

Trial Hearing
WITNESS: MLI-D28-P-0213

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 8 September 2022
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:10] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:33:44](Interpretation) The hearing is now in
14 session.
15 Good morning, everyone.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:34:00] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:34:20](Interpretation) Thank you very much,
22 court officer.
23 As every morning, we will start with the introduction of the various teams, starting
24 with the Prosecution.
25 Madam Prosecutor.

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1 MS YAMAGUCHI: [9:34:37] Good morning, Mr President, your Honours. Today
2 the Prosecution is represented by Lucio Garcia, to my back, Gilles Dutertre, on my left,
3 and myself, Yayoi Yamaguchi, as yesterday. And I take the opportunity to greet
4 everyone in and around the courtroom. Thank you.

5 PRESIDING JUDGE MINDUA: [9:34:59](Interpretation) Thank you very much,
6 Madam Yamaguchi.

7 I turn now to the Defence.

8 MS GERRY: [9:35:07] Good morning, Mr President, your Honours. Today
9 Mr Al Hassan is represented by myself, Felicity Gerry, by Cécile Lecolle, who sits to
10 my right, by Maauloud Al Ansary, who sits behind me. Mr Al Hassan, of course, is
11 here with me. And I also take the opportunity to say good morning to everyone in
12 and around the court. Thank you.

13 PRESIDING JUDGE MINDUA: [9:35:41](Interpretation) Thank you very much,
14 Ms Gerry.

15 I turn now to the Legal Representatives for the Victims. And I would also like to say
16 good morning to Mr Al Hassan.

17 MR KASSONGO: [9:35:52](Interpretation) Good morning, your Honours. Good
18 morning, everybody. The team here is unchanged, with Romane Tovia Vila next to
19 me and, myself, Mayombo Kassongo. And we would like to express our thanks and
20 greetings to everyone.

21 PRESIDING JUDGE MINDUA: [9:36:14](Interpretation) Thank you very much,
22 Mr Kassongo.

23 So we will now continue with the hearing of the Defence witness, D-0213.

24 So, Mr Witness, good morning.

25 Can you hear me?

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1 WITNESS: MLI-D28-P-0213 (On former oath)

2 (The witness speaks Tamasheq)

3 (The witness gives evidence via video link)

4 THE WITNESS: [9:36:45](Interpretation) Yes.

5 PRESIDING JUDGE MINDUA: [9:36:48](Interpretation) Thank you very much.

6 Welcome again, Mr Witness. And I would like to remind you that you are still
7 under oath and that you must speak the truth, the whole truth and nothing but the
8 truth.

9 THE WITNESS: [9:37:23](Interpretation) If God is willing.

10 PRESIDING JUDGE MINDUA: [9:37:26](Interpretation) Thank you very much.

11 Please bear in mind all the practical advice I gave you yesterday, speak clearly, slowly,
12 and please make breaks in what you are saying.

13 THE WITNESS: [9:38:01](Interpretation) If God is willing.

14 PRESIDING JUDGE MINDUA: [9:38:05](Interpretation) So I now hand the floor to
15 the Prosecution for the continued cross-examination.

16 Madam Prosecutor.

17 MS YAMAGUCHI: [9:38:20] Thank you, Mr President.

18 QUESTIONED BY MS YAMAGUCHI: (Continuing)

19 Q. [9:38:33] Good morning, Mr Witness. Can you hear me well? How are you
20 feeling today?

21 A. [9:38:38] Yes, indeed, I can hear you very well.

22 Q. [9:38:44] Did you hear my question? How are you feeling today?

23 A. [9:39:15] By the grace of God, I am well today.

24 Q. [9:39:23] Yesterday, I asked you a few questions related to your personal
25 background and I would like to ask a little bit more about the same topic.

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1 MS YAMAGUCHI: [9:39:30] Mr President, could we please go into private session
2 for approximately five minutes.

3 PRESIDING JUDGE MINDUA: [9:39:42](Interpretation) Yes, of course.

4 Court officer, private session, please.

5 *(Private session at 9.39 a.m.) (Reclassified partially in public)

6 THE COURT OFFICER: [9:39:50] We are in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [9:40:19](Interpretation) Thank you very much,
8 court officer.

9 Madam Prosecutor.

10 MS YAMAGUCHI: [9:40:23] Thank you, Mr President.

11 Q. [9:40:27] Firstly, Mr Witness, do I understand correctly that you were living in
12 Timbuktu when people whom you referred to as the Mujahidin arrived in April 2012?

13 A. [9:41:14] Yes, indeed, I was living in Timbuktu.

14 Q. [9:41:19] And you lived in (Redacted) neighbourhood before and during
15 2012; is that correct?

16 A. [9:42:01] Yes, I was even born (Redacted) and I lived (Redacted)
17 (Redacted)

18 Q. [9:42:16] According to the information we received from the Defence team, you
19 speak Tamasheq, Arab or Hassaniya, Songhai and a bit of French. Is that correct?

20 A. [9:42:55] Yes, that is indeed correct.

21 Q. [9:43:00] Can you read or write any of those languages?

22 PRESIDING JUDGE MINDUA: [9:43:17](Interpretation) Ms Gerry.

23 MS GERRY: [9:43:21] As I understand it, an assessment has been done by VWS that
24 gives us that information. It's a little humiliating for the witness to have to discuss

25 that. I don't understand the relevance of the question. We approached our

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1 examination-in-chief on the basis this witness would not be dealing with documents
2 and they would have to be read to him.

3 PRESIDING JUDGE MINDUA: [9:43:57](Interpretation) Madam Prosecutor, your
4 question is not accepted.

5 MS YAMAGUCHI: [9:44:01] If I could explain the reason why I'm asking this
6 question, but cutting the sound -- without sound to the witness, please.

7 PRESIDING JUDGE MINDUA: [9:44:16](Interpretation) In that case, let us
8 disconnect because the question is not appropriate for the witness.

9 Court officer, please could we disconnect from the witness.

10 THE COURT OFFICER: [9:44:33] The sound to the witness has been disconnected.

11 PRESIDING JUDGE MINDUA: [9:44:38](Interpretation) Thank you very much,
12 court officer.

13 Madam Prosecutor, we have had the assessment from the VWS. So why are you
14 asking such a question?

15 MS YAMAGUCHI: [9:44:51] Firstly, yesterday, during his own testimony, he
16 mentioned that the Islamic police had a vest or *gilet* on which it was marked "Islamic
17 police". We know from our evidence that it was written in French and in Arabic.
18 His answer seems to suggest that he was able to at least read that sign.

19 Secondly, we have some Facebook posts attributed to someone who has the same
20 name as this witness. The posts are written in French. In our submission, we have
21 the right to explore what is his language skills exactly, in his own words, under oath.

22 PRESIDING JUDGE MINDUA: [9:45:49](Interpretation) Ms Gerry.

23 MS GERRY: [9:45:51] In my submission, the questions from the Prosecutor can be
24 specific to what he saw on the police vest. And Facebook posts, if they come with an
25 image he may recognise and that particular post, he can be asked about. But general

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1 questions about his inability to read or write, in my submission, are not appropriate.
2 I would invite the Court to say that questions have to be on specific topics and items
3 shown to the witness to enable him to answer as to whether or not he can identify
4 those items.

5 Our objection remains that general questions on his inability to read and write are
6 irrelevant, but specific questions about those two topics, I can -- I can see the point. I
7 would recommend that the Court ask that those questions are asked directly. I'm
8 perfectly content to wait until my learned friend reaches that point in her
9 cross-examination.

10 PRESIDING JUDGE MINDUA: [9:47:08](Interpretation) Madam Prosecutor, in the
11 VWS, we have experts who help us assess the state of the witness emotionally,
12 intellectually and so on. For this witness, we were told that he should not be asked
13 any questions in regard to reading documents and his intellectual capabilities.
14 Yesterday, he said he has been (Redacted) all his life. So I would tend to agree with the
15 Defence that if you have any concerns about what is written on the *gilet*, for example,
16 you could perhaps ask him how he could identify that it was the Islamic police or
17 *Hesbah*.

18 So please could you try and reformulate without offending the witness, possibly
19 using the ideas suggested by the Defence.

20 MS YAMAGUCHI: [9:48:28] Thank you, your Honour. I will move on to another
21 topic.

22 PRESIDING JUDGE MINDUA: [9:48:33](Interpretation) In that case, let us
23 re-establish the connection.

24 Court officer, please.

25 THE COURT OFFICER: [9:48:41] The sound to the witness has been re-established,

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- 1 Mr President.
- 2 PRESIDING JUDGE MINDUA: [9:48:53](Interpretation) Madam Prosecutor, do we
3 need to remain in private session?
- 4 MS YAMAGUCHI: [9:49:02] (Microphone not activated)
- 5 PRESIDING JUDGE MINDUA: [9:49:04](Interpretation) In that case, you have the
6 floor.
- 7 MS YAMAGUCHI: [9:49:07] Thank you, Mr President.
- 8 Q. [9:49:08] Mr Witness, are you married?
- 9 A. [9:49:17] Yes, I am married.
- 10 Q. [9:49:21] And when did you get married?
- 11 A. [9:49:38] I don't recall the date.
- 12 Q. [9:49:43] Was it before or after 2012 when the Mujahidin (Overlapping speakers)
- 13 A. [9:49:49] I don't recall the exact date but I know ...
- 14 MS YAMAGUCHI: [9:50:03] Apologies to the interpreters. Could you please
15 continue with the interpretation.
- 16 THE INTERPRETER: [9:50:04] Message from the French booth: There needs to be
17 pauses because we didn't hear what Madam Yamaguchi said.
- 18 THE WITNESS: [9:50:09](Interpretation) I don't recall the exact date. I have -- I
19 know that I have (Redacted) wives and my first child was born in (Redacted).
- 20 MS YAMAGUCHI: [9:50:26]
- 21 Q. [9:50:26] You stated that you are a Muslim, so I assume you go to mosques.
22 Can you tell us which mosques you went to pray before 2012?
- 23 A. [9:51:03] I went to (Redacted) mosque.
- 24 Q. [9:51:14] And did you continue to go to the same mosque after the arrival of the
25 Mujahidin?

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1 A. [9:51:38] Yes, indeed. That was the mosque that I went to at that time. (Redacted)

2 (Redacted).

3 Q. [9:51:49] In 2012, you were not someone like a *chef de quartier* or someone

4 considered to be a *notable*, is that correct?

5 A. [9:52:35] May I speak?

6 PRESIDING JUDGE MINDUA: [9:52:39](Interpretation) Yes, of course, Mr Witness.

7 THE WITNESS: [9:53:13](Interpretation) I was -- this is correct, I was neither

8 a notable nor a leader and, indeed, at that period, even those who were notables or a

9 *chef de quartier* did not have any power to speak, it was the others, the others were in

10 charge. I had some possibilities because I could talk to Sanda, I could talk to Sanda if

11 there was a problem.

12 So I was informed and I spoke to Sanda.

13 MS YAMAGUCHI: [9:53:55]

14 Q. [9:53:56] Yesterday, you testified that you have always been a (Redacted) and you

15 only know how to do that job.

16 And I refer to yesterday's transcript page 6, line 17 to 18 and I stop for interpretation.

17 A. [9:54:42] Yes, that's quite correct. (Redacted) is the only job I know how to do and I

18 work as a (Redacted).

19 Q. [9:54:52] You also mentioned being a (Redacted) or a (Redacted), and that was

20 transcript page 23, line 9 to 14.

21 Could you tell us what exactly you (Redacted) before the arrival of the

22 Mujahidin?

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 MS YAMAGUCHI: [9:57:15] Mr President, I'd like to return to open session, please.

4 Q. And before that, Mr Witness, once we go into open session, I will be referring to

5 (Redacted) neighbourhood as "your neighbourhood," like the Defence counsel did

6 yesterday.

7 Would that be okay?

8 A. [9:57:55] Yes, that's good.

9 PRESIDING JUDGE MINDUA: [9:57:59](Interpretation) Court officer, can we move

10 to open session, please.

11 (Open session at 9.58 a.m.)

12 THE COURT OFFICER: [9:58:05] We are back in open session, Mr President.

13 PRESIDING JUDGE MINDUA: [9:58:17](Interpretation) Thank you very much,

14 court officer.

15 Madam Prosecutor.

16 MS YAMAGUCHI: [9:58:21] Thank you, Mr President.

17 Q. [9:58:24] In private session when I was asking a question relating to 2012, when

18 the Mujahidin were present in Timbuktu, you mentioned, and I quote:

19 "[...] even those who were *notables or chef de quartier* did not have any power to speak

20 [...] the others were in charge."

21 Could you explain to the Chamber and us, what you meant by having no power to

22 speak?

23 A. [10:00:19] Yes. What I meant was that at that time, if you are not a marabout,

24 you are not amongst the deciders. You had to work for the authorities or if you were

25 a counselor or that sort of thing. You're not -- those are not part -- amongst those

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1 who can make the decisions. But the *chef de quartier*, the *marabout*, there were those
2 among them who had the power of decision.

3 Q. [10:01:03] Do I understand correctly that it was the Mujahidin who had the
4 power to make the decisions?

5 A. [10:02:06] Yes, that's exactly it. That's exactly it. They had the
6 decision-making powers, but it did happen that they spoke to the prominent
7 individuals in the communities and the neighbourhood leaders. At one point, they
8 were short of diesel for about six months, and so they went off to speak to the
9 prominent people and their neighbourhood leaders to tell the local people that they
10 should pay 2,000 CFA to pay for the diesel to enable people to be paid.

11 Q. [10:02:57] So for -- if I understand correctly, for six months, the population had
12 to contribute to have fuel and the Mujahidin was not paying for it? Is that correct?

13 A. [10:04:36] No, that's not exactly right. It's not that, really. Those 2,000 francs,
14 CFA, was a contribution. It was a local population contribution and it wasn't
15 compulsory. People didn't have to pay. If you didn't pay, you weren't forced to.
16 But people who did, did. And just to return to the six or seven-month period, earlier
17 on I said we had six-to-seven months we didn't pay for water or electricity, and
18 afterwards there was a crisis and that's why that particular decision was taken.

19 Q. [10:05:20] Thank you for the explanation.

20 Now, in private session, you described the job you had before 2012. After the arrival
21 of the Mujahidin in April 2012, did you continue to do the same type of job, exactly
22 the same job?

23 A. [10:06:32] I continued to do the same job. (Redacted)

24 (Redacted). At that time, the Mujahidin were in Gao and they were in Timbuktu
25 at the same time, (Redacted).

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1 Q. [10:06:57] Now, after the Mujahidin left Timbuktu in January 2013, did you stay
2 in Timbuktu yourself?

3 A. [10:07:39] Yes. They told us that any person who had a car, they said that they
4 had to go to avoid the car being seized by the army. So some people went to Algeria,
5 Mauritania, and I went off personally to Algeria.

6 Q. [10:08:11] You said: "They told us that any person who had a car, they said
7 that they had to go to avoid the car being seized by the army."

8 Could you tell us who said that?

9 A. [10:09:19] What I mean by that is the -- the city, the city authorities, the
10 transporters, the shopkeepers, they saw that we had cruisers as a brand of car and
11 they saw that those brands were used by Mujahidins. And if the army saw a cruiser,
12 then you would be hit. And it was a time when France arrived.

13 Q. [10:10:01] Thank you, Mr Witness.

14 Now you testified, and I quote from yesterday:

15 "When Ansar Dine was present, we didn't pay for water or electricity and they
16 distributed goods that arrived in the shops to the neighbourhood."

17 That was transcript page 9, from line 21 to 23.

18 And I pause for the interpretation.

19 You gave examples of oil, rice, millet and medication as the products they distributed.

20 And that was transcript page 10, line 1, to page 11, line 3.

21 A. [10:12:34] I didn't talk about oil. I talked about rice and millet. But I should
22 add to that medication. When you had to go to hospital, you received free medicine.

23 And in terms of electricity, I said earlier on that there were six-to-seven months, that
24 was the period during which we didn't pay for electricity. It could be that you paid
25 2,000 francs, but it wasn't an invoice per se, because we didn't pay electricity on

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1 a monthly basis. And the 2,000 francs, it wasn't mandatory. If you paid it, you paid
2 it, but if you didn't pay it, well, then, you weren't asked to pay it.

3 Q. [10:13:26] With respect to medication, isn't it correct that international
4 organisations like *Médecins Sans Frontières* or the International Committee of the Red
5 Cross actually covered the cost for medication?

6 A. [10:14:12] I -- I can't tell you anything about that. I can't give you any
7 information.

8 Q. [10:14:19] With respect to other services like food, electricity and water, it was
9 also the ICRC that contributed, isn't it correct?

10 A. [10:15:00] I'm really -- I really don't know anything about that. I don't know.

11 Q. [10:15:07] Among the Mujahidin, there was Sanda, whom you were close to,
12 who was in charge of coordinating the distribution of aid and supplies during the
13 period of the presence of the Mujahidin in Timbuktu. Isn't it correct?

14 A. [10:16:31] I don't know. I don't know whether that was the person whose
15 responsible for the distribution of -- of foodstuffs or not. But I know that once I
16 called him to tell him that we, as youth in the neighbourhood, we wanted our share of
17 millet that was being distributed and he told me, "Where are you?" And I said, "I'm
18 at the stop." And so he arrived with a lorry and he said to take what was in the lorry
19 and to hand it out among the local inhabitants of the neighbourhood. That's what I
20 know. I know what he did for me. That's -- that's what I know. But I don't know
21 whether he was the person who was overall responsible for the distribution.

22 Q. [10:17:22] Thank you, Mr Witness.

23 And I note the French transcript has stopped, but may I continue?

24 PRESIDING JUDGE MINDUA: [10:17:47](Interpretation) Madam Prosecutor, you
25 are absolutely right. The French transcript has been interrupted. The technicians

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1 are working upon it. But we do have the English version, so I think we can proceed.

2 MS YAMAGUCHI: [10:18:00] Thank you, Mr President.

3 Q. [10:18:12] You just mentioned that you called Sanda when there was an issue
4 about the distribution of millet. In fact, yesterday, you told us that -- and I quote:
5 "Whenever there was a problem in my neighbourhood, I would call him to tell him
6 and then he would relay the information to the Islamic -- or the Mujahidin, rather."

7 That was transcript page 32, line 3 to 6.

8 And I pause for the interpretation.

9 So just to be clear, in 2012, you had a mobile phone, is that correct?

10 A. [10:19:47] Exactly. Yes, I did.

11 Q. [10:19:51] And you had Sanda's mobile number -- mobile phone number saved
12 in your phone, is that correct?

13 A. [10:20:12] That's absolutely right.

14 Q. [10:20:17] Sanda gave his number to you personally, correct?

15 A. [10:20:55] Yes. As I said earlier on, Sanda is a friend. I knew him before the
16 arrival of the Mujahidin. He had a shop, we went to his shop to take tea. He sold
17 spare parts. And he gave me his telephone number. In fact, we exchanged
18 telephone numbers.

19 Q. [10:21:20] Now, you also had a phone number for the Islamic police saved in
20 your phone, isn't that correct?

21 A. [10:21:51] No, that's not true. I just had Sanda's telephone number and it was
22 Sanda who would call them. When there was a problem, I would call Sanda, I
23 would tell him of the problem and then he, in his turn, would relay that information
24 to -- to them.

25 Q. [10:22:14] You mentioned yesterday that, and I quote:

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1 "It was the phone number for the police, the police who were on site, it was their
2 telephone number that was given."

3 That was page 24, line 11 to 13.

4 So you did not actually receive the phone number?

5 MS GERRY: [10:22:35] Sorry.

6 PRESIDING JUDGE MINDUA: [10:22:43](Interpretation) Counsel Gerry.

7 MS GERRY: [10:22:46] The portion of the transcript that my learned friend for the
8 Prosecution is putting to the witness now had a particular context and she's
9 not -- doesn't appear to have identified that context to the witness.

10 He gave evidence about a number of different events. She's not referring to which
11 event. It may be obvious, but in my submission, she should make it clear which
12 event she is talking about when the police number was handed over.

13 PRESIDING JUDGE MINDUA: [10:23:27](Interpretation) Madam Prosecutor.

14 MS YAMAGUCHI: [10:23:32] I'm happy to clarify the context in which this reference
15 was made.

16 PRESIDING JUDGE MINDUA: [10:23:41](Interpretation) Thank you very much.

17 MS YAMAGUCHI: [10:23:49]

18 Q. [10:23:49] Mr Witness, yesterday when the Defence counsel was asking you
19 about the problem that happened in your neighbourhood toward the end of Ramadan,
20 you mentioned that the phone number for the police was given. So do I understand
21 correctly that you did not save that number in your mobile phone?

22 A. [10:25:00] No. I hadn't recorded it into my phone and I wasn't given the
23 number. Initially, the number was given to the people, the local population who
24 were there. They said, "This is the number. If anybody has a problem, then use this
25 number to call us and tell us what the problem is."

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1 I imagine some people took that number, the police number.

2 Q. [10:25:36] You testified that after hearing about the rape incident, you
3 immediately called Sanda. That was transcript page 30, line 22 to page 31, line 3.

4 And I pause for the interpretation.

5 And after you heard about the perpetrator escaping, you again called Sanda. And
6 that was transcript page 41, line 16 to 20.

7 A. [10:27:00] That's right.

8 Q. [10:27:01] So on both occasions, you called Sanda because you knew Sanda had
9 the authority to intervene in this type of matter, is that correct?

10 A. [10:27:38] That's exactly right. And that's why I called him.

11 MS YAMAGUCHI: [10:27:45] Mr President, I would like to go briefly into private
12 session, probably for five minutes, please.

13 PRESIDING JUDGE MINDUA: [10:27:56](Interpretation) Court officer, private
14 session, please.

15 *(Private session at 10.28 a.m.) (Reclassified partially in public)

16 THE COURT OFFICER: [10:28:12] we are in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [10:28:21](Interpretation) Thank you very much,
18 court officer.

19 Madam Prosecutor.

20 MS YAMAGUCHI: [10:28:25]

21 Q. [10:28:25] You stated yesterday, and I quote:

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. [10:29:31] That's -- that's right. That's exactly right.

2 Q. [10:29:36] Do I understand correctly that Sanda came back to Timbuktu before
3 the arrival of the Mujahidin in April 2012?

4 A. [10:30:31] I don't know exactly. All that I know is that before the arrival of the
5 Mujahidin, Sanda had opened his shop. He was already selling spare parts at Yobou
6 Tao.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:32:04] But it's correct that you often saw Sanda in person during the period
14 of the presence of the Mujahidin in Timbuktu, correct?

15 A. [10:32:43] Yes, I saw him -- I saw him a lot. At the market, the shop, his shop,
16 where I spent some time and he sometimes came to spend time with me. We spent
17 time together. We'd sit down together.

18 Q. [10:33:08] So in fact, you did not need the police number because you had direct
19 access to Sanda, is that correct?

20 A. [10:33:54] Yes, that's quite correct. That's exactly so. I spoke to Sanda, I
21 informed Sanda. He's from the town, he knows the problems of the town and when
22 I'd call him, he would pass the information on and the problems could be resolved.

23 Q. [10:34:24] And Sanda could help resolve problems because he was close to
24 senior leaders among the Mujahidin, is that correct?

25 A. [10:35:05] That's correct.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [10:37:15] Yesterday, when you were asked by the Defence counsel about

10 Sanda's interactions with the population in 2012, you said, and I quote:

11 "By God, he didn't create a problem at all for the local population. He did

12 everything in his power to help."

13 End of quote.

14 A. [10:39:01] I didn't say that he didn't create problems. I said he did all in his

15 power to help people. It's possible that some people don't like him, that some people

16 like him, but I can only talk about my own case. Every time I approached him with

17 the concerns of the population, he -- he came to our -- to their aid. He gave food, he

18 reacted to the problems I reported to him. I can only talk about my own case; that's

19 what I saw of him. But there may be that people don't like him; whereas other

20 people do like him.

21 PRESIDING JUDGE MINDUA: [10:40:00](Interpretation) Madam Prosecutor, could

22 we perhaps return to public session at this point?

23 MS YAMAGUCHI: [10:40:06] Yes, Mr President. Apologies.

24 PRESIDING JUDGE MINDUA: [10:40:12](Interpretation) Court officer, open session,

25 please.

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1 (Open session at 10.40 a.m.)

2 THE COURT OFFICER: [10:40:20] We are back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [10:40:33](Interpretation) Thank you, court officer.

4 Madam Prosecutor.

5 MS YAMAGUCHI: [10:40:41]

6 Q. [10:40:42] So you are very good friends with Sanda. So you have -- you know

7 Sanda often talked to the media and defended the goals and the activities of the

8 Mujahidin, correct?

9 PRESIDING JUDGE MINDUA: [10:41:08](Interpretation) Ms Gerry.

10 MS GERRY: [10:41:09] May we cut the connection to the witness, please.

11 PRESIDING JUDGE MINDUA: [10:41:14](Interpretation) Court officer, please cut

12 the connection. Thank you.

13 THE COURT OFFICER: [10:41:21] The sound to the witness has been disconnected,

14 Mr President.

15 PRESIDING JUDGE MINDUA: [10:41:28](Interpretation) Thank you very much.

16 Ms Gerry.

17 MS GERRY: [10:41:33] Mr President, I'm concerned about the way in which the

18 question is being phrased. It started with:

19 "So you are very good friends with Sanda. So you know Sanda often talked to the

20 media and defended the goals and the activities of the Mujahidin."

21 That looks as though the Prosecutor is trying to link the conduct of Sanda to the

22 conduct of this witness. This witness has not been the subject of a Rule 74

23 application. I'm hoping that the Prosecutor's questions are not going in that

24 direction. I'm raising a concern at this stage. If she removes the linking part of her

25 question, if she were to ask, Sanda talked to the media, it may be that our concerns

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1 can be assuaged.

2 At this stage, I'm simply raising the concern, asking that the excess verbiage is
3 removed and if we focus on the role of Sanda, then there may be no problem going
4 forward. But I raise the concern at this stage, and I'd ask that the questions are
5 tightened so that we don't have any Rule 74 problems, please.

6 PRESIDING JUDGE MINDUA: [10:43:04](Interpretation) Yes, Madam Prosecutor,
7 please wait a moment.

8 Ms Gerry, in French, I heard "all this excess verbiage". I don't think that's quite the
9 appropriate wording in this court for a discussion between the two parties.

10 With regard to your objection, we do have to be careful of Rule 74 issues.

11 Madam Prosecutor, what is your response to this?

12 MS YAMAGUCHI: [10:43:40] Mr President, I only mentioned the witness was very
13 close to Sanda because that is the basis on which the witness might know what Sanda
14 was doing during the period of the Mujahidin's presence in Timbuktu. We had no
15 intention whatsoever to attribute Sanda's conduct in some way to the witness.

16 PRESIDING JUDGE MINDUA: [10:44:11](Interpretation) That's quite clear, Ms
17 Gerry. I don't think we need to spend any more time on this.

18 Madam Prosecutor.

19 MS YAMAGUCHI: [10:44:23] Are we (indiscernible) --

20 PRESIDING JUDGE MINDUA: [10:44:28](Interpretation) First let us reconnect.
21 Court officer, please.

22 THE COURT OFFICER: [10:44:37] The sound to the witness has been re-established,
23 Mr President.

24 PRESIDING JUDGE MINDUA: [10:44:44](Interpretation) Thank you very much,
25 court officer.

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1 Madam Prosecutor.

2 MS YAMAGUCHI: [10:44:47] Thank you, Mr President.

3 Q. [10:44:50] Mr Witness, you knew that Sanda often talked to the media and
4 defended the objectives or activities of the Mujahidin, didn't you?

5 A. [10:45:32] I don't know. I have no knowledge at all of this.

6 Q. [10:45:38] But you were very close to him and you didn't know, is that your
7 testimony?

8 A. [10:46:33] When it comes to my work, my requirements, I talked to Sanda, we
9 discussed things, but I don't talk about his life or his activities. I'm not interested in
10 that. I don't talk to him about that. I talked to him about things that affect me, my
11 work and my requirements.

12 Q. [10:47:11] But you did watch television or listen to the radio during the presence
13 of the Mujahidin in 2012, didn't you?

14 A. [10:48:03] Yes, indeed, I listened to the radio, if the radio was on and I also
15 watched television. But what Sanda said on the radio or television, I'm not aware of
16 that. I don't know what that was. The exchanges between us are all that I
17 know -- all that I know of, and I am not a man with any schooling.

18 Q. [10:48:45] But you were very close to Sanda, you lived in Timbuktu for the
19 period of the Mujahidin's presence in Timbuktu, and you never heard of Sanda
20 speaking on TV, on the radio?

21 PRESIDING JUDGE MINDUA: [10:49:17](Interpretation) Ms Gerry.

22 MS GERRY: [10:49:19] Mr President, this question has been asked and answered.

23 PRESIDING JUDGE MINDUA: [10:49:28](Interpretation) Madam Prosecutor, the
24 witness has answered this question.

25 MS YAMAGUCHI: [10:49:40]

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1 Q. [10:49:42] And you never heard that Sanda is a spokesperson for Ansar Dine in
2 2012?

3 A. [10:50:10] Yes, I heard that once. However, I don't know what his activities
4 were. All I know is that he was with Ansar Dine, he was one of the leaders of
5 Ansar Dine, but what his activities or tasks were, that I do not know.

6 Q. [10:50:43] I'd like to show you a video, which is under tab 55. The ERN is
7 MLI-OTP-0001-0052. Translation is at tab 56, MLI-OTP-0033-5296.

8 THE COURT OFFICER: [10:51:51] Could counsel please indicate if she wishes to
9 play the video with sound? If so, if it is a confidential video, we would have to move
10 into private session.

11 MS YAMAGUCHI: [10:52:06] It can be broadcast publicly and we would like to
12 have it played with sound, please.

13 THE COURT OFFICER: [10:52:24] Could counsel please indicate the pinpoint
14 reference for the translation?

15 MS YAMAGUCHI: [10:52:32] Yes, for the translation, reference is page 5330, line
16 1261 to 1265.

17 THE INTERPRETER: Please note that the English booth does not have a copy of
18 this.

19 THE COURT OFFICER: [10:52:52] The translation will be put up on evidence
20 channel 1. The video will be on evidence channel 2.

21 THE INTERPRETER: [10:52:59] Thank you.

22 MS YAMAGUCHI: [10:53:10] Could the interpreters indicate when they are ready?
23 Okay. So I will play from time stamp 01:21:08:07.

24 (Viewing of the video excerpt)

25 MS YAMAGUCHI: [10:54:01] The sound was cut.

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1 I will replay the video. Just give me a moment.

2 Okay. I will replay the video from time stamp 01:21:01:18.

3 Are the interpreters ready?

4 THE INTERPRETER: [10:54:46] Yes.

5 (Viewing of the video excerpt)

6 THE INTERPRETER: [10:54:53] (Interpretation of the video excerpt)

7 "Where is ... where is the old man who has ... [inaudible]

8 Yes, you, the journalists, it's you, you're doing the enquiry. So I am saying to you to
9 do the enquiry and we -- I know that we're not going to defend ourselves, but I know
10 that we are -- that they're going to cut hands. But they are also going to cut off heads
11 if sharia ... if sharia tells us to do so. So we don't have any problems with that."

12 MS YAMAGUCHI: [10:55:54]

13 Q. Mr Witness, were you able to hear what the person in the video was saying?

14 A. [10:56:15] No, I have never heard this before today.

15 Q. [10:56:21] Just to be clear, when I played the video you were able to hear the
16 sound from the video, correct?

17 A. [10:56:47] Yes, yes, I heard it now.

18 Q. [10:56:52] And it was translated into your language, correct? I just want to
19 make sure.

20 A. [10:57:18] No. No. It was not translated. And this is the first time I'm seeing
21 this video. Today is the first time I am watching it.

22 Q. [10:57:36] Sorry, just to be crystal clear, so when the video was played, what the
23 person is saying on the video was not translated into your language?

24 PRESIDING JUDGE MINDUA: [10:58:22](Interpretation) Madam Prosecutor, the
25 problem is that the interpretation here is consecutive. I don't think the witness heard

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1 the interpreted version of the text we have here. I think we would have to do it
2 again.

3 Another possibility would be for the Tamasheq interpreter to read the transcript for
4 the benefit of the witness.

5 (Pause in proceedings)

6 MS YAMAGUCHI: [11:00:06]

7 Q. [11:00:06] Now I stopped at 01:21:21:18. Mr Witness, the person in the middle
8 of this image is Sanda, correct?

9 A. [11:00:33] Yes, that is Sanda himself.

10 Q. [11:00:38] And in this video, he was referring to cutting hands. Now, in 2012,
11 in Timbuktu, there was indeed someone who had his hand cut off, correct?

12 A. [11:01:24] I can't talk about this because I was not there. I was travelling at the
13 time. I heard about it, but I was away at that point.

14 MS YAMAGUCHI: [11:01:38] Mr President, I see the time.

15 PRESIDING JUDGE MINDUA: [11:01:46](Interpretation) Yes, indeed. Madam
16 Prosecutor, it is 11:01. We will take our break and we will recommence at 11.30.
17 The hearing is suspended.

18 (Recess taken at 11.02 a.m.)

19 (Upon resuming in open session at 11.34 a.m.)

20 THE COURT USHER: [11:34:40] All rise. Please be seated.

21 PRESIDING JUDGE MINDUA: [11:34:59](Interpretation) We shall resume.

22 I turn to the OTP for the continuation of its cross-examination.

23 Madam Prosecutor, over to you.

24 MS YAMAGUCHI: [11:35:12] Thank you, Mr President.

25 Q. [11:35:15] Mr Witness, just before the break, we were talking about an incident

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1 where someone had his hand cut off. Now yesterday, you mentioned that you
2 cannot be opposed to sharia law. That was transcript page 11, line 25.

3 Just to understand correctly, is it correct that you were not opposed -- well, you
4 agreed with this type of punishment?

5 A. [11:36:45] Well, personally - and this is just my personal view - I don't like it, but
6 this is what the sharia says. But personally, I don't like it.

7 Q. [11:37:07] Now you confirmed that you knew that Sanda was one of the leaders
8 of Ansar Dine and throughout your testimony you have been referring to Ansar Dine
9 or the Mujahidin.

10 But given your close relationship with Sanda, you knew that in addition to
11 Ansar Dine, there was another group, Al-Qaeda in the Islamic Maghreb in Timbuktu
12 in 2012, didn't you?

13 A. [11:38:32] We didn't know anything about that. They were called "Mujahidin",
14 and we used the name that they used to describe themselves. We made no
15 distinction. We made no distinction between the groups.

16 Q. [11:39:02] So you did not know Sanda was a member of Al-Qaeda in the Islamic
17 Maghreb, or AQIM?

18 A. [11:39:51] No, I don't know. All I know is that when they arrived, we called
19 them "Mujahidin", and that's all I know.

20 Q. [11:40:07] If I understand you correctly, so you were very close to Sanda. (Redacted)
21 (Redacted), I imagine you interacted with a lot of people and you never heard of the
22 presence of AQIM in Timbuktu in 2012?

23 A. [11:41:14] I don't know Al-Qaeda. They all are alike. All their uniforms are
24 the same and the way they behave is the same.

25 Q. [11:41:28] Okay. I'll move on to another topic.

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1 You talked about the problem in the (Redacted) neighbourhood toward the end of
2 Ramadan and stated, and I quote:

3 "And after that [...] no -- none of their patrols came into (Redacted) neighbourhood until they
4 ultimately left."

5 And I refer to the transcript page 20 -- from yesterday, page 20, line 8 to 10.

6 A. [11:42:51] It was after the exchange that the leaders came because of the problem
7 and that's why they said, "Look, every time you have a problem, call the police."

8 And it was since that particular period that -- that the patrols no longer circulated, up
9 until the time when they ultimately left.

10 Q. [11:43:24] Isn't it correct that even after the leaders were informed of this
11 particular incident, women continued to be punished by the Mujahidin when they
12 were caught without wearing a veil?

13 A. [11:44:16] I didn't understand your question.

14 Q. [11:44:22] You stated that after this incident of women being beaten on the
15 streets (Redacted), the leaders were informed of this incident and told the
16 population to call the police. But isn't it a fact that beating of women or their arrest
17 and detention when they failed to wear a veil continued, even after that incident?

18 A. [11:45:37] When the woman doesn't have her head covered, she would be
19 stopped. She would -- or she would be spoken to, to the effect that, "What you're
20 doing, God doesn't approve of."

21 Q. [11:46:11] And whilst the woman is stopped, she would be taken to the BMS and
22 detained for a couple of days; wasn't that correct?

23 A. [11:46:44] No. I don't know anything about that particular point. I -- I have
24 no information about that.

25 Q. [11:46:56] So you were travelling in and out of Timbuktu, so you were not

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1 always present in the city, correct?

2 A. [11:47:53] Yes, I -- I travelled to Gao and come back. I'd go off to other villages
3 and I'd come back to Timbuktu. But in any event, I'd never spend five, six days or
4 a week without -- before returning to Timbuktu.

5 Q. [11:48:17] But you would agree with me that you were not in Timbuktu to
6 observe or hear about all the problems that may have been happening in your
7 neighbourhood or in Timbuktu in general; that's correct, yes?

8 A. [11:49:25] I'm not a journalist who has every information all the time. But what
9 happened in my neighbourhood - and what happened to me personally - obviously, I
10 can talk about that. Obviously, that's something that I know about.

11 Q. [11:49:51] I'll move on to another topic.

12 You referred to Adama as one of the police leaders and stated, and I quote:

13 "[...] everybody was very fond of him." End of quote.

14 That was the transcript from yesterday, page 43, line 13 to 15.

15 A. [11:51:05] That's true. That's right. People were fond of him. And I can even
16 support that because when they went off to Konna, there was a rumour according to
17 which Adama had died and everybody in Timbuktu were asking of him, "Is he dead?
18 Is he not dead?" Because people liked him.

19 Q. [11:51:36] Now, isn't it correct that Adama did not remain among the leaders of
20 the Islamic police for a long time?

21 A. [11:52:17] I don't know when he was a policeman or when he wasn't. I don't
22 know anything about that. But anyway, he was in his car and circling around in his
23 car with his rifle.

24 Q. [11:52:41] So you never heard that Adama was dismissed as the leader of the
25 Islamic police as a result of complaints from the population?

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1 A. [11:53:22] I never heard anything like that.

2 Q. [11:53:28] So you never heard that Adama took part in chasing a woman into
3 her house and beating her there, is that correct?

4 A. [11:54:03] No. I've never heard anything about that.

5 Q. [11:54:10] So you just heard that people liked him, is that correct?

6 A. [11:54:30] Yes. That's it, yeah.

7 Q. [11:54:35] You said Adama was circulating around in his car with his rifle and
8 he was doing this until all the Mujahidin -- well, the majority of the Mujahidin had
9 left Timbuktu, is that correct?

10 A. [11:55:28] Yes. You asked me whether he was a member of the Islamic police
11 and whether he was still so, but I answered you. And I answered you on the basis of
12 my experience and what I saw. I always saw him circulating in his car with his rifle.
13 And it was exactly like that until he left.

14 Q. [11:55:58] Thank you for the explanation.

15 Now, you also mentioned a Bambara man whom you describe as the chief of the
16 police. That was the transcript from yesterday at page 67, line 19 to page 68 line 15.
17 Sorry. I was just pausing for the interpretation earlier.

18 So just for the clarity of the record, you were never a member of the Islamic police
19 yourself in 2012, is that correct?

20 A. [11:57:35] I used to travel, I came and went, and so often I would go to the BMS
21 to be able to have a permit to leave the city and to show my permit to that effect.

22 Q. [11:57:53] Sorry, my question was, you were never a member or a part of the
23 Islamic police in Timbuktu in 2012, is that correct?

24 A. [11:58:30] No, not at all.

25 Q. [11:58:35] And you only saw this Bambara man when you went to the BMS

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1 regarding that rape incident you testified about, is that correct?

2 A. [11:59:22] I saw him in -- at the rape incident with a woman, but I always -- I
3 used to see him when I used to come for my exit permit. I saw him, he was there.

4 Q. [11:59:40] Now, you had mentioned also Adama as one of the leaders of the
5 Islamic police. So do I understand correctly that there were multiple leaders within
6 the Islamic police from what you saw and heard?

7 A. [12:00:28] I don't have any information on this subject. I don't know who's
8 a leader and who's not.

9 Q. [12:00:45] Now, with regard to that rape incident, you stated that somebody told
10 you on the phone about the incident. I'm not going to name the person. That was
11 transcript page 30, line 22 to 25.

12 Sorry, I was just pausing for the interpretation. If I can proceed to my question.
13 So you said you were not a member of the Islamic police, so it was not your job to
14 investigate crimes or receive reports on crimes, correct?

15 A. [12:02:46] In fact, I said that when there was a problem close to home, in my
16 neighbourhood among my people, I had people I could call to -- call to mention the
17 problem. And -- and if something had been wrong, then I could ask somebody to
18 ensure that the problem would be resolved.

19 Q. [12:03:22] And people in your neighbourhood knew that you were close to
20 Sanda and could potentially help with a problem, is that correct?

21 A. [12:04:37] Yes, people knew -- even before the Mujahidin arrived that I knew
22 Sanda, that he had a shop, that I had a car and that I used my car. And the people
23 knew that when there was a problem, I have the ability to talk to Sanda, to tell him
24 things and he can transfer the information elsewhere. But I am not the person to
25 whom one turns if a wrong has been caused. I wouldn't necessarily tell Sanda about

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1 everything. It was only if a wrong was caused to -- to one of mine, one of my
2 people.

3 (Counsel confers)

4 Q. [12:05:39] You also testified yesterday that after hearing about the incident, you
5 went to see the girl and she told you about what happened and even took you to the
6 place where the man had raped her.

7 That was yesterday's transcript, page 32, line 13 to 15.

8 Now, did you know this girl from before the incident?

9 A. [12:07:36] Yes, I knew her. (Redacted). And when
10 somebody reported the incident to me, I called Sanda. I explained to him what had
11 happened and Sanda said, "Where are you?" And I said I was at Abaradjou. He
12 said, "Remain there, people will come to you." So he sent the people to me.

13 Q. [12:08:11] And is it correct that she agreed to tell you about what happened and
14 even take you to the location of the crime because you promised her to report this
15 incident to Sanda?

16 A. [12:08:59] Yes, exactly. Yes. I said to her that she shouldn't tell me anything
17 that is not true. She shouldn't tell me things and then tell other things to the other
18 people who came. So what she told me was exactly the same as what she told to the
19 others who came. There were two or three of them. One of them noted things
20 down and another one asked her questions.

21 Q. [12:10:07] Now, you mentioned, and I quote:
22 "I wouldn't necessarily tell Sanda about everything. It was only if a wrong was
23 caused [...] to one of mine, one of my people."

24 Do I understand correctly that -- so you would only call Sanda to report about
25 a problem if this concerned somebody (Redacted)

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1 A. [12:11:27] In order for me to phone Sanda, I needed to be made aware of
2 a problem. (Redacted)
3 (Redacted). The other
4 neighbourhoods, I didn't know what was happening there. Sometimes I passed
5 through them, but I don't what happens in these other neighbourhoods.

6 Q. [12:12:01] Thank you for that clarification.

7 Now I would like to move on to the period after the presence of the Mujahidin in
8 Timbuktu. You mentioned that you left for Algeria. Do you recall approximately
9 when you came back to Mali?

10 A. [12:12:19] I didn't understand.

11 Q. [12:12:58] After you left for Algeria, when did you return to Mali?

12 A. [12:13:38] In fact, I don't know the date. I know that I came back and after I
13 came back, I went to Mauritania and (Redacted) and it was after that,
14 that I returned to Timbuktu.

15 MS YAMAGUCHI: [12:13:58] Mr President, I would like to go into private session
16 for approximately five to 10 minutes, please, and this will be the last line of questions
17 in my cross-examination.

18 PRESIDING JUDGE MINDUA: [12:14:12](Interpretation) Yes, of course.

19 Court officer, private session, please.

20 *(Private session at 12.14 p.m.) (Reclassified partially in public)

21 THE COURT OFFICER: [12:14:21] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [12:14:30](Interpretation) Thank you very much,
23 court officer.

24 Madam Prosecutor.

25 MS YAMAGUCHI: [12:14:38] Thank you, Mr President.

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1 Q. [12:14:39] Now, Mr Witness, isn't it correct that after you came back to

2 Timbuktu, you became a member of a group called (Redacted)

3 (Redacted)

4 A. [12:15:27] Yes, that is true. That is correct.

5 Q. [12:15:33] And you posted pictures of yourself as a member of (Redacted) on

6 Facebook; is that correct?

7 A. [12:16:08] No, I don't know how to publish anything at all. I -- I'm only

8 familiar with WhatsApp.

9 MS YAMAGUCHI: [12:16:24] Court officer, I would like to show a document at tab

10 40. ERN is MLI-OTP-0080-7121. And this should not be broadcast to the public,

11 please.

12 Could you zoom in to more the part -- the photo in this document, please.

13 Thank you.

14 Q. [12:17:33] Mr Witness, is it correct that the person in this photo is you?

15 A. [12:17:56] That is me, and I do recall the day on which the photo was taken.

16 Q. [12:18:06] And in this photograph, we see you holding a firearm. So you know

17 how to use this type of weapon, is that correct?

18 A. [12:18:44] Yes, I was in one of the movements from '91 onwards.

19 Q. [12:19:03] Now, this photo was posted on the Facebook account of a person

20 named, "(Redacted)"; that's your name, correct?

21 A. [12:19:28] Yes, that's me.

22 Q. [12:19:42] But you do not recall posting this photo on Facebook, is that correct?

23 A. [12:20:18] Sometimes my telephone is used by young people, and I don't know

24 how to publish or -- anything on Facebook. I use WhatsApp and I know how to

25 make a phone call.

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1 Q. [12:20:40] I would ask to go back into open session, but Mr Witness, I'll be
2 referring to (Redacted) as "Group X" once we go back to open session. Is that okay?

3 A. [12:21:14] Yes, Group X, that's fine.

4 PRESIDING JUDGE MINDUA: [12:21:23](Interpretation) Court officer, public
5 session, please.

6 (Open session at 12.21 p.m.)

7 THE COURT OFFICER: [12:21:30] We are back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [12:21:41](Interpretation) Thank you very much,
9 court officer.

10 Madam Prosecutor.

11 MS YAMAGUCHI: [12:21:46] Thank you, Mr President.

12 Q. [12:21:48] Mr Witness, I would like to show you another post on the Facebook
13 account we talked about, and it's at tab 41, MLI-OTP-0080-7124.

14 MS YAMAGUCHI: [12:22:24] And this should not be broadcast to the public.
15 If you could try to zoom in a little bit more to -- more into the photo itself.

16 Q. [12:22:36] Now, Mr Witness, the person with a pink turban standing in the
17 middle and holding a weapon on the left shoulder, that's you, correct?

18 A. [12:23:10] Yes, that's me.

19 Q. [12:23:13] And the flag on the right, near the vehicle, is the flag of Group X, is
20 that correct?

21 A. [12:23:39] Yes, absolutely.

22 Q. [12:23:44] Now, we can see everybody in this photo --

23 PRESIDING JUDGE MINDUA: [12:23:59](Interpretation) Ms Gerry.

24 MS GERRY: [12:24:02] Mr President, may we cut the connection to the witness,
25 please.

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1 PRESIDING JUDGE MINDUA: [12:24:07](Interpretation) Yes, of course.

2 Court officer, could you please cut the connection to the witness.

3 THE COURT OFFICER: [12:24:19] The sound to the witness has been disconnected,

4 Mr President.

5 PRESIDING JUDGE MINDUA: [12:24:25](Interpretation) Thank you very much,

6 court officer.

7 Ms Gerry.

8 MS GERRY: [12:24:31] Mr President, I rise at this stage to seek clarification as to

9 where this line of questioning is going. If it is directed at this witness's credibility, I

10 accept that a witness's credibility can be tested, but I wonder what the assertion is

11 behind it that is being made. Is it being suggested that he is engaging in something

12 in unlawful domestically in Timbuktu or Mali in some way that he would need

13 protection from his -- in relation to his answers?

14 It's not clear to me what assertion is being made here and if I can understand the

15 assertion, I can understand whether I need to object.

16 PRESIDING JUDGE MINDUA: [12:25:30](Interpretation) So, Ms Gerry, you want to

17 object under Rule 74? Is that your concern at this point?

18 MS GERRY: [12:25:38] Potentially because it looks as though the Prosecution are

19 about to allege something unlawful in his conduct. If that's not happening, it may be

20 there is no objection. But in my submission, it is quite important now for us to

21 understand where this line of questioning is going in case there are incrimination

22 issues for this witness.

23 So I would appreciate the clarification, please.

24 PRESIDING JUDGE MINDUA: [12:26:14](Interpretation) Madam Prosecutor, you

25 have heard the objection from the Defence with regard to self-incrimination. If it's

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1 the credibility of the witness, then the Defence is in agreement, but there are some
2 concerns.

3 What is your view?

4 MS YAMAGUCHI: [12:26:33] Thank you, Mr President.

5 Yes, indeed, this series of questions are primarily related to the witness's credibility
6 considering that he clearly stated (Redacted), he knows only that
7 job. These photos and his association with clearly an armed group suggest that he
8 had other -- not necessarily an occupation, but activities. In our submission, we are
9 entitled to explore this line of issues.

10 PRESIDING JUDGE MINDUA: [12:27:15](Interpretation) Ms Gerry.

11 MS GERRY: [12:27:17] I understand that her line of questioning relates to what
12 type of work does he do. If it is alleged that in some way he is -- for example, in
13 relation to the previous image dealt with in private session, if it is alleged that he is
14 somehow delivering the type of good that we saw in that image, then it does need to
15 be clear what is being alleged. And it may be that this is better and safely dealt with
16 in private session. Again, it's not clear to me if what's being alleged is that this is a
17 type of work that the witness is engaging in and thus it is being asserted that he is
18 engaging in the wrong type of work.

19 PRESIDING JUDGE MINDUA: [12:28:20](Interpretation) Ms Gerry, I think we have
20 had an explanation from the Prosecutor.

21 Madam Prosecutor may continue with her questions.

22 Please sit down, Ms Gerry.

23 We will first re-establish the connection.

24 Court officer, could you please reconnect us.

25 THE COURT OFFICER: [12:28:45] The sound to the witness has been re-established,

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1 Mr President.

2 PRESIDING JUDGE MINDUA: [12:28:52](Interpretation) Thank you very much,
3 court officer.

4 Madam Prosecutor, you have the floor.

5 MS YAMAGUCHI: [12:28:57] Thank you, Mr President.

6 Q. [12:29:02] Mr Witness, coming back to the photo on the screen, so all the six
7 persons are -- in the photo are holding a Kalashnikov, is that correct?

8 A. [12:29:46] Yes, they are all holding a Kalashnikov. (Redacted)

9 (Redacted)

10 Q. [12:30:06] So clearly Group X is an armed group, is that correct?

11 A. [12:30:25] Yes. It's an armed group (Redacted)

12 (Redacted)

13 Q. [12:30:38] And you had a role as (Redacted) at one point for Group X; is that
14 correct?

15 A. [12:31:07] Yes.

16 MS YAMAGUCHI: [12:31:12] Mr President, I'd like to go into private session for
17 approximately five minutes, please.

18 PRESIDING JUDGE MINDUA: [12:31:20](Interpretation) Absolutely.

19 Court officer, private session, please.

20 *(Private session at 12.31 p.m.) (Reclassified partially in public)

21 THE COURT OFFICER: [12:31:28] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [12:31:39](Interpretation) My thanks, court officer.

23 Madam Prosecutor.

24 MS YAMAGUCHI: [12:31:46]

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)

22 PRESIDING JUDGE MINDUA: [12:37:31](Interpretation) Counsel Gerry.

23 MS GERRY: [12:37:33] Mr President, just a small point that I'm asking to raise. On
24 the transcript, English transcript at 44, line 3, it -- the year "2013" appears and I believe
25 the year that was used in evidence was "2017" and, indeed, the Prosecutor used the

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1 year 2017.

2 So can I ask either that the question is corrected or that the transcript is corrected.

3 Thank you.

4 PRESIDING JUDGE MINDUA: [12:38:05](Interpretation) Yes, Madam Prosecutor.

5 It's "2017", is it?

6 MS YAMAGUCHI: [12:38:13] I'm told that in French, the -- my question was not

7 very clear. So I'm going to repeat.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [12:39:56] But you do know that Houka Houka was the presiding judge of the

17 Islamic tribunal in Timbuktu in 2012, correct?

18 A. [12:40:34] Yes. I know that, and he holds that position even today. People go

19 to his residence for him to enter a judgment.

20 MS YAMAGUCHI: [12:40:54] Mr President, I would now like to go back into open

21 session, please.

22 PRESIDING JUDGE MINDUA: [12:41:01](Interpretation) Very well. Court officer,

23 open session, please.

24 (Open session at 12.41 p.m.)

25 THE COURT OFFICER: [12:41:08] We are back in open session, Mr President.

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- 1 PRESIDING JUDGE MINDUA: [12:41:19](Interpretation) Thank you very much.
- 2 Madam Prosecutor.
- 3 MS YAMAGUCHI: [12:41:25]
- 4 Q. [12:41:25] Mr Witness, during private session we referred to a group called CJA.
- 5 Do you know any members of CJA?
- 6 A. [12:41:48] CJA? No.
- 7 Q. [12:42:04] Do you know a person called Hmouch Maouloud or Mauloud Ben
- 8 Lamine Hmouch?
- 9 I'm sorry for the pronunciation.
- 10 THE INTERPRETER: [12:42:31] Comment from the Tamasheq interpreter booth:
- 11 Mr President, could you request a repetition of the name because we didn't catch it.
- 12 PRESIDING JUDGE MINDUA: [12:42:41](Interpretation) Madam Prosecutor?
- 13 MS YAMAGUCHI: [12:42:45] So the name is Hmouch Maouloud or Mauloud Ben
- 14 Lamine Hmouch.
- 15 THE WITNESS: [12:43:12](Interpretation) No, I don't know that person. Maybe I
- 16 would know him when I saw him, but based on the name, no.
- 17 MS YAMAGUCHI: [12:43:28]
- 18 Q. [12:43:28] Do you know a person called Hama Ag Mohamed Al Hady?
- 19 A. [12:43:44] No, I don't know him.
- 20 MS YAMAGUCHI: [12:43:55] Mr President, this concludes my cross-examination.
- 21 And, Mr Witness, thank you for answering my questions.
- 22 PRESIDING JUDGE MINDUA: [12:44:06](Interpretation) My thanks, Madam
- 23 Prosecutor.
- 24 Thank you very much for your cross-examination and for your efficaciousness.
- 25 Now I turn to the Legal Representatives for the Victims. The Chamber has received

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1 your application. Do you still wish to put questions to the witness?

2 MR KASSONGO: [12:44:32](Interpretation) Thank you very much, honourable
3 members of the Bench, Mr President, the LRV does indeed wish to put very short
4 questions -- two short questions of clarification to have a proper understanding of the
5 situation and the facts at hand, with your leave, of course.

6 PRESIDING JUDGE MINDUA: [12:44:57](Interpretation) Very well.

7 I don't see any objection from the parties and on the Bench, there is no objection.

8 Off you go.

9 MR KASSONGO: [12:45:09](Interpretation) Thank you very much, your Honour
10 and the honourable members of the Bench.

11 QUESTIONED BY MR. KASSONGO: (Interpretation)

12 Q. [12:45:16] I -- in the first instance, I address myself to the witness to say good
13 morning and to offer an introduction because we haven't yet had an opportunity of
14 meeting. It wasn't possible during the familiarisation phase.

15 My name is Kassongo and I'm a Legal Representative of the Victims, representing
16 therefore the LRV team. I will address you as "Mr Witness". My questions won't be
17 very long.

18 So good morning, Mr Witness.

19 A. [12:46:26] I'm ready to take your questions.

20 Q. [12:46:30] On page 43, line 23 through to 26, in yesterday's French transcript,
21 you made reference to an incident involving Mr Adama and you spoke of something
22 that you described as a "*grin*".

23 So very succinctly, could you shed some light on that word, and I'd like to ask you
24 one or two clarification questions going to that point.

25 THE INTERPRETER: [12:47:47] Tamasheq interpreter comment: Presiding Judge,

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1 would you ask the LRV to pause for interpretation.

2 PRESIDING JUDGE MINDUA: [12:48:02](Interpretation) Counsel Kassongo, there is
3 consecutive interpretation; so you need to wait until the Tamasheq interpreters have
4 finished before you continue with your question. All you have to do is to look at the
5 coloured light on their microphone to see whether it's still on.

6 MR KASSONGO: [12:48:22](Interpretation) I don't hear directly that booth. That's
7 why I've maybe put my foot wrong with the timing. But I will keep a watchful eye
8 on the light on their mic.

9 THE INTERPRETER: [12:48:43] Tamasheq interpreter: Your Honour, would you
10 ask counsel to take up the second part of his statement because there was an
11 overlapping between our interpretation and the second part of his intervention.
12 Thank you.

13 PRESIDING JUDGE MINDUA: [12:48:56](Interpretation) There you have it, Counsel
14 Kassongo.

15 MR KASSONGO: [12:49:01](Interpretation) Very well, your Honours.

16 Q. [12:49:03] My question goes to the word "*grin*", and once you've clarified that
17 point, I would like to ask two or three follow-up questions to have a proper
18 understanding of the underlying circumstances. This is of interest to our side.
19 Mr Witness, tell us please, what is the purpose of that "*grin*" and whether it is in
20 keeping with sharia.

21 A. [12:50:32] What should I tell you? What is the thing you are referring to?

22 Q. [12:50:47] Thank you very much for your answer, Mr Witness. I will provide
23 greater clarification.

24 You stated yesterday, this we find in the transcript -- in yesterday's transcript, on
25 page 43, lines 22 through to 26, at that point you clarified that you saw Adama or

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1 Adam going by in his car and he would stop. He would chat with the people at the
2 "grins".

3 So I'm interested in this word "grins". This particular "grins" or ... This is what we
4 want to understand, and why Adama would stop to talk to those people.

5 A. [12:52:21] He didn't come to -- up to us. The "grins" - what we call "grins" - is a
6 location in the street where we meet up and have some tea. So he would go by and
7 he would raise his hand by way of greeting and he would just carry on.

8 Q. [12:52:46] Thanks very much, Mr Witness, for that clarification. Never fear, I
9 won't be much longer.

10 This is my second question. I'm interested in the time when -- in your evidence,
11 when you talked about the long-lasting nature, or otherwise, of the marriage between
12 the man and the woman.

13 We find this in the transcript, page 43, line 23 through to 26.

14 MR KASSONGO: [12:53:56](Interpretation) Your Honour, forgive me there might be
15 a mistake here. It's in transcript 65 -- page 65, I clarify, line 23 through to 26. This is
16 yesterday's transcript, that goes without saying.

17 Q. [12:54:18] My question now, I'm interested in the circumstances surrounding the
18 length in time of this marriage and I'm interested in your knowledge going to that
19 very point, more specifically, the woman.

20 Now I have another question. As a Muslim, did the wife who was taken --

21 PRESIDING JUDGE MINDUA: [12:55:07](Interpretation) Counsel Gerry.

22 MS GERRY: [12:55:09] I'm just wondering if we could have one question at a time
23 for the witness, please.

24 PRESIDING JUDGE MINDUA: [12:55:18](Interpretation) Exactly. So Counsel

25 Kassongo, the objection has been raised. One question at a time.

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1 MR KASSONGO: [12:55:32](Interpretation) Thank you. I will therefore separate
2 out my questions.

3 Q. [12:55:40] Mr Witness, can you clarify, please, what was the reaction of
4 a repudiated woman, such as we find in this case in point, if a -- does a woman have
5 any say in the continuation of the marriage or not?

6 A. [12:56:57] What you said a moment ago -- in fact, to be honest, I didn't
7 understand your question.

8 Q. [12:57:05] Thank you very much, Mr Witness. Perhaps I can clarify so that you
9 can understand my question.

10 When there is a case of repudiation - as there is in this particular instance - can
11 a woman refuse that the marriage continues? That's my question. Does she have
12 any say in refusing the marriage?

13 PRESIDING JUDGE MINDUA: [12:57:42](Interpretation) Counsel Gerry.

14 MS GERRY: [12:57:43] Sorry to interrupt again. I think the -- I think the confusion
15 will be that my learned friend for the LRV appears to be asking about the marriage
16 between Adam and Ms X, but in the original question, he referred to the marriage of
17 the man and the woman, and those were two different marriages that we dealt with
18 in evidence yesterday.

19 So I think he's asking about the marriage between Adam and Ms X, and, if he's doing
20 so, it would help the witness for that to be made clear, please.

21 PRESIDING JUDGE MINDUA: [12:58:27](Interpretation) Counsel Kassongo, yes.

22 This is the problem. Our witness is not an expert in law. I think the Defence is
23 absolutely right. I think you should specify, are you talking about the first or second
24 marriage and put a specific question to the witness.

25 MR KASSONGO: [12:58:54](Interpretation) Thank you very much. I won't dwell

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1 on this. I'd just like to put a question about the second marriage.

2 Q. [12:59:00] Can the spouse, the woman, refuse that particular marriage?

3 A. [12:59:27] I'm not a sharia expert. I can't answer your question. You're

4 putting -- you put a question -- if you put questions to me (Redacted), then

5 I can answer, but what you're asking me doesn't fall within the scope of my -- of my

6 expertise.

7 Q. [12:59:53] Thank you very much for your clarification.

8 Nothing further from our side, and we thank you for answering our brief questions.

9 MR KASSONGO: [13:00:00](Interpretation) Your Honour, nothing further from this

10 witness. And my thanks.

11 PRESIDING JUDGE MINDUA: [13:00:10](Interpretation) Thank you very much,

12 Counsel Kassongo, for your questions and the fact also that you were very concise

13 and succinct.

14 Now I see Counsel Gerry on her feet. Does the Defence have any additional

15 questions to put to the witness?

16 MS GERRY: [13:00:29] No, we do not. His evidence is finished. Thank you.

17 PRESIDING JUDGE MINDUA: [13:00:37](Interpretation) My thanks, Counsel Gerry.

18 And I see that we have arrived at 1 p.m.

19 So, court officer, we are still in open session, so we will now put an end, in a moment,

20 to our hearing.

21 Mr Witness -- Mr Witness, you will have noticed that your testimony reached its end.

22 On behalf of the Chamber, I would like to thank you once again for having helped us

23 by replying clearly and very patiently to the questions that have been put to you.

24 Your testimony is now complete, and I wish you all the very best in your life and for

25 the future.

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1 Witness, thank you very much.

2 (The witness is excused)

3 PRESIDING JUDGE MINDUA: [13:02:48] I turn now to Ms Gerry to confirm the
4 fact that you have no witness for tomorrow?

5 MS GERRY: [13:02:55] Correct. I believe everyone has been working quite hard on
6 making arrangements and that the next witness is likely to be available on Monday.
7 I don't have the latest information but I believe that's the situation.

8 PRESIDING JUDGE MINDUA: [13:03:21](Interpretation) Thank you very much, Ms
9 Gerry. That is indeed the situation that we have for the time being. Therefore, we
10 will meet again here on Monday at 9.30.

11 Before closing this morning's session, as usual, I would like to express my thanks to
12 everyone who has been part of our successful day. I would like to thank the parties
13 and the participants and, of course, I would like to thank the court reporters and the
14 interpreters and also our security officers and, finally, our public in the public gallery
15 and also following this remotely. I wish you all an excellent rest of the day.

16 And the hearing is adjourned.

17 THE COURT USHER: [13:04:33] All rise.

18 (The hearing ends in open session at 1.04 p.m.)