED]

337. [REDACTED] was arrested and detained from [REDACTED] 2012. His name, his date of imprisonment, his village [REDACTED] and a note indicating that he was accused of being a magician appear [REDACTED].¹³⁹⁷ On the same day, the Tribunal acknowledged that the defendant had claimed not to know the significance of the talismans or the religious rule relating to possessing them, but decided to sentence him to 40 lashes [REDACTED]

¹³⁹⁰ [REDACTED].

¹³⁹¹ Report, [REDACTED], translation [REDACTED]; [REDACTED].

¹³⁹² Judgment, [REDACTED] (original), translation [REDACTED].

¹³⁹³ List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [MLI-OTP-0055-0415](#), translation [MLI-OTP-0078-6301](#); [REDACTED].

¹³⁹⁴ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED] (P-0007’s photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED]. See also [REDACTED], translation [REDACTED].

¹³⁹⁵ [REDACTED]

¹³⁹⁶ Civil party complaint, [MLI-OTP-0024-2814](#), [REDACTED] (receipts of payment of fine signed by Houka Houka), translation [REDACTED].

[REDACTED] P-0654:T-128, p.58, l.1-p.59, l.4, T-129, p.30, l.9-p.31, l.3; [REDACTED]

¹³⁹⁷ List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED].

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VII.C.13. Incident 20: Case of [REDACTED] – Case

338. [REDACTED] was detained from [REDACTED] 2012. His name, his village [REDACTED], his date of imprisonment, his crime (being a fortune teller and magician), and a note indicating that he had been sentenced appear [REDACTED].¹⁴⁰² On [REDACTED] 2012, he appeared before the Tribunal. The Tribunal ordered the defendant to repent before a gathering of his relatives, which the defendant did. The Tribunal then decided that his life was therefore saved and sentenced him to one week imprisonment, during which he should study “The Three Fundamental Principles”.¹⁴⁰³

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VII.C.14. Incident 21: Case of [REDACTED] - Case

339 [REDACTED] was detained from [REDACTED] 2012. His name, his village [REDACTED], his date of imprisonment and a note indicating his crime (procrastination in paying back a debt) appear [REDACTED].¹⁴⁰⁵ On that same day, he appeared before the Tribunal and was sentenced to an indeterminate period of imprisonment.¹⁴⁰⁶ [REDACTED] the Tribunal could send debtors to prison until the debt was repaid, either by him or his relatives or family.¹⁴⁰⁷

VII.C.15. Incident 23: Case of [REDACTED] – Case [REDACTED]

340. Based on a Police report written and signed by AL HASSAN,¹⁴⁰⁸ and the referral of that report to

¹³⁹⁸ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED] (P-0007’s photograph of printed version), translation [REDACTED]; [REDACTED] (P-0007’s photograph of handwritten version), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹³⁹⁹ [REDACTED]; List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#).

¹⁴⁰⁰ [REDACTED].

¹⁴⁰¹ [REDACTED].

¹⁴⁰² List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED] See also [MLI-OTP-0055-0415](#), translation [MLI-OTP-0078-6301](#).

¹⁴⁰³ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED] (P-0007’s photograph of printed version), translation [REDACTED]; [REDACTED] (P-0007’s photograph of handwritten version), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴⁰⁴ [REDACTED].

¹⁴⁰⁵ List: [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); [REDACTED].

¹⁴⁰⁶ Judgment, [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED] (P-0007’s photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴⁰⁷ [REDACTED].

¹⁴⁰⁸ Report, [REDACTED], translation [REDACTED].

the Tribunal,¹⁴⁰⁹ appeared before the Tribunal on 2012, accused of possessing an amulet and other items deemed polytheistic. After the defendant pledged to “repent and abandon the path of heretics”, and promised to “stay on the righteous path”, the Tribunal sentenced him to imprisonment as a *Ta’zir*.¹⁴¹⁰ P-0620 concluded that it could be established that the signature in the report may have been made by **AL HASSAN**.¹⁴¹¹

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the

defendant was not a magician himself and merely used “objects of sorcery” without being “aware of these things”,¹⁴¹⁴ but the defendant was nonetheless sentenced to imprisonment.¹⁴¹⁵

VII.C.16. Incident 24: Case of – Case

341. On 2012, **AL HASSAN** wrote and signed a Police report documenting the arrest of for possessing a bag containing suspicious pieces of paper relating to magic.¹⁴¹⁶

AL HASSAN remembered this case even before the report was shown to him.¹⁴¹⁷ Once the report was shown, **AL HASSAN** confirmed that it was the report that he had written about the case he had talked about,¹⁴¹⁸ and recalled that the defendant was brought to the Police headquarters, before he was transferred to the Tribunal.¹⁴¹⁹ O [REDACTED] 2012, the Tribunal concluded that the defendant was a magician and asked him to repent and recite the *Shahadah*, which he did. The Tribunal therefore decided that his life was saved and sentenced him to three days of imprisonment as a *Ta’zir*.¹⁴²⁰

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¹⁴⁰⁹ Referral, [REDACTED], translation [REDACTED].

¹⁴¹⁰ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED] (P-0007’s photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴¹¹ s report, [MLI-OTP-0064-0175](#), [REDACTED]. Report, [REDACTED] translation [REDACTED].

¹⁴¹² [REDACTED].

¹⁴¹³ [REDACTED].

¹⁴¹⁴ [REDACTED].

¹⁴¹⁵ Judgment, [REDACTED] (original), translation [REDACTED].

¹⁴¹⁶ Report, [REDACTED], translation [REDACTED]; P-0398: [REDACTED].

¹⁴¹⁷ P-0398: [MLI-OTP-0060-1580](#), [REDACTED].

¹⁴¹⁸ P-0398: [MLI-OTP-0060-1605](#), [REDACTED].

¹⁴¹⁹ P-0398: [MLI-OTP-0060-1605](#), [REDACTED]. Referral, [REDACTED] to the left of the image, translation [REDACTED].

¹⁴²⁰ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188’s scanned version), translation [REDACTED]; [REDACTED] (P-0007’s photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴²¹ [REDACTED].

¹⁴²² He stated that the punishment would be execution in case the defendant did not repent or wholeheartedly embraced the practice of magic. In this case, the Tribunal sought the defendant's repentance, in which he cooperated, so he was sentenced more leniently.¹⁴²³

VII.C.17. Incident 25: Case of [REDACTED] – Case [REDACTED]

343. On [REDACTED] 2012, [REDACTED] together with a [REDACTED] year-old boy, appeared before the Tribunal on accusation of theft. On the same day, the Tribunal sentenced [REDACTED] by *Ta'zir* to 10 lashes and a fine, and sentenced the juvenile to pay a fine of 50,000 CFA francs. Both of them were sentenced to remain in prison until they paid the fine.¹⁴²⁴ [REDACTED]
[REDACTED]¹⁴²⁵ [REDACTED] the juvenile would not necessarily pay the fine himself, but rather his family, relatives or anyone else could volunteer to pay the fine for him.¹⁴²⁶

VII.C.18. Incident 26: Case of [REDACTED] – Case [REDACTED]

344. On [REDACTED] 2012, [REDACTED] appeared before the Tribunal. On the same day, the Tribunal sentenced her to 60 lashes by *Ta'zir* for mingling with men and for obscene language.¹⁴²⁷ [REDACTED]
[REDACTED]¹⁴²⁸ [REDACTED]
[REDACTED] this was a 60 lashes *Ta'zir* punishment given to a woman for mingling with men and using obscene language.¹⁴²⁹

VII.C.19. Incident 28: Case of [REDACTED]

- Case [REDACTED]

345. On [REDACTED] 2012, **AL HASSAN** authored and signed a Police report documenting the arrest of [REDACTED] and his companions [REDACTED]—on suspicion of theft from a shop.¹⁴³⁰ This report indicates that they confessed that they had stolen from the shop both before and after the arrival of Ansar Dine/AQIM. **AL HASSAN** referred this case to the Tribunal,¹⁴³¹ and admitted doing this as well as writing and signing the report.¹⁴³²

¹⁴²² [REDACTED].

¹⁴²³ [REDACTED].

¹⁴²⁴ Judgment, [REDACTED], translation [REDACTED], [REDACTED] (original), translation [REDACTED]; [REDACTED] (P-0188's scanned version), translation [REDACTED]; [REDACTED] (P-0007's photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴²⁵ [REDACTED].

¹⁴²⁶ [REDACTED].

¹⁴²⁷ Judgment, [REDACTED], translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴²⁸ [REDACTED].

¹⁴²⁹ [REDACTED].

¹⁴³⁰ Report, [REDACTED], translation [REDACTED]; P-0398: [MLI-OTP-0060-1605](#), [REDACTED].

¹⁴³¹ Referral, [REDACTED] to the left of the image, translation [REDACTED]; P-0398: [MLI-OTP-0060-1605](#), [REDACTED].

¹⁴³² P-0398: [MLI-OTP-0060-1605](#), [REDACTED]; [MLI-OTP-0062-0988](#), [REDACTED].

346. Based on **AL HASSAN**'s report and his referral,¹⁴³³ and on the same day,

and his companions appeared before the Tribunal. In its judgment (also issued on the same day), the Tribunal decided not to apply the *Hudud*, considering *inter alia* that: (i)

was the eldest but did not appear to have reached adolescence; (ii) the value of what he stole during the recent theft was below the required value; and (iii) he had committed the first theft when "he was aware of neither the provisions relating to theft nor of the theft *hadd*" and "when the *Sharia* was not enforced in this country", thus before the arrival of Ansar Dine/AQIM.¹⁴³⁴ Notwithstanding that they all appeared to be children at the time, the Tribunal decided to sentence

by *Ta'zir*, including retroactively on the first theft, to 40 lashes, and his younger companions to 20 lashes each.¹⁴³⁵

347 ¹⁴³⁶ **AL HASSAN** also recognised this judgment, made the connection with his report, and confirmed that his report and this judgment were made on the same day.¹⁴³⁷ He stated that he does not believe that the Tribunal investigated this case because the report, the judgment, and the defendants' confessions occurred on the same day.¹⁴³⁸

VII.C.20. Incident 29: Case of [REDACTED] – Case

348. On [REDACTED] 2012, [REDACTED] appeared before the Tribunal and was sentenced to 20 days of imprisonment for playing with a gun and accidentally hurting [REDACTED]. The Tribunal also imposed a fine for the sum of one fifth of the established "blood money".¹⁴³⁹

VII.C.21. Incident 30: Case of [REDACTED] – Case [REDACTED]

349. On [REDACTED] 2012, **AL HASSAN** authored and signed a Police report on the arrest of a man found smoking in the street. The report details how imprisonment was used as a coercive means to extract information leading to the arrest of a tobacco trader [REDACTED].¹⁴⁴⁰ **AL HASSAN**'s report shows that [REDACTED] was arrested, detained and sent to the Tribunal.¹⁴⁴¹ Following **AL**

¹⁴³³ Referral, [REDACTED] to the left of the image, translation [REDACTED]; P-0398: [MLI-OTP-0060-1605](#), [REDACTED].

¹⁴³⁴ Judgment, [REDACTED] to the right of the image, translation [REDACTED]; [REDACTED], translation [REDACTED], [REDACTED], translation [REDACTED], [REDACTED], translation [REDACTED] (Word versions collected by P-0055); [REDACTED]

¹⁴³⁵ Judgment, [REDACTED] to the right of the image, translation [REDACTED].

¹⁴³⁶ [REDACTED].

¹⁴³⁷ P-0398: [MLI-OTP-0062-0988](#), [REDACTED]; [MLI-OTP-0060-1605](#), [REDACTED].

¹⁴³⁸ P-0398: [MLI-OTP-0062-0988](#), [REDACTED].

¹⁴³⁹ Judgment, [REDACTED] to the right of the image, translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴⁴⁰ Report, [REDACTED], translation [REDACTED]; P-0398: [MLI-OTP-0060-1453](#), [REDACTED], [MLI-OTP-0062-0988](#), [REDACTED].

¹⁴⁴¹ Report, [REDACTED], translation [REDACTED]; Judgment, [REDACTED] to the right of the image, translation [REDACTED].

HASSAN's referral,¹⁴⁴² on the same day, appeared before the Tribunal and was sentenced as a *Ta'zir* to pay a fine of 30,000 CFA francs at the Police headquarters without delay.¹⁴⁴³

350. AL HASSAN recognised his report and admitted having drafted and signed it. He stated that this case was indeed sent to the Tribunal.¹⁴⁴⁴ He made the connection between his report and the judgment and confirmed that the defendant was sentenced quickly because of his confessions.¹⁴⁴⁵

VII.C.22. Incident 31: Case of ¹⁴⁴⁶ – Case

351. A Police report, which appears to have been authored and signed by AL HASSAN,¹⁴⁴⁷ describes a case of theft.¹⁴⁴⁸ Following the referral of this case,¹⁴⁴⁹ appeared before the Tribunal on 2012 and was sentenced on the same day to imprisonment for one week, and ordered to return the items he sold or to pay their value.¹⁴⁵⁰

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VII.C.23. Incident 38: Case of – Case

352. On 2012, AL HASSAN authored and signed a Police report detailing the arrest of accused of tobacco smuggling.¹⁴⁵² AL HASSAN referred the case to the Tribunal.¹⁴⁵³ On the same day, the defendants appeared before the Tribunal, which sentenced them to imprisonment for one week and ordered the destruction of the tobacco. The defendants were released after pledging not to commit this act again.¹⁴⁵⁴

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¹⁴⁴² P-0398: [MLI-OTP-0060-1453](#), [REDACTED]

¹⁴⁴³ Judgment, [REDACTED] to the right of the image, translation [REDACTED]; [REDACTED]

[REDACTED] (Word version), translation [REDACTED].

¹⁴⁴⁴ P-0398: [MLI-OTP-0060-1453](#), [REDACTED], [MLI-OTP-0062-0988](#), [REDACTED].

¹⁴⁴⁵ P-0398: [MLI-OTP-0062-0988](#), [REDACTED], [MLI-OTP-0060-1453](#), [REDACTED].

¹⁴⁴⁶ [REDACTED]

¹⁴⁴⁷ See e.g. [REDACTED], translation [REDACTED], which shows the Police report on incident 30, authored by AL HASSAN, on the right, and the referral regarding this incident on the left.

¹⁴⁴⁸ Report, [REDACTED], translation [REDACTED].

¹⁴⁴⁹ Referral, [REDACTED] to the left of the image, translation [REDACTED].

¹⁴⁵⁰ Judgment, [REDACTED] to the right of image, translation [REDACTED]; [REDACTED]

[REDACTED] (Word version), translation [REDACTED].

¹⁴⁵¹ [REDACTED]

¹⁴⁵² Report, [REDACTED], translation [REDACTED].

¹⁴⁵³ Referral, [REDACTED] to the of the image right, translation [REDACTED].

¹⁴⁵⁴ Judgment, [REDACTED] to the right of the image, translation [REDACTED]; [REDACTED]

[REDACTED] (Word version), translation [REDACTED].

¹⁴⁵⁵ [REDACTED]

¹⁴⁵⁶ [REDACTED]

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acknowledged this case and recognised his report, his handwriting and his signature. He confirmed that this case was indeed sent to the Tribunal.¹⁴⁵⁸

VII.C.24. Incident 39: Case of [REDACTED] – Case [REDACTED]

354. On [REDACTED] 2012, [REDACTED] appeared before the Tribunal, accused of “collaborating to turn the wife of [REDACTED] against him” by arranging a rendez-vous between [REDACTED] and her. On the same day, the Tribunal sentenced [REDACTED] to [REDACTED] lashes and a fine as a *Ta'zir*, and [REDACTED] to [REDACTED] lashes and a fine as a *Ta'zir*.¹⁴⁵⁹ [REDACTED]
[REDACTED]¹⁴⁶⁰

VII.C.25. Incident 40: Case of [REDACTED] – Case [REDACTED]

355. On [REDACTED] 2012, [REDACTED] appeared before the Tribunal on accusation of practising “magic and occultism” after he was found in possession of documents about magic. On the same day, the Tribunal sentenced him to 40 lashes, “advised” him to repent, and made him pledge not to read this type of book and to seek “proper knowledge”. The judgment stated that the defendant was completely unaware of “what constituted infidelity” or not.¹⁴⁶¹

VII.C.26. Incident 41: Case of [REDACTED] and another person – Case [REDACTED]

356. On [REDACTED] 2013, [REDACTED] appeared before the Tribunal accused of theft. In a judgment issued on the same day, the Tribunal noted that the charge was based on the discovery of [REDACTED] - which [REDACTED] two companions ([REDACTED] and another unidentified person) had borrowed - in a shop that had been broken into. The unidentified companion was arrested and confessed that he, together with [REDACTED] had committed the theft. [REDACTED] was then “made to confess [...] through torture”. The Tribunal ordered [REDACTED] to pay his share of the stolen items “in lieu of amputation because of his consistent denial, not to mention the fact that he was tortured and the lack of witnesses against him”.¹⁴⁶² While the Tribunal opted not to apply the *hudud* of amputation due to the torture he endured, it still convicted him and sentenced him to a fine.

¹⁴⁵⁷ [REDACTED]; [REDACTED]

¹⁴⁵⁸ P-0398: [MLI-OTP-0060-1453](#), [REDACTED]

¹⁴⁵⁹ Judgment, [REDACTED] to the right of the image, translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴⁶⁰ [REDACTED].

¹⁴⁶¹ Judgment, [REDACTED] to the left of the image, translation [REDACTED]; [REDACTED] to the right of the image, translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

¹⁴⁶² Judgment, [REDACTED] to the right of image, translation; [REDACTED] to the left of the image (P-0007's photograph), translation [REDACTED]; [REDACTED] (Word version), translation [REDACTED].

357. This case is related to a Police report dated 2012,¹⁴⁶³ about one month before the date of the judgment on 2013.¹⁴⁶⁴ [REDACTED]

[REDACTED]¹⁴⁶⁵ [REDACTED]¹⁴⁶⁶

AL HASSAN confirmed that he drafted and signed this report and that after the owner of the shop in Ber had lodged a complaint with the Police, he spoke to one of the three thieves, who confessed.¹⁴⁶⁷

VII.C.27. Incidents 44 and 45: Cases of [REDACTED] (arrested and detained in Timbuktu between April 2012 and January 2013)

358 [REDACTED] testified that Mohamed Moussa arrested and detained [REDACTED], and [REDACTED] who were found to be “not covered enough” [REDACTED] saw them both imprisoned at the BMS in the ATM area. [REDACTED]

[REDACTED]¹⁴⁶⁸ [REDACTED]
[REDACTED]
[REDACTED] was released only later around dusk.¹⁴⁶⁹

VII.C.28. Incident 46: Case of P-1712 (arrested and detained in Timbuktu between April 2012 and January 2013)

359. P-0641 heard from P-1713 that [REDACTED] (P-1712) had been arrested and imprisoned at the BMS for not being covered up properly. [REDACTED] P-1713 told P-0641 that he had tried to beg for the release of [REDACTED] which was denied and he was threatened and even temporarily detained. P-1712 spent the night in detention and was released the next morning.¹⁴⁷⁰

VII.C.29. Incident 47: Case of P-1721 (arrested and detained in Timbuktu between April 2012 and January 2013)

360 [REDACTED] P-1721, was taken to the BMS because she did not have her head covered. [REDACTED] neighbour went to ask for P-1721’s release. When the neighbour’s request was refused, [REDACTED] intervened and went to the BMS to seek her release, which was also rejected. [REDACTED]

¹⁴⁶³ Report, [REDACTED], translation [REDACTED]. Although the names of the defendants are not included in the report, the details described in the report and judgment clearly relate to the same case.

¹⁴⁶⁴ Judgment, [REDACTED] to the right of image, translation; [REDACTED], [REDACTED] to the left of the image(P-0007’s photograph), translation [REDACTED].

¹⁴⁶⁵ [REDACTED] Referral, [REDACTED] to the left of the image, translation [REDACTED].

¹⁴⁶⁶ [REDACTED]
[REDACTED]
[REDACTED].

¹⁴⁶⁷ P-0398:[MLI-OTP-0060-1484](#), [REDACTED].

¹⁴⁶⁸ [REDACTED]

¹⁴⁶⁹ [REDACTED]

¹⁴⁷⁰ [REDACTED]

VII.D. AL HASSAN's criminal responsibility for the crime under count 6

361. AL HASSAN is responsible for the crime of passing of sentence under articles 25(3)(c) and/or 25(3)(d). AL HASSAN had the requisite knowledge and intent (see section IV, V.B, VI.C.3, XIII.B.1).

VII.D.1. Article 25(3)(c) of the Statute

362. AL HASSAN aided, abetted or otherwise assisted in the commission of the crime of passing of sentence for the 12 following incidents: 1, 4, 9, 16, 23, 24, 28, 30, 31, 33, 38 and 41.¹⁴⁷² For these incidents, AL HASSAN assisted in the commission of the crime by drafting and/or signing and transmitting his Police reports to the Tribunal.¹⁴⁷³ This facilitated the commission of the crime because it was an indispensable step in bringing these cases before the Tribunal, and indeed the Tribunal relied heavily on AL HASSAN's reports when deciding to punish the defendants.¹⁴⁷⁴

363. More generally, AL HASSAN also brought defendants back and forth to the Tribunal, and assisted, organised, supervised and even participated in the execution of sentences handed down by the Tribunal.¹⁴⁷⁵ The Prosecution refers *inter alia* to section III.C.1.c concerning AL HASSAN's statement regarding the imposition and application of corporal punishment against people violating the new rules

¹⁴⁷¹ [REDACTED] See also P-0099:T-145, p.40, l.16-p.43, l.10(Conf); P-0654: T-130, p.25, l.3-p.27, l.20(Conf);

¹⁴⁷² See sections VI.B and VII.C. For these incidents, see also Annex 2, no. 1, 2, 8, 16, 20, 25, 34, 35, 37, 40, 42 and 43.

¹⁴⁷³ *Idem.* See also: P-0626:T-142, p.28, l.3-p.30, l.19(Conf), p.34, l.8-p.35, l.20(Conf), p.37, l.15-p.38, l.5(Conf); P-0398:[MLI-OTP-0060-1511](#), p.1512-1519, l.24-249, [MLI-OTP-0051-0658](#), p.0676-0678, l.607-670(as corrected on p.0658_01, point 7), [MLI-OTP-0060-1298](#), p.1312, l.467-471, p.1310-1312, l.399-471, [MLI-OTP-0051-1032](#), p.1035-1036, l.105-113, p.1038-1041, l.191-275; D-0605:T-193, p.19, l.3-12(Conf), p.37, l.17-24(Conf), p.40, l.23-p.41, l.8(Conf), p.44, l.20-24(Conf), T-192, p.90, l.5-14(Conf), p.91, l.22-p.92, l.1(Conf).

¹⁴⁷⁴ *Idem.* See section VII.A. and section VII.C. [REDACTED]; P-0626:T-142, p.28, l.3-p.35, l.21(Conf); P-0099:T-145, p.38, l.16-p.39, l.4(Conf); P-0398:[MLI-OTP-0062-0969](#), p.0983-0987, l.449-601, [MLI-OTP-0062-1168](#), p.1171, l.86-92, p.1174-1175, l.189-232, [MLI-OTP-0060-1484](#), p.1492-1495, l.264-365(as corrected on p.1484_01, points 6 to 10), [MLI-OTP-0062-1143](#), p.1156-1157, l.420-462(as corrected on p.1143_02, points 16 to 20), [MLI-OTP-0062-0988](#), p.0993-0995, l.147-230, [MLI-OTP-0051-0631](#), p.0634-0635, l.76-104; See e.g. above incidents 1, 4, 9, 11, 16, 17, 23, 24, 28, 30, 31, 33, 38 and 41. See also Annex 2, particularly no.1 to 3, 7 to 9, 11, 12, 14 to 17, 20, 25, 28, 32 to 38, 40, 42, 43 and 45 (26 examples where there is a Police report and a Tribunal judgment regarding the same case). P-0620's report, [MLI-OTP-0064-0175](#), p.0301-0303.

¹⁴⁷⁵ See section IV.B.4.b.vi.a and e.g. incidents 5, 6, 9, 17, and 32 to 34. See also [REDACTED]; P-0626:T-142, p.51.l.6-p.53, l.5(Conf), T-143, p.4, l.22-p.5, l.24(Conf), p.12.l.6-18(Conf), T-144, p.71., l.13-p.73, l.15(Conf); D-0202:T-204, p.20, l.3-21; P-0398:[MLI-OTP-0060-1298](#), p.1309, l.349-353, [MLI-OTP-0051-0717](#), p.0726-0727, l.285-313, [MLI-OTP-0051-0631](#), p.0647-0648, l.517-581, [MLI-OTP-0051-0967](#), p.0975-0980, l.257-446, p.0983-0984, l.535-550, p.0985-0986, l.597-621, [MLI-OTP-0062-1058](#), p.1081-1082, l.787-793, [MLI-OTP-0060-1631](#), p.1643-1645, l.380-448; [REDACTED]; [REDACTED]; [MLI-REG-0001-0008](#); [MLI-REG-0001-0019](#); [MLI-REG-0001-0008](#); [MLI-REG-0001-0010](#).

of Ansar Dine/AQIM.¹⁴⁷⁶

364. **AL HASSAN**, who had lived and been educated in Timbuktu, knew that Malian governmental entities existed in Timbuktu before Ansar Dine/AQIM's arrival, that there was a Malian Tribunal,¹⁴⁷⁷ and that secular Malian law applied. Especially, in a video, **AL HASSAN** stated that: "[...] *La loi des mécréants sévissait depuis 120 ans... [...] au Mali... maintenant ces 120 années sont... terminées... une page noire... nous devons ici [...] appliquer la loi islamique... et défendre... la loi islamique... jusqu'à la mort*".¹⁴⁷⁸ **AL HASSAN** acknowledged that these types of punishment were new to the population of Timbuktu, including himself, and that the people feared them but were powerless to do anything.¹⁴⁷⁹ **AL HASSAN** agreed with Ansar Dine/AQIM's views on repressing behaviour inconsistent with their ideology, and shared their policy to implement the repressive rules.¹⁴⁸⁰ **AL HASSAN**'s functions meant that he was in constant communication with the Tribunal and its members including Houka Houka.¹⁴⁸¹ Consequently, he engaged in the above conduct for the purpose of facilitating the commission of the crime.

365. First, **AL HASSAN** was aware of the existence and location of the Tribunal,¹⁴⁸² its working days,¹⁴⁸³ its president,¹⁴⁸⁴ its membership,¹⁴⁸⁵ its geographical competence,¹⁴⁸⁶ and its method of

¹⁴⁷⁶ [REDACTED] P-0065:T-039, p.30, l.16-18(Conf), p.28, l.14-24; [REDACTED].

¹⁴⁷⁷ P-0398:MLI-OTP-0051-1099, p.1113-1114, l.473-482, MLI-OTP-0051-1257, p.1280, l.756-757.

¹⁴⁷⁸ [REDACTED].

¹⁴⁷⁹ P-0398:MLI-OTP-0051-1099, p.1102-p.1103, l.82-103.

¹⁴⁸⁰ See *inter alia* sections III.C.1.c, IV.B.4.b, VII.A, VII.B. [REDACTED]; P-0582:MLI-OTP-0062-3710-R02, p.3719-3720, l.305-331, MLI-OTP-0062-3641-R02, p.3654-3655, l.459-1.465, MLI-OTP-0062-3679-R02, p.3680-3683, l.38-139, MLI-OTP-0062-3820-R02, p.3837-3840, l.575-685, MLI-OTP-0062-3773-R02, p.3781, l.254-273; [REDACTED]; P-0099:T-145, p.38.l.18-25; P-0004:T-165, p.45, l.17-25(Conf), p.46, l.11-p.47, l.10, p.50, l.17-p.51, l.7; P-0654:T-128, p.31, l.5-10(Conf), T-132, p.65, l.7-25; D-0272:T-182, p.48, l.14-p.53, l.7.

¹⁴⁸¹ P-0398:MLI-OTP-0051-1032, p.1036-1041, l.126-275, MLI-OTP-0062-1014, p.1026-1036, l.394-728, MLI-OTP-0062-1037, p.1038-1040, l.31-90, MLI-OTP-0051-0598, p.0624-0630, l.864-1078, MLI-OTP-0051-0631, p.0632-0638, l.6-232; P-0626:T-142, p.28, l.16-p.31, l.2; T-144, p.80, l.17-p.81, l.10; [REDACTED]; [REDACTED]; P-0004:T-165, p.78, l.12-25; [REDACTED]; Notes, MLI-OTP-0001-7323, translation at MLI-OTP-0034-0053; CDR, MLI-OTP-0031-0818; P-0398:MLI-OTP-0051-0571, p.0593-0594, l.724-789; MLI-OTP-0060-1403, p.1411-1418, l.258-520. See *inter alia* section IV.B.4.b.v.

¹⁴⁸² P-0398:MLI-OTP-0051-0598, p.0629, l.1032-1049; MLI-OTP-0051-0631, p.0632-0638, l.6-232, p.0632-0633, l.13-66, p.0638-0641, l.237-213, p.0649-0651, l.664-585; P-0626:T-142, p.28, l.3-p.30, l.19, p.34, l.8-16, p.37, l.15-p.38, l.5; [REDACTED]; [REDACTED]. See also Annex 2, particularly no. 4, 7 to 11, 14, 18 to 28, 30 to 34, 37 to 44, 46, 54, 56, 57, 59, 66, 68 and 69 (39 examples of referrals of Police's reports to the Tribunal). P-0621 (P-0620), MLI-OTP-0064-0175, p.0301-0303.

¹⁴⁸³ P-0398:MLI-OTP-0051-0598, p.0625, l.911-912, p.0628, l.1005-1015.

¹⁴⁸⁴ P-0398:MLI-OTP-0051-0598, p.0624-0630, l.870-1078; MLI-OTP-0051-0631, p.0632-0638, l.6-232.

¹⁴⁸⁵ P-0398:MLI-OTP-0051-0598, p.0623-0630, l.864-1078; MLI-OTP-0051-0631, p.0632-0638, l.6-232, p.0642, l.343-352; MLI-OTP-0051-1032, p.1039-1041, l.215-275; MLI-OTP-0062-1014, p.1026-1036, l.394-728.

¹⁴⁸⁶ P-0398:MLI-OTP-0060-1453, p.1477-1478, l.772-806.

operation;¹⁴⁸⁷ he knew that it was the Police who secured the Tribunal;¹⁴⁸⁸ he knew that Abou Zeid controlled its funds;¹⁴⁸⁹ and he knew that parties must first have a report stamped by the Police or the *Hesbah* in order to access the Tribunal.¹⁴⁹⁰

366. Second, **AL HASSAN** knew that the Tribunal was not independent and impartial and was aware of the influence that senior Ansar Dine/AQIM leaders exerted on the Tribunal.¹⁴⁹¹ **AL HASSAN** knew that members of the executive and the *Sharia* Committee were also members of the Tribunal, and exercised their functions concurrently¹⁴⁹² in a manner undermining their impartiality. He knew that Judge Houka Houka was, in addition to his judicial functions, involved in the daily activities of Ansar Dine/AQIM to advance its policies¹⁴⁹³ in a manner that undermined his impartiality.

367. Third, **AL HASSAN** knew that persons were detained for the duration of the investigation, without provisional release, until a decision was rendered by the Tribunal.¹⁴⁹⁴

368. Fourth, **AL HASSAN** knew, including through his own involvement in police activities, that torture and imprisonment were used as a coercive means to extract information or to obtain confessions from suspects.¹⁴⁹⁵

369. Fifth, **AL HASSAN** was aware that the Tribunal did not take adequate time to investigate cases,¹⁴⁹⁶ and that the work of the Tribunal was not totally organised.¹⁴⁹⁷

370. Sixth, **AL HASSAN** stated that the judgments issued by the Tribunal were sent to Abou Zeid for his approval: “[...] *je pose toujours la question si tel ou tel jugement a eu lieu et quand est-ce que ça sera exécuté et on me dit qu'ils attendaient [...] que ça soit approuvé par ABOU ZEID*”.¹⁴⁹⁸ Abou Zeid

¹⁴⁸⁷ P-0398:[MLI-OTP-0051-1032](#), p.1038-1041, 1.191-275; [MLI-OTP-0051-0631](#), p.0632-0656, 1.6-856; [MLI-OTP-0060-1484](#), p.1496-1499, 1.395-504; P-0626:T-142, p.28, 1.3-p.30, 1.19, p.34, 1.8-p.35, 1.10.

¹⁴⁸⁸ See, e.g. P-0398:[MLI-OTP-0051-0631](#), p.0636-0637, 1.142-179.

¹⁴⁸⁹ P-0398:[MLI-OTP-0051-0631](#), p.0641-0633, 1.313-337.

¹⁴⁹⁰ P-0398:[MLI-OTP-0062-0969](#), p.0983-0987, 1.449-601.

¹⁴⁹¹ See above section VII.A.1 and incident 17. See, e.g. P-0398:[MLI-OTP-0051-0631](#), p.0641, 1.313-337, p.0642-0644, 1.354-431, p.0647-0656, 1.517-854; [MLI-OTP-0051-0658](#), p.0671-0672, 1.429-468, p.0684-0687, 1.866-982(as corrected on p.0658_01 and 02, points 1, 4, 12 to 16); [MLI-OTP-0051-0692](#), p.0699, 1.221-244; [MLI-OTP-0051-1184](#), p.1207-1208, 1.766-792; [MLI-OTP-0060-1511](#), p.1535, 1.779-795. See also Report, [MLI-OTP-0001-7522](#), translation [MLI-OTP-0052-0083](#), Referral of this report (signed), [MLI-OTP-0001-7523](#) to the left of the image, translation [MLI-OTP-0052-0085](#).

¹⁴⁹² See section VII.A.2. P-0398:[MLI-OTP-0060-1327](#), p.1340-1342, 1.404-502; [MLI-OTP-0051-1099](#), p.1112-1118, 1.416-641; [MLI-OTP-0051-0422](#), p.0437-0438, 1.501-505; [MLI-OTP-0051-0862](#), p.0874, 1.385-410; [MLI-OTP-0051-1032](#), p.1039, 1.222-p.1041, 1.275.

¹⁴⁹³ See above section VII.A.2. See e.g. P-0398:[MLI-OTP-0051-0376](#), p.0394-0396, 1.592-1.656; [MLI-OTP-0051-1067](#), p.1087 -1088, 1.639-700.

¹⁴⁹⁴ See above sections VII.A.2 and VI.C particularly e.g. incidents 9 and 41. See e.g. P-0398:[MLI-OTP-0051-0631](#), p.0634-0635, 1.76-128, [MLI-OTP-0062-1143](#), p.1160, 1.550-569; [REDACTED].

¹⁴⁹⁵ See sections VI.C and VII.A.2. See e.g. P-0398:[MLI-OTP-0060-1662](#), p.1670-1676, 1.257-466, [MLI-OTP-0060-1511](#), p.1522-1530, 1.360-639, [MLI-OTP-0062-1143](#), p.1151-1152, 1.265-302; P-0641:T-137, p.19, 1.4-p.24, 1.13, p.27, 1.3-p.29, 1.5, p.34, 1.19-p.37, 1.18(Conf). See also e.g. above incidents 1, 2, 9, 30 and 41.

¹⁴⁹⁶ See e.g. P-0398:[MLI-OTP-0062-0988](#), p.0995, 1.206-221; [MLI-OTP-0062-1143](#), p.1163-1164, 1.669-718. See also above sections VII.A.2 and VI.C e.g. incidents 1, 9, 16, 24, 28, 30, 32 to 34 and 38.

¹⁴⁹⁷ P-0398:[MLI-OTP-0051-0631](#), p.0649-0651, 1.585-654.

¹⁴⁹⁸ P-0398:[MLI-OTP-0051-0631](#), p.0642-0644, 1.359-417.

(the *emir*) was the one who ordered that the judgments be implemented or abandoned.¹⁴⁹⁹ **AL HASSAN** confirmed that “[...] *l’émir intervient ou se mêle dans les affaires judiciaires*”.¹⁵⁰⁰ He added: “*dans tous les cas de hudud [...] l’exécution [...] ne se fait pas qu’après l’ordre de cet émir[...] C’est considéré comme une intervention.*” He confirmed: “*C’est vrai*”, for a sanction to be executed, the Emir must give the order and intervene.¹⁵⁰¹ **AL HASSAN** stated: “*Même certaines interrogations, l’émir intervient*”.¹⁵⁰² In sum, **AL HASSAN** confirmed that “*on peut dire [...]*” there was no independence of justice.¹⁵⁰³

371. Seventh, **AL HASSAN** received Tribunal judgments in order to execute them and kept copies in the Police archives.¹⁵⁰⁴ Therefore, he was fully aware of sentences pronounced by the Tribunal.¹⁵⁰⁵ He knew that the Tribunal had no specialist judge to deal with cases in which the defendants were children, and condemned them to severe penalties such as flogging.¹⁵⁰⁶ He knew that the Tribunal condemned defendants even when they were unaware of the new rules established by Ansar Dine/AQIM,¹⁵⁰⁷ and that persons were punished retroactively for what they did even before Ansar Dine/AQIM arrived.¹⁵⁰⁸ He was aware that the Tribunal sentenced defendants to an indeterminate length of imprisonment.¹⁵⁰⁹ Moreover, **AL HASSAN** knew that the Tribunal issued judgments based on confessions obtained through torture, and condemned these defendants to severe corporal punishments.¹⁵¹⁰

372. Eighth, **AL HASSAN** knew that there was no possibility of appeal from the Tribunal,¹⁵¹¹ and that the execution of sentences took place one or two days after the judgment.¹⁵¹² He knew of the role of the Police in enforcing such judgments.¹⁵¹³

373. In light of the above and what is described in section VII.A, not only direct perpetrators, that is, Tribunal members, but also **AL HASSAN** was aware that the Tribunal did not afford the guarantees that are essential or indispensable to a fair trial, as provided for in applicable rules of human rights law

¹⁴⁹⁹ P-0398: [MLI-OTP-0051-0631](#), p.0642-0643, 1.359-392, [MLI-OTP-0051-1184](#), p.1207-1208, 1.766-792.

¹⁵⁰⁰ P-0398: [MLI-OTP-0062-1143](#), p.1151-1153, 1.265-325.

¹⁵⁰¹ P-0398: [MLI-OTP-0062-1143](#), p.1155, 1.384-400.

¹⁵⁰² P-0398: [MLI-OTP-0062-1143](#), p.1154, 1.347-348.

¹⁵⁰³ P-0398: [MLI-OTP-0051-0631](#), p.0644, 1.425-431.

¹⁵⁰⁴ P-0398: [MLI-OTP-0060-1631](#), p.1643-1644, 1.383-440, [MLI-OTP-0051-0631](#), p.0651-0656, 1.669-856; [REDACTED]

¹⁵⁰⁵ See also e.g. above incidents 5, 6, 9, 17 and 32 to 34. See also P-0398: [MLI-OTP-0051-0631](#), p.0642-0644, 1.359-417, [MLI-OTP-0051-0631](#), p.0642-0643, 1.359-392, [MLI-OTP-0051-1184](#), p.1207-1208, 1.766-792.

¹⁵⁰⁶ See e.g. above incidents 25 and 28 above. [REDACTED]

¹⁵⁰⁷ See e.g. above incidents 19, 23, and 40.

¹⁵⁰⁸ See e.g. above incidents 3, 28, 33.

¹⁵⁰⁹ See e.g. above incidents 11, 12, 14, 21, 25.

¹⁵¹⁰ See e.g. above incidents 9 and 41.

¹⁵¹¹ See above section VII.A.2, particularly, para 315. See also e.g. P-0398: [MLI-OTP-0051-0658](#) p.0688-0689, 1.987-1031.

¹⁵¹² See above section IV.B.4.b. See also e.g. P-0398: [MLI-OTP-0062-1058](#), p.1059-1060, 1.31-58. See also e.g. above incidents 5, 6, 9, 17 and 32 to 34.

¹⁵¹³ See above section IV.B.4.b and e.g. incidents 5, 6, 9, 17 32 and 34. See e.g. P-0398: [MLI-OTP-0060-1631](#), p.1644, 1.425-440, [MLI-OTP-0051-0631](#), p.0647-0648, 1.517-581, p.0651-0654, 1.669-773, [MLI-OTP-0051-0513](#), p.0521-0523, 1.262-336; [REDACTED].

and international humanitarian law.¹⁵¹⁴

VII.D.2. Article 25(3)(d) of the Statute¹⁵¹⁵

374. Further or alternatively, regarding incidents 1 to 47, **AL HASSAN** is responsible under article 25(3)(d) of the Statute for contributing in any other way to the commission of the crime of passing of sentences without due process,¹⁵¹⁶ which was committed by Ansar Dine/AQIM members pursuant to their Common Purpose (see section V.A).

VII.D.2.a. The crime under count 6 was part of the Common Purpose

375. The crime of passing sentence without due process was part of the Common Purpose pursued by Ansar Dine/AQIM. As described above, the Tribunal was a key instrument in Ansar Dine/AQIM's efforts to impose their power and control, as well as their own religious vision. This is also clear from Houka Houka's speech, dated 9 July 2012, stating: "The Judicial Council of Tombouctou is just one body established by the Ansar Dine group. It is composed of members of the group as well as non-members, [...] whose cooperation has been solicited by the group in order to meet the overall common goal. [...] As the country's ruling authority, [...] Ansar Dine [...] is the force that implements the tenets of the Sharia."¹⁵¹⁷

376. Similarly, Abou Zeid's written instructions dated 15 August 2012 authorising the imposition of *Ta'zir* at the headquarters of the Police and the *Hesbah*, including on women, and the systematic and widespread manner in which such punishments were imposed,¹⁵¹⁸ demonstrate that Ansar Dine/AQIM's Common Purpose included passing of sentence without any prior judgment by a court.

VII.D.2.b. AL HASSAN's contributions to the commission of the crime under count 6

377. **AL HASSAN** not only contributed to this crime with regard to the cases in which he was personally involved, but also through his contributions to the system of punishing violations of the rules imposed by Ansar Dine/AQIM, in particular, to the operations of the Police and the Tribunal.

378. In addition to the facts described in section VII.D.1, from the beginning, **AL HASSAN** was constantly active in furthering the activities and goals of Ansar Dine/AQIM (see *inter alia* section IV.A). He had important functions in the Police, including organising and managing its daily work (see *inter*

¹⁵¹⁴ See e.g. article 14 of the International Covenant on Civil and Political Rights (ICCPR); article 7 of the African Charter on Human and Peoples' Rights; common article 3(1)(d) of the Geneva Conventions; article 6 of the Second Additional Protocol to the Geneva Conventions. See also Confirmation Decision, para. 389.

¹⁵¹⁵ ICC-01/04-01/07-3436-tENG, para. 1637-1642 regarding the mental elements under article 25(3)(d) of the Statute. ICC-01/12-01/18-1211-Conf, para. 129, confirming that the Chamber understands the charges to include article 25(3)(d)(i) and (ii) of the Statute.

¹⁵¹⁶ See above incidents 1 to 47 at sections VI.B and VII.C.

¹⁵¹⁷ [MLI-OTP-0020-0117](#), translation [MLI-OTP-0078-9744](#), p.9749.

¹⁵¹⁸ August Instructions, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); [REDACTED].

alia section IV.B.4). He organised and sent out patrols, and participated in checks and inspections in the streets to guarantee the application of Ansar Dine/AQIM policy.¹⁵¹⁹ More specifically, as detailed in section IV.B.4.b.i, **AL HASSAN** received “criminal” complaints which people lodged in his office.¹⁵²⁰ He arrested people suspected of violating the new rules,¹⁵²¹ and investigated the facts.¹⁵²² He issued summonses.¹⁵²³ He was involved in the use of threats, torture and imprisonment as coercive means to extract information or to obtain confessions.¹⁵²⁴ He made recommendations to the Tribunal on punishments for the cases he referred.¹⁵²⁵ He also prepared, drafted and/or signed reports and transmitted them to the Tribunal¹⁵²⁶(see *inter alia* above incidents 1, 4, 9, 11, 16, 17, 23, 24, 28, 30, 31, 33, 38 and 41). Further, he assisted, organised, supervised and/or participated in the execution of sentences decided by the Tribunal,¹⁵²⁷ as well as in carrying out extra-judicial punishments¹⁵²⁸ (see sections IV.B.4.b.vi.b and VI.B.3). At the very least, his own participation in, and support for, Ansar Dine/AQIM activities, in particular, the work of the Police and the Tribunal, had an effect of encouraging other Ansar Dine/AQIM members to commit the crime.

VII.D.2.c. AL HASSAN’s intent and knowledge regarding the crime under count 6

379. **AL HASSAN** meant to engage in the above conduct. He made these contributions “with the aim of furthering the criminal activity/purpose of Ansar Dine/AQIM” and/or at least “in the knowledge of [their] intention [...] to commit the crimes”.

380. In addition to the facts described in section VII.D.1 and VII.D.2.b above, this can be established from factors including: a) he praised Ansar Dine/AQIM’s policy in interviews, endorsing the new restrictions imposed on the civilian population of Timbuktu;¹⁵²⁹ b) he carried out Ansar Dine/AQIM’s policy, in close collaboration with other organs, in particular with the Tribunal and the *Hesbah*, as well as the groups’ most important members;¹⁵³⁰ and c) he defended the application of corporal punishments.¹⁵³¹ As described in sections IV.B.4.b, VII.D.1 and VII.D.2.b, given his role and

¹⁵¹⁹ See above section IV.B.4.a.ii.

¹⁵²⁰ See above section IV.B.4.b.i.

¹⁵²¹ See above section IV.B.4.b.iii. See also e.g. above incident 17.

¹⁵²² See above section IV.B.4.b.iv. See also e.g. above incidents 1, 9 and 41.

¹⁵²³ See above section IV.B.4.b.ii.

¹⁵²⁴ See above sections VI.A, IV.B.4.b.iv particularly IV.B.4.b.iv.b. See also e.g. above incidents 1, 9, 30 and 41.

¹⁵²⁵ See above section IV.B.4.b.v.

¹⁵²⁶ See above section IV.B.4.b.iv.a, IV.B.4.b.v and VII.D.1. See also Annex 2 and P-0620’s report, [MLI-OTP-0064-0175](#), p.0301-0303.

¹⁵²⁷ See above sections IV.B.4.b.vi, VI.B and C.1-2, VII.C and VII.D.1. See e.g. above incidents 5, 6, 32 to 34.

¹⁵²⁸ [REDACTED]; Minutes of 9 September 2012, [MLI-OTP-0030-1177](#), p.1250; [REDACTED]; P-0398: [MLI-OTP-0051-0457](#), p.0467, 1.322-330. See also e.g. above incident 8.

¹⁵²⁹ See above section IV.B.4.a.ii.

¹⁵³⁰ See above section IV.

¹⁵³¹ See above sections III.C.1.c, IV.B.4.a.ii and VII.D.1.

participation in multiple activities linked to the Tribunal,¹⁵³² **AL HASSAN** was aware that the Tribunal issued judgments without due process.¹⁵³³ **AL HASSAN** and Tribunal members were also aware of the denial of the essential judicial guarantees (*see* above sections VII.A and VII.D.1).

381. **AL HASSAN** was also fully aware that the Police and other Ansar Dine/AQIM members punished civilians without prior judgment.¹⁵³⁴ In particular, he knew that the Police arrested, questioned and punished people for offences, such as smoking cigarettes, drinking alcohol or being a woman in the company of a man who was not her family member.¹⁵³⁵ **AL HASSAN** even acknowledged that 10-20 lashes given as *Ta'zirs* occurred “*tout le temps à la police*”.¹⁵³⁶ Moreover, he was directly involved in the execution of extra-judicial punishments (*see* sections IV.B.4.b.vi.b, VI.A, VI.B.3 and VII.B).

VII.E. Chain of custody of documents collected from the BMS and *Hôtel La Maison*

382. The chain of custody of the Tribunal’s decisions, police reports and related documents has been established to the requisite standard. Their authenticity is clearly demonstrated in that: (i) they were collected/photographed at the locations used by Ansar Dine/AQIM as the Police headquarters and the Tribunal in Timbuktu shortly after their departure from the city;¹⁵³⁷ (ii) they were recognised as such by Prosecution witnesses¹⁵³⁸ and Defence witness [REDACTED]¹⁵³⁹ (iii) [REDACTED]¹⁵⁴⁰ (iv) they were recognised as genuine by **AL HASSAN**;¹⁵⁴¹ and (v) they were confirmed in the expert reports of P-0620 and P-0621.¹⁵⁴² In all, the authenticity of these documents is incontrovertible, especially given the logical connection between many of the Police reports and judgments collected/photographed by P-0007 and P-0055 [REDACTED] as set out in Annexes 1 and 2, and the fact that they form a cohesive whole.

¹⁵³² See above sections IV.B.4.b.iv, IV.B.4.b.v, VII.D.1 and VII.D.2.b.

¹⁵³³ See above sections IV.B.4.b.iv, IV.B.4.b.v and IV.B.4.b.vi.a. *See also* e.g. above incidents 1, 4, 9, 11, 16, 17, 23, 24, 28, 30, 31, 33, 38 and 41.

¹⁵³⁴ *See inter alia* sections IV.B.4.b.vi.b, VI.A and VII.B.

¹⁵³⁵ *See inter alia* sections III.C.1.c, IV.B.4.b.vi.b, VI.A and VII.B. P-0398: [MLI-OTP-0051-1184](#), p.1205-1211, 1.682-894; [MLI-OTP-0051-0483](#), p.0493-0494, 1.294-322; [MLI-OTP-0051-0457](#), p.0470-0472, 1.433-512; [REDACTED]; P-0582: [MLI-OTP-0062-3872-R02](#), p.3878-3880, 1.183-283, [MLI-OTP-0062-3845-R02](#), p.3862-3864, 1.591-648.

¹⁵³⁶ P-0398: [MLI-OTP-0060-1511](#), p.1531, 1.659-668.

¹⁵³⁷ P-0007: T-019, p.7, 1.3-19, p.9, 1.3-p.20, 1.14, p.20, 1.16-p.29, 1.1; Reports, [MLI-OTP-0038-0891](#), [MLI-OTP-0060-1920](#), [MLI-OTP-0039-0607](#), [MLI-OTP-0041-0426](#) (*see in particular* at 0432, para. 8); Items submitted into evidence in the ranges of [MLI-OTP-0006-1872](#) to [MLI-OTP-0006-2693](#) (P-0055) and [MLI-OTP-0006-1256](#) to [MLI-OTP-0006-1854](#) (P-0057).

¹⁵³⁸ *See above* section VII.C.

¹⁵³⁹ *See e.g.* [REDACTED] [MLI-OTP-0053-0168](#), [REDACTED] [MLI-OTP-0001-7508](#).

¹⁵⁴⁰ *See* Annex 1. Evidence bag, [MLI-OTP-0038-0002](#); Word versions of the Tribunal’s documents, [MLI-OTP-0068-4670](#) to [MLI-OTP-0068-4795](#); P-0075’s report, [MLI-OTP-0076-0442-R01](#); [REDACTED]; T-102, p.56, 1.23-p.63, 1.14(Conf).

¹⁵⁴¹ *See e.g.* sections VII.C.1, VII.C.16, VII.C.19, VII.C.21, VII.C.23, VII.C.26.

¹⁵⁴² [MLI-OTP-0064-0175](#).

VII.E.1. Documents collected and photographed by P-0007

383. P-0007 testified that he arrived in Timbuktu on 31 January 2013, and went to a bank, which people told him had been turned into a police station by the “jihadists”. It was locked when he arrived there but someone unlocked it for him.¹⁵⁴³ P-0007 collected documents from the bank¹⁵⁴⁴ and photographed the premises and documents that he found therein.¹⁵⁴⁵ Two days later, P-0007 went to *Hôtel La Maison*, which was closed but the manager “came with the key”.¹⁵⁴⁶ P-0007 photographed the building¹⁵⁴⁷ and on the first floor he collected documents from a cabinet,¹⁵⁴⁸ with drawers containing “some books and notebooks”,¹⁵⁴⁹ “standing next to the wall” in a room which had two or three carpets.¹⁵⁵⁰ P-0007 took photographs, including some of the documents that he had collected.¹⁵⁵¹ He specified that he photographed the documents from the cabinet after having placed them on the carpets that were in the same room.¹⁵⁵² He also photographed the cabinet¹⁵⁵³ - which appears to be made of wood and indeed contains several drawers. P-0007 clarified that he did not collect all of the documents that were in the cabinet.¹⁵⁵⁴

384. P-0007 had control of the documents and photographs at all times. He provided the material and photographs from the BMS and *Hôtel La Maison* to the OTP.¹⁵⁵⁵ These were put in sealed bags that P-0007 signed on 20 February 2013 and that he identified during his testimony.¹⁵⁵⁶ The content of the sealed bags¹⁵⁵⁷ were scanned by P-0188¹⁵⁵⁸ and processed by P-0102.¹⁵⁵⁹

385. P-0007’s cross-examination confirmed his credibility and reliability. No one “tampered” with the documents.¹⁵⁶⁰ The Defence incorrectly put to P-0007 that he had mentioned a “tour guide” by the name of Malik Dicko, who had let him in the BMS. As basis of this assertion, the Defence referred to MLI-

¹⁵⁴³ P-0007:T-019, p.6, l.1-3, p.7, l.6-19, p.9, l.8-p.11, l.14.

¹⁵⁴⁴ P-0007:T-019, p.15, l.13-p.17, l.1 (re. [MLI-OTP-0001-7187](#)), p.17, l.2-5 (re. [MLI-OTP-0002-0019](#)); [MLI-OTP-0002-0008](#); [MLI-OTP-0056-0432](#), p.0440-0442.

¹⁵⁴⁵ P-0007:T-019, p.27, l.23-p.29, l.1 (re. [MLI-OTP-0001-7191](#)), p.20, l.3-15 (re. photographs taken at the BMS, ranging from [MLI-OTP-0001-7193](#) to 7323).

¹⁵⁴⁶ P-0007:T-019, p.20, l.16-p.21, l.3.

¹⁵⁴⁷ P-0007:T-019, p.9, l.14-p.10, l.5, p.21, l.8-25 (re. [MLI-OTP-0001-7328](#)), p.27, l.3-p.28, l.14 (re. [MLI-OTP-0001-7189](#)); [MLI-OTP-0002-0008](#); [MLI-OTP-0056-0432](#), p.0443-0465.

¹⁵⁴⁸ P-0007:T-019, p.9, l.14-p.10, l.3, p.20, l.16-p.22, l.14.

¹⁵⁴⁹ P-0007:T-019, p.22, l.1-14.

¹⁵⁵⁰ P-0007:T-019, p.23, l.1-4.

¹⁵⁵¹ Photographs of documents taken by P-0007 at *Hôtel La Maison*: [MLI-OTP-0001-7334](#) to [MLI-OTP-0001-7529](#) and [MLI-OTP-0001-7532](#) to [MLI-OTP-0001-7616](#); P-0007:T-019, p.24, l.7-19.

¹⁵⁵² P-0007:T-019, p.23, l.17-p.24, l.6.

¹⁵⁵³ P-0007:T-019, p.22, l.1-14 re. [MLI-OTP-0001-7604](#).

¹⁵⁵⁴ P-0007:T-019, p.9, l.20-p.10, l.5, p.73, l.8-23.

¹⁵⁵⁵ P-0007:T-019, p.24, l.25-p.27, l.1.

¹⁵⁵⁶ P-0007:T-019, p.16, l.1-10 re. [MLI-OTP-0001-7187](#) (Annex 1, 20/02/2013), p.27, l.2-22 re. [MLI-OTP-0001-7189](#) (Annex 2, 20/02/2013), and p.28, l.15-p.29, l.1 re. [MLI-OTP-0001-7191](#) (Annex 3, 20/02/2013).

¹⁵⁵⁷ [MLI-OTP-0001-7187](#) and [MLI-OTP-0001-7189](#).

¹⁵⁵⁸ [MLI-OTP-0002-0008](#); [MLI-OTP-0074-1888](#); [MLI-OTP-0002-0016](#) to [MLI-OTP-0002-0090](#).

¹⁵⁵⁹ [MLI-OTP-0056-0432](#); P-0102:T-023, p.20, l.12-p.22, l.3.

¹⁵⁶⁰ P-0007:T-019, p.69, l.17-19.

OTP-0020-0441 at 0442. This reference was misleading.¹⁵⁶¹

386. The evidence shows that the room from which P-0007 collected the documents was indeed the one used by the Tribunal: the red carpet, with a distinct pattern, on which he photographed documents¹⁵⁶² is identical to the one identified by ¹⁵⁶³ also identified the same carpet that was in the room used by the Tribunal on P-0007's photographs.¹⁵⁶⁴ Furthermore, the wooden cabinet in which P-0007 found the documents that he collected¹⁵⁶⁵ matches

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387. Witnesses further confirmed the genuineness of the documents collected or photographed by P-0007 by ¹⁵⁶⁶ elaborating on their content.¹⁵⁶⁷ P-0621's and P-0620's reports confirm that the collected police reports were not tampered with.¹⁵⁶⁸

¹⁵⁶⁹ correspond to judgments collected by P-0007.¹⁵⁶⁹ The Defence acknowledged the authenticity of P-0007's photographed documents by the manner in which it used several of them¹⁵⁷⁰. In particular, the documents were treated by the Defence as genuine; ¹⁵⁷¹ the Defence never claimed that they were fabricated or false.¹⁵⁷¹

¹⁵⁷² The Defence never questioned

on the issue of

VII.E.2. Documents collected by P-0055 and P-0057

388. P-0057 and P-0055 undertook a mission for the OTP to Timbuktu from the 14 to 24 June 2013.

¹⁵⁶¹ P-0007:T-019, p.57, l.5-p.60, l.4.

¹⁵⁶² See e.g. [MLI-OTP-0001-7531](#); [MLI-OTP-0001-7365](#); [MLI-OTP-0001-7543](#).

¹⁵⁶³ ; ; .

¹⁵⁶⁴ ; ; .

¹⁵⁶⁵ P-0007:T-019, p.22, l.1-14 re. [MLI-OTP-0001-7604](#).

¹⁵⁶⁶ .

¹⁵⁶⁷ See above sections VI.B and VII.C.

¹⁵⁶⁸ ; ; P-0626:T-142, p.19, l.17-p.23, l.7 (Conf) re. [MLI-OTP-0001-7369](#); [MLI-OTP-0002-0031](#).

¹⁵⁶⁹ P-0621 (P-0620); [MLI-OTP-0064-0175](#), p.0301-0303.

¹⁵⁷⁰ See Annex 1. Evidence bag, [MLI-OTP-0038-0002](#); Word versions of the Tribunal's documents, [MLI-OTP-0068-4670](#) to [MLI-OTP-0068-4795](#); P-0075's report, [MLI-OTP-0076-0442-R01](#); .

¹⁵⁷¹ See e.g. [MLI-OTP-0001-7356](#); [MLI-OTP-0001-7546](#); [MLI-OTP-0001-7361](#); [MLI-OTP-0001-7560](#); [MLI-OTP-0001-7515](#); [MLI-OTP-0001-7545](#).

¹⁵⁷² ; ; ; ; .

¹⁵⁷² [MLI-OTP-0053-0168](#) (from [MLI-OTP-0001-7189](#) as described in [MLI-OTP-0056-0432](#), p. 0452). [MLI-OTP-0024-2814](#), p.2858.

Their reports described details of the mission regarding the collection of documents/photographs taken at the BMS and the *Hôtel La Maison*.¹⁵⁷³ P-0057 testified that, when they visited the BMS premises, all the doors and windows were locked.¹⁵⁷⁴ Following the authorisation of the Governor of Timbuktu, they were able to enter.¹⁵⁷⁵ As for the *Hôtel La Maison*, P-0055 testified that it was opened by someone with the keys in Timbuktu following the authorisation of the owner of the hotel who allowed the inspection of the premises.¹⁵⁷⁶ The “*meuble à tiroirs*”¹⁵⁷⁷ in which P-0055 found and collected court records of the Tribunal¹⁵⁷⁸ is the same as the one in which P-0007 describes having found documents and that he photographed.¹⁵⁷⁹ It bears recalling P-0007’s testimony to the effect that he did not collect all of the documents that were in it at the time.¹⁵⁸⁰

389. Matters mentioned in the documents collected by P-0055 correspond to the matters mentioned in documents photographed months earlier by P-0007.¹⁵⁸¹ Further, documents collected by P-0055 and photographed by P-0007

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[REDACTED] 1583 [REDACTED]
[REDACTED]
[REDACTED] 1584

390. All of the documents collected by P-0055 and P-0057 were processed by the OTP.¹⁵⁸⁵ [REDACTED]

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VIII. Rape, sexual slavery and forced marriage as an other inhumane act (Counts 8-12)

391. **AL HASSAN** is criminally responsible for the crimes of forced marriage as a form of other inhumane acts, sexual slavery, and rape against women and girls in Timbuktu from April 2012 until

¹⁵⁷³ Reports, [MLI-OTP-0038-0891](#), [MLI-OTP-0060-1920](#), [MLI-OTP-0039-0607](#), [MLI-OTP-0041-0426](#) (see in particular at 0432, para. 8); Items submitted into evidence in the ranges of [MLI-OTP-0006-1872](#) to [MLI-OTP-0006-2693](#) (P-0055) and [MLI-OTP-0006-1256](#) to [MLI-OTP-0006-1854](#) (P-0057).

¹⁵⁷⁴ P-0057:T-021, p.58, l.4-21; [MLI-OTP-0006-1461](#); photographs in [MLI-OTP-0041-0426](#), p.0440; P-0055:T-123, p.58, l.7-22.

¹⁵⁷⁵ [MLI-OTP-0039-0607](#), p.0612; [MLI-OTP-0004-0745](#).

¹⁵⁷⁶ P-0055:T-123, p.59, l.14-p.60, l.3.

¹⁵⁷⁷ [MLI-OTP-0060-1920](#), p.1978; P-0057:T-021, p.60, l.21-p.61, l.5; [MLI-OTP-0006-1456](#); [MLI-OTP-0006-2086](#).

¹⁵⁷⁸ [MLI-OTP-0005-0025](#); [MLI-OTP-0056-0026](#); [MLI-OTP-0069-8559](#).

¹⁵⁷⁹ P-0007:T-019, p.9, l.14-p.10, l.3, p.20, l.20-p.23, l.4, p.23, l.17-p.24, l.18; [MLI-OTP-0001-7604](#).

¹⁵⁸⁰ P-0007:T-019, p.9, l.20-p.10, l.5, p.73, l.8-23.

¹⁵⁸¹ Annex 1, *see e.g.* no.1, 3, 4 and 5.

¹⁵⁸² *See* Annex 1, no.37. Evidence bag, [MLI-OTP-0038-0002](#); Word versions of the Tribunal’s documents, [MLI-OTP-0068-4670](#) to [MLI-OTP-0068-4795](#); P-0075’s report, [MLI-OTP-0076-0442-R01](#); [REDACTED]

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¹⁵⁸⁵ [MLI-OTP-0049-0677](#); [MLI-OTP-0056-0026](#); [MLI-OTP-0056-0041](#); [MLI-OTP-0073-0809](#); [MLI-OTP-0069-8559](#); [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also* ICC-01/12-01/18-2021-Conf, para.21-29, describing the processing of the items by P-0055 and P-0057.

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[REDACTED]; [REDACTED]. *See also* section VII.C.

January 2013 pursuant to article 25(3)(d) of the Statute. These crimes were committed within the context of so-called “marriages” and additionally, some rapes were committed within the context of detention for alleged infractions of the rules enforced by Ansar Dine/AQIM. Consistent with rule 70, the inherently coercive context of these crimes undermined the victims’ ability to give voluntary and genuine consent.

VIII.A. Forced marriages and associated sexual slavery and rape

392. Ansar Dine/AQIM actively promoted and enabled the so-called “marriage” of its members to local women and girls in Timbuktu, amounting to the crimes of forced marriage as a form of other inhumane acts, sexual slavery, and rape. These crimes are distinct from one another, because they have different legal elements and protected values.¹⁵⁸⁷ Forced marriage, sexual slavery and rape engage the rights to marry, not to be subject to servitude and to sexual autonomy, respectively.¹⁵⁸⁸

393. Forced marriage is committed when a victim is compelled to enter into a conjugal union by use or threat of force, or in a coercive environment.¹⁵⁸⁹ The imposed conjugal union—and resulting “spousal” status of the victim, with associated duties and expectations—is its central element.¹⁵⁹⁰ Forced marriages have “social, ethical, and even religious effects” seriously impacting the victim’s physical and psychological well-being. These are compounded when the so-called “marriage” leads to the birth of children.¹⁵⁹¹ In this case, forced marriage not only occasioned such sexual and gendered harms¹⁵⁹² but also served as a gateway (within the ideological framework of Ansar Dine/AQIM) to facilitate and legitimise sexual slavery and rape.

VIII.A.1. Ansar Dine/AQIM practices included forced marriages, sexual slavery and rape

394. Pursuant to Ansar Dine/AQIM’s Common Purpose to impose their control and power, and their own ideological and religious vision, including regarding females, by all means,¹⁵⁹³ they promoted practices amounting to forced marriages between its members and local women/girls, and sexual slavery and rape. Once “married”, victims were frequently isolated from relatives and their liberty restricted.¹⁵⁹⁴ Some were forced not only to have sex with their “husbands” but also with other men.¹⁵⁹⁵ They were prevented from using contraceptives,¹⁵⁹⁶ causing victims such as P-0538, P-1460 and V-0001 to become

¹⁵⁸⁷ *Ongwen* AJ, para.1677-1683. *AFRC* AJ, para.195.

¹⁵⁸⁸ *Ongwen* AJ, para.1677-1683.

¹⁵⁸⁹ *Ongwen* AJ, para.1024.

¹⁵⁹⁰ *Ongwen* AJ, para.1023; *Ongwen* TJ, para.2748.

¹⁵⁹¹ *Ongwen* TJ, para.2748.

¹⁵⁹² P-0160:T-066, p.70, l.3-p.72, l.10; P-0160:T-067, p.15, l.6-18; P-0065:T-045, p.76, l.14-p.77, l.3.

¹⁵⁹³ *See* section V.A.

¹⁵⁹⁴

¹⁵⁹⁵ [REDACTED]

¹⁵⁹⁶ P-0520:T-149, p.51, l.25-p.52, l.18; V-0001:T-168, p.46, l.11-p.47, l.14.

pregnant. The perpetrators exercised powers of ownership over the victims, who were unable to freely and voluntarily choose what happened to them.

395. Ansar Dine/AQIM encouraged its members to “marry” local women and girls to enhance its control over the civilian population,¹⁵⁹⁷ and for its members’ sexual gratification, which, according to its ideology, could only be officially sanctioned through “marriage”.¹⁵⁹⁸ As [REDACTED] described, because many of them had spent long periods of time in the desert and the jungle and they were “forbidden or forbade themselves from having any kind of relations outside marriage”, they were keen to get married so they could have sex as soon as possible after they entered the city.¹⁵⁹⁹ Moreover, Ansar Dine/AQIM members wanted to marry the locals to disseminate their ideology among the entire society, including women and children, who largely viewed them as foreigners and feared them.¹⁶⁰⁰ The eight particular incidents below, as well as others,¹⁶⁰¹ reflect this. Indeed, a Malian soldier, who was captured by Ansar Dine/AQIM [REDACTED] talked with a deserter who had joined Ansar Dine and said: “when you join the fighters, you get a wife” and that Iyad Ag Ghaly gave him a “wife”.¹⁶⁰² Accordingly, “most of the jihadists” did “marry” “from the locals”.¹⁶⁰³ Those included important members, such as Abou Zeid,¹⁶⁰⁴ Adama,¹⁶⁰⁵ Talha,¹⁶⁰⁶ Abou Dhar¹⁶⁰⁷ and Abou Baccar Al Chinguetti.¹⁶⁰⁸

396. The systematic nature of the practice of forced marriage is demonstrated by the existence of a fund made available by Abou Zeid and Yahia Abou Al Hammam to encourage members of Ansar Dine/AQIM to marry and to pay for dowries.¹⁶⁰⁹ All single members of the Police received 300,000 CFA francs for marriage, and the majority of them did get married.¹⁶¹⁰ As mentioned below, **AL**

¹⁵⁹⁷ P-0152:T-032, p.40, l.7-12, p.79, l.11-24; [REDACTED]

¹⁵⁹⁸ P-0152:T-032, p.40, l.21-p.41, l.4, p.41, l.12-15; [REDACTED]

¹⁵⁹⁹ [REDACTED]

¹⁶⁰⁰ [REDACTED]

¹⁶⁰¹ E.g. P-0603:T-126, p.5, l.13-p.9, l.14; P-0622:[MLI-OTP-0065-0558-R02](#), p.0568, para.51; P-0547:T-152, p.36, l.12-38, l.1; P-0623:T-030, p.55, l.22- p.56, l.17, p.57, l.3-p.58, l.12; P-0524:[MLI-OTP-0071-0246-R12](#), p.0251-0252, para.31, p.0257, para.64, p.0262-0265, para.106-127; V-0001:T-168, p.36, l.18-60, l.2, p.61, l.2-p.63, l.2 (Conf), p.68, l.25-p.69, l.1; P-0641:T-139, p.9, l.5-11, p.10, l.17-21, p.13, l.4-5, p.17, l.17-20; P-0004:T-165, p.87, l.15-p.92, l.17 on [MLI-OTP-0003-0195-R02](#); [MLI-OTP-0030-1044-R01](#), p.1076; P-0608:T-153, p.21, l.11-22, l.4, p.22, l.15-24, p.23, l.6-12, p.24, l.18-25, l.6, p.26, l.2-4.

¹⁶⁰² P-0081:[MLI-OTP-0012-1152-R02](#), p.1175, para.117, p.1176, para.122; [MLI-OTP-0067-0299-R02](#), p.0302, para.15; P-0081:T-061, p.73, l.11-74, l.20(Conf).

¹⁶⁰³ [REDACTED]; P-0398:[MLI-OTP-0051-0891](#), p.0896-0897, l.171-187, p.0900, l.299-p.0901, l.315

¹⁶⁰⁴ [REDACTED]

¹⁶⁰⁵ P-0565:T-051, p.37, l.14-p.38, l.17; P-0398:[MLI-OTP-0051-0891](#), p.0897, l.188-205, p.0909-0910, l.600-627; D-0213:T-197, p.35, l.16-p.43, l.12.

¹⁶⁰⁶ P-0099:T-145, p.47, l.8-p.49, l.3; D-0605:T-194, p.33, l.17-p.34, l.2; D-0202:T-203, p.58, l.7-p.59, l.3.

¹⁶⁰⁷ P-0398:[MLI-OTP-0051-0891](#), p.0897, l.197, l.206-208, p.0904-0905, l.440-444; P-0582:[MLI-OTP-0062-4037-R02](#), p.4049, l.394-410; D-0605:T-194, p.31, l.1-p.32, l.7.

¹⁶⁰⁸ P-0398:[MLI-OTP-0051-0891](#), p.0898, l.214-218.

¹⁶⁰⁹ [REDACTED] P-0398:[MLI-OTP-0051-0891](#), p.0899-0907, l.270-542.

¹⁶¹⁰ P-0582:[MLI-OTP-0062-4037-R02](#), p.4046-4048, l.275-346.

HASSAN drafted requests addressed to the head/*emir* of the Police or Abou Zeid on behalf of members of the Police seeking money to be used for dowries.¹⁶¹¹ Further, Abou Zeid and Yahia Abou Al Hammam made sure that the newly wedded members of Ansar Dine/AQIM had accommodation.¹⁶¹² 397. In many cases, women and girls were forcibly given the status of “wife” in “marriage ceremonies”, which did not involve any family or friends together with the “bride”.¹⁶¹³ Others were simply abducted and treated as a “wife”.¹⁶¹⁴

398. Once “married”, they were typically taken away from their families, subjected to restrictions on their movements and contacts with their family and friends,¹⁶¹⁵ and obliged to have sexual relationships with their “husbands”.¹⁶¹⁶ In practice, some women were forced to have sexual relationships, not only with their “husbands”, but also with other members of Ansar Dine and AQIM.¹⁶¹⁷ As Ansar Dine and AQIM prevented women from using contraceptives,¹⁶¹⁸ some women fell pregnant as a result of such forced relationships and later gave birth to a child. The practice of forced marriages effectively led to crimes of rape and sexual slavery committed subsequently.

399. The practice of forced marriage was so notorious that many families sent their daughters away from Timbuktu.¹⁶¹⁹ For example, [REDACTED] that: “*Dans le courant du mois de mai il y a eu la célébration de plusieurs mariages pour le moins bizarres. Ce sont des islamistes qui contractent des mariages; à la demande, ils versent comme dot entre 300 et 500 000 FCFA, mais les nuits suivantes, c’est 3 ou 4 amis du marié qui viennent profiter de la femme, comme pour signifier que la femme est mariée par 3 ou 4 personnes à la fois.*”¹⁶²⁰ Forced marriages were also publicly reported.¹⁶²¹ [REDACTED]

¹⁶¹¹ P-0398: [MLI-OTP-0051-0891](#), p.0901-0902, 1.330-373, p.0906-0907, 1.493-524.

¹⁶¹² [REDACTED] P-0398: [MLI-OTP-0051-0891](#), p.0910-0911, 1.644-676.

¹⁶¹³ P-0565:T-051, p.37, 1.15-24(Conf), p.45, 1.22-p.48, 1.9(Conf); P-0602:T-085, p.5, 1.12-p.10, 1.15(Conf), p.12, 1.21-p.15, 1.1.13(Conf), p.15, 1.14-p.17, 1.13 (Conf).

¹⁶¹⁴ See e.g. the example of P-0538 in section VIII.A.3.a.

¹⁶¹⁵ [REDACTED]

¹⁶¹⁶ [REDACTED]

¹⁶¹⁷ See e.g. the example of P-0538 in section VIII.A.3.a.

¹⁶¹⁸ See e.g. P-0520: T-149, p.51, 1.24-p.52, 1.18; V-0001: T-168, p.46, 1.11-p.47, 1.14.

¹⁶¹⁹ P-0622: [MLI-OTP-0065-0558-R02](#), p.0566, para.44; P-0608:T-154, p.22, 1.15-p.25, 1.6(Conf); P-0623:T-030, p.56, 1.18-p.57, 1.2.

¹⁶²⁰ [REDACTED]

¹⁶²¹ UN report, 29 November 2012, [MLI-OTP-0001-2113](#), p.2118, para.24; Media article, 12 December 2012, [MLI-OTP-0001-4894](#), p.4895.

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400. Ansar Dine/AQIM members considered that, as soldiers, their “marriages” need not be permanent.¹⁶²³ Many “wives” were abandoned when they fled Timbuktu;¹⁶²⁴ others such as married to Adama were “divorced” after just a few weeks.¹⁶²⁵

VIII.A.2. Coercive environment

401. The coercive nature of Ansar Dine/AQIM’s rule in Timbuktu in 2012/2013 precluded that local women and girls who “married” with Ansar Dine/AQIM members could genuinely and voluntarily consent. Rather, the civilian population, particularly women and girls, lived entirely in a coercive environment, characterised by fear and repression.

402. Notably, Ansar Dine/AQIM had taken control of Timbuktu by force.¹⁶²⁶ Following its ideology, its rules covered every aspect of civilian life and were rigorously enforced—even if this meant subjugating, oppressing, and persecuting the civilian population, in particular women and girls.¹⁶²⁷ Ansar Dine/AQIM members conducted regular armed patrols,¹⁶²⁸ demonstrating not only their dominance but the omnipresent threat of sanction for disobedience. P-0636 stated: “If you didn’t follow the rules, they had weapons, we didn’t, and they did whatever they wanted to with us.”¹⁶²⁹ Similarly, P-0520 testified that when she was approached by Ansar Dine/AQIM members to forcibly marry their “chief” she was told “how can you say that you don’t like us whilst it is we who are controlling everything here? We are the boss here, and he is our chief, and he says that he loves you”.¹⁶³⁰ Ansar Dine/AQIM members regularly punished civilians in public, with or without formal judgments.¹⁶³¹

¹⁶³² Corporal punishment was used,¹⁶³³ often in the form of lashes delivered on the

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¹⁶²³ P-0099:T-145, p.49, l.19-p.50, l.1;

¹⁶²⁴ P-0626:T-143, p.19, l.24-p.22, l.18(Conf); V-0001:T-168, p.60, l.3-20; P-0099:T-145, p.49, l.10-11; P-0099:T-146, p. 63, l.8-23

¹⁶²⁵ D-0213:T-197, p.44, l.9-p.45, l.20; D-0514:T-208, p.58, l.10-23.

¹⁶²⁶ See section XI.

¹⁶²⁷ See section X.

¹⁶²⁸ Video, [MLI-OTP-0001-7037](#), 00:19:01:15-00:19:31:19; ; P-0622:[MLI-OTP-0065-0558-R02](#), p.0563, para.28; D-0093:T-211, p.37, l.3-5; P-0603:T-125, p.13, l.9-18(Conf); Video, [MLI-OTP-0015-0495](#), 00:27:26:20, 00:27:17:05.

¹⁶²⁹ P-0636:T-071, p.19, l.1-2.

¹⁶³⁰ P-0520:T-149, p.10, l.4-6.

¹⁶³¹ See sections VI.A, VI.B, VII.B, VII.C.

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¹⁶³³ P-0004:T-164, p.102, l.2-17, p.106, l.5-14; P-0603:T-125, p.15, l. 14-25, p.21, l.24-p.22-14, p.23, l.6-14, p.26, l.12-p.28, l.21, p. p. 49, l.23-p.51, l.6, p.60, l.8-10; P-0622:[MLI-OTP-0065-0558-R02](#), p.0563, para.29.

spot,¹⁶³⁴ or publicly.¹⁶³⁵ Such beatings were publicly done to make an example of the victims, and to reinforce the conspicuous power of Ansar Dine/AQIM.¹⁶³⁶

403. [REDACTED]

[REDACTED] referring to Ansar Dine/AQIM.¹⁶³⁷ Families sought to avoid such “marriages” by sending their daughters away from Timbuktu.¹⁶³⁸ As the specific incidents below show, local women and girls who stayed could not say “no” to proposals by Ansar Dine/AQIM members.¹⁶³⁹ P-0622 testified that he did not know any woman or girl who said she loved an Ansar Dine/AQIM member, or genuinely agreed to “marry” one.¹⁶⁴⁰ Even if some victims or their family may have seemed to acquiesce (including by accepting a dowry or undergoing a marriage ‘ceremony’), this was extracted in coercive circumstances.¹⁶⁴¹ P-0152 testified that the “jihadi marriage” was not something where the family was much involved and that it was a “rushed affair” which was basically a “marriage for the night”.¹⁶⁴² The father of the girl was told “...this is your compensation for the girl, maybe, maybe not, and then the man divorces and the girl may end up in another jihadi marriage and so on and so forth.”¹⁶⁴³

404 [REDACTED]

¹⁶⁴⁴ [REDACTED]

[REDACTED]¹⁶⁴⁵ Senior Ansar Dine/AQIM members, such as Al Mahdi, Houka Houka, Mohamed Moussa, and **AL HASSAN**, who were notables or well known individuals, sometimes intervened with civilians to “mediate” to arrange a so-called “marriage”, to show that Ansar Dine/AQIM stood behind these “marriages” of its members.¹⁶⁴⁶ [REDACTED]

¹⁶⁴⁷ [REDACTED]

[REDACTED]¹⁶⁴⁸ Some victims were particularly vulnerable, due to their age or family circumstances, such as P-0610, P-1162, and P-1460.¹⁶⁴⁹

405. The combined pressures applied to ensure the “marriage” of Ansar Dine/AQIM members to local

¹⁶³⁴ P-0004:T-165, p.44, l.15-24 on [MLI-OTP-0030-1177](#), p.1253.

¹⁶³⁵ P-0004:T-166, p.89, l.10-25 on [MLI-OTP-0003-0062-R02](#), p.0011; Video, [MLI-OTP-0009-1749](#), 00:04:33:11.

¹⁶³⁶ [REDACTED]

¹⁶³⁷ [REDACTED]

¹⁶³⁸ P-0623:T-029, p.54, l.5-9; T-030, p.56, l.18-p.57, l.2

¹⁶³⁹ P-0622:[MLI-OTP-0065-0558-R02](#), p.0567, para.47-48; P-0626:T-143, p.20, l.7-10; P-0160:T-066, p.71, l.7-14.

¹⁶⁴⁰ P-0622:[MLI-OTP-0065-0558-R02](#), p.0567, para.47.

¹⁶⁴¹ *Katanga* TJ, para. 990, 1000-1001.

¹⁶⁴² P-0152:T-032,p.96,l.11-12.

¹⁶⁴³ P-0152:T-032,p.96,l.11-13.

¹⁶⁴⁴ [REDACTED]

¹⁶⁴⁵ [REDACTED]

¹⁶⁴⁶ P-0398:[MLI-OTP-0051-0891](#), p.0901,l.344- p.0904, l.444, p.0905, l.473-p.0908, l. 563; [REDACTED]

¹⁶⁴⁷ [REDACTED]

¹⁶⁴⁸ [REDACTED]

¹⁶⁴⁹ See below section VIII.A.3.c, VIII.A.3.e, VIII.A.3.f.

women or girls was colloquially described to the Court as “the principle of the stick and the carrot”.¹⁶⁵⁰

¹⁶⁵¹ P-0160 testified that the armed groups would go through town intimidating people or using their force and in “most cases, they put pressure on the families to have the children for marriage against their will”.¹⁶⁵² To enable such “marriages”, senior Ansar Dine/AQIM members provided money to all single members of the Police,¹⁶⁵³ to be used as a dowry.¹⁶⁵⁴ Ansar Dine/AQIM insisted that the “proposed marriages” would occur whether the money was wanted or not, as in the case of P-0538.¹⁶⁵⁵ They could not be resisted since the men seeking to arrange such “marriages” carried “arms when they visit[ed] others in their homes, including [...] where they were courting women” and in all the phases of “marriage arrangement”.¹⁶⁵⁶ Indeed, [REDACTED] recalled that he accompanied [REDACTED] an AQIM member, when he made a “marriage” proposal, while armed with a Kalashnikov.¹⁶⁵⁷ [REDACTED]

¹⁶⁵⁸ 406. Those who attempted to refuse such “marriages” were forcibly taken or punished. For example, P-0538 was taken from her home by force, having refused the “marriage” proposal she had received.¹⁶⁵⁹ Likewise, force was used to punish her when she attempted to escape.¹⁶⁶⁰ P-0520 was threatened with a weapon to compel her to go with Ansar Dine/AQIM members for the purpose of a “marriage”.¹⁶⁶¹ P-1460 was abducted in the night.¹⁶⁶² P-0636 also recalled hearing that “Islamists” had wanted to marry P-1674, but that her parents did not agree and so she was taken away forcibly.¹⁶⁶³ Women or girls who sought to escape forced marriages with Ansar Dine/AQIM members were harassed and punished.¹⁶⁶⁴

[REDACTED] The Police also instituted formal proceedings against them.¹⁶⁶⁵ Conspicuous retribution of this nature, even if eventually

¹⁶⁵⁰ [REDACTED]

¹⁶⁵¹ [REDACTED] See also P-0160:T-066, p.68, l.25-p.69, l.18; T-068, p.31, l.12-14, p.37, l.18-p.42, l.8.

¹⁶⁵² P-0160:T-66,p.69,l.13-18.

¹⁶⁵³ P-0582:[MLI-OTP-0062-4037-R02](#), p.4046-4048, l.275-350; P-0582:[MLI-OTP-0062-4233-R02](#), p. 4234, l.36-p.4235, l.54, p.4238, l.145-p.4245, l.395, p.4249, l.533-555, p.4254, l.723-730.

¹⁶⁵⁴ P-0099:T-145, p.49, l.5-10; [REDACTED]

¹⁶⁵⁵ See below section VIII.A.3.a.

¹⁶⁵⁶ [REDACTED] See also D-0093:T-211, p.36, l.6-9.

¹⁶⁵⁷ [REDACTED]; stating that he had also been involved in “marriage” ceremonies between two other members of Ansar Dine/AQIM and two women from his tribe).

¹⁶⁵⁸ P-0626:T-143, p.18, l.11-p.19, l.12(Conf)

¹⁶⁵⁹ P-0538:T-161, p.16, l.20-p.17, l.3-p.18, l.11(Conf).

¹⁶⁶⁰ See below section VIII.A.3.a. See P-0538:T-161, p.21, l.8-17; p.34, l.3.

¹⁶⁶¹ See below section VIII.A.3.d.

¹⁶⁶² See below section VIII.A.3.f.

¹⁶⁶³ P-0636:T-071, p.54, l.2-12.

¹⁶⁶⁴ See e.g. [REDACTED]

¹⁶⁶⁵ See below section VIII.A.3.a.

resulting in “divorce”, only emphasised to the civilian population that defying Ansar Dine/AQIM – including in the context of “marriage” – was not an option.

VIII.A.3. Incidents of forced marriage and associated sexual slavery and rape

407. The evidence shows at least eight incidents of forced marriage, sexual slavery, and rape, committed against P-0538, P-0602, P-0610, P-0520, P-1162, P-0609, P-1460, and P-0957.

VIII.A.3.a. P-0538 from around June/July 2012 to January 2013

408. Sometime after the “Islamists” arrived in Timbuktu,¹⁶⁶⁶ P-0538 was at home when armed men asked her father for her hand in “marriage”¹⁶⁶⁷ to [REDACTED]¹⁶⁶⁸ also known as [REDACTED]¹⁶⁶⁹ who had joined the “Islamists” when they took over Timbuktu.¹⁶⁷⁰ When her father first refused the “marriage” proposal, they pressured him.¹⁶⁷¹ They threw down 25,000 FCA as dowry.¹⁶⁷² Eventually, as P-0538 still refused to comply, the men abducted her by force and brought her to [REDACTED] house where she was then treated as his “wife”.¹⁶⁷³ As P-0538 continued to resist, she was whipped, struck by [REDACTED] for refusing him,¹⁶⁷⁴ threatened,¹⁶⁷⁵ and raped multiple times.¹⁶⁷⁶ She repeatedly tried to escape—once climbing a wall to return to her home,¹⁶⁷⁷ [REDACTED]

[REDACTED]¹⁶⁷⁸ [REDACTED]¹⁶⁷⁹
409 [REDACTED] and his associates abducted her father to compel her return, and beat him severely.¹⁶⁸⁰ He later died as a result of his injuries.¹⁶⁸¹ P-0538 was temporarily detained in a place she called [REDACTED]¹⁶⁸² [REDACTED] – and raped by multiple different men.¹⁶⁸³ Houka Houka questioned her and told her that she was detained because she refused her “marriage” and would not stay with her so-called “husband”.¹⁶⁸⁴ [REDACTED]

¹⁶⁶⁶ P-0538:T-161, p.32, l.12-25.

¹⁶⁶⁷ P-0538:T-161, p.21, l.4-11, p.24, l.5-p.26, l.5, p.30, l.2-25.

¹⁶⁶⁸ P-0538:T-161, p.22, l.10-18, p.27, l.23-p.28, l.15(Conf); P-0538:T-162, p.6, l.13-p.7, l.9(Conf), p.70, l.3-20, p.72, l.9-21, p.80, l.2-p.82, l.3.

¹⁶⁶⁹ P-0538:T-162, p.35, l.14-p.36, l.9(Conf) on [MLI-OTP-0055-1074](#), translation [MLI-OTP-0054-0310](#); Civil party complaint, [MLI-OTP-0024-2814](#), p.2858, translation [MLI-OTP-0067-1015](#), p.1016.

¹⁶⁷⁰ P-0538:T-161, p.19, l.23-p.20, l.2, p.27, l.19-22, p.28, l.16-p.29, l.3; T-162, p.70, l.21-p.72, l.8(Conf).

¹⁶⁷¹ P-0538:T-161, p.26, l.7-p.27, l.6, p.31, l.1-5; T-163, p.4, l.20-p.5, l.9; [MLI-OTP-0001-7390](#), translation [MLI-OTP-0078-6006](#), p.6007.

¹⁶⁷² P-0538:T-161, p.21, l.13-14.

¹⁶⁷³ P-0538:T-161, p.21, l.15-21, p.31, l.8-25, p.32, l.5-9, p.33, l.1-5, p.37, l.6-9; P-0538:T-163, p.20, l.8-p.21, l.15(Conf).

¹⁶⁷⁴ P-0538:T-161, p.31, l.21, p.33, l.6-13, p.36, l.16-37, l.2, p.45, l.2-3.

¹⁶⁷⁵ P-0538:T-161, p.33, l.14-15.

¹⁶⁷⁶ P-0538:T-161, p.34, l.13-p.36, l.15, p.45, l.2-6. *See also below* fn. 1683.

¹⁶⁷⁷ P-0538:T-161, p.21, l.21-22, p.33, l.19-23.

¹⁶⁷⁸ P-0538:T-161, p.34, l.2, p.37, l.1-22, p.38, l.15-17(Conf), p.43, l.16-44, l.4(Conf).

¹⁶⁷⁹ P-0538:T-161, p.37, l.14-24, p.38, l.17-19(Conf).

¹⁶⁸⁰ P-0538:T-161, p.34, l.2-3, p.39, l.6-14, l.19-23, p.39, l.25-p.40, l.3, p.41, l.10-42, l.5.

¹⁶⁸¹ P-0538:T-161, p.39, l.23-24.

¹⁶⁸² P-0538:T-161, p.39, l.15-17, p.49, l.16-p.50, l.6; P-0538:T-162, p.4, l.13-p.6, l.7; T-163, p.21, l.6-15.

¹⁶⁸³ P-0538:T-161, p.45, l.4-14, p.46, l.18-p.48, l.21, p.50, l.7-18; P-0538:T-162, p.15, l.10-18.

¹⁶⁸⁴ P-0538:T-161, p.54, l.13-18; P-0538:T-162, p.8, l.15-p.9, l.19, p.14, l.13-15, l.1.

¹⁶⁸⁵ Eventually, over [REDACTED]

¹⁶⁸⁶ This not only entailed returning the “dowry” given to her father

¹⁶⁸⁷ – and enduring a further violent altercation with [REDACTED] ¹⁶⁸⁸ In total, P-0538’s forced marriage lasted more than six months.¹⁶⁸⁹ She later discovered that she had [REDACTED]

¹⁶⁹⁰

410. P-0538’s account is corroborated by documents such as [REDACTED]

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2012,¹⁶⁹² and [REDACTED]

dated [REDACTED]

¹⁶⁹³ Her testimony is also largely consistent

with what she recounted to P-0524 in 2015.¹⁶⁹⁴

VIII.A.3.b. P-0602 [REDACTED]

411. [REDACTED]

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and there was no wedding party.¹⁷⁰⁰ [REDACTED] ¹⁷⁰¹

At night, P-0602 was escorted to an empty house by two of the armed men so she could not escape.¹⁷⁰²

P-0602’s “husband” wanted to have sexual intercourse with her, but she resisted.¹⁷⁰³ While she was permitted to return to her family during the following day,¹⁷⁰⁴ the same happened on the following

¹⁶⁸⁵ P-0538:T-162, p.36, l.10-17.

¹⁶⁸⁶ P-0538:T-161, p.52, l.12-15, p.52, l.22-p.53, l.17, p.58, l.13-p.59, l.6; P-0538:T-162, p.25, l.2-21 on [MLI-OTP-0024-2814](#), p.2858 (translation [MLI-OTP-0067-1015](#), p.1016), p.29, l.6-9.

¹⁶⁸⁷ P-0538:T-161, p.56, l.13-19; P-0538:T-162, p.28, l.24-p.29, l.5.

¹⁶⁸⁸ P-0538:T-161, p.55, l.1-7, p.57, l.6-12.

¹⁶⁸⁹ P-0538:T-161, p.57, l.13-21; P-0538:T-163, p.22, l.10, p.22, l.25-p.23, l.4.

¹⁶⁹⁰ P-0538:T-161, p.52, l.15-17, p.59, l.7-17.

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¹⁶⁹⁴ P-0524:[MLI-OTP-0071-0246-R12](#), p.0259-0260, para.75-83.

¹⁶⁹⁵ P-0602:T-084, p.87, l.18-21; P-0602:T-085, p.5, l.1-p.7, l.15(Conf).

¹⁶⁹⁶ P-0602:T-085, p.7, l.16-p.8, l.16(Conf).

¹⁶⁹⁷ P-0602:T-085, p.8, l.17-p.10, l.15, p.12, l.1-p.14, l.10(Conf).

¹⁶⁹⁸ P-0602:T-085, p.11, l.6, p.11, l.6, p.15, l.10-13(Conf).

¹⁶⁹⁹ P-0602:T-085, 15, l.16-p.16, l.5, p.16, l.7-13(Conf).

¹⁷⁰⁰ P-0602:T-085, p.18, l.9-16.

¹⁷⁰¹ P-0602:T-085, p.16, l.5-6, p.16, l.20-p.17, l.13(Conf).

¹⁷⁰² P-0602:T-085, p.19, l.1-p.22, l.6.

¹⁷⁰³ P-0602:T-085, p.23, l.11-p.25, l.8.

¹⁷⁰⁴ P-0602:T-085, p.25, l.21-26, l.15.

night.¹⁷⁰⁵ On the third night, P-0602's so-called "husband" threatened her with a weapon, and raped her.¹⁷⁰⁶ He told her that they were "married" and this is what "married" people did.¹⁷⁰⁷ Two nights were like that.¹⁷⁰⁸ The "marriage" ended after a "little time", as people fled from Timbuktu.¹⁷⁰⁹

VIII.A.3.c. P-0610

412. [REDACTED]
[REDACTED] ¹⁷¹⁰ [REDACTED] ¹⁷¹¹ when she was at a neighbour's house, Arabic-speaking "Islamists" came to ask [REDACTED] for P-0610's hand in "marriage".¹⁷¹² Neither P-0610 nor her mother wanted this "marriage", but felt they had no choice. P-0610's mother feared violence or death if they refused, but P-0610 consistently opposed it.¹⁷¹³ About three days later, when P-0610 was not at home, three "Islamists" returned with a "dowry to arrange the marriage".¹⁷¹⁴ They returned a third time to set the date.¹⁷¹⁵ P-0610 had never previously met her so-called "husband", nor did she initially even know his name. [REDACTED]
[REDACTED] ¹⁷¹⁶ On the appointed day, the men gave a "dowry" to P-0610's [REDACTED], [REDACTED] ¹⁷¹⁷ There was no celebration or ceremony at the mosque, nor any documentation.¹⁷¹⁸ In the evening, P-0610's mother sent her to a nearby house, where her "husband" and another man later arrived. P-0610 did not understand what the men said as they spoke only Arabic.¹⁷¹⁹ Once his friend left, P-0610's "husband" tried to touch her, and she refused him. He then slapped her, and raped her.¹⁷²⁰ He left during the night, and P-0610 never saw him again.¹⁷²¹ When neighbours found out what happened, P-0610 was ridiculed and criticised.¹⁷²²

413. [REDACTED] "Islamists" forced her to "marry" an Arab from Timbuktu after she refused the latter's proposal.¹⁷²³ [REDACTED] asked for a "divorce" after a month.¹⁷²⁴ P-0622, [REDACTED] corroborated P-0610's accounts of her

¹⁷⁰⁵ P-0602:T-085, p.26, l.25-p.29, l.19.

¹⁷⁰⁶ P-0602:T-085, p.29, l.2-p.31, l.23, p.32, l.6-8.

¹⁷⁰⁷ P-0602:T-085, p.32, l.2-5.

¹⁷⁰⁸ P-0602:T-085, p.32, l.19-24.

¹⁷⁰⁹ P-0602:T-085, p.33, l.6-12.

¹⁷¹⁰ P-0610:T-158, p.9, l.21-p.11, l.4(Conf).

¹⁷¹¹ P-0610:T-158, p.21, l.19-21(Conf).

¹⁷¹² P-0610:T-158, p.19, l.14-p.20, l.1, p.28, l.21-23, p.31, l.11-22.

¹⁷¹³ P-0610:T-158, p.20, l.5-p.21, l.6(Conf), p.23, l.14-p.24, l.5, p.28, l.11-22.

¹⁷¹⁴ P-0610:T-158, p.24, l.6-7.

¹⁷¹⁵ P-0610:T-158, p.27, l.17-p.28, l.10.

¹⁷¹⁶ P-0610:T-158, p.37, l.18-p.38, l.9(Conf).

¹⁷¹⁷ P-0610:T-158, p.34, l.24-p.38, l.4(Conf).

¹⁷¹⁸ P-0610:T-158, p.37, l.5-10(Conf).

¹⁷¹⁹ P-0610:T-158, p.38, l.16-p.40, l.21.

¹⁷²⁰ P-0610:T-158, p.41, l.10-23, p.43, l.3-p.44, l.6.

¹⁷²¹ P-0610:T-158, p.42, l.9-12, p.44, l.7-14.

¹⁷²² P-0610:T-158, p.44, l.15-p.45, l.5.

¹⁷²³ P-0160:T-158, p. 47, l.11-p.48, l.24, p.51, l.21, p.52, l.6-17(Conf).

¹⁷²⁴ P-0610: T-158, p.54, l.2-4; T-159, p.32, l.21-p.33, l.9.

own forced marriage and that of [REDACTED].¹⁷²⁵

VIII.A.3.d. P-0520 between April 2012 and January 2013

414. Sometime after the armed groups arrived in Timbuktu in 2012,¹⁷²⁶ P-0520 was approached in the street by armed men speaking Arabic and Tamasheq, who told her that they controlled everything and that their chief loved her.¹⁷²⁷ Despite saying that she did not love their chief, they threatened her with a weapon and abducted her.¹⁷²⁸ She was brought to a house, where a man she only ever knew as the “chief” or [REDACTED] told her that she was his “wife”. Again, she denied this, noting that there had been no religious ceremony.¹⁷²⁹ While confined there for three or four days, P-0520 was repeatedly raped.¹⁷³⁰ Her so-called “husband” then took her to [REDACTED] and again confined her there and repeatedly raped her.¹⁷³¹ When he discovered that she took contraceptive pills, P-0520’s “husband” accused her of “killing his children”, flogged her, and temporarily transferred her to the prison for a day and a night.¹⁷³² After about three weeks’ captivity, P-0520 escaped when the gate [REDACTED] was left open one day.¹⁷³³ In total, the “marriage” lasted for approximately 24 days.¹⁷³⁴

415. P-0520’s account is corroborated by [REDACTED] who was acquainted with P-0520 and recalls that she was “married off”.¹⁷³⁵ [REDACTED]

[REDACTED]¹⁷³⁶ Likewise, [REDACTED] recalled that P-0520 was “married” to an “Islamist”, taken to [REDACTED], and that the “marriage” did not last a long time.¹⁷³⁷ P-0524 had also heard of P-0520’s victimisation.¹⁷³⁸

VIII.A.3.e. P-1162 between April 2012 and January 2013

416. During her captivity, [REDACTED] saw other women [REDACTED] including a [REDACTED] girl [REDACTED] (P-1162), who was said to be “married” to a man she heard described by his associates [REDACTED]. P-1162 was in a bedroom [REDACTED]

[REDACTED]¹⁷³⁹ [REDACTED]

¹⁷²⁵ P-0622: [MLI-OTP-0065-0558-R02](#), p.0566, para.44, p.0567-0568, para.49-50.

¹⁷²⁶ P-0520:T-149, p.9, l.6-25, p.14, l.18-25.

¹⁷²⁷ P-0520:T-149, p.9, l.6-p.10, l.6, p.15, l.9-16, l.24(Conf).

¹⁷²⁸ P-0520:T-149, p.10, l.7-18.

¹⁷²⁹ P-0520:T-149, p.10, l.22-p.11, l.9, p.11, l.25-p.12, l.2, p.21, l.2-p.22, l.4, p.29, l.4-25 (Conf).

¹⁷³⁰ P-0520:T-149, p.11, l.12-25, p.22, l.7-p.23, l.5, p.25, l.2-p.26, l.9(Conf).

¹⁷³¹ P-0520:T-149, p.26, l.19-p.30, l.12, p.33, l.22-p.34, l.14, p.48, l.15-p.51, l.20, p.53, l.3- p.55, l.124(Conf).

¹⁷³² P-0520:T-149, p.51, l.21-p.53, l.2, p.55, l.21-p.56, l.4, p.59, l.11-p.60, l.20(Conf); [MLI-OTP-0060-9512](#); [MLI-OTP-0060-9511](#).

¹⁷³³ P-0520:T-149, p.30, l.23-p.32, l.14, p.56, l.5-25(Conf).

¹⁷³⁴ P-0520:T-149, p.31, l.17-p.32, l.13.

¹⁷³⁵ P-0602:T-085, p.35, l.16-p.37, l.11.

¹⁷³⁶ P-0602:T-085, p.37, l.12, p.38, l.7, p.39, l.5-13(Conf).

¹⁷³⁷ [REDACTED]

¹⁷³⁸ P-0524: [MLI-OTP-0071-0246-R12](#), p.0266-0267, para.136-139.

¹⁷³⁹ P-0520:T-149, p.35, l.6-25, p.38, l.1-p.39, l.10, p.41, l.6-p.43, l.11, p.44, l.15-p.45, l.19, p.46, l.1-p.48, l.6(Conf).

VIII.A.3.f. P-1460 between April 2012 and January 2013

417. P-0570 described the incident of P-1460, a friend's daughter, who was forcibly "married", when she was 11. When asked by men for her hand in "marriage", including a "dowry", P-1460's father had refused permission. The men returned in the night, and abducted P-1460. When she returned, she had lost consciousness, and was like a "*cadavre*". P-1460 subsequently delivered a child as a result. P-0570 considers

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VIII.A.3.g. P-0957 from around August 2012 to January 2013

418. According to the accounts summarised in the civil party complaint¹⁷⁴² and the *procès-verbal* taken by a Malian investigative judge,¹⁷⁴³ four months after the takeover of Timbuktu, a man with white skin speaking Arabic, named [REDACTED] came to P-0957 [REDACTED]'s parents and asked to marry her.¹⁷⁴⁴ P-0957 tried to escape [REDACTED]

[REDACTED]⁷⁴⁵ She was "married" to [REDACTED] for about six months when he regularly raped her.¹⁷⁴⁶ [REDACTED] ended the marriage when he left Timbuktu.¹⁷⁴⁷ P-0609's accounts are also detailed in the statement of P-0524, [REDACTED]

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VIII.A.3.h. P-1674 between April 2012 and January 2013¹⁷⁴⁹

419. P-0636 testified that a girl [REDACTED], P-1674, was forcibly taken from home after her parents disagreed with a "marriage" proposal by "Islamists".¹⁷⁵⁰ P-0636 herself saw the "Islamists" go into the compound of P-1674's family.¹⁷⁵¹ P-0636 later heard that P-1674 "had got pregnant after sexual relations with the 'Islamists'".¹⁷⁵²

VIII.B. Rape committed against women/girls in detention

420. Beyond the context of the forced marriage, sexual slavery, and rape outlined above, Ansar Dine/AQIM members also raped women and girls who had been detained at the BMS for alleged infractions of the rules imposed on the civilian population. The incidents related to the four victims of

¹⁷⁴⁰ P-0520:T-149, p.45, l.20-25(Conf).

¹⁷⁴¹ P-0570:[MLI-OTP-0049-0047-R05](#), p.0059-p.0060, para.48.

¹⁷⁴² [REDACTED]

¹⁷⁴³ [REDACTED]

¹⁷⁴⁴ [REDACTED]

¹⁷⁴⁵ [REDACTED]

¹⁷⁴⁶ [REDACTED]

¹⁷⁴⁷ [REDACTED]

¹⁷⁴⁸ P-0524:[MLI-OTP-0071-0246-R12](#), p.0262-0263, para.102-105.

¹⁷⁴⁹ The incident of P-1674 is charged only under counts 11 and 12.

¹⁷⁵⁰ P-0636:T-071, p.51, l.10-21, p.54, l.2-12.

¹⁷⁵¹ P-0636:T-071, p.53, l.7-p.54, l.1.

¹⁷⁵² P-0636:T-071, p.51, l.10-p.54, l.12.

rape in detention, P-0570, P-0547, P-0636 and P-1134, described above in section VI.B, are thus charged under counts 11-12, in addition to all or some of the counts 1-6.

421. In particular, the *Hesbah* under Mohamed Moussa's leadership frequently detained women and girls at the ATM room attached to the BMS's main building¹⁷⁵³ and nicknamed the "*cellule de cauchemar des femmes*".¹⁷⁵⁴ Multiple women were detained in this small room,¹⁷⁵⁵ some for days without access to food or sanitary facilities.¹⁷⁵⁶ According to P-0057 and P-0055's report, there was still a strong odour of urine in June 2013 upon opening the room,¹⁷⁵⁷ which was measured approximately 2.4m x 1.0-1.4m.¹⁷⁵⁸ There were also rooms inside the BMS building, which were used to detain women.¹⁷⁵⁹

422. In addition to precluding any genuine consent to the so-called "marriages", the coercive environment created by Ansar Dine/AQIM (see section VIII.A.2) also led to women or girls being arrested and detained for defying the rules, and being consequently exposed to a serious risk of, and/or actual incidents of, rape. In all four of the charged incidents concerning P-0570, P-0547, P-0636, and P-1134 (as described above in section VI.B), the same *modus operandi* was followed by members of Ansar Dine/AQIM: the victim is arrested by members of Ansar Dine/AQIM patrolling the streets for a dress code violation; she is detained at the BMS or another location for one or more days; the victim is taken to another room where she is raped by one or more members of Ansar Dine/AQIM before being released.¹⁷⁶⁰ The rapes occurred as a direct consequence of the victims' arrest and detention. The circumstances were plainly coercive;¹⁷⁶¹ in addition force or threats were used in each case.¹⁷⁶² One of the victims, P-0636, [REDACTED]¹⁷⁶³ stated that "when someone has a weapon and you don't, you're in a weak position",¹⁷⁶⁴ [REDACTED]

¹⁷⁵³ P-0641:T-137[ENG], p.54, l.13-20 and P-0641:T-137[FRA], p.54, l.16-21; T-138, p.71, l.11-p.74, l.15; P-0608:T-153, p.80, l.2-7, p.80, l.17-p.81, l.12; P-0608:T-154, p.9, l.5-p.10, l.22; [REDACTED]

¹⁷⁵⁴ Video, [MLI-OTP-0011-0376](#), 00:03:35:00-00:04:01:00, transcript [MLI-OTP-0033-5221](#), p.5223, l.77, translation [MLI-OTP-0033-5369](#), p.5372, l.82.

¹⁷⁵⁵ P-0608:T-154, p.9, l.5-p.11, l.19.D-0544:T-196, p.52, l.5-p.53, l.10.

¹⁷⁵⁶ See e.g. Video, [MLI-OTP-0011-0376](#), 00:03:31:00-00:04:01:00, transcript [MLI-OTP-0033-5221](#), p.5223, l.75-81, translation [MLI-OTP-0033-5369](#), p.5372, l.80-86; [MLI-OTP-0033-4311](#), p.4312; P-0641:T-138, p.71, l.11-p.74, l.19.

¹⁷⁵⁷ P-0055/P-0057:[MLI-OTP-0041-0426](#), p.0442; P-0057:T-022, p.9, l.5-p.10, l.6; P-0055:T-124, p.50, l.8-12.

¹⁷⁵⁸ P-0055/P-0057:[MLI-OTP-0060-1920](#), p.1936.

¹⁷⁵⁹ [REDACTED] See also P-0055/P-0057:[MLI-OTP-0060-1920](#), p.1941-1957.

¹⁷⁶⁰ See the factual descriptions related to the cases of P-0570, P-0547, P-0636 and P-1134 in section VI.B.

¹⁷⁶¹ See section VIII.A.2.

¹⁷⁶² P-0570:[MLI-OTP-0049-0047-R05](#), p.0054-0055, para. 24-35; P-0547:T-152, p.5, l.18-p.5, l.5, p.9, l.15-p.10, l.8, p.12, l.5-6(Conf); P-0636:T-071, p.26, l.4-p.27, l.18, p.29, l.22-p.30, l.4, p.31, l.2-16, p.33, l.7-17(Conf); P-0010's article, [MLI-OTP-0059-0391](#), p.0392.

¹⁷⁶³ P-0636:T-071, p.12, l.4-7(Conf).

¹⁷⁶⁴ P-0636:T-071, p.21, l.11-12(Conf).

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423. These incidents were neither isolated, nor “opportunistic”.¹⁷⁶⁶ Allegations of sexual violence against detained women and girls were well-known at the time. For example, following the 6 October 2012 women’s demonstration, asking for the closure of the women’s prison and the dismissal of Mohamed Moussa,¹⁷⁶⁷ on 9 October 2012, the *Comité de crise* complained to the Ansar Dine/AQIM leadership that women were being beaten, attacked in their homes, imprisoned and “assaulted” during detention.¹⁷⁶⁸

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1770 Likewise, the nature of the mistreatment appears to have been understood among the public at large.

1771 Consistent with these known allegations, after Ansar Dine/AQIM left Timbuktu, many women also reported having been victims of rape while in detention. For example, P-0160 recalled speaking to 11 victims of rape in detention, either at the BMS or the headquarters.¹⁷⁷²

VIII.C. AL HASSAN’s criminal responsibility for the crimes under counts 8-12

424. AL HASSAN contributed to the commission of these crimes pursuant to article 25(3)(d) by his role in Ansar Dine/AQIM, his contribution to the coercive environment, and by specific contributions to the charged crimes.

VIII.C.1. The crimes under counts 8-12 were part of the Common Purpose

425. The facts and evidence described in section VIII.A. and VIII.B show that the Common Purpose pursued by Ansar Dine/AQIM encompassed the execution of the crimes charged under counts 8-12.

VIII.C.2. AL HASSAN’s contributions to the commission of the crimes under counts 8-12

VIII.C.2.a. AL HASSAN’s contribution to the coercive environment

426. As a senior member of the Police, AL HASSAN contributed to maintaining and furthering the coercive environment in Timbuktu, which in turn enabled and facilitated the crimes charged in counts

¹⁷⁶⁵ P-0636:T-071, p.31, l.2-4, l.16 (Conf).

¹⁷⁶⁶ See e.g. ICC-02/11-01/15-1400-Anx4-Red, para. 393-404.

¹⁷⁶⁷ P-0603:T-125, p.35, l.14-p.39, l.1

Article, [MLI-OTP-0001-4074](#); Article, [MLI-OTP-0033-4305](#); P-0608:T154:p.50, l.3-p.51, l.22(Conf) on [MLI-OTP-0061-0007](#).

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¹⁷⁷² P-0160: T-066, p.65, l.2-p.66, l.16(Conf) on [MLI-OTP-0039-0920](#), p.0927.

8-12. **AL HASSAN** helped maintain Ansar Dine/AQIM's armed control of Timbuktu through his deployment and management of the Police; helped coordinate between the Police, the *Hesbah*, and other parts of Ansar Dine/AQIM; made public statements supporting the necessity of implementing Ansar Dine/AQIM's rules and ideology; and contributed to the enforcement of those rules, including by the control and punishment of civilians on behalf of Ansar Dine/AQIM.¹⁷⁷³

427. By these means, **AL HASSAN** contributed to the coercive environment which precluded any genuine consent in the so-called "marriages" and led to local women or girls being arrested and detained for alleged infractions of the rules, enabling their rape by members of Ansar Dine/AQIM. Even if the women and girls raped in detention were arrested or victimised by members of the *Hesbah* rather than the Police,¹⁷⁷⁴ these organs cooperated and supported one another in enforcing the rules. None of this could have occurred without Ansar Dine/AQIM's coercive control of Timbuktu, which he actively contributed to and enabled.

VIII.C.2.b. AL HASSAN's contributions to forced marriages and associated crimes of rapes and sexual slavery

428. **AL HASSAN** also specifically facilitated and enabled forced marriages of Ansar Dine/AQIM members to local women or girls.

429. First, **AL HASSAN** dispatched patrols around Timbuktu,¹⁷⁷⁵ and imposed no restrictions to the behaviours of Ansar Dine/AQIM members who looked for, identified and/or accosted potential "wives" on the streets. P-0520's forced marriage illustrates this practice of Ansar Dine/AQIM members. Likewise, the accounts of P-0538, P-0602, and P-0610 illustrate that Ansar Dine/AQIM members felt entitled to enter civilian homes – while armed – in order to find potential "wives". Such conduct preceded specific incidents of forced marriage and also contributed to the harassment and general intimidation of the civilian population, furthering the coercive environment. By his conduct and attitude concerning "marriage", **AL HASSAN** permitted, condoned, and accepted the practices (and crimes).

430. Second, **AL HASSAN** also took active steps to facilitate marriages between the Police members and local women and girls in the coercive environment that he knew existed in Timbuktu at the time. Police members were among those who "married" women in Timbuktu,¹⁷⁷⁶ including its first emir Adama, Abou Dhar, and at least two or three members of the police known to **AL HASSAN**.¹⁷⁷⁷ In particular, **AL HASSAN** assisted the Police members in requesting money from the emirs to be used in place of a "dowry" to procure "wives". He admitted that he wrote such requests on behalf of those

¹⁷⁷³ See section IV.B.4.

¹⁷⁷⁴ P-0654:T-134, p.21, l.1-9(Conf); P-0398:[MLI-OTP-0051-0483](#), p.0503-0509, l.613-798; P-0065:T-039, p.43, l.12-16(Conf); P-0582:[MLI-OTP-0065-0602-R02](#), p.0613-0615.

¹⁷⁷⁵ See section IV.B.4.a.ii.

¹⁷⁷⁶ P-0160:T-066, p.71, l.10-17, p.72, l.11-p.73, l.19.

¹⁷⁷⁷ P-0398:[MLI-OTP-0051-0891](#), p.0897, l.188-209.

who wished to “marry”, such as for a man named “Mohamed”, and submitted them to emirs including the Police Emir and Abou Zeid (see above section IV.B.4.a.vi).¹⁷⁷⁸

431. Third, **AL HASSAN** exercised his influence to assist other members of Ansar Dine/AQIM in getting “married” with local women/girls.¹⁷⁷⁹ In addition to those instances where Ansar Dine/AQIM members effectively abducted “wives”, as mentioned above in section VIII.A.3.a and d, senior locals who had joined Ansar Dine/AQIM, such as Al Mahdi, Houka Houka and **AL HASSAN**, were sometimes instrumental in locating and selecting the women or girls to be “married” and pressuring them and their families to agree to “marriages”.¹⁷⁸⁰ [REDACTED]

[REDACTED]

[REDACTED]¹⁷⁸¹ [REDACTED]

[REDACTED]¹⁷⁸² The “mediations” by senior locals were therefore important to give an appearance of legitimacy to the “marriages” concerned.¹⁷⁸³ For example, **AL HASSAN** and Adama cooperated in arranging Abou Dhar’s “marriage”: While Adama provided a sum of money as “dowry”, **AL HASSAN** “mediated” with the brother of the intended “bride”.¹⁷⁸⁴ [REDACTED]

[REDACTED]

[REDACTED]¹⁷⁸⁵

432. Fourth, **AL HASSAN** dealt with “marital problems” as part of his duties in the Police.¹⁷⁸⁶ Such problems were common in “marriages” between Ansar Dine/AQIM members and local women or girls,¹⁷⁸⁷ “because of the differences in language, in customs, and in religion – and also the fact that they didn’t know each other before and they didn’t have any love between themselves”.¹⁷⁸⁸ For example, [REDACTED]

[REDACTED]

¹⁷⁷⁸ P-0398:[MLI-OTP-0051-0891](#), p.0901, l. 325-0904, l.431, p.0906, l.493-p.0907, l.524.

¹⁷⁷⁹ [REDACTED]

¹⁷⁸⁰ [REDACTED]

¹⁷⁸¹ [REDACTED]

¹⁷⁸² [REDACTED]

¹⁷⁸³ [REDACTED]

¹⁷⁸⁴ P-0398:[MLI-OTP-0051-0891](#), p.0904, l.434-p.0905, l.472, p.0907, l.525-550.

¹⁷⁸⁵ [REDACTED]

¹⁷⁸⁶ [REDACTED] P-0398:[MLI-OTP-0062-0969](#), p.0982-0987, l.440-601. *See e.g.* Report, [MLI-OTP-0055-1082](#) (left-hand side), translation [MLI-OTP-0054-0312](#), referral [MLI-OTP-0055-1082](#) (right-hand side), translation [MLI-OTP-0054-0312](#); Report, [MLI-OTP-0001-7511](#) (right-hand side), translation [MLI-OTP-0052-0075](#), referral, [MLI-OTP-0001-7512](#) (left-hand side), translation [MLI-OTP-0077-2791](#), judgment, [MLI-OTP-0001-7410](#) (right-hand side), translation [MLI-OTP-0078-6033](#); Report, [MLI-OTP-0001-7572](#) (right-hand side), translation [MLI-OTP-0052-0121](#), referral [MLI-OTP-0001-7573](#) (left-hand side), translation [MLI-OTP-0052-0123](#), judgment, [MLI-OTP-0068-4728](#), translation [MLI-OTP-0069-3207](#); Report, [MLI-OTP-0053-0034](#), translation [MLI-OTP-0077-2197](#), judgment [MLI-OTP-0053-0124](#), translation [MLI-OTP-0077-2217](#).

¹⁷⁸⁷ [REDACTED]

¹⁷⁸⁸ [REDACTED]

[REDACTED] **AL HASSAN** “usually [...] assess[ed] the weight of the case” and decided whether to “refer it” to the Tribunal.¹⁷⁸⁹ [REDACTED] further confirmed that a police referral, often made by **AL HASSAN**, was a prerequisite for initiating proceedings before the Tribunal on family matters.¹⁷⁹⁰ Indeed, it was **AL HASSAN** who drafted and signed a report [REDACTED] [REDACTED]¹⁷⁹¹ before the case was brought before the Tribunal.¹⁷⁹²

VIII.C.2.c. AL HASSAN contributed to rape of women/girls in detention

433. Through his functions as a senior member of the Police,¹⁷⁹³ **AL HASSAN** specifically contributed to the system of arresting and detaining women or girls for violating Ansar Dine/AQIM’s rules on dress and social conduct, placing them at serious risk of rape in detention. Abou Zeid had made clear in August 2012 that this was the joint responsibility of the Police, *Hesbah*, and Security Battalion.¹⁷⁹⁴ **AL HASSAN** confirmed that “*la convention du convenable et l’interdiction du blâmable*” was “*le travail de tout le monde*”, including the Police.¹⁷⁹⁵ This remained the case, including through joint patrols, even when the *Hesbah* under Mohamed Moussa took a more significant role from September 2012 onwards.¹⁷⁹⁶ Indeed, [REDACTED] a Police patrol carrying out such activities in the Timbuktu market.¹⁷⁹⁷ Irrespective of whether P-0570, P-0547, P-0636 and P-1134 were actually detained or victimised by members of the Police or the *Hesbah*, **AL HASSAN**’s contributions to the system of detaining “stubborn” women or girls provided practical assistance to its functioning and moral support to those involved.

VIII.C.3. AL HASSAN’s intent and knowledge regarding the crimes under counts 8-12

434. **AL HASSAN** meant to engage in the above conduct which constituted contributions to the commission of the crimes of forced marriages (and associated sexual slavery and rape), and the rape of detained women and girls. He made his contributions “with the aim of furthering the criminal activity or criminal purpose” of Ansar Dine/AQIM and/or at least “in the knowledge of [their] intention [...] to commit the crimes”.

¹⁷⁸⁹ [REDACTED]

¹⁷⁹⁰ [REDACTED]

¹⁷⁹¹ [REDACTED]

¹⁷⁹² See e.g. [REDACTED]

¹⁷⁹³ See section IV.B.4.

¹⁷⁹⁴ [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); [REDACTED]

¹⁷⁹⁵ P-0398: [MLI-OTP-0051-0457](#), p.0467, l.318-330.

¹⁷⁹⁶ [REDACTED] P-0654:T-134, p.21, l.1-9(Conf); P-0398:[MLI-OTP-0051-0483](#), p.0503-0509, l.613-798.

¹⁷⁹⁷ [REDACTED]

VIII.C.3.a. AL HASSAN's intent and knowledge regarding forced marriage and associated sexual slavery and rape

435. **AL HASSAN** knew that “many” Ansar Dine/AQIM members “married” local women and girls,¹⁷⁹⁸ with the active encouragement of Ansar Dine/AQIM, and that according to its ideology, this entailed a “husband”’s “right” to have sex with his “wife”, as well as a deprivation of the “wife’s” liberty.¹⁷⁹⁹ He likewise knew of the circumstances precluding the ability of local women and girls (and their family members) to give genuine consent to such “marriages”, including: the widespread carriage of arms by Ansar Dine/AQIM members; the harsh punishment for perceived disobedience to Ansar Dine/AQIM’s harsh social rules; and the means by which Ansar Dine/AQIM demonstrated its clear endorsement of such “marriages”, such as through “mediations” by senior members and the provision of funds.¹⁸⁰⁰ And he knew that “marriages” between Ansar Dine/AQIM members and local women or girls were frequently brief, and often led to “marital problems” which, if not resolved by the acquiescence of the “wife” concerned, led to her punishment. Given his knowledge, and his ongoing conduct to facilitate such “marriages” (and associated rape and sexual slavery) and active endorsement of these practices and crimes, **AL HASSAN** acted with the aim of furthering the criminal activity or criminal purpose of Ansar Dine/AQIM and/or at least in the knowledge of their intention to commit these crimes.

VIII.C.3.b. AL HASSAN's intent and knowledge regarding rape of women/girls in detention

436. **AL HASSAN** knew that women or girls who violated the dress code were arrested by the Police¹⁸⁰¹ and the *Hesbah*¹⁸⁰² and detained in the BMS. **AL HASSAN** himself confirmed that the Islamic Police would arrest and detain people for violation of the Groups’ rules when they were headquartered in the BMS, including women who were not properly veiled.¹⁸⁰³ P-0638 and P-0984 testified that they saw or knew of women being detained in the BMS for violations of the dress code while it was still the headquarters of the Islamic Police.¹⁸⁰⁴ After the *Hesbah* took over the use of the BMS as their headquarters in September 2012 and the Islamic Police relocated to the *Gouvernorat*, **AL HASSAN** was aware of that women and girls continued to be arrested and detained in the BMS by the *Hesbah*,

¹⁷⁹⁸ P-0398: [MLI-OTP-0051-0891](#), p.0896, l.171-p.0898, l.221.

¹⁷⁹⁹ Above section VIII.A.1.

¹⁸⁰⁰ Concerning the necessity for “mediating” marriage proposals: e.g. P-0398: [MLI-OTP-0051-0891](#), p.0907, l.525-550. Concerning the necessity for the payment of money as “dowry”, e.g. P-0398: [MLI-OTP-0051-0891](#), p.0899-0900, l.270-294, p.0901, l.325-342, p.0904-0905, l.434-472, p.0906-0907, l.498-542.

¹⁸⁰¹ V [REDACTED] P-0638: T-058, p.40, l.1-p.43, l.13(Conf); P-0641: T-137, p.57, l.2-11.

¹⁸⁰² P-0398: [MLI-OTP-0051-1124](#), p.1150, l.851-861 (“la population et tout le monde en parlaient”).

¹⁸⁰³ [REDACTED]

¹⁸⁰⁴ P-0638: T-058, p.40, l.16-p.41, l.13; P-0984: T-068, p.60, l.7-13.

and knew which cell the women were kept in, because “*la population et tout le monde en parlaient*”.¹⁸⁰⁵ For example, **AL HASSAN** took action to try and secure the release of a woman personally known to him when she was detained in the BMS,¹⁸⁰⁶ or others upon request by his acquaintances, such as D-0544.¹⁸⁰⁷

437. **AL HASSAN** knew that there were complaints and allegations about the violent behaviour of the police and the mistreatment and abuse of women in the BMS, including by Mohamed MOUSSA. In August 2012, the Vice-President of the Crisis Committee went to the police station to meet with the “deputy commissaire” – which at that time was **AL HASSAN**’s role – to complain about the behaviour and “abuses” of officers.¹⁸⁰⁸ **AL HASSAN** referred to Mohamed Moussa as “too hard” and “draconian”,¹⁸⁰⁹ and said that many members of the population complained about him¹⁸¹⁰ as he would arrest and imprison women for small problems.¹⁸¹¹ **AL HASSAN** stated that on one occasion his neighbour contacted him to ask for his help because Mohammed Mousa had arrested and imprisoned his wife. When **AL HASSAN** went to see Mohammed Moussa about this the latter told him “*cette femme la doit rester avec moi jusqu’au matin*.”¹⁸¹² On 6 October 2012, **AL HASSAN** attended the Women’s March,¹⁸¹³ where protesters demanded Mohamed Moussa’s removal from the *Hesbah* and the closure of the women’s prison at the BMS.¹⁸¹⁴ He would have seen that the complaints “didn’t result in any meaningful outcome”.¹⁸¹⁵ Indeed, the *Comité de crise* continued to bring complaints about Moussa’s behaviour and the imprisonment of women throughout November and December 2012.¹⁸¹⁶

438. Based on their vision of women being at their members’ control and/or disposal,¹⁸¹⁷ Ansar Dine/AQIM took no effective steps to prevent or punish their members who took advantage of their power to commit sexual violence against women. For example, on 20 August 2012, in the Abaradjou neighbourhood, a 14-year old girl was raped under threat of a weapon by a member of the Police.¹⁸¹⁸

¹⁸⁰⁵ P-0398: [MLI-OTP-0051-1124](#), p. 1150, l.851-861.

¹⁸⁰⁶ P-0398: [MLI-OTP-0051-1124](#), p.1150, l.865-879.

¹⁸⁰⁷ D-0544:T-196, p.51, l.22-p.53, l.4; D-0544: [MLI-D28-0006-3342-R01](#), p.3346, para.22-24.

¹⁸⁰⁸ Crisis Committee’s notes from 26 July 2012 to 30 August 2012, [MLI-OTP-0030-1044-R01](#), p.1068, dated 12 August 2012; P-0004:T-165, p.32, l.20-p.33, l.4; P-0398: [MLI-OTP-0051-0557](#), p.0562, l.155-163, [MLI-OTP-0051-1099](#), p.1104, l.142-160.

¹⁸⁰⁹ P-0398: [MLI-OTP-0051-1124](#), p. 1145, l.698, l.713.

¹⁸¹⁰ P-0398: [MLI-OTP-0051-1124](#), p.1151, l.888.

¹⁸¹¹ P-0398: [MLI-OTP-0051-1124](#), p. 1145, l.708.

¹⁸¹² P-0398: [MLI-OTP-0051-1124](#), p.1150, l.865-874.

¹⁸¹³ P-0582: [MLI-OTP-0062-4157-R02](#), p.4179-4181, l.764-855; [MLI-OTP-0062-4185-R02](#), p.4189-4193, l.122-280.

¹⁸¹⁴ P-0654:T-134, p.88, l.16-21(Conf); P-0547:T-153, p.3, l.17-p.4, l.6; [REDACTED] DSM report, [MLI-OTP-0012-0975](#).

¹⁸¹⁵ [REDACTED]

¹⁸¹⁶ P-0004:T-165, p.51, l.11-p.54, l.1, p.60, l.3-8(Conf) on [MLI-OTP-0030-1177](#), p.1194 (dated 2 December 2012)-p.1195 (dated 29 November 2012).

¹⁸¹⁷ See section X.D.

¹⁸¹⁸ [REDACTED]

After the victim identified the police officer from Burkina Faso named Abou Boccar as the perpetrator, the latter was arrested, imprisoned and brought to the Tribunal.¹⁸¹⁹ According to the Tribunal judgment dated 27 August 2012, Abou Boccar admitted that “he had committed extra-marital sexual intercourse with the girl after threatening to take her to the police station [...] whilst he was armed”.¹⁸²⁰ Yet, contrary to the Defence allegations that he was “punished for misusing his position and misusing his weapon”,¹⁸²¹ he was only sentenced for the crime of adultery (extra-marital sexual intercourse).¹⁸²² He was not sentenced for rape, because threatening with weapons was “part of the daily normal practice of the police and the *Hesbah*”. The threat with arms was only used as evidence of coercion to spare the victim of the *Hudud* punishment for adultery.¹⁸²³ The incidents described in this section show that sexual violence against women in Timbuktu including rapes in detention continued after Abou Boccar was punished.¹⁸²⁴

439. **AL HASSAN** was aware of the risk of rape faced by detained women, in circumstances where armed male guards had access to female prisoners. There were no female guards either in the Police or the *Hesbah*. [REDACTED] under their interpretation of Sharia it was only permissible for women to be guarded by men subject to certain safeguards, such as requiring the male guards to be elderly and not permitting them to be alone with the detainees;¹⁸²⁵ however, these requirements were not followed as demonstrated by the evidence concerning the rapes of women in detention.¹⁸²⁶ Under Ansar Dine/AQIM’s rules, male visitors were not permitted to enter the women’s prison alone and had to be accompanied at all times,¹⁸²⁷ but armed male guards continued to have access to vulnerable female detainees. P-0582 recalled that, unlike “married” men, “unmarried” Police members could sleep on the roof of the BMS and later in the rooms within the *Gouvernorat*.¹⁸²⁸ **AL HASSAN** knew that female detainees were guarded by Ansar Dine/AQIM men.¹⁸²⁹ [REDACTED] also acknowledged that he could “not exclude the possibility” that members of the Police or the *Hesbah* would rape detained women or girls.¹⁸³⁰ In this regard, witness P-0004 noted that in May 2012 two members of the Islamic Police had

¹⁸¹⁹ P-0582: [MLI-OTP-0062-3788-R02](#), p.3811-3819, 1.777-1049; P-0398: [MLI-OTP-0051-0457](#), p.0476-0479, 1.645-744; [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#), p.0064 at no. 20 referring to “Abu-Bakr Diku” imprisoned on 21 August 2012 for “adultery”; D-0213:T-197, p.25, 1.14-p.35, 1.13.

¹⁸²⁰ Judgment, [MLI-OTP-0053-0168](#), translation [MLI-OTP-0077-2229](#).

¹⁸²¹ Defence opening statements: T-172, p.30, 1.6-10.

¹⁸²² Judgment, [MLI-OTP-0053-0168](#), translation [MLI-OTP-0077-2229](#); [REDACTED]

P-0626:T-142, p.63, 1.3-p.64, 1.19(Conf).

¹⁸²³ [REDACTED]; T-111, p.25, 1.5-p.28, 1.2(Conf).

¹⁸²⁴ See also Audio interview, [MLI-OTP-0033-2814](#), transcript [MLI-OTP-0069-3232](#).

¹⁸²⁵ [REDACTED]

¹⁸²⁶ See sections VI.B.2, VI.B.8, VI.B.10 and VI.B.11.

¹⁸²⁷ [REDACTED]

¹⁸²⁸ P-0582: [MLI-OTP-0062-3921-R02](#), p.3928-3930, 1.237-287, p.3937-3949, 1.551-939; [MLI-OTP-0062-4012-R02](#), p.4017-4018, 1.152-175.

¹⁸²⁹ P-0398: [MLI-OTP-0051-0513](#), p.0516, 1.87-p.0520, 1.235.

¹⁸³⁰ [REDACTED]

attempted to rape a woman in the Bellafarandi neighbourhood.¹⁸³¹ In fact, as subsequently became clear with regard to the conduct of Mohamed Moussa, the Ansar Dine/AQIM leadership had always understood that “the necessary criteria or standards for the imprisonment of women [...] were not met”,¹⁸³² but simply did “not object to such detention if it emanates from women’s stubbornness”.¹⁸³³ Given this knowledge, and his continuing conduct to enable and facilitate the arrest and detention of “stubborn” women (including P-0570, P-0547, P-0636 and P-1134), **AL HASSAN** acted with the aim of furthering the criminal activity or criminal purpose of Ansar Dine/AQIM and/or at least acted in the knowledge of their intention to commit these crimes.

IX. Attacks on protected objects (count 7)¹⁸³⁴

440. The evidence shows beyond reasonable doubt that members of Ansar Dine/AQIM attacked and destroyed a number of mausoleums and the door of the Sidi Yahia mosque as part of their Common Purpose to impose their religious views over the inhabitants of Timbuktu and that **AL HASSAN** contributed to their destruction. **AL HASSAN** is criminally responsible for the war crime of attacking protected objects (article 8(2)(e)(iv)) under article 25(3)(d) of the Statute.

441. Timbuktu is known as the city of 333 saints.¹⁸³⁵ These saints are buried in various mausoleums and mosques, and were mainly Muslim scholars¹⁸³⁶ from the 13/14th century venerated because of their good deeds.¹⁸³⁷ As such, the mausoleums and mosques of Timbuktu reflect major periods in its history and mark the spreading of the Muslim faith throughout western Africa.¹⁸³⁸ They are used as places of worship¹⁸³⁹ and/or memory of the population’s ancestors.¹⁸⁴⁰ For families descended from the saints, they are both a form of income through the oblations received and a source of pride.¹⁸⁴¹ As such, the mausoleums and mosques were regularly maintained by the locals.¹⁸⁴² Since 1977, given their religious

¹⁸³¹ [REDACTED]

¹⁸³² [REDACTED]

¹⁸³³ [REDACTED]

¹⁸³⁴ ICC-01/12-01/18-335-Conf-Corr, para.687-715.

¹⁸³⁵ [REDACTED] P-0104:T-024, p.16, l.12-16, p.30, l.18-22; P-0431:T-062, p.20, l.22-23.

¹⁸³⁶ P-0398:[MLI-OTP-0062-0969](#), p.0976, l.222; P-0431:T-062, p.20, l.2-7.

¹⁸³⁷ P-0114:[MLI-OTP-0023-0344-R02](#), p.0354-0355, para.55, 57; P-0104:T-024, p.16, l.13-24; P-0151:[MLI-OTP-0069-4350](#), p.4393, l.18-20; P-0654:T-132, p.61, l.13-15.

¹⁸³⁸ P-0431:T-062, p.19, l.14-23.

¹⁸³⁹ P-0104:T-024, p.16, l.25-p.17, l.8; P-0114:[MLI-OTP-0023-0344-R02](#), p.0354, para.54-55, p.0368, para.97; P-0114:T-060, p.22, l.1-p.23, l.1-6, p.23, l.20-22; P-0151:[MLI-OTP-0069-4350](#), p.4393, l.15-p.4394, l.2; P-0151:[MLI-OTP-0029-0843-R03](#), p.0856, para.72; P-0654:T-132, p.13, l.18-p.14, l.2; P-0065:T-037, p.21, l.14-18; D-0093:T-211, p.45, l.11-17; P-0431:T-062, p.20, l.10-21.

¹⁸⁴⁰ P-0125:[MLI-OTP-0023-0004-R03](#), p.0017, para.59; P-0638:T-058, p.26, l.21-p.27, l.1, p.27, l.4-7.

¹⁸⁴¹ P-0114:[MLI-OTP-0023-0344-R02](#), p.0355, para.58.

¹⁸⁴² P-0151:[MLI-OTP-0029-0843-R03](#), p.0859, para.88; P-0151:T-034, p.10, l.20-p.12, l.7; P-0114:[MLI-OTP-0023-0344-R02](#), p.0353, para.48, p.0369-0370, para.106-107, 110-111, p.0371, para.116; P-0431:T-062, p.13, l.1-p.16, l.12; *Plan de Conservation*:[MLI-OTP-0007-0002](#); P-0638:T-058, p.29, l.2-8; P-0654:T-132, p.61, l.20-p.62, l.9; P-0151:[MLI-OTP-0029-0843-R03](#), p.0855-0856, para.71; Annex V:[MLI-OTP-0029-1075](#); P-0151:T-034, p.12, l.8-p.13, l.21, p.37, l.20-p.38, l.5; P-0431:T-062, p.20, l.24-p.21, l.7.

and historical value, they were protected as national cultural heritage.¹⁸⁴³ In 1988, UNESCO further acknowledged the exceptional universal importance of 16 mausoleums and the three mosques in Timbuktu.¹⁸⁴⁴ All the mausoleums¹⁸⁴⁵ destroyed by Ansar Dine/AQIM, with the exception of the Sheikh Mohamed Mahmoud Al Arawani mausoleum,¹⁸⁴⁶ had the status of world cultural heritage.

442. Consistent with the Court’s practice in the other case prosecuted in this situation, the material facts charged with regard to the attack upon and destruction of the mausoleums and the door of the Sidi Yahia mosque were legally characterised as an attack on protected objects in the meaning of article 8(2)(e)(iv) of the Statute. As the Trial Chamber held in *Al Mahdi*, unlike other uses of the word in article 8(2)(e), an “attack” for the purpose of article 8(2)(e)(iv) “encompasses any acts of violence against protected objects” without “distinction as to whether it was carried out in the conduct of hostilities or after the object had fallen under the control of an armed group”.¹⁸⁴⁷ This reflects “the special status of religious, cultural, historical and similar objects”, which are protected “from crimes committed both in battle and out of it” under applicable principles and rules of international humanitarian law.¹⁸⁴⁸ While some dicta at trial and on appeal in *Ntaganda* questioned this interpretation, it was not squarely overruled.¹⁸⁴⁹ Yet in any event, to any extent that the Chamber considers it necessary to consider a legal recharacterisation to article 8(2)(e)(xii) (destroying the property of an adversary without military necessity),¹⁸⁵⁰ it should give timely notice of this intention and allow the parties opportunity to make submissions accordingly.

IX.A. The attacks against protected objects

443. Ansar Dine/AQIM objective included putting an end to what it considered to be non-Islamic and immoral practises such as the non-monotheistic manifestation of practises around the graves in Timbuktu.¹⁸⁵¹ [REDACTED] Abdallah Al Chinguetti raised the idea of demolishing the shrines.¹⁸⁵² He stated in a letter that “[a]mong the greatest

¹⁸⁴³ P-0114:[MLI-OTP-0023-0344-R02](#), p.0369-0370, para.104-105,108,109; P-0431:T-062, p.19, 1.7-p.20, 1.21, p.22, 1.12-p.26, 1.18; [MLI-OTP-0009-1607](#), p.1609-1619, p.1630-1632; [MLI-OTP-0029-1078](#), p.0857, para. 80.

¹⁸⁴⁴ P-0114:[MLI-OTP-0023-0344-R02](#), p.0371, para.115; P-0431:T-062, p.27, 1.2-11; P-0151:[MLI-OTP-0029-0843-R03](#), p.0855, para.67-p.0859, para. 88; P-0151:[MLI-OTP-0069-4350](#), p.4402, 1.13-16. *See also*: First Malian Nomination Dossier, [MLI-OTP-0004-0361](#); Second Malian Nomination Dossier, [MLI-OTP-0013-3541](#) and page [MLI-OTP-0029-1076](#); WHC/Nomination, [MLI-OTP-0006-3298](#); WHC Nomination List of WH in Danger, [MLI-OTP-0004-0321](#).

¹⁸⁴⁵ P-0151:[MLI-OTP-0029-0843-R03](#), p.0857-0858, para.99-100; P-0151:[MLI-OTP-0069-4350](#), p.4402, 1.17-p.4405, 1.19; *Mausolées inscrits sur la Liste du patrimoine*: [MLI-OTP-0029-1126](#), p.1127-1128; *Réponse à la lettre de la CPI*:[MLI-OTP-0013-3531](#).

¹⁸⁴⁶ P-0104:[MLI-OTP-0028-0586](#), p.0761; *Etude sur les mausolées*:[MLI-OTP-0015-0081](#), p.0105.

¹⁸⁴⁷ ICC-01/12-01/15-171, para. 15.

¹⁸⁴⁸ ICC-01/12-01/15-171, para. 15. *See also* para.14, 16. ICC-01/04-02/06-2431 A2, para. 9, 17-102.

¹⁸⁴⁹ *See e.g.* ICC-01/04-02/06-2666-Red A A2, para. 1164-1168; ICC-01/04-02/06-2666-Anx1, para.6-44; ICC-01/04-02/06-2666-Anx4, para.1-19; ICC-01/04-02/06-2666-Anx5-Corr, para.109-137 (reflecting a 2-1-1-1 split in the reasoning of the Appeals Chamber, on a wide range of issues).

¹⁸⁵⁰ ICC-01/12-01/15-171, para. 12 (noting the legal possibility of such a recharacterisation but not considering it necessary).

¹⁸⁵¹ [REDACTED]

¹⁸⁵² [REDACTED]

of forbidden acts, which the Sharia has commanded be [...] eradicated are constructing graves above ground level, [...] and utilising them as places of worship”.¹⁸⁵³ [REDACTED]

[REDACTED] Al Mahdi was tasked with enforcing these directions.¹⁸⁵⁴

444. In the first two months, Al Mahdi and the *Hesbah* implemented Abdallah Al Chinguetti’s instructions by patrolling the shrines and preventing locals from practising their rituals around the mausoleums.¹⁸⁵⁵ Ansar Dine/AQIM distinguished between “allowed practices” (including *Sharia*-complaint visits) and “nonconformist visits” together with “high offences and non-monotheistic acts”.¹⁸⁵⁶ Locals were impeded from engaging in previously common practices such as touching the graves, or collecting soil around them. Failure to respect these rules resulted in expulsion from the cemetery by the *Hesbah*.¹⁸⁵⁷ Locals stopped visiting the graves on Fridays as they could no longer practise their rituals.¹⁸⁵⁸ Friday sermons were used to test the water with the population before mausoleums were destroyed, with imams paid for their loyalty or silence.¹⁸⁵⁹

445. The first attacks against religious and historical monuments by Ansar Dine/AQIM began in May 2012. The Sidi Mahmoud Ben Omar Mohamed Aquit mausoleum was attacked on or around 6 May 2012¹⁸⁶⁰ and the Al Farouk monument was first damaged in April/May 2012.¹⁸⁶¹ The latter was a sacred¹⁸⁶² and historical¹⁸⁶³ symbol for the people in Timbuktu – something which Sanda Ould Boumama (the Ansar Dine/AQIM spokesperson) found unacceptable.¹⁸⁶⁴ In May 2012,¹⁸⁶⁵ another historical monument dear to the population, *le Monument des Martyrs*, was damaged.¹⁸⁶⁶

446. [REDACTED]
[REDACTED]¹⁸⁶⁷
[REDACTED]¹⁸⁶⁸ [REDACTED]

¹⁸⁵³ Letter: [MLI-OTP-0002-0757](#), translation [MLI-OTP-0034-1363](#), p.1364.

¹⁸⁵⁴ [REDACTED]

¹⁸⁵⁵ [REDACTED]

¹⁸⁵⁶ [REDACTED].

¹⁸⁵⁷ [REDACTED]

¹⁸⁵⁸ [REDACTED]

[REDACTED]

¹⁸⁵⁹ [REDACTED]

¹⁸⁶⁰ [REDACTED] p.0650; P-0114: [MLI-OTP-0023-0344-R02](#), p.0374, para.132,134; Articles, [MLI-OTP-0006-3280](#), [MLI-OTP-0001-3670](#), [MLI-OTP-0012-1069](#); [REDACTED]

¹⁸⁶¹ P-0104: [MLI-OTP-0028-0586](#), p.0788; Video, [MLI-OTP-0011-0402](#) published on 6 May 2012.

¹⁸⁶² P-0654:T-132, p.9, l.21-p.10, l.10(Conf); [REDACTED]

¹⁸⁶³ P-0104: [MLI-OTP-0028-0586](#), p.0785.

¹⁸⁶⁴ [REDACTED] P-0654:T-131, p.54, l.5-11(Conf); P-654:T-132, p.16, l.3-p.17, l.13 on [MLI-OTP-0011-0402](#), transcript [MLI-OTP-0020-0612](#), p.0613, l.27-29.

¹⁸⁶⁵ P-0075: [MLI-OTP-0069-5868](#), p.6012 on [MLI-OTP-0012-1519](#).

¹⁸⁶⁶ P-0654:T-132, p.10, l.11-p.11, l.21 on [MLI-OTP-0012-1519](#); article: [MLI-OTP-0001-3813](#).

¹⁸⁶⁷ [REDACTED]

¹⁸⁶⁸ [REDACTED]

¹⁸⁶⁹ Abou Zeid put Al Mahdi in charge of destroying the mausoleums.¹⁸⁷⁰ The Friday sermon, [REDACTED] was distributed to the imams; it announced the obligation to raze graves to the ground.¹⁸⁷¹

447. The mausoleums were progressively destroyed starting from the north and ending in the south of Timbuktu.¹⁸⁷² The charged acts took place from end of June to mid July 2012.¹⁸⁷³ A bulldozer was even used to destroy the mausoleums at Djingareyber.¹⁸⁷⁴ Sanda Ould Boumama¹⁸⁷⁵ and Omar Ould Hamaha¹⁸⁷⁶ justified the group's actions through public statements. During an interview, Sanda Ould Boumama expressed total disregard for the fact that the destroyed mausoleums were included in the Unesco world heritage list.¹⁸⁷⁷ Other mausoleums were destroyed in Timbuktu in November/December 2012.¹⁸⁷⁸ The Al Farouk monument was also completely destroyed¹⁸⁷⁹ in November 2012.¹⁸⁸⁰

IX.A.1. Sheikh Sidi Mahmoud Ben Omar Mohamed Aquit and Sheikh Mohamed Mahmoud Al Arawani mausoleums

448. On 30 June 2012¹⁸⁸¹ around 08:00,¹⁸⁸² Ansar Dine/AQIM members started tearing down these two

¹⁸⁶⁹

¹⁸⁷⁰

¹⁸⁷¹ [REDACTED]

¹⁸⁷²

¹⁸⁷³ P-0654: T-131, p.54, l.2(Conf); P-0065: T-043, p.22, l.17(Conf); [REDACTED] P-0114:[MLI-OTP-0023-0344-R02](#), p.0374, para.133.

¹⁸⁷⁴ [REDACTED] See also incident IX.A.6

¹⁸⁷⁵ P-0623:T-029, p.45, l.6-16, p.49, l.12-13;

¹⁸⁷⁶ P-0654:T-130, p.78, l.2-4, p.81, l.6-20, p.87, l.8-10(Conf) on [MLI-OTP-0020-0104](#), transcript [MLI-OTP-0056-0790](#), translation [MLI-OTP-0061-1132](#), p.1135, l.70-84.

¹⁸⁷⁷ [REDACTED]

¹⁸⁷⁸ P-0114:[MLI-OTP-0023-0344-R02](#), p.0374, para.133; P-0064:[MLI-OTP-0017-0029](#), p.0039; P-0064:[MLI-OTP-0021-0006](#), p.0013-0016, p.0018-0020, p.0022; P-0102:[MLI-OTP-0029-0503](#), p.0524-0547, p.0557-0563, p.0599-0613, p.0655-0660, p.0662-0664, p.0674-0679, p.0707, n.12, p.0708, n.4, p.0709, n.8-9; article:[MLI-OTP-0009-1743](#), p.1744. [REDACTED]

¹⁸⁷⁹ [REDACTED]

[REDACTED]; P-0654:T-131, p.12, l.2-16(Conf); [REDACTED] P-0064:[MLI-OTP-0017-0029](#), p.0042-0043.

¹⁸⁸⁰ P-0104:[MLI-OTP-0028-0586](#), p.0788; P-0114:[MLI-OTP-0023-0344-R02](#), p.0374, para.134.

¹⁸⁸¹ P-0114:[MLI-OTP-0023-0344-R02](#), p.0360 on [MLI-OTP-0009-1517](#); Articles, [MLI-OTP-0001-3769](#), [MLI-OTP-0001-1944](#); *Bulletin*, [MLI-OTP-0012-0462](#), p.0463-0464; Video, [MLI-OTP-0001-6926](#), 00:00:16:10-00:00:20:00; P-0004:[MLI-OTP-0003-0062-R02](#), p.0121, p.0123; [REDACTED]

¹⁸⁸² [REDACTED]

mausoleums. [REDACTED]¹⁸⁸³ [REDACTED] Al Mahdi,¹⁸⁸⁴ Abou Baccar Al Chinguetti,¹⁸⁸⁵ Abou Talha,¹⁸⁸⁶ Abou Al Baraa,¹⁸⁸⁷ Khaled Al Sahraoui,¹⁸⁸⁸ Abou Sayaf¹⁸⁸⁹ and members of the Police participating in the destruction.¹⁸⁹⁰ In the end, the mausoleums were completely destroyed.¹⁸⁹¹ Located in the north of Timbuktu,¹⁸⁹² the Sidi Mahmoud Ben Omar Mohamed Aquit was the biggest mausoleum¹⁸⁹³ in the cemetery named after the Saint.¹⁸⁹⁴ It was an historical building¹⁸⁹⁵ and a place of worship.¹⁸⁹⁶ The Al Arawani mausoleum was situated in the same cemetery.¹⁸⁹⁷

IX.A.2. Sheikh Sidi El Mokhtar Ben Sidi Mouhammad Al Kabir Al Kounti mausoleum

449. On 30 June 2012,¹⁸⁹⁸ following the attack on the Sidi Mahamoud mausoleum,¹⁸⁹⁹ Ansar

¹⁸⁸³ [REDACTED]
¹⁸⁸⁴ [REDACTED]
¹⁸⁸⁵ [REDACTED]
¹⁸⁸⁶ [REDACTED] P-0398: [MLI-OTP-0060-1374](#), p.1391, l.569-583.
¹⁸⁸⁷ [REDACTED] P-0398: [MLI-OTP-0060-1374](#), p.1391, l.585-p.1392, l.597. [REDACTED] P-0398: [MLI-OTP-0060-1352](#), p.1363, l.345-370.
¹⁸⁸⁸ [REDACTED]
¹⁸⁸⁹ [REDACTED]
¹⁸⁹⁰ [REDACTED] P-0065 T-043[Fra], p.25, l.28-p.2, l.16(Conf); [REDACTED] P-0398: [MLI-OTP-0060-1374](#), p.1400, l.867-p.1401-l.887. On [REDACTED] P-0398: [MLI-OTP-0060-1352](#), p.1362, l.307-p.1363, l.345, p.1365, l.439-p.1366, l.452. On [REDACTED]
¹⁸⁹¹ Sheikh Sidi Mahmoud Ben Omar Mohamed Aquit: P-0125: [MLI-OTP-0023-0004-R03](#), p.0018, para.63; P-0104: [MLI-OTP-0028-0586](#), p.0703-0711; P-0055/P-0057: [MLI-OTP-0029-1138](#), p.1196-1199; P-0064: [MLI-OTP-0017-0029](#), p.0035; P-0127: [MLI-OTP-0025-0006](#), site 12. Sheikh Mohamed Mahmoud Al Arawani: P-0102: [MLI-OTP-0029-0503](#), p.0644-0654, p.0692-0694, p.0709, n.10; P-0064: [MLI-OTP-0021-0006](#), p.0017; P-0127: [MLI-OTP-0025-0006](#), site 13 and [MLI-OTP-0029-0502](#), site 15. P-0204: [MLI-OTP-0046-9160](#).
¹⁸⁹² P-0104: [MLI-OTP-0028-0586](#), p.0702; P-0055/P-0057: [MLI-OTP-0029-1138](#), p.1150, p.1201; P-0654: T-131, p.57, l.4; P-0114: [MLI-OTP-0023-0344-R02](#), p.0352, para. 41.
¹⁸⁹³ P-0114: [MLI-OTP-0023-0344-R02](#), p.0360 on [MLI-OTP-0009-1514](#), [MLI-OTP-0009-1518](#), p.0362 on [MLI-OTP-0009-1544](#); P-0125: [MLI-OTP-0023-0004-R03](#), p.0043, para.166; P-0104: [MLI-OTP-0028-0586](#), p.0704.
¹⁸⁹⁴ P-0125: [MLI-OTP-0023-0004-R03](#), p.0017, para.62; P-0114: [MLI-OTP-0023-0344-R02](#), p.0352, para.41.
¹⁸⁹⁵ P-0104: [MLI-OTP-0028-0586](#), p.0702; P-0125: [MLI-OTP-0023-0004-R03](#), p.0018, para.63-64; P-0114: [MLI-OTP-0023-0344-R02](#), p.0363, para.65-66.
¹⁸⁹⁶ P-0125: [MLI-OTP-0023-0004-R03](#), p.0018, para.65; P-0114: [MLI-OTP-0023-0344-R02](#), p.0363, para.66; P-0654: T-131, p.57, l.6-8.
¹⁸⁹⁷ *Etude sur les mausolées*, [MLI-OTP-0015-0081](#), p.0086; P-0104: [MLI-OTP-0028-0586](#), p.0761-0765.
¹⁸⁹⁸ *Bulletin*, [MLI-OTP-0012-0462](#), p.0463-0464; Articles: [MLI-OTP-0001-1944](#), [MLI-OTP-0001-3769](#); [REDACTED]
¹⁸⁹⁹ P-0125: [MLI-OTP-0023-0004-R03](#), p.0018-0019, para.66, 68-69.

Dine/AQIM members destroyed¹⁹⁰⁰ the Sidi El Mokhtar mausoleum,¹⁹⁰¹ an historical¹⁹⁰² and religious building,¹⁹⁰³ located in the Sidi El Mokhtar cemetery in the North East of Timbuktu.¹⁹⁰⁴

¹⁹⁰⁵ Al Mahdi,¹⁹⁰⁶ Radwan, Abou Baccar Al Chinguetti,¹⁹⁰⁷ and members of the Police¹⁹⁰⁸ taking part in the destruction.

IX.A.3. Sheikh Alpha Moya mausoleum

450. On 30 June 2012,¹⁹⁰⁹ after having attacked the Sidi El Mokhtar mausoleum,¹⁹¹⁰ Ansar Dine/AQIM members destroyed,¹⁹¹¹ from noon to 16h00,¹⁹¹² the Sheikh Alpha Moya mausoleum,¹⁹¹³ an historical¹⁹¹⁴ and religious building¹⁹¹⁵ located in the East of Timbuktu in a cemetery named after the saint.¹⁹¹⁶

¹⁹¹⁷ [REDACTED] Al Mahdi,¹⁹¹⁸ Radwan,¹⁹¹⁹ Khalil¹⁹²⁰ and Zakaria from the *Hesbah*,¹⁹²¹

¹⁹⁰⁰ P-0104:[MLI-OTP-0028-0586](#), p.0677-0684; P-0055/P-0057:[MLI-OTP-0029-1138](#), p.1196-1199; P-0064:[MLI-OTP-0017-0029](#), p.0040; P-0127:[MLI-OTP-0025-0006](#), site 11; P-0204:[MLI-OTP-0046-9160](#).

¹⁹⁰¹ P-0114:[MLI-OTP-0023-0344-R02](#), p.0355, p.0360_1-0360 on [MLI-OTP-0009-1522](#), [MLI-OTP-0009-1523](#), [MLI-OTP-0009-1524](#), [MLI-OTP-0009-1476](#), [MLI-OTP-0009-1485](#), [MLI-OTP-0009-1488](#); P-0125:[MLI-OTP-0023-0004-R03](#), p.0043, para.167.

¹⁹⁰² P-0104:[MLI-OTP-0028-0586](#), p.0676; P-0125:[MLI-OTP-0023-0004-R03](#), p.0019, para. 70.

¹⁹⁰³ P-0114: [MLI-OTP-0023-0344-R02](#), p.0364, para.69, 71-72.

¹⁹⁰⁴ P-0104:[MLI-OTP-0028-0586](#), p. 0676; P-0114:[MLI-OTP-0023-0344-R02](#), p.0355-0356 on [MLI-OTP-0009-1476](#); P-0125:[MLI-OTP-0023-0004-R03](#), p.0018, para. 68.

¹⁹⁰⁵ [REDACTED]

¹⁹⁰⁶ [REDACTED]

¹⁹⁰⁷ [REDACTED]

¹⁹⁰⁸ Video, [MLI-OTP-0025-0113](#), 00:00:08:19-00:00:26:00.

¹⁹⁰⁹ *Bulletin*, [MLI-OTP-0012-0462](#), p.0463-0464; Article, [MLI-OTP-0001-1944](#); [REDACTED] P-0075:[MLI-OTP-0033-0140](#), p.0185 on [MLI-OTP-0012-1792](#), [MLI-OTP-0012-1793](#).

¹⁹¹⁰ P-0125:[MLI-OTP-0023-0004-R03](#), p.0043, para.169.

¹⁹¹¹ P-0064:[MLI-OTP-0017-0029](#), p.0041; P-0104:[MLI-OTP-0028-0586](#), p.0686-0695; P-0055/P-0057:[MLI-OTP-0029-1138](#), p.1187-1195; P-0127:[MLI-OTP-0025-0006](#), sites 1-2; P-0204:[MLI-OTP-0046-9160](#).

¹⁹¹² [REDACTED]

¹⁹¹³ P-0114:[MLI-OTP-0023-0344-R02](#), p.0359-0360, p.0364, para.74 on [MLI-OTP-0009-1508](#), [MLI-OTP-0009-1509](#), [MLI-OTP-0009-1511](#), [MLI-OTP-0009-1512](#), [MLI-OTP-0009-1513](#); P-0125:[MLI-OTP-0023-0004-R03](#), p.0043, para. 168.

¹⁹¹⁴ P-0104:[MLI-OTP-0028-0586](#), p.0685; P-0114:[MLI-OTP-0023-0344-R02](#), p.0364-0365, para.74-75.

¹⁹¹⁵ P-0104:[MLI-OTP-0028-0586](#), p.0685; P-0114:[MLI-OTP-0023-0344-R02](#), p.0364-0365, para.76; P-0125:[MLI-OTP-0023-0004-R03](#), p.0044, para.171-172.

¹⁹¹⁶ P-0104:[MLI-OTP-0028-0586](#), p.0685; P-0114:[MLI-OTP-0023-0344-R02](#), p.0359 on [MLI-OTP-0009-1511](#), p.0364, para. 74; Photographs, [MLI-OTP-0006-1891](#), [MLI-OTP-0006-1892](#), [MLI-OTP-0006-1893](#), [MLI-OTP-0006-1894](#).

¹⁹¹⁷ [REDACTED]

¹⁹¹⁸ [REDACTED]

¹⁹¹⁹ [REDACTED]; [REDACTED]; [REDACTED]

¹⁹²⁰ [REDACTED]

¹⁹²¹ [REDACTED]

Abdoul Djalil,¹⁹²² Koutaïba,¹⁹²³ Abou Al Baraa¹⁹²⁴,⁹²⁵ and members of the Police¹⁹²⁶ participating in the destruction.

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IX.A.4. Three mausoleums in the Three Saints cemetery

451. On 1 July 2012,¹⁹²⁸ Ansar Dine/AQIM members destroyed¹⁹²⁹ the Sheikh Mouhamad El Micky, Sheikh Abdoul Kassim Attouaty and Sheikh Sidi Ahmed Ben Amar Arragadi mausoleums in the Three Saints cemetery¹⁹³⁰ in the western part of Timbuktu.¹⁹³¹ They were historical buildings¹⁹³² and places of worship.¹⁹³³ ¹⁹³⁴ ³⁵ Radwan,¹⁹³⁶ Abou Baccar Al Chinguetti¹⁹³⁷ (“Faroun”¹⁹³⁸) and Abou Al Baraa taking part in the destruction.

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P-0398:[MLI-OTP-0060-1352](#), p.1367, 1.487-489.

Bulletin, [MLI-OTP-0012-0462](#), p.0463-0464;

¹⁹²⁹ P-0064:[MLI-OTP-0017-0029](#), p.0037-0038; P-0055/P-0057:[MLI-OTP-0029-1138](#), p.1165-1177; P-0102:[MLI-OTP-0029-0503](#), p.0564-0598, p.0665-0673, p.0708, 1.5-7; P-0127:[MLI-OTP-0025-0006](#), sites 3, 4, 5; [MLI-OTP-0029-0502](#), sites 5, 6, 7; P-0204:[MLI-OTP-0046-9160](#); P-0125:[MLI-OTP-0023-0004-R03](#), p.0020-0021, para.75-78.

¹⁹³⁰ P-0114:[MLI-OTP-0023-0344-R02](#), p.0358 on [MLI-OTP-0009-1492](#), [MLI-OTP-0009-1493](#), [MLI-OTP-0009-1494](#).

¹⁹³¹ P-0114:[MLI-OTP-0023-0344-R02](#), p.0365, para.78 on [MLI-OTP-0009-1495](#), p.0366, para.82 on [MLI-OTP-0009-1498](#), p.0366, para.86 on [MLI-OTP-0009-1500](#); P-0104:[MLI-OTP-0028-0586](#), p.0637, 0647, 0657.

¹⁹³² Sheikh Mouhamad El Micky: P-0114:[MLI-OTP-0023-0344-R02](#), p.0365, para.80-81; P-0104: [MLI-OTP-0028-0586](#), p.0657. Sheikh Abdoul Kassim Attouaty: P-0104: [MLI-OTP-0028-0586](#), p.0647; P-0114:[MLI-OTP-0023-0344-R02](#), p.0366, para.82-83. Sheikh Sidi Ahmed Ben Amar Arragadi: P-0104: [MLI-OTP-0028-0586](#), p.0637-0638; P-0114:[MLI-OTP-0023-0344-R02](#), p.0366, para.86-87; P-0125:[MLI-OTP-0023-0004-R03](#), p.0021, para.79.

¹⁹³³ Sheikh Mouhamad El Micky: P-0114:[MLI-OTP-0023-0344-R02](#), p.0366, para.80. Sheikh Abdoul Kassim Attouaty: P-0114:[MLI-OTP-0023-0344-R02](#), p.0366, para.84. Sheikh Sidi Ahmed Ben Amar Arragadi: P-0114:[MLI-OTP-0023-0344-R02](#), p.0366, para.87; P-0125:[MLI-OTP-0023-0004-R03](#), p.0021, para.80.

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IX.A.5. The door of the Sidi Yahia mosque

452. On 2 July 2012,¹⁹⁴¹ following Abdallah Al Chinguetti's decision,¹⁹⁴² Ansar Dine/AQIM members destroyed¹⁹⁴³ the door of the Sidi Yahia mosque. The mosque is an historical building, from approximately 1400,¹⁹⁴⁴ dedicated to religion.¹⁹⁴⁵ It has a cemetery enclosed by walls¹⁹⁴⁶ and an ancient sacred door,¹⁹⁴⁷ protected as world cultural heritage as part of the mosque.¹⁹⁴⁸ [REDACTED]¹⁹⁴⁹ [REDACTED] Al Mahdi,¹⁹⁵⁰ Radwan,¹⁹⁵¹ Abou Baccar Al Chinguetti,¹⁹⁵² Abdallah Al Chinguetti,¹⁹⁵³ Youssouf/Youssef¹⁹⁵⁴ and Abou Al Baraa¹⁹⁵⁵ taking part in its destruction. The wall behind the door was also damaged during the destruction of the door¹⁹⁵⁶ and reconstructed by locals shortly after.¹⁹⁵⁷

IX.A.6. The Bahaber Babadié and Ahamed Fulane mausoleums

453. On 10 July 2012,¹⁹⁵⁸ Ansar Dine/AQIM members destroyed¹⁹⁵⁹ the Bahaber Babadié and Ahamed Fulane mausoleums, *i.e.* historical¹⁹⁶⁰ and religious monuments,¹⁹⁶¹ which stood next to each other behind the peripheral West wall of the cemetery of the Djingareyber mosque.¹⁹⁶² As such, they

¹⁹⁴¹ [REDACTED]
[REDACTED] articles: [MLI-OTP-0001-4901](#), [MLI-OTP-0001-3773](#), p.3773, [MLI-OTP-0001-3756](#); *Message*, [MLI-OTP-0012-0259](#); *Bulletin*, [MLI-OTP-0012-0260](#); [REDACTED]

¹⁹⁴² [REDACTED]
¹⁹⁴³ P-0102:[MLI-OTP-0029-0503](#), p.0548-0556; P-0114:[MLI-OTP-0023-0344-R02](#), p.0367, para. 93.

¹⁹⁴⁴ P-0114:[MLI-OTP-0023-0344-R02](#), p.0353, para.46-47; P-0125:[MLI-OTP-0023-0004-R03](#), p.0023, para.88; P-0104: [MLI-OTP-0028-0586](#), p.0607-0608.

¹⁹⁴⁵ P-0114:[MLI-OTP-0023-0344-R02](#), p.0353, para.45.

¹⁹⁴⁶ P-0104:[MLI-OTP-0028-0586](#), p.0607-0610.

¹⁹⁴⁷ *Dossier Mali*, [MLI-OTP-0004-0423](#), p.0424; P-0654:T-131, p.76, l.23-p.77, l.10, p.78, l.20-p.79, l.2; P-0938: [MLI-OTP-0060-1352](#), p.1361, l.278-292; P-0125: [MLI-OTP-0023-0004-R03](#), p.0022, para.84; P-0114:[MLI-OTP-0023-0344-R02](#), p.0367, para.92; [REDACTED]

¹⁹⁴⁸ P-0151:[MLI-OTP-0029-0843-R03](#), p.0861, para.99-100; T-151:T-034, p.9, l.19-24(Conf).

¹⁹⁴⁹ [REDACTED]
¹⁹⁵⁰ [REDACTED] P-0065:T-043, p.44, l.1, 00:00:02:04; P-0065:T-043, p.45, l.9, 00:09:31:12.

¹⁹⁵¹ [REDACTED]
[REDACTED] P-0065:T-043, p.43, l.24, 00:00:02:04; P-0065:T-043, p.45, l.1, 00:04:03:13.

¹⁹⁵² [REDACTED]
[REDACTED] P-0065:T-043, p.43, l.21, 00:00:02:04; P-0065:T-043, p.44, l.24, 00:03:22:13.

¹⁹⁵³ [REDACTED]

¹⁹⁵⁴ [REDACTED]

¹⁹⁵⁵ [REDACTED]

¹⁹⁵⁶ [REDACTED]

¹⁹⁵⁷ [REDACTED]
¹⁹⁵⁸ Articles: [MLI-OTP-0001-3773](#), [MLI-OTP-0001-3779](#); P-0004:[MLI-OTP-0003-0286](#).

¹⁹⁵⁹ P-0104:[MLI-OTP-0028-0586](#), p.0730-0739; P-0064:[MLI-OTP-0017-0029](#), p.0035; P-0055/P-0057:[MLI-OTP-0029-1138](#), p.1158-1164; P-0127:[MLI-OTP-0025-0006](#), site 7; P-0204:[MLI-OTP-0046-9160](#).

¹⁹⁶⁰ P-0104:[MLI-OTP-0028-0586](#), p.0729-0730; P-0125:[MLI-OTP-0023-0004-R03](#), p.0024, para.94; P-0114:[MLI-OTP-0023-0344-R02](#), p.0368, para.95.

¹⁹⁶¹ P-0114:[MLI-OTP-0023-0344-R02](#), p.0368, para.96-98; P-0104:[MLI-OTP-0028-0586](#), p.0729; P-0125:[MLI-OTP-0023-0004-R03](#), p.0023, para.92.

¹⁹⁶² P-0104:[MLI-OTP-0028-0586](#), p.0729-0730; P-0114:[MLI-OTP-0023-0344-R02](#), p.0356-0361 on [MLI-OTP-0009-1478](#), [MLI-OTP-0009-1483](#), [MLI-OTP-0009-1537](#), [MLI-OTP-0009-1538](#).

constituted an integral part of the mosque complex¹⁹⁶³ and benefitted from the status of world cultural heritage.¹⁹⁶⁴ The Djingareyber Mosque (*Grande Mosquée*), an historical building more than a thousand years old,¹⁹⁶⁵ is considered the centre of Timbuktu's religious life.¹⁹⁶⁶

Adama,¹⁹⁶⁸ Abou Dhar,¹⁹⁶⁹ Radwan¹⁹⁷⁰ and Al Mahdi¹⁹⁷¹ taking part in the destruction. In the course of the destruction, Radwan used derogatory terms to address UNESCO's recognition of the mausoleums as world cultural heritage.¹⁹⁷² Also, Al Mahdi declared on site that this was an ancient cultural and historical landmark but also stated that the practice of locals taking sand for blessings from these places was superstitious.¹⁹⁷³

IX.B. The reaction to the destructions of mausoleums and the door of the Sidi Yahia mosque

454. The local population in Timbuktu perceived the destruction of the mausoleums as an aggression against their faith¹⁹⁷⁴ and as a crime against their cultural and religious symbols.¹⁹⁷⁵ These acts affected them,¹⁹⁷⁶ and caused fear,¹⁹⁷⁷ rage,¹⁹⁷⁸ sadness¹⁹⁷⁹ and trauma to many.¹⁹⁸⁰ A *notable* stated that Timbuktu was under the threat of outrageous vandalism and about to lose its soul.¹⁹⁸¹ Malians realised their national heritage was lost.¹⁹⁸² **AL HASSAN** acknowledged that the mausoleums had historical importance as expressions of Timbuktu's history.¹⁹⁸³ UNESCO held the 12th session of the World

¹⁹⁶³ P-0125:[MLI-OTP-0023-0004-R03](#), p.0023, para.91; P-0654:T-132, p.4, l.18-21(Conf).

¹⁹⁶⁴ P-0151:[MLI-OTP-0029-0843-R03](#), p.0861, para.99-100; P-0151:T-034, p.9, l.13-18; P-0114:[MLI-OTP-0023-0344-R02](#), p.0368, para.95. On the status of world heritage of the Mosque, *see also* paragraph 440.

¹⁹⁶⁵ P-0125:[MLI-OTP-0023-0004-R03](#), p.0023, para.90.

¹⁹⁶⁶ P-0114:[MLI-OTP-0023-0344-R02](#), p.0352, para.43, p.0368, para.95.

¹⁹⁶⁷ [REDACTED]

¹⁹⁶⁸ [REDACTED]

¹⁹⁶⁹ [REDACTED]

¹⁹⁷⁰ [REDACTED]

¹⁹⁷¹ [REDACTED]; [REDACTED]

[REDACTED]

¹⁹⁷² [REDACTED]

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¹⁹⁷⁴ P-0114:[MLI-OTP-0023-0344-R02](#), p.0375, para.137; P-0603:T-126, p.22, l.6-8; D-0551:T-201, p.7, l.20-25.

¹⁹⁷⁵ [REDACTED]

¹⁹⁷⁶ D-0093:T-211, p.45, l.8-13; P-0055:T-021, p.64, l.20-65, l.4.

¹⁹⁷⁷ P-0654:T-132, p.62, l.22-p.63, l.2.

¹⁹⁷⁸ [REDACTED]

¹⁹⁷⁹ P-0125:[MLI-OTP-0023-0004-R03](#), p.0018, para.63, p.0019, para.70-71, p.0021, para.79-80, p.0022-0023, para.86-88, p.0024, para.94-95, p.0030-0031, para.129-130; [REDACTED]

[REDACTED]; P-0638:T-058, p.27, l.4-18, p.29, l.13-20, p.30, l.4-6.(Conf).

¹⁹⁸⁰ P-0104:T-024, p.30, l.3-22; P-0623:T-029, p.63, l.5-7; P-0623:T-030, p.9, l.11-18; P-0114:T-060, p.23, l.20-24.

¹⁹⁸¹ [REDACTED]

¹⁹⁸² P-0114:[MLI-OTP-0023-0344-R02](#), p.0375, para.136.

¹⁹⁸³ P-0398:[MLI-OTP-0060-1352](#), p.1368, l.542-p.1369, l.550; P-0398: [MLI-OTP-0062-0969](#), p.0973, l.106-126, p.0976, l.209-236.

Heritage Committee during which it re-enlisted Timbuktu on the list of the world heritage in danger.¹⁹⁸⁴ It later provided financial and technical support for the reconstruction of the destroyed mausoleums.¹⁹⁸⁵

IX.C. AL HASSAN's criminal responsibility for the crime under count 7

455. Reliable evidence shows that AL HASSAN already had an important role in the police by the time the mausoleums were being destroyed,¹⁹⁸⁶ and that in that capacity he contributed to the attack and destruction of the mausoleums by Ansar Dine/AQIM, pursuant to article 25(3)(d).

IX.C.1. The crime under count 7 was part of the Common Purpose

456. The destruction of mausoleums was part of the Common Purpose of Ansar Dine/AQIM who sought to end the religious, social and cultural practices of the population, which they considered as heresy. As mentioned in section IX.A above, Abdallah Al Chinguetti wrote a letter on the destruction of the mausoleums in which he specified that graves "built at the height of the span of one hand" are not prohibited and that "[i]t is clear that building a grave higher than what is permitted is a sin".¹⁹⁸⁷ This document was disseminated prior to the destruction of mausoleums in June and July 2012.¹⁹⁸⁸

457. Similarly:

- On 30 June 2012, Al Baraa, [REDACTED] stated that "*tous les monuments funéraires qui s'élèvent au-dessus du sol doivent être rabaissés de sorte qu'ils ne soient pas glorifiés, idolâtrés [...] aux dépens d'Allah, ce que font beaucoup d'ignorants de cette religion.*"¹⁹⁸⁹
- In the same context Al Mahdi [REDACTED]: "We're demolishing them [...]. [...] We believe we're carrying out the command of Allah because we're the governors of this land, and we're righting
- In the interview mentioned in section IX.A, Sanda Ould Boumama responded the following to a journalist's question about the destroyed mausoleums being listed as UNESCO heritage: "*Ce n'est pas notre affaire. [...] on a dit que nous sommes là pour l'application de charia, [...] et c'est tout.*

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¹⁹⁸⁴ P-0151:[MLI-OTP-0029-0843-R03](#), p.0859, para.90, p.0860, para.94 on 36th Session of the Committee of the World heritage:[MLI-OTP-0006-2753](#); P-0151:T-034, p.17, l.17-21; P-0431:T-062, p.30, l.4-10(Conf), p.32, l.16-p.33, l.1; P-0413's report:[MLI-OTP-0037-0029](#); P-0114:[MLI-OTP-0023-0344-R02](#), p.0371, para.117-118.

¹⁹⁸⁵ P-0151:[MLI-OTP-0029-0843-R03](#), p.0860-0861, para.95-97; P-0151:T-034, p.14, l.2-p.15, l.23, p.28, l.18-22; P-0654:T-132, p.63.l-8-9.

¹⁹⁸⁶ See section IV.B. See also

¹⁹⁸⁷ [REDACTED]

¹⁹⁸⁸ [REDACTED]

¹⁹⁸⁹ [REDACTED]

¹⁹⁹⁰ [REDACTED]

Nous, [...] on va rien laisser”.¹⁹⁹¹

458. The manner of the commission of this crime also indicates that it was part of the Common Purpose. As described above, several organs, including the Police, the Security Battalion and *Hesbah*, cooperated and participated in the attack and the destruction of the mausoleums and the door of the Sidi Yahia mosque.¹⁹⁹²

¹⁹⁹³ **AL HASSAN** himself called it “*un travail de groupe*”, “*un travail qui nécessite un effort*”. He indicated (concerning Al Mahdi) that “*la police lui envoie, la sécurité, [...]. Tout le monde lui envoie de l’aide pour détruire*”¹⁹⁹⁴ and that “*tout le monde a participé. Beaucoup de soldats [...]*”.¹⁹⁹⁵ **AL HASSAN** recalled that the “*émir de la police*” allowed Talha to get resources from the Police and that during this period of time he saw Talha fetching 8 to 10 people for the destruction.¹⁹⁹⁶ The videos referred to in section IX.A. confirm that all organs were involved.

IX.C.2. AL HASSAN’s contribution to the crime under count 7

459. By means of his position of authority and functions in the Police, **AL HASSAN** contributed to the commission of the attacks charged by: ensuring security at the destruction sites; providing members of the Police to participate in the destruction; and by encouraging those participating in the destruction.

IX.C.2.a. AL HASSAN managed the setup of security/barricades at destruction sites and provided members of the Police

460. **AL HASSAN** managed the security, including the setup of barricades by the Police, which was instrumental in protecting the Ansar Dine/AQIM members destroying mausoleums from irate locals who could have interfered with the destruction. This was necessary because, when Ansar Dine/AQIM began the destruction of mausoleums, the population condemned it. Imams had warned them that the destructions would trigger the anger of the population.¹⁹⁹⁷ In this context, [REDACTED] “the police and the security battalion put barricades and stopped people from coming to the area where [they] were destroying the mausoleums”¹⁹⁹⁸ and that the member of the Police who managed these activities was **AL HASSAN**.¹⁹⁹⁹ This is consistent with **AL HASSAN**’s statement that the Police was responsible for the

¹⁹⁹¹ [REDACTED]

¹⁹⁹² See sections IX.A.1 to IX.A.6.

¹⁹⁹³ [REDACTED]

¹⁹⁹⁴ P-0398: [MLI-OTP-0060-1374](#), p.1386, 1.395-412.

¹⁹⁹⁵ P-0398: [MLI-OTP-0060-1327](#), p.1338, 1.354-364.

¹⁹⁹⁶ P-0398: [MLI-OTP-0060-1327](#), p.1345, 1.588-p.1346, 1.633; [MLI-OTP-0060-1374](#), p.1382, 1.243-p.1385, 1.370.

¹⁹⁹⁷ [REDACTED]

¹⁹⁹⁸ [REDACTED]

¹⁹⁹⁹ [REDACTED]

general security within Timbuktu at the time of the destructions²⁰⁰⁰ and that he was responsible for the organisation of the Police patrols and the distribution of their tasks.²⁰⁰¹ It is also consistent with the fact that the Police was responsible - with the security battalion - for securing the locations where sentences would be executed²⁰⁰² and with **AL HASSAN** tasking specific members of the Police with securing the area where the Women's March was held.²⁰⁰³

461. Given **AL HASSAN**'s position and functions within the Police, as described above and in section IV.B., he would have been responsible for tasking specific members of the Police to participate in the destruction of the mausoleums.²⁰⁰⁴ Reliable testimonial and video evidence demonstrates that Ansar Dine/AQIM members were indeed securing the destruction sites while the destruction was ongoing²⁰⁰⁵ and that the Police was present.²⁰⁰⁶

462. The higher frequency of the phone contacts between **AL HASSAN** and Al Mahdi – who was in charge of the destructions – during the time when the mausoleums were being attacked is further evidence of the role played by **AL HASSAN**

[REDACTED] Between June and November 2012, there were a total of 31 contacts²⁰⁰⁷ between the number 79262392 (used by **AL HASSAN**²⁰⁰⁸) and 75482011 (used by Al Mahdi²⁰⁰⁹). Of these 31 contacts, no less than 18 contacts²⁰¹⁰ occurred in June and July 2012, during the destruction period. Moreover, seven phone calls were made between 29 June (the day before they started the destruction²⁰¹¹) and 9 July 2012 (the day before destructions at the Djingareyber mosque²⁰¹²), mostly **AL HASSAN** calling Al Mahdi (five times out of seven).²⁰¹³

²⁰⁰⁰ P-0398: [MLI-OTP-0060-1374](#), p.1384, 1.327-336.

²⁰⁰¹ P-0398: [MLI-OTP-0060-1374](#), p.1387, 1.417-447.

²⁰⁰² [REDACTED]

²⁰⁰³ P-0582: [MLI-OTP-0062-4157-R02](#), p.4180, 1.812-p.4181, 1.855.

²⁰⁰⁴ P-0398: [MLI-OTP-0060-1327](#), p.1345, 1.588-p.1346, 1.633; [MLI-OTP-0060-1374](#), p.1382, 1.243-p.1385, 1.370.

²⁰⁰⁵ P-0065: T-043, p.23, 1.4-p.24, 1.4 (Conf) and [REDACTED] P-0125: [MLI-OTP-0023-0004-R03](#), p.0018-0019, para. 68; Video, [MLI-OTP-0001-7037](#), 00:44:26:02-00:44:35:10; [REDACTED]

²⁰⁰⁶ See sections IX.A.1 to IX.A.3.

²⁰⁰⁷ [MLI-OTP-0061-1933](#), tab "Connections In Out", 1.2024, 2712, 2713, 3064, 3065, 3066, 4023, 4027, 4028, 5197, 5348, 5740, 5741, 6167, 6168, 6175, 6928, 7336, 8249, 8250, 8271, 8272, 8755, 11101, 11102, 11103, 11104, 14365, 14366, 15148.

²⁰⁰⁸ [REDACTED] CDR, [MLI-OTP-0031-0818](#); P-0398: [MLI-OTP-0051-0571](#), p.0593; [MLI-OTP-0060-1403](#), p.1411-1412.

²⁰⁰⁹ [REDACTED]

²⁰¹⁰ [MLI-OTP-0061-1933](#), tab "Connections In Out", 1.2024, 2712, 2713, 3064, 3065, 3066, 4023, 4027, 4028, 5197, 5348, 5740, 5741, 6167, 6168, 6175, 6928, 7336.

²⁰¹¹ See incident IX.A.1.

²⁰¹² See incident IX.A.6.

²⁰¹³ [MLI-OTP-0061-1933](#), tab "Connections InOut", lines 5197, 5348, 5741, 6167, and 6168.

IX.C.3. AL HASSAN's intent and knowledge regarding the crime under count 7

467. AL HASSAN meant to engage in the above conduct. He made his contributions “with the aim of furthering the criminal activity or criminal purpose” of Ansar Dine/AQIM and/or at least “in the knowledge of [their] intention [...] to commit the crimes”.

468. Indeed, AL HASSAN knew that the mausoleums were places of worship,²⁰²⁶ historically important in Timbuktu²⁰²⁷ and classified as world cultural heritage since in 2006/2007 he attended a course of 40 days on mausoleums, mosques and manuscripts.²⁰²⁸ He also knew that Ansar Dine/AQIM believed that mausoleums had to be destroyed because they associated them with polytheism,²⁰²⁹ and considered that tombs should not be higher than a hand.²⁰³⁰ While he was not involved in the consultations to destroy the mausoleums,²⁰³¹ he knew that the decision to destroy them was taken by the “*comité de la sharia et sécurité*”.²⁰³² He knew of this intention before it was carried out,²⁰³³ and then when it was put into practice at the mausoleums²⁰³⁴ and the door of the Sidi Yahia mosque.²⁰³⁵ In fact AL HASSAN told [REDACTED] that the destruction of the mausoleums was carried out because it was “against the form of Islam that the jihadists were prescribing or had put in place”.²⁰³⁶ AL HASSAN shared Ansar Dine/AQIM's views [REDACTED]

[REDACTED]

[REDACTED]²⁰³⁷ [REDACTED]

[REDACTED]

[REDACTED]²⁰³⁸

X. Persecution (count 13)

469. AL HASSAN is criminally responsible for the crime of persecution on religious and gender grounds (article 7(1)(g)) under article 25(3)(d) of the Statute.

X.A. Introduction

470. Ansar Dine/AQIM persecuted the Timbuktu population by imposing their ideological and religious vision on all aspects of life, including gender, on them through force, intimidation and violence.

471. As detailed in section X.G., AL HASSAN played an important part in this persecutory campaign

²⁰²⁶ P-0398:[MLI-OTP-0060-1327](#), p.1337, l.329-330; P-0398:[MLI-OTP-0062-0969](#), p.0974, l.145-150.

²⁰²⁷ P-0398:[MLI-OTP-0062-0969](#), p.0972, l.102-p.0973, l.106, p.0976, l.218-222.

²⁰²⁸ P-0398:[MLI-OTP-0060-1352](#), p.1354, l.50-p.1356, l.120.

²⁰²⁹ P-0398:[MLI-OTP-0062-0969](#), p.0973, l.130-p.0975, l.181.

²⁰³⁰ P-0398:[MLI-OTP-0060-1327](#), p.1337, l.316-327; P-0398:[MLI-OTP-0060-1352](#), p.1369, l.553-567.

²⁰³¹ P-0398:[MLI-OTP-0062-0969](#), p.0975, l.200-203; [REDACTED]

²⁰³² P-0398:[MLI-OTP-0060-1327](#), p.1340, l.404-437, p.1341, l.442-p.1342, l.497, p.1346, l.639-p.1347, l.647.

²⁰³³ P-0398:[MLI-OTP-0062-0969](#), p.0975, l.193-197.

²⁰³⁴ P-0398:[MLI-OTP-0060-1374](#), p.1388, l.468 (as corrected on p.1374_02, point 22)-p.1389, l.485; P-0623:T-029, p.33, l.14-p.34, l.3(Conf).

²⁰³⁵ P-0398:[MLI-OTP-0060-1352](#), p.1359, l.233-p.1361, l.299.

²⁰³⁶ P-0623:T-029, p.33, l.14-p.34, l.3(Conf).

²⁰³⁷ [REDACTED]

²⁰³⁸ [REDACTED].

in multiple ways, in general by support of the coercive environment and specifically *inter alia* by: (i) acting as the spokesperson for the Police in a video explaining that its mission in Timbuktu included “correcting objectionable acts” which were now forbidden, for example “a woman adorning herself”;²⁰³⁹ (ii) organising the Police patrols that effectively combed the streets to look for anyone breaching the new rules and prohibitions;²⁰⁴⁰ (iii) detaining and/or arresting people who were found, or suspected of, violating these;²⁰⁴¹ (iv) conducting investigations which sometimes involved torturing people suspected of having breached the rules and prohibitions;²⁰⁴² (v) referring cases to the Tribunal;²⁰⁴³ (vi) bringing suspects to and from the tribunal; (vii) executing the Tribunal’s sentences;²⁰⁴⁴ and (viii) facilitating forced marriages).²⁰⁴⁵

472. As set out above in sections I and V, when Ansar Dine/AQIM took over the city, they imposed new rules and prohibitions affecting every aspect of the life of the local population and created organs, such as the Police and the Tribunal, to enforce them.²⁰⁴⁶ In practice, these rules were enforced through acts of intimidation, coercion, arrest, violence, torture, destruction or the threats thereof. Timbuktu inhabitants were subjected, *inter alia*, to ill-treatment and humiliations,²⁰⁴⁷ beatings, floggings, and amputation, forced marriages and sexual slavery (and related rapes), and rapes in detention. Many of these acts constituted crimes under the Statute in and of themselves.

473. The population of Timbuktu was targeted because it was perceived as not sharing Ansar Dine/AQIM’s ideological and religious vision, while women and girls were additionally targeted specifically because of their gender. Iyad Ag Ghaly’s speech in May 2012 shows that the population of Timbuktu was perceived as “*mécréants*”,²⁰⁴⁸ who needed to “*apprendre leur religion*”.²⁰⁴⁹ Locals were targeted because they were perceived to be not “real Muslims” because they were not “practising Muslims”.²⁰⁵⁰

²⁰³⁹ [REDACTED]

²⁰⁴⁰ See section IV.B.4.a.ii.

²⁰⁴¹ See section IV.B.4.b.iii.

²⁰⁴² See section IV.B.4.b.iv.

²⁰⁴³ See section IV.B.4.b.v.

²⁰⁴⁴ See section IV.B.4.b.vi.a.

²⁰⁴⁵ See section VIII.C.2.b.

²⁰⁴⁶ P-0114: [MLI-OTP-0023-0344-R02](#), p.0373, para.128; Article, [MLI-OTP-0010-0088](#), p.0090, translation [MLI-OTP-0024-0015](#), p.0023, mentioning that “*Sharia was the governing law in all aspects of life*”; P-0626:T-141, p.51, l.12-p.52, l.4; AI Report, [MLI-OTP-0001-2393](#), p.2400; Article, [MLI-OTP-0001-4887](#), p.4888; Article, [MLI-OTP-0023-0330](#), p.0331; Article, [MLI-OTP-0001-3551](#); Video, [MLI-OTP-0001-7037](#), 00:00:50:00-00:00:56:00, transcript [MLI-OTP-0024-2962](#), translation [MLI-OTP-0024-2910](#), p.2914, l.47-54.

²⁰⁴⁷ Notes of the Crisis Committee, [MLI-OTP-0030-1084](#), p.1136, p.1143, p.1148.

²⁰⁴⁸ Audio, [MLI-OTP-0038-0886](#), 00:13:42:00-00:18:32:00, transcript [MLI-OTP-0056-0843](#), translation [MLI-OTP-0063-1029](#), p.1034-1035, l.162-227.

²⁰⁴⁹ Audio, [MLI-OTP-0038-0886](#), 00:17:42:00-00:17:52:00, transcript [MLI-OTP-0056-0843](#), translation [MLI-OTP-0063-1029](#), p.1035, l.237.

²⁰⁵⁰ D-0202:T-203, p.86, l.9-23.

474. In the context of Ansar Dine/AQIM's persecutory campaign, women and girls were specifically victimised.²⁰⁵¹ D-0202 specified that "a woman's body is not allowed to be shown unless -- except the face and the hands"²⁰⁵² and added that the locals "call themselves Muslims, but their action showed otherwise. That's the bottom line".²⁰⁵³

475. Like men and boys, women and girls also suffered from religious persecution, for example, because of the prohibition on praying at mausoleums, dancing, listening to music, watching TV or drinking alcohol. In addition, Ansar Dine/AQIM members, including **AL HASSAN**, particularly targeted women and girls because of their gender. Some of the rules and prohibitions imposed were particularly aimed at women and girls, who were specially controlled and repressed. Such targeting was based on the ground of "gender" as defined in article 7(3) of the Statute as it was motivated by Ansar Dine/AQIM's discriminatory views regarding the role and behaviour of women and girls in society and controls that could be imposed upon them.²⁰⁵⁴ This gender persecution of the women and girls was in addition to the broader religious persecution of the population. Section X.D. will address specific rules and violations affecting women and girls simply to illustrate how they were targeted due to their gender.

476. As detailed below, this religious and/or gender persecution severely deprived the Timbuktu population of a large spectrum of their fundamental rights.²⁰⁵⁵ All the crimes charged and other acts described in this section and sections VI to IX constitute individually and/or cumulatively severe deprivations of one or more of the following fundamental rights described below in section X.E.

X.B. The freedoms, customs and traditions existing in Timbuktu before Ansar Dine/AQIM's arrival

477. The lives of the Timbuktu population before and after the occupation contrasted sharply with their lives under the occupation. While establishing any comparison with their lives before is not a necessary legal element for the crime of persecution, this contrast provides important factual context to understand what and how they were deprived of during the occupation through the imposition of multiples rules and prohibitions regulating their lives.

478. Likewise, it need not be shown that different rules necessarily applied to the perpetrators and the victims to establish the discriminatory aspects of persecution. Persecution does not require the perpetrators and victims to operate under different rules nor does it require a comparison between the lives of the perpetrators and the victims. It requires that the perpetrators severely deprived the victims of their fundamental rights, while targeting them on any prohibited discriminatory ground by reason of

²⁰⁵¹ [MLI-OTP-0039-0920](#), p.0928; Confirmation Decision, para.688, 697.

²⁰⁵² D-0202:T-203, p.86, l.21-22.

²⁰⁵³ D-0202:T-203, p.87, l.2-9.

²⁰⁵⁴ Confirmation Decision, para.666-667.

²⁰⁵⁵ *Ongwen* TJ, para. 2733; ICTY, *Stakić* Trial Judgment, para.773.

their identity as a group. **AL HASSAN** and other members of Ansar Dine/AQIM severely deprived the civilians of Timbuktu of their fundamental rights (as reflected in the acts falling under counts 1-12 as well as mutilation and the other human rights violations alleged), targeting them on religious and gender grounds. That the perpetrators *chose* to abide by rules similar to those that they coercively imposed by threat and violence on the population is irrelevant to the analysis.

479. The majority of the rules and prohibitions imposed by Ansar Dine/AQIM were new to the Timbuktu population.²⁰⁵⁶ P-0638 testified: “Sharia, Sharia, Sharia. That’s all. They came to teach us about Sharia. They banned everything: cigarettes, alcohol, no women. You were in your own town but you couldn’t do anything. It was not like the Timbuktu that we knew from before. It changed in less than a week.”²⁰⁵⁷ [REDACTED] illustrated the importance of the changes by stating that “*tout est effacé*”, that it was a new religion.²⁰⁵⁸ P-0547 also stated: “After the arrival of the Islamists, Timbuktu completely changed.”²⁰⁵⁹ The Tribunal itself recognised in one of its judgments that it could not apply a *Hudud* (statutory penalty) in a particular robbery case because it had been committed at a time when “Sharia was not enforced in this country” and the person was not aware of the provisions relating to theft nor of the statutory penalty for theft, nevertheless sentencing the suspect to *Ta’zir*.²⁰⁶⁰ P-0654 explained that the “jihadists” came to bring *Sharia* law to Timbuktu²⁰⁶¹ and make it “Muslim”, when it had already been a “Muslim city for a very long time”.²⁰⁶²

480. Before the arrival of Ansar Dine/AQIM, people from Timbuktu, most of whom were Muslims,²⁰⁶³ could freely practise their religion and traditions²⁰⁶⁴ without fear of any sanction, as Timbuktu was part of a secular state.

481. Followers of Sufism would go to the mausoleums to ask for the blessing of the saints²⁰⁶⁵ and leave messages on site. People could worship idols or statues if they wished.²⁰⁶⁶ A Christian community, and a small number of Jews, cohabitated peacefully with the Muslims.²⁰⁶⁷ The schools applied the official

²⁰⁵⁶ [MLI-OTP-0039-0920](#), p.0928; P-0622:[MLI-OTP-0065-0558-R02](#), p.0563, para.30.

²⁰⁵⁷ P-0638:T-057, p.58, l.21-24.

²⁰⁵⁸ [REDACTED]

²⁰⁵⁹ P-0547:T-151, p.14, l.13-14. *See also* P-0065:T-037, p.14, l.21-p.18, l.25.

²⁰⁶⁰ Judgment, [MLI-OTP-0001-7437](#), translation [MLI-OTP-0078-0212](#), p.0213.

²⁰⁶¹ P-0654:T-129, p.46, l.6-9; P-0984:T-068, p.55, l.24-p.57, l.8; P-0638:T-057, p.58, l.20-p.59, l.12; Video, [MLI-OTP-0011-0423](#), 00:00:10:00-00:00:17:00, transcript [MLI-OTP-0015-0071](#), translation [MLI-OTP-0016-0439](#), p.0441, l.8-18; Video, [MLI-OTP-0025-0010](#), transcript [MLI-OTP-0033-5244](#), translation [MLI-OTP-0033-5488](#), in particular p.5492, l.92-97, p.5493, l.124-129.

²⁰⁶² P-0608:T-154, p.25, l.7-p.26, l.1. *See also* [MLI-OTP-0012-2055](#); Notes, [MLI-OTP-0012-1972](#).

²⁰⁶³ [REDACTED]

²⁰⁶⁴ P-0065:T-037, p.18, l.11-24; P-0004:T-164, p.17, l.16-p.18, l.5; P-0654:T-132, p.46, l.16-p.48, l.16(Conf), p.62, l.3-10.

²⁰⁶⁵ P-0065:T-037, p.21, l.11-18.

²⁰⁶⁶ [REDACTED]

²⁰⁶⁷ [REDACTED]

curriculum of the Malian government, mainly in French, while there were also Arabic schools that had flexibility in determining their own programme.²⁰⁶⁸

482. Women and men could dress as they wished and did not have to adhere to a strict dress code.²⁰⁶⁹ In particular, women were free to wear whatever kind of clothing they wanted to,²⁰⁷⁰ and were not obliged to wear a veil.²⁰⁷¹ P-0654 testified that before the occupation, “women were free to move about, go wherever they liked, come back to the house whenever they wanted to”.²⁰⁷² They could move freely and go to the market where some would work as vendors.²⁰⁷³ Women and men could have relationships other than marriage, meet outside together and have parties.²⁰⁷⁴ Having a sexual relationship without being married or a child out of wedlock was not prohibited nor punished.²⁰⁷⁵

483. People could organise celebrations and festivities.²⁰⁷⁶ They could dance²⁰⁷⁷ and listen to music. “Alcohol was just like any other drink, there were bars everywhere and people had the freedom to drink whenever [...] and wherever they wanted”.²⁰⁷⁸ Selling and smoking cigarettes were also possible.²⁰⁷⁹ Store owners were free to decide whether to keep their shop open or not during Friday prayer.²⁰⁸⁰ It was permissible to show all forms of faces, paintings or other representations.²⁰⁸¹

484. While in 2009 and 2011, certain imams and *chefs de quartiers* raised concerns about the behaviour of young people which they considered to be inconsistent with the sociocultural and religious values in Timbuktu, their recommendations,²⁰⁸² such as a ban on the pageant show called “Miss ORTM”,²⁰⁸³ were never implemented because the mayor of Timbuktu ensured that secularism was respected.²⁰⁸⁴ In any event, they never advocated for such violent measures as amputations or floggings.²⁰⁸⁵ In fact even community leaders who had advocated for certain restrictions did not appreciate the brutal manner in which Ansar Dine/AQIM enforced the new rules and prohibitions by force and repression after their

²⁰⁶⁸ P-0065:T-037, p.26, l.24-p.27, l.12.

²⁰⁶⁹ P-0638:T-057, p.67, l.6-11.

²⁰⁷⁰ P-0654:T-130, p.44, l.10-14; P-0638:T-057, p.67, l.6-11.

²⁰⁷¹ P-0643:T-083, p.33, l.22-p.34, l.6; P-0065:T-037, p.13, l.9-17; P-0654:T-130, p.44, l.10-14.

²⁰⁷² P-0654:T-130, p.8, l.10-12.

²⁰⁷³ P-0654:T-130, p.8, l.3-5, l.10-12.

²⁰⁷⁴ P-0065:T-037, p.16, l.22-p.17, l.3; P-0654:T-130, p.43, l.10-23.

²⁰⁷⁵ P-0065:T-037, p.17, l.4-9.

²⁰⁷⁶ P-0065:T-037, p.17, l.1-3, p.18, l.20-21, p.22, l.25-p.23, l.5; P-0538:T-161, p.12, l.23-25; Article, [MLI-OTP-0035-0902](#), p.0903-0904.

²⁰⁷⁷ P-0638:T-057, p.59, l.6, p.62, l.23; P-0654:T-130, p.42, l.17-20.

²⁰⁷⁸ P-0065:T-037, p.27, l.15-17. *See also* P-0654:T-130, p.42, l.18-22.

²⁰⁷⁹ P-0654:T-130, p.42, l.24-p.43, l.9; P-0065:T-037, p.28, l.19-23; P-0638:T-057, p.59, l.6.

²⁰⁸⁰ P-0065:T-039, p.16, l.4-9.

²⁰⁸¹ P-0065:T-037, p.24, l.21-25.

²⁰⁸² [REDACTED]; P-0654:T-133, p.6, l.15-24, p.7, l.10-p.8, l.6(Conf), p.8, l.22-p.27, l.22, p.32, l.15-p.33, l.2.

²⁰⁸³ D-0551:T-200, p.17, l.7-16; P-0654:T-133, p.9, l.20-p.10, l.4.

²⁰⁸⁴ D-0551:T-201, p.6, l.21-p.7, l.3. *See also* D-0551:T-200, p.17, l.7-16.

²⁰⁸⁵ [REDACTED]; D-0551:T-201, p.7, l.4-8; P-0654:T-133, p.44, l.18-20.

arrival: these leaders were the first to flee Timbuktu in 2012.²⁰⁸⁶

485. Significantly enough, “everyone was joyous” after Ansar Dine/AQIM left at the end of January 2013²⁰⁸⁷ after months of severe oppression. Videos taken on the day when the French and Malian forces arrived in Timbuktu show the population singing and dancing on the streets,²⁰⁸⁸ including women without a headscarf.²⁰⁸⁹ The Timbuktu population was free to resume their lives as before.²⁰⁹⁰ In particular, women could again move around in public freely without fearing arrest by the Police or the *Hesbah*.²⁰⁹¹ Inhabitants could listen to music and radio.²⁰⁹² They could smoke and drink.²⁰⁹³ Mausoleums were rebuilt.²⁰⁹⁴

X.C. Religious persecution²⁰⁹⁵

486. Upon arrival, Ansar Dine/AQIM imposed their religious ideology on the population of Timbuktu through force and violence. The population of Timbuktu as a whole and its individual members were targeted because Ansar Dine/AQIM perceived them as ignorant or non-believers (*mécréants*) who did not adhere to these groups’ religious beliefs.²⁰⁹⁶

487. Ansar Dine/AQIM quickly put in place a corpus of diverse new rules and prohibitions. Certain rules applied to religious practices *stricto sensu*. More generally, the new rules and prohibitions, stemming from these armed groups’ religious vision, concerned all aspects of life of the population.

488. As a result, for close to a year, Ansar Dine/AQIM repeatedly violated the fundamental rights of members of the Timbuktu population by committing serious crimes and other acts which infringed on their individual freedoms and rights.²⁰⁹⁷ As described below, the population could no longer visit the mausoleums of Muslim saints in the town’s famous cemeteries,²⁰⁹⁸ a number of which they

²⁰⁸⁶ P-0654:T-133, p.44, l.4-20. *See also* D-0551:T-201, p.7, l.11-19.

²⁰⁸⁷ P-0654:T-132, p.54, l.20-p.55, l.4.

²⁰⁸⁸ Video, [REDACTED]

²⁰⁸⁹ [REDACTED]

²⁰⁹⁰ P-0623:T-029, p. 63, l.15-21.

²⁰⁹¹ P-0623:T-029, p. 63, l.15-21.

²⁰⁹² P-0623:T-029, p. 63, l.15-21.

²⁰⁹³ P-0623:T-029, p. 63, l.15-21.

²⁰⁹⁴ P-0151:T-034, p. 14, l. 21-p.15, l.3; P-0151:[MLI-OTP-0029-0843-R03](#), p.0860-0861, para 95.

²⁰⁹⁵ *Al Mahdi* Judgment, ICC-01/12-01/15-171, p.38-39, para.81.

²⁰⁹⁶ Audio, [MLI-OTP-0038-0886](#), 00:13:52:00-00:17:32:00, transcript [MLI-OTP-0056-0843](#), translation [MLI-OTP-0063-1029](#), p.1034-1035, l.171-210.

²⁰⁹⁷ Confirmation Decision, para.668 citing ECCC, *Duch* Judgment, para.253; *Duch* Judgment, para.387; ICTY, *Karadžić* Judgment, para.498; *Popović et al.* Judgment, para.966; *Brđanin* Judgment, para.296; *Stakić* Judgment, para.735; *Kupreškić et al.* Judgment, para.97; *Blaškić* Judgment, para.218-234.

²⁰⁹⁸ [REDACTED]

destroyed.²⁰⁹⁹ The inhabitants could no longer wear amulets²¹⁰⁰ or talismans²¹⁰¹ or practise certain rituals.²¹⁰² Ceremonies and religious, civil and cultural events were also prohibited.²¹⁰³ The population could no longer dance, listen to music²¹⁰⁴ or watch television.²¹⁰⁵ Neither men²¹⁰⁶ nor women²¹⁰⁷ could wear the clothing of their choice, even traditional clothes or jewellery.²¹⁰⁸ They were forced instead to adopt the strict dress code established by Ansar Dine/AQIM. Unmarried men and women who were not relatives could not be seen together in public.²¹⁰⁹ Ansar Dine/AQIM also dictated the manner in which prayers should be conducted²¹¹⁰ and prohibited the practice of any other faith.²¹¹¹ Shops could not open on Fridays.²¹¹² The media were controlled. Violations of these rules and prohibitions were punished by arrests, detentions, beatings and floggings, without a fair trial (see sections VI and VII).

2099

E.g.

Destruction du Mausolée Sidi Mahmoud: P-0654:T-131, p.51, l.2-p.52, l.5, p.52, l.24-p.66, l.5(Conf); P-0654: T-132, p.62, l.13-p.63, l.23; Video, [MLI-OTP-0001-6926](#), 00:00:36:87-00:00:40:00, transcript [MLI-OTP-0020-0576](#), p.0577, l.9-17.

2100

P-0125:[MLI-OTP-0023-0004-R03](#), p.0010, para.28; P-0065:T-044, p.15, l.20-p.16, l.2; P-0605: T-194, p.79, l.12-19; Judgment, [MLI-OTP-0002-0082](#), translation [MLI-OTP-0078-0238](#); Judgment, [MLI-OTP-0001-7428](#), translation [MLI-OTP-0078-0194](#), p.0195.

2101 Judgment, [MLI-OTP-0001-7465](#), translation [MLI-OTP-0077-2239](#), p.2240; [MLI-OTP-0002-0052](#), translation [MLI-OTP-0078-0278](#), p.0279; Notebook containing Judgment, [MLI-OTP-0001-7404](#), translation, [MLI-OTP-0078-1609](#), p.1610; P-0065:T-043, p.13, l.8-22(Conf); p.14, l.8-22;

2102 Judgment, [MLI-OTP-0001-7470](#), translation [MLI-OTP-0078-0224](#); [REDACTED]

[REDACTED] Judgment, [MLI-OTP-0001-7476](#), translation [MLI-OTP-0077-2438](#); List, [MLI-OTP-0001-7361](#), translation [MLI-OTP-0034-0063](#); Judgment, [MLI-OTP-0001-7394](#), translation [MLI-OTP-0078-1607](#); Judgment, [MLI-OTP-0001-7465](#), translation [MLI-OTP-0077-2239](#); with a reproduced image [MLI-OTP-0002-0052](#), translation [MLI-OTP-0078-0278](#); [REDACTED]

2103 P-0654:T-132, p.64, l.3-9; P-0654:T-128, p.20, l.4-17; P-0608:T-153, p.75, l.10-p.76, l.24; [REDACTED]

2104

Article, [MLI-OTP-0023-0330](#), p.0331.

2105 Article, [MLI-OTP-0023-0330](#), p.0331; Article, [MLI-OTP-0001-4887](#), p.4889; P-0007:T-019, p.8, l.22-p.9, l.1; P-0608:T-153, p.75, l.7-18.

2106 P-0125:[MLI-OTP-0023-0004-R03](#), p.0010, para.28; P-0547:T-151, p.14, l.11-15, p.15, l.24-p.16, l.9.

2107 P-0125:[MLI-OTP-0023-0004-R03](#), p.0010, para.28; P-0638:T-057, p.67, l.8-p.68, l.24, p.70, l.4-25; P-0004:T-165, p.19, l.13-p.21, l.20, p.32, l.20-p.33, l.24, p.34, l.21-25(Conf).

2108 P-0125:[MLI-OTP-0023-0004-R03](#), p.0010, para.28; P-0638:T-057, p.67, l.8-p.68, l.24.

2109 P-0602:T-084, p.79, l.2-23; P-0638:T-057, p.62, l.19-p.63, l.23; P-0125:[MLI-OTP-0023-0004-R03](#), p.0010, para.28.

2110

[REDACTED] P-0538:T-161, p.12, l.18-21; P-0603:T-125, p.17, l.8-19; P-0654:T-128, p.63, l.18-p.64, l.1; P-0004:T-165[ENG], p.64, l.19-23(Conf) and P-0004:T-165[FRA], p.65, l.4-9(Conf).

2111

Report,

[REDACTED] P-0004:T-165, p.27, l.23-p.28, l.8.

2112 P-0641:T-138, p.79, l.7-p.80, l.9(Conf); DSM report dated 9 July 2012, [MLI-OTP-0012-0472](#), p.0473; P-0150:T-102, p.42, l.20-p.44, l.18, p.64, l.22-p.65, l.6(Conf); Video, [MLI-OTP-0009-1749](#), 00:08:46:20-00:09:24:12, transcript [MLI-OTP-0028-0839](#), p.0846, l.200-209.

X.C.1. Ansar Dine/AQIM imposed their ideological and religious vision

489. As detailed in sections V, XI and XII, Ansar Dine/AQIM came to Timbuktu early April 2012 with a clear intention to impose their ideological and religious vision, on all aspects of life including gender onto the population.

490. In fact, from the start of the armed conflict in Mali in January 2012 when Ansar Dine/AQIM attacked the Aguelhok camp, Iyad Ag Ghaly and Cheick Ag Aoussa (one of the close assistants of Iyad Ag Ghaly in Ansar Dine²¹¹³) highlighted that it was their duty to impose their ideological and religious vision on the population of Mali.²¹¹⁴ A couple of months later, after Ansar Dine/AQIM took over Timbuktu, they introduced themselves as Ansar Dine forces led by Iyad Ag Ghaly and alleged that they had come to get rid of the tyrant forces from the country and to apply the Islamic rules in Timbuktu.²¹¹⁵

491. Iyad Ag Ghaly himself stressed the importance of implementing their religious views through all possible means.²¹¹⁶ He declaimed Ansar Dine/AQIM's religious ideology and the new rules/prohibitions which would now govern all of the population.²¹¹⁷ Iyad Ag Ghaly and other members of Ansar Dine/AQIM also held meetings with locals from Timbuktu to implement their ideology.²¹¹⁸ This continued throughout the occupation.

492. Beyond the speeches, Ansar Dine/AQIM also led a communication/media campaign, in the streets and public space, informing the population of the new rules and prohibitions that they were now expected to follow.²¹¹⁹ There was no choice in the matter as Ansar Dine/AQIM forces were armed, patrolling the streets and severely punishing everyone.

X.C.2. Ansar Dine/AQIM perceived the population as ignorant or non-believers

493. Ansar Dine/AQIM leaders perceived the population of Timbuktu and its region as being ignorant of religion, non believers and basically as “*mécréants*” to whom the religious rules, as conceived by them, had to be imposed.²¹²⁰

494. In particular, in May 2012, Iyad Ag Ghaly declared to his troops that “[l]es gens se doivent d'apprendre leur religion”²¹²¹ and added “*notre objectif est de savoir comment instaurer la religion,*

²¹¹³ [REDACTED]

²¹¹⁴ Video, [MLI-OTP-0011-0007](#), 00:06:59:00-00:09:56:00, transcript [MLI-OTP-0040-0425](#), p.0428-0429, l.99-117, translation [MLI-OTP-0040-0430](#), p.0434-0435, l.103-131.

²¹¹⁵ [REDACTED]

²¹¹⁶ Message, [MLI-OTP-0012-0933](#); Article, [MLI-OTP-0038-0870](#), translation [MLI-OTP-0039-0937](#).

²¹¹⁷ P-0125: [MLI-OTP-0023-0004-R03](#), p.0012, para.34, 36.

²¹¹⁸ P-0004:T-165, p.62, l.2-p.63, l.12, p.64, l.1-p.65, l.1-11(Conf); P-0654:T-127, p.55, l.5-14, p.57, l.7-24.

²¹¹⁹ [REDACTED]

²¹²⁰ [MLI-OTP-0024-2320](#), p.2329, translation [MLI-OTP-0027-0964](#), p.0974, para.2; [REDACTED] Audio, [MLI-OTP-0038-0886](#), 00:13:42:00-00:18:32:00, transcript [MLI-OTP-0056-0843](#), translation [MLI-OTP-0063-1029](#), p.1034-1035, l.162-227.

²¹²¹ Audio, [MLI-OTP-0038-0886](#), 00:17:42:00-00:17:52:00, transcript [MLI-OTP-0056-0843](#), translation [MLI-OTP-0063-1029](#), p.1035, l.237.

nous devons réfléchir à la façon de permettre le retour de la religion sur le territoire".²¹²² He contrasted the believers with the "*mécroyants*".²¹²³ In the same vein, a memorandum from AQIM to Ansar Dine, dated 20 July 2012, refers to an "environment ignorant of religion" and "a people which has not applied sharia in centuries".²¹²⁴

495. Consequently, Ansar Dine/AQIM sought to stamp out the traditional practices of the local population that they considered as sorcery, polytheism or heresy, *inter alia*:

- As mentioned above in section V.A, in early April 2012, Abdallah Al Chinguetti stated during a sermon: "*Vous devez ordonner le bien, lutter contre les pratiques déviationnistes [...]*".²¹²⁵
- Also in April 2012, during the destruction of statuettes in Timbuktu, an AQIM/Ansar Dine member told locals: "*on est venus ici pour vous enseigner la vraie foi. Ces statuettes, vous ne le saviez peut-être pas, mais elles sont interdites [...]. Il faut arrêter de les vénérer, compris ?*"²¹²⁶
- In mid-July 2012, when the door of the Sidi Yahia mosque was destroyed, Al Mahdi stated: "*ce que vous voyez là, c'est un moyen d'éradiquer la superstition, l'hérésie et toutes choses ou subterfuges susceptibles de conduire au polythéisme*".²¹²⁷ He added: "*Nous craignons que ces mythes envahissent les croyances des gens et des ignorants qui, à cause de leur ignorance et de leur éloignement de la religion, penseront qu'il s'agit là d'une vérité*".²¹²⁸ Abou Al Baraa made similar statements during the emblematic destruction of the mausolea.²¹²⁹
- In October 2012, following a police report signed by **AL HASSAN**, the Tribunal sentenced an individual found in possession of an amulet to imprisonment, reminding him that "polytheism was intolerable" and "devotion to anything other than Allah was a serious sin";²¹³⁰ this is one case amongst others regarding magic;²¹³¹ [REDACTED] the punishment for practising magic would be execution, which could be spared if the defendant repented and became a "Muslim".²¹³²

2122 [REDACTED]

2123 [REDACTED]

²¹²⁴ [MLI-OTP-0024-2320](#), p.2329, translation [MLI-OTP-0027-0964](#), p.0974, para.2.

²¹²⁵ Video, [MLI-OTP-0009-1749](#), 00:08:57:00-00:09:04:01, transcript [MLI-OTP-0028-0839](#), p.0846, l.204-207; P-0065:T-037, p.33, l.9-20(Conf); P-0065:T-038, p.38, l.1-6, p.38, l.15-p.41, l.3.

²¹²⁶ Video, [MLI-OTP-0001-6931](#), 00:00:33:00-00:02:10:00, transcript [MLI-OTP-0056-0581](#), p.0582-0583, l.63-64, translation [MLI-OTP-0061-1139](#), p.1142, l.63-66.

2127 [REDACTED]

2128 [REDACTED]

²¹²⁹ Video, [MLI-OTP-0015-0495](#), 00:37:08:00-00:37:56:00, transcript [MLI-OTP-0033-5189](#), p.5194, l.163-175, translation [MLI-OTP-0033-5288](#), p.5294-5295, l.183-198; P-0065:T-043, p.37, l.11-p.38, l.4(Conf); Video, [MLI-OTP-0001-6927](#), transcript [MLI-OTP-0020-0579](#).

²¹³⁰ Police report, [MLI-OTP-0055-1072](#), translation [MLI-OTP-0054-0306](#); Judgment, [MLI-OTP-0002-0082](#), translation [MLI-OTP-0078-0238](#).

²¹³¹ See e.g. incidents 20 and 40.

²¹³² [REDACTED] See e.g. incident 20.

- Later in December 2012, in a statement provided to Sahara Media, Abou Al Walid, the last chief of *Hesbah*, announced that after being informed that some mausoleums and domes existed in secluded places, the *Hesbah* “confirmed the presence of domes and the vestiges of polytheistic practices in them, and accordingly decided to raze them to the ground”.²¹³³
- [REDACTED] a preacher, accompanied by a member of the *Hesbah*,²¹³⁴ telling the locals: “*C'est vrai que vous étiez musulmans, mais à cause de l'influence des chrétiens, vous avez oublié votre religion. Nous venons vous éclairer*”.²¹³⁵

X.C.3. Various religious, social and cultural prohibitions

X.C.3.a. Prohibition of any faith other than the Muslim faith

496. Ansar Dine/AQIM imposed their view of religion and ideology on the Timbuktu population and prohibited the practice of any other faith which previously existed in Timbuktu, such as Christianity or Judaism.²¹³⁶ They forcibly removed all religious manifestations from the buildings representing other faiths, such as the cross from churches,²¹³⁷ and forced the people who lived in these buildings to leave.²¹³⁸

X.C.3.b. Prohibition of certain religious celebrations or practices

497. Ansar Dine/AQIM also prohibited celebrations dear to the population from Timbuktu.²¹³⁹ Tabaski was celebrated differently because of all the restrictions imposed.²¹⁴⁰ The Maouloud²¹⁴¹ celebrations were also prohibited by Ansar Dine/AQIM,²¹⁴² which made the population “very angry” but they had no choice but to accept the decision.²¹⁴³ Additionally, on the day of the Muslim new year’s eve, public gatherings and traditional festivities were forbidden.²¹⁴⁴ Likewise, Ansar Dine/AQIM tried to forbid the Subbahi.²¹⁴⁵

²¹³³ Article, [MLI-OTP-0024-3085](#), translation [MLI-OTP-0078-7303](#), p.7304-7305; [REDACTED]

²¹³⁴ P-0065:T-043, p.6, l.9-p.7, l.15(Conf), p.8, l.1-13, p.8, l.21-p.9, l.8(Conf).

²¹³⁵ Video, [MLI-OTP-0009-1749](#), 00:07:06:00-00:08:42:00, transcript [MLI-OTP-0028-0839](#), n.0845, l.179-181

²¹³⁶ [REDACTED]; Article, [MLI-OTP-0001-4887](#), p.4888; P-0114:[MLI-OTP-0023-0344-R02](#), p.0376, para. 144.

²¹³⁷ P-0654:T-130, p.45, l.7-p.46, l.17.

²¹³⁸ [REDACTED]

²¹³⁹ P-0114:[MLI-OTP-0023-0344-R02](#), p.0373, para.128; P-0538:T-161, p.12, l.23-25; P-0603:T-125, p.15, l.25-p.16, l.8; P-0603:T-126, p.22, l.8; P-0654:T-135, p.6, l.6-11; Article, [MLI-OTP-0001-4887](#), p.4891.

²¹⁴⁰ Article, [MLI-OTP-0035-0902](#).

²¹⁴¹ [REDACTED]

²¹⁴² [REDACTED]

²¹⁴³ [REDACTED] P-0114:[MLI-OTP-0023-0344-R02](#), p.0373, para.128.

²¹⁴⁴ P-0114:[MLI-OTP-0023-0344-R02](#), p.0373, para.128; Article, [MLI-OTP-0001-4887](#), p.4891.

²¹⁴⁵ [REDACTED]

X.C.3.c. Control over the way of praying, including the prohibition of prayers at mausoleums and subsequent destruction thereof²¹⁴⁶

498. Ansar Dine/AQIM dictated the way people in Timbuktu should pray, when they should pray²¹⁴⁷ and how they should dress for prayer.²¹⁴⁸ The practice of making multiple calls at prayer was forbidden.²¹⁴⁹ In addition, at the beginning of the Ramadan month, on 20 July 2012, [REDACTED]

[REDACTED] *les Imams qui ne prêcheront pas correctement seront remplacés. [...] Au niveau des mosquées il faut la Nafila avec [rature] la totalité du Saint Coran.*²¹⁵⁰

499. Also, as mentioned in section IX above, Ansar Dine/AQIM prohibited locals from praying at the mausoleums,²¹⁵¹ because they deemed them “anti-monotheistic manifestations”.²¹⁵² In the first two months of the occupation, before destroying them, the *Hesbah* would go to mausoleums to discourage locals from certain practices, such as touching or kissing mausoleums.²¹⁵³ Those who violated these rules were forced to leave.²¹⁵⁴

500. As described in detail in section IX.A, a significant number of protected buildings dedicated to religion were attacked in April/May, June/July and October/December 2012 because they were deemed to be inconsistent with the religious views of Ansar Dine/AQIM. The destruction of the mausoleums was an attack on the soul and identity of Timbuktu.²¹⁵⁵ The people of Timbuktu viewed them as highly sacred places. As such, their destruction caused fear in the population²¹⁵⁶ who considered any harm on the mausoleums to be very serious.²¹⁵⁷ In that regard, an inhabitant courageously reported publicly that “*Tombouctou est sur le point de perdre son âme. Tombouctou est sous la menace de vandalisations outrageantes*”.²¹⁵⁸ Obviously, the deteriorations and destructions of the mausoleums made it more difficult to pray on these sites.²¹⁵⁹

²¹⁴⁶ See section IX.

²¹⁴⁷ [REDACTED] P-0538:T-161, p.12, l.18-21; P-0603:T-125, p.17, l.8-19.

²¹⁴⁸ [REDACTED] P-0654:T-128, p.63, l.23-p.64, l.1.

²¹⁴⁹ [REDACTED]

²¹⁵⁰ [REDACTED]

²¹⁵¹ [REDACTED] P-0004:T-165, p.27, l.23-24.

²¹⁵²

²¹⁵³

²¹⁵⁴ [REDACTED]

²¹⁵⁵ P-0431:T-062, p.31, l.23-p.32, l.7, p.48, l.12-p.49, l.3; D-0551:T-201, p.7, l.22-25.

²¹⁵⁶ P-0654:T-132, p.62, l.22-p.63, l.2.

²¹⁵⁷ D-0551:T-201, p.7, l.22-25.

²¹⁵⁸ P-0654:T-132, p.19, l.6-p.20, l.1 on video [MLI-OTP-0001-6925](#), 00:01:09:02-00:01:19:11, transcript [MLI-OTP-0056-0575](#), p.0577, l.49-50.

²¹⁵⁹ Article, [MLI-OTP-0001-1938](#).

X.C.3.d. Prohibition of traditional practices, including the use of talismans and amulets²¹⁶⁰

501. Ansar Dine/AQIM prohibited the practice of so called “magic” or “sorcery”, including using amulets or wearing talismans, which had been traditionally common in Timbuktu,²¹⁶¹ as being contrary to their ideological and religious vision.

502. In a speech dated 24 May 2012, Iyad Ag Ghaly himself declared that “[...] *il y a des sorciers et d'ailleurs nous ne faisons plus la différence entre marabouts et sorciers, la sorcellerie est mécréance [...] En ce moment, les gens l'appellent secret, [...] talismans [...]. Tout ça n'est que mécréance.*”²¹⁶² Those who violated the rules were punished, including by flogging, imprisonment²¹⁶³ and/or destruction/seizure²¹⁶⁴ of the forbidden item.²¹⁶⁵

503. For example, in September 2012, “*des policiers islamistes [ont fait] la chasse aux amulettes, bagues et bracelets [...] même aux enfants*”.²¹⁶⁶ Also, according to a judgment of the Tribunal dated [REDACTED] 2012, [REDACTED] was arrested by the Police for using talismans²¹⁶⁷ and **AL HASSAN** wrote the police report.²¹⁶⁸ He was charged and found guilty by the Tribunal of practising “magic” and was sentenced to read the Koran and was jailed for 3 days.²¹⁶⁹ Other examples are referred to in Annex 1.

504. During their June 2013 forensic mission to Timbuktu, P-0055 and P-0057 found at the *Hôtel la Maison*, used as the Tribunal’s headquarters,²¹⁷⁰ hundreds of amulets and talismans,²¹⁷¹ which Ansar Dine/AQIM had seized.²¹⁷²

²¹⁶⁰ See also section VII.

²¹⁶¹ [REDACTED]

²¹⁶² [REDACTED]

²¹⁶³ [REDACTED]

²¹⁶⁴ P-0641:T-138, p.7, l.12-23(Conf).

²¹⁶⁵ Judgment, [MLI-OTP-0001-7404](#), translation [MLI-OTP-0078-1609](#); Judgment, [MLI-OTP-0001-7470](#), translation [MLI-OTP-0078-0224](#); Judgment, [MLI-OTP-0002-0082](#), translation [MLI-OTP-0078-0238](#); Judgment, [MLI-OTP-0002-0052](#), translation [MLI-OTP-0078-0278](#); Judgment, [MLI-OTP-0001-7428](#), translation [MLI-OTP-0078-0194](#); Judgment, [MLI-OTP-0001-7418](#), translation [MLI-OTP-0078-1611](#), p.1612; Video, [MLI-OTP-0001-6931](#), 00:02:10:00-00:02:28:00, transcript [MLI-OTP-0056-0581](#), translation [MLI-OTP-0061-1139](#), p.1142, l.73-76.

²¹⁶⁶ [REDACTED]

²¹⁶⁷ Judgment, [MLI-OTP-0002-0052](#), translation [MLI-OTP-0078-0278](#).

²¹⁶⁸ Report, [MLI-OTP-0001-7560](#), translation [MLI-OTP-0052-0031](#).

²¹⁶⁹ Judgment, [MLI-OTP-0002-0052](#), translation [MLI-OTP-0078-0278](#).

²¹⁷⁰ P-0057:[MLI-OTP-0060-1920](#); P-0590:[MLI-OTP-0069-8559](#).

²¹⁷¹ See e.g. [MLI-OTP-0055-0610](#); [MLI-OTP-0055-1047](#), translation [MLI-OTP-0080-2288](#); [MLI-OTP-0055-1059](#); [MLI-OTP-0055-1225](#); [MLI-OTP-0055-1181](#), translation [MLI-OTP-0069-2407](#); [MLI-OTP-0055-1182](#), translation [MLI-OTP-0069-2409](#); [MLI-OTP-0055-1183](#), translation [MLI-OTP-0069-2411](#); [REDACTED]

²¹⁷² [REDACTED]

X.C.3.e. Prohibition and destruction of statue, masks, statuettes, portrayal

505. Ansar Dine/AQIM destroyed monuments and items deemed as idols or manifestations of human beings, prohibited by their ideological and religious vision.²¹⁷³ As mentioned in section IX, in early May 2012, Ansar Dine/AQIM members destroyed the Al Farouk monument.²¹⁷⁴ As mentioned above in section V.A, Sanda Ould Boumama explained on this occasion: “*La [phon.] fait qu’on l’a fait ça, Al Farouk, les gens pensent que c’est Al Farouk qui gouverne [phon.] la ville, hein. [...] on ne peut pas l’accepter parce que c’est contre notre religion*”.²¹⁷⁵ In the same vein, a 12 April 2012 video shows Ansar Dine/AQIM members destroy traditional statues.²¹⁷⁶

X.C.3.f. Prohibition of cultural practices

506. Any activity linked to music was also prohibited and sometimes severely sanctioned.²¹⁷⁷ Anyone found listening to music could be beaten,²¹⁷⁸ flogged²¹⁷⁹ or even imprisoned.²¹⁸⁰ As a consequence, musicians had to leave Timbuktu.²¹⁸¹ Dancing was also prohibited.²¹⁸² Additionally, images of human faces were erased on kiosks, advertisements, mural paintings and signs.²¹⁸³ Watching television was forbidden,²¹⁸⁴ and people would be severely punished for doing so.²¹⁸⁵ Ansar Dine/AQIM also confiscated parabolic antenna enabling people to watch foreign television.²¹⁸⁶

²¹⁷³ [REDACTED] Video, [MLI-OTP-0001-6931](#), 00:01:38:00-00:01:54:05, transcript [MLI-OTP-0056-0581](#), translation [MLI-OTP-0061-1139](#), p.1142, l.46-49; Video, [MLI-OTP-0017-0027](#), 00:01:00:00-00:01:39:00, transcript [MLI-OTP-0033-5228](#), p.5230-5231, l.29-50, translation [MLI-OTP-0033-5405](#), p.5408-5409, l.29-51; Video, [MLI-OTP-0009-1749](#), 00:04:10:20-00:04:15:30, transcript [MLI-OTP-0028-0839](#), p.0843, l.93; Video, [MLI-OTP-0025-0010](#), 00:07:05:18-00:07:18:00; P-0065:T-043, p.15, l.10-24(Conf), p.16, l.11-15, p.17, l.16-p.18, l. 6.

²¹⁷⁴ P-0654:T-132, p.9, l.10-p.10, l.10; Video, [MLI-OTP-0011-0402](#), 00:00:51:00-00:01:06:00, transcript [MLI-OTP-0020-0612](#), p.0613, l.26-29; [REDACTED]

[REDACTED] P-0654:T-131, p.54, l.5-11(Conf).

²¹⁷⁵ [MLI-OTP-0011-0402](#), 00:00:51:00-00:01:06:00, transcript [MLI-OTP-0020-0612](#), p.0613, l.26-29.

²¹⁷⁶ Video, [MLI-OTP-0001-6931](#), 00:01:38:00-00:02:06:00, transcript [MLI-OTP-0056-0581](#), translation [MLI-OTP-0061-1139](#), p.1142, l.56-66.

²¹⁷⁷ P-0065:T-037, p.23, l.10-11; P-0065:T-046, p.12, l.23-p.13, l.1; P-0557:T-054, p.19, l.16-19; P-0608:T-153, p.75, l.15-16; P-0622:[MLI-OTP-0065-0558-R02](#), p.0565, para.36; P-0114:T-060, p.31, l.11-12; Report, [MLI-OTP-0013-3500](#), p.3512, para.44; Articles: [MLI-OTP-0001-2409](#), p.2416, [MLI-OTP-0023-0330](#), p.0331, [MLI-OTP-0001-4887](#), p.4889, [MLI-OTP-0014-5201](#), [MLI-OTP-0052-0043](#).

²¹⁷⁸ [REDACTED]

²¹⁷⁹ P-0641:T-137, p.61, l.3-6, p.61, l.19-p.62, l.8(Conf), p.62, l.16-p.68, l.4; P-0603:T-125, p.15, l.24-p.16, l.2.

²¹⁸⁰ P-0582:[MLI-OTP-0062-3736-R02](#), p.3752, l.542-559.

²¹⁸¹ P-0608:T-153, p.75, l.15-16; p.76, l.3-p.77, l.2(Conf); Video, 25 January 2013, [MLI-OTP-0035-0073](#), transcript [MLI-OTP-0056-0903](#), translation [MLI-OTP-0061-1274](#), p.1277, l.43-57.

²¹⁸² P-0114:T-060, p.31, l.12-13; P-0654:T-130, p.28, l.25-p.29, l.2.

²¹⁸³ Video, [MLI-OTP-0017-0027](#), 00:00:51:08-00:01:39:12, transcript [MLI-OTP-0033-5228](#), p.5230-5231, l.20-50, translation [MLI-OTP-0033-5405](#), p.5408-5409, l.20-51; Video, [MLI-OTP-0025-0010](#), 00:07:05:00-00:07:19:11, translation [MLI-OTP-0033-5488](#), p.5493, l.130-131.

²¹⁸⁴ Report, [MLI-OTP-0013-3500](#), p.3512, para.44; Articles: [MLI-OTP-0001-4878](#); [MLI-OTP-0001-4887](#), p.4889.

²¹⁸⁵ Liste des victimes à l’hôpital de Tombouctou, [MLI-OTP-0039-0027](#), p.0028-0029.

²¹⁸⁶ Articles: [MLI-OTP-0001-4878](#), p.4878; [MLI-OTP-0001-4887](#), p.4889.

X.C.3.g. Prohibition of various social practices

507. Men and women were not allowed to mix unless they were blood related or married.²¹⁸⁷ This was punished by 20 and 40 lashes for the man and the woman respectively.²¹⁸⁸ Consequently, men and women would be severely punished with flogging if they have an extramarital sexual relationship, deemed “adultery” (see for instance section VI.B.1).

508. As explained in more detail below, women were also forced to adopt a specific dress code, and had to wear a veil in public. Men had to wear a beard, they could not style their hair and their trousers could only extend to above their ankles.²¹⁸⁹ Any violation could result in a corporal punishment and/or detention at the Police or the BMS for the females, and/or a request for the males to cut off their pants or keep them shorter.²¹⁹⁰ For example, P-0622 witnessed “*islamiques*” cut off the trousers of some passengers on a boat.²¹⁹¹

509. Ansar Dine/AQIM also prohibited alcohol and cigarettes,²¹⁹² and those found to be selling or consuming such items were arrested, detained, flogged and/or imprisoned.²¹⁹³ They also confiscated and destroyed alcoholic beverages²¹⁹⁴ and cigarettes.²¹⁹⁵ For example, [REDACTED] Police members burning cigarettes.²¹⁹⁶

X.C.3.h. Prohibition of secular and co-education

510. Additionally, Ansar Dine/AQIM closed public secular schools²¹⁹⁷ and imposed the teaching of their ideological/religious vision.²¹⁹⁸ Following complaints from the population, schools were re-opened only to allow children in upper-level classes to take their exams, with some conditions, in particular, that

²¹⁸⁷ [REDACTED] T-153, p.74, l.18-19; P-0602:T-084, p.79, l.2-11; P-0638:T-057, p.63, l.8-23.

²¹⁸⁸ Article, [MLI-OTP-0001-4887](#), p.4890; P-0114:[MLI-OTP-0023-0344-R02](#), p.0376, para.144.

²¹⁸⁹ P-0125:[MLI-OTP-0023-0004-R03](#), p.0010, para.28; Article, [MLI-OTP-0001-4887](#), p.4889; AI Report, [MLI-OTP-0001-2265](#), p.2282; P-0608:T-153, p.74, l.4-17; P-0984:T-068, p.58, l.3-16, p.59, l.14-25; P-0547:T-151, p.14, l.13-16, p.16, l.6-9; [REDACTED]

²¹⁹⁰ P-0638:T-058, p.82, l.10-p.83, l.19(Conf); Video, [MLI-OTP-0069-4624](#), 00:16:07:00-16:13:00:00; P-0623:T-030, p.8, l.8-13; P-0984:T-068, p.59, l.14-25; Article, [MLI-OTP-0033-0957](#).

²¹⁹¹ P-0622:[MLI-OTP-0065-0558-R02](#), p.0563, para.30.

²¹⁹² [REDACTED] P-0160:T-068, p.60, l.2-8; P-0603:T-125, p.15, l.16-23, p.22, l.8-14; P-0984:T-068, p.60, l.2-13; P-0623:T-030, p.8, l.15-22; Video, [MLI-OTP-0001-6931](#), 00:00:33:00-00:01:20:00; Video, [MLI-OTP-0001-7037](#), 00:20:13:00-00:20:43:00; [REDACTED]

²¹⁹³ P-0603:T-125, p.22, l.8-14; P-0557:T-054, p.38, l.2-6(Conf); P-0654:T-130, p.42, l.25-p.43, l.9; P-0984:T-068, p.60, l.2-13.

²¹⁹⁴ P-0065:T-044, p.13, l.14-17; Video, 12 April 2012, [MLI-OTP-0001-6931](#), 00:00:33:00-00:01:20:00, transcript [MLI-OTP-0056-0581](#), translation [MLI-OTP-0061-1139](#), p.1141-1142, l.16-44.

²¹⁹⁵ P-0622:[MLI-OTP-0065-0558-R02](#), p.0565, para.38-39; P-0065:T-044, p.13, l.14-17.

²¹⁹⁶ [REDACTED]

²¹⁹⁷ P-0608:T-153, p.74, l.4-7; Article, [MLI-OTP-0001-4887](#), p.4889; Video, [MLI-OTP-0011-0423](#), 00:01:44:00-00:01:59:00, transcript [MLI-OTP-0015-0071](#), p.0073, l.62-63, translation [MLI-OTP-0016-0439](#), p.0442, l.66-68; P-0622:[MLI-OTP-0065-0558-R02](#), p.0567-0568, para.50.

²¹⁹⁸ AI Report, [MLI-OTP-0001-2265](#), p.2283; Article, [MLI-OTP-0001-4887](#), p.4889. *See also* P-0004:T-165, p.27, l.12-13; P-0114:[MLI-OTP-0023-0344-R02](#), p.0376, para.144.

girls and boys be separated in classes and that girls cover themselves with a veil.²¹⁹⁹ [REDACTED]

[REDACTED]²²⁰⁰

X.C.3.i. Control exercised over the media

511. Ansar Dine/AQIM controlled the media such as the radio,²²⁰¹ which were used to broadcast sermons or religious music²²⁰² and to announce various rules and punishments.²²⁰³ They also restricted the work of journalists.²²⁰⁴ For example, the document [REDACTED] to conduct a journalistic mission [REDACTED] bearing the Police stamp and AL HASSAN's signature,²²⁰⁵ contains various restrictions and censorship measures [REDACTED]

[REDACTED]²²⁰⁶

[REDACTED]²²⁰⁷ Any criticism could be dangerous. [REDACTED]²²⁰⁸

X.D. Gender persecution

512. In addition to being targeted on religious grounds, women and girls from Timbuktu were also specifically targeted because of their gender. Ansar Dine/AQIM imposed strict obligations and prohibitions on them that reflected the requirements of their religious beliefs and their views regarding women's role in society as limited to "running the household, raising the kids in their early stage", and "to stay home and leave home only if it is necessary".²²⁰⁹

513. Ansar Dine/AQIM imposed strict controls on many, if not all the aspects of women's lives, be it in the public or private spaces, and severely punished them for violating the new imposed rules, as part of their ideological and religious vision, including on gender.²²¹⁰ For example, women and girls had to comply with a dress code which included wearing a veil and could not be out alone at night.²²¹¹ Women

²¹⁹⁹ P-0654:T-128, p.4, l.2-p.5, l.7; T-129, p.16, l.22-p.17, l.16; P-0004:T-165, p.27, l.16-17.

²²⁰⁰ [REDACTED]

²²⁰¹ [REDACTED]

²²⁰² P-0398:[MLI-OTP-0051-0483](#), p.0489-0490, l.187-207; P-0608:T-153, p.60, l.1-4; P-0065:T-040, p.46, l.18-24(Conf); Articles, [MLI-OTP-0023-0330](#), p.0331; [MLI-OTP-0001-4887](#), p.4889.

²²⁰³ P-0626:T-141, p.52, l.8-p.53, l.2.

²²⁰⁴ P-0654:T-128, p.22, l.9-p.29, l.15(Conf); [REDACTED] Authorisation, [MLI-OTP-0053-0008](#), translation [MLI-OTP-0078-1650](#); Request for permission, [MLI-OTP-0001-7217](#), translation [MLI-OTP-0034-0045](#); Letter, [MLI-OTP-0012-1966](#); Authorisation, [MLI-OTP-0012-1368](#), translation [MLI-OTP-0014-5619](#).

²²⁰⁵ Authorisation, [MLI-OTP-0053-0006](#), translation [MLI-OTP-0078-1650](#), corresponding to the scan [MLI-OTP-0002-0016](#); P-0398:[MLI-OTP-0060-1539](#), p.1558-1560, l.610-695.

²²⁰⁶ Authorisation, [MLI-OTP-0053-0006](#), translation [MLI-OTP-0078-1650](#).

²²⁰⁷ P-0065:T-039, p.51, l.3-p.52, l.4(Conf).

²²⁰⁸ [REDACTED]

²²⁰⁹ [REDACTED]

²²¹⁰ See section X.D.1. See e.g. P-0608:T-153, p.74, l.17-21.

²²¹¹ See e.g. P-0608:T-153, p.74, l.17-19, p.75, l.3-6; P-0602:T-084, p.80, l.12-p.84, l.14; P-0608:T-155, p.13, l.1-22; Report, [MLI-OTP-0039-0920](#), p.0928.

and girls were hounded in the city streets, at the hospital and in their houses.²²¹³ They were harassed daily and subjected to abusive, systematic searches under some pretext, including dress code violations. Women who did not comply with the rules could be beaten or arrested and imprisoned in inhumane conditions.²²¹⁴ Some were raped or subjected to forced marriages and sexual slavery, and other sexual violence while in custody, in particular at the BMS (see *inter alia* section VIII).

514. Various documents and utterances from Ansar Dine/AQIM members show that women and girls were targeted because of their gender:

- The document “*La voile intégrale a huit conditions [sic]*”, which was distributed in Timbuktu, demonstrates that women and girls from Timbuktu were specifically targeted.²²¹⁵
- Abou Al Baraa, who was in Timbuktu when the mausoleums were destroyed,²²¹⁶ in June/July 2012, preached in a mosque, and publicly explained prohibitions imposed upon women and girls: “*Elles ne doivent pas parler d’une manière qui puisse séduire ou d’une voix suave. Et elles ne doivent pas émettre un tintement quand elles marchent. Elles ne doivent pas s’embellir et elles doivent porter des vêtements qui les recouvrent entièrement*”.²²¹⁷ He added: “*les laïcs, [...]et les dévoyés disent à propos de la parole de notre Dieu « Restez dans vos foyers » [...]: c’est la prison de la femme, c’est ce qui enchaîne la femme, c’est ce qui entrave la liberté de la femme. Qui sait mieux, vous ou Dieu?*”.²²¹⁸
- On 15 August 2012, Abou Zeid’s instructions convey how Ansar Dine/AQIM conceived the role of women in the society. The instructions from Abou Zeid were directed to the Police, the *Hesbah* and “all soldiers”.²²¹⁹ Abou Zeid promotes the use of physical force against women who are not wearing the veil or who are not correctly dressed in public. In particular, he prescribed that if a woman was found to be “unveiled in public”, the “man” who accompanied her had to “impose the wearing of the veil upon her”, thus instrumentalising one gender against the other. In the case of “repeated resistance”, her “guardian” had to be notified, and if she were to reoffend, “the *ta’zir* is to be applied”.²²²⁰ Abou Zeid simply asked not to use “physical force excessively”²²²¹, thus

²²¹³ See e.g. P-0004:T-165, p.32, l.20-p.34, l.8; [MLI-OTP-0030-1044-R01](#), p.1068; [REDACTED]; [REDACTED].

²²¹⁴ See e.g. the incidents related to P-0570, P-0547, P-0636 and P-1134, described above in section VI.B. See also P-0984:T-068, p.57, l.23-p.59, l.13; P-0160:T-066, p.73, l.24-p.75, l.3; Video, [MLI-OTP-0011-0376](#), 00:03:35:00-00:04:01:00, transcript [MLI-OTP-0033-5221](#), p.5223, l.77-81, translation [MLI-OTP-0033-5369](#), p.5372, l.82-86.

²²¹⁵ [MLI-OTP-0053-0020](#), p.0020; P-0654:T-128, p.63, l.18-21.

²²¹⁶ P-0065:T-043, p.21, l.23-p.22, l.4.

²²¹⁷ Video, [MLI-OTP-0015-0495](#), 00:36:13:00-00:36:30:00, transcript, [MLI-OTP-0033-5189](#), p.5193-5194, l.140-161, translation, [MLI-OTP-0033-5288](#), p.5293-5294, l.155-165.

²²¹⁸ Video, [MLI-OTP-0015-0495](#), 00:36:40:00-00:37:08:00, transcript, [MLI-OTP-0033-5189](#), p.5194, l.153-161, translation, [MLI-OTP-0033-5288](#), p.5294, l.178-181.

²²¹⁹ [MLI-OTP-0001-7193](#), translation, [MLI-OTP-0077-2366](#), p.2367.

²²²⁰ [MLI-OTP-0001-7193](#), translation, [MLI-OTP-0077-2366](#), p.2367-2368.

²²²¹ [MLI-OTP-0001-7194](#), translation, [MLI-OTP-0077-2369](#), p.2370.

indicating that resort to physical force was permissible. The punishments had to be administered at the police station or at the *Hesbah*.²²²²

- On 28 September 2012, Al Mahdi stated in an interview: “[l]es femmes impudiques” who did not submit to the dress code “sont sommées par la police islamique de rentrer à leurs maisons et de porter des habits décents pour sortir. Dans de rares cas où des jeunes filles s’entêtent [...] elles sont maintenues sur place ou emprisonnées dans des lieux de détention spéciaux”.²²²³
- In December 2012, a preacher in the street told the inhabitants: “il est hors de question de pardonner aux femmes d’ici qui ne sont pas habillées convenablement. Il n’y a qu’un maquereau pour accepter que sa femme dévoile son corps [...]”.²²²⁴

X.D.1. The imposition of the dress code and other restrictions on womens’ freedoms by force, threat of force, and violence

515. Women were forced to comply with a dress code including wearing a veil.²²²⁵ Wearing “complets”, braiding hair with “mèches”, wearing cream to make the skin whiter was forbidden²²²⁶ and those who did not obey their rules were sometimes “taken away” while some were beaten.²²²⁷ Women were afraid to go to weddings, baptisms or *tontine*, or to the market because they had to be veiled to do so, failing which they would be whipped or imprisoned.²²²⁸ They could not go out at night alone.²²²⁹

516. The Police and the *Hesbah* played a key role in violently enforcing the new rules against women and girls. For instance, on 14 August 2012 or the 27th day of Ramadan, members of the Police harassed many women for not respecting the dress code, with some chased into their homes and flogged.²²³⁰ After complaints about this incident were made, Abou Zeid issued instructions to the police, the *Hesbah* and “all soldiers”²²³¹, encouraging the use of physical force or imprisonment against women who reoffended.

517. Women were fearful of the authorities and were at risk on the streets. [REDACTED]

²²²² [MLI-OTP-0001-7193](#), translation, [MLI-OTP-0077-2366](#), p.2367.

²²²³ Article, [MLI-OTP-0015-0406](#); [MLI-OTP-0029-0099](#), translation [MLI-OTP-0078-7308](#), p.7310.

²²²⁴ Video, [MLI-OTP-0009-1749](#), 00:08:00:15-00:08:22:24, transcript, [MLI-OTP-0028-0839](#), p.0845, l.186-190; [REDACTED].

²²²⁵ [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [MLI-OTP-0001-7194](#), translation [MLI-OTP-0077-2369](#); [REDACTED].

²²²⁶ P-0565:T-051, p.13, l.21-23; T-052, p.4, l.2-12.

²²²⁷ P-0565:T-051, p.14, l.5-12.

²²²⁸ P-0639:T-136, p.24, l.9-14; P-0565:T-051, p.33, l.5-p.34, l.13(Conf); P-0602:T-084, p.80, l.4-24; P-0638:T-057, p.70, l.4-17; Article, [MLI-OTP-0035-0895](#).

²²²⁹ P-0602:T-084, p.83, l.22-p.84, l.14; P-0608:T-153, p.75, l.3-6.

²²³⁰ [REDACTED]; P-0004:T-165, p.29, l.14-p.30, l.3, p.30, l.4-p.31, l.21(Conf), p.31, l.22-p.34, l.8; P-0398:[MLI-OTP-0051-0483](#), p.0500-0501, l.506-543; [MLI-OTP-0051-1213](#), p.1218-1220, l.134-214. See also P-0654:T-128, p.20, l.8-15; P-0547:T-152, p.18, l.13-p.20, l.1; D-0213:T-197, p.14, l.4-p.17, l.22.

²²³¹ [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#), p.2367.

²²³² a local man explained that: “*Par rapport aux nouveaux [phon.] règles qu'on est en train d'appliquer par rapport aux femmes, [...] on est là en train de harceler les femmes [...] Une femme, il suffit de voir quelqu'un qui a une arme [...] pour qu'elle [...] prendre la fuite. Cela aussi n'est pas normal. Vraiment c'est trop, c'est une exagération.*”²²³³

518. Even after the *Hesbah* under Mohamed Moussa's leadership started to play a greater role in forcibly implementing the dress code against women,²²³⁴ the Police continued to harass women and girls. For example, [REDACTED] two members of the Police patrolling the streets and asking a woman to cover herself with a veil.²²³⁵ Upon returning to their headquarters at the *Gouvernorat*, [REDACTED], the police member responded that:

[REDACTED]²²³⁶

519. Because of the new rules and the constant harassment, women protested publicly on 6 October 2012.²²³⁷ In a symbolic way, they decided to march towards the BMS.²²³⁸ P-0603 explained: “They imposed the Sharia. They did not consult anyone. They imposed it on the people, and none of the women agreed to it [...] We had a march because we could no longer go to the market. We could no longer run our little businesses? We couldn't go out wearing the clothes that we wanted to wear.”²²³⁹

520. Despite Abou Zeid's statement on addressing the matter of imprisoned women being assaulted by Mohamed Moussa and his men,²²⁴⁰ this continued even after the demonstration, as the complaints made against him by the *Comité de crise*²²⁴¹ show.²²⁴² The reports signed by Mohamed Moussa dated 25 November 2012²²⁴³ show that he was still working for the *Hesbah* even after these numerous complaints. Mohamed Moussa was still active in December 2012,²²⁴⁴ and it was only later that month that he was replaced by Abou Al Walid.²²⁴⁵ In this regard, the Prosecution

²²³² [REDACTED]

²²³³ [REDACTED]

²²³⁴ [REDACTED]; P-0398: [MLI-OTP-0051-1155](#), p.1156-1177, l.20-732;

²²³⁵ [REDACTED]

²²³⁶ [REDACTED]

²²³⁷ Audio, [MLI-OTP-0033-2814](#), transcript [MLI-OTP-0069-3232](#); P-0065:T-038, p.41, l.21-p.42, l.7; T-050, p.28, l.22-p.29, l.21(Conf); Message, [MLI-OTP-0012-0975](#); Articles: [MLI-OTP-0033-4306](#); [MLI-OTP-0001-4074](#);

²²³⁸ P-0603:T-125, p.36, l.10-17.

²²³⁹ P-0603:T-125, p.35, l.11-17.

²²⁴⁰ [REDACTED]

²²⁴¹ [REDACTED]

²²⁴² [REDACTED]

²²⁴³ [REDACTED]

²²⁴⁴ [REDACTED]

²²⁴⁵ [REDACTED]; P-0398: [MLI-OTP-0051-1099](#), p.1120-1121, l.688-715; [REDACTED]; Note, [MLI-OTP-0001-7391](#), translation [MLI-OTP-0077-2826](#), p.2828.

recalls that [REDACTED] testified that he called AL HASSAN on [REDACTED] 2012²²⁴⁶ to inquire where [REDACTED] who had been forcibly taken away by Ansar Dine/AQIM members, was.²²⁴⁷ AL HASSAN told him that he could collect [REDACTED] at Mohamed Moussa's "house".²²⁴⁸ [REDACTED] went to the BMS and found [REDACTED] amongst the other detained [REDACTED]²²⁴⁹

[REDACTED]²²⁵⁰

X.D.2. Sexual violence against women

521. The crimes of rape in detention and of rape, sexual slavery/forced marriage, discussed in section VIII, are part of underlying acts of the crime of persecution based on gender.

522. By putting in place a coercive environment, applying specific rules against women and girls, and harassing them, Ansar Dine/AQIM members not only allowed but encouraged and normalised sexual violence as part of their discriminatory vision of women and girls. Indeed, women and girls from Timbuktu were disproportionately affected. They were particularly targeted because of the expectations and roles Ansar Dine/AQIM assigned to their gender. The crimes of sexual violence some of them suffered were the result of this role assigned to them, they were seen as objects (or persons without any rights) that Ansar Dine/AQIM members could dispose of as they saw fit. For instance, when P-0636 was arrested for a dress code violation, one member of Ansar Dine/AQIM said to her: "Take this bedeviled child and take her and put her in that place where the mosquitoes are to be found."²²⁵¹

[REDACTED]²²⁵² P-0610, after refusing to be touched, was slapped and then raped.²²⁵³ P-0520 was pushed into a bedroom where an Ansar Dine/AQIM member "did what he wanted to do [to her] without [her] consent because he was strong".²²⁵⁴ The same happened to P-0602 who was forced to have sexual relations with an Ansar Dine/AQIM member, who threatened her with a weapon.²²⁵⁵

523. Women and girls, who were arrested for violation of the dress code or because of other prohibitions were kept in inhumane conditions, including at the BMS.²²⁵⁶ Some of those women and girls, such as P-0570 and P-0547, were raped while detained by Ansar Dine/AQIM members following

²²⁴⁶ [REDACTED].

²²⁴⁷ [REDACTED].

²²⁴⁸ [REDACTED].

²²⁴⁹ [REDACTED].

²²⁵⁰ [REDACTED].

²²⁵¹ P-0636:T-071, p.21, l.2-4, p.24, l.14-19.

²²⁵² [REDACTED].

²²⁵³ P-0610:T-158, p.41, l.14-23.

²²⁵⁴ P-0520:T-149, p.11, l.12-p.12, l.2, p.22, l.23-p.23, l.5.

²²⁵⁵ P-0602:T-085, p.30, l.2-p.32, l.24.

²²⁵⁶ See e.g. P-0984:T-068, p.57, l.23-p.59, l.13; P-0160:T-066, p.73, l.24-p.75, l.3; Video, [MLI-OTP-0011-0376](#), 00:03:35:00-00:04:01:00, transcript [MLI-OTP-0033-5221](#), p.5223, l.77-81, translation [MLI-OTP-0033-5369](#), p.5372, l.82-86.

their arrest for violating the dress code.²²⁵⁷ Other women and girls, such as P-0538 and P-0610, were targeted by the policy of forced marriages promoted by Ansar Dine/AQIM.²²⁵⁸ As discussed above in section VIII, these were not isolated incidents or exceptions to the rule.

524. All of this shows how Ansar Dine/AQIM intended to impose rules on women and girls and applied specific gender norms to them. Beyond the speeches/statements of members of Ansar Dine/AQIM, the number and nature of the multiple restrictions and daily violence suffered by women and girls show in themselves that they were targeted for discriminatory reasons based on gender.

X.E. Severe deprivations of fundamental rights

525. All the crimes charged under counts 1-12 and mutilation as well as other acts described above individually and/or cumulatively constitute severe deprivations of one or more of the following fundamental rights, contrary to international law,²²⁵⁹ including: the rights to freedom of thought, conscience and religion,²²⁶⁰ freedom of opinion and expression,²²⁶¹ freedom from torture, inhuman and degrading treatment or punishment,²²⁶² freedom from arbitrary arrest or detention,²²⁶³ freedom of peaceful assembly, association and demonstration,²²⁶⁴ freedom of movement,²²⁶⁵ a fair and public hearing by a competent, independent and impartial tribunal,²²⁶⁶ private property,²²⁶⁷ and education.²²⁶⁸

X.F. Connection with other crimes within the Court's jurisdiction

526. These acts of persecution were committed in connection with the crimes charged in this case, namely, the crimes against humanity of torture (article 7(1)(f)), rape (article 7(1)(g)), sexual slavery (article 7(1)(g)), other inhumane acts (article 7(1)(k)) and the war crimes of torture (article 8(2)(c)(i)), cruel treatment (article 8(2)(c)(i)), outrages upon personal dignity (article 8(2)(c)(ii)), passing of sentence without due process (article 8(2)(c)(iv)), attacks against protected objects (article 8(2)(e)(iv)), rape (article 8(2)(e)(vi)) and sexual slavery (article 8(2)(e)(vi)).

X.G. AL HASSAN's criminal responsibility for the crime under count 13

X.G.1. The crime under count 13 was part of the Common Purpose

527. The evidence described in section V shows that the crime of persecution was part of the Common Purpose pursued by Ansar Dine/AQIM. Members of Ansar Dine and AQIM shared the intention to

²²⁵⁷ See the incidents related to P-0570, P-0547, P-0636 and P-1134, described above in section VI.B.

²²⁵⁸ See section VIII.A.3.

²²⁵⁹ Article, [MLI-OTP-0001-1904](#), p.1906; Report, [MLI-OTP-0001-0172](#), p.0176-0178.

²²⁶⁰ See, e.g. Article 18 of the Universal Declaration of Human Rights (UDHR); Article 18 of the ICCPR.

²²⁶¹ See, e.g. Article 19 of the UDHR; Article 19 of the ICCPR.

²²⁶² See, e.g. Article 5 of the UDHR; Article 7 of the ICCPR.

²²⁶³ See, e.g. Article 9 of the UDHR; Article 9 of the ICCPR.

²²⁶⁴ See, e.g. Article 20 of the UDHR; Articles 21 and 22 of the ICCPR.

²²⁶⁵ See, e.g. Article 13 of the UDHR; Article 12 of the ICCPR.

²²⁶⁶ See, e.g. Article 10 of the UDHR; Article 14 of the ICCPR.

²²⁶⁷ See, e.g. Article 17 of the UDHR.

²²⁶⁸ See, e.g. Article 26 of the UDHR.

impose rules and restrictions on the population and punish any violators by force and violence.

X.G.2. AL HASSAN's contribution to the commission of the crime under count 13

528. Through his roles and functions within the Police, **AL HASSAN** contributed to the commission of the crime of persecution against the civilian population of Timbuktu and its region during the relevant period, including acts charged under counts 1 to 12 and the count of mutilation, in multiple ways. The Prosecution refers to sections IV to IX above and just recalls that:

- He organised patrols in the streets of Timbuktu, looking for civilians who allegedly contravened the rules imposed by Ansar Dine/AQIM;²²⁶⁹
- He investigated cases of alleged violations of the rules, arresting or summoning suspects, drafting police reports and transmitting them to the Tribunal;²²⁷⁰
- He transported suspects to and from the tribunal;²²⁷¹
- He directly perpetrated some underlying acts of persecution, such as at least two floggings;²²⁷²
- He executed the Tribunal's sentences;²²⁷³ and
- He mediated so-called disputes amongst the local population, for instance, pressuring women to remain with unwanted husbands,²²⁷⁴ drafting reports on "marital cases" and referring them to the Tribunal,²²⁷⁵ and assisting Police members to "marry" with local women.²²⁷⁶

X.G.3. AL HASSAN's intent and knowledge regarding the crime under count 13

529. The evidence establishes that **AL HASSAN** meant to engage in the above conduct. He made his contributions "with the aim of furthering the criminal activity or criminal purpose" of Ansar Dine/AQIM and/or at least "in the knowledge of [their] intention [...] to commit the crimes".

530. **AL HASSAN** voluntarily joined Ansar Dine and voluntarily performed the functions as the head of the Police. His *mens rea* can be inferred from his participation, sometimes directly, in the persecutory acts described above. In light of his position, and close contacts with other leaders,²²⁷⁷ he at least knew that Ansar Dine/AQIM intended to target the civilian population of Timbuktu, including women and girls, on religious and/or gender grounds.²²⁷⁸ He praised the virtues of the (new) religious rules and attested to the religious nature of the tasks undertaken by the Police, which was in charge of making

²²⁶⁹ See section IV.B.4.a.ii.

²²⁷⁰ See section IV.B.4.b.

²²⁷¹ See section IV.B.4.b.v.

²²⁷² See sections VI.B.3 and VI.B.9.

²²⁷³ See section IV.B.4.c.

²²⁷⁴ See section VIII.C.2.b. See e.g. [REDACTED] See also on that matter: Judgment, [MLI-OTP-0053-0376](#), translation [MLI-OTP-0078-0051](#); Judgment, [MLI-OTP-0001-7486](#), translation [MLI-OTP-0077-2319](#).

²²⁷⁵ See section VIII.C.2.b. See e.g. P-0398:[MLI-OTP-0062-0969](#), p.0982-0987, l.440-601.

²²⁷⁶ See section VIII.C.2.b.

²²⁷⁷ See section IV.B.2.

²²⁷⁸ See e.g. D-0544:T-196, p.51, l.24-p.53, l.10; [MLI-D28-0006-3342-R01](#), p.3346, para.22-30.

sure that the interdictions were respected.²²⁷⁹

531. The perpetrators had the discriminatory intent as evidenced by their general behaviour and the circumstances surrounding the crimes. In addition, although it is not legally required to be proven for a charge based on article 25(3)(d), as a matter of fact, **AL HASSAN** also acted with discriminatory intent. That he targeted the population on religious and/or gender grounds is shown by, for instance, his statements agreeing to the punishments of those who violated the Ansar Dine/AQIM's rules on religion and females.²²⁸⁰ For example, [REDACTED] reported that, [REDACTED] May 2012 at the BMS, **AL HASSAN** stated: *"Ici, c'est la sharia, c'est la loi de Dieu. Ce que vous, vous dites, que c'est la démocratie et ça c'est la loi du nombre"*,²²⁸¹ which shows that he did share Ansar Dine/AQIM views. In the same vein, [REDACTED] October 2012, when asked about cases sent to the Tribunal for resolution, **AL HASSAN** explained that: *"Par exemple, les cas des marabouts et des charlatans... ceux-là nous les renvoyons directement au Tribunal... et... [...]... les voleurs, les fornicateurs, ... les grands péchés... et les buveurs d'alcool"*,²²⁸² and when asked if such cases were found, he responded that: *"Oui nous en avons trouvés plein... mais Dieu merci leur nombre a diminué... maintenant avec les règles que nous avons imposées... beaucoup de péchés ont baissé... Les choses se sont nettement améliorées."*²²⁸³ In [REDACTED] November 2012, **AL HASSAN** also stated that: "the type of work done by the Islamic Police is well known [...] it involves patrols within the town, and correcting objectionable acts: any type of reprehensible act which has been forbidden [...] — we correct, such as drinking alcohol, smoking, and a woman adorning herself, and other such acts [...]".²²⁸⁴ When asked about the salaries of the Police, he stated that "[i]t is for the sake of Allah's cause".²²⁸⁵

XI. The armed conflict in Mali in 2012-2013

532. The crimes charged were committed in the context of, and were associated with, the non-international armed conflict²²⁸⁶ which broke out in Mali in January 2012. The conflict was between the FAMa and various organised armed groups, specifically AQIM, Ansar Dine, the Movement for Unity and Jihad in West Africa ("MUJAO"), and MNLA, as well as between some of these groups.²²⁸⁷

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²²⁸⁶ *Lubanga Judgment*, ICC-01/04-01/06-2842, para.533, 536; *Katanga TJ*, para.1173, 1185; ICTY, *Le Procureur c/ Duško Tadić*, IT-94-1-A, 2 October 1995, para.70.

²²⁸⁷ *Al Mahdi Judgment*, ICC-01/12-01/15-171, para.49.

533. During the period relevant to the charges, the non-international armed conflict may be divided into two main phases. The first phase corresponds to the takeover of northern Mali by armed groups, including MNLA, Ansar Dine and AQIM. It began on 17 January 2012 with the attack carried out by MNLA against the Ménaka military base in the Gao region, and lasted until around 1 April 2012 with the full withdrawal of the FAMa from the north of the country and the capture of Timbuktu by armed groups. The second phase began in April 2012 and continued until January 2013. It was characterised by the occupation of the North and its cities by the armed groups which imposed their will, reinforced their capacities, and also clashed amongst themselves to gain/maintain exclusive control over these territories. This phase ended in January 2013 with the French military intervention as part of Operation Serval conducted together with the FAMa.

534. At first, AQIM, Ansar Dine, and MUJAO, on the one hand, and MNLA, on the other, provided mutual support to one another in their common struggle for the conquest of territories in northern Mali. However, in the second phase, relations between MNLA and the other three armed groups deteriorated due to various ideological and religious differences.

XI.A. The various armed groups present in northern Mali during the relevant period

535. Throughout the period relevant to the charges, the FAMa attempted unsuccessfully to contain the assaults of the armed groups. Each of these groups demonstrated “*a sufficient degree of organisation*”²²⁸⁸ as of mid-January 2012, when the first attacks were launched.

XI.A.1. Organisation of the FAMa and the various armed groups

XI.A.1.a. FAMa

536. The FAMa is a conventional army with a clearly defined chain of command and control and its own military intelligence capacity.²²⁸⁹ In late 2011/early 2012, the FAMa reinforced its positions in northern Mali in anticipation of attacks by armed groups.²²⁹⁰ At the beginning, it put up resistance against these groups, such as at the Aguelhok military camp and the Amachach base in Tessalit, both of which ended up falling following the siege carried out by AQIM and Ansar Dine in particular. As the State armed force, it has a sufficient degree of organisation.

XI.A.1.b. AQIM²²⁹¹

537. AQIM was established in late 2006/early 2007 in the Sahel and the southern Sahara.²²⁹² Its

²²⁸⁸ *Lubanga* Judgment, ICC-01/04-01/06-2842, para.536.

²²⁸⁹ Letter, 30 April 2012, [MLI-OTP-0012-0327](#); P-0646:T-075, p.8, 1.13-19, p.9, 1.2-p.11, 1.3, p.12, 1.9-18; P-0081:[MLI-OTP-0012-1152-R02](#), p.1155, para.14, p.1156, para.20.

²²⁹⁰ Article, [MLI-OTP-0066-0402](#), p.0403; Article, [MLI-OTP-0066-0409](#), p.0409.

²²⁹¹ *Al Mahdi* Judgment, ICC-01/12-01/15-171, para.49.

²²⁹² Article, [MLI-OTP-0009-0005](#), p.0008; Treasury Designates AQIM Emir, 4 December 2017, [MLI-OTP-0067-0268](#); Report, [MLI-OTP-0001-2265](#), p.2273.

members are mostly from the sub-region.²²⁹³ Its goal is to implement an “*Islamic jihadist project*” and establish an Islamic State, including in Mali.²²⁹⁴ It is the oldest of the armed groups in the Malian conflict. At the material times, AQIM had finances estimated at several million euros, a structure and hierarchy²²⁹⁵ with communications²²⁹⁶ and logistical resources. While its central leadership focused around the Emir of the group, Abdelmalek Droukdel,²²⁹⁷ various bodies, committees and councils²²⁹⁸ were in charge of coordinating the various levels of command, and issuing instructions.²²⁹⁹ It divided its field of operation into several distinct military zones located in the southern Sahara and the Sahel, with northern Mali belonging to the “Sahara Emirate”. Within these areas, the AQIM fighters were themselves divided into *Katibats*²³⁰⁰ placed under the command of military leaders, and spread out over various sectors covering the three regions of northern Mali.²³⁰¹ Two of these *Katibats* were present and active in Timbuktu in 2012/early 2013: *Tariq Ibn Ziyad* and *Al Fourqane*.²³⁰²

XI.A.1.c. Ansar Dine (“Defenders of the Faith”)

538. Ansar Dine is a mostly Tuareg jihadist movement.²³⁰³ It was set up in November/December 2011 by Iyad Ag Ghaly,²³⁰⁴ who was its leader at all material times.²³⁰⁵ It aimed at the establishment of an

²²⁹³ *Bulletin*, [MLI-OTP-0012-0356](#), p.0359; P-0646:T-077, p.42, l.7-p.43, l.17 on [MLI-OTP-0012-0356](#); Report, [MLI-OTP-0001-3758](#), p.3759.

²²⁹⁴ General Instructions, AQIM, 20 July 2012, [MLI-OTP-0024-2320](#), translation [MLI-OTP-0027-0964](#), p.0970-0971, 0975; Audio, May 2012, [MLI-OTP-0024-2744](#), transcript [MLI-OTP-0027-1073](#), p.1074, translation [MLI-OTP-0024-3130](#), p.3132. Report, [MLI-OTP-0001-3758](#), p.3759-3762.

²²⁹⁵ US Department of the Treasury, 14 February 2013, [MLI-OTP-0067-0270](#); Article, [MLI-OTP-0024-3045](#) translation [MLI-OTP-0042-0375](#).

²²⁹⁶ [REDACTED]

²²⁹⁷ US Department of the Treasury, 4 December 2007, [MLI-OTP-0067-0268](#).

²²⁹⁸ [REDACTED] Minutes, 18 March 2012, [MLI-OTP-0002-0115](#), p.0115; Article, [MLI-OTP-0022-0369](#), p.0370; Article, 4 October 2012, [MLI-OTP-0024-3045](#), translation [MLI-OTP-0042-0375](#).

²²⁹⁹ General Instructions, AQIM, [MLI-OTP-0024-2320](#), translation [MLI-OTP-0027-0964](#), p.0968, 0970, 0976; Article, [MLI-OTP-0024-3045](#), translation [MLI-OTP-0042-0375](#), p.0376-0377; “Al-Qaida papers”, [MLI-OTP-0022-0369](#), p.0378; [REDACTED]

²³⁰⁰ P-0398:[MLI-OTP-0051-0376](#), p.0389, l.411; [MLI-OTP-0051-1155](#), p.1168, l.423-425; Article, [MLI-OTP-0009-0005](#), p.0008-0009; [MLI-OTP-0073-0070](#), p.0125.

²³⁰¹ *Rapport*, [MLI-OTP-0009-0005](#), p.0008; *Bulletin*, [MLI-OTP-0002-0193](#).

²³⁰² *Rapport*, [MLI-OTP-0009-0005](#), p.0009; Article, 4 October 2012, [MLI-OTP-0024-3045](#), translation [MLI-OTP-0042-0375](#), p.0377-0378; P-0099:T-145, p.22, l.8, p.22, l.18-p.23, l.12; P-0099:T-146, p.25, l.7-10, p.58, l.13-22; [REDACTED]

²³⁰³ P-0099:T-145, p.20, l.24-p.25, l.2; P-0099:T-146, p.16, l.23-24; [REDACTED] [MLI-OTP-0040-0287](#); [MLI-OTP-0035-0877](#); [MLI-OTP-0033-4311](#); Article, [MLI-OTP-0001-4887](#), p.4888.

²³⁰⁴ Secretary-General, [MLI-OTP-0001-1359](#), p.1369, para.40; “Al-Qaeda and its allies in the Sahel [...]”, [MLI-OTP-0001-3758](#), p.3762-3764; [REDACTED]

²³⁰⁵ [REDACTED]; P-0099:T-147, p.8, l.7-10.

[REDACTED] P-0099:T-145, p.21, l.7-9, p.57, l.11-13; Video, [MLI-OTP-0011-0007](#), 00:07:01:23-00:08:57:08, transcript [MLI-OTP-0040-0425](#), translation [MLI-OTP-0040-0430](#).

Islamic State in Mali, with the purpose of repealing the Malian constitution,²³⁰⁶ including through armed struggle. Ansar Dine benefitted from continuous support from AQIM: military support, financial backing²³⁰⁷ and human reinforcements. Its operational capacities were linked to those of AQIM.²³⁰⁸

539. Iyad Ag Ghaly organised the running of the group's affairs in a structured and hierarchical manner.²³⁰⁹ The fighters were structured around a system of allegiance based on the principle of "*listen and obey*".²³¹⁰ Iyad's orders were executed by the members under his command.²³¹¹ The number of Ansar Dine's combatants at the time of the occupation of Timbuktu was around 1,500. It had a considerable vehicle park in Timbuktu²³¹² and diverse weaponry.²³¹³ Moreover, during the relevant period, the group had its own training camps and emblem—which was visible on some uniforms (vests) worn by some of its members²³¹⁴—as well as a flag.²³¹⁵ Ansar Dine also employed a spokesperson (mostly in the person of Sanda Ould Boumama),²³¹⁶ and a diplomatic envoy.²³¹⁷ Most importantly, Ansar Dine and AQIM established its own institutions in Timbuktu and disseminated its rules.²³¹⁸

XI.A.1.d. MUJAO

540. MUJAO²³¹⁹ is a splinter group of AQIM.²³²⁰ It published its first military manifesto in October 2011, around the time it was believed to have been created.²³²¹ It brought together mainly sub-Saharan

²³⁰⁶ Video, [MLI-OTP-0011-0007](#), from 00:07:00:00, transcript [MLI-OTP-0040-0425](#), translation [MLI-OTP-0040-0430](#), p.0434-0435, l.103-117; Article, [MLI-OTP-0001-3551](#); Video, [MLI-OTP-0001-7037](#), 00:19:21:00-00:20:10:00, transcript [MLI-OTP-0024-2962](#), translation [MLI-OTP-0024-2910](#), p.2926-2927, l.505-530; Video, [MLI-OTP-0001-0052](#), 00:01:42:00-00:13:30, transcript [MLI-OTP-0033-5148](#), translation [MLI-OTP-0033-5296](#), p.5299-5302, l.7-166; Article, [MLI-OTP-0001-3271](#), p.3272; [REDACTED]

²³⁰⁷ Article, [MLI-OTP-0009-2390](#), p.2403, p.2406; [REDACTED]

[REDACTED] Security Council Committee, 20 March 2013, [MLI-OTP-0066-0391](#), p.0392; [MLI-OTP-0040-0287](#).

²³⁰⁸ Security Council Committee, [MLI-OTP-0066-0391](#), p.0391-0392; [REDACTED]

²³⁰⁹ Article, 24 December 2013, [MLI-OTP-0024-0015](#), p.0017-0019.

²³¹⁰ [REDACTED]

²³¹¹ [REDACTED] P-0099:T-146, p.37, l.11-22.

²³¹² [MLI-OTP-0012-0119](#), p.0121-0122; P-1086:T-121, p.26, l.20-25, p.28, l.17-p.29, l.7.

²³¹³ P-1086:T-121, p.27, l.2-p.28, l.10.

²³¹⁴ Video, [MLI-OTP-0009-1749](#), 00:03:39:00-00:03:41:00, 00:07:31:00-00:07:34:00.

²³¹⁵ P-1086:T-121, p.62, l.15-20.

²³¹⁶ See section III. [REDACTED]

²³¹⁷ Secretary-General, November 2012, [MLI-OTP-0001-2113](#), p.2121, para.39.

²³¹⁸ Abou Zeid's instructions, 15 August 2012, [MLI-OTP-0001-7193](#), translation [MLI-OTP-0077-2366](#); [REDACTED]

[REDACTED] Article, [MLI-OTP-0009-2390](#), p.2426, 2428, 2429, 2431

²³¹⁹ Terrorist Designations of the Movement for Unity and Jihad in West Africa, 7 December 2012, [MLI-OTP-0066-0397](#); P-0065:T-046, p.74, l.23-p.75, l.8.

²³²⁰ P-0152:T-029, p.74, l.20-p.75, l.1; Report, [MLI-OTP-0001-2265](#), p.2273.

²³²¹ Article, [MLI-OTP-0024-3045](#), translation [MLI-OTP-0042-0375](#), p.0379; Terrorist Designations of the Movement for Unity and Jihad in West Africa, [MLI-OTP-0066-0397](#).

jihadists,²³²² and followed the same ideology as AQIM, declaring jihad in a large swathe of West Africa.²³²³ MUJAO was linked to Ansar Dine and AQIM, and benefitted from their support.²³²⁴ MUJAO resorted to abductions, in order to generate ransoms.²³²⁵ MUJAO fighters administered Gao between April 2012 and January 2013, having obtained full control of the city from 27 June 2012.²³²⁶

541. Ansar Dine, AQIM and the MUJAO have all been placed on the official US list of terrorist organisations.²³²⁷ Allied from the outset,²³²⁸ ties between these three groups remained close during the conflict.²³²⁹ In November 2012, Iyad Ag Ghaly, openly made clear his adherence to AQIM's ideology: *"We share everything with Al-Qaida [...] until our death [...] we will be united with Al-Qaida."*²³³⁰

XI.A.1.e. MNLA

542. MNLA is a secular, nationalist Tuareg movement whose political and military branches operate in northern Mali.²³³¹ It was set up on 15 October 2011,²³³² and was mostly composed of former Tuareg fighters who fought in the ranks of the pro-Gaddafi forces and came back to Mali during the Libyan revolution in 2011.²³³³ MNLA claims the right to self-determination of the "Azawad".²³³⁴

543. According to the group's own statements, MNLA was made up of almost ten thousand fighters in 2012.²³³⁵ However, [REDACTED]²³³⁶ estimated the number of MNLA

²³²² P-0623:T-029, p.24, l.16-17; P-0152:T-032, p.22, l.22-p.23, l.1.

²³²³ Article, 4 October 2012, [MLI-OTP-0024-3045](#), translation [MLI-OTP-0042-0375](#), p.0379-0380.

²³²⁴ Terrorist Designations of the Movement for Unity and Jihad in West Africa, December 2012, [MLI-OTP-0066-0397](#); Security Council Committee, 2013, [MLI-OTP-0066-0391](#); [MLI-OTP-0001-2113](#), p.2115, para.10.

²³²⁵ Terrorist Designations of the Movement for Unity and Jihad in West Africa, [MLI-OTP-0066-0397](#); *Bulletin*, [MLI-OTP-0012-0445](#), p.0447; P-0065:T-039, p.10, l.21-24; Article, [MLI-OTP-0001-2265](#), p.2273.

²³²⁶ P-0152:T-032, p.24, l.13-14; P-1086:T-121, p.38, l.3-15; Article, [MLI-OTP-0001-4822](#); *Bulletin*, [MLI-OTP-0012-0454](#); *Messages*, [MLI-OTP-0012-0955](#); [MLI-OTP-0012-0968](#); Secretary-General, [MLI-OTP-0001-2113](#), p.2115, para.10; P-0654:T-127, p.48, l.9-15.

²³²⁷ Designation of al-Qa'ida in the Islamic Maghreb as a Foreign Terrorist Organization, 4 February 2008, [MLI-OTP-0066-0394](#); 'Terrorist Designations of Ansar al-Dine', 21 March 2013, [MLI-OTP-0066-0396](#); 'Terrorist Designations of the Movement for Unity and Jihad in West Africa', 7 December 2012, [MLI-OTP-0066-0397](#).

²³²⁸ AQIM, 'The organisation's Emirate/The Council/number 33', 18 March 2012, [MLI-OTP-0002-0115](#), p.0115-0116; Security Council Committee, 20 March 2013, [MLI-OTP-0066-0391](#), p.0391.

²³²⁹ Security Council Committee, 20 March 2013, [MLI-OTP-0066-0391](#), p.0392; P-0152:T-032, p.23, l.9-18.

²³³⁰ Audio of Iyad Ag Ghaly, [MLI-OTP-0038-0888](#), transcript [MLI-OTP-0056-0851](#), translation [MLI-OTP-0063-1041](#), p.1053, l.379 and p.1054, l.422; Security Council Committee, [MLI-OTP-0066-0391](#), p.0392.

²³³¹ *Communiqué*, [MLI-OTP-0012-1150](#); *Bulletin*, [MLI-OTP-0002-0221](#); *Note*, [MLI-OTP-0001-0167](#), p.0168; MNLA, *Une semaine dans l'Azawad*, [MLI-OTP-0066-0409](#); Mali: Five Months of Crisis, [MLI-OTP-0001-2265](#), p.2273; *"Le [...] MNLA a proclamé l'indépendance de l'Azawad"*, [MLI-OTP-0011-0283](#), transcript [MLI-OTP-0030-0118](#); *"Images [...] du Mali"*, [MLI-OTP-0033-3467](#), p.3467-3468; P-0004:T-166, p.73, l.11-15; P-1086:T-121, p.6, l.24-25, p.7, l.11-14; P-0099:T-147, p.4, l.21-p.5, l.2, p.8, l.7-9; P-0654:T-127, p.46, l.10-15.

²³³² *Communiqué*, MNLA, October 2011, [MLI-OTP-0012-1150](#); *Fiche*, [MLI-OTP-0012-0922](#).

²³³³ *Communiqué*, MNLA, [MLI-OTP-0066-0409](#), p.0410; Article, [MLI-OTP-0033-3467](#), p.3469; P-1086:T-121, p.14, l.25-p.15, l.4; [MLI-OTP-0012-0922](#), p.0925; P-0646:T-077, p.51, l.9-14.

²³³⁴ MNLA, *Communiqué*, [MLI-OTP-0066-0409](#), p.0410; P-0065:T-037, p.40, l.18-25; P-0065:T-050, p.22, l.8-10; P-0654:T-127, p.46, l.12-15; P-0004:T-166, p.73, l.11-15.

²³³⁵ Article, 21 June 2012, [MLI-OTP-0033-3467](#), p.3470.

²³³⁶ [REDACTED]

544. Ansar Dine, AQIM, the MUJAO and the MNLA demonstrated their ability to plan and conduct military operations over an extended period of time during armed clashes in the course of 2012 until January 2013,²³⁴⁵ including operating over vast territories. During the relevant period and whilst the conflict was ongoing, these groups also set up training camps in the northern regions, including in the Timbuktu region, to train recruits in the handling of weapons and military tactics.²³⁴⁶

545. At least from 17 January 2012, the armed conflict in Mali reached a level beyond simple internal unrest and tension or isolated and sporadic acts of violence.²³⁴⁷ In less than three months, the northern half of the country fell under the control of armed groups, which ran it for the next nearly ten months.²³⁴⁸

546. The early stages of the conflict took place in 2011 with the fall of the regime of the former Libyan

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²³⁴⁸ See section II. See also Report, [MLI-OTP-0001-2265](#), p.2269.

President, Colonel Muammar Gaddafi. This enabled the ready supply of weapons into Mali²³⁴⁹ as well as well-equipped and experienced fighters,²³⁵⁰ some of who came to reinforce the armed groups already present in the north of the country.²³⁵¹ As early as May 2011, the DSM noted the existence of training camps and frequent movements of forces.²³⁵² Already in early/mid January 2012, it alerted the command of the FAMa to likely hostilities.²³⁵³

547. The first attack took place on 17 January 2012, with the MNLA operation against the Ménaka military camp located in the Gao region in the north-east.²³⁵⁴ From that day onwards, clashes increased in number. They became frequent and protracted, and affected an increasingly larger area.

548. Indeed, from 18 January 2012, the armed groups prepared and launched new attacks,²³⁵⁵ specifically targeting the Aguelhok military camp²³⁵⁶ located in the Kidal region. This was the first big attack after Ansar Dine, Al Qaeda, and the MNLA had decided to cooperate in a plan to attack the northern areas. Aguelhok was captured on 24 January 2012,²³⁵⁷ following a siege culminating in the deaths of around 100 Malian soldiers.²³⁵⁸ Tensions in the region continued.²³⁵⁹ Other attacks followed²³⁶⁰

²³⁴⁹ [REDACTED] [MLI-OTP-0012-0810](#); P-1086:T-121, p.27, l.18-19.

²³⁵⁰ Letter dated 17 January 2012 from the Secretary-General, S/2012/42, [MLI-OTP-0001-1359](#), p.1368, para.32-35; *Bulletin*, [MLI-OTP-0002-0221](#), p.0222; [MLI-OTP-0001-0167](#), p.0168; *Bulletin*, [MLI-OTP-0012-0892](#); P-0646:T-076, p.5, l.8-25; [MLI-OTP-0012-0810](#); P-0646:T-076, p.5, l.11-p.6, l.8; T-077, p.7, l.23-p.8, l.12.

²³⁵¹ *Messages*, [MLI-OTP-0012-0691](#); [MLI-OTP-0012-0912](#); [MLI-OTP-0012-0613](#).

²³⁵² *Bulletins*, [MLI-OTP-0012-0054](#); [MLI-OTP-0002-0211](#); [MLI-OTP-0012-0060](#); [MLI-OTP-0002-0204](#); *Message*, [MLI-OTP-0012-0691](#).

²³⁵³ *Messages*, [MLI-OTP-0012-0704](#); [MLI-OTP-0012-0709](#); [MLI-OTP-0012-0730](#); [MLI-OTP-0012-0739](#).

²³⁵⁴ P-0081:[MLI-OTP-0012-1152-R02](#), p.1160, para.42; *Bulletin*, [MLI-OTP-0012-0098](#); Note, 15 May 2012, [MLI-OTP-0001-0167](#), p.0167; Report, [MLI-OTP-0001-0031](#), p.0035; [MLI-OTP-0012-0754](#).

²³⁵⁵ P-0081:[MLI-OTP-0012-1152-R02](#), p.1161-1163, para.43-56; On Tessalit: [MLI-OTP-0012-0749](#); Attack on convoy going to Aguelhok: [MLI-OTP-0012-0751](#); [MLI-OTP-0012-0752](#); [MLI-OTP-0012-0753](#); [MLI-OTP-0012-0759](#); [MLI-OTP-0012-0755](#); [MLI-OTP-0012-0757](#); [MLI-OTP-0012-0780](#); [MLI-OTP-0012-0793](#); P-0646:T-077, p.17, l.13-25; [MLI-OTP-0012-0804](#); [MLI-OTP-0012-0809](#); [MLI-OTP-0012-0813](#); [MLI-OTP-0012-0816](#).

²³⁵⁶ P-0081:[MLI-OTP-0012-1152-R02](#), p.1161-1162, para.43-50; [MLI-OTP-0012-1184](#); *Rapport*, [MLI-OTP-0001-0031](#), p.0034-0038; *Message*, [MLI-OTP-0012-0748](#); P-0646:T-076, p.22, l.6-p.28, l.10 on [MLI-OTP-0012-0748](#); *Bulletin*, [MLI-OTP-0002-0201](#); *Note*, [MLI-OTP-0001-0167](#), p.0167; [MLI-OTP-0012-0820](#).

²³⁵⁷ P-0081:[MLI-OTP-0012-1152-R02](#), p.1154-1155, para.12-14, p.1164-1169, para.57-83, p.1176, para.123, p.1176-1177, para.126, p.1177, para.128-131, p.1156, para.19-20; [MLI-OTP-0012-1193](#); [MLI-OTP-0012-1199](#); P-0081:T-061, p.10, l.12-20, p.11, l.5-p.12, l.5, l.10-19, p.18, l.1-15, p.18, l.24-p.19, l.10; [MLI-OTP-0012-1181](#); [MLI-OTP-0012-1182](#); [MLI-OTP-0012-1184](#); P-0081:T-061, p.11, l.16-p.12, l.20; P-0654: T-127, p.46, l.2-9, p.46, l.25-p.47, l.8; Video, [MLI-OTP-0011-0007](#), transcript [MLI-OTP-0040-0425](#), translation [MLI-OTP-0040-0430](#); P-0081:T-061, p.19, l.11-p.26, l.14.

²³⁵⁸ Report, [MLI-OTP-0001-0031](#), p.0034, 0037-0038; Video, [MLI-OTP-0011-0007](#), 00:01:59:10-00:05:43:00, transcript [MLI-OTP-0040-0425](#), translation [MLI-OTP-0040-0430](#); Note, [MLI-OTP-0001-0167](#), p.0167; P-0081:[MLI-OTP-0012-1152-R02](#), p.1167, para.71-72, p.1169, para.83, p.1170, para.92, p.1171, para.96; [MLI-OTP-0012-1182](#); [MLI-OTP-0012-1184](#), p.1187.

²³⁵⁹ [MLI-OTP-0012-0829](#); [MLI-OTP-0012-0838](#); [MLI-OTP-0012-0866](#); [MLI-OTP-0012-0867](#); [MLI-OTP-0012-0871](#); P-0646:T-077, p.18, l.13-23; [MLI-OTP-0012-0872](#); [MLI-OTP-0012-0873](#); P-0646:T-077, p.24, l.10-p.25, l.9; [MLI-OTP-0012-0477](#); [MLI-OTP-0012-0482](#); [MLI-OTP-0012-0597](#); [MLI-OTP-0012-0625](#); [MLI-OTP-0012-0628](#); P-0646:T-077, p.27, l.4-22; [REDACTED] D-0529:T-188[ENG], p.1, l.21-p.14, l.22 and T-188[FRA], p.11, l.18-p.14, l.22.

²³⁶⁰ *Messages*, [MLI-OTP-0012-0847](#); [MLI-OTP-0012-0848](#); [MLI-OTP-0012-0851](#); [MLI-OTP-0012-0858](#); [MLI-OTP-0012-0863](#); [MLI-OTP-0012-0877](#); [MLI-OTP-0012-0878](#); [MLI-OTP-0012-0488](#); [MLI-OTP-0012-0527](#); [MLI-OTP-0012-0526](#); [MLI-OTP-0012-0546](#); [MLI-OTP-0012-0552](#); [MLI-OTP-0012-0578](#); [MLI-OTP-0012-](#)

and several other Malian military bases fell between late January 2012 and mid-March 2012,²³⁶¹ including the Amachach base in Tessalit.²³⁶² In taking control of these FAMa camps, the armed groups swiftly strengthened their military equipment by seizing weapons, including heavy weaponry, vehicles and ammunition.²³⁶³

549. These events—and the losses they caused to the Malian army—affected the troops’ morale.²³⁶⁴ They also provoked discontent amongst the population and created a climate of insecurity. It was against this backdrop that, on 22 March 2012 in Bamako, Malian soldiers overthrew the President²³⁶⁵—which, contrary to the assertion of the Defence, did not amount to a suspension of the constitution.

550. The three major cities in the north fell a week after this *coup d’État*: Kidal on 30 March 2012,²³⁶⁶ Gao on 31 March 2012²³⁶⁷ (with the beheading of an officer²³⁶⁸), and the undefended city of Timbuktu on 1 April 2012.²³⁶⁹ The northern part of the country—nearly two-thirds of Mali’s territory—then came under the complete control of the armed groups.²³⁷⁰ In the following days, in early April 2012, Iyad Ag Ghaly addressed the population of Timbuktu and announced the union of Ansar Dine with their “*Mujahidin brothers*” for the purpose of “*establishing the rule of religion*” and carrying out “*jihad against the opponents*”.²³⁷¹ On 6 April 2012, the MNLA declared the independence of the “Azawad”.²³⁷²

551. Thereafter, the conflict in Mali was largely characterised by the occupation of the large cities in the north and by several military operations and/or fighting between the armed groups trying to extend

0588; [MLI-OTP-0012-0592](#); [MLI-OTP-0012-0598](#); [MLI-OTP-0012-0607](#); [MLI-OTP-0012-0609](#); [MLI-OTP-0012-0610](#); [MLI-OTP-0012-0616](#); [MLI-OTP-0012-0618](#); [MLI-OTP-0012-0619](#); [MLI-OTP-0012-0622](#); MNLA, *Communiqué*, [MLI-OTP-0066-0421](#); [MLI-OTP-0012-0445](#); P-0646:T-077, p.6, l.7-15.

²³⁶¹ *Message*, [MLI-OTP-0012-0839](#); MNLA, *Léré dans la région de Tin-Bouctoun est libre*, 26 January 2012, [MLI-OTP-0066-0406](#); *Message*, [MLI-OTP-0012-0850](#); MNLA, *Une semaine dans l’Azawad*, 27 January 2012, [MLI-OTP-0066-0409](#); MNLA, *La localité de Tinzawaten est libre*, 7 February 2012, [MLI-OTP-0066-0415](#); MNLA, *Libération de la Ville de Goudam (Région de Tinbouchou)*, 14 March 2012, [MLI-OTP-0066-0428](#).

²³⁶² *Messages*, [MLI-OTP-0012-0753](#); [MLI-OTP-0012-0605](#); [MLI-OTP-0012-0606](#); [MLI-OTP-0012-0623](#); P-0646:T-077, p.25, l.10-p.27, l.3; Note, 15 May 2012, [MLI-OTP-0001-0167](#), p.0167; P-1086:T-121, p.27, l.7-9; [REDACTED]; P-0081:[MLI-OTP-0012-1152-R02](#), p.1170, para.92, p.1171, para.96.

²³⁶³ P-0081:[MLI-OTP-0012-1152-R02](#), p.1177, para.130-131; *Bulletin*, [MLI-OTP-0012-0356](#), p.0358; MNLA, *Léré dans la région de Tin-Bouctoun est libre*, [MLI-OTP-0066-0406](#); MNLA, *Une semaine dans l’Azawad*, [MLI-OTP-0066-0409](#); MNLA, *La localité de Tinzawaten est libre*, [MLI-OTP-0066-0415](#); MNLA, *Bilan des hostilités à Tinzawaten*, [MLI-OTP-0066-0418](#); MNLA, *Communiqué*, [MLI-OTP-0066-0421](#); MNLA, *Communiqué*, [MLI-OTP-0066-0424](#); P-1086:T-121, p.27, l.7-17.

²³⁶⁴ *Messages*, [MLI-OTP-0012-0777](#); [MLI-OTP-0012-0779](#); [MLI-OTP-0012-0846](#); P-0646:T-077, p.16, l.22-p.17, l.15; P-1086:T-121, p.22, l.4-19; *Message*, [MLI-OTP-0012-0845](#).

²³⁶⁵ UNSC, Report of the Secretary-General, 29 November 2012, [MLI-OTP-0001-2113](#), p.2114, para.5.

²³⁶⁶ *Bulletin*, [MLI-OTP-0012-0119](#), p.0119, p.0123; P-0654:T-127, p.45, l.16-18; [REDACTED] [MLI-OTP-0012-0147](#), p.0147. P-0646:T-077, p.51, l.15-17.

²³⁶⁷ *Message*, [MLI-OTP-0012-0658](#); [MLI-OTP-0012-0930](#); [MLI-OTP-0012-0932](#); P-0646:T-077, p.29, l.5-p.30, l.3; *Bulletin* [MLI-OTP-0012-0119](#), p.0119-0121; P-0654:T-127, p.45, l.16-18; [MLI-OTP-0012-0147](#), p.0147-0148.

²³⁶⁸ P-0065:T-038, p.8, l.24-p.9, l.7.

²³⁶⁹ *Bulletin*, [MLI-OTP-0012-0119](#), p.0119, p.0122.

²³⁷⁰ Letter, [MLI-OTP-0012-0327](#), p.0327; Article, 24 December 2012, [MLI-OTP-0010-0088](#), translation [MLI-OTP-0024-0015](#), p.0016; Secretary-General, 29 November 2012, [MLI-OTP-0001-2113](#), p.2115.

²³⁷¹ Article, [MLI-OTP-0038-0870](#), translation [MLI-OTP-0039-0937](#).

²³⁷² MNLA, [MLI-OTP-0012-1144](#); *Communiqué*, [MLI-OTP-0011-0283](#), transcript [MLI-OTP-0030-0118](#).

or maintain their exclusive control over northern Mali. While a merger between the MNLA and Ansar Dine had been announced on 25/26 May 2012 with the signing of a protocol setting up the *Conseil Transitoire de l'État Islamique de l'Azawad*,²³⁷³ this soon failed due to ideological/religious differences.²³⁷⁴ Ansar Dine, AQIM and the MUJAO²³⁷⁵ fought with the MNLA,²³⁷⁶ leading to the ousting of the MNLA.²³⁷⁷ In particular, the fighting on 7-8 June 2012 in Kidal;²³⁷⁸ 13 June 2012 in Timbuktu (with the MNLA leaving Timbuktu on or around 28 June 2012);²³⁷⁹ 26-27 June 2012 in Gao;²³⁸⁰ and 11 July 2012 in Ansongo,²³⁸¹ as well as other clashes in the areas outside Timbuktu.²³⁸² For example, military operations continued into early September 2012, when MUJAO fighters captured the central Mali town of Douentza,²³⁸³ and the town of Ménaka to the east of Gao.²³⁸⁴ Then, from 15 to 19 November 2012, fighting broke out again in the Gao region²³⁸⁵ between the members of the MNLA and those of MUJAO, supported by AQIM.²³⁸⁶

552. Simultaneously, the armed groups continued to conduct trainings and build their military capacity.²³⁸⁷ They also made the most of this period to strengthen their security measures through the

²³⁷³ [REDACTED]; P-0654:T-134, p.18, l.4-11;

[REDACTED] P-0065:T-043, p.48, l.12-p.50, l.10, p.50, l.20-p.51, l.5; P-0152:T-032, p.75, l.7-12 (report [MLI-OTP-0031-0496](#), p.0513).

²³⁷⁴ Secretary-General, [MLI-OTP-0014-5183](#), p.5185, para.8-9; *Message*, [MLI-OTP-0012-0951](#); [REDACTED] [MLI-D28-0005-3394](#); [REDACTED]; P-0065:T-045, p.28, l.17-23; T-043, p.50, l.12-18; Facebook post, [MLI-D28-0004-2867](#), translation [MLI-D28-0004-2869](#).

²³⁷⁵ *Messages*, [MLI-OTP-0012-0951](#); [MLI-OTP-0012-0957](#).

²³⁷⁶ *Message*, [MLI-OTP-0012-0951](#); General Instructions, AQIM, 20 July 2012, [MLI-OTP-0024-2320](#), translation [MLI-OTP-0027-0964](#), p.0974; P-0646:T-077, p.34, l.6-17; [MLI-OTP-0031-0496](#), p.0505.

²³⁷⁷ Secretary-General, April 2014, [MLI-OTP-0014-5183](#), p.5185, para.9; *Message*, [MLI-OTP-0012-0958](#).

²³⁷⁸ *Bulletin*, [MLI-OTP-0012-0207](#); P-0646:T-077, p.46, l.3-p.47, l.4; *Message*, [MLI-OTP-0012-0953](#).

²³⁷⁹ P-0654:T-134, p.18, l.12-p.19, l.15; *Bulletin*, [MLI-OTP-0012-0252](#); [REDACTED]

[REDACTED] P-0065:T-043, p.51, l.6-23; *Message*, [MLI-OTP-0012-0954](#); P-0646:T-078, p.14, l.19-p.15, l.1; P-1086:T-121, p.33, l.12-p.34, l.14; [MLI-OTP-0012-0287](#); P-0646:T-077, p.48, l.10-p.49, l.11, p.49, l.23-p.50, l.1.

²³⁸⁰ [REDACTED] Report, [MLI-OTP-0001-1459](#), p.1459; *Messages*, [MLI-OTP-0012-0955](#); [MLI-OTP-0012-0956](#); [MLI-OTP-0010-0708](#); "[...] les islamistes du Mujao affirment que la ville de Gao est "complètement" sous leur contrôle", [MLI-OTP-0001-4822](#); P-1086:T-121, p.38, l.2-15.

²³⁸¹ P-0646:T-077, p.46, l.3-p.47, l.4 on [MLI-OTP-0012-0281](#).

²³⁸² Report, 29 November 2012, [MLI-OTP-0001-2113](#), p.2115, para.10.

²³⁸³ [MLI-OTP-0001-2393](#), p.2396, [MLI-OTP-0001-4029](#), p.4029; [MLI-D28-0004-7700](#), p.7703; *Message*, [MLI-OTP-0012-0970](#); Report, 14 April 2014, [MLI-OTP-0014-5183](#), p.5185, para.9.

²³⁸⁴ *Message*, [MLI-OTP-0012-0971](#); UNSC, 14 April 2014, [MLI-OTP-0014-5183](#), p.5185, para.9.

²³⁸⁵ *Messages*, [MLI-OTP-0012-0982](#), [MLI-OTP-0012-0985](#), [MLI-OTP-0012-0986](#); Report, [MLI-OTP-0012-1974](#), p.1978.

²³⁸⁶ Report, [MLI-OTP-0012-1974](#), p.1978; *Messages*, [MLI-OTP-0012-0985](#); [MLI-OTP-0012-0986](#); Report, 14 April 2014, [MLI-OTP-0014-5183](#), p.5185, para.9.

²³⁸⁷ P-0654:T-134, p.70, l.23-p.75, l.23; *Bulletin*, [MLI-OTP-0002-0197](#); *Messages*, [MLI-OTP-0012-0981](#); [MLI-OTP-0012-0988](#); [MLI-OTP-0012-0989](#); [MLI-OTP-0012-0879](#); [MLI-OTP-0012-0880](#). See also P-0646:T-078, p.46, l.6-22; [REDACTED]

check-points they set up in the territories under their control.²³⁸⁸ Finally, from 8 to 14 January 2013, Ansar Dine, AQIM and the MUJAO, “*armés jusqu’aux dents*”²³⁸⁹ carried out an offensive towards the capital, Bamako, attacking Konna and Diabaly.²³⁹⁰ But they were repelled by the French military intervention deployed in Mali on 11 January 2013²³⁹¹ in coordination with the Malian troops. This operation led to a withdrawal of the armed groups²³⁹² as well as the liberation of various cities, including Timbuktu²³⁹³ around 24 January 2013.²³⁹⁴

553. This non-international armed conflict had major repercussions.²³⁹⁵ It triggered the displacement of hundreds of thousands of civilians.²³⁹⁶ The Security Council issued several resolutions under Chapter VII of the Charter of the United Nations.²³⁹⁷ Subsequently, on 19 January 2013, the *Mission internationale de soutien au Mali sous conduite africaine* (“MISMA”) was deployed on the ground.²³⁹⁸ In July 2013, it was replaced by the *Mission Multidimensionnelle intégrée des Nations Unies pour la Stabilisation au Mali* (“MINUSMA”).²³⁹⁹ A peace agreement was signed in May 2015.²⁴⁰⁰ The security situation, nevertheless, remained very volatile.²⁴⁰¹

²³⁸⁸ *Bulletins*, [MLI-OTP-0012-0422](#), p.0423-0424 and [MLI-OTP-0002-0197](#); P-0099:T-146, p.47, l.21-23.

²³⁸⁹ [REDACTED]

²³⁹⁰ Note, [MLI-OTP-0013-3257](#), p.3260; Video, [MLI-OTP-0010-0076](#), 00:00:30:00-00:00:57:00; P-0582:[MLI-OTP-0062-3820-R02](#), p.3833-3835, l.440-503; [REDACTED] P-0646:T-077, p.36, l.10-12; [REDACTED]

[REDACTED] P-0152:T-032, p.29, l.3-18(Conf); [REDACTED] P-0065:T-043, p.52, l.14-18; [REDACTED] P-0654:T-131, p.10, l.1-p.11, l.1; P-0654:T-132, p.74, l.19-p.75, l.4; *Diabaly*: P-0099:T-146, p.35, l.12-p.41, l.5; T-147, p.25, l.17-20; [REDACTED]

²³⁹¹ [MLI-OTP-0062-4367](#), p.4374, para.17; [REDACTED] P-0065:T-048, p.21, l.21-p.22, l.14.

²³⁹² [REDACTED]

²³⁹³ [REDACTED]

[REDACTED] P-0654:T-132, p.54, l.20-p.57, l.5.

²³⁹⁴ [REDACTED]

²³⁹⁵ Report, [MLI-OTP-0013-3500](#), p.3507, para.14; ICRC [MLI-OTP-0024-2284](#) and [MLI-OTP-0024-2289](#).

²³⁹⁶ [MLI-OTP-0012-0539](#); P-1086:T-121, p.11, l.18-20, p.76, l.13-14; P-1086:T-122, p.5, l.20-p.6, l.4; [REDACTED]; Report, 7 January 2013, [MLI-OTP-0013-3500](#), p.3507.

²³⁹⁷ UNSC Resolution 2071 (2012), S/RES/2071, 12 October 2012, [MLI-OTP-0006-2728](#); UNSC Resolution 2085 (2012), S/RES/2085, 20 December 2012, [MLI-OTP-0006-2732](#).

²³⁹⁸ UNSC Resolution 2085 (2012), S/RES/2085, 20 December 2012, [MLI-OTP-0006-2732](#), p.2735-2736, para.9.

²³⁹⁹ UNSC Resolution 2100 (2013), 25 April 2013, [MLI-OTP-0006-2740](#), p.2744, para.7, p.2746-2748, para.16.

²⁴⁰⁰ RFI, 24 May 2015, [MLI-OTP-0034-0738](#); UNSC, 9 August 2018, [MLI-OTP-0062-4367](#), paras.15-22.

²⁴⁰¹ UNSC, *Rapport final du Groupe d'experts*, 9 August 2018, [MLI-OTP-0062-4367](#), p.4435.

XI.C. Nexus between the crimes and the non-international armed conflict

XI.C.1. Temporal and geographic scope of the armed conflict

554. The crimes charged took place within the temporal scope of the armed conflict which broke out on 17 January 2012, and was still ongoing in January 2013. They also took place within the geographic scope of the armed conflict, namely in Timbuktu and its region, which was captured in early April 2012 by Ansar Dine/AQIM. During the events of this case, while Ansar Dine/AQIM controlled Timbuktu, they also continued to conduct various military activities; and attacks were taking place at different locations in Mali.

XI.C.2. Nexus between the crimes and the armed conflict

555. The armed conflict played “a substantial role in the perpetrator’s decision and his ability to commit the crime, and the manner in which it was committed”.²⁴⁰² Ansar Dine/AQIM members were only in a position to carry out the crimes in Timbuktu between early April 2012 and January 2013 because they had taken armed control of the city, following the military operations they had launched in northern Mali. In particular, Abou Zeid, the “governor” of Timbuktu at the time, was the head of one AQIM *Katibat*. He had participated in the Kidal attack. No one could hold an important position in Timbuktu, such as the head of an organ, without being trusted by these groups.²⁴⁰³

556. The Police functioned as one organ of Ansar Dine/AQIM in Timbuktu, and thus were closely affiliated with one party to the conflict. Notably: a) the Police leaders, including **AL HASSAN**, were members of the groups (section III.C.1.a); b) some Police members were also members of Ansar Dine/AQIM²⁴⁰⁴ (*ibid.*) and received the same military/religious training as fighters from these groups,²⁴⁰⁵ including in weapons-handling so they were able to patrol while armed;²⁴⁰⁶ c) **AL HASSAN** was at the front of the group that drove out the MNLA from the airport;²⁴⁰⁷ and d) members of the Police also

²⁴⁰² ICC-01/04-02/06-2359, para.731.

²⁴⁰³ [REDACTED]

²⁴⁰⁴ P-0582:[MLI-OTP-0062-3679-R02](#), p.3697, 1.612-625, p.3698, 1.643-648; [REDACTED] P-0065:T-039, p.28, 1.14-p.29, 1.25; T-037, p.26, 1.13-21; T-046, p.63, 1.24-p.64, 1.3.

²⁴⁰⁵ P-0398:[MLI-OTP-0051-1184](#), p.1201-1203, 1.554-615; P-0582:[MLI-OTP-0062-3986-R02](#), p.4000-4001, 1.448-506; P-0099:T-145, p.76, 1.13-p.78, 1.8, p.80, 1.18-p.85, 1.7.

²⁴⁰⁶ Video, [MLI-OTP-0009-1749](#), 00:00:12:33-00:12:47:00, transcript [MLI-OTP-0028-0839](#); Video, [MLI-OTP-0015-0495](#), 00:27:21:00-00:27:56:00, 00:29:04:02, transcript [MLI-OTP-0033-5189](#), translation [MLI-OTP-0033-5288](#); [MLI-OTP-0069-4624](#), 00:01:26:00-00:04:23:15, transcript [MLI-OTP-0078-4603](#), p.4604-4605, 1.29-59, translation [MLI-OTP-0078-4686](#), p.4688-4689, 1.29-58; [REDACTED]

²⁴⁰⁷ [REDACTED]

fought in the attacks launched in Diabaly and Konna.²⁴⁰⁸

557. The victims of the crimes were the civilian population of Timbuktu. Moreover, the crimes served the ultimate goal of the military campaign led by Ansar Dine/AQIM: the ideological/religious context for the commission of the crimes echoed the aims and objectives of the groups as demonstrated previously during their conquest of North Mali.²⁴⁰⁹

XI.C.3. Knowledge of the existence of an armed conflict

558. The perpetrators of these crimes, who were members of Ansar Dine/AQIM and the organs they set up, acted with full knowledge of the factual circumstances establishing the existence of the armed conflict. The occupation of Timbuktu by Ansar Dine/AQIM formed part of the armed conflict which broke out in Mali in early 2012. Given the scale of this conflict and its regional and international impact, everybody was aware of the factual circumstances establishing its existence. In particular, **AL HASSAN** knew that there was an armed conflict. Not only was he a member of Ansar Dine, but he expressly referred to the conflict [REDACTED]²⁴¹⁰ Ansar Dine/AQIM members, including **AL HASSAN**,²⁴¹¹ were also advocates of the ideological and religious goals pursued by Ansar Dine/AQIM during the armed takeover of northern Mali.

XII. A widespread and systematic attack against the civilian population of Timbuktu

559. Between 1 April 2012 and 28 January 2013, Ansar Dine/AQIM committed a widespread and systematic attack against the civilian population of Timbuktu and of the region which bears the same name. This attack was committed pursuant to, or in furtherance of, the policy of the armed groups to conduct such an attack.

XII.A. Attack directed against the civilian population

560. From the beginning of April 2012 to January 2013, Ansar Dine/AQIM committed multiple acts of torture, rape, sexual slavery, mutilation, other inhuman acts and persecution (see counts 1, 2, 8, 9, 11 and 13 in sections VI-X) against a large number of civilians in Timbuktu and its region. In addition, all the charged conduct, including those relating to the war crimes of passing of sentence and attacks against protected objects, are part of the crime against humanity of persecution under article 7(1)(h) of the Statute. All these acts constitute a “course of conduct involving the multiple commission of acts” under

²⁴⁰⁸ [REDACTED] P-0582; [MLI-OTP-0062-3641-R02](#), p.3648, l.218-225; [MLI-OTP-0062-3820-R02](#), p.3833-3835, l.454-503; [MLI-OTP-0062-4012-R02](#), p.4021-4022, l.302-334; [MLI-OTP-0062-4198-R02](#), p.4200-4203, l.43-145.

²⁴⁰⁹ Video, [MLI-OTP-0011-0007](#), from 00:07:00:20, transcript [MLI-OTP-0040-0425](#), translation [MLI-OTP-0040-0430](#), p.0434-0435, l.103-117; Article, [MLI-OTP-0001-3551](#); Article, [MLI-OTP-0001-3271](#), p.3272.

²⁴¹⁰

[REDACTED] See section IV.A.2.g.

²⁴¹¹

article 7(1) against the civilian population, within the meaning of article 7(2)(a).

561. The evidence related to Ansar Dine and AQIM constituting “organised armed groups” (section XI.A.1) and a “group acting with a common purpose” (section V.A.) equally establishes that Ansar Dine and AQIM was an “organisation” for the purpose of article 7.

562. The civilian population of Timbuktu and its region was the target of their attack. The Malian army had fled before the arrival of Ansar Dine and AQIM in the city.²⁴¹² The MNLA, which was initially present in Timbuktu, was soon pushed out to the airport,²⁴¹³ which they ultimately left at the end of June 2012.²⁴¹⁴ The victims of the article 7(1) acts were civilians who remained, in particular women and girls (see above sections VI-X).

563. Ansar Dine/AQIM acted pursuant to, and in furtherance of, an organisational policy to attack the civilian population of Timbuktu and its region, as evidenced by various factors described above. Firstly, key leaders of Ansar Dine and AQIM, including Iyad Ag Ghaly, made statements promoting or encouraging an attack against the civilian population from the beginning of their control of Timbuktu.²⁴¹⁵ Secondly, members of Ansar Dine/AQIM and/or the organs created by Ansar Dine/AQIM were involved in the commission of many of the crimes referred to in this brief. In particular, the Police, the *Hesbah* and the Tribunal worked closely together in pursuance of the policy of Ansar Dine/AQIM to attack the civilian population. Third, the crimes were committed regularly throughout the occupation. Fourth, the crimes were committed pursuant to a common *modus operandi*, involving patrols day and night to enforce the rules and track down any violators;²⁴¹⁶ beatings or floggings on the spot²⁴¹⁷ or at the headquarters of the Police or the *Hesbah*;²⁴¹⁸ arrests, detention, interrogation, at times referral to the Tribunal;²⁴¹⁹ public punishments thereafter, with members of Ansar Dine/AQIM, in particular, the Police, the *Hesbah* and the Security Battalion, maintaining security parameters and controlling the crowd.²⁴²⁰ In sum, the crimes committed against the civilians were not the result of an uncoordinated and spontaneous decision of individual perpetrators acting in isolation, but were the intended outcome of the implementation of a policy promoted by Ansar Dine/AQIM.

²⁴¹² P-0004:T-164, p.25, l.8-p.29, l.18; P-0654:T-127, p.50, l.15-25; P-1086:T-121, p.8, l.19-p.9, l.1.

²⁴¹³ P-0004:T-164, p.36, l.8-p.37, l.13; P-0654:T-127, p.54, l.20-p.55, l.21; [REDACTED]; P-0065:T-037, p.14, l.2-20; P-1086:T-121, p.24, l.10-p.25, l.20.

²⁴¹⁴ [REDACTED] P-0004:T-164, p.37, l.14-p.38, l.12; P-0654:T-134, p.18, l.4-p.20, l.14.

²⁴¹⁵ See e.g. [MLI-OTP-0038-0870](#), translation [MLI-OTP-0039-0937](#); DSM report dated 3 April 2012, [MLI-OTP-0012-0933](#); P-0125:[MLI-OTP-0023-0004-R03](#), p.0012, para.36.

²⁴¹⁶ See e.g. P-0065:T-038, p.48, l.6-14(Conf); T-039, p.21, l.9-p.24, l.7; [REDACTED] P-0582:[MLI-OTP-0062-3736-R02](#), p.3747, l.375-383; P-0398:[MLI-OTP-0051-1184](#), p.1198, l.460-465; P-0125:[MLI-OTP-0023-0004-R03](#), p.0015, para.50.

²⁴¹⁷ See e.g. section VI.B.5.

²⁴¹⁸ See e.g. section VI.B.14.

²⁴¹⁹ See section VII.

²⁴²⁰ See sections VI and VII and e.g. incidents 5, 6, 17, 42, 43.

XII.B. Widespread and systematic nature of the attack

564. The acts charged as crimes against humanity and described above were committed as part of an attack on the civilian population that was both widespread and systematic.

565. The population of the region of Timbuktu concerned by the attack comprised of approximately 780,000 inhabitants,²⁴²¹ and the attack lasted for a period of nearly ten months from the beginning of April 2012²⁴²² toward the end of January 2013.²⁴²³

566. The attack affected the civilian population as a whole, who lived in an atmosphere of fear, oppression and humiliation.²⁴²⁴ As described by several witnesses, many people would not even leave their houses because they were scared of being humiliated or punished.²⁴²⁵

²⁴²⁶ People had no choice but to abide by the new rules and restrictions imposed by Ansar Dine and AQIM because they feared these groups and the punishment imposed on violators.²⁴²⁷ As a result, many fled to other cities such as Bamako or neighbouring countries.²⁴²⁸ Timbuktu lost “*plus de la moitié de ses habitants*”, who exiled to the south of Mali or neighbouring countries.²⁴²⁹

567. Some crimes like the destruction of the mausoleums affected the entire community. In addition to the large number of victims concerned, the attack against the civilian population had a large geographical scope. Ansar Dine and AQIM’s control over the population went beyond the city of Timbuktu, and extended to other areas, such as Goundam, Niafunke and Léré, particularly after the MNLA left the airport and Kabara in June 2012²⁴³⁰ (see section IV.B.4.b.iv.a)

²⁴³¹ From

²⁴²¹ [MLI-OTP-0065-0655](#).

²⁴²² P-0114:T-060, p.7, l.12-13(Conf), p.17, l.21-p.18, l.10; P-0654:T-127, p.51, l.5-p.52, l.4; P-0004:T-164, p.11, l.13-15; DSM report, 3 April 2012, [MLI-OTP-0012-0157](#).

²⁴²³ P-0004:T-164, p.11, l.19-21; P-0654:T-127, p.45, l.21-24.

²⁴²⁴ See e.g. P-0547:T-151, p.14, l.13-p.15, l.8; Video, [MLI-OTP-0017-0027](#), 00:01:59:00-00:02:28:00, transcript [MLI-OTP-0033-5228](#), p.5231, l.62-73, translation [MLI-OTP-0033-5405](#), p.5409, l.63-74.

²⁴²⁵ P-0603:T-158, p.17, l.1-13, p.19, l.2-7; P-0654:T-130, p.57, l.17-p.58, l.15(Conf).

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²⁴²⁷

²⁴²⁸ P-0654:T-127, p.50, l.15-p.51, l.4; T-133, p.65, l.1-14; P-0547:T-152, p.18, l.13-24; P-0608:T-153, p.76, l.10-p.77, l.2(Conf); P-0623:T-029, p.52, l.19-p.53, l.4; D-0202:T-203, p.91, l.2-8, p.92, l.8-12(Conf).

²⁴²⁹

²⁴³⁰ P-0626:T-141, p.15, l.10-18;

P-0638:T-059, p.20, l.5-p.21, l.10; DSM report, November 2012, [MLI-OTP-0012-0989](#).

²⁴³¹

around late June 2012, after taking control of locations, such as Goundam, Tonka and Niafunké, Ansar Dine and AQIM also established a police and the *Hesbah* and appointed a judge in each location.²⁴³² These local institutions nevertheless operated under the supervision of senior members of Ansar Dine/AQIM based in Timbuktu.²⁴³³

568. The attack was also systematic, which is demonstrated by the organised nature of the article 7(1) acts. As described above, the crimes committed followed a regular pattern or *modus operandi* that required organisation and planning, often with the involvement of the organs created by Ansar Dine/AQIM. They were clearly not isolated or random.

XII.C. Nexus between the attack and the crimes charged

569. The crimes charged were committed as part of this widespread and systematic attack directed against the civilian population of Timbuktu and its region as they had common characteristics, objectives, nature and consequences.²⁴³⁴ The crimes were committed by members of Ansar Dine/AQIM against members of the civilian population during the period of control of Timbuktu and its region by Ansar Dine/AQIM. They pursued the same aim of assuming control and power, and imposing their ideological and religious vision, on all aspects of life including gender, by any and all means available. The crimes were of violent and repressive nature. They deprived the population of numerous fundamental rights and freedoms.

XII.D. AL HASSAN's knowledge

570. **AL HASSAN** knew that his conduct was part of the widespread and systematic attack during the period of the charges. By virtue of joining the groups at the start of the occupation, his position and role in the Police, including his interviews and various other contribution to the crimes, as well as the public and widespread notoriety of the groups' rules, public statements and criminal actions, **AL HASSAN** was well aware of the targeting of the population of Timbuktu and its region. The physical perpetrators' conduct was also part of the attack and he was aware of it.

XIII. Defence of duress

XIII.A. Introduction

571. The Defence's claim that **AL HASSAN** is not criminally responsible for the charged crimes because he acted under duress pursuant to article 31(1)(d) is unsubstantiated and incorrect.

572. The Defence generally argues that **AL HASSAN's** actions "must be viewed in light of the totality of circumstances that existed at the time" and that he did not act voluntarily "by the need to protection

²⁴³² [REDACTED]

P-0398:[ML1-OTP-0060-1453](#), p.1475-1476, l.725-764.

²⁴³³ [REDACTED]

²⁴³⁴ ICC-01/04-02/06-2359, para.696; ICC-02/04-01/15-1762-Red, para.2688.

to ensure his survival and that of his family *vis-à-vis* the ethnic cleansing conducted by the Malian army”, an alleged edict by the Kel Ansar religious leaders in Zahro to join Ansar Dine, the lack of choice but to either join the MNLA or Ansar Dine”,²⁴³⁵ and “the real risk that disobedience to Al Qaeda emirs would have engendered severe harm”.²⁴³⁶

573. However, the Defence did not substantiate these allegations and, in any case, they are insufficient to show that **AL HASSAN** acted under duress.

574. First, even if the Prosecution has the burden to prove the guilt of the accused and to establish beyond reasonable doubt the elements of the crime and modes of liability (including the subjective elements), the Defence has the responsibility to substantiate its claim that such ground applies.²⁴³⁷ This is consistent with rule 79(1)(b).²⁴³⁸ The Defence has not met its evidentiary burden to substantiate the existence of the above purported threats to him or his family, nor that he acted as a result of such purported threats with respect to each crime. Only on these basis, the Chamber should summarily dismiss the Defence’s submissions regarding article 31(1)(d).

575. Second, even if the Trial Chamber is satisfied that the Defence has adequately raised the ground of duress, none of its three requirements are met. The evidence does not establish that: (i) **AL HASSAN**’s conduct was caused by duress resulting from “a threat of imminent death or of continuing or imminent serious bodily harm against him or her or another person”,²⁴³⁹ (ii) **AL HASSAN** acted necessarily and reasonably to avoid any such purported threat, or that (iii) **AL HASSAN** did not intend to cause a greater harm than the one he purported to avoid.²⁴⁴⁰

576. The Defence’s general assertions regarding the Malian army or the risk of disobedience to Al Qaeda emirs are insufficient to constitute a “threat” within the meaning of article 31(1)(d) of the Statute. The Appeals Chamber has confirmed that it is insufficient to rely on a general or blanket threat to the person’s life²⁴⁴¹ and that “[a]n abstract danger or a mere increased general probability of harm, as is typical for dictatorial or war-torn societies, is [...] not sufficient.”²⁴⁴² Moreover, “[i]t is not sufficient that a threat is simply believed to exist by the accused”.²⁴⁴³

577. In fact, the evidence shows that **AL HASSAN** joined Ansar Dine voluntarily, in the very first

²⁴³⁵ ICC-01/12-01/18-2203-Conf (“Defence Trial Brief”), para. 94.

²⁴³⁶ Defence Trial Brief, para.92, 96.

²⁴³⁷ [Ongwen AJ](#), para.337, 338, 340.

²⁴³⁸ [Ongwen AJ](#), para. 340.

²⁴³⁹ [Ongwen AJ](#), para. 1420; *see* [Ongwen TJ](#), para.2581-2582.

²⁴⁴⁰ [Ongwen TJ](#), para.2583-2584.

²⁴⁴¹ [Ongwen AJ](#), para. 1423.

²⁴⁴² [Ongwen AJ](#), para. 1423. The Appeals Chamber endorsed the Trial Chamber’s conclusion and found that “[a] merely abstract danger or simply an elevated probability that a dangerous situation might occur, even if continuously present, does not suffice”.

²⁴⁴³ [Ongwen AJ](#), para. 1424. It must be established at least that a reasonable person in those circumstances would nonetheless apprehend the risk of serious harm [...] irrespective of whether the accused genuinely but mistakenly believed to be under threat”. *Contra* Defence Trial Brief, para. 85.

days, that he could have left Timbuktu at any time, and acted with zeal and determination, rising through the Police ranks. There is no indication that he feared being sanctioned if he left Ansar Dine/AQIM.

578. Others, such as D-0272 made a “choice, a choice to leave” in order not to be subject to the radical and new rules of the armed groups in Timbuktu.²⁴⁴⁴ Instead, **AL HASSAN** embraced and furthered the groups’ ideology. As Defence witness D-0006 explained: “When [**AL HASSAN**] finished doing” his work “he went under the trees, and [...] talked to people, told them stories about what had happened during the day [...]”, “[t]here was [...] Islamic police. There was also members of the population, people who came for their problems, looking for a solution to their problems or [...] out of simple curiosity [...]” D-0202 added: **AL HASSAN** “was having fun with these people”.²⁴⁴⁵

579. Since the first requirement of duress is not met, the Chamber need not assess the second and third requirements further, which are in any event also not met. Indeed, the evidence does not show that: (i) there was an imminent or continuing threatened *harm* “to be killed immediately, or to suffer serious bodily harm immediately or in an ongoing manner”,²⁴⁴⁶ (ii) there was a present and real threat at the time of the charged conduct,²⁴⁴⁷ nor (iii) the objective existence of the purported threats.²⁴⁴⁸

XIII.B. There was no threat within the terms of article 31(1)(d)

580. The following facts demonstrate that **AL HASSAN** did not face any threat of imminent death or of continuing or imminent serious bodily harm:

XIII.B.1.AL HASSAN voluntarily joined Ansar Dine and the Police and embraced and furthered the group’s ideology

581. **AL HASSAN** never mentioned during his article 55(2) interview that he was forced to join Ansar Dine. To the contrary, he voluntarily joined Ansar Dine/AQIM from the very start of the occupation and embraced and furthered their goals:

- The evidence suggests that **AL HASSAN** already shared the views of Ansar Dine/AQIM when they captured Timbuktu in April 2012. For example, **AL HASSAN** had met Salafi preachers in Libya in the first part of the 2000s and brought their ideas back to Timbuktu. Already in 2006/2007, he believed that listening to music was forbidden.²⁴⁴⁹
- In any event, **AL HASSAN** did not try to hide from Ansar Dine/AQIM but rather joined them

²⁴⁴⁴ D-0272:T-182, p.25, l.14-p.26, l.13, p.26, l.22-p.27, l.2.

²⁴⁴⁵ D-0006:T-205, p.34, l.13-p.35, l.1.

²⁴⁴⁶ [Ongwen AJ](#), para. 1421 endorsing [Ongwen TJ](#), para. 2582.

²⁴⁴⁷ [Ongwen AJ](#), para. 1423. This requires that the materialisation of the danger cannot lie too far in the future.

²⁴⁴⁸ [Ongwen AJ](#), para. 1424 (finding that “the existence of the threat must be objectively assessed and ‘exist in reality and not merely on the perpetrator’s mind’ [and] ‘[i]t is not sufficient that a threat is simply believed to exist by the accused, [...] it must be established at least that a reasonable person in those circumstances would nonetheless apprehend the risk of serious harm [...] irrespective of whether the accused genuinely but mistakenly believed to be under threat’”).

²⁴⁴⁹ [REDACTED]

from the very start of the occupation (see above section IV.A.1).

- When **AL HASSAN** met Abdallah Al Chinguetti and Abou Al Baraa; they told him about the “*nécessité du jihad*” and that convinced him to work with Ansar Dine and AQIM.²⁴⁵⁰ More importantly, **AL HASSAN** indicated that recruitments were made on a “*volontaire*” basis.²⁴⁵¹
- [REDACTED] confirmed that **AL HASSAN** shared the groups’ views. On [REDACTED] May 2012, [REDACTED] at the BMS, **AL HASSAN** appeared proud of his role as *commissaire* and stated: “*Ici, c’est la sharia, c’est la loi de Dieu. Ce que vous, vous dites, que c’est la démocratie et ça c’est la loi du nombre*”.²⁴⁵² Similarly, around August 2012, **AL HASSAN** told P-0582 “qu’effectivement ils sont là pour l’application de la charia”²⁴⁵³.
- Like the “Islamists”, **AL HASSAN** was wearing his watch on the right hand.²⁴⁵⁴
- Around mid-June 2012,²⁴⁵⁵ **AL HASSAN** led members of the armed groups who captured Timbuktu airport after Ansar Dine/AQIM had given the MNLA an ultimatum²⁴⁵⁶ to leave the site. **AL HASSAN** entered the site in a Police car, despite the possible presence of mines, followed by other members of the armed groups.²⁴⁵⁷
- [REDACTED]²⁴⁵⁸ **AL HASSAN** on the Police [REDACTED] about Dédou Maiga’s amputation and the cases of *marabouts*, fornicators and imbibers of alcohol referred to the tribunal.²⁴⁵⁹ [REDACTED]
[REDACTED] This is indicative of his authority/power in the police at the time.²⁴⁶⁰ **AL HASSAN** defended the application of corporal punishments and the imposition of the rules based on Ansar Dine/AQIM’s ideological and religious vision (see *inter alia* section IV.A.2.e).²⁴⁶¹ Similarly, he supported and was delighted with the measures taken to stop locals from practicing

²⁴⁵⁰ P-0398: [MLI-OTP-0051-1257](#), p.1285, 1.913-945.

²⁴⁵¹ P-0398: [MLI-OTP-0051-0886](#), p.0887, 1.31-34.

²⁴⁵² [REDACTED]

²⁴⁵³ P-0582: [MLI-OTP-0062-3679-R02](#), p.3681, 1.38-p.3682, 1.71.

²⁴⁵⁴ P-0065:T-039, p.28, 1.13-17, p.29, 1.16-p.30, 1.8, p.39, 1.3-10 (Conf). [REDACTED]

²⁴⁵⁵ [REDACTED]

²⁴⁵⁶ P-0641:T-137, p.10, 1.7-15.

²⁴⁵⁷ [REDACTED]

²⁴⁵⁸ [REDACTED]

²⁴⁵⁹ [REDACTED]

²⁴⁶⁰ [REDACTED]

²⁴⁶¹ [REDACTED]

their customs at the sites of mausoleums.²⁴⁶²

- **AL HASSAN** was not scared or intimidated by Ansar Dine/AQIM leaders or uncomfortable with them as evidenced by the fact that he did not hesitate to give a fine to Nabil Abou Alqama, one of the highest AQIM leaders present in Timbuktu.²⁴⁶³
- **AL HASSAN** acted with zeal and eagerness, as shown by his behaviour and numerous and diverse contributions to the crimes. For example, **AL HASSAN** stated that the judgments issued by the Tribunal were sent to Abou Zeid for his approval, and that he “[...] *pose toujours la question si tel ou tel jugement a eu lieu et quand est-ce que ça sera exécuté et on me dit qu'ils attendaient [...] que ça soit approuvé par ABOU ZEID*”.²⁴⁶⁴
- The emirs Abou Zeid, Yahya Abou Al Hammam and Talha praised him, as did some soldiers of the armed groups, for the way he enforced the bans more strictly and efficiently than Al Mahdi.²⁴⁶⁵
- Overall, **AL HASSAN** made a career within Ansar Dine/AQIM and managed to climb to a position from being Abou Talha's assistant to being a member of the Police, and then quickly becoming the commissaire, and then chief thereof (see section IV.B.2).²⁴⁶⁶
- [REDACTED]
[REDACTED] **AL HASSAN** “bragged about what he did, the prohibitions he enforced, and how he made sure things were corrected in line with Islamic Sharia [...]”.²⁴⁶⁷

582. Additionally, there is no evidence showing that the armed groups present in Timbuktu exercised any pressure over **AL HASSAN** to get him to join Ansar Dine (and even less that this duress was of sufficient immediacy, gravity and importance to bring his conduct within the scope of the article 31(1)(d)). Thousands of inhabitants of Timbuktu, including Arabs and Tuaregs, stayed in the city without joining the groups nor being threatened or killed. For instance, this is the case of several Defence witnesses, upon whom no duress was exercised by Ansar Dine/AQIM to join them. P-0638, [REDACTED]

[REDACTED]²⁴⁶⁸ refused the request made to him by a jihadist to join the groups.²⁴⁶⁹ [REDACTED]

[REDACTED] indicates having [REDACTED]

[REDACTED]²⁴⁷⁰

[REDACTED]²⁴⁷¹ D-

²⁴⁶² [REDACTED]

²⁴⁶³ [REDACTED]

²⁴⁶⁴ P-0398: [MLI-OTP-0051-0631](#), p.0642-0644, l.359-417.

²⁴⁶⁵ [REDACTED]

²⁴⁶⁶ [REDACTED]

²⁴⁶⁷ [REDACTED]

²⁴⁶⁸ P-0638:T-057, p.45, l.18-19(Conf.).

²⁴⁶⁹ P-0638:T-058, p.21, l.3-20(Conf.); p.22, l.24-p.23, l.3.

²⁴⁷⁰ [REDACTED]

²⁴⁷¹ [REDACTED]

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583. That leaves the assertions of D-0511 and D-0534 to whom Defence refers to support the argument that staying in Timbuktu necessarily implied joining. In this regard, D-0511²⁴⁷³ made general and partly speculative assertions which fail to indicate a factual basis or a source. The witness also fails to identify the “people” that are the subject of his statement in this regard.²⁴⁷⁴ Moreover, the Witness’ assertions were not subject to cross-examination, and were thus untested. Thus, the reliability of the witness’ evidence in this regard and probative value is minimal at best. In any event, the Witness nonetheless mentions that the possibility of leaving the region was always an option.²⁴⁷⁵ The same is true of D-0534’s assertions, which are internally inconsistent²⁴⁷⁶ and which in fact do not support a defence of duress.

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584. Finally, the Defence is incorrect when stating that **AL HASSAN** joined the Ansar Dine group when an MNLA-Ansar Dine agreement—allegedly endorsing a more moderate governance of Azawad—was concluded.²⁴⁷⁸ Regardless of its content, this agreement dates from 25/26 May 2012.²⁴⁷⁹ By then **AL HASSAN** had already been working with Ansar Dine/AQIM for nearly two months (see section IV.A.I) and Ansar Dine/AQIM had already committed crimes and human rights violations such as the destruction of bars by Abou Talha and Abou Dhar²⁴⁸⁰ and the banning of the religious practices of the residents of Timbuktu at mausoleums.²⁴⁸¹ By then the Tribunal had also begun to operate²⁴⁸² on the basis of a report from **AL HASSAN**.²⁴⁸³

585. In this vein, the Defence tried to portray **AL HASSAN** as “calm” and “respectful”,²⁴⁸⁴ joining a moderate governance providing security. However, this does not correspond to reality. That an armed Ansar Dine/AQIM, solidified and potentially established a form of so called “security”²⁴⁸⁵ does not

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2473 D-0511: [MLI-D28-0005-9310-R01](#), translation [MLI-D28-0006-2629-R01](#), p.2637, para.47.

2474 D-0511: [MLI-D28-0005-9310-R01](#), translation [MLI-D28-0006-2629-R01](#), p.2637, para.47.

2475 D-0511: [MLI-D28-0005-9310-R01](#), translation [MLI-D28-0006-2629-R01](#), p.2637, para.47.

2476 D-0534: [MLI-D28-0006-4188-R01](#), p.4190, l.22-26.

2477 D-0534: [MLI-D28-0006-4188-R01](#), p.4190, l.25-26.

2478 Cf. ICC-01/12-01/18-2203-Conf, p.32-33, para.95.

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2480 Video, [MLI-OTP-0001-6931](#), 00:00:26:14-00:01:19:23, 00:00:57:14 & 00:01:07:11;

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2482 Judicial register, dated 7 May 2012, [MLI-OTP-0001-7369](#), translation [MLI-OTP-0077-2768](#).

2483 See section VII.C.1 and Report dated 23 May 2012, [MLI-OTP-0001-7527](#), translation [MLI-OTP-0052-0089](#).

2484 D-0315:T-186, p.18, l.1-15.

2485 P-0641:T-139, p.57, l.7-14; D-0512: [MLI-D28-0006-2611-R01](#), p.2614, para.13.

justify that it was done by imposing an oppressive regime through force, intimidation and violence, which spread fear and terror in the population of the city (see sections I, X and XII). Defence witnesses' one-sided testimonies/statements regarding this "security" aspect – some going as far as testifying that they did not see or hear anything about the flogging or punishment of people who broke Ansar Dine/AQIM's rules - do not provide a full picture and are therefore unreliable.²⁴⁸⁶ They serve mainly to distract from or cloak the criminality of Ansar Dine/AQIM's actions.

586. Overall **AL HASSAN** could have chosen to stay inactive. For example, Muhammed Al-Amin son of Abdul Wadud excused himself from the position of Presiding Judge of the Tribunal on grounds of being old and frail (see *supra* section III.C.2.c).²⁴⁸⁷ At worst, **AL HASSAN** could have stayed in or gone back to his job at the pharmacy in Zahro. Also, [REDACTED]²⁴⁸⁸ **AL HASSAN** who once was a teacher,²⁴⁸⁹ could have found a job in a *madrasa* without being a member of the Police, let alone one of its leaders.

XIII.B.2.AL HASSAN faced no threat from the Malian Army at the relevant period of time and could have left Timbuktu

XIII.B.2.a. There was no need for AL HASSAN to join Ansar Dine in early April 2012 in Timbuktu to protect himself against the FAMa

587. There was no imminent threat by the Malian army in Timbuktu by the time **AL HASSAN** chose to join Ansar Dine: the Malian army had left Timbuktu before **AL HASSAN** joined Ansar Dine, and was hundreds of kilometres away from Timbuktu (see above section XI). He could have simply stayed in Timbuktu or Zahro.

XIII.B.2.b. It was possible to travel between Timbuktu and other Malian cities/villages without hindrance from the FAMa

588. There were no Malian soldiers in Northern Mali at the end of March 2012. The whole of Northern Mali was under the control of the groups, with the FAMa entrenched southwards in Sevaré and Konna,²⁴⁹⁰ over 200 kilometres away from Timbuktu. Many people, including witnesses, were able to travel to or leave Timbuktu at the start and throughout the occupation, whether to flee Timbuktu or simply to come and go, without any "threat" at the hands "of the Malian Army".²⁴⁹¹

589. P-0065 testified that many people left Timbuktu when the unrest in Timbuktu began with the departure of the Malian Army.²⁴⁹² In particular, [REDACTED] left Timbuktu the day before the MNLA arrived.

²⁴⁸⁶ See D-0512:T-181, p.44, l.15-p.45, l.8.

²⁴⁸⁷ [REDACTED]

²⁴⁸⁸ [REDACTED]

²⁴⁸⁹ P-0398:MLI-OTP-0051-1257, p.1269, l.407-p.1270, l.422. D-0211:T-190, p.15, l.8-15(Conf.).

²⁴⁹⁰ Map MLI-OTP-0009-1754; D-0240: transcript MLI-D28-0006-4222-R01, p.4227, l.4-29;.

²⁴⁹¹ ICC-01/12-01/18-2203-Conf., p.32, para.93.

²⁴⁹² P-0065:T-050, p.34, l.10-20. See also P-0608:T-153, p.72, l.22-p.73, l.2(Conf.), p.76, l.5-16(Conf.).

He specified that many Tuareg fled because they did not like the “domination of the Islamists”.²⁴⁹³

590. The inhabitants were also able to flee even at the time when Ansar Dine/AQIM arrived. The population was then beginning to leave the city *en masse*.²⁴⁹⁴ [REDACTED] not far from the BMS in the days following 1 April 2012²⁴⁹⁵ shows a car with a black jihadist flag and another vehicle with locals leaving the city.²⁴⁹⁶

591. Further, throughout the subsequent period, up until the end of the occupation in January 2013, people could travel to and from Timbuktu. The city’s inhabitants were able to pass through the checkpoints on the way out of the city.²⁴⁹⁷ This possibility to travel is illustrated by P-1086,²⁴⁹⁸ D-0240,²⁴⁹⁹ D-0551,²⁵⁰⁰ D-0553,²⁵⁰¹ D-0512²⁵⁰² (this is the only aspect of [REDACTED] testimony which appears credible, given its unreliability on important points²⁵⁰³ and the inconsistencies it contains), P-0608,²⁵⁰⁴ P-0004,²⁵⁰⁵ P-0654,²⁵⁰⁶ and D-0213²⁵⁰⁷.

592. In sum, had **AL HASSAN** wanted to, nothing prevented him from leaving Timbuktu. In fact, **AL HASSAN** was well aware of the possibility to leave Timbuktu, but he chose to stay. He stated: “*Nous savons qu’une partie de la population a peut-être ... pris la fuite vers Bamako et certains...comme les hommes politiques... sont partis[...]*.”²⁵⁰⁸ Moreover, during the occupation, he was himself entitled to sign *laissez-passers*,²⁵⁰⁹ if at all necessary; and did leave Timbuktu for Zahro where he spent *Eid*.²⁵¹⁰

XIII.B.2.c. It was possible to leave Timbuktu and go abroad without hindrance from the FAMA

593. Not only could **AL HASSAN** have moved to other parts of Mali beyond the control of the Malian army but he could have also travelled to neighbouring countries, like Libya where he had lived previously.²⁵¹¹ Considering his education, he could have sought a job abroad.²⁵¹² A United Nations report

²⁴⁹³ [REDACTED]

²⁴⁹⁴ P-0608:T-153, p.72, l.22-p.73, l.2(Conf.), p.76, l.5-16(Conf.).

²⁴⁹⁵ [REDACTED]

²⁴⁹⁶ [REDACTED]

²⁴⁹⁷ D-0529:T-189, p.13, l.16-p.15, l.4, p.51, l.11-18.

²⁴⁹⁸ P-1086:T-121, p.39, l.16-p.41, l.10(Conf.), p.62, l.12-14.

²⁴⁹⁹ D-0240:T-191, p.34, l.24-p.36, l.20; Transcript [MLI-D28-0006-4222-R01](#), p.4227, l.4-16.

²⁵⁰⁰ D-0551:T-200, p.85, l.11-18.

²⁵⁰¹ D-0553:[MLI-D28-0005-9325-R01](#), p.9331, para.37(Conf.).

²⁵⁰² D-0512:T-181, p.48, l.2-p.49, l.5.

²⁵⁰³ D-0512:T-181, p.44, l.15-p.45, l.3.

²⁵⁰⁴ P-0608:T-153, p.53, l.3- p.54, l.12(Conf.).

²⁵⁰⁵ [REDACTED]

²⁵⁰⁶ P-0654:T-127, p.37, l.13-20(Conf.), T-135, p.20, l.4-10(Conf.).

²⁵⁰⁷ D-0213:T-198, p.25, l.25-p.26, l.4.

²⁵⁰⁸ [REDACTED]

²⁵⁰⁹ D-0551:T-200, p.85, l.12-18.

²⁵¹⁰ P-0398:[MLI-OTP-0051-1155](#), p.1169, l.469-474. See also P-0398:[MLI-OTP-0060-1729](#), p.1743, l.466-p.1744, l.494.

²⁵¹¹ Map, [MLI-OTP-0010-0126](#).

²⁵¹² D-0272:T-182, p.21, l.15-p.22, l.8; [MLI-D28-0006-4181-R01](#), p.4184, para.18-19.

states that thousands of people (mainly Tuareg, Arabs, Fulani and Bella) from the regions of Timbuktu, Gao, Mopti and Kidal went to Mauritania, Niger, Burkina Faso, Guinea, Togo and Algeria.²⁵¹³ Various witnesses confirm this, such as D-0240²⁵¹⁴ and D-0272.²⁵¹⁵ Some Tuareg left Timbuktu before the arrival of the MNLA,²⁵¹⁶ but many more left when the Islamists occupied Northern Mali.²⁵¹⁷ This is also illustrated by P-1086²⁵¹⁸ or P-0065.²⁵¹⁹ It was even possible to travel with a family: Khaled, the second Police Emir, left Timbuktu for Algeria to fetch his pregnant wife, who gave birth one month after her arrival in Timbuktu.²⁵²⁰ Last, people with an education – such as **AL HASSAN** – could find work abroad, like in Burkina Faso.²⁵²¹

XIII.B.2.d. Irrelevant Defence allegations regarding mistreatment/abuses by the FAMA²⁵²²

594. Against this background, the Defence's allegations of mistreatment or abuses by Malian soldiers²⁵²³ are unrelated to the temporal and geographical scope of the charges. First, some references relate to the period before 2012 or the period after January 2013 when the Malian army returned to Northern Mali,²⁵²⁴ once the armed groups had left Timbuktu. Second, even though the killing of preachers happened in early September 2012, it did not take place in the Timbuktu region nor in Northern Mali, but instead in the South of the country some twenty minutes from Diabaly.²⁵²⁵ Third, P-1086's comments about the fate of the Arab and Tuaregs who were in the Malian Army²⁵²⁶ are inapposite, since **AL HASSAN** was not in the FAMA.

XIII.B.3. Lack of pressure from the Tuareg community to join armed groups, including Ansar Dine/AQIM

595. The Defence further suggests that the Tuaregs who remained in the North of Mali had no choice but to join either the MNLA or Ansar Dine.²⁵²⁷ Specifically, the Defence suggests that **AL HASSAN** was compelled to join the armed groups by the Tuareg community.

596. First, social pressure is not what is envisaged under article 31(1)(d). Nor do P-1086's general

²⁵¹³ *Rapport*, 7 January 2013, [MLI-OTP-0013-3500](#), p.3507-3508.

²⁵¹⁴ D-0240:T-191, p.34, l.24-p.36, l.20, transcript [MLI-D28-0006-4222-R01](#), p.4227, l.4-13.

²⁵¹⁵ D-0272:[MLI-D28-0006-4181-R01](#), p.4184, para.18-19, p.4185, para.25-26; T-182, p.21, l.11-14.

²⁵¹⁶ D-0551:T-200, p.54, l.16-p.55, l.7.

²⁵¹⁷ D-0272:T-182, p.22, l.9-14.

²⁵¹⁸ P-1086:T-121, p.70, l.22-25(Conf.), p.39, l.16-p.42, l.4(Conf.), p.43, l.11-18(Conf.); p.58, l.6-p.60, l.20(Conf.), p.76, l.13-14.

²⁵¹⁹ P-0065:T-038, p.13, l.3-p.16, l.14(Conf.).

²⁵²⁰ P-0582:[MLI-OTP-0062-3820-R02](#), p.3841, l.711-p.3842, l.746.

²⁵²¹ D-0272:T-182, p.21, l.15-p.22, l.8; [MLI-D28-0006-4181-R01](#), p.4184, para.18-19.

²⁵²² ICC-01/12-01/18-2203-Conf., p.32, para.94.

²⁵²³ ICC-01/12-01/18-2203-Conf., p.32, para. 93, footnotes 180 and 193.

²⁵²⁴ P-0623:T-030, p.15, l.23-p.16, l.6(Conf.); Tweet, [MLI-D28-0004-0696](#)(Conf.); D-0511:[MLI-D28-0006-2629-R01](#), p.2637, para.48(Conf.); D-0202:T-202, p.16, l.16-p-17, l.1.

²⁵²⁵ [MLI-OTP-0012-1998](#).

²⁵²⁶ P-1086:T-122, p.17, l.17-p.19, l.8(Conf.).

²⁵²⁷ Defence Trial Brief, p.32, para.94.

remarks (according to whom the radical groups were more flexible towards communities which had some of their members in these groups²⁵²⁸) support any form of duress within the meaning of article 31. 597. Second, the Defence allegation is unsupported by P-0654 who provided a speculative and ambiguous answer to a suggestive question by Defence counsel, responding vaguely: “it’s possible, but it’s not in the same case”.²⁵²⁹ Similarly P-0065 prefaces his testimony on this matter with the caveat that **AL HASSAN** never told him anything in that regard, that he does not know how **AL HASSAN** joined the “groups”. He was simply giving his “impression”.²⁵³⁰ In any event, even his impressions – which are of little probative value if any - do not support the Defence’s assertion as there is no mention of **AL HASSAN** being compelled to join Ansar Dine/AQIM. To the contrary P-0065’s testimony points to how **AL HASSAN** was being “asked”²⁵³¹ by the tribal leaders to join Ansar Dine for opportunistic motives and that he was “pushed” by his ambition to be a “non-extremist stakeholder”.²⁵³²

XIII.B.4.Lack of a proven risk in case of disobedience or separation from Ansar Dine

598. First, since **AL HASSAN** voluntarily joined Ansar Dine/AQIM, a criminal organisation, he cannot then claim that there was a risk if he disobeyed them. Second, the possibility of future disciplinary measures is not enough to meet the “imminent” article 31(1)(d) requirement. Third, there is no evidence on record of a case of punishment for refusing to obey orders, rather the record shows that people disobeyed or left the group without being punished:

- As head of the *Hesbah*, Mohamed Moussa should have attended the execution²⁵³³ in mid-October 2012²⁵³⁴ in Timbuktu.²⁵³⁵ However, he was absent as he disapproved of it.²⁵³⁶ There is no evidence that he was punished as a result of this thereafter; he continued to act as head of the *Hesbah*.
- Moreover, the evidence shows that it was possible to leave Ansar Dine/AQIM: [REDACTED]

599. Fourth, the evidence referenced by the Defence is unsubstantiated or irrelevant to **AL HASSAN**:

- A flogging [REDACTED] is cited by the Defence as an example of sanctions against those disobeying the groups.

²⁵²⁸ P-1086:T-122, p.59, l.16-20.

²⁵²⁹ P-0654:T-133, p.84, l.25-p.85, l.16.

²⁵³⁰ P-0065:T-050, p.18, l.14-16(Conf).

²⁵³¹ P-0065:T-050, p.18, l.17-20(Conf).

²⁵³² P-0065:T-050, p.18, l.21-22(Conf).

²⁵³³ [REDACTED]

²⁵³⁴ [REDACTED]

²⁵³⁵ [REDACTED]

²⁵³⁶ [REDACTED]

²⁵³⁷ [REDACTED]

[REDACTED]²⁵³⁸ are irrelevant. They did not concern a case of treason, but rather a case of theft from the Azalai Hotel by a member of Ansar Dine [REDACTED]

[REDACTED]²⁵³⁹

- Similarly, the case of P-0099, [REDACTED]²⁵⁴⁰ is irrelevant as it concerned [REDACTED]²⁵⁴¹ and an allegation [REDACTED]²⁵⁴¹ In any event, [REDACTED]

[REDACTED]²⁵⁴²

- Although [REDACTED] he was trying to find a way to leave Timbuktu, he was in a particular situation that cannot be directly compared to that of other Ansar Dine/AQIM members – including **AL HASSAN** - because *inter alia* [REDACTED]²⁵⁴³
- [REDACTED] managed to flee Timbuktu²⁵⁴⁴ [REDACTED] (see section VI.B.13).
- [REDACTED] in Timbuktu cannot be applied to **AL HASSAN**. First [REDACTED] which was not at all the case with **AL HASSAN**. Furthermore, [REDACTED] and then added that perhaps he “would have been chased or maybe accused” and “could have been killed”.²⁵⁴⁵ This is speculative.
- [REDACTED]²⁵⁴⁶ and the consequences he faced as a result have been taken out of context and, in any case, did not apply to the relevant time frame.
- Finally, MLI-D28-0004-3539, which shows the execution of individuals by AQIM is from a period subsequent to the events, in November 2016²⁵⁴⁷ and concerns people accused of providing intelligence to foreign intelligence services in exchange for money.²⁵⁴⁸ This is not comparable to

²⁵³⁸ [REDACTED]
²⁵³⁹ [REDACTED] T-099, p.5, 1.9-19(Conf.); P-0398: [MLI-OTP-0051-0658](#), p.0660-0665, 1.63-214, [MLI-OTP-0051-0741](#), p.0749-0759, 1.252-606.

²⁵⁴⁰ [REDACTED]
²⁵⁴¹ P-0099:T-146, p.8, 1.4-23(Conf.).

²⁵⁴² P-0099:T-146, p.8, 1.19-p.10, 1.2(Conf).

²⁵⁴³ P-0099:T-146, p.47, 1.11-20(Conf).

²⁵⁴⁴ [REDACTED]

²⁵⁴⁵ [REDACTED]

²⁵⁴⁶ Defence Trial Brief, p.33, para.96, in particular footnote 189; [REDACTED]

²⁵⁴⁷ Article, [MLI-D28-0004-3504](#), p.3504.

²⁵⁴⁸ P-0065:T-049, p.14, 1.22-p.15, 1.7, p.18, 1.10-14; Article, [MLI-D28-0004-3504](#).

AL HASSAN's situation and the possible decision to leave the armed groups in Timbuktu. All the more so since, **AL HASSAN** claims that in his mind he joined Ansar Dine and not AQIM.

600. In sum, there is no evidence that **AL HASSAN** would be in any specific danger if he had decided to leave Ansar Dine/AQIM. In fact, instead of contenting himself with a lesser role in the Police or simply resigning from his functions, his ambitions, and work led him to gradually move up the ranks.

601. Because of the foregoing, the evidence does not show the existence of a "threat of imminent death or of continuing or imminent serious bodily harm" against **AL HASSAN** or his family that would have caused his criminal conduct with respect to each of the charged crimes. The Chamber need not assess the remaining requirements under article 31(1)(d) and should dismiss the Defence's claim that **AL HASSAN** acted under duress.

XIII.C. AL HASSAN's conduct was neither necessary nor reasonable to avoid any purported threat

602. Even if, *arguendo*, a sufficient threat against **AL HASSAN** would have caused him to engage in the charged crimes, the cumulative requirements of necessity and reasonableness are not met. Conduct is considered "necessary" for article 31(1)(d) purposes where there is no alternative path available for a person to achieve a desired outcome (here, to avoid a threat). In other words, a threat can result in duress only if it is not otherwise avoidable. For conduct to be considered "reasonable", it must be proportionate to the threat posed.²⁵⁴⁹

603. **AL HASSAN**'s conduct was neither necessary nor reasonable, in light of alternative courses of action he could have taken to avoid any threatened harm. As noted above, **AL HASSAN** could have chosen to remain inactive, or could have left Timbuktu as others did. In fact, as mentioned *supra* in section IV, in October 2012²⁵⁵⁰ about the Police, **AL HASSAN** expressed satisfaction regarding Dédéou Maiga's amputation and the cases of *marabouts*, fornicators and others referred to the tribunal.²⁵⁵¹ [REDACTED] **AL HASSAN** is inflicting lashes to 2 men with such unnecessary violence that both men were writhing in pain.²⁵⁵²

XIII.D. No evidence proves that AL HASSAN did not intend to cause greater harm than the harm he allegedly sought to avoid

604. Still *arguendo*, if a sufficient threat existed and caused **AL HASSAN** to commit the charged crimes, and his conduct was both necessary and reasonable, the Chamber must also be satisfied that he did not intend to cause greater harm than the one he sought to avoid. This analysis is threat- and crime-specific; and there is no evidence on the record suggesting that he mentally balanced any harms at all.

²⁵⁴⁹ Eser in Triffterer *Commentary*, p.1153-1154; *Prosecutor v Erdemović*, IT-96-22-A, October 1997, para.41-42.

²⁵⁵⁰ P-0075:[MLI-OTP-0069-5868](#), p.6178-6179.

²⁵⁵¹ [REDACTED]

²⁵⁵² [REDACTED].

605. The commission of the charged crimes was not proportionate to any threat posed. **AL HASSAN** is charged with serious crimes, including persecution, torture and crimes of sexual violence. *Arguendo*, even if he had been faced with a threat of banishment or exile – which does not fall within the scope of threats under article 31(d)(1) – specifically connected to his commission of these crimes, that risk would not have justified, for example, the flogging and torture of victims, including women. Further, because the evidence does not establish threat of imminent death, or imminent or continuing serious bodily harm with a causal link to any particular charged crimes, the Prosecution does not explore all possible combinations. If the Chamber were inclined to entertain application of article 31(1)(d), such consideration would be necessary for each charged crime.

XIII.E. The partial and selective help provided by AL HASSAN does not exclude his criminal responsibility

606. Finally, the Defence's claim that **AL HASSAN** took steps to protect the local population is inapposite and unsupported.²⁵⁵³ This allegation does not expunge his unnecessary involvement in crimes against other members of the population. Moreover, this allegation is unsupported by evidence: a) D-0272—cited by the Defence [REDACTED].²⁵⁵⁴ His remarks are hearsay and lack reliability. D-0272 concludes by saying that he knew everything about the events in Timbuktu and that **AL HASSAN** was with the Police. Yet, D-0272 further claims that he did not know what exactly **AL HASSAN** was doing at the police despite [REDACTED] in 2012 and despite stating that **AL HASSAN** [REDACTED].²⁵⁵⁵ b) D-0553's remarks on **AL HASSAN** are unsubstantiated and unfounded. In particular, D-0553 said he did not interact with **AL HASSAN** in 2012,²⁵⁵⁶ and c) D-0544 stated that **AL HASSAN** intervened for the benefit of a private owner. In fact, the evidence points to **AL HASSAN** supervising and directing the pillaging of public goods.²⁵⁵⁷

607. Defence further refers to other Defence witnesses claiming that **AL HASSAN** helped people or stayed on to help the people of Timbuktu. However, when **AL HASSAN** intervened on behalf of someone, it was selective. He intervened for relatives, friends, acquaintances or acquaintances of his friends and members of the Kel Ansar tribe, members of his Tuareg ethnic group, Arabs, or members of Ansar Dine/AQIM.²⁵⁵⁸

²⁵⁵³ *Contra* Defence Trial Brief, p.34, para.97.

²⁵⁵⁴ D-0272: T-182, p.20, l.23-p.21, l.1.

²⁵⁵⁵ D-0272: T-182, p.62, l.3-8(Conf.); p.51, l.6-p.53, l.13, p.34, l.14-19(Conf), p.35, l.11-p.38, l.1(Conf), p.40, l.23-p.42, l.3(Conf); p.56, l.5-17(Conf), p.58, l.19-p.59, l.11(Conf), p.61, l.15-p.63, l.3(Conf), p.65, l.10-12(Conf), p.68, l.2-15(Conf.), p.77, l.20-p.78, l.11(Conf.); [MLI-OTP-0031-0898](#), sheet [REDACTED] (Conf); [MLI-OTP-0031-0838](#), sheet [REDACTED] (Conf); [MLI-OTP-0026-0100](#), sheet [REDACTED] (Conf).

²⁵⁵⁶ D-0553: [MLI-D28-0005-9325-R01](#), p.9333, para.46-47(Conf); p.9332, para.43(Conf).

²⁵⁵⁷ D-0544: [MLI-D28-0006-3342-R01](#), p.3345 para.16; T-196, p.34, l.13-p.41, l.9, p.43, l.20-p.44, l.2: [REDACTED]

²⁵⁵⁸ D-0272: [MLI-D28-0006-4181-R01](#), p.4184, para.22; T-182, p.48, l.18-p.50, l.16(Conf), p.51, l.1-p.53, l.13, p.54, l.14-p.55, l.11(Conf.), p.43, l.21-p.45, l.4(Conf).

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[REDACTED] ²⁵⁵⁹

- Around mid-October 2012,²⁵⁶⁰ **AL HASSAN** provided assistance to an individual called Mousa and tried to prevent his execution. Mousa was “close to **AL HASSAN**”. Both were “from the Tuareg”. They knew one another’s tribes. Mousa received special treatment.²⁵⁶¹

- [REDACTED] ²⁵⁶²

[REDACTED]

[REDACTED] ²⁵⁶³ so he asked to take part in a mission carried out [REDACTED] in Ber. This occurred at the time of the

[REDACTED] **AL HASSAN** also called a cousin who knew Iyad Ag Ghaly. This cousin met with Iyad in Timbuktu. [REDACTED] ²⁵⁶⁴

- Shortly before the Konna offensive in January 2013, **AL HASSAN** asked some police officers to coordinate so that an Arab man belonging to the Ansar Dine/AQIM groups who had stolen some weapons from the police “could escape” from prison,²⁵⁶⁵ and avoid an amputation. This demonstrates that **AL HASSAN** was partial and selective in the assistance he gave.

608. In conclusion, the Defence’s claims that **AL HASSAN** protected local population should be dismissed. Overall, **AL HASSAN**’s charged conduct was not caused by duress resulting from a threat of imminent death, or imminent or continuing serious bodily harm.

XIV. Defence of mistake of law and superior orders

XIV.A. There is no mistake of law under article 32

609. **AL HASSAN** cannot invoke a mistake of law under article 32. The evidence on the record does not satisfy the stringent requirements of this provision. To the contrary, it shows beyond reasonable doubt that **AL HASSAN** satisfied the required mental elements. The Defence’s arguments should be dismissed because: (i) the Defence did not substantiate the existence of a mistake of law; (ii) the Defence misrepresents the record; and (iii) the evidence indicates that **AL HASSAN** had the required knowledge and intent with respect to all the crimes charged.

²⁵⁵⁹ D-0093: [MLI-D28-0006-4212-R01](#), p.4214, para.14, p.4216, para.25-26.

²⁵⁶⁰ [REDACTED].

²⁵⁶¹ D-0605:T-193, p.56, l.2-17, p.51, l.7-9, p.52, l.17-21, p.54, l.18-p.55, l.9(Conf.); p.51, l.16-18.

²⁵⁶² P-0398: [MLI-OTP-0051-0537](#), p.0548, l.347-376.

²⁵⁶³ P-0398: [MLI-OTP-0051-0537](#), p.0547, l.316-326; [MLI-OTP-0051-0631](#), p.0655-0656, l.812-854, [MLI-OTP-0051-0537](#), p.0555, l.592-613.

²⁵⁶⁴ P-0398: [MLI-OTP-0051-0537](#), p.0558-0560, l.12-89; [MLI-OTP-0051-0537](#), p.0547, l.330-341, p.0548, l.352-357, p.0549-0550, l.382-430, p.0551-0553, l.449-528.

²⁵⁶⁵ [REDACTED]

XIV.A.1. The Defence does not substantiate the existence of any mistake of law

610. First, the Defence’s arguments regarding article 32 should be summarily dismissed since the Defence has not adequately substantiated that the mental element for each of the charged crimes is negated due to the existence of a mistake of law. The Defence simply makes general assertions regarding “the culpable nature of his contributions to the implementation of the Sharia” and “the extent to which specific judgments issued by the Tribunal complied with guarantees that are indispensable under international law”.²⁵⁶⁶ This is insufficient to support the proposition that **AL HASSAN** acted under a mistake of law with respect to all the crimes charged. Even if the Prosecution retains the burden of proof to establish **AL HASSAN**’s criminal responsibility beyond reasonable doubt, the Defence must present sufficient evidence to properly raise the existence of a mistake of law.²⁵⁶⁷ It did not; accordingly, the Defence’s arguments regarding mistake of law should be summarily dismissed.

XIV.A.2. The Defence misstates the evidence and advances unsupported assertions²⁵⁶⁸

XIV.A.2.a. AL HASSAN is well-educated and spent most of his life in Mali

611. Contrary to the Defence’s assertion,²⁵⁶⁹ **AL HASSAN** was not simply a pharmacist²⁵⁷⁰ prior to the arrival of Ansar Dine/AQIM. He was an educated man who had followed a training on Mausoleums and manuscripts,²⁵⁷¹ spoke several languages²⁵⁷² and had even taught at a Madrasa in Timbuktu.²⁵⁷³ **AL HASSAN** also spoke of how, prior to working with Ansar Dine/AQIM, Abdallah Al Chinguetti explained to him the “*doctrine du Jihad*”, “*l’obligation du jihad*” and “*la nécessité du jihad*”.²⁵⁷⁴ In addition, **AL HASSAN** was raised in Timbuktu and was aware of the judicial system in Timbuktu prior to Ansar Dine/AQIM’s arrival. The Defence claims that **AL HASSAN** “grew up” in Mauritania and Libya – where (it alleges) “Sharia and Huddud punishments form part of the legal system”, citing the Mauritanian and the Libyan Penal Code.²⁵⁷⁵ This is a misstatement. According to **AL HASSAN**’s own accounts, he lived in Timbuktu from his birth in 1977 until 1991 (6th grade),²⁵⁷⁶ and then from 2002 to

²⁵⁶⁶ Defence Trial Brief, p.18, para.57.

²⁵⁶⁷ Ongwen AJ, ICC-02/04-01/15-2022-Red, para. 340 (finding that if grounds purporting to exclude an accused’s criminal responsibility are raised, it is not enough to merely give notice of such an intention; the Defence must also present evidence to substantiate its allegations). Even if the Appeals Chamber referred to article 31 grounds, it should apply *mutatis mutandis* to allegations under articles 32 and 33; *see also* ICC-01/11-01/11-466-Red, para. 208 and ICC-01/11-01/11-565,OA6, para.167; ICC-02/05-01/20-433-Corr, para. 78.

²⁵⁶⁸ Defence Trial Brief, p.18-22, para.58-64.

²⁵⁶⁹ Defence Trial Brief, p.18-20, para.59.

²⁵⁷⁰ P-0398:[MLI-OTP-0051-1233](#), p.1283-1286, 1.871-977, [MLI-OTP-0051-1257](#), p.1267-1271, 1.334-445.

²⁵⁷¹ P-0398:[MLI-OTP-0060-1352](#), p.1353-1356, 1.22-123.

²⁵⁷² P-0398:[MLI-OTP-0051-1257](#), p.1267, 1.316-328.

²⁵⁷³ P-0398:[MLI-OTP-0051-1257](#), p.1269-1270, 1.395-433.

²⁵⁷⁴ P-0398:[MLI-OTP-0051-1257](#), p.1285, 1.913-945.

²⁵⁷⁵ Defence Trial Brief, p.18-20, para 59, fn.114.

²⁵⁷⁶ P-0398:[MLI-OTP-0051-1257](#), p.1265, 1.245-265.

2005,²⁵⁷⁷ and from 2006 to 2011.²⁵⁷⁸ He never mentioned having lived in Mauritania prior to 2012. He did however confirm his strong links with Timbuktu: “*J’étais une personne de Tombouctou. Je suis originaire de Tombouctou et donc je connaissais la ville.*”²⁵⁷⁹

XIV.A.2.b. *Cadis could only resolve civil disputes and on a voluntary basis*

612. Contrary to the Defence’s arguments,²⁵⁸⁰ before the arrival of Ansar Dine/AQIM in 2012, the role of a *cadi* was generally limited to hearing civil matters or disputes, such as family issues or cases related to debts and usury,²⁵⁸¹ while the government’s judicial system handled both civil and criminal matters.²⁵⁸² In any event, the process was purely voluntary and the decisions emanating from a *cadi* were unenforceable.²⁵⁸³ A *cadi* could not impose “repressive actions”, such as imprisonments.²⁵⁸⁴ The *cadis* issued fatwas or religious opinions not judgments.²⁵⁸⁵ Further, each *cadi* operated from a different place or region without any assistance from any police forces.²⁵⁸⁶

613. In contrast, the Tribunal established by Ansar Dine/AQIM in 2012 with seat in Timbuktu, dealt with both criminal and civil cases and had the power to impose sanctions, including imprisonment and corporal punishments. That the government’s justice system was viewed as corrupt or inefficient is irrelevant to the issue of whether **AL HASSAN** had the requisite *mens rea*, including the awareness of the denial of relevant guarantees regarding passing of sentence by the Tribunal in 2012/2013 and the fact that such guarantees are essential or indispensable to a fair trial.²⁵⁸⁷ Contrary to the Defence’s allegation, there were no Islamic judges in Timbuktu in the period before the 2012 armed conflict. “Sheikh” and “Islamic judges” are three distinct concepts. The Defence confuses the concepts of “*cadis*”, “Sheikh” and “Islamic judges” when arguing that Islamic judges already existed when Timbuktu was taken over. Moreover there is no factual foundation to state that there were recognised Islamic judges in the period up to 2012 in Timbuktu, much less in criminal matters. Last, as for the *cadis*, Ansar Dine/AQIM recruited a few of them in the Tribunal and forbade the other ones from practising their activities,²⁵⁸⁸ which shows an obvious difference between the *cadis* and the Tribunal.

²⁵⁷⁷ P-0398:[MLI-OTP-0051-1257](#), p.1271-1272, 1.457-477.

²⁵⁷⁸ P-0398:[MLI-OTP-0051-1257](#), p.1271-1274, 1.457-569.

²⁵⁷⁹ P-0398:[MLI-OTP-0051-1257](#), p.1280, 1.756-757. See also D-0272:T-182, p.7, 1.13-17, p.8, 1.8-p.9, 1.9, p.10, 1.21-24, p.11, 1.19-22

²⁵⁸⁰ Defence Trial Brief, p.20, para.60.

²⁵⁸¹ [REDACTED] D-0551:T-201, p.20, 1.13-21.D-0551,T-201, p.21, 1.13-24.

²⁵⁸² D-0551:T-201, p.20, 1.15-21; [REDACTED].

²⁵⁸³ [REDACTED] D-0540:T-183, p.20, 1.6-21.

²⁵⁸⁴ D-0551:T-201, p.20, 1.24-p.25, 1.3; P-0004:T-167, p.40, 1.16-24.

²⁵⁸⁵ [REDACTED]

²⁵⁸⁶ D-0605:T-192, p.60, 1.11-20.

²⁵⁸⁷ See element 5 of the Elements of the Crime of passing of sentence or execution under article 8(2)(c)(iv).

²⁵⁸⁸ [REDACTED]

XIV.A.2.c. The Tribunal and its brutal punishments were new to Timbuktu

614. The overwhelming evidence on the record, from both Prosecution and Defence witnesses,²⁵⁸⁹ as well as from **AL HASSAN** himself,²⁵⁹⁰ shows that the punishments meted out by Ansar Dine/AQIM were unprecedented in Timbuktu and shocked the locals. Indeed, the new regime set up by Ansar Dine/AQIM, including the creation of the Tribunal and brutal punishments for conduct which was not previously criminalised, significantly departed from the secular legal regime in place prior to their arrival.²⁵⁹¹ The Defence's assertion that the Malian authorities "routinely used physical force as a means for installing order among the civilian population, before during and after 2012"²⁵⁹² is unsupported.

XIV.A.3. The evidence demonstrates beyond reasonable doubt that **AL HASSAN had the required mental element for all the crimes charged**

615. Third, the evidence establishes beyond reasonable doubt that **AL HASSAN** meant to engage in the conduct described in this brief and had the required intent and knowledge with respect to all charged crimes. He was aware of the unlawfulness of his actions and intended or at least was aware of the ensuing criminal results. He had observed the radical changes in the legal and judicial system and the brutal system imposed since the arrival of the armed groups in Timbuktu and knew of the illegality of their actions. Yet, he chose to participate and contribute to the regime and criminality through his actions and position as a senior member of the Police.²⁵⁹³ **AL HASSAN** knew how the police and the Tribunal worked hand in hand to ensure that the new rules and prohibitions were respected.²⁵⁹⁴ He was aware of the flagellations of convicted individuals, having carried one out himself,²⁵⁹⁵ and was also aware that Dédéou Maiga's hand was amputated after his conviction for an alleged case of theft²⁵⁹⁶.

616. The Defence erroneously suggests that **AL HASSAN** was not aware that the Tribunal lacked independence and impartiality or that it did not afford all other judicial guarantees generally recognised as indispensable under international law.²⁵⁹⁷ It is not required that the direct perpetrators or **AL HASSAN** completed a value judgment.²⁵⁹⁸ In any event, the evidence indicates that **AL HASSAN**

²⁵⁸⁹ [REDACTED]

[REDACTED] P-0641:T-137, p.14, l.7-p.16, l.11(Conf); D-0272:T-182, p.25, l.5-p.27, l.2; D-0240:T191, p.48, l.19-49, l.7.

²⁵⁹⁰ P-0398:MLI-OTP-0051-1099 n 1102-1108 182-273 P-0398:MLI-OTP-0051-1099 n 1102-1103 182-103

[REDACTED] Judgment, [MLI-OTP-0001-/45/](#) to the right of the image, translation [MLI-OTP-0078-0212](#).

²⁵⁹¹ ICC-01/04-01/06-803-tENG, para. 316. *See also* Schabas (2nd ed), p.658.

²⁵⁹² Defence Trial brief, ICC-01/12-01/18-2203-Conf, p.22, para.63.

²⁵⁹³ ICC-01/04-01/06-803-tENG. Para 316.

²⁵⁹⁴ P-0398:[MLI-OTP-0060-1631](#), p.1643, l.380-403.

²⁵⁹⁵ *See* section VI.B.3.

²⁵⁹⁶ P-0398:[MLI-OTP-0051-0658](#), p.0676-0681, l.611-748

²⁵⁹⁷ *See* Defence Trial Brief, p.18, para.58.

²⁵⁹⁸ Element 5 interpreted in light of Element 4 of the General Introduction of the Elements of Crimes; Confirmation Decision, para. 389; *see also* Triffterer/Olin in Ambos, Rome Statute of the International Criminal Law, Article-by-Article commentary (4th ed.), Art. 32, p. 1395, nm. 35.

conceded that the Tribunal was not independent, acknowledging that its judgments were first shown to Abou Zeid for “*appréciation*”²⁵⁹⁹ and Abou Zeid was ultimately the one who decided whether they should be executed or not²⁶⁰⁰ (see section VII.A.1). Further, **AL HASSAN** knew that the suspects brought before the Tribunal did not have access to lawyers or counsellors to help them with the proceedings;²⁶⁰¹ and that the Tribunal authorised the torture of suspects in certain cases.²⁶⁰² **AL HASSAN** also admitted that he had never heard of a case where a judgment issued by the Tribunal was appealed,²⁶⁰³ thereby confirming that once the Tribunal rendered a decision it was final. (section VII).²⁶⁰⁴ 617. Likewise, contrary to the Defence’s suggestion, the evidence demonstrates that **AL HASSAN** was well aware that forced marriages (other inhumane acts) and associated crimes of rape and sexual slavery took place in Timbuktu during the occupation and that he contributed to their commission through his position and actions. (see section VIII.C.2).²⁶⁰⁵ Moreover, the Defence’s arguments on alleged “arranged marriages” are irrelevant in this context; the conduct of forced marriage is distinct.²⁶⁰⁶ Further, as the Appeals Chamber has held, a forced marriage is established on the facts and based on the subjective views of the victims, perpetrators and third parties—a formal or official marriage in a particular society is not required.²⁶⁰⁷ In any event, the Defence arguments do not accurately reflect P-0152’s testimony on this. He testified that in trying “to gain influence” over the population in northern Mali, including Timbuktu, AQIM married into “local lineages” to create an image and brand themselves in a particular way,²⁶⁰⁸ but forced marriages “also took place there” and were “part of the picture”.²⁶⁰⁹ 618. Further, the Defence argument that marriages between locals and Ansar Dine/AQIM were consensual, is legally and factually incorrect. As a legal matter, following rule 70, once the coercive circumstances in which the conduct took place are established (as they have in this case), questions of consent are irrelevant. Moreover, while P-0160 [REDACTED]²⁶¹⁰ testified in cross-examination that he believed that four cases of forced marriages [REDACTED] were consensual,²⁶¹¹ this carries very little weight. The basis of his opinion was never elicited by Defence

²⁵⁹⁹ P-0398:[MLI-OTP-0051-0631](#), p.0644, l.325-431.

²⁶⁰⁰ P-0398:[MLI-OTP-0051-0631](#), p.0642-0644, l.354-431; See section VII.A.1.

²⁶⁰¹ See section VII.A.B.

²⁶⁰² P-0398:[MLI-OTP-0060-1662](#), p.1671-1672, l.307-314; [MLI-OTP-0062-1037](#), p.1055, l.582-610.

²⁶⁰³ P-0398:[MLI-OTP-0051-0658](#), p.0689, l.1023-1032.

²⁶⁰⁴ See section VII.A.2.

²⁶⁰⁵ See section VIII.C.2.b.

²⁶⁰⁶ *Brima et al.* TJ, Judge Sebutinde Concurring Opinion, para.10-12, Judge Doherty Partly Dissenting Opinion, para. 36 (distinguishing between arranged or inheritance marriages and forced marriages); *contra* Defence Trial Brief, p.21-22, para.6-62.

²⁶⁰⁷ *Ongwen* AJ, para. 1025.

²⁶⁰⁸ Defence Trial Brief, p.21, para.61; P-0152:T-032, p.79, l.11-24.

²⁶⁰⁹ P-0152:T-032, p.79, l.18-p.80, l.8.

²⁶¹⁰ P-0160:T-066, p.9, l.21-p.10.l.8(Conf).

²⁶¹¹ P-0160:T-068, p.31, l.12-14(Conf).

responded that Adama had asked her to be his “wife” and he hung up. He was unable to reach her again by phone “a little later on” because her telephone was off and so he called a friend to see “what had happened with Mrs X’s telephone”. The friend responded that “her telephone was closed because they were celebrating the wedding as early as that...” and that’s why he could not reach her. That same evening Adama took the woman “back home” and then two or three weeks later he “brought her back with all her belongings, in addition to some food.”²⁶²² D-240 also conceded that it was unclear whether local women had genuinely consented to marrying Ansar Dine/AQIM members given that they were patrolling the city fully armed, including when they approached the women.²⁶²³

621. Last, when they fled Timbuktu, Ansar Dine/AQIM members left their “spouses” behind, which further confirms the forced nature of these so-called marriages.

XIV.B. There were no superior orders within the terms of article 33(1)

622. Likewise, **AL HASSAN**’s criminal responsibility cannot be excluded by reason of article 33. The Defence has not substantiated that there were superior orders that would exclude **AL HASSAN**’s criminal responsibility for the war crime charges.²⁶²⁴ In effect, there were none. First, even assuming *arguendo* that there were orders pursuant to which **AL HASSAN** contributed to the charged crimes, these would have been manifestly unlawful. The purported orders for crimes against humanity are per se manifestly unlawful. All conduct constituting war crimes charged against **AL HASSAN** can also be qualified as crimes against humanity or part of the underlying act thereof. Therefore, the same alleged orders affecting the same conduct for war crimes are also manifestly unlawful. On this basis alone, the Defence arguments regarding article 33 should be summarily dismissed. Second, the Defence does not identify any “order” within the terms of article 33 that was directed to **AL HASSAN**. On this basis also, **AL HASSAN**’s arguments should be summarily dismissed. Third, the Defence has failed to demonstrate that **AL HASSAN** was under a “legal obligation” to comply with any alleged orders. Fourth, even assuming *arguendo* that there were orders, he knew that they were manifestly unlawful.

XIV.B.1. The orders were manifestly unlawful

623. First, orders to commit crimes against humanity, like the ones for which **AL HASSAN** is charged in this case are considered as manifestly unlawful pursuant to article 33(2). He cannot rely on this provision to exclude his criminal responsibility regarding the charged crimes against humanity.

624. Many of the war crimes charged against **AL HASSAN**, such as torture, outrages upon personal dignity, rape and sexual slavery, can also be qualified as crimes against humanity. In addition, all the

²⁶²² D-0213:T-198, p.27, l.7-13; T-197, p.36, l.10-19(Conf), p.37, l.4-15, p.39, l.14-23, p.38, l.14-23, p.43, l.3-9, p.44, l.2-11.

²⁶²³ D-0240:T-191, p.62, l.15-p.63, l.15.

²⁶²⁴ Under article 33(2), the defence is unavailable regarding charges of genocide and crimes against humanity.

charged conduct, including those relating to war crimes of passing of sentence and attacks against protected objects, are part of the crimes against humanity of persecution. Therefore, the purported orders with respect to the war crimes criminalising the *same conduct* should be regarded as manifestly unlawful on the same basis. Accordingly, the Defence's arguments regarding the purported application of article 33 should be dismissed on this basis alone.

XIV.B.2. The Defence fails to identify “orders” that would have caused AL HASSAN to commit, assist in, or contribute to the crimes

625. Second, for the application of article 33 to succeed the Defence must provide evidence of an actual *order* which led **AL HASSAN** to commit, assist in, or contribute to *all* the crimes for which he is charged. However, the Defence fails to point out what alleged orders were given to **AL HASSAN**, who gave them, when they were given and for which crimes they apply. **AL HASSAN** contributed as a result of these. For example, there is no evidence of an “order” issued by any “superior” for **AL HASSAN** to personally carry out the flogging of two men in July 2012.²⁶²⁵ Absent such critical information **AL HASSAN** cannot benefit from this defence.

626. Indeed, even assuming a broad definition of “order”, the Defence does not point to any oral or written demand, or explicit or implicit communication, or general or specific instruction, that was directed to, or would have compelled **AL HASSAN**.²⁶²⁶ Nor does the Defence demonstrate that the judgments issued by the Islamic Tribunals were “orders” within the terms of article 33 which were directed to **AL HASSAN**. The Defence does not show that the Tribunal had “effective control” over **AL HASSAN** nor that he was “subordinated” to the Tribunal on any other manner. The evidence [REDACTED]

[REDACTED]²⁶²⁷ only indicates that once the Tribunal issued a decision, the Police was in charge of implementing the punishments.²⁶²⁸ But even this did not oblige anyone specific to carry out the punishments nor be physically present²⁶²⁹ (see the case of Mohamed Mousa in section XIII.B.4).

627. Moreover, **AL HASSAN** was clearly proactive and tried to anticipate the implementation of the judgments. He admitted: “*je pose toujours la question si tel ou tel jugement a eu lieu et quand est ce que ça sera exécuté*”.²⁶³⁰ This eagerness and enthusiasm undermines any claim that **AL HASSAN** would have acted because he was only compelled to do so by his superiors. He acted voluntarily. Additionally, the Tribunal's judgments had no connection to many of the charged crimes, such as passing of sentence without any judgment, the destruction of mausoleums, rape and sexual slavery.

628. Last, the Defence does not demonstrate that **AL HASSAN**'s actions committing or contributing

²⁶²⁵ See section VI.B.3.

²⁶²⁶ See Triffterer/Bock in Ambos (4th ed.), p.1414-1415, nm. 17.

²⁶²⁷ Defence Trial brief, p.26, para.77.

²⁶²⁸ [REDACTED].

²⁶²⁹ [REDACTED].

²⁶³⁰ P-0398:[MLI-OTP-0051-0631](#), p.0642-0644, l.359-431.

to the commission of all the crimes charged *resulted from* an order. There is no evidence of a causal connection between an order/orders and his conduct.²⁶³¹ The evidence shows that as a senior member of the Police, **AL HASSAN** voluntarily contributed to the commission of all the charged crimes.

XIV.B.3.The Defence fails to establish that AL HASSAN was morally compelled to obey orders

629. The Defence also refers to an alleged “specific degree of moral compulsion” faced by **AL HASSAN** but fails to substantiate this general allegation.²⁶³² Nor does the Defence explain which is the cause (or order) that would have caused it or provide any evidence that **AL HASSAN** would have committed any criminal act as a result of this “moral compulsion”. Further, and contrary to what is suggested by the Defence, the evidence does not demonstrate that “denying the implementation” of the Tribunal’s decisions was viewed by Ansar Dine/AQIM as an “act of disbelief” on the part of “those tasked to implement or to execute Islamic punishments”²⁶³³ and that this act of “disbelief” could be considered as apostasy—which could be punished by death²⁶³⁴ (see the example of Mohamed Moussa above in section XIII.B.4 who did not attend the execution even though he was the head of the *Hesbah*). In addition, the Police reported to Abou Zeid and not the Tribunal. In fact, the Defence has failed to adduce any evidence that **AL HASSAN** would have been punished if he refused to obey any alleged “order” by his superiors, or to implement any decision by the Tribunal (see section XIII.B.4). In sum, the Defence’s arguments are speculative and unsupported.

630. Additionally, **AL HASSAN** was not under any “legal obligation” to follow the orders from a terrorist organisation such as Ansar Dine/AQIM²⁶³⁵ or its leaders. This would be contrary to the *raison d’être* of article 33(1). The use of the term “legal” to qualify “obligation” means that orders emanating from criminal terrorist organisations, such as Ansar Dine/AQIM, acting outside the law, should be excluded from the ambit of this provision.²⁶³⁶ **AL HASSAN** was well aware that he was actually working for AQIM (see section III.C.1.a. *in fine*), even though he claimed having joined Ansar Dine. Article 33 does not apply to a situation where a person voluntarily joins a criminal organisation—knowing that they engage in criminal activities—willingly perpetrates (or contributes to) its criminal

²⁶³¹ Statute, article 33(1) (requiring proof that “a crime within the jurisdiction of the Court has been committed by a person pursuant to an order of a Government or a superior”); *See* Triffterer/Bock in Ambos (4th ed.) p.1417, nm. 23 (explaining that “this implies that the subordinate must have intended to act or omit to act out of concern to obey and hence to execute the order” and “[t]he causal connection between the order and the crime of the subordinate has to be evaluated on an *ex post* basis”).

²⁶³² Defence Trial brief, p.26-27, para.77-79.

²⁶³³ Defence Trial brief, p.27, para.79.

²⁶³⁴ Defence Trial brief, p.27, footnote 163. The Defence refers to the Mauritanian Code of Criminal Procedure.

²⁶³⁵ Designation of al-Qa’ida in the Islamic Maghreb as a Foreign Terrorist Organization, 4 February 2008, [MLI-OTP-0066-0394](#); Terrorist Designations of Ansar al-Dine, 21 March 2013, [MLI-OTP-0066-0396](#); Terrorist Designations of the Movement for Unity and Jihad in West Africa, 7 December 2012, [MLI-OTP-0066-0397](#).

²⁶³⁶ Triffterer/Bock in Ambos (4th edition), p.1416, nm. 21.

actions and subsequently asks to be relieved of any criminal responsibility for the crimes committed following its orders. AQIM, a criminal terrorist organisation acting under the cover of Ansar Dine, cannot be considered a “government” which can issue legitimate orders capable of excluding a person’s criminal responsibility within the terms of article 33(1).²⁶³⁷ Last, all the evidence shows that **AL HASSAN** acted enthusiastically in his tasks²⁶³⁸ and, thanks to his ambition, climbed in the hierarchy.

XIV.B.4.AL HASSAN knew that any purported orders were unlawful

631. Even assuming *arguendo* that there were orders directed to **AL HASSAN** that caused his actions, the evidence does not support that **AL HASSAN** was unaware that such purported orders of Ansar Dine/AQIM were unlawful. To the contrary, the evidence shows that he was cognisant of the unlawfulness of Ansar Dine/AQIM’s actions and consequently his actions as well. **AL HASSAN** was well aware of how Ansar Dine/AQIM took control of Timbuktu, changed the legal and judicial system and forcefully imposed a brutal regime on its inhabitants with cruel punishments which radically differed from the previous legal and constitutional regime. **AL HASSAN** knew that flogging people, harassing women and brutalising civilians in the name of religious belief was unlawful and yet he continued in his role within the Police until Ansar Dine/AQIM was finally forced to leave the city.

XV. Conclusion

632. The evidence shows to the requisite standard that **AL HASSAN** was omnipresent and directly and voluntarily implicated in the oppressive system put in place by Ansar Dine/AQIM in Timbuktu and eagerly participated in the persecutory campaign that it directed against the population. **AL HASSAN** used his power and authority within the Police to make sure that the new rules and prohibitions were respected and in doing so personally committed, assisted in or contributed to the commission of all crimes charged.



Karim A. A. Khan KC, Prosecutor

Dated this 9th day of March 2023

At The Hague, The Netherlands

²⁶³⁷ Some commentators suggested that orders within the terms of article 33 cannot only be issued by recognised governments, but also by “de facto accepted Government of a State which has issued an order at last formally in accordance with its respective rules of action”: Triffterer/Bock in Ambos (4th edition), p.1415, nm. 19, citing Ambos, Treatise ICL I (2021), p.498. Even if this position is accepted, it is doubtful that these groups can be qualified as “de facto accepted governments” that can issue legitimate orders.

²⁶³⁸ P-0398:[MLI-OTP-0051-0631](#), p.0642-0644, l.359-431.