

Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

- 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 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 3
- 9 Tuesday, 29 June 2021
- 10 (The hearing starts in closed session at 9.33 a.m.)
- 11 THE COURT OFFICER: [9:33:31] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:34:03](Interpretation) Court is in session.
- 15 Good morning to all.
- 16 Mr Courtroom Officer, could you please call the case.
- 17 THE COURT OFFICER: [9:34:11] Good morning, Mr President, your Honours.
- 18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
- 19 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number
- 20 ICC-01/12-01/18.
- 21 And for the record, we are in closed session.
- 22 PRESIDING JUDGE MINDUA: [9:34:31](Interpretation) Thank you very much,
- 23 courtroom officer.
- 24 We shall now check on the various teams.
- 25 Mr Prosecutor, please.

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1 MR DUTERTRE: [9:34:43](Interpretation) Good morning, Mr President. Good
2 morning, your Honours. The OTP is represented by Mr Mousa Allafi still, by
3 Mr Luis to my left, and by myself, Mr Gilles Dutertre. I'd like to make the most of
4 this to greet Mr Nsita and his team, the witness, [REDACTED] Ms Taylor, the usher,
5 the court officer, and everyone else.

6 PRESIDING JUDGE MINDUA: [9:35:14](Interpretation) Thank you very much.
7 Over to the Defence.

8 Ms Taylor.

9 MS TAYLOR: [9:35:18] Good morning, Mr President. Good morning, your
10 Honours. Good morning to everyone inside and around the courtroom. The
11 Defence for Mr Al Hassan is represented today by Ms Sarah Marinier-Doucet,
12 Ms Dolly Chahla, and myself, Melinda Taylor. Thank you.

13 PRESIDING JUDGE MINDUA: [9:35:39](Interpretation) Thank you very much,
14 Ms Taylor.

15 Now it's over to the Legal Representatives of Victims.

16 Maître.

17 MR LUVENGIKA: [9:35:49](Interpretation) Good morning, your Honour. Good
18 morning, your Honours. The victims today are represented by Madam Prisque
19 Biyéké Dipanga and Mademoiselle Ms Ludivine Tixier-Dunet and myself, Maître
20 Fidel Nsita Luvengika. And I'd like to make the most of this opportunity to
21 welcome everyone in the courtroom in their various capacities. Thank you.

22 PRESIDING JUDGE MINDUA: [9:36:18](Interpretation) Thank you very much,
23 Maître Nsita.

24 Now over to our counsel for our witness.

25 Counsel.

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1 [REDACTED] [9:36:32](Interpretation) Good morning, Mr President. Good

2 morning, your Honours. I am [REDACTED], counsel for [REDACTED]

3 witness in this case. I'd like to make the most of this opportunity to greet everyone

4 in this courtroom. And I thank you very much.

5 PRESIDING JUDGE MINDUA: [9:36:53](Interpretation) Thank you very much,

6 [REDACTED].

7 Now I'd like to turn to the witness.

8 Good morning, Mr Witness. Are you well?

9 WITNESS: MLI-OTP-P-0150 (On former oath)

10 (The witness speaks Arabic)

11 THE WITNESS: [9:37:20] (No interpretation)

12 PRESIDING JUDGE MINDUA: [09:37:22] (Interpretation) I'd like to also thank you

13 on behalf of the Chamber, and I'd like to wish you -- or welcome you once again

14 whilst reminding you that you are still under oath and that you should speak the

15 truth, the whole truth, and nothing but the truth.

16 Without further ado, I shall now hand over to Ms Taylor for the continuation of the

17 cross-examination.

18 Ms Taylor, over to you.

19 MS TAYLOR: [9:37:50] Thank you, Mr President.

20 QUESTIONED BY MS TAYLOR: (Continuing)

21 Q. [9:37:56] Good morning, Mr Witness.

22 How are you this morning?

23 A. [9:38:03] Good morning, ma'am. I am very well. Thank you.

24 Q. [9:38:12] Mr Witness, is it correct that there's an old city component of Timbuktu

25 and a new city component?

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1 A. [9:38:32] Yes. There is what we refer to as the old town, the Medina, and the
2 new neighbourhoods of the town.

3 Q. [9:38:45] And what area is covered by the old town, what you refer to as the
4 Medina?

5 A. [9:39:02] The old town or the old Medina consists of the old mosques, Yahia,
6 Sankore, Djinguereber towards the west. But I can't say what the total surface area
7 in kilometres is of the old town. I can tell you approximately. I would say it's
8 about two square kilometres.

9 Q. [9:39:42] And can you tell us which neighbourhoods are in the new town?

10 A. [9:39:54] The -- well, I mix up the various names of the neighbourhoods.
11 I think that Djinguereber is one of those neighbourhoods, and Sidi Yahia as well is a
12 name of a neighbourhood. However, I am not certain at this moment in time. And
13 whatever the case may be, it's referred to as the old town, the old Medina.

14 Q. [9:40:27] Thank you, Mr Witness. I believe there may have been a confusion.
15 My question was concerning the new town.

16 Do you know which neighbourhoods are considered to be in the new town?

17 A. [9:40:46] Yes. I can give you a few names of neighbourhoods indeed.
18 Towards the north or north-west we have Abaradjou. I call it *Abaraz* (phon) in
19 Arabic. And towards the north-east, Alpha Moya, there is Alpha Moya. And to the
20 east, there is the Bellafarandi neighbourhood. But there is also a neighbourhood
21 called Sans-Fil and another one called Bariz (phon), which is very new. There's
22 Hammabangou as well. I believe that I have provided you with the names of all the
23 new neighbourhoods.

24 Q. [9:41:45] Thank you, Mr Witness.

25 Now, yesterday we were discussing the situation before 2012. I'd now like to

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1 address the situation towards the beginning of 2012.

2 And I'm going to read an extract from Defence tab 236, but this should not be
3 displayed to the witness. It's Defence tab 236, and I'm referring to transcript 50,
4 page 33, lines 13 to 21. And this is an extract from the testimony of Prosecution
5 Witness P-65.

6 Witness: "First of all, when the Islamist groups arrived in Timbuktu, Timbuktu was
7 in chaos. There were the Arab militias and the MNLA members who entered the
8 city, and so there was a total lack of rule of law and total lack of order and of system.
9 Every person with an arm could do whatever they want. People were frightened.
10 When the Islamists entered the city, there became a clear rule of law and total equality
11 and a complete feeling of security, because no one could aggress another person, no
12 one's property or assets could be stolen."

13 Now, Mr Witness, is it correct that when the MNLA and Arab militia took over
14 Timbuktu, after the Malian authorities left, there were a lot of weapons circulating
15 among the local population?

16 A. [9:44:03] What do you mean by the "local population"?

17 Q. [9:44:26] By the persons present in Timbuktu, whether it be the groups or the
18 individuals.

19 A. [9:44:41] Yes. There were a lot of weapons that were being carried by the
20 MNLA and the Arab militia, but the inhabitants of Timbuktu were not carrying
21 weapons around.

22 Q. [9:45:01] Before the Islamists arrived, was there a situation of disorder and
23 insecurity?

24 A. [9:45:11] Yes, indeed. As you have just said in the text that you wrote, that is
25 precisely what the situation was. There was a disequilibrium and the members of

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1 the MNLA were going around with their weapons and monitoring certain
2 governmental institutions and some people were afraid, especially those who did not
3 swear allegiance to the MNLA, whereas, another part of the population was
4 reassured by the presence -- by their presence.

5 Q. [9:46:17] When the Islamists arrived, did they take steps to establish order and
6 security?

7 A. [9:46:24] Yes. They reduced the presence of the MNLA without entering any
8 conflict and they obliged the MNLA to move back to the periphery of the town. The
9 north was under the control of the Islamists. The MNLA had a very reduced
10 position in the south-east of the city and also to the south-west of the city and towards
11 the airport and Kabara.

12 Q. [9:47:14] Now, in the first days of your testimony you were asked about events
13 in the north of Mali in the '80s and '90s, and I have a few points of clarification. Are
14 you aware of any incidents of ethnic cleansing of Tuaregs or light-skinned persons
15 that occurred in the '80s and '90s?

16 A. [9:47:53] Yes. And I've already said this during my discussions with the OTP.
17 These reasons are the reasons that maintained the presence of the rebels in the north
18 of Mali, which also stemmed from the independence of the republic of Mali. Indeed,
19 part of the Azawad population was not in agreement with the idea of joining the
20 republic of Mali but preferred to be part of Mauritania or even to have their
21 independence. And from that moment in time, some leaders left the country. Some
22 of them remained in exile subsequently, others went to Libya, to Saudi Arabia and to
23 Algeria. So the revolutionary movement or the revolution itself continued, and
24 some of the members of the revolution joined the Libyan army with the authorisation
25 with -- of Gaddafi. They were of Malian extract. But despite this, they worked

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1 within the Libyan army to perpetuate their revolution, if you like.

2 During the 1980s and after the fall of Moussa Traore, the Malian dictator, the Azawad
3 revolution was of the mind that they had a golden opportunity to attack Mali. There
4 were some attacks on the northern frontiers and the Azawad population was very
5 much in favour of these attacks.

6 This population had suffered from colonisation from the agricultural policing of their
7 land and their pasture, and they also had suffered from racial discrimination under
8 the authorities of some of the provinces. So there were many such stories that I
9 might be able to tell you. But when there was cooperation and when the Azawad
10 population welcomed or embraced the Azawad revolution in the 1980s, the army and
11 the commanders within the army conducted a campaign against the Azawad and
12 they annihilated entire neighbourhoods. Men, women, and children were killed in
13 some of the neighbourhoods, in some tribes, in my tribe indeed. There were some
14 neighbourhoods that were completely annihilated and the inhabitants were killed.
15 I've already told the OTP this, namely, that the army, which was under the orders of
16 Amadou Toure when he was in transition or when he was in command under the
17 transition period. I'm not criticising here. I'm just saying that the army was under
18 his command.

19 THE INTERPRETER: [9:51:41] And the Arabic into French interpreter did not catch
20 the name.

21 MS TAYLOR: [09:52:00]

22 Q. [9:52:01] Mr Witness, I believe that the interpreter didn't catch the name,
23 although I thought you were referring to Amadou Toure. Is that the name you were
24 referring to at the end?

25 A. [9:52:11] Yes, Amadou Toumani Toure.

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- 1 Q. [9:52:14] When you were refer to "my tribe", are you referring to the [REDACTED]
- 2 [REDACTED]?
- 3 A. [9:52:30] Yes. The [REDACTED] tribe and the [REDACTED] tribe. I talked
- 4 about this at the beginning because most of the victims were within that village and
- 5 within that tribe. In fact, an entire village was done away with.
- 6 Q. [9:52:48] Which village was that?
- 7 A. [9:52:52] I have forgotten the name of the village, the truth be told, but it might
- 8 come back to me at a later stage.
- 9 Q. [9:53:10] Mr Witness, did these massacres, did they lead the affected groups and
- 10 tribes to want a greater degree of control and authority in the north?
- 11 A. [9:53:37] These massacres resulted in the displacement or migration of most of
- 12 the population towards Mauritania where they constructed camps. The youth
- 13 within these camps came to an agreement as to the necessity to fight against the
- 14 Malian government, but there was no training, military training as such. And as a
- 15 result, they formed a militia, a militia that would also kill civilians who were
- 16 particularly dark skinned and they would control their -- their goods, their property,
- 17 and their money that they would sell in Mauritania. There were also cases of
- 18 kidnapping, of enslaving individuals of people who lived in these neighbourhoods
- 19 and who had particularly dark skin. These people could have been sold off,
- 20 for example. There were also acts of violence on the other side, but there was a very
- 21 organised front that was -- well, let's say that there wasn't a very organised front
- 22 committing these violent acts. It was the youth and the militia. However, the
- 23 revolutionaries were far better organised. They did not commit violent acts of this
- 24 ilk. They were not, however, able to win and, as a result, they came to an agreement
- 25 with the government in 2004 or 2005, I believe, and up to 2006 this agreement lasted.

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1 And this agreement gave rise to the peace flame that I mentioned to you where those
2 weapons were banned and where the rebels were integrated into the Malian army.

3 Q. [9:55:45] So this peace flame represented for some an end of Tuareg struggles or
4 revolution against the government; is that correct?

5 A. [9:56:06] This is a very important question. When the rebel groups reached this
6 agreement, there was opposition on the part of individuals who were opposed to this
7 agreement and who did not join this agreement. They said that they would continue
8 their revolution against the Malian government. Amongst these opponents, there
9 were people who in 2006 gave ride to a new wave of displacement towards
10 Mauritania. Then after the fall of the Gaddafi regime there were new waves of
11 rebels who formed a new front, and without the rebels this front would have been
12 able to control the northern part of the country.

13 Q. [9:57:12] Were there some groups that viewed this flame of peace monument as
14 a symbol against the self-determination of Azawad?

15 A. [9:57:44] Yes. That is indeed what I said in my previous answer. When this
16 agreement was reached and when it gave ride to the peace flame, there was an
17 opposition on the part of the Azawad people or on the part of the rebels who did not
18 want to sign the agreement.

19 As a result of this, there were new claims associated with the revolution in 2006.

20 And again in 2011, there were further claims that came along with the arrival of the
21 jihadists in Timbuktu.

22 Q. [9:58:34] Now, turning to the beginning of 2012, in light of this history of ethnic
23 cleansing and massacres, were some groups or tribes worried that they could be
24 massacred again by the Malian army?

25 A. [9:58:51] Yes, indeed. And this is what gave ride -- rise to waves of exodus

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1 from the end of 2011 because the Azawad people had already experienced this sad
2 event, namely, that every time that there was an attack upon Mali the
3 Azawad -- disarmed Azawad people would take -- bear the brunt of it, [REDACTED]
4 [REDACTED]. I left for [REDACTED] where I
5 took refuge because I knew that I could no longer live peacefully after the rebel
6 operations in the north of Mali.

7 Q. [10:00:03] Now, you've mentioned people going into exile and I believe you've
8 also mentioned Mauritania.

9 Did you have any personal knowledge or did you hear anything about the situation
10 of the refugee camps?

11 A. [10:00:25] Do you mean the former refugees, or the new camps that still exist in
12 Mauritania?

13 Q. [10:00:43] The camps that existed before and during 2012?

14 A. [10:00:54] Yes. During that wave of major exodus that I mentioned that was
15 provoked by the massacres in 1988 to 1991, those camps were very large, almost the
16 size of a *gouvernorat* in three locations in a region called Aror (phon) or Akor, on the
17 border with Mauritania, and the province of Bassiko (phon) in Mauritania as well and
18 a border area called Mbera. These three camps where the inhabitants came -- well,
19 the -- those inhabitants mostly came back to Mali because of the agreement that lead
20 to the peace flame.

21 The agreement included, among other things, resettlement measures for families.
22 Humanitarian associations took part in the resettlement of families. However, some
23 of the people living in those camps did not trust them and remained in the camps
24 permanently and they did not receive any assistance from the humanitarian
25 associations for assistance -- for help to refugees. All the same, they stayed.

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1 After the new wave in 2006, the new wave of movements, there was a program -- a
2 new program to assist refugees. The Mbera camp was set up, a new refugee camp,
3 and the former inhabitants of those camps, as well as the new refugees who fled
4 towards that camp, received assistance and still do receive assistance. And the
5 situation has remained much the same up until this very day.

6 Q. [10:03:17] Do you have information about the conditions in the camps?

7 A. [10:03:28] Yes. [REDACTED]

8 [REDACTED]

9 Q. [10:03:47] Is it correct that Al-Qaeda was present in the north of Mali before 2012
10 and several years before Ansar Dine was established?

11 A. [10:04:05] Yes, that's true.

12 Q. [10:04:06] And had it already established connections with local tribes and
13 communities?

14 A. [10:04:13] Yes. They had their own people, the Arab tribes of the Sahara, and
15 they had quite a bit of activity which assisted with the development of trade the local
16 market -- in local markets in Timbuktu even before they appeared on the scene.

17 They provided 4X4 vehicles, open-cab Toyotas, vehicles like that to young people, to
18 Arab tribes to haul various products from Algeria to Mali and from Mauritania to
19 Mali and also in the other direction. They facilitated communication between people
20 in 2001. It was difficult to travel from one region to another. Even if it was just a
21 distance of 100 kilometres in 2006 and 2007, they could travel back and forth every
22 day thanks to them, thanks to the large number of vehicles that the jihadists had
23 given them. And they had provided the vehicles and such to the Arab tribes.

24 THE INTERPRETER: [10:05:58] Correction. The young people in the Arab tribe.

25 MS TAYLOR: [10:06:03]

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- 1 Q. [10:06:03] I'm just going to be turning to prosecution tab 1420. It's
2 MLI-OTP-0001-0321. If it could be shown on evidence 1.
3 So this is an interview between Sahara Media and Sanda Ould Boumama. It was
4 published on 16 April 2012. And if we could turn to page 3272 and if we could scroll
5 down - for the interpreters - to the paragraph starting with "Regarding."
6 According to this interview, Sanda Ould Boumama said:
7 "Regarding the situation in this region everyone who lives here has to have a relation
8 and some kind of dealing with [the] Al-Qaeda organization, since this organization
9 has many of the men and sons of this region, and this is a fait accompli that you
10 cannot overlook it, and Allah is the one who guides to every good."
11 Mr Witness, would you agree that given its entrenchment in the region of the north of
12 Mali, it was very difficult for the groups in the north to avoid having dealings with
13 Al-Qaeda?
14 A. [10:08:54] I think that something is missing in the interpretation of your question.
15 You said that Sanda said that each person had to have a relationship with an
16 organisation. But which organisation are you talking about? Ansar Dine or
17 Al-Qaeda?
18 Q. [10:09:17] I'll read out the quote again more slowly and, if my colleague,
19 Ms Chahla, can check the Arabic translation.
20 "Regarding the situation in this region everyone who lives here has to have a relation
21 and some kind of dealing with [the] Al-Qaeda organization, since this organization
22 has many of the men and sons of this region, and this is a fait accompli that you
23 cannot overlook it, and Allah is the one who guides to every good."
24 Now, Mr Witness, Sanda Ould Boumama said: Al-Qaeda has many of the men and
25 sons of the region, and this is a fait accompli.

1 Was that correct?

2 A. [10:10:24] Yes. But I think Sanda was exaggerating. He said many of the men
3 and sons. That gives the impression that all the tribes were involved. But the truth
4 is that the Arab *tribes and some Tuaregs were in that situation. But the tribes that
5 had dark skin -- their sons, only very few of those sons, belonged to the organisation.

6 Q. [10:11:12] Did Al-Qaeda use a carrot-and-stick approach? For example,
7 offering on the one hand charity and social services and then on the other, threatening
8 to use force to those who opposed?

9 A. [10:11:36] The Al-Qaeda method changed and varied depending on the region.
10 When we talk about the Al-Qaeda method in Timbuktu, it was different to the
11 method in Kidal. In Kidal, that was the -- what we see here, in this description.
12 In -- Kidal created the Ansar battalion, which were Tuareg under the orders of a
13 Tuareg commander, Abdelkarim. There was the -- another battalion under
14 Qayrawani. They were all Tuareg from Tessalit, Amachach, and Aguelhok.
15 So, in that situations, Al-Qaeda didn't need to use the carrot-and-stick approach.
16 The entire region was under their control, even with the presence of the Malian
17 government in that region.

18 In contrast in Timbuktu, a war was underway against Al-Qaeda in Timbuktu led by
19 the government of Mali, and by the Ould Meydou militia established by the Malian
20 authorities to fight Al-Qaeda, and also the Malian army. The Malian army was
21 conducting a very widespread war against Al-Qaeda in 2006 and 2007, and Al-Qaeda
22 found a good opportunity to visit the far-off, working-class neighbourhoods where
23 they had no people following them. Their leaders would preach and distribute aid
24 in order to obtain support and buy-in from the local people.

25 Q. [10:14:12] Mr Witness, at page 16, line 4, there's a name that hasn't been typed

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1 out properly, but did you refer to "Ould Meydou"?

2 A. [10:14:40] Yes. Ould Meydou's militia, yes.

3 MR DUTERTRE: [10:14:47](Interpretation) While we're clarifying a few things,

4 I think that at page 15, line 24, English version, the names are not properly

5 transcribed.

6 Perhaps the witness could clarify.

7 PRESIDING JUDGE MINDUA: [10:15:09](Interpretation) Ms Taylor, if you could

8 seek those clarifications from the witness.

9 MS TAYLOR: [10:15:13]

10 Q. [10:15:13] Mr Witness, did you refer to Tessalit, Amachach, and another area?

11 A. Amachach and Aguelhok.

12 MS TAYLOR: [10:15:40] Now for the sake of the interpreters, I'm going to be giving

13 a reference, but this shouldn't be shown to the witness. Defence tab 236, transcript

14 50, page 21, line 23, to page 22, line 23.

15 Q. [10:16:03] Now, a Prosecution witness in this case, P-65, described the situation

16 leading up to 2012 as follows:

17 "The government forced the -- a blockade on the Tuareg areas. There were no roads.

18 There were no networks of communication. Goods that were sold for \$10 in

19 Bamako - there were very rough roads in the desert to take the transport merchandise

20 to northern Mali - those goods would reach northern Mali and be sold for double

21 price. There were no schools. There were no hospitals. There wasn't the

22 minimum of what you can call a decent life for the Tuareg communities. In 2011, or

23 at the end of 2011, many Tuaregs came back from Libya, arrived from Libya. These

24 people said that instead of getting into an agreement with the Malian army granting

25 us some rights and depriving us of some other rights, why don't we take our

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1 independence from Mali.

2 So they formed the National Movement for the Liberation of Azawad and they tried
3 to launch the war for independence and they proclaimed the independence of
4 Azawad. At the same time, jihadist groups got involved and said: We don't want
5 independence only. We want Sharia to be the law.

6 These groups took control of the cities and kicked out the MNLA. Here, the tribes
7 were puzzled and wondered: What do we do? Do we leave our lands and leave it
8 to Al-Qaeda?

9 Iyad made a suggestion: We are Ansar Dine. We have a section within the group
10 that is taking care of national or patriotic projects, but as far as Al-Qaeda is concerned,
11 that's me. I'm the one responsible.

12 The tribal leaders saw *this as a solution. They thought that joining the
13 non-extremist section within Ansar Dine was a solution. So they were convinced
14 that they were taking advantage of this Al-Qaeda situation so that Al-Qaeda doesn't
15 dominate them.

16 But Al-Qaeda also thought that on its end. They thought they were using them as a
17 cover while achieving their objectives."

18 PRESIDING JUDGE MINDUA: Prosecution.

19 MR DUTERTRE: [10:19:20](Interpretation) The English and the French transcripts
20 do not contain the reference to what Ms Taylor has just read out. Which transcript is
21 this? There is a tab, 236. But it's not in eCourt. It's not in the binder. What is
22 Ms Taylor referring to? I think it would be useful for Ms Taylor to specify this,
23 where this transcript comes from.

24 PRESIDING JUDGE MINDUA: [10:19:53](Interpretation) Yes, indeed. The
25 Prosecution is correct. And also in this binder, there are many tabs here that do not

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1 have any document.

2 MS TAYLOR: [10:20:12] Thank you, Mr President. I do believe I read it out, so I
3 don't know why it's not reflected in the transcript. I did say tab 236, transcript 50.
4 So I'm not sure why that wasn't reflected.

5 PRESIDING JUDGE MINDUA: Just to save some time, please repeat. And then we
6 can move ahead, please.

7 MS TAYLOR: [10:20:39] I'll repeat again, Defence tab 236, transcript 50, page 21,
8 line 23, to page 22, line 23 was the reference.

9 PRESIDING JUDGE MINDUA: [10:21:01](Interpretation) Thank you very much.

10 MS TAYLOR: [10:21:08]

11 Q. [10:21:08] Mr Witness, is it correct that some Tuareg tribes were concerned that
12 if they left, their lands could be taken by Al-Qaeda?

13 A. [10:21:22] Yes. I can say yes, because you're talking about an idea that was
14 very present when it come -- came to occupation of this region. Most of the Tuareg
15 people were against Al-Qaeda occupying the area. They were against the
16 occupation. So their partial participation in the management of the situation was
17 much better than the -- than a definitive departure.

18 Q. [10:22:22] In terms of their partial participation, did some of these tribes see
19 joining Ansar Dine as a compromised solution which allowed them to stay?

20 A. [10:22:38] Yes. But the witness said -- the witness whose testimony you read
21 out, what he said was very good. I can say that Ansar Dine, commanded by
22 Iyad Ag Ghaly, served the objectives of Al-Qaeda actually. And the Tuaregs tried to
23 find another solution. They changed the name. They called it the superior council
24 of Islam. And most of the tribes in the east, east of Timbuktu, joined that council to
25 escape the control of Ansar Dine because they realised that Ansar Dine was really

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1 serving the plans of Al-Qaeda, no more than that.

2 Q. [10:23:47] [REDACTED] about Iyad Ag Ghaly. Is it correct
3 that another key leader in Ansar Dine was Alghabass Ag Intallah?

4 A. [10:24:10] Yes. Alghabass Ag Intallah, that is correct.

5 Q. [10:24:17] Now I'm referring to Defence tab 222, transcript 32, page 69, lines 8 to
6 14.

7 Now, according to a Prosecution expert witness in this case, referring specifically to
8 Alghabass Ag Intallah and his motives for joining Ansar Dine, he said:

9 "Yes. I mean, as we are -- have been repeatedly discussing, people that join these
10 movements also due to the circumstances of the conflict and at least one important
11 theory here, that was seen from the -- from this family's point of view and ... as chief
12 of the Ifoghas, it could be important for them to try to avoid that Iyad [joined] with
13 him large segments of Tuareg society in the north and particularly in the Kidal into a
14 position from which a return to negotiations with the Malian state would be very
15 difficult."

16 Is it correct that some high-level Tuaregs joined Ansar Dine in order to try to push it
17 into a less extreme direction?

18 A. [10:26:15] Yes, that is so.

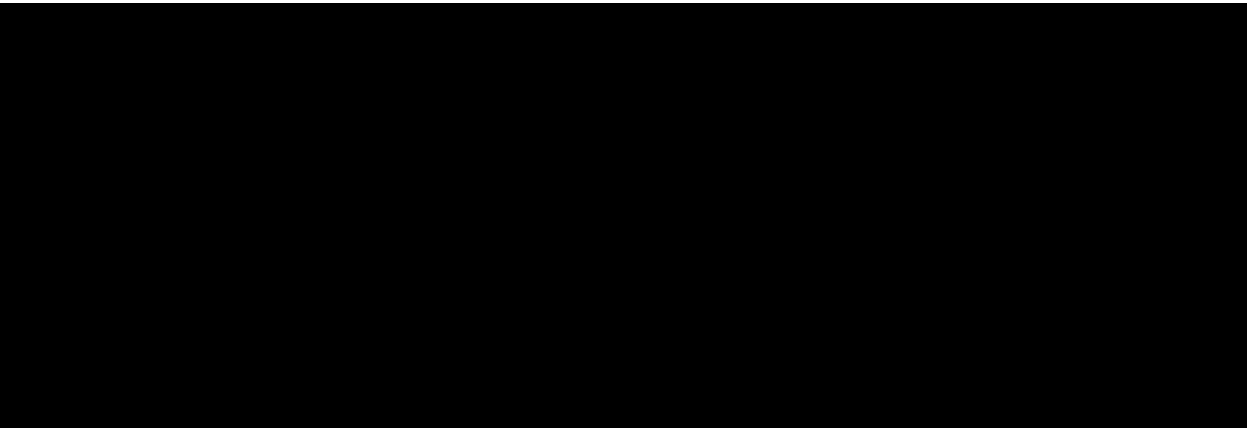


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MS TAYLOR: [10:28:33] If I could refer to tab 153 on the Defence list. That's MLI-D28-0004-3316. This is the Arabic for the witness. And tab 154 is the English, that's MLI-D28-0004-3318.

Q. [10:29:10] Mr Witness, do you have the Arabic with you? It's tab 153. This is a Facebook post. Do you recognise the name [REDACTED] [REDACTED]?

A. [10:30:32] I haven't seen the name yet. I wasn't able to see the name yet.

Q. [10:30:43] Mr Witness, on the first page there should be a photo, [REDACTED] [REDACTED]. Then underneath it there should be a post with a name [REDACTED] [REDACTED] and the date [REDACTED].

A. [10:31:22] I was just opening a page on the [REDACTED] and I was reading a number of posts. And there are a number of posts in the name of [REDACTED]. I believe that [REDACTED] is indeed the name of [REDACTED] but I'm not 100 per cent sure.

MS TAYLOR:

Q. [10:31:53] Now, if we could turn to page 3319 on the English. And I'll read out the post to you. If that could be shown on evidence 1 for the interpreters. If we could focus on the post starting "Despite."

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1 So this person named [REDACTED] writes: "Despite the exodus
2 of the population to neighbouring countries, the number of people in the hospital is
3 now greater than before, for the reason that treatment is free of charge. In the past,
4 even if you die, neither tests nor examination are done for you except if you pay,
5 although there are those who live in Timbuktu who do not have enough food for their
6 daily sustenance and are forced to be patient with the disease without going to the
7 hospital in search of medicine. Previously, only two nurses diagnosed and treated
8 tuberculosis and AIDS patients free of charge."

9 Is it correct that before 2012, it was necessary to pay for medical treatment at the
10 hospital in Timbuktu?

11 A. [10:33:49] Even though I take care in developing my answers, as I did with the
12 OTP, and I concentrate on positive aspects, I have omitted to provide this information
13 because I don't really remember. I do remember that the jihadists did hold
14 discussions with the crisis committee with a view to them taking part in the
15 management of the city. I'm talking here about energy and water. But I omitted to
16 talk about the hospitals. And I will answer you by saying that, yes, I do believe that
17 it is true.

18 Q. [10:34:42] Mr Witness, when you say you do believe it is true, what are you
19 referring to?

20 A. [10:34:47] The information that I'm providing -- well, when I am not sure about
21 a piece of information that I am providing, I say that I believe it is so, but I might need
22 an item of evidence in support of it.

23 Q. [10:35:23] I apologise, Mr Witness. There might be a bit of confusion as to what
24 specifically you're referring to.

25 When you say, "I believe it's true," do you believe it's true that the groups arranged

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1 for free medical treatment in 2012?

2 A. [10:35:41] Yes. Yes.

3 MS TAYLOR: [10:35:53] I'm going to play a video. It's tab 127 on the Prosecution's

4 list. That's MLI-OTP-0015-0495. I'm going to play it first without sound. But for

5 the interpreters, I'll give the references now to the transcript and translation. The

6 transcript is tab 1028 on the Prosecution's list, that's MLI-OTP-0033-5189. And the

7 transcript was tab 1029 on the Prosecution's list, MLI-OTP-0033-5288. We're going to

8 play from the 34:28 minute mark until the 35:15 minute mark without sound. And

9 we'll play it on evidence 2.

10 (Viewing of the video excerpt)

11 MS TAYLOR: [10:38:17]

12 Q. [10:38:18] Mr Witness, do you recognise this individual?

13 A. [10:38:22] Yes. This is Sanda Ould Boumama.

14 Q. [10:38:32] And do you know where he is?

15 A. [10:38:36] Yes. He is in the large hospital in Timbuktu.

16 MS TAYLOR: [10:38:52] I'll play the same section with sound from 34:28 until 35:15.

17 (Viewing of the video excerpt)

18 THE INTERPRETER: [10:39:08] Message from the English interpreter: Could we

19 please have the line number in the transcript, please.

20 MS TAYLOR: [10:37:00] I believe it's from line 104 until, I believe, line 126.

21 THE COURT OFFICER: [10:41:11] We have English -- we have Arabic on the

22 English channel. Could that be checked, please. Thank you.

23 MS TAYLOR: [10:41:19] Are the interpreters ready for us to play it now?

24 THE INTERPRETER: [10:41:22] The English booth is ready.

25 (Viewing of the video excerpt)

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1 THE INTERPRETER: [10:41:30] (Interpretation of the video excerpt)

2 Unintelligible scenic audio.

3 "There is nothing left to eat at all, nothing at all. Desertification has given rise to
4 hundreds of thousands of people in this region choosing between exile and hunger,
5 abandoned by the government, abandoned by nature itself.

6 Reporter: (Speaks English) "In the Sahel and Sahara, hunger and malnutrition are
7 chronic. And in northern Mali, they're made even worse by instability and conflict.
8 At Timbuktu hospital, *known members of Al-Qaeda like Sanda were ever present,
9 ready to offer aid to the worst affected. In northern Mali, Al-Qaeda transformed itself
10 into a humanitarian NGO providing medical supplies and food."

11 MS TAYLOR: [10:43:14]

12 Q. [10:43:16] Mr Witness, is it correct that the group arranged for medical supplies
13 and food to be provided to the poorer population in Timbuktu?

14 A. [10:43:33] Yes. And as I told you, officially, they coordinated with the crisis
15 committee to cover the costs of the management of the city and to bring through other
16 channels of relief such as the International Red Cross.

17 MS TAYLOR: [10:43:55] Now, I'll play another section of the video. It's without
18 sound.

19 And for the interpreters, the transcript is tab 269. That's MLI-D26-0005-6126. I'll
20 play without sound from the 39:50 to 41:32.

21 (Viewing of the video excerpt)

22 MS TAYLOR: [10:46:31]

23 Q. [10:46:32] Mr Witness, do you recognise these locations?

24 A. [10:46:36] Yes. This is one of the neighbourhoods of Timbuktu to the
25 southwest side of the city.

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1 Q. [10:46:59] Do you know the name of the neighbourhood?

2 A. [10:47:03] I do not. But I do know the population. That is why I know that
3 place well. I know some of the women who were speaking in the images.

4 Q. [10:47:23] Who were these women?

5 A. [10:47:28] I know one of the women who was speaking. [REDACTED]

6 [REDACTED]

7 MS TAYLOR: [10:47:56] If we can now play the same section with sound.

8 (Viewing of the video excerpt)

9 THE ARABIC INTERPRETER: [10:37:00] (Interpretation of the video excerpt)

10 "But some people were glad to see the mujahideen. Like Tuareg families who lost
11 their traditional herding way of life, now living in slums in the city.

12 [Speaker in foreign language, subtitled] All of our animals died from drought. We
13 had some crops and they failed too. Everything collapsed. The rainy season was
14 poor and nothing can make up for that.

15 There just isn't enough water.

16 [Narrator] Fatimatou says Al-Qaeda are feeding her family.

17 [Speaker in foreign language, subtitled] Each time they come here to distribute aid,
18 they give some of it to us. And they clothed our girls. They brought them hijabs and
19 proper clothes. We cannot lie before God. They are helping strengthen our faith.

20 Nothing comes to us except by the grace of God. We have nothing but the grace of
21 God."

22 MS TAYLOR: [10:50:16] Was there Arabic interpretation?

23 PRESIDING JUDGE MINDUA: [10:50:53]*Ask the witness. Witness, did you hear the
24 Arabic interpretation?

25 THE WITNESS: [10:50:59] (No interpretation)

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1 PRESIDING JUDGE MINDUA: [10:50:59] *What's going on? I don't have the
2 interpretation into French either.

3 THE WITNESS: [10:50:59] (Interpretation) No, I did not hear the interpretation.
4 [REDACTED] is my mother tongue.

5 THE INTERPRETER: [10:51:07] Message from the interpreter: There were
6 overlapping speakers.

7 PRESIDING JUDGE MINDUA: [10:51:12](Interpretation) Ms Taylor, you heard the
8 response from the interpreter, did you?

9 THE ARABIC INTERPRETER: [10:51:17] Message from the interpreter: The Arabic
10 interpreter was reading the transcript into English and that's why it wasn't translated
11 into Arabic.

12 MS TAYLOR: [10:51:28] So I understand that the witness could hear the people
13 speaking but not the commentary because the Arabic interpreter was reading into
14 English, not Arabic.

15 But I can ask on the basis of what he heard from the individual speaking.

16 Q. [10:51:44] Mr Witness, you said earlier that you recognised one of the women.
17 What was her name?

18 A. [10:51:56] [REDACTED]

19 Q. [10:51:59] And her last name?

20 A. [10:52:07] I do not remember.

21 Q. [10:52:08] And did you see her at the beginning, the middle, or the end of the
22 segment?

23 A. [10:52:14] [REDACTED]

24 Q. [10:52:33] To assist us to identify her, can you describe what she looked like.

25 A. [10:52:45] She is middle-aged. [REDACTED]

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1 [REDACTED]

2 MR DUTERTRE: [10:53:06](Overlapping speakers) *Monsieur le Président*.

3 PRESIDING JUDGE MINDUA: [10:53:06](Interpretation) The Prosecutor, please.

4 MR DUTERTRE: [10:53:11](Interpretation) I think that the video should be played
5 again and the witness can then ask for the image to be stopped, and he can designate
6 the person that he's talking about. It would be more efficient.

7 PRESIDING JUDGE MINDUA: I do agree with the Prosecutor.

8 Ms Taylor, please have the video played again.

9 MS TAYLOR: [10:53:26](Overlapping speakers) Thank you, Mr President. We
10 were going to do that, but now we know where to play it. So if we can play it
11 towards the end, I believe we're in a better position now to perform this exercise.
12 So we're playing it from the 40-minute mark, 43-second mark until further on.

13 I believe it's a little bit further on.

14 Q. [10:54:21] Is that correct, Mr Witness?

15 A. [10:54:25] Yes.

16 (Viewing of the video excerpt)

17 MS TAYLOR:

18 Q. [10:54:51] So for the record, we stopped at the [REDACTED],

19 16-second mark. And we can see the name, [REDACTED].

20 Is this the person you're referring to?

21 A. [10:55:00] Yes. It is [REDACTED] and not [REDACTED]. I'm correcting, I'm sorry. [REDACTED]

22 [REDACTED]

23 Q. [10:55:31] Thank you for this helpful clarification.

24 The video refers to her as [REDACTED].

25 Do you have any information as to whether any of the Tuareg groups were

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1 dispossessed in 2012?

2 A. [10:55:50] She is not directly concerned by that. [REDACTED]

3 [REDACTED] said that they were counting on their herds and on their
4 agricultural land, but that this had been affected by the drought. The drought had
5 done away with everything. And that was why she was counting on the grace of
6 God to continue living.

7 Q. [10:56:44] The commentary stated that some people were glad to see the
8 mujahideen - such as, Tuareg families - that lost their traditional herding way of life.
9 Is this consistent with what you saw and heard in 2012?

10 A. [10:57:19] The tribes in Timbuktu and especially those particularly dark-skinned
11 tribes, were not in favour of the groups and especially not in favour of Al-Qaeda.
12 When they saw some members of Al-Qaeda in cars, they might have been happy on
13 occasion because they thought that this would bring them something to eat and
14 would help them to subsist.

15 Q. [10:57:52] Mr Witness, my question concerned Tuareg families that had lost their
16 traditional herding way of life or who had been affected by the drought.
17 Were they grateful to receive assistance?

18 A. [10:58:15] Yes. And that is why I said to you that they were happy because of
19 this aid that came to them from Al-Qaeda and not because they felt any particular
20 affection or support towards Al-Qaeda.

21 MS TAYLOR: [10:58:37] Mr President, I'm just looking at the clock. I have another
22 extract of a video. It's a different video. I believe that I could play it without sound
23 and then ask the questions afterwards. Or we could have the break now, depending
24 on what is best for the Chamber.

25 PRESIDING JUDGE MINDUA: [10:59:02](Interpretation) Well, we do have two

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1 minutes left. But I can see the Prosecutor is on his feet.

2 Mr Prosecutor.

3 MR DUTERTRE: [10:59:09](Interpretation) Yes, because we do have two minutes

4 left before moving on to the next extract, the witness is talking about dark-skinned

5 tribes. We never know which tribe we're talking about specifically. It's not clear for

6 anybody -- the parties, the Chamber.

7 So I think it would be good for Ms Taylor to elicit this clarification because we're

8 remaining rather vague here, and this not a help in the manifestation of the truth.

9 And also people -- we're talking about groups and it's very vague.

10 So this is not assisting in the manifestation of the truth.

11 PRESIDING JUDGE MINDUA: [10:59:49](Interpretation) Ms Taylor, I do believe

12 that the Prosecutor is right in requesting this clarification.

13 MS TAYLOR: [10:59:59] Thank you, Mr President. I'm slightly surprised, given

14 their examination-in-chief. And we don't believe it's appropriate, once again, for the

15 Prosecution to make commentary on our cross-examination. This isn't a valid basis

16 for an objection.

17 Now, if the Prosecution wants to elicit further information in re-examination or

18 during their own examination-in-chief, they were free to do so. But I don't believe

19 it's appropriate for the Prosecution to direct the content of Defence questioning.

20 PRESIDING JUDGE MINDUA: [11:00:40](Interpretation) No, Ms Taylor. The

21 Prosecutor is not directing your cross-examination. Since this morning, we've been

22 talking about groups, light- and dark-coloured skinned people. You know, if the

23 Prosecutor has to wait for 20 days to ask for points of clarification in his redirect,

24 that's not all right.

25 I don't agree with that. So we shall now rise, and when we come back, you will be

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1 careful to ask the witness which groups he's referring to. And when we talk about
 2 light- and dark-skinned people and tribes, who he's talking about and then everyone's
 3 in the know.

4 We shall rise for 30 minutes and come back at 11.30.

5 Court is suspended.

6 (Recess taken at 11.01 a.m.)

7 (Upon resuming in closed session at 11.30 a.m.)

8 THE COURT USHER: [11:30:20] All rise. Please be seated.

9 PRESIDING JUDGE MINDUA: [11:30:36](Interpretation) The hearing shall now
 10 resume. And I will hand it over to the Defence for their continuation of
 11 cross-examination.

12 Counsel.

13 MS TAYLOR: [11:30:52] Thank you, Mr President.

14 The Defence is now showing a video, Defence tab 111. That's [REDACTED].
 15 We'll play it first without sound. But for the benefit of the interpreters, the transcript
 16 is Defence tab 112, [REDACTED]. The translation is Defence tab 113 that's
 17 [REDACTED]. We're going to play this video without sound for 12 seconds.
 18 And we're playing it on evidence 2 for the record.

19 (Viewing of the video excerpt)

20 MS TAYLOR: [11:32:37]

21 Q. [11:32:37] Mr Witness, do you recognise the persons in the video?

22 A. [11:32:42] Yes.

23 Q. [11:32:50] Who are they?

24 A. [REDACTED]

25 and to the right, I don't remember. I don't remember him.

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MR DUTERTRE: [11:33:48](No interpretation)

PRESIDING JUDGE MINDUA: [11:33:57](No interpretation)(Overlapping speakers)

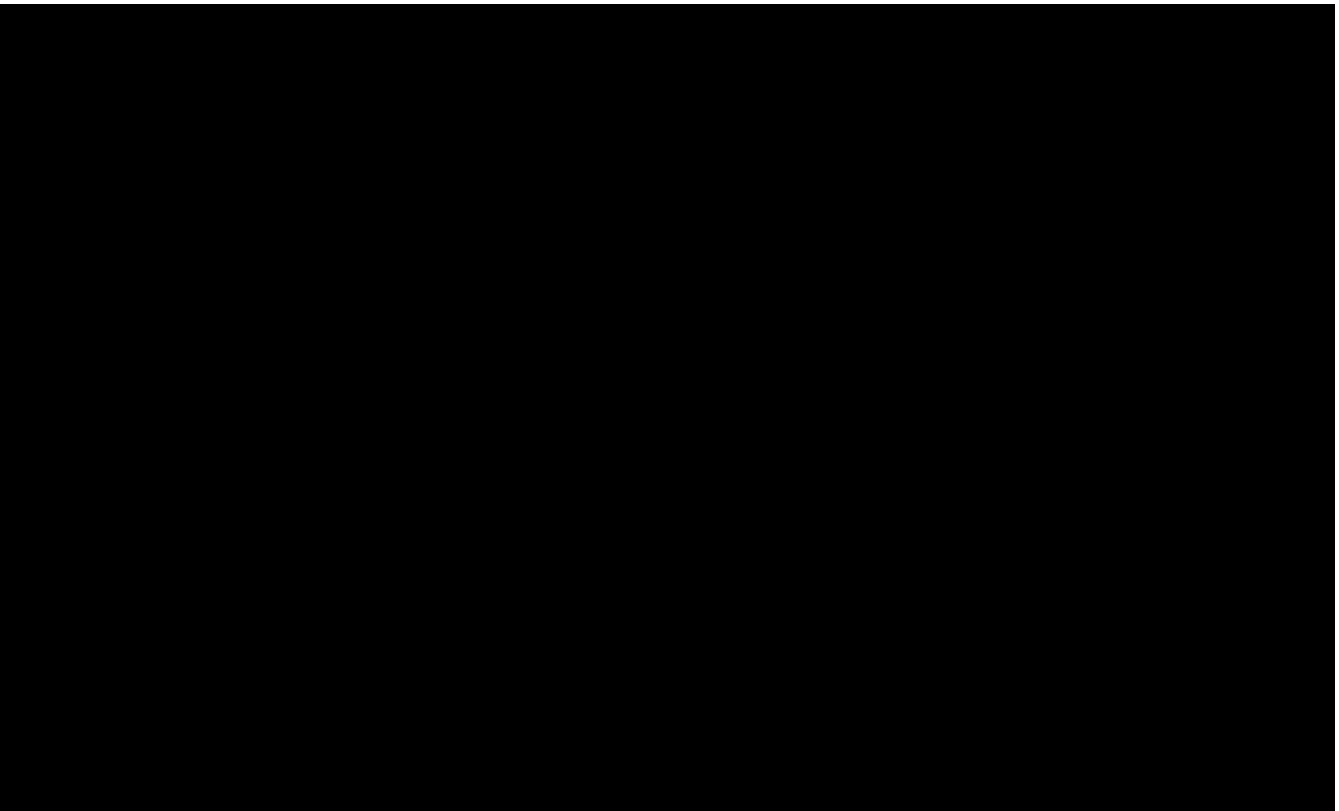
THE INTERPRETER: [11:33:58] Overlapping speakers.

MR DUTERTRE: [11:33:59](Interpretation) Timestamps.

PRESIDING JUDGE MINDUA: [11:34:01](Interpretation) That is correct.

Ms Taylor.

MS TAYLOR: [11:34:07] Thank you, Mr President. The timestamp is 12 minute and 15 seconds. If I could repeat my question before being interrupted.



Q. [11:36:00] And was this marriage arranged in 2012?

A. [11:36:06] Yes. The marriage. But the engagement was before that time,

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1 before that date.

2 Q. [11:36:26] What month did the marriage occur?

3 A. [11:36:31] The engagement was in 2011, early 2011, and as custom would have it,
4 that is to say, when he took his wife, that was in 2012.

5 Q. [11:36:58] Did you attend the wedding or the marriage?

6 A. [11:37:06] Yes. [REDACTED]

7 Q. [11:37:15] Where did the marriage take place?

8 [REDACTED]

9 [REDACTED]

10 Q. [11:37:37] And which month did the marriage take place in?

11 A. [11:37:42] I don't remember exactly when.

12 Q. [11:37:49] Was it before or after Ramadan?

13 A. [11:37:54] Once again, I've forgotten.

14 Q. [11:38:10] Can you recall how long you were there for the wedding?

15 A. [11:38:15] Once again, I don't remember.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 MR DUTERTRE: [11:39:37] *Monsieur le Président.*

22 PRESIDING JUDGE MINDUA: [11:39:40](Interpretation) Prosecutor?

23 MR DUTERTRE: [11:39:42](Interpretation) I don't see the relevance of this question,
24 but this also may have security ramifications. Thus, I object.

25 PRESIDING JUDGE MINDUA: [11:39:56](Interpretation) Relevance, I don't know.

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1 Ms Taylor is putting the questions. But there is this concern about security.

2 Ms Taylor, is it really necessary considering the security matters? Should the
3 witness refrain from answering?

4 MS TAYLOR: [11:40:17] Thank you, Mr President. I was discussing 2012, but I'll
5 move on.

6 Q. [11:40:22] [REDACTED]

7 A. [11:40:28] [REDACTED]

8 [REDACTED]

9 Q. [11:40:54] [REDACTED]

10 A. [11:40:59] [REDACTED]

11 MS TAYLOR: [11:41:08] I'm going to play the entire video with sound. And if the
12 interpreters could give me a signal to let me know if they're ready.

13 THE INTERPRETER: [11:41:22] Message from the interpreters: Is the transcript up
14 on the screen? And which line numbers?

15 MS TAYLOR: [11:41:35] It will be the entire transcript, and I can ask for it to be put
16 on the screen. But then I think the witness would need to see the video.

17 I believe we're ready. So I'll be playing it now with sound.

18 (Viewing of the video excerpt)

19 THE INTERPRETER: [11:42:14](Interpretation of the video excerpt)

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

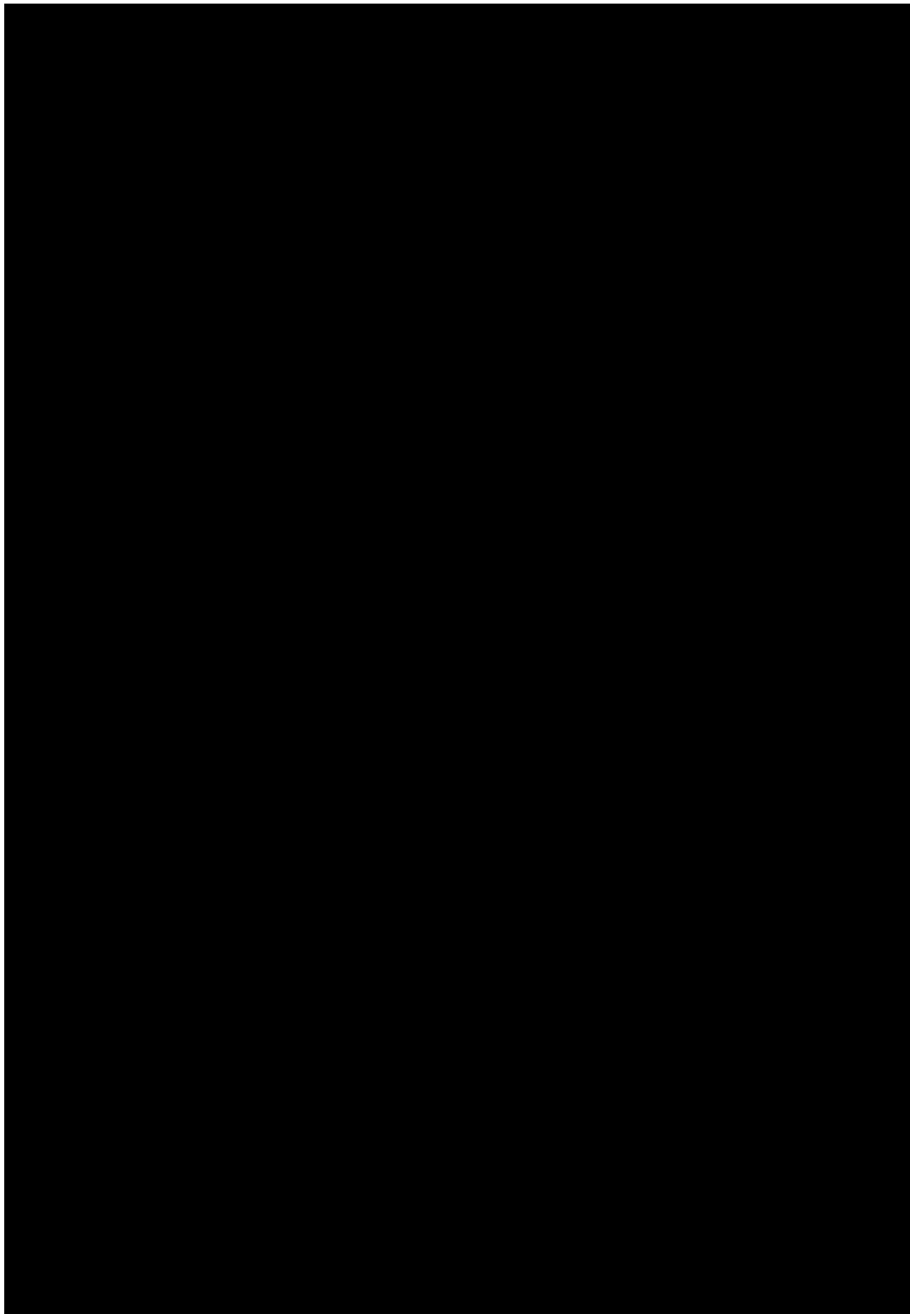
25 MS TAYLOR: [11:43:35]

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Pursuant to the Trial Chamber X's directions, ICC-01/12-01/18-789-AnxA, dated 6 May 2020, the lesser-redacted version of the transcript is filed in the record of the case.

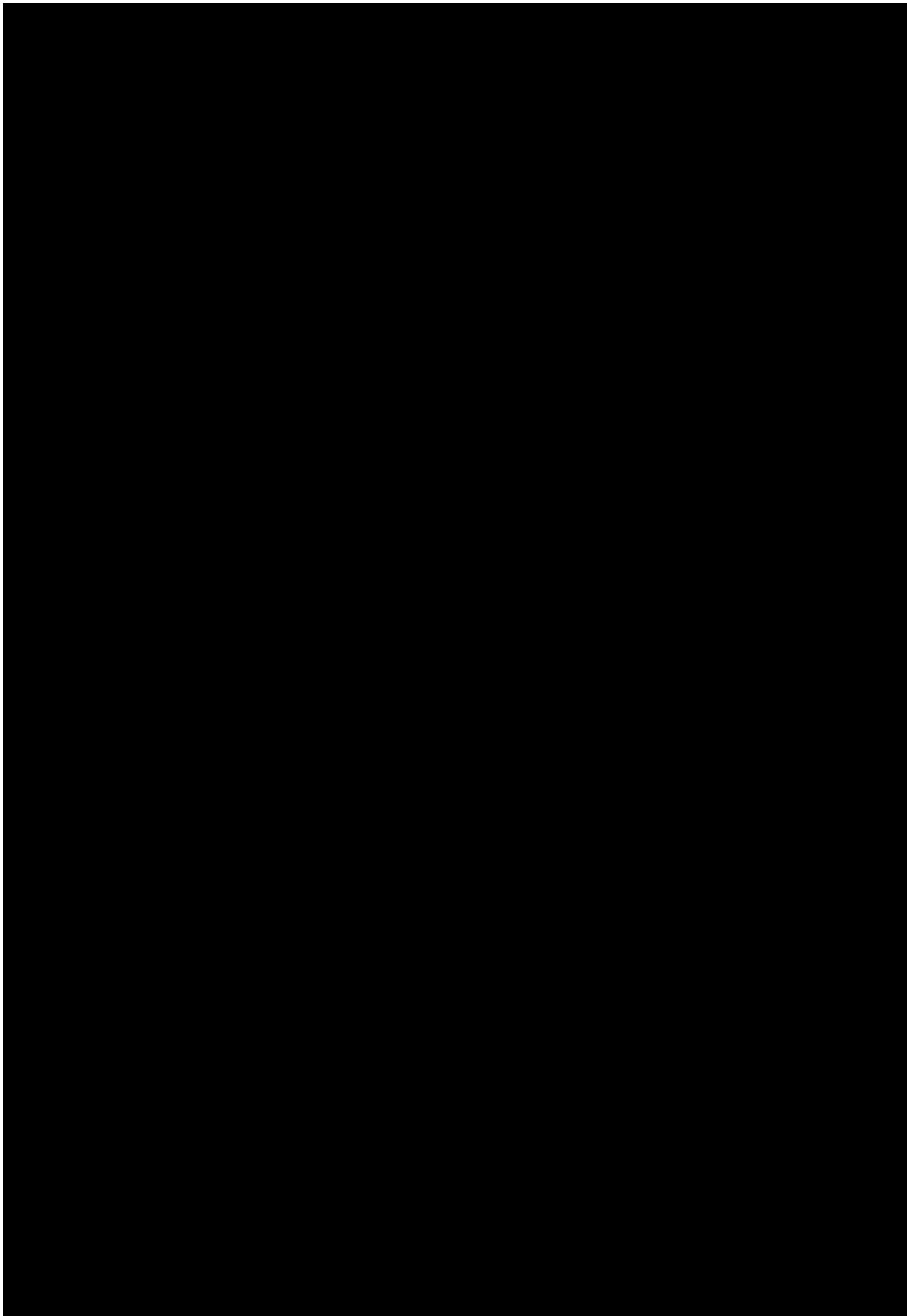
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MS TAYLOR:

Q. [11:52:51] If we can turn to OTP tab 1308, [REDACTED]. This is your interview of [REDACTED]. Looking specifically at page 0447.

THE COURT OFFICER: [11:53:27] Would counsel kindly confirm what redacted version.

MS TAYLOR: [11:53:34] R02.

Q. [11:53:37] It says, talking at line 191:

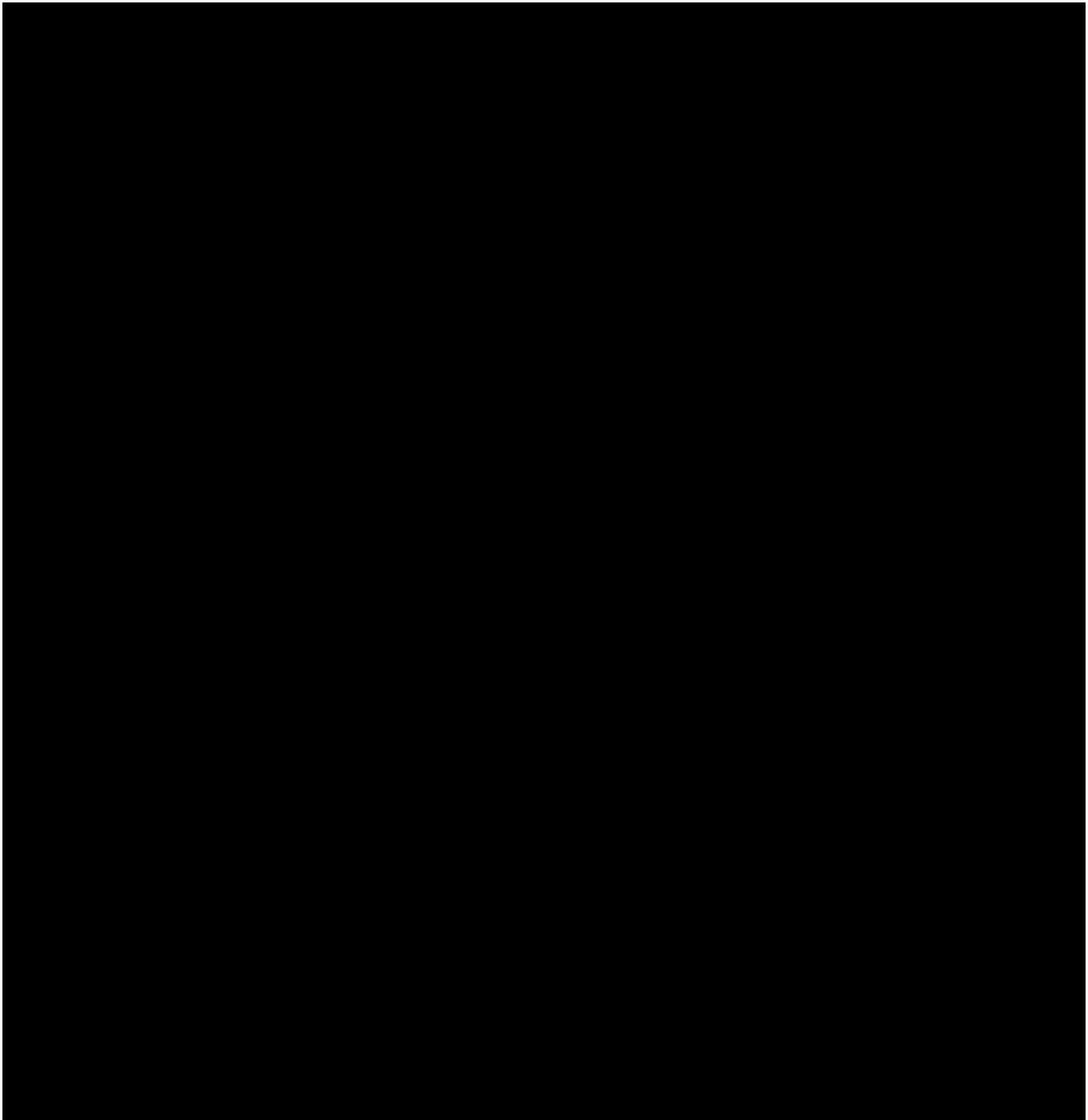


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MS TAYLOR: [11:56:32] If we could bring up Defence tab 151, that's



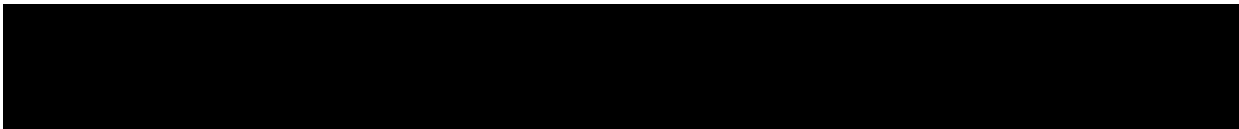
Q. [11:56:47] And the Arabic, Mr Witness, for you, is Defence tab 150,



Mr Witness, do you have that tab with you?



1



2

3



Can you see those photos, Mr Witness?

4

A. [11:58:40] Yes. And that's something normal for me, as I said.

5

Q. [11:58:47] Just for the record, which group do the people in the photos belong

6

to?

7

A. [11:58:54] The Islamic police.

8

MS TAYLOR: [11:59:06] If we could bring up Defence tab 124, that's

9



. If that could be shown on evidence 1.

10

Q. [12:00:03] Do you recognise this location?

11

A. [12:00:05] Yes, I think so.

12

Q. [12:00:16] Do you recognise any of the individuals?

13

A. [12:00:22] Some faces are familiar, but I don't remember the names.

14

Q. [12:00:36] Do you recall which group or organ they belong to?

15

A. [12:00:54] Yes. The Islamic police.

16

Q. [12:00:57] And for the record, what is the location you recognised?

17

A. [12:01:04] This is the first headquarters of the Islamic police.

18

Q. [12:01:14] And what does the photograph appear to show?

19

A. [12:01:20] Apparently it is the meal that is being offered to the poor.

20

Q. [12:01:39] Mr Witness, can you explain to the Chamber what the Ganda Koy is?

21

A. [12:02:05] Yes. Ganda Koy is a local militia comprising uniquely Malian

22

citizens with dark skin. There are no Tuaregs or any Arabs in their midst. They are

23

against the Arabs and the Tuaregs. This militia was set up by retired officers from

24

the Malian army. They created this militia which then went on to perpetrate

25

wide-scale massacres and crimes against the tribes of the northern part of the country.

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1 Most of these members are Songhai. They are called Ganda Koy, which means
2 people from the land in Songhai.

3 Q. [12:03:19] And was the Ganda Koy itself or any members associated with the
4 Ganda Koy present in Timbuktu in 2012?

5 A. [12:03:34] No, not at all. But they are accused -- or some of their members have
6 been accused of infiltrating Timbuktu with a view to making the most of some of the
7 fissures in security on the occasion of attacks upon Timbuktu on the part of the
8 jihadists. I think some of them had members infiltrated in the sports teams that were
9 authorised to carry out sport activities within the various sport areas in the city of
10 Timbuktu.

11 Q. [12:04:25] Were there any particular sport teams? By that I mean football,
12 basketball.

13 A. [12:04:41] We do have a football pitch in Timbuktu, and some young people
14 play football on this pitch. 

15

16

17 Q. [12:05:09] Now, both before and during 2012, were there people or groups in
18 Timbuktu that were opposed to people with light skin for racist reasons?

19 A. [12:05:33] Yes, that is true. And this dates back a long way. It is historic.

20 Q. [12:05:53] And did this play a role in why some factions of the population were
21 opposed to Ansar Dine, that is, because they were opposed to the idea of
22 white-skinned people patrolling the streets of Timbuktu?

23 A. [12:06:23] Yes. And as I have already explained to the Prosecution when they
24 put questions to me as to the reaction of the population, I told them that some parts or
25 factions of the population were against the jihadists for the only reason that they were

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1 light skinned and because they were patrolling the town. And this was on racist
2 grounds, yes.

3 Q. [12:06:55] Are you aware of any rumours or false allegations that were spread in
4 2012 against Tuaregs and Arabs due to racism?

5 A. [12:07:28] In 2012? No.

6 Q. [12:07:32] You've mentioned disputes between the tribe of Mohamed Moussa
7 and Imam Daoud. Did tribal disputes play a role as concerns people accusing each
8 other of things in 2012?

9 A. [12:08:03] These conflicts are based on the differences that we are discussing.
10 Most of these were based on racism or conflict of interest or in fact competition of
11 interests. Because these people lived in the same region, they had agricultural
12 activities and land pasture, and this gave rise to conflicts between them.

13 Q. [12:08:35] Now, is it correct that as emir over Timbuktu, Abou Zeid did not
14 discriminate between different ethnicities or groups?

15 A. [12:08:58] Yes, that is 100 per cent true.

16 Q. [12:09:00] And it's correct that he would hear and listen to complaints from all
17 ethnicities and complaints in Timbuktu?

18 A. [12:09:15] Yes. And with a faithful ear. This is his very own doctrine.

19 THE INTERPRETER: [12:09:26] Note from the French booth: The witness is
20 beginning to talk or answer before interpretation of Ms Taylor's answer in
21 French -- the question has been interpreted into French.

22 PRESIDING JUDGE MINDUA: [12:09:43](Interpretation) Mr Witness, have you
23 heard the comment from the interpreters? You need to observe pauses, please.

24 MS TAYLOR: [12:09:57]

25 Q. [12:09:57] Thank you, Mr Witness. If you wouldn't mind pausing before

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1 responding to my questions. Thank you very much.

2 Now I'll be referring to Defence tab 237 of the Defence binder. That's transcript 78,
3 the English confidential version, page 59, lines 12 to 16. But these should not be
4 shown to the witness.

5 And if the interpreters could kindly give me a sign if they've identified the tab, the
6 page being page 59.

7 THE INTERPRETER: [12:10:56] Message from the interpreters: I do not believe this
8 transcript is in eCourt.

9 THE COURT OFFICER: [12:11:01] Counsel, unfortunately, we do not have the item
10 in eCourt. So it cannot be displayed from our end.

11 PRESIDING JUDGE MINDUA: [12:11:14](Interpretation) Ms Taylor, neither do I
12 have it in the tab in question.

13 THE INTERPRETER: [12:11:20] Message from the English booth: The
14 English booth does not have it either. Thank you.

15 MS TAYLOR: [12:11:24] I apologise, Mr President. I understand that these aren't
16 normally in eCourt because they're actual transcripts. So I'll speak very slowly.

17 According to Prosecution Witness P-646, "Information communicated or provided by
18 the rebels or the insurgents through the media" --

19 PRESIDING JUDGE MINDUA: [12:11:54](Interpretation) Mr Prosecutor.

20 MR DUTERTRE: [12:11:56] (Interpretation) We could at least have the ERN number,
21 even if we don't have it in the binders. It could have been put in the binders to
22 facilitate everyone's work. We don't have the document. We don't know whether
23 it's going to be quoted in its entirety, whether the paragraph before or after should be
24 read, to be fair to the witness. So this is really getting -- taking us by surprise on a
25 permanent level here.

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1 PRESIDING JUDGE MINDUA: [12:12:26](Interpretation) The ERN number would
2 be very useful in these conditions.

3 MS TAYLOR: [12:12:28] Thank you, Mr President. As the Prosecutor might be
4 aware, transcripts in this case do not have ERN numbers. This is a transcript of a
5 Prosecution witness who testified. They're not available in Ringtail. They have
6 transcript numbers, not ERN numbers. That's been the practice that's been used for
7 this entire trial up to this point in time. And the decision on the conduct of the
8 proceedings states that for the record, we are obliged to give the transcript reference.
9 But they're not considered to be evidence per se. So this has been the practice we've
10 followed for every witness up until this point.

11 PRESIDING JUDGE MINDUA: [12:13:20](Interpretation) But has the number of the
12 transcript been given clearly? The text is running on, but do check. And if you
13 haven't given it, please give it.

14 MS TAYLOR: [12:13:36] Thank you, Mr President. I'll give it again. It's transcript
15 78, page 59, lines 12 to 16. For the record, this is Prosecution Witness P-646.

16 And I'll read it out:

17 "Information communicated or provided by the rebels or the insurgents through the
18 media is information that we forward as is. However, from experience, from our
19 experience, we know that it's for the purposes of making an impact on people's lives.
20 And that is why the strengths or manpower numbers provided by these groups -- the
21 numbers are always inflated. That will be all."

22 Q. [12:14:50] Mr Witness, based on what you saw or heard, did the rebel groups,
23 that is, MNLA or Ansar Dine, exaggerate their victories or military strength in order
24 to create an appearance of power?

25 A. [12:15:21] No. I do not believe that they exaggerated.

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1 Q. [12:15:32] Now, in the English transcript, transcript 88, real-time, page 42, lines
2 18 to 20, you testified that the MNLA started very mild attacks in the area Anefis and
3 the area near the Algerian border, including the area of Anefis.

4 At page 43, lines 5 to 6, you said this occurred in November 2012.

5 And I have some follow-up questions. And to do so, I'll bring up Defence tab 16,
6 that's MLI-D28-0005-2450. If that could be shown on evidence -- I haven't even
7 asked a question yet.

8 PRESIDING JUDGE MINDUA: [12:16:43] *Monsieur le Procureur*.

9 MR DUTERTRE: [12:16:44](Interpretation) I'm coming back to something here.
10 She's referring to the real-time version of the transcript. There is an edited version.
11 So we had alerted the Chamber for the edited version to be produced for the
12 cross-examination. It would be a good idea for the Defence to use the edited version
13 rather than the real-time version, which will not be used by anyone in the long run.
14 And I was wasting my time or losing time finding it in the edited version when she
15 was referring to the real-time version.

16 PRESIDING JUDGE MINDUA: [12:17:21](Interpretation) There we go.

17 Ms Taylor, did you hear what was said?

18 MS TAYLOR: [12:17:25] Thank you, Mr President. The edited version is page 34,
19 lines 6 to 7.

20 Q. [12:17:51] Now, Mr Witness, this is an article. Do you see it? It's written by
21 Baba Ahmed. It's dated March 2012. If we could scroll down, it refers -- it includes
22 an individual called Bilal Ag Sherif.

23 If we could scroll. I think it's the next page, 2451.

24 In the meantime, Mr Witness, do you know, who was Bilal Ag Sherif?

25 A. [12:18:46] I just have a remark to make. You say that I said to the OTP that

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1 there were attacks in November 2012. But in fact, it was in November 2011. Now,
2 if anything else was transcribed or written, it might be an error on my part or an error
3 of interpretation.

4 Now, yes, Abou Sherif (phon) is the political leader of the MNLA. And at the time
5 when the question was put to me, I had forgotten his name.

6 Q. [12:19:32] Yes, Mr Witness. It should have been 2011. So thank you for that
7 clarification.

8 If we could look at page 0252. This is paragraph 6 on that page. And as I remind
9 you, this is an article from March 2012.

10 It says: "Ag Alsherif said he was speaking Friday from 'very near to Kidal, you
11 could say I am almost in Kidal,' the northern government stronghold that is his next
12 target. He said his men took the garrison of Anefis, a town south of Kidal, without a
13 fight on Thursday."

14 Mr Witness, when you referred to "very mild attacks," is it possible that no active
15 fighting was involved in the takeover of Anefis?

16 A. [12:21:36] Yes, that is true. And if there was fighting, it was an exchange of
17 gunfire but not true fighting or anything worthy of note in terms of events.

18 Q. [12:21:52] In the third paragraph, the article says: "The fears of a possible
19 counter-coup come as rebels from the Tuareg ethnic group pushed towards three
20 strategic northern Malian towns, including the famed ancient city of Timbuktu, taking
21 advantage of the power vacuum caused by the coup."

22 Now, did the coup in Bamako lead the Malian army to desert their positions in the
23 north or did it contribute to it?

24 A. [12:23:02] Yes. It is one of the factors, and I did tell the OTP it is one of the
25 factors alongside others.

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1 Q. [12:23:10] Now, according to this article, Bilal Ag Alsherif also said that the
2 command of the West African nation's army is in disarray and his movement, that is,
3 that of Bilal Ag Alsherif, is taking advantage to fight for an independent nation for the
4 lighter skinned Tuaregs who have long felt marginalised by the capital.

5 Mr Witness, based on what you yourself have seen and heard, did this issue of
6 marginalisation by the capital play a role in why people joined the groups and why
7 the groups were fighting for independence?

8 A. [12:24:22] The question isn't very clear. Marginalisation was maybe the motive.
9 I wouldn't refer to it as marginalisation, but I would say, rather, that it was a
10 systematic weakening of the north. And this was one of the motives for the
11 members of the light-skinned tribes to join the Azawad revolution.

12 Q. [12:25:04] Mr Witness, can you explain what you mean by "systematic
13 weakening of the north"?

14 A. [12:25:29] The weakening of the politicians on the Azawad front. They were
15 very, very specific when they said they were weakened, and they talked about the
16 various methods that had been used. And on occasion, they would exaggerate, but
17 they had been completely sidelined from political life in a very blatant manner. And
18 this is how the people who were qualified from French schools, for example, and
19 those who had qualified from the Republic of Mali could not reach important
20 positions after having obtained their diplomas because of the colour of their skin,
21 which meant that they could not occupy sensitive positions such as positions of
22 command within the army or within institutions or such that are considered to be the
23 backbone or the nerve point, if you like, of the Malian state.

24 Their counterpoint -- parts were in charge of managing the affairs of the north, which
25 means that a Malian could be appointed in the north who was not a Tuareg. He

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1 might get a position of governor without being a Tuareg, whereas, somebody from
2 the north could not be appointed in the south of the country as a governor. And this
3 shows just how much these people were ostracized and distanced. The
4 white-skinned Tuareg tribes were involved in enslaving dark-skinned people,
5 subsequent to which the Malian government, *rather than put in place plans to end
6 this discord, it made it worse, and said to the black-skinned Tuareg: We shall support
7 you and you can occupy those lands controlled by your masters. This was of course
8 said under-the-table. So that when there were problems between the whites and the
9 blacks or, rather, the black will be triumphant before the governor and before the
10 legal systems because the white person will be told that in the past they had enslaved
11 the blacks and revenge would be sought against those white people. And for the Kel
12 Ansar tribes, this applied. Furthermore, there were projects to divert the water
13 supplies from those regions inhabited by the whites to other regions. And the black
14 people who lived in those new regions were told that they should leave that region in
15 order to go to a region that had water supply.

16 So without taking into account the massacres and violence that occurred because of
17 them being accused of very benign acts, all of this were examples of violent acts
18 perpetrated by the Malian government. And the Azawad literature has many a tale
19 to tell, even though often they are accused of exaggeration.

20 Q. [12:30:05] Now, on the first day of your testimony, that's transcript 88, page 35,
21 lines 19 to 21 of the edited version, you explained why you didn't go to Bamako.
22 You said, "some problems happened in Bamako itself where it was characterised by
23 racism as some of the light-skinned people were discriminated against."

24 PRESIDING JUDGE MINDUA: [12:30:27](Interpretation) Prosecution.

25 MR DUTERTRE: [12:30:34](Interpretation) I won't rise unless -- well, if we don't

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1 have the page and line numbers.

2 PRESIDING JUDGE MINDUA: [12:30:41](Interpretation) Ms Taylor.

3 MS TAYLOR: [12:30:42] Mr President, I did give them. I don't know why they're
4 not in the transcript. I will say them again. But I think the Prosecutor can also hear
5 me. And I did say transcript 88, the edited version, page 35, lines 19 to 21.

6 PRESIDING JUDGE MINDUA: [12:31:13](Interpretation) That is fine.

7 MS TAYLOR: [12:31:19]

8 Q. [12:31:21] Now, Mr Witness, on the first day of your testimony, you explained
9 why you didn't go to Bamako. And you said, "some problems happened in Bamako
10 itself where it was characterised by racism as some of the light-skinned people were
11 discriminated against as they were looked at as people who were causing trouble in
12 the northern areas of the country."

13 Now, Mr Witness, when you referred to "some problems happened in Bamako itself
14 where it was characterised by racism..." Can you explain what you mean or what you
15 were referring to by these problems?

16 A. [12:32:31] Yes. I do know what I already said. Each time there was a
17 revolution in Azawad, the Azawad people were killed and the sympathisers of the
18 revolution were killed out of vengeance. I thought that that idea had gone away
19 during the presidency of Amadou Toure. I thought that he had tried to reduce
20 dissent and racial conflict. I thought that the situation had changed, so I said to
21 myself and I said to my neighbours in the region [REDACTED] they were afraid
22 of the Malian army in Ganda Koy. I said to them, things have changed now.
23 Things are different now. There will no longer be any summary executions because
24 of racism or for a racist reasons. But a few days after trying to reassure [REDACTED]
25 [REDACTED] I learned that the people living in Bamako had tried to kill a number of

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1 Tuareg people and a number of Arab traders, merchants, in Bamako because of their
2 skin colour and the government tried to keep them from doing that. One person
3 who had one parent who was an inhabitant of Bamako and he was dark skinned, he
4 had a pharmacy in Bamako. His pharmacy was torched because it was owned by a
5 person from the north, by a Tuareg person, someone from the Tuareg tribes.

6 I also know of one person [REDACTED]

7 Even though he looked at himself in the mirror, he no longer remembered that he was
8 white skinned because he had lived amongst the black inhabitants of Bamako.

9 Despite that, he was humiliated and beaten. I was very sad when I learned of all
10 that, and I decided to leave the country.

11 Q. [12:35:25] Now, Mr Witness, is it correct that you weren't present when
12 Aguelhok, Tessalit, or Kidal were taken over?

13 A. [12:35:47] Yes, that's true.

14 Q. [12:35:49] So is it correct that what you've known about these takeovers is based
15 on what you learnt from others or what you saw on the internet?

16 A. [12:36:11] Yes, that is correct.

17 MS TAYLOR: [12:36:12] I'm going to play a video that was shown to you in
18 examination-in-chief by the Prosecution, and it's OTP tab 995. That's
19 MLI-OTP-0001-0052. I'm going to play it without sound to start with, but I'll give the
20 references to the transcript and the translation for the interpreters. The transcript is
21 tab -- OTP tab 996. That's MLI-OTP-0033-5148. The translation is tab 997, that's
22 MLI-OTP-0033-5296. And we'll play it on evidence 2 from the 26:05 second mark for
23 a couple of seconds.

24 (Viewing of the video excerpt)

25 MS TAYLOR: [12:39:05] Sorry. I forgot my microphone. We're stopped

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1 at 26:11:21.

2 Q. [12:39:10] Mr Witness, do you recognise the person on the screen?

3 A. [12:39:15] Yes. Oumar Ould Hamaha is the person.

4 Q. [12:39:30] So we're going to play with sound from 26:05 to 28:10. And for the
5 interpreters the lines of the transcript are lines 361 to 400. And if they could kindly
6 give me a sign to let me know when they're ready.

7 THE INTERPRETER: [12:40:14] (Interpretation of the video excerpt)

8 Sight translation:

9 "OOH: So they fled; now, them, they said to the mujahideens that we, we're going to
10 help one another now to take Tessalit. They say that 'No, no, no. We, we are
11 fighting for the name of religion. You, you are fighting for your independence ...
12 your goal is well established. Leave us alone and you guys take care of Tessalit.' So
13 they said to us: 'Leave us, give us time, 72 hours. So they -- so they did 72 hours to
14 attack Amachach, 72 hours. But the army, each time they come, the army sends
15 them back because the army isn't very well positioned. Each time they come and
16 carry out an offensive, the army repels them.

17 Unidentified speaker: That was in February ...

18 OOH: So they lost a lot of [incomprehensible], many men, and thus, do you see?

19 So for 72 hours, they were not able to destroy Tessalit. So they gave us

20 [incomprehensible] a bit the third day, they said, 'Saffi, us, we, we can't do anything.'

21 They left. At that same time now, we, we sent someone to say: 'Listen, we, we are

22 the mujahideen, you mustn't ... you must surrender because we, we do not want to

23 destroy you. We, our war is a holy one.' As soon as the army found out that they

24 were mujahideen, they started to ...

25 Unidentified speaker: Withdraw?

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1 OOH: Without even ... give up even. Others tried to flee and others tried to
2 surrender. And the headquarters of Tessalit was taken without a single bullet fired,
3 because once they found out that it was Ansar Dine who was coming in, well, they
4 know that Ansar Dine, it's ... they're going to win or they're going to die, no more
5 than that, no less than that. So they started to surrender."

6 End of sight translation.

7 MS TAYLOR: [12:43:14]

8 Q. [12:43:14] Mr Witness, is it correct that this person who's speaking, Oumar Ould
9 Hamaha, is he explaining that the mujahideen gave the Malian army a warning and
10 asked them to leave?

11 A. [12:43:51] I heard the version -- or one version about this assault, attack. I was
12 not very -- well, I didn't take any particular interest in the details of the attack and the
13 preferences of the MNLA and the mujahideen in this attack. What I remember -- the
14 only thing I remember is that they cooperated so as to destroy the camp beside
15 Tessalit, and there was tremendous resistance. But then and ultimately they were
16 able to gain defeat and take the camp.

17 Q. [12:44:37] Now, Mr Witness, according to this transcript, the person speaking,
18 Oumar Ould Hamaha, said "*Et le siège de Tessalit a été pris sans aucune balle.*"

19 So would it be correct that there was no direct --

20 PRESIDING JUDGE MINDUA: [12:44:59](Interpretation) Prosecutor.

21 THE INTERPRETER: [12:45:02] Overlapping speakers.

22 MR DUTERTRE: [12:45:05](Interpretation) Asked and answered. The witness is
23 responding on the basis of his knowledge, and there you have it. You can repeat the
24 question until the cows come home, but the witness has answered. He has given an
25 answer. We can try to have him speculate about what Omar might have said, but

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1 the witness has given his evidence. Thank you.

2 PRESIDING JUDGE MINDUA: [12:45:35](Interpretation) Prosecution. The
3 Defence has not yet put its question, in any event, or at least judging by what I've
4 heard.

5 Ms Taylor, did you already put the witness?

6 MS TAYLOR: [12:45:45] No, Mr Wit -- no, Mr President. I didn't. And I would
7 ask the Prosecutor -- I'm sorry. I would ask the prosecutor not to make objections on
8 substance in the presence of the witness. If the Prosecutor wants to make an
9 objection to my questions, they should ask the witness to leave, but it's not
10 appropriate to go into the content in front of the witness.

11 So if the Prosecutor wishes to pursue this line of argument, I do believe it's
12 appropriate for them to ask the witness to leave. If not, I ask them to withdraw their
13 objection.

14 PRESIDING JUDGE MINDUA: [12:46:28](Interpretation) Prosecution.

15 THE INTERPRETER: [12:46:28] Mr Duterte, microphone, please.

16 MR DUTERTRE: [12:46:32](Interpretation) The answer -- I can see the answer
17 coming. That's why I objected. And I think we're very close to asked and answered.
18 Nothing that I said influenced the witness, these that are -- that were said in front of
19 him, and this is his own evidence. But if -- if Ms Taylor puts her question, we will
20 see whether we're in the realm of asked and --

21 THE INTERPRETER: [12:46:55] Overlapping speakers.

22 PRESIDING JUDGE MINDUA: [12:46:57](Interpretation) Put your question.

23 MS TAYLOR: [12:47:02] Thank you, Mr President.

24 Q. [12:47:05] Now, Mr Witness, according to this transcript - and I'm referring to
25 page 5158, line 373 - the speaker, Oumar Ould Hamaha, said (Interpretation) "And

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1 Tessalit was taken without a single bullet."

2 (Speaks English) So, Mr Witness, from what you heard, is it correct that there was no
3 direct combat at Tessalit?

4 A. [12:47:53] No, that's not what I heard. I said that [REDACTED] gave me an account
5 of their occupation of the Amachach camp besides Tessalit. If we're talking about
6 the same thing, about Amachach a few kilometres west, there was tremendous
7 resistance and there was fighting.

8 Q. [12:48:22] Now, is it correct that [REDACTED] told you that the Malian soldiers at
9 Aguelhok fought to the death and that none of them had been surrendered or taken
10 prisoner?

11 A. [12:48:43] I don't remember him saying that there had been no prisoners taken,
12 but he did say that they fought to the death. They truly fought ferociously to the
13 death.

14 Q. [12:49:04] And is it correct that you yourself looked up reports on Aguelhok on
15 the internet?

16 A. [12:49:18] Yes.

17 Q. [12:49:19] Now, when you told the Prosecution that [REDACTED] had informed you
18 that all the Malian soldiers had fought to the death, did the Prosecution tell you that it
19 was confirmed that surrendered Malian soldiers had in fact been executed?

20 A. [12:49:59] They did not confirm that. But they said that amongst the
21 information that they received - and I myself said that I had heard that - that the
22 Islamists had executed right on the battlefield the soldiers who had given up in
23 Aguelhok. But [REDACTED] version was that the Malian soldiers fought to the death.
24 And I asked him what was the reason for that fight to the death and he said to me,
25 "The government promised reinforcements, but the reinforcements never reached

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1 them."

2 MS TAYLOR: [12:50:42] If I could turn to tab -- Prosecution tab 1360. That's

3 [REDACTED]. This is a transcript of your interview from

4 [REDACTED] and I'll be looking at page 722, lines 424 to 425. And at these lines,

5 the Prosecutor says to you, after you tell them that there had been -- you had heard

6 that there had not been prisoners of war in Aguelhok, they say, "Uh ... okay,

7 [REDACTED] It is indeed widely -- reported widely and confirmed that such an

8 execution of surrendered soldiers took place in Aguelhok."

9 And then at page -- the next page at 723, lines 427 to 428, the Prosecution says to you:

10 "And you would agree that -- that this is ... that this is not acceptable in any

11 circumstances, right?"

12 Does that refresh your memory, Mr Witness?

13 A. [12:52:37] Yes, but what I meant here was that it was a fact, an event, a reality.

14 But I understood that they had received reports about this, and I, too, had reviewed

15 reports about this. So I wasn't in disagreement. I did not think differently in

16 respect of this matter.

17 Q. [12:53:15] Mr Witness, do you recall if this happened at other points in your

18 interviews, that is, that the Prosecution told you that the information you gave them

19 was contradicted by confirmed facts?

20 A. [12:53:36] Yes, I believe so, even though I don't have examples to give. But

21 I know that it happened several times.

22 Q. [12:53:49] Now, the name Al Ansari, is that used by Tuareg members of the

23 Kel Ansar tribe?

24 A. [12:54:09] Yes.

25 Q. [12:54:10] And the word "ansar" in Arabic, does this refer to helper?

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1 A. [12:54:26] Yes.

2 Q. [12:54:33] And in Islamic tradition, did the Ansar take the Prophet, peace be
3 upon him, and his followers into their homes during the Hijrah?

4 A. [12:55:01] Yes. That is why they are called Al Ansari. They are Arabs from
5 the Aws tribe in Yemen, and they lived in the Medina, they lived in the city of Medina.
6 They visited the prophet when they took refuge there in Yathrib. Yathrib became
7 Medina, and they bore the name of Ansar.

8 Q. [12:55:34] So is it correct that people or persons who aren't Tuaregs and who
9 have no association with the Kel Ansar tribe might use the name Al Ansari?

10 A. [12:56:00] Yes, that was the result of the Kel Ansar tribe's control over hundreds
11 of years. There were Kel Ansar kings who controlled the tribes in the region and
12 fought against Barabish and Baribakar (phon) who were Arab tribes in Mauritania.
13 Kel Ansar was very strong at the time and other weaker tribes took on that name and
14 were called Al Ansari. And there were also marriages between some people living
15 in Saudi Arabia who were linked by marriage. They are also called Al Ansari, and
16 other tribes that are related to them as well and Mawali too. So there were several
17 factors that -- that led to this name being used widely. And the name is used
18 generally by people who are not necessarily part of the tribe, of the Kel Ansar tribe.

19 Q. [12:57:29] Is it correct that Koutaiba was very close to Abou Zeid?

20 A. [12:57:35] What do you mean by "close to"? In terms of the chain of command
21 or in terms of kinship?

22 Q. [12:57:51] The chain of command.

23 A. [12:57:58] Koutaiba was a symbol for the entire group. He was the supreme
24 judge of the group. Everyone took their inspiration from him. All the leaders did.
25 All of the leaders took their inspiration from him.

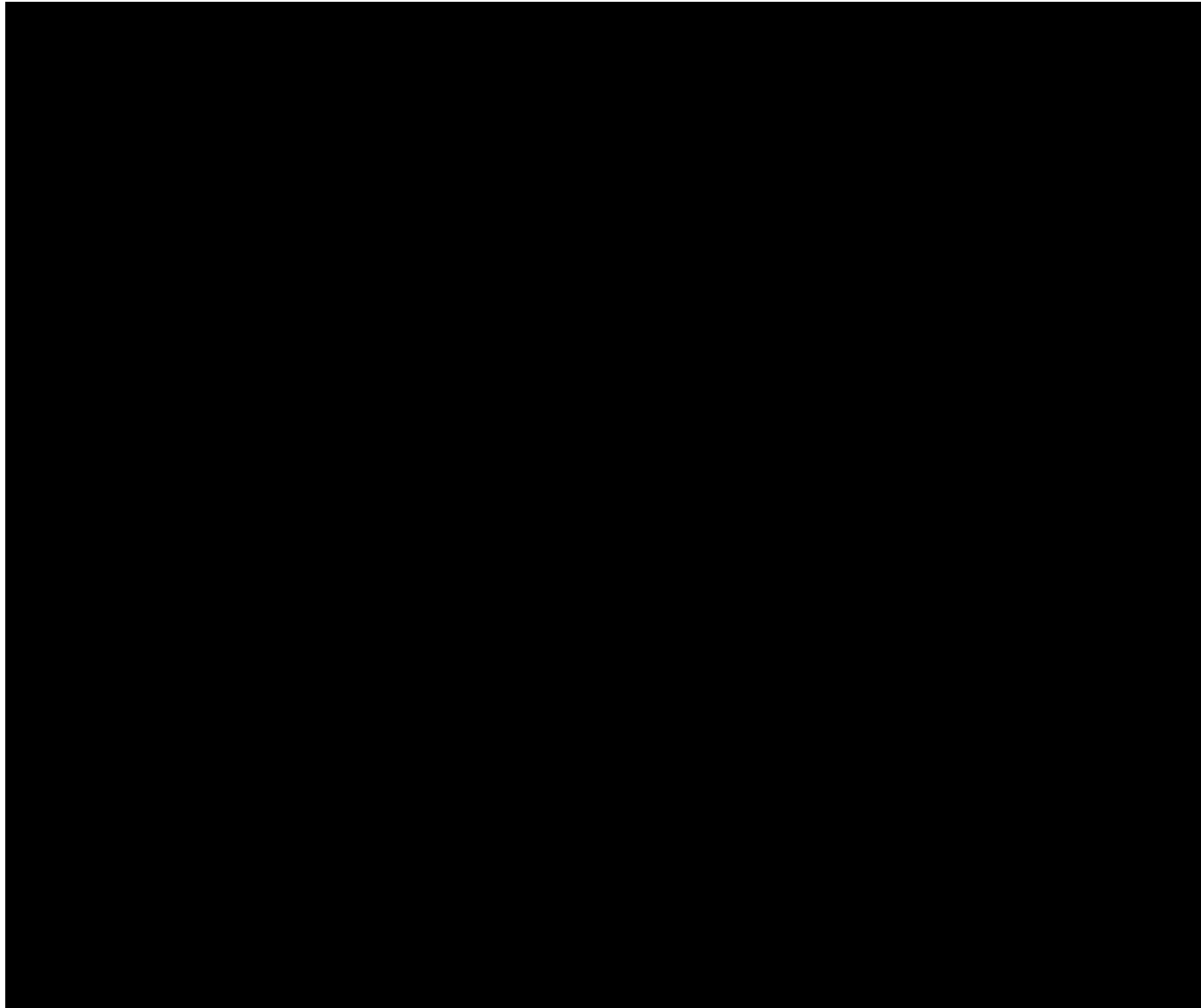
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17 MS TAYLOR: [13:00:40] Mr President, I'm seeing that it's 1 o'clock, if this is a
18 convenient time for the Chamber.

19 PRESIDING JUDGE MINDUA: [13:00:47](Interpretation) Quite so, Ms Taylor. It is
20 1.00 p.m. We will now suspend for the lunch break, and we shall resume at 2.30.

21 The hearing is now suspended.

22 (Recess taken at 1.01 p.m.)

23 (Upon resuming in closed session at 2.32 p.m.)

24 THE COURT USHER: [14:32:58] All rise.

25 Please be seated.

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1 PRESIDING JUDGE MINDUA: [14:33:14](Interpretation) The hearing shall now
2 resume.

3 Defence, kindly continue with your cross-examination. Counsel.

4 MS TAYLOR: [14:33:33] Thank you, Mr President.

5 Q. [14:33:37] Good afternoon, Mr Witness. How are you?

6 A. [14:33:51] I'm well. Thank you very much.

7 Q. [14:33:52] Now, Mr Witness, just before the break - this is page 63, lines 13 to 14
8 of the English transcript - we were discussing [REDACTED]. And
9 you said: [REDACTED]

10 [REDACTED]

11 A. [14:34:35] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. [14:35:15] [REDACTED]

17 [REDACTED]

18 A. [14:35:30] [REDACTED]

19 Q. [14:35:51] [REDACTED]

20 [REDACTED]

21 A. [14:36:00] [REDACTED]

22 Q. [14:36:24] [REDACTED] [REDACTED]

23 [REDACTED]

24 A. [14:36:39] [REDACTED]

25 MS TAYLOR: [14:36:44] If we could bring up Defence tab 252, this is the Arabic,

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1 MLI-D28-0005-6000. The English is tab 253, MLI-D28-0005-6008. If it could be
2 shown on evidence 1. And it's an article titled "The Full Story of the Islamic Emirate
3 in Northern Mali from the Beginning to the French Intervention. Exclusive to the
4 Islamic Media Observatory."

5 Mr Witness, do you have the Arabic Defence tab 252?

6 Just while we wait, Mr President, if I could be guided by the Chamber. There is a
7 series of articles that are part of the series. We disclosed and put on our list of
8 evidence the Arabic versions and English versions. Some of them are -- were
9 disclosed by the Prosecution, and the Arabic text is very difficult to read. So we
10 found the same versions with a better Arabic text. It's not my intention to go into the
11 substance. But in case the witness has difficulties identifying what's given to him,
12 we do have more readable versions. So it's exactly the same version as that which is
13 disclosed by the Prosecution, just the text is clearer.

14 PRESIDING JUDGE MINDUA: [14:39:54](Interpretation) Ms Taylor, this text which
15 is easier to read, has this also been disclosed to the Prosecution?

16 MS TAYLOR: [14:39:58] Yes. I believe it was disclosed this morning. And a
17 colleague wrote an email to the Chamber about it and to the Prosecution asking if it
18 could be included. As mentioned, it's not my intention to go into the text. It was
19 more if the witness has difficulty seeing what's given to him. I can use the other
20 versions, the versions that were disclosed last week, but the text is quite difficult to
21 read.

22 PRESIDING JUDGE MINDUA: [14:40:28](Interpretation) Thank you very much,
23 Ms Taylor. I don't see any problem with that.

24 Prosecution, you don't either I hope.

25 MR DUTERTRE: [14:40:39](Interpretation) I think everyone here is a professional.

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1 So I'm sure it's exactly the same but just easier to read. No surprises.

2 PRESIDING JUDGE MINDUA: [14:40:47](Interpretation) Very well.

3 Ms Taylor.

4 MS TAYLOR: [14:40:52]

5 Q. [14:40:53] So, Mr Witness, do you have Defence tab 252 in front of you?

6 A. [14:41:07] Yes.

7 Q. [14:41:08] Can you describe what this is.

8 A. [14:41:15] [REDACTED]

9 [REDACTED]

10 MS TAYLOR: [14:41:45] Now I'm just going to go through the different parts for the
11 record. So I'll be giving a series of MLI references, and I'll do so slowly for the
12 interpreters.

13 But just for the witness's benefit, we will be going through Defence tabs 252 in Arabic,
14 254, 256, 258, 260, 262 and 264.

15 So just if the witness has those tabs with him.

16 And I'll now go through the specific MLI references.

17 So part two is Defence tab 254 in Arabic, that's MLI-D28-0005-6019. The English is
18 tab 255, that's MLI-D28-0005-6024.

19 Part three is tab 256, that's the Arabic, that's MLI-D28-0005-6030. The English is tab
20 257, that's MLI-D28-0005-6034.

21 Part four is tab 258 in Arabic, that's MLI-D28-0005-6039. The English is tab 2659, and
22 it's MLI-D28-0005-6053.

23 Part five is tab 260 for the Arabic, that's MLI-OTP-0010-0358. And the more readable
24 Arabic version is MLI-D28-0005-6127. The English is tab 261, MLI-OTP-0024-0007.

25 Part six is tab 262 is the Arabic, MLI-OTP-0017-0002. The more readable version is

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1 MLI-D28-0005-6136. The English is tab 263, that's MLI-D28-0005-6073.

2 Part seven, the Arabic is tab 264, it's MLI-OTP-0024-2882. The more readable Arabic
3 version is MLI-D28-0005-6145. And the English is tab 265, MLI-D28-0005-6098.

4 Q. [14:48:47] Mr Witness, do you have seven parts in front of you?

5 A. [14:49:05] Yes.

6 Q. [14:49:06] And are they part of the same series?

7 A. [14:49:11] Yes.

8 Q. [14:49:17] Are you familiar with each of the seven parts?

9 A. [14:49:21] No, not at all.

10 Q. [14:49:32] [REDACTED]

11 A. [14:49:43] [REDACTED]

12 [REDACTED]

13 Q. [14:50:07] In these parts, did you see photos from Timbuktu and Gao?

14 MR DUTERTRE: [14:50:21](Interpretation) Your Honour.

15 PRESIDING JUDGE MINDUA: [14:50:25](Interpretation) Prosecution.

16 MR DUTERTRE: [14:50:27](Interpretation) Could Ms Taylor be more specific?

17 *Which parts are we talking about? There are seven documents, of which the Witness
18 has already said he is not familiar with [REDACTED]

19 [REDACTED] And which parts are we talking about?

20 It's too general, the witness can't find his way.

21 PRESIDING JUDGE MINDUA: [14:50:50](Interpretation) Ms Taylor, could you be
22 more -- a bit more specific.

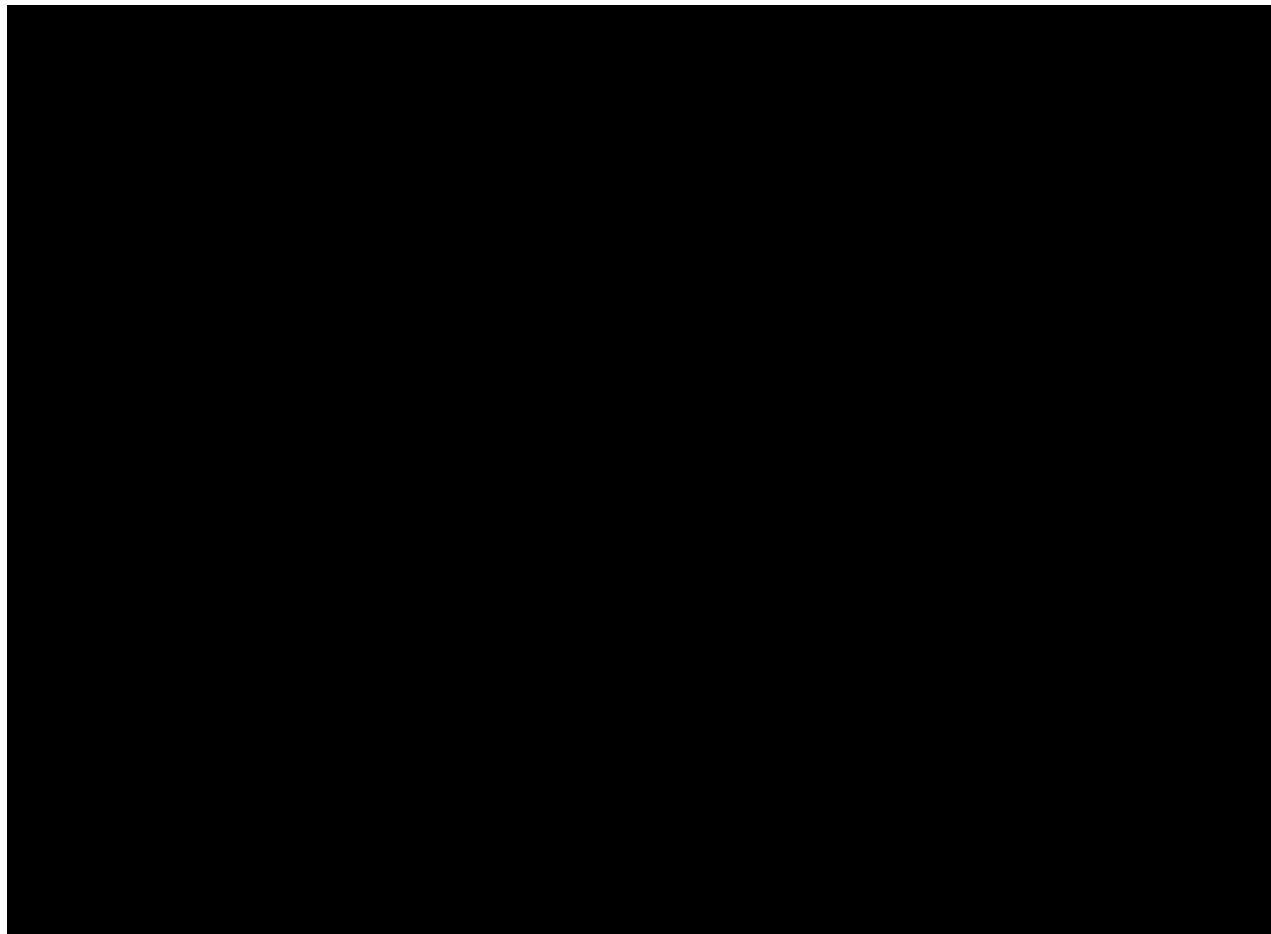
23 MS TAYLOR: [14:50:53] Thank you, Mr President, but I believe that the Prosecutor
24 might have been a bit premature because my question is actually a general question
25 that I'll get to. I don't intend asking the witness about specific photos.

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14 MS TAYLOR: [14:52:54] If I could bring up Prosecution tab 1278. It's
15 MLI-OTP-0024-0015. That's the English translation. And the Arabic is tab 1277.
16 That's MLI-OTP-0010-0088. This is a Prosecution exhibit.

17 Q. [14:53:33] Mr Witness, do you have Prosecution exhibit tab 1277? I believe it's
18 going to be given to you now.

19 This is an interview given by Sheikh Abdoul Aziz Habib in December 2013.

20 Does this appear to be the same, or part of the same series?

21 A. [14:55:02] Yes, exactly. [REDACTED]

22 Q. [14:55:17] I guess we'll leave that there.
23 Just for the record -- thank you very much.

24 [REDACTED]

25 A. [14:55:52] [REDACTED]

1 Q. [14:56:16] And it was based on facts?

2 A. [14:56:20] [REDACTED]

3 [REDACTED]

4 PRESIDING JUDGE MINDUA: [14:56:29](Interpretation) Prosecutor.

5 THE INTERPRETER: [14:56:31] Overlapping speakers.

6 MR DUTERTRE: [14:56:35](Interpretation) If we are going to put questions to the
7 witness, the witness needs some time to review the documents. He needs to review
8 the documents and refresh his memory. That's really the only way he can answer
9 Ms Taylor's questions. It's just a matter of being fair to him.

10 PRESIDING JUDGE MINDUA: [14:56:57](Interpretation) You are correct. But I am
11 concerned because this is a 33-page document.

12 Ms Taylor, how are you going to go about this? Perhaps could you give the witness
13 some time to glance at the document or have a look at it all?

14 MS TAYLOR: [14:57:22] Thank you, Mr President. I'm mindful that we're in the
15 presence of the witness. So I could go into more detail without the witness being
16 present. But the Prosecution is very well aware that this is a Prosecution document
17 that has been shown to the witness by the Prosecution.

18 PRESIDING JUDGE MINDUA: [14:57:43](Interpretation) Prosecution.

19 MR DUTERTRE: [14:57:46](Interpretation) We have shown all kinds of materials to
20 the witness, and now the witness needs some time to refresh his memory.

21 And these questions from Ms Taylor are extremely general. *The last question: "was it
22 established on facts?" based on a thirty-page document, neither the scope of the
23 question nor that of the answer are of any assistance to the Chamber. So, the witness
24 needs to review the document. He doesn't know the document off by heart. And the
25 questions need to be very specific.

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1 PRESIDING JUDGE MINDUA: [14:58:19](Interpretation) Ms Taylor, do you want to
2 respond in the presence of the witness?

3 MS TAYLOR: [14:58:23] I think it'd be preferable to do so not in the presence of the
4 witness.

5 PRESIDING JUDGE MINDUA: [14:58:39](Interpretation) Courtroom officer, please
6 escort the witness out of the courtroom.

7 (The witness exits the courtroom)

8 PRESIDING JUDGE MINDUA: [14:59:27](Interpretation) Ms Taylor, the witness is
9 out of the courtroom. So I think you can take this opportunity to explain to the
10 Chamber what your line of questioning is all about. Don't you think so?

11 MS TAYLOR: [14:59:44] Thank you, Mr President.

12 But I'm also aware that the counsel for the witness is present, and I don't believe it
13 should be necessary for me to go into my line of questioning to answer this objection.

14 Firstly, this is a document that's on the Prosecution's list of evidence. It was
15 included -- it is in the Prosecution's list of evidence.

16 I don't believe it's appropriate for the Prosecution to nod their head like that.

17 It was included in the preparation package. [REDACTED]

18 [REDACTED]. When he was asked about its accuracy, and he said it was for sure
19 facts. So the witness has already reviewed it and now confirmed again that it's
20 based on facts.

21 Now, throughout examination-in-chief, the Prosecution was given the right to put its
22 line of questioning to witnesses without disruption.

23 Now, if I'm going to ask specific questions to the witness, I will ask the witness to
24 read the paragraph before putting the question to the witness. But I don't believe I
25 should have to spend the time having the witness read the entire 33-page document,

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1 given that the witness has confirmed that he is familiar with this - in fact, he helped
2 write parts of it - and each point I go to, he will be in a position to inform the
3 Chamber if he's aware of the section in particular.

4 I do respectfully submit that the Defence should be permitted to conduct its
5 cross-examination in the way that's effective for the Defence and not the way the
6 Prosecution would prefer.

7 And as I mentioned, it's OTP tab 1278, Mr Duterte, so it's on your list of evidence.

8 PRESIDING JUDGE MINDUA: [15:01:54](Interpretation) Prosecutor.

9 MR DUTERTRE: [15:01:55](Interpretation) Your Honour.

10 PRESIDING JUDGE MINDUA: (Interpretation) No. Well, this document is a
11 Prosecution document, and it has 33 pages. I don't think that we can have the
12 witness read this document and answer question, because if we do that for all your
13 documents, then we'll be here for a year.

14 So I think that the strategy -- or, rather, the method of Ms Taylor is a good method
15 because your witness has already read your document. Ms Taylor can put a
16 question, and if the witness can't find it, Ms Taylor can read the paragraph in
17 question.

18 What do you think?

19 MR DUTERTRE: [15:02:36](Interpretation) Your Honour, I think that the Defence
20 hasn't answered my objection in reality. We have a witness who's under oath. He
21 has made statements in [REDACTED] We have to see what today he thinks of this document.
22 And, furthermore, we can't ask him to confirm in general all of the document based
23 on facts, on what facts? We don't know what we're talking about. The Defence, if it
24 identifies passages of interest, it has to point out these passages, the witness has to
25 read them, and then he has to confirm such-and-such a point. Because here we're

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1 *doing a 68-2-b or 68-3 in disguise. We're going through a declaration of [REDACTED]
2 in a disguised way through the transcript. And it's not in this way that we should
3 proceed in a general way. There are precise points. So let's go into precise points and
4 we remember that the witness is under oath and has to answer.

5 PRESIDING JUDGE MINDUA: [15:03:30](Interpretation) Very well.

6 I don't know if what you said is very different to what I've said. Ms Taylor is going
7 to ask question about particular points. And, according to the need, she can read the
8 paragraph concerned. Is that -- that is it, is it not, Ms Taylor?

9 MS TAYLOR: [15:03:41] That's exactly correct, Mr President.

10 PRESIDING JUDGE MINDUA: [15:03:46](Interpretation) That's it. That's our
11 solution.

12 Court officer, could you escort the witness in, please.

13 (The witness enters the courtroom)

14 PRESIDING JUDGE MINDUA: [15:04:36](Interpretation) Witness, thank you for
15 your patience. Ms Taylor is going to continue with her cross-examination.

16 Ms Taylor.

17 MS TAYLOR: [15:04:56] Thank you, Mr President.

18 If we could now turn to page 0020 of this document.

19 And the Arabic, Mr Witness, is 0090.

20 And I'm going to read out the second paragraph in English. And for the Arabic
21 interpreters, it's a paragraph starting with: "Generally speaking, how was your
22 relationship with the national movement of Azawad?"

23 So if the interpreters could kindly let me know when they've identified the relevant
24 section, I'll start to read.

25 For the Arabic, it's the second paragraph on that page.

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1 So the question was:

2 "Generally speaking, how was your relationship with the national movement of
3 Azawad?"

4 The answer is:

5 "This movement launched a fierce media campaign [against] the Azawad community
6 against the group Ansar Dine and levelled against it many accusations that the
7 movement itself was in fact more deserving. They did so because Ansar Dine pulled
8 the carpet out from underneath them and demonstrated to the people, with deeds
9 rather than words, who were carrying the people of Azawad and striving on their
10 behalf. Despite this fierce media war and all these provocations, Ansar Dine
11 adhered to a wise policy with respect to this movement, involving a combination of
12 trying keenly to guide them to the right path and make them abide by the Sharia law,
13 and not antagonising them - which will entail antagonising the people as well."

14 Q. Mr Witness, are you able to explain what the author means by this "fierce media
15 campaign" against the Azawad community -- "amongst the Azawad community
16 against the group Ansar Dine"?

17 A. [15:07:53] Well, I didn't follow the reading of the text that you read because I
18 didn't hear the reference to the page correctly. Furthermore, I don't know if you're
19 speaking about the media war that was launched by the group, the MNLA, against
20 Ansar Dine, or about the global campaign, about the international -- the international
21 effort against Ansar Dine -- the international community's effort against Ansar Dine.

22 MS TAYLOR: [15:08:25] Would it be possible for the Arabic interpreter to repeat the
23 paragraph.

24 Q. [15:08:28] And Mr Witness, would you be able to listen to the interpretation into
25 Arabic? I believe it's just reading, actually, the Arabic section.

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- 1 MR DUTERTRE: [15:08:43](Interpretation) Your Honour, the document is in Arabic.
- 2 So if the correct passage is indicated, then that can just be read out.
- 3 PRESIDING JUDGE MINDUA: [15:08:52](Interpretation) If he has the text in Arabic,
- 4 he can read it himself, can't he?
- 5 MS TAYLOR: [15:08:56] Certainly.
- 6 Q. [15:08:58] Mr Witness, it's the second paragraph on that page, page 09- -- 0090.
- 7 I don't know if you've identified it.
- 8 A. [15:09:16] No. That's where the problem is. I don't see the page in question.
- 9 You said 0019? 0009? Is it 90 or 9?
- 10 Q. [15:09:37] Perhaps my colleague can read it out in Arabic.
- 11 MS TAYLOR: [15:09:40] If that would be permissible for the Chamber, to read the
- 12 page number.
- 13 PRESIDING JUDGE MINDUA: [15:09:52](Interpretation) Please do, Counsel.
- 14 MS CHAHLA: [15:10:02](Interpretation) *MLI-OTP-0010-0088. And the
- 15 document in question contains 13 pages. And it's the third page. So page 0090, the
- 16 first question:
- 17 What was the relationship between you and the national Azawad movement
- 18 generally?
- 19 THE INTERPRETER: [15:10:48] "Generally speaking, how was your relationship
- 20 with the national movement of Azawad?"
- 21 THE WITNESS: [15:10:51] (Speaks English) Yes.
- 22 MS TAYLOR: [15:10:56]
- 23 Q. [15:10:56] Mr Witness, can you read that paragraph?
- 24 THE INTERPRETER: [15:11:06] "Yes" said the witness in English.
- 25 MS TAYLOR: [15:11:08]

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1 Q. [15:11:08] You don't need to read it out, sorry. Thank you, but if you could
2 just read it to yourself; that would be appreciated.

3 A. [15:11:41] Yes.

4 Q. [15:11:43] Are you able to explain what is being referred to here as "a fierce
5 media campaign amongst the Azawad community against the group Ansar Dine"?
6 One that was launched by the national movement?

7 A. [15:12:06] The media -- the fierce media campaign consisted of what was said by
8 the Azawad movement and the perception that it had of Ansar Dine. Ansar Dine
9 was perceived as being a terrorist group as opposed to others. And among the
10 international community, it was considered that -- that they had substituted their
11 project for national unity with a jihadist policy. And they are accused of
12 things - such as, drugs trafficking and of having money from selling illicit substances
13 and drugs, in addition to everything that's published in the social media; for example,
14 the advent of Azawad that was mentioned already.
15 Furthermore, the Azawad movement is not in favour of the application of *hadd*, and it
16 uses the same terminology as you do and other members of the international
17 community, a form of -- they say it's a type of torture and a violation of human
18 dignity.

19 Q. [15:13:28] Now, Mr Witness, the writer here says that:

20 "[...] Ansar Dine adhered to a wise policy with respect to this movement [...]"
21 And this included, "not antagonising them".

22 This reference to "not antagonising them", does this mean that there was an absence of
23 direct combat or confrontations between Ansar Dine and the MNLA?

24 A. [15:13:55] Yes, indeed. In Timbuktu, they tried to adopt this policy. They
25 made it possible for MNLA members to be present with all their forces at Timbuktu

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1 Airport. They were also able to go into the streets of Timbuktu, but on the condition
2 that members of Ansar Dine were able to stop them and check their vehicles. But
3 this policy -- and search their vehicles.

4 But this policy didn't work because of problems in Gao. In Gao, the population saw
5 that the group for the unity of -- the jihad, who had occupied Gao, were against the
6 Azawad movement, and, as such, the local population rallied together or they joined
7 the unity and jihad movement, and they struck against the MNLA in Gao, and they
8 launched a war between them and the MNLA.

9 This policy -- once the war had been declared against the MNLA, well, there was
10 consultation in Timbuktu and there was -- the result was declaring war against the
11 MNLA.

12 I'm saying all this basically to say that this happened during a short time span, and it
13 finished very quickly.

14 Q. [15:16:00] Mr Witness, if we could perhaps look at the next paragraph, and I'll
15 read it in English. But if you could look at it in Arabic. It starts with:

16 "Can you explain one aspect of this policy's features?

17 When the group Ansar Dine was founded, its representatives went on shuttle visits
18 meeting a whole spectrum of the society and the people's leaders and dignitaries. In
19 doing so, they met with the leaders of the national movement and offered them
20 accession into the Islamic project but they declined. We saw the enemy as being one,
21 the territory shared and the situation alike and that there had to be some level of
22 coordination with them to prevent any fighting. The *mujahidin* hoped this
23 coordination would not develop into fighting under one flag."

24 Now, is it correct that the Ansar Dine leaders engaged in shuttle diplomacy with the
25 national movement to coordinate and avoid fighting among themselves?

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1 A. [15:17:33] I don't know what you mean by "shuttle diplomacy." What I know is
2 that there's some truth in what was said. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. [15:18:05] If we could turn to page 0021 and it's still 0090 in the Arabic. In the
7 English, it's the third paragraph. This concerns the agreements made between
8 Ansar Dine and the national movement. And it's referring specifically to the
9 takeover of the Amachach base that you referred to earlier. And I'll read out the
10 paragraph.

11 And I think in the Arabic, it's the third point, the third question on that page, if you've
12 identified it, Mr Witness. But I'll --

13 A. [15:19:12] No, not yet.

14 Q. [15:19:19] I'll read it out in the English in the meantime, if the interpreters have
15 identified the place. It starts with: " - After three days [...]"

16 " - After three days, the movement was unable to storm the base and added a fourth
17 day, thus breaking the agreement. The movement withdrew at the end of the fourth
18 day and the *mujahidin* came and Allah granted them victory over the fortified base in
19 one night in a heroic battle that we don't have time to describe here. No *mujahidin*
20 were killed and only one of our brothers was injured but it was only a minor injury
21 and he quickly recovered, praise be to Allah. The *mujahidin* kept their promise and
22 gave the national movement a portion of their booty."

23 Now, this is referring to one night of fighting and no casualties on the side of the
24 mujahideen.

25 Is this consistent with what you heard from [REDACTED]?

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1 A. [15:20:38] Yes. But [REDACTED] gave me details which were quite precise because
2 he told me the account as you would tell a story to children in the evening. It was
3 very detailed. He even described the circumstances in which the groups were
4 hiding. The distance between the groups.

5 So it was a very long account that he gave us, but I didn't pay attention to all details.

6 MS TAYLOR: [15:21:16] Now, if we can turn to page 22 -- 0022 of the English, and
7 over pages 0022 to 0023, we have a statement issued by Ansar Dine when the MNLA
8 and Ansar Dine agreement fell apart. And I believe in the Arabic, it's page 0091.
9 It's the first paragraph.

10 Now, it's several paragraphs, so I can -- if you wish, I can give you time to read the
11 entire thing, although I'm only asking about one paragraph. But if you could kindly
12 let me know if you've identified the part of the Arabic document where the statement
13 starts. The first words are "Ansar Dine is an Islamic group which believes that jihad
14 is a means for establishing the religion".

15 Mr Witness, have you found the correct place?

16 A. [15:23:29] *Yes.

17 Q. [15:23:31] I'll just read out this segment:

18 "Ansar Dine also strives to reunite all people of the Islamic umma be they Arabs or
19 non-Arabs, black or white, especially those in the territory of Azawad. This is to be
20 achieved by resolving conflicts between our brothers, according to the rule of the
21 Koran, by redressing grievances and by restraining the hand of the oppressor from
22 oppressing, without regard to race or kin."

23 Is it correct that Ansar Dine pursued its objectives through negotiation and diplomacy,
24 as was the case with its attempts to pursue an agreement with the MNLA?

25 A. [15:24:51] Yes. With the national movement, yes. But your first question, you

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1 spoke about negotiations and discussions with whom?

2 Q. [15:24:59] Did it attempt to achieve its objectives through negotiations and
3 discussions with the MNLA?

4 A. [15:25:17] Yes.

5 Q. [15:25:18] And were these negotiations derailed by a declaration issued by the
6 MNLA, the Nouakchott declaration?

7 A. [15:25:35] Yes. And I indicated to the Prosecution that a Mauritanian politician
8 was the cause of the failure of the negotiations. And I thought of Mohamed Hamma
9 or Hamma Mohamed. I don't remember very well his name.

10 Q. [15:25:54] If I could bring up Defence tab 64. It's MLI-D28-0005-3394. If it
11 could be placed on evidence 1. It's an article dated 2 June 2012 titled "The MNLA
12 Reject the Merger with the Islamists in Mali."

13 Is that the breakdown you're referring to?

14 PRESIDING JUDGE MINDUA: [15:26:45](Interpretation) Prosecutor?

15 MR DUTERTRE: [15:26:46](Interpretation) You have to allow the witness to have the
16 time to read the article. I haven't even been able to see what language it's in. It's in
17 English. So I would like us to ask the witness questions, but you have to give him
18 the time to read it and reflect if we're going to have useful answers to the questions.

19 PRESIDING JUDGE MINDUA: [15:27:11](Interpretation) Ms Taylor.

20 MS TAYLOR: [15:27:12] Thank you, Mr President. That was simply me reading
21 out the title. I haven't actually put the question to the witness yet. It's a very
22 specific question which follows on from what he just said, and I believe it will be very
23 easy for the witness to understand.

24 PRESIDING JUDGE MINDUA: [15:27:29](Interpretation) Very well.

25 MS TAYLOR: [15:27:32] Now, I'll just read out the second and third paragraphs. It

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1 states:

2 "'The MNLA's political leadership, faced with Ansar Dine's intransigence on applying
3 Sharia law in Azawad, and to remain faithful to its resolutely secular position, rejects
4 the deal dated May 26, 2012 made with this group and declares everything pertaining
5 to it null and void,' said a statement.

6 'The document, dated Thursday and signed by senior MNLA member Hamma Ag
7 Mahmoud in Azawad's capital Gao, was the first official confirmation of the rebels'
8 rejection of the accord."

9 Q. [15:28:52] Now, Mr Witness, you've referred to a Mauritanian politician. Is that
10 person Hamma Ag Mahmoud?

11 A. [15:29:08] Yes. A politician from the Kel Ansar tribe who lives in Mauritania
12 who goes by the name of Hamma Ag Mahmoud, yes.

13 Q. [15:29:23] And is it correct that his faction were opposed to the application of
14 Sharia law?

15 A. [15:29:29] Yes.

16 Q. [15:29:42] The following paragraphs state as follows:

17 "From Timbuktu, an ally of Ansar Dine leader Iyad Ag Ghaly confirmed the
18 breakdown in the deal, but also suggested that different factions of the MNLA were
19 sending out different messages.

20 "'We told the MNLA on Thursday that for us, the discussions are over. There is no
21 going back,' said Walil Ag Cherif. He added however that representatives of the
22 MNLA in France were not saying the same thing as those based in Gao in northern
23 Mali.

24 "And Cherif's comments appeared to be supported by those of the Mauritanian
25 specialist on the armed groups in northern Mali, who said the rejection of the merger

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1 by the Tuareg desert nomads was a sign of a split within the MNLA.

2 "The statement was released by MNLA members who were outside the country, not
3 those who were in place, followed by the majority,' the Nouakchott-based specialist
4 said."

5 Now, Mr Witness, based on what you yourself saw and heard, is it correct that
6 MNLA members in Timbuktu had been in favour of the agreement?

7 A. [15:31:45] Yes. And I know from what I remember, and I think at that time the
8 agreement was opposed by groups of intellectuals who were outside of the country,
9 including Hamma Ag Mahmoud.

10 Q. [15:32:13] And the fact that MNLA members who were present in Timbuktu
11 were in favour of the agreement, is this why many of them joined Ansar Dine after
12 the agreement fell through?

13 A. [15:32:34] Yes. That was a very important factor.

14 MS TAYLOR: [15:32:41] If I could bring up Prosecution tab 70. It's

15 MLI-OTP-0001-7356, that's the Arabic. The English translation is OTP tab 71,

16 MLI-OTP-0034-0061.

17 If the Prosecution exhibit could be shown to the witness.

18 Is there any possibility to rotate the document left on the screen or upside down?

19 Q. [15:34:39] Now, Mr Witness, are you able to turn the document around so you
20 can see the words: "In the name of Allah, the most merciful, the most beneficent"?

21 Can you read this --

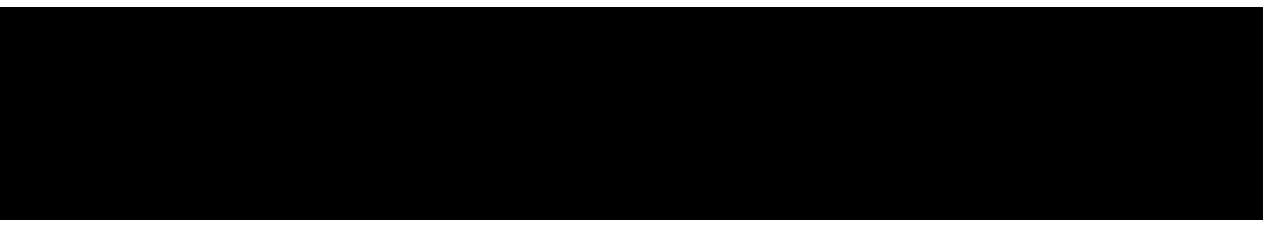
22 A. [15:35:00] Yes.

23 Q. [15:35:01] -- page to yourself?

24 A. [15:35:52] Yes.

25 Q. [15:35:53] What does it appear to be?

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Q. [15:36:38] Mr Witness, the first provision states: "We have not and will never worship the flag; we use it only for passage purposes."

Do you know which flag this might refer to?

A. [15:36:59] Yes. The MNLA flag, because they were accused of tyranny and that was a sign of apostate. Whereas the members of the MNLA were observant Muslims, so they rejected that accusation.

Q. [15:37:30] Provision 3 says:

"If a member of the Movement caused trouble, he should be handed over to the Movement if the trouble he caused was insignificant, otherwise he should be handed over to one of the religious courts established in Timbuktu or [illegible]."

Is it correct that the MNLA agreed to hand over members to Ansar Dine for prosecution if the member committed a serious offence?

A. [15:38:31] I don't know whether they agreed on that point or just on some points of discussion merely. [Redacted]

[Redacted] But I don't know whether there was a prior agreement on that point or not.

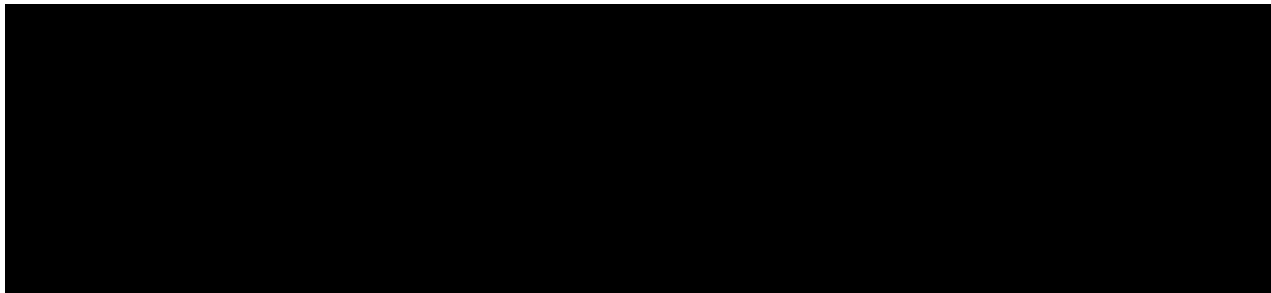


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Q. [15:40:30] I'm going to turn back to the Abdoul Aziz Habib article. So if you still have that with you, Mr Witness, it's Prosecution tab 1078 being the English, MLI-OTP-0024-0015. And the Arabic, Mr Witness, was tab 1277, the MLI reference being MLI-OTP-0010-0088. And turning to page 0025, second paragraph for the English. And the Arabic, Mr Witness, is page 0091.

The question put to him is: "How did things go at the level of social relationships and the matters related to these relationships in a multi-ethnic society?"

Have you identified that section, Mr Witness? It's the question before the last one on the page.

A. [15:42:43] *I see the question, yes.

Q. [15:42:46] I'll read it out then. The author writes:

"The religious and social ties between the different sections of the society were strengthened in full force, which is why no fighting was recorded during their ten-month-long rule, praise be to Allah. Anyone who knows the truth about the situation in Azawad" --

PRESIDING JUDGE MINDUA: [15:43:09](Interpretation) Prosecution.

MR DUTERTRE: [15:43:12](Interpretation) We did not hear the response from the witness, and there was no French interpretation of what Ms Taylor is saying.

PRESIDING JUDGE MINDUA: [15:43:23](Interpretation) Ms Taylor, could you ask the witness to repeat his reply.

MS TAYLOR: [15:43:29] Yes, Mr President. I believe he was just indicating that he

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1 found the right place.

2 Q. [15:43:33] Is that correct, Mr Witness?

3 A. [15:43:42] Yes, exactly.

4 Q. [15:43:44] And if the interpreters could kindly give me a signal if they're ready
5 to interpret. I believe they are.

6 The author writes:

7 "The religious and social ties between the different sections of the society were
8 strengthened in full force, which is why no fighting was recorded during their
9 ten-month-long rule, praise be to Allah. Anyone who knows the truth about the
10 situation in Azawad, with the dissent and ignorance there were between the people,
11 equally between our black brothers - particularly the Songhai people - and the whites
12 themselves as between the Arabs and the Tuaregs, or within any one race, would
13 know the complexity of the issue. Therefore, as soon as the mujahedin withdrew
14 and the crusaders arrived, the issue re-emerged and the savage and foul fighting
15 started; but the incidents that were not reported were even worse."

16 Now, Mr Witness, did the Koranic emphasis on nondiscrimination play a role in
17 lessening ethnic tensions between tribes in Timbuktu in 2012?

18 A. [15:45:30] Yes. And even before 2012, the Muslims in that country remembered
19 these verses from the Koran to diminish tensions among the tribes. That was even
20 before the mujahedin arrived. And thank -- it was thanks to these Koranic verses
21 and the words of the Prophet.

22 Q. [15:46:17] Now, looking at page 20 -- 0026, the last paragraph. And it's
23 page 0092, Mr Witness, in the Arabic, starting with the words, "What the apostate
24 Colonel al-Hajji Bin-Amou". Do you have those in front of you?

25 I'll read it out, if the interpreters are ready.

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1 "What the apostate Colonel al-Hajji Bin-Amou (a Tuareg) used most of the times to
2 incite his soldiers, although he knew how much antagonism there had been between
3 the two tribes, was that the Ifoghas tribe were the ones who actually wanted to
4 enslave the Imghad tribe."

5 Are you in a position to explain what this reference to fanning antagonism between
6 the Ifoghas and the Imghad tribe refers to?

7 A. [15:47:58] Yes. This was a conflict that went back many years in the Ifoghas
8 mountains. It was a bitter conflict between the Ifoghas and the Imghad, and the
9 Ighnan (phon) tribe as well. So all these tribes, and through the period of the
10 revolution, the Azawad revolution, there were revolutionaries opposed to the central
11 government in Mali because of the hostilities between these two tribes. Each time an
12 Ifoghas revolutionary came to an agreement with the government of Mali, the other
13 tribes did not agree, and they opposed the agreement, because they didn't want to be
14 in the same camp as the Ifoghas people, or follow the same policy.

15 And when Ifoghas declared the revolution, Imghad entered into an agreement with
16 the Malian government. So there have always been frictions between these various
17 tribes. *The reality described here by [REDACTED] here and Abdulaziz is as follows:

18 Imghad, under the leadership of Bin-Amou, refused to pledge affiliation -- or
19 allegiance, rather. This was because of the racism and the tension and the conflict
20 that was tribal in nature. *Al-Hajji was constantly persuading Imghad that joining this
21 movement would make the Ifoghas superior to them.

22 Q. [15:50:30] Was one of the objectives of Ansar Dine to try to eliminate these
23 rivalries between the different groups and tribes?

24 A. [15:50:56] Yes, because amongst the foundations of jihadist thought was
25 elimination of racism and discrimination in all its forms.

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1 Q. [15:51:10] If I could turn to page 0028 of the English.

2 My colleague tells me that the Arabic version is not readable. So if we could go to,
3 for the Arabic, MLI-D28-0005-6019. It's page 6022, the first paragraph.

4 Do you have that document?

5 It starts with: "What were the measures and the possible legal tools the Ansar Dine
6 commander spoke about in his report to the people?"

7 PRESIDING JUDGE MINDUA: [15:52:19](Interpretation) Prosecution?

8 MR DUTERTRE: [15:52:20](Interpretation) Now, the OTP version is perfectly legible.

9 I don't know whether there's a specific problem with the Defence, but perhaps if we
10 could look at that version, that might -- it might be useful to be working from the
11 same document.

12 PRESIDING JUDGE MINDUA: [15:52:38](Interpretation) Well, my copy is legible.

13 Ms Taylor, you have it in English as well?

14 MS TAYLOR: [15:52:45] The English is legible, Mr President. The issue is with the
15 Arabic. At the very end, apparently the script is affected at the very bottom of the
16 document on page 0092.

17 PRESIDING JUDGE MINDUA: [15:53:09](Interpretation) Under those

18 conditions -- well, give him a document that's legible.

19 MR DUTERTRE: [15:53:17](Interpretation) This is what we said. The version I
20 have is entirely legible. We can ask the witness simply if he can read it properly.

21 PRESIDING JUDGE MINDUA: [15:53:27](Interpretation) Very well. I don't know
22 whether the document that you have is the same one as the document in the hands of
23 the witness.

24 Madam Court Usher, perhaps you could assist to compare the two versions.

25 THE COURT OFFICER: [15:53:56] Would counsel please give us the tab number for

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1 the legible one and --

2 MS TAYLOR: [15:53:59] The legible one is tab 2954. It's one of the ones I gave
3 earlier. And the reference is MLI-D28-0005-6019 at page 6022. If the witness can
4 read the other one, of course that's acceptable to us. It's more if it creates problems
5 for him to be able to understand.

6 PRESIDING JUDGE MINDUA: [15:55:27](Interpretation) Ma'am, courtroom -- the
7 document that the witness has, is that the same as what the Prosecutor has?
8 Courtroom officer?

9 THE COURT OFFICER: [15:55:55] The witness currently has the more legible
10 version, tab 254, in front of him.

11 PRESIDING JUDGE MINDUA: [15:56:01](Interpretation) Well, there you have it,
12 Mr Prosecutor.

13 Mr Prosecutor, you have been duly informed. Perhaps the crosscheck can be done
14 later.

15 Ms Taylor, please continue.

16 MS TAYLOR: [15:56:11]

17 Q. [15:56:15] Mr Witness, do you have the section before you starting with:

18 "What were the measures and the possible legal tools the Ansar Dine commander
19 spoke about in his report to the people?" The page at the bottom is 6022.

20 A. [15:56:48] Yes.

21 Q. [15:56:54] In response, the writer sets out the following two measures, which I'll
22 read out:

23 "Invite all to the way of Allah with wisdom and beautiful preaching, instruct people
24 in the legislation of their religion and the Sunnah of their prophet, peace be upon him,
25 and promote virtue and prevent vice. Provide for the vulnerable amongst the

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1 Muslims, such as the widows, orphans, and the wretched in the way the prophet,
2 peace be upon him, said, you gain no victory or livelihood except through the
3 vulnerable amongst you. One of the greatest ways to establish the religion is to
4 wage jihad and fight those who reject the Sharia in order to avoid social unrest and
5 for the religion as a whole to belong to Allah, which is what mighty Allah said."

6 And then at the bottom of the page, 0028, scrolling down, the writer states:

7 "Based on the above, we ask the following of our brothers and families in the region
8 of Timbuktu:

9 "First: We call upon all sections of the Muslim society to assist us in establishing a
10 religion, promoting justice and security, judging inequity amongst the people,
11 promoting virtue, and preventing vice. Allah Almighty said help ye one another in
12 righteousness and piety but help ye not one another in sin and rancour.

13 "Second: We call upon our brothers who are traders to continue to provide the town
14 with essential food supplies, fuel, and medicines. Allah helps his servant as long as
15 he helps his brother.

16 "Third: We call upon all the people and especially upon those who are proficient
17 and competent to support the community and to provide the people during these
18 unusual circumstances with everything they can in terms of financial support or by
19 volunteering or taking part in charity work which benefits the people. The Almighty
20 Allah said then shall anyone who has done atom's weight of good see it, and anyone
21 who has done atom's weight of evil shall see it."

22 MS TAYLOR: [16:00:27] And with the permission of the Chamber, I just have two
23 follow-up questions, and then we can finish for the day.

24 Q. [16:00:42] Is it correct --

25 PRESIDING JUDGE MINDUA: [16:00:44](Interpretation) Go ahead, Counsel.

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1 MS TAYLOR: [16:00:45]

2 Q. [16:00:46] Is it correct that Ansar Dine presented its goals to the local community
3 of Timbuktu as using Koranic principles to promote justice and security?

4 A. [16:01:12] Yes. That's right.

5 Q. [16:01:13] And in this statement, was Ansar Dine calling on community
6 members of Timbuktu to provide technical and administrative assistance to Ansar
7 Dine in order to benefit the people of Timbuktu?

8 A. [16:01:39] Yes, even if it is not expressly put in those words. There's no
9 mention of technical or administrative assistance, but you can deduce that from what
10 we see here, from what's written here.

11 MS TAYLOR: [16:02:03] Thank you, Mr President.

12 PRESIDING JUDGE MINDUA: [16:02:11](Interpretation) Thank you very much,
13 Ms Taylor.

14 Mr Witness, we have come to the end of today's hearing. The Chamber thanks you
15 once again for your cooperation. But your testimony is not over. You will be
16 returning tomorrow at 9.30 as usual. In the meantime, as you know -- you know
17 what you should do or, namely, what you should not do, that is to say, you should
18 not speak to anyone about your testimony. So there you have it.

19 My last task is to express my gratitude to everyone -- to the parties and participants,
20 the court reporters and interpreters, as well as our security officers.

21 We'll now adjourn and resume tomorrow at 9.30. I wish everyone a pleasant
22 afternoon. The hearing is now adjourned.

23 (The hearing ends in closed session at 4.03 p.m.)

24 CORRECTIONS REPORT

25 The following corrections, marked with an asterisk and not included in the

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- 1 audio-visual recording of the hearing, are brought into the transcript.
- 2 Page 13 line 4
- 3 "troops" Is corrected to "tribes"
- 4 Page 15 line 12
- 5 ""this as"" Is corrected to "this as"
- 6 Page 22 lines 23-24 and Page 23 lines 1-2
- 7 "PRESIDING JUDGE MINDUA: [10:50:53](No interpretation)
- 8 PRESIDING JUDGE MINDUA: [10:50:59] (No interpretation)" Is corrected to
- 9 "PRESIDING JUDGE MINDUA: [10:50:53] Ask the witness. Witness, did you hear
- 10 the Arabic interpretation?
- 11 PRESIDING JUDGE MINDUA: [10:50:59] What's going on? I don't have the
- 12 interpretation into French either.
- 13 Page 32 line 4
- 14 "of (speaks Arabic)" Is corrected to "of Endowments"
- 15 Page 43 lines 5-8
- 16 "rather than trying to appease people and put in place plans to put pay to this
- 17 situation, said to the Tuareg, we shall support you. You can occupy those areas and
- 18 put them under your control." Is corrected to "rather than put in place plans to end
- 19 this discord, it made it worse, and said to the black-skinned Tuareg: We shall support
- 20 you and you can occupy those lands controlled by your masters. This was of course
- 21 said under-the-table."
- 22 Page 56 lines 17-20
- 23 "There are several different parts to this -- well, documents, and what parts are we
- 24 talking about? The witness has already said that he doesn't -- that he isn't familiar
- 25 with all of these parts." Is corrected to "Which parts are we talking about? There are

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1 seven documents, of which the Witness has already said he is not familiar with [REDACTED]

2 [REDACTED]

3 And which parts are we talking about? It's too general, the witness can't find his
4 way."

5 Page 58 lines 21-25

6 "This is a 30-page document. The scope of the question is quite broad, and the
7 witness needs to review the document. He doesn't know the document off by
8 heart." Is corrected to

9 "The last question: "was it established on facts?" based on a thirty-page document,
10 neither the scope of the question nor that of the answer are of any assistance to the
11 Chamber. So, the witness needs to review the document. He doesn't know the
12 document off by heart. And the questions need to be very specific."

13 Page 61 line 1

14 "going 68B or 63" Is corrected to "doing a 68-2-b or 68-3 in disguise."

15 Page 63 line 14

16 "MLI-OTP-001-0088 (sic)." Is corrected to "MLI-OTP-0010-0088."

17 Page 67 line 16

18 "(No interpretation)" Is corrected to "Yes"

19 Page 72 line 14

20 "(No interpretation)" Is corrected to "I see the question, yes."

21 Page 74 line 17

22 "The reality described by Colonel al-Hajji Bin-Amou here is as follows:" Is corrected
23 to "The reality described here by [REDACTED] here and Abdulaziz is as follows:"

24 Page 74 lines 20-21

25 "It was possible to persuade people that cohesion within the -- that joining this

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- 1 movement would lead to control of the Ifoghas." Is corrected to "Al-Hajji was
- 2 constantly persuading Imghad that joining this movement would make the Ifoghas
- 3 superior to them."
- 4 The following correction, marked with an asterisk and included in the audio-visual
- 5 recording of the hearing, is brought into the transcript.
- 6 Page 21 line 8
- 7 "no" Is corrected to "known"