

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 vs 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 Friday, 11 June 2021  
10 (The hearing starts in closed session at 9.30 a.m.)  
11 THE COURT USHER: [9:30:51] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:31:18](Interpretation) Court is in session.  
15 Good morning to everyone.  
16 Court officer, please call the case.  
17 THE COURT OFFICER: [9:31:30] Good morning, Mr President, your Honours.  
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al  
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number ICC-01/12-01/18.  
20 And for the record, we are in closed session.  
21 PRESIDING JUDGE MINDUA: [9:31:53](Interpretation) Thank you very much,  
22 court officer. As we do every day, we will start with the appearances, starting with  
23 the Office of the Prosecutor.  
24 Prosecutor.  
25 MR DUTERTRE: [9:32:05](Interpretation) Good morning, your Honour, your

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1 Honours. The Prosecution this morning is made up of Yayoi Yamaguchi, Mr Garcia,  
2 Mousa Allafi, and myself, Gilles Dutertre. And I take advantage of this opportunity  
3 to welcome Mr Nsita and his team, and Ms Taylor and her team, as well as the  
4 interpreters.

5 PRESIDING JUDGE MINDUA: [9:32:36](Interpretation) Thank you very much,  
6 Prosecutor.

7 I now turn towards the Defence.

8 Counsel.

9 MS TAYLOR: [9:32:41] Good morning, Mr President. Good morning, your  
10 Honours. And in the interests of saving time, if I may simply say good morning to  
11 everyone inside and around the courtroom, and wish everyone as well, in advance, a  
12 lovely weekend. The Defence of Mr Al Hassan is represented today by  
13 Ms Dolly Chahla, Ms Shan Patel, and myself, Melinda Taylor. Thank you.

14 PRESIDING JUDGE MINDUA: [9:33:13](Interpretation) Thank you very much,  
15 Ms Taylor.

16 I now turn towards the Legal Representatives of Victims. Counsel.

17 MR LUVENGIKA: [9:33:19](Interpretation) Good morning, your Honour, your  
18 Honours. The victims are represented at this hearing by Ms Ludivine Tixier-Dunet,  
19 and myself, but we will have Maître Julie Goffin, who's going to join us for the next  
20 session. And I'd like to take this opportunity to greet everybody here. Thank you.

21 PRESIDING JUDGE MINDUA: [9:33:52](Interpretation) Thank you very much,  
22 Mr Nsita.

23 I now turn towards the counsel of our witness.

24 [REDACTED] [9:34:02](Interpretation) Good morning, Mr President, your Honours.

25 [REDACTED] I am the counsel representing [REDACTED]

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1 in accordance with Rule 74 of the Rules of Procedure and Evidence.

2 I would like to take this opportunity to greet everyone in the courtroom, on the

3 Defence team and the Prosecution team, and also the Legal Representative of Victims,

4 and also the reporters and the interpreters, as well as the witness. Thank you,

5 Mr President.

6 PRESIDING JUDGE MINDUA: [9:34:45](Interpretation) Thank you very much,

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8 We will now continue with hearing the 36th Prosecution witness. I therefore turn

9 towards the witness.

10 Witness, good morning. Are you well?

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

12 (The witness speaks Arabic)

13 THE WITNESS: [9:35:06](Interpretation) Good morning, Mr President. Good

14 morning, your Honours. I am very well. Thank you very much.

15 PRESIDING JUDGE MINDUA: [9:35:15](Interpretation) Thank you very much,

16 Witness.

17 On behalf of the Chamber I would also like to welcome you and thank you for your

18 cooperation. I would also like to remind you that you are still under oath and that

19 you must tell the truth, the whole truth and nothing but the truth.

20 And finally, I would like to remind you of my practical advice when taking the floor.

21 Yesterday the interpreters seemed to be suffering somewhat, given your high speed.

22 So please try to leave some pauses such that the work can be done well by everyone.

23 Without any further ado I give the floor to the Office of the Prosecutor.

24 Prosecutor, you have the floor.

25 MR DUTERTRE: [9:36:17](Interpretation) Thank you very much, your Honour, your

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1 Honours.

2 Before starting my questions, your Honour, with your leave, I would like to go back  
 3 to a point. You will remember that we played from a video -- from a computer we  
 4 played a certain number of items, the recordings were made, they were registered,  
 5 and it was communicated to the Defence. They're now in eCourt under the ERN  
 6 MLI-OTP-0080-3435. And I imagine that the Defence has had the time to see it, so  
 7 with your leave I would like us to give a number to this video.

8 PRESIDING JUDGE MINDUA: [9:37:39](Interpretation) Is there any objection on the  
 9 part of the Defence?

10 No, in that case please do so, court officer.

11 THE COURT OFFICER: [9:37:48] Your Honours, the video will be assigned an  
 12 exhibit number MLI-REG-0001-0077.

13 PRESIDING JUDGE MINDUA: [9:38:01](Interpretation) Thank you very much,  
 14 court officer.

15 Prosecutor.

16 MR DUTERTRE: [9:38:09](Interpretation) Thank you, your Honour.

17 QUESTIONED BY MR DUTERTRE: (Continuing)(Interpretation)

18 Q. [9:38:15] Good morning, Witness.

19 A. [9:38:22] Good morning.

20 Q. [9:38:27] 

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24 I'm now going to show a video which we've already used previously.

25 Your Honour, this is in binder 7, tab 1222, transcript tab 1223, translation 1224. The

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1 ERN of the video, 0025-0010. The transcript has the ERN 0033-5244. And the  
 2 translation has the number 0033-5488.

3 I'm going to show an extract [REDACTED] which, your Honour, corresponds, for  
 4 the transcript, [REDACTED]

5 Firstly I'm going to show it without the sound. It's therefore on channel evidence 2.  
 6 (Viewing of the video excerpt)

7 MR DUTERTRE: [9:41:52](Interpretation) I stop [REDACTED]

8 Q. [9:42:02] Witness, do you remember this event?

9 A. [9:42:14] Yes, to some extent.

10 Q. [9:42:24] Could you explain what you mean by "Yes, to some extent"?

11 A. [9:42:37] I only refer to the fact that I don't remember the details of this event.

12 Q. [9:42:53] [REDACTED]

13 A. [9:43:08] [REDACTED]

14 MR DUTERTRE: [9:43:21](Interpretation) Your Honour, your Honours, I'm going to  
 15 play this video again with the sound [REDACTED] And I am waiting for the  
 16 green light from the interpreters such that they can read the transcript, [REDACTED]  
 17 [REDACTED] the transcript 0033-05492.

18 THE INTERPRETER: [9:44:10] Correction from the interpreter: Transcript  
 19 0033-5488.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [9:44:30](Interpretation of the video excerpt)

22 "Of course, the members of the council, of the judicial council follow the Malakite  
 23 school of Muslim law, but in fact, we follow Sunnah and Islamic jurisprudence,  
 24 otherwise said comparative jurisprudence. We also have all the references and  
 25 fatwas issued by the world doctrinal committee throughout the world and the

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1 Kuwaiti foundation of jurisprudence, which makes it possible to have all of the  
 2 jurisprudence. This is complete -- this is -- manifest itself when the issues are  
 3 complex and require particular attention on the part of the judicial council, which  
 4 adopts one of the opinions emitted by the school of Muslim law inspired by the book  
 5 of Allah and the Sunnah of his messenger."

6 MR DUTERTRE: [9:45:31](Overlapping speakers)

7 THE INTERPRETER: [9:45:33] overlapping.

8 MR DUTERTRE: [9:45:35](Interpretation)

9 

10 I can hear the Arabic. Yes, we suddenly have interpreting in Arab on the French  
 11 channel.

12 PRESIDING JUDGE MINDUA: [9:45:50](Interpretation) What is happening, court  
 13 officer?

14 THE COURT OFFICER: [9:45:55] Your Honours, the issue seems to have been  
 15 resolved.

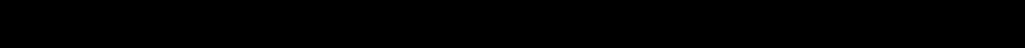
16 PRESIDING JUDGE MINDUA: [9:46:02](Interpretation) It's been resolved now.

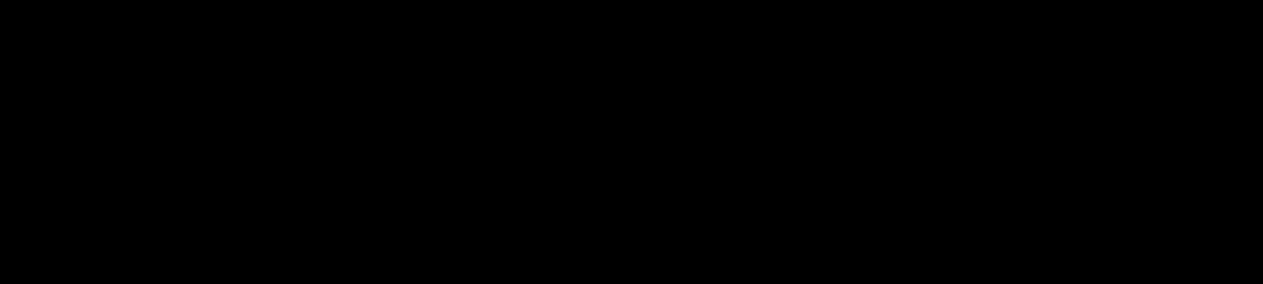
17 THE WITNESS: [9:46:10](Interpretation) 

18 THE INTERPRETER: [9:46:21] Could the witness be asked to repeat.

19 MR DUTERTRE: [9:46:25](Interpretation)

20 Q. [9:46:26] Witness, could you repeat, please?

21 A. [9:46:29] 

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1 MR DUTERTRE: [9:47:41](Interpretation) Your Honour, and it's my fault. There  
2 are two passages in this video [REDACTED] That's for the future.

3 The other deals with another subject, and that's the one I'm going to show now, [REDACTED]  
4 [REDACTED] My apologies to the Chamber for  
5 this confusion.

6 Q. [9:48:18] [REDACTED]

7 A. [9:48:28] [REDACTED]

8 Q. [9:48:37] I'm now going to play the part with the sound and this is the lines 101  
9 to 111 which have already been read.

10 (Viewing of the video excerpt)

11 THE INTERPRETER: [9:48:58](Interpretation of the video excerpt)

12 [REDACTED]  
13 Of course, the members of the council, the judicial council follow the Malakite school  
14 of Muslim law, but in fact, we follow the Sunnah and Islamic jurisprudence,  
15 otherwise said the comparative jurisprudence. And we also have all the references  
16 and all the fatwas issued by the doctrinal committees from the world -- from the  
17 entire world and by the Kuwaiti foundation of jurisprudence, which makes it possible  
18 to have all of the jurisprudence. This manifests itself when the question is complex  
19 and requires particular attention on the part of the council of the judiciary which  
20 adopts one of its opinions issued by the school of Muslim law which is inspired by  
21 the book of Allah and the Sunnah of his messenger."

22 THE WITNESS: [9:49:58](Interpretation) [REDACTED]  
23 [REDACTED]

24 MR DUTERTRE: [9:50:28](Interpretation)

25 Q. [9:50:29] Could you give us some more details with regards to this?

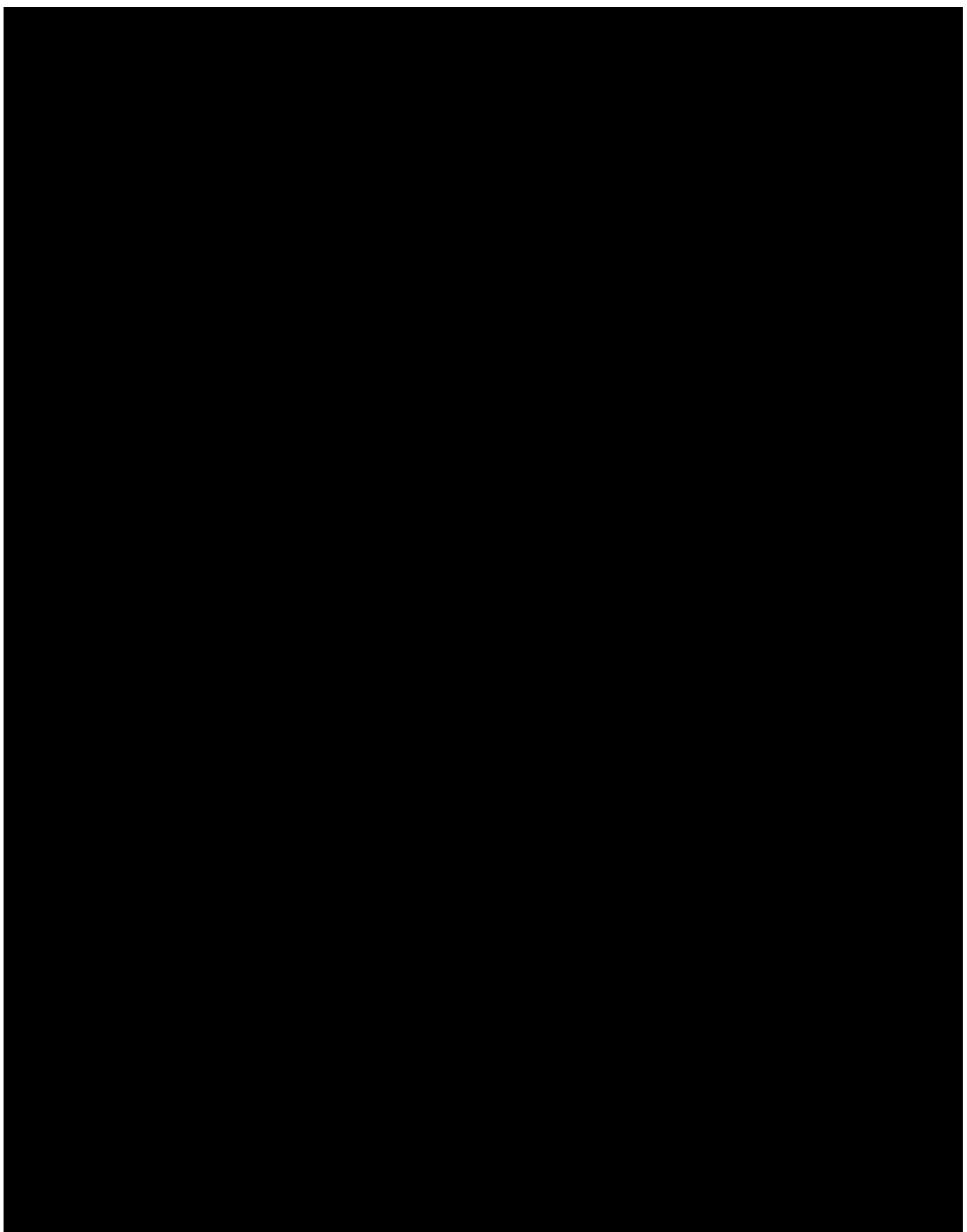
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1 A. [9:50:34] Although I didn't hear the first part of the statement,



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[REDACTED]

A. [9:55:20] [REDACTED]

[REDACTED]

Q. [9:56:34] Your Honour, your Honours, I'd now like to show a document. This is in binder 1, tab 70, translation is at tab 71. And this is document 001 -- 0001-7356. Translation is 0034-0061.

And, Witness, I would ask you more specifically to look at the page on the left-hand side.

Witness, do you know the writing, the person who wrote what is written on the left-hand side page?

A. [9:58:50] [REDACTED]

Q. [9:59:05] [REDACTED]

[REDACTED]

A. [10:00:29] Yes. In the beginning [REDACTED]

[REDACTED]

[REDACTED] people who got drunk, got beaten, and tobacco

1 was confiscated and smokers were told off. But at certain stage [REDACTED]

2 [REDACTED] punishment in the streets in general led to the withdrawal of the right to

3 punish any person [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. [10:02:50] [REDACTED] can you give us an indication of  
10 what point during the occupation by the armed groups between April and January

11 [REDACTED]

12 A. [10:03:15] We saw here, [REDACTED]  
13 [REDACTED] withdrew the right of punishment in the streets from the soldiers and gave  
14 this right only to the *Hesbah* and the police in their headquarters. But after that also  
15 problems continued and complaints kept coming. So the right to punish in the  
16 *Hesbah* or the police was withdrawn also unless there was a court order to do so.  
17 I think that happened in November or December, I think.

18 Q. [10:04:19] So we're going to continue with another document. Still in binder 1,  
19 74 -- tab 74 and 75. So that's 0001-7361, and the translation is 0034-0063.

20 Mr Witness, can you tell us what this document is?

21 A. [10:06:38] This is a document showing a list of prisoners and their charges.  
22 And it's showing also the villages that they came from, or the neighbourhoods they  
23 come from. And it shows also the date they were imprisoned.

24 Q. [10:07:24] [REDACTED]

25 [REDACTED] do you know where the village of

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1 Kourimi is?

2 A. [10:07:56] I knew it previously, but I am not very sure about it now. But I think  
3 the name is Korioumé. Korioumé.

4 Q. [10:08:16] And can you tell us roughly which direction it is from Timbuktu,  
5 towards Zarho, towards Goundam, towards the north, towards the south, in relation  
6 to Timbuktu.

7 A. [10:08:37] Korioumé, if I remember well, is by the river to the south of Timbuktu  
8 near Kabara.

9 Q. [10:08:58] And [REDACTED]  
10 [REDACTED] Is Koulikoro a village or a neighbourhood, do you know that?

11 A. [10:09:21] [REDACTED]  
12 [REDACTED] This is in the depth of Mali in the south. This comes from this village  
13 and it is really, really far from Timbuktu. I think it's between Segou and Mopti.

14 Q. [10:09:59] One final geographic clarification, [REDACTED]  
15 Tagharoust. Can you tell us please where is Tagharoust?

16 A. [10:10:20] Yes. Tagharoust is close to Zarho. To -- Tagharoust is to the south  
17 of the river [REDACTED]

18 [REDACTED]

19 Q. [10:11:03] When you say to the south of the river, which river is that?

20 A. [10:11:12] The Niger river.

21 Q. [10:11:28] [REDACTED]  
22 [REDACTED]

23 Could the court usher please show Mr Witness the document that is in binder 3,  
24 tab 487.

25 PRESIDING JUDGE MINDUA: [10:12:09](No interpretation)

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1 MS TAYLOR: [10:12:11] Thank you very much, Mr President.

2 The Defence does not object per se to the Prosecution putting questions to the witness  
3 on the basis of the document we've just been looking at, but in the interest of  
4 establishing the truth in this case it would be helpful for the Prosecution to establish a  
5 greater foundation. Now, the witness has said that this is a list of prisoners. We  
6 don't have any information as to whether the witness has seen this list before, who  
7 drafted the list, who created it, and I believe that before using this list as a basis before  
8 going further, it would be helpful for the Prosecution to elicit further information as  
9 concerns what exactly we were just looking at.

10 PRESIDING JUDGE MINDUA: [10:12:54](Interpretation) Mr Prosecutor, you asked  
11 the witness where the list came from -- or please ask the witness where the list came  
12 from and what is your basis.

13 MR DUTERTRE: [10:13:12](Interpretation)

14 Q. [10:13:14] Mr Witness, had you ever seen this list before?

15 A. [10:13:35] I saw it only during my meetings with the office of the Prosecution.

16 Q. [10:13:45] [REDACTED] are there any whose name you  
17 recognise?

18 A. [10:14:15] Yes, I know [REDACTED] I  
19 heard some of them at least. [REDACTED]

20 Q. [10:14:40] Could you please give us the names that you had of people whose  
21 names of people you'd previously heard, [REDACTED]

22 [REDACTED] Thank you.

23 A. [10:15:06] In fact, I know two people [REDACTED]

24 [REDACTED]

25 [REDACTED] And I

1 also know people like [REDACTED]

2 [REDACTED]

3 Q. [10:15:50] [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. [10:16:46] We will come back to that. What do you know, [REDACTED]

8 [REDACTED]

9 A. [10:17:02] [REDACTED]

10 [REDACTED] I know that his hand was amputated. [REDACTED]

11 [REDACTED] he was accused of theft [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 And these names were amongst -- amongst the names that [REDACTED]

19 [REDACTED] was one of them.

20 Q. [10:18:35] [REDACTED]

21 Can you please explain the circumstances under which you met this person.

22 A. [10:19:07] I didn't say that I met him, [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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[REDACTED]

Q. [10:20:33] So could you please keep the document with you, the one you have now, and I would now like to move to 489, which is 0053-0276 in binder 3, your Honour, tab 489. And the translation is 0078-0017 and that translation is at tab 490.

What is this [REDACTED]

A. [10:22:11] [REDACTED]

[REDACTED]

Q. [10:23:07] [REDACTED]

[REDACTED]

[REDACTED]

PRESIDING JUDGE MINDUA: [10:24:05](Interpretation) Ms Taylor.

MS TAYLOR: [10:24:06] Thank you, Mr President. I apologise for interrupting, but it appears that quite a critical phrase was left out of the transcript on. Page 17, line

18, [REDACTED]

[REDACTED]

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1 PRESIDING JUDGE MINDUA: [10:24:42](Interpretation) I didn't hear any mention  
2 of death in French. Could you please ask.

3 MR DUTERTRE: [10:24:50](Interpretation) Indeed, your Honour. I didn't hear that  
4 either.

5 Q. [10:24:54]

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7 A. [10:25:08]

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10 Q. [10:25:38] Is there a difference between performing magic and -- or creating  
11 magic and being in possession of elements like an amulet which are for magic? Is  
12 that the difference you're explaining?

13 THE INTERPRETER: [10:26:05] The interpreter didn't hear the beginning of the  
14 answer. Can we ask the witness to repeat, please.

15 THE WITNESS: [10:26:14](Interpretation) I said that even the person who uses such  
16 magical material, if they know it well and believe in it

17 MR DUTERTRE: [10:26:43](Interpretation)

18 Q. [10:26:44] So now, Mr Witness, I would like you and court usher, please, to go to  
19 tab 133 of binder 1, 0001-7392. And could you please keep this document with you,  
20 Mr Witness, for the time being.

21 So could you please look at the right-hand page, Mr Witness.

22 PRESIDING JUDGE MINDUA: [10:28:28](Interpretation) Ms Taylor.

23 MS TAYLOR: [10:28:30] Thank you, Mr President. Would the Prosecution be able  
24 to give the MLI reference for the translation. I don't believe it's yet on the record.

25 MR DUTERTRE: [10:28:43](Interpretation) You're quite correct. I apologise.

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1 0078-6009 and that's at tab 134. So the original is at 133 and the translation at 134.

2 Q. [10:29:21] Mr Witness, could you please tell the Chamber what is the subject of  
3 the right-hand page here?

4 A. [10:29:41] [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 Q. [10:30:38] And to roughly what month and what year [REDACTED]  
10 correspond?

11 A. [10:30:59] I think that would be equivalent to September 2012.

12 Q. [10:31:20] And now we're going to move to another document where the  
13 translation is in binder number 4, and we're looking here for tabs 790 and 791. And  
14 that's 0018-4704 -- sorry, 0068-4704 for the original and 0078-1710 for the translation.  
15 What is this document, Witness?

16 A. [10:33:03] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. [10:33:54] (No interpretation)

20 A. (No interpretation)

21 PRESIDING JUDGE MINDUA: [10:34:07](Interpretation) Indeed, there's no  
22 translation -- no interpretation.

23 MR DUTERTRE: [10:34:19](Interpretation)

24 Q. [10:34:20] Witness, could you repeat, there wasn't any interpretation.

25 A. [10:34:26] Yes. I described it as an unofficial document [REDACTED]



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[REDACTED]

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PRESIDING JUDGE MINDUA: [10:34:48](Interpretation) Ms Taylor.

3

MS TAYLOR: [10:34:49] Thank you, Mr President. I apologise for interrupting, but

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Mr Al Hassan has respectfully requested if he could use the restroom very briefly?

5

PRESIDING JUDGE MINDUA: [10:35:10](No interpretation)

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MS TAYLOR: [10:35:14] Thank you.

7

(Mr Al Hassan exits the courtroom)

8

(Pause in proceedings)

9

(Mr Al Hassan enters the courtroom)

10

PRESIDING JUDGE MINDUA: [10:38:40](Interpretation) Mr Al Hassan is back.

11

Prosecutor, you have the floor.

12

MR DUTERTRE: [10:38:44](Interpretation) Thank you, your Honour.

13

Q. [10:38:51] Witness, could you give us the date or confirm that it's the -- as

14

written on the right -- on the left -- on the -- as written at the top on the left [REDACTED]

15

[REDACTED]

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A. [10:39:18] (Microphone not activated)

17

THE INTERPRETER: [10:39:20] Microphone. Microphone.

18

THE COURT OFFICER: [10:39:21] Microphone.

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MR DUTERTRE: [10:39:24](Interpretation)

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Q. [10:39:25] [REDACTED]

21

[REDACTED]

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THE INTERPRETER: [10:39:42] Could counsel slow down when reading the text.

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It's also -- this part is not being displayed to the interpreters.

25

MR DUTERTRE: [10:39:53](Interpretation) I'm going to repeat the question.

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1 Q. [10:39:59] Do you confirm [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 A. [10:40:21] Yes, I can confirm this.

5 MR DUTERTRE: [10:40:33](Interpretation) I would now like to ask you to go to  
6 tab -- binder 3, your Honour, your Honours. Tabs 447 and 448. The original,  
7 0053-0056 -- 0156.

8 THE INTERPRETER: [10:41:06] Corrects the interpreter.

9 MR DUTERTRE: [10:41:09](Interpretation) And the translation 0070-2225.  
10 So 0077-2225 -- 26, page 2226.

11 THE INTERPRETER: [10:41:41] If the original could be displayed on one channel  
12 and the translation on the other channel, that would help the interpreters greatly.  
13 Message from the booth.

14 PRESIDING JUDGE MINDUA: [10:42:01](Interpretation) Ms Taylor.

15 MS TAYLOR: [10:42:02] I apologise, Mr President, but I'm not sure if a message  
16 from the English booth was put into the French transcripts about asking that the  
17 translation and the original be displayed. Thank you.

18 THE COURT OFFICER: [10:42:25] Your Honours, we can from the Registry Bench  
19 display one document. The other channel would need to be used for the other  
20 document and that would be from the other party.

21 MR DUTERTRE: [10:42:47](Interpretation) Once again, I don't have the videos -- I  
22 don't have the documents.

23 PRESIDING JUDGE MINDUA: [10:42:57](Interpretation) Ms Taylor, what would  
24 you suggest?

25 MS TAYLOR: [10:43:01] I apologise, Mr President. This is a suggestion coming

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1 from the interpreters. I think that the idea is that sometimes when Mr Dutertre is  
2 reading documents, they can't actually see what he's reading on the screen. I think  
3 that's the issue. So perhaps Mr Dutertre can wait until the Registry has shown what  
4 he's reading on the screen, that might make it easier for the interpreters. But maybe  
5 they are in a better position to speak to this issue.

6 THE INTERPRETER: [10:43:31] That is indeed correct. It would help to be able to  
7 see what Mr Dutertre is reading on the screen.

8 PRESIDING JUDGE MINDUA: [10:43:39](Interpretation) I think that the counsel is  
9 right. The advice of Ms Taylor is right.

10 MR DUTERTRE: (Interpretation) Absolutely. The interpreters have two folders  
11 which they can use, and you just have to show in eCourt with the number. When I  
12 indicate the number of the binder, it's the same number that they can show in two or  
13 three seconds.

14 THE INTERPRETER: [10:44:04] The interpreters intervene to say we only have two  
15 binders between six interpreters. We're alone in the booth. And the freelancers  
16 have no access whatsoever to the eCourt system.

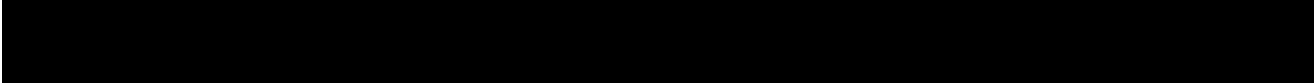
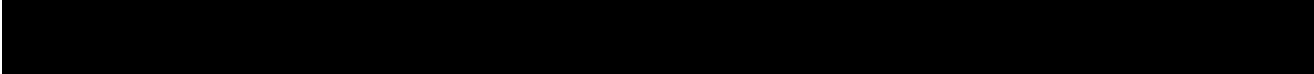
17 PRESIDING JUDGE MINDUA: [10:44:19](Overlapping speakers)  
18 Very well, so we call upon their competence in new technologies.

19 MR DUTERTRE: [10:44:30](Interpretation) Absolutely, your Honour.  
20 So tabs 447 and 448 for the translation.

21 Do the interpreters have it?

22 Q. [10:45:02] So, Witness, what is this document, 0053-0056?

23 A. [10:45:18] 

24   
25 

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1 Q. [10:45:50] Do you confirm [REDACTED]

2 [REDACTED]

3 A. [10:46:06] Yes, I can confirm this.

4 Q. [10:46:12] [REDACTED]

5 justice?

6 A. [10:46:26] [REDACTED]

7 Q. [10:46:33] Do you confirm [REDACTED]

8 A. [10:46:46] Yes, I confirm this.

9 Q. [10:47:07] So I'm now going to document a 0001-7474, tab 1477, binder 8, with a  
10 translation 0077-2242, tab 1478.

11 What is this document, Witness?

12 A. [10:48:49] This is the same document that you have shown to me earlier  
13 [REDACTED] cutting off his hand.

14 Q. [10:49:12] So I'm now going to put that document away and go to another  
15 in -- tabs 447, 448 in binder number 3. ERN 0053-0270. Translation 0078-0015.

16 What is this document, Witness?

17 A. [10:52:00] [REDACTED]

18 [REDACTED]  
19 [REDACTED]

20 Q. [10:52:43] In the French transcript part is missing, [REDACTED]

21 [REDACTED]

22 Witness, could you confirm [REDACTED]

23 A. [10:53:09] Yes, I can confirm this.

24 Q. [10:53:20] [REDACTED]

25 [REDACTED]

1 A. [10:53:33] [REDACTED]

2 Q. [10:53:45] I would now like to -- still on binder number 3, tabs 493 and 494.

3 What is this document, Witness?

4 A. [10:55:21] [REDACTED]

5 [REDACTED]

7 Q. [10:56:06] Thank you, Witness.

8 You mentioned [REDACTED] 0001-7361 [REDACTED]

9 [REDACTED] What do you know about this person?

10 A. [10:57:03] Nothing more than that [REDACTED]

11 [REDACTED]

12 Q. [10:57:17] And [REDACTED] you also mentioned

13 [REDACTED]

14 What do you remember in this regard?

15 A. [10:57:56] Yes. This person, I told you that I recognised his name [REDACTED]

16 [REDACTED]

17 [REDACTED] And I

18 mentioned him here before, here in the Court, [REDACTED]

19 [REDACTED] I know that he

20 works in construction. He's a builder. [REDACTED]

21 [REDACTED]

23 PRESIDING JUDGE MINDUA: [10:59:17](Interpretation) Prosecutor, excuse me.

24 Are you following the French interpretation as I am? [REDACTED] I heard

25 "fornication", but in English I can see "adultery". What did the witness say exactly?

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1 Has that been translated?

2 Witness, have you understood what I said?

3 THE WITNESS: [11:00:03](Interpretation) Yes, I used the word "fornication". He  
4 was convicted of fornication.

5 PRESIDING JUDGE MINDUA: [11:00:20](Interpretation) Perhaps we need an  
6 interpreter to explain. [REDACTED] it's marked "adultery", so what does that  
7 have to do with fornication?

8 MR DUTERTRE: [11:00:41](Interpretation) Your Honour, I'm told that in Arabic the  
9 witness used the term *zina* (phon), this is what he says. But, indeed, perhaps he  
10 could clarify what he's talking about, fornication, adultery.

11 PRESIDING JUDGE MINDUA: (Interpretation) But on his list, his list is in Arabic.  
12 [REDACTED]. What does it say [REDACTED]? Perhaps it's  
13 wrongly translated in the list in English.

14 MR DUTERTRE: [11:01:19](Interpretation)

15 Q. [11:01:20] Could you read the term used, Witness, [REDACTED]

16 [REDACTED]

17 A. [11:01:42] The term in Arabic is *zina*.

18 PRESIDING JUDGE MINDUA: [11:01:51](Interpretation) Very well. Thank you  
19 very much.

20 MR DUTERTRE: [11:01:57](Interpretation) But, your Honour, perhaps we could ask  
21 him to explain what *zina* means exactly.

22 PRESIDING JUDGE MINDUA: [11:02:06](Interpretation) Indeed, you're right.

23 MR DUTERTRE: [11:02:09](Interpretation) Despite the fact we're over the time, I'm  
24 in your hands.

25 PRESIDING JUDGE MINDUA: [11:02:13](Interpretation) Yes, let's just finish with


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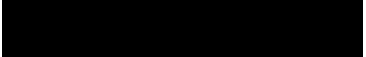
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1 that.

2 MR DUTERTRE: [11:02:15](Interpretation)

3 Q. [11:02:17] Witness, could you define the term *zina* 

4 

5 A. [11:02:32] Yes. It means sexual intercourse, intercourse with a woman who is  
6 not -- or just between two people who are not allowed to do so together. I mean by  
7 that outside the rules imposed by Sharia.

8 PRESIDING JUDGE MINDUA: [11:03:09](Interpretation) Very well. Thank you,  
9 Prosecutor.

10 We are going to suspend the hearing for 30 minutes and we will be back at 11.30.

11 Court is suspended.

12 THE COURT USHER: [11:03:25] All rise.

13 (Recess taken at 11.03 a.m.)

14 (Upon resuming in closed session at 11.31 a.m.)

15 THE COURT USHER: [11:31:22] All rise.

16 Please be seated.

17 PRESIDING JUDGE MINDUA: [11:31:47](Interpretation) The Court is once more in  
18 session.

19 Mr Prosecutor, you have the floor.

20 MR DUTERTRE: [11:31:56](Interpretation) Thank you, your Honour.

21 Q. [11:32:02] I would now like to follow on from what we were discussing before  
22 the break and we now need to turn to binder 3. Binder 3, tabs 451 and 452. The  
23 original is 0053-0168 and the translation is 0077-2229.

24 Mr Witness, what is this document?

25 A. [11:33:32] 

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1 [REDACTED] We have spoken about him before.

2 Q. [11:34:02] And when you say previously, do you mean just before the break?

3 A. [11:34:11] Yes. And he is the person that I said I recognised him [REDACTED]

4 [REDACTED]

5 Q. [11:34:34] Can you confirm [REDACTED]

6 A. [11:34:45] Yes.

7 Q. [11:34:48] [REDACTED]

8 [REDACTED]

9 THE INTERPRETER: [11:35:09] The interpreter didn't hear the answer.

10 THE WITNESS: [11:35:13](Interpretation) [REDACTED]

11 [REDACTED]

12 MR DUTERTRE: [11:35:22](Interpretation)

13 Q. [11:35:24] Mr Witness, I would now like to ask you a question. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 A. [11:36:51] Yes. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Usually the police patrols, when they see a woman in a late hour of the night, they  
25 either tell her off or take her back to her place, or sometimes take her to the police

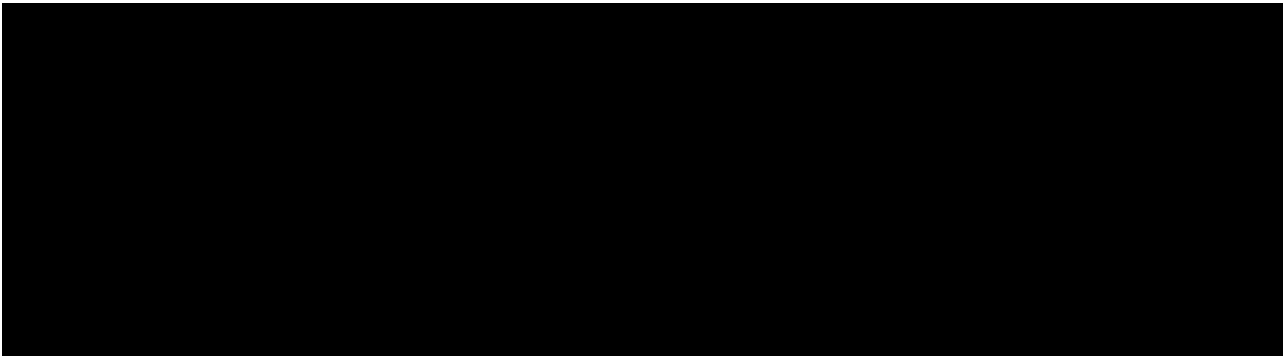


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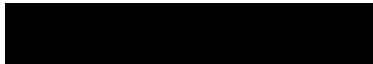
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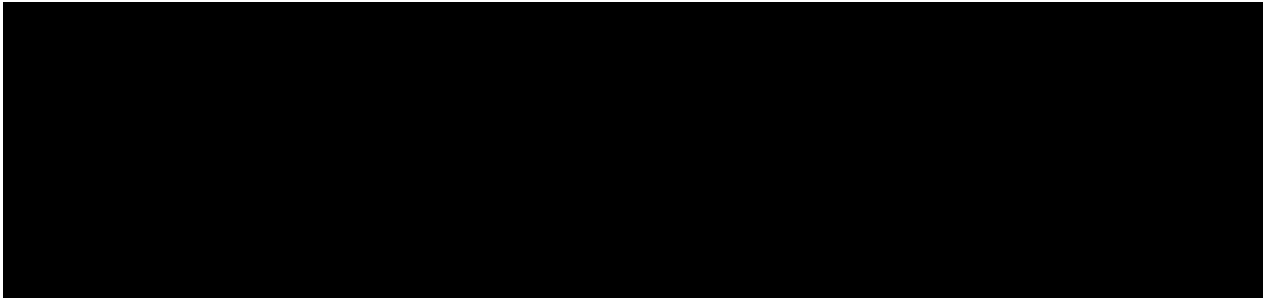


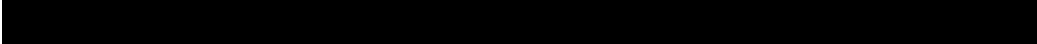
6 PRESIDING JUDGE MINDUA: [11:38:46](Interpretation) Ms Taylor, I wanted the  
7 witness to be able to finish his phrase first -- his answer first. You have the floor  
8 now.

9 MS TAYLOR: [11:38:57] Thank you, Mr President.

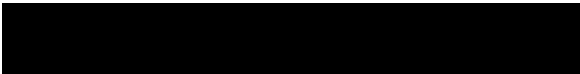
10 I note, firstly, that in the decision on the conduct of the proceedings it's necessary to  
11 read out full paragraphs. Here, the Prosecution extracted one particular segment  
12 from this report in a way that, we submit, is misleading. 

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17 So we believe that, in full fairness to the witness, it's important that the entire extract  
18 be read out 

19



20 PRESIDING JUDGE MINDUA: [11:40:04](Interpretation) Yes, Ms Taylor. But the  
21 witness has the text in front of him. The Prosecutor dealt with the bit that interested  
22 him. And the -- but the witness has the full text. And we haven't said that we  
23 always have to read all the paragraphs.

24 But in any case, the witness has replied. So, Prosecutor, please continue.

25 MR DUTERTRE: [11:40:34](Interpretation) So I'm going to read another part more

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1 fully, but I'm only interested in a particular phrase. So it says here:

2 (Speaks English)

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]

8 (Interpretation) So my question is as follows, Mr Witness: Can you please clarify for

9 the Chamber the third point, [REDACTED]

10 [REDACTED]

11 A. [11:42:26] Yes. [REDACTED]

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 Q. [11:44:24] So I'd like to come back to one point here. You said that the fact that

1 there were arms - and in the French this is page 29, line 25, to page 30, line 1 - with  
2 regard to the weapons, [REDACTED]

3 [REDACTED]

4 Could you please explain in more detail what you mean by that?

5 A. [11:45:17] Yes. I meant that, [REDACTED]

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 [REDACTED] being outside at this late hour of the night was  
10 considered a violation of the rules, so carrying weapons was not considered a crime  
11 but it was evidence that she was coerced.

12 Q. [11:46:33] [REDACTED]

13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 (Interpretation) To your knowledge, can you explain why [REDACTED]

19 [REDACTED]

20 doesn't result in a case of rape but a simple case of adultery.

21 PRESIDING JUDGE MINDUA: [11:48:29](Interpretation) Ms Taylor.

22 MS TAYLOR: [11:48:30] Thank you, Mr President. We respectfully submit that  
23 there's no foundation for this question. [REDACTED] the Prosecution has

24 [REDACTED] found in support of the claim of rape, and the

25 witness has stated that [REDACTED] the person was coerced. So the

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1 Prosecutor is putting a question to the witness without having elicited a foundation  
2 for putting that question to the witness. In fact, what they're putting to the witness  
3 directly contradicts the witness's answers.

4 PRESIDING JUDGE MINDUA: [11:49:14](Interpretation) Mr Prosecutor.

5 MR DUTERTRE: [11:49:15](Interpretation) The foundation is in the document in the  
6 list 0001-7361, [REDACTED] on the left in the Arabic version, on the right in the  
7 English version, [REDACTED]

8 PRESIDING JUDGE MINDUA: [11:49:52](Interpretation) I think we have the  
9 foundation there, Ms Taylor' [REDACTED]

10 MS TAYLOR: [11:49:57] Thank you, Mr President. As was discussed during the  
11 break, it's not actually adultery in the Arabic, it was *zina*. [REDACTED]

12 [REDACTED] So, again, I respectfully submit it's not a fair  
13 question to put to this witness [REDACTED]

14 [REDACTED]

15 [REDACTED]  
16 [REDACTED] to combine them in the absence of any linkage is unfair and is inviting  
17 the witness to simply speculate.

18 PRESIDING JUDGE MINDUA: [11:50:44](Interpretation) I don't agree with you,  
19 Ms Taylor. [REDACTED]

20 [REDACTED]

21 [REDACTED] I think that the Prosecutor is  
22 right to ask this question and I think this will now be clarified.

23 Thank you, Mr Prosecutor.

24 MR DUTERTRE: [11:51:19](Interpretation) Thank you, your Honours.

25 Q. [11:51:23] So, Mr Witness, can you explain why, [REDACTED]

1 [REDACTED]

2 [REDACTED] adultery rather than  
3 rape?

4 A. [11:52:05] Yes. The judgment here is for adultery for the man and rape for the  
5 woman. And that's why the man was punished but the woman was not punished,  
6 because she was raped.

7 Q. [11:52:28] And can you please explain, for the man it was a judgment of rape  
8 and for the man adultery. So for the same case, depending on who is who, there  
9 seem to be different qualifications.

10 A. [11:52:53] [REDACTED]  
11 the -- there are factors such as coercion and mistake and forgetfulness that should be  
12 taken into consideration and each factor has its own conditions and definitions for it  
13 to be considered.  
14 The *hadd* or the Sharia punishment is -- for adultery is flogging, but such sentence can  
15 be waived in cases of coercion and mistake and forgetfulness. And in this case the  
16 sentence was waived because the woman was coerced according to the Sharia  
17 regulations.

18 Q. [11:54:13] Maybe I put this badly. Could you explain why [REDACTED] where  
19 [REDACTED] adultery  
20 rather than for rape?

21 A. [11:54:43] In reality, [REDACTED] the description of  
22 rape here for the man didn't bring anything new in addition to [REDACTED]  
23 [REDACTED] the extramarital intercourse.

24 [REDACTED]  
25 [REDACTED]

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[REDACTED]

Q. [11:55:47] [REDACTED]

A. [11:55:57] Exactly. This is what I meant.

Q. [11:56:03] And, generally speaking, what would be the punishment for rape for the person committing rape, for the man, not the woman?

A. [11:56:19] If we look at rape from an Islamic point of view it means coercing a woman to -- to commit *zina* or intercourse. Whether this coercion comes from the woman or the man, it works on both sides. But the factor that is considered in Sharia is that the person who is coerced to participate in such act should not be punished.

[REDACTED]

Q. [11:57:35] But the sentence imposed on someone who has committed rape, what would that be?

A. [11:57:49] Undefined. It's got to be looked into in parts. So either the known sentence for committing extramarital intercourse, and the *ta'zir*, that is left to the judge's discretion.

Q. [11:58:28] Thank you.

So, Mr Witness, you mentioned also, I think on page 5, that you knew [REDACTED] people with [REDACTED] So if we start [REDACTED]

[REDACTED]

What do you know about this person?

A. [11:59:36] I know this man. [REDACTED]

[REDACTED]

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1 [REDACTED] And when Ansar Dine arrived  
2 he joined them, and at a certain point he stole - [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 There are fatwas related to his marriage using stolen money and there were cases  
7 related to his theft also.

8 PRESIDING JUDGE MINDUA: [12:01:10](Interpretation) Prosecutor, I'd like to take  
9 this opportunity, this short break, to point out to you that the programme of the  
10 Chamber has changed. So instead of this session ending at 12.30, we're going to  
11 continue until 1 o'clock at usual, 1300. That way you know that you've still got an  
12 hour.

13 MR DUTERTRE: [12:01:38](Interpretation) Thank you, your Honour. That changes  
14 the organisation indeed. Thank you.

15 PRESIDING JUDGE MINDUA: [12:01:46](Interpretation) Thank you.

16 MR DUTERTRE: [12:01:54](Interpretation) I'm just going to check something, your  
17 Honour. If you would give me a moment.

18 I would like to show you at tab 455 and 456, your Honour, your Honours, of binder 3,  
19 document 0053-0180, with the translation 0077-2414.

20 Q. [12:03:27] What is this document, Witness?

21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

24 Q. [12:04:04] And could you confirm [REDACTED]

25 A. [12:04:32] Yes, I confirm that.

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1 Q. [12:04:40]

[REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] That's *ta'zir*, is it?

5 A. [12:05:30] Yes, right.

6 Q. [12:05:33] [REDACTED]

7 A. [12:05:49] [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. [12:08:42] I would now, Witness, like to go on to the other person that you said  
22 you knew, [REDACTED] 0001-7361. [REDACTED]

23 [REDACTED]

24 A. [12:09:28] Yes. I knew this person [REDACTED]

25 [REDACTED]



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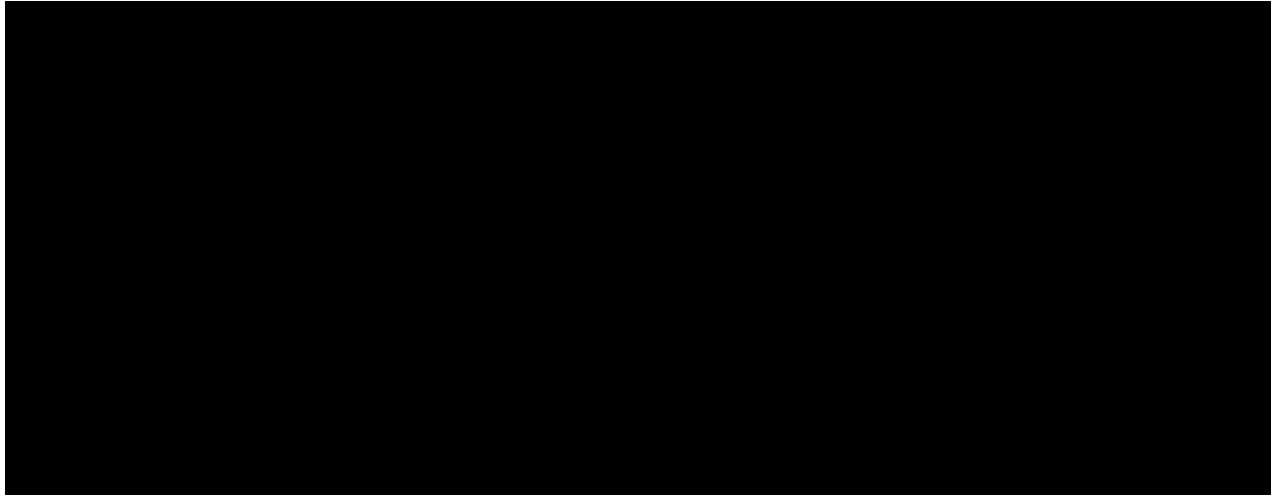
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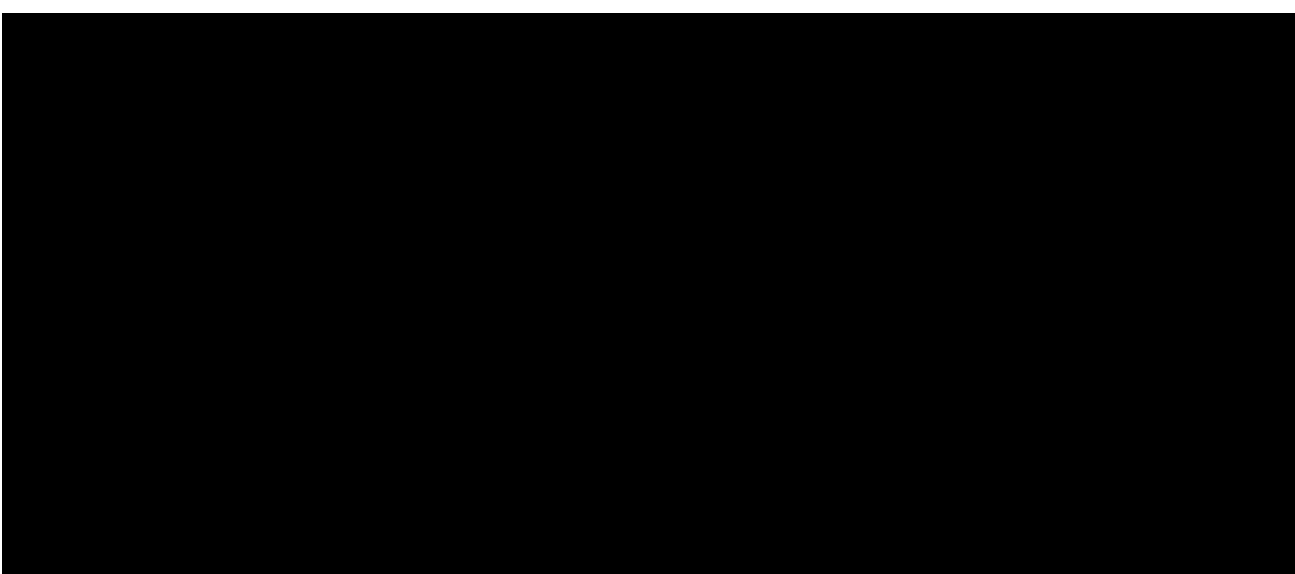


Q. [12:10:28] Very well. I'm just going to come back  
a couple of points to make.



Q. [12:11:48] So still on this point, I'd like to take you to tab 411 and 412 of binder 3.  
Tab 411, that's the document 0052-0054. The translation is 0077-2283.  
What is this document, Witness?

A. [12:13:20]



A. [12:14:44] Yes.

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1 Q. [12:14:50] [REDACTED]

2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 Q. [12:15:43] That's clear now. Thank you.

7 So for the purpose of the transcript, there you're referring to [REDACTED]  
8 0001-7361?

9 A. [12:16:23] Yes.

10 Q. [12:16:29] Now, Witness, I would like to go to tab 513, binder 3. The original  
11 0053-0348. The translation is at 514, tab 514, 0078-0041.

12 What is this document, Witness?

13 A. [12:18:16] [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 Q. [12:19:45] I would now like to go to tab 445 of binder 3, and 446. The original,  
22 0053-0150. The translation, 0077-2223, at tab 446.

23 You still have your list with you of course. Could you tell us what this document is,  
24 Witness?

25 A. [12:21:14] [REDACTED]

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1 [REDACTED]  
2 [REDACTED]

3 Q. [12:21:53] Is it the same person or a different person [REDACTED]  
4 [REDACTED] 0001-7361?

5 A. [12:22:29] I can't confirm, but using logic [REDACTED]  
6 [REDACTED] I know that the  
7 letter seen in Arabic is not pronounced sometimes in other languages. But I cannot  
8 confirm.

9 Q. [12:23:19] I'm now going to go to tab 519, still in binder 3.

10 THE INTERPRETER: [12:23:30] Microphone.

11 MR DUTERTRE: [12:23:31](Interpretation) The document 0053-0366, translation  
12 0078-0047, and that's at tab 520.

13 THE WITNESS: [12:24:51](Interpretation) Yes.

14 MR DUTERTRE: [12:24:52](Interpretation)

15 Q. [12:24:53] What is this document, Witness?

16 A. [12:24:58] [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 Q. [12:26:19] Just a moment. I'm going to show another document, ERN  
22 0078-4705, 792, binder 4. Translation at 793.  
23 I'm looking for the ERN number. ERN 00 -- 0078-0248, tab 793.  
24 0078-0248, tab 793.

25 What is this document, Witness?

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1 A. [12:28:26] [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]

5 Q. [12:29:12] I'll now go to a last document at this stage, binder 3, tab 517.  
6 Translation 518, tab 518. 0053 -- 0053-0360. Translation 0078-0045.  
7 What is this document, Mr Witness?

8 A. [12:31:18] [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 A. [12:32:17] Can you clarify your question, please.

15 Q. [12:32:37] [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]

19 Q. [12:33:14] So, Mr Witness, [REDACTED]

20 [REDACTED]

21 [REDACTED] Before the arrival of the  
22 jihadist groups in Timbuktu in April 2012, who was responsible for penal justice in  
23 Timbuktu?

24 A. [12:34:03] In Timbuktu there was a court and the police, and also the federal  
25 government in Timbuktu. They looked at cases, whether cases where people were

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1 arrested or just complaints that were filed at the police stations. Some of the cases  
2 were resolved by the police and some other cases were resolved by the court in  
3 Timbuktu.

4 Q. [12:34:49] And before the arrival of the jihadist groups in Timbuktu, what was  
5 the role of the *cadi*?

6 A. [12:35:10] The *cadi* or the judge, for a long time in Timbuktu and its surrounding  
7 areas, and the north of Mali in general, they have not been responsible for justice in its  
8 known meaning but, rather, they were responsible for fatwa in its religious term.  
9 But it's not enforceable. There is no authority that can force people to implement  
10 such fatwas. So the judges in Timbuktu and its surroundings had cases before them  
11 every single day and they made judgments, but this happened by the approval of the  
12 people.

13 So if the *cadi* or the judge made a specific judgment and the person who is -- this  
14 judgment is related to is not happy, then they don't have to abide by the *cadi's*  
15 judgment and they had the option to go to the governmental judiciary system.  
16 But in the remote areas, we know that the *hadd* for *zina*, or extramarital intercourse,  
17 and also the *hadd* for murder, was implemented in certain areas of Mali. The *hadd* for  
18 *zina* was known amongst the people and people volunteered and did it by  
19 themselves.

20 Q. [12:37:04] And which areas are you referring to specifically here when you say  
21 the remote areas?

22 A. [12:37:32] I talk about the Bedouins, the people that I lived with when I was a -- I  
23 lived with when I was a child, and it's the area to the west of Timbuktu, all the way to  
24 the Mauritanian borders. I know the tribes that lived there and I know that if a  
25 woman became pregnant without being married, she used to go to the *cadi* and she

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1 was punished by beating, with the knowledge of her father or her brother. And  
2 sometimes women go and ask for it because it was considered as a type of  
3 purification before the day of judgment.

4 And a small number of men did that as well, but it wasn't easy to prove that a man  
5 committed *zina* or extramarital intercourse, so it was quite rare that the people will  
6 come to the *cadi* by themselves and get punished to the *hadd* of *zina*.

7 THE INTERPRETER: [12:39:16] Correction from the interpreter: It was rare that  
8 men.

9 MR DUTERTRE: [12:39:25](Interpretation)

10 Q. [12:39:29] Understood.

11 And you say that -- page 46, lines 25 to 28, "So the judges in Timbuktu and environs  
12 were presented with cases every day and they provided judgments and that  
13 happened with the approval of people." Could you please clarify two things for us.  
14 And the first one is what is meant by the approval of the people?

15 A. [12:40:15] I meant that people who have a dispute accepted the judgment of the  
16 *cadi* or the judge. Sometimes a person will go to the judge and explain their case and  
17 then the judge will summon the defendant. And then a session is held, either in the  
18 mosque or in the judge's house. And when the judge reaches a judgment, they  
19 usually put the condition that the accused is happy with the judgment. Otherwise,  
20 they have to go to the government's judicial system and file a legal case.

21 Q. [12:41:24] And, generally speaking, what type of cases were brought before the  
22 *cadi*? Could that be cases of theft or what type of thing?


23 A. [12:41:45] Mostly social cases such as divorce and marriage and breastfeeding,  
24 and similar cases. And also cases related to money, such as sales and usury and  
25 debts and the likes, judges used to deal with this type of judgment. But other cases

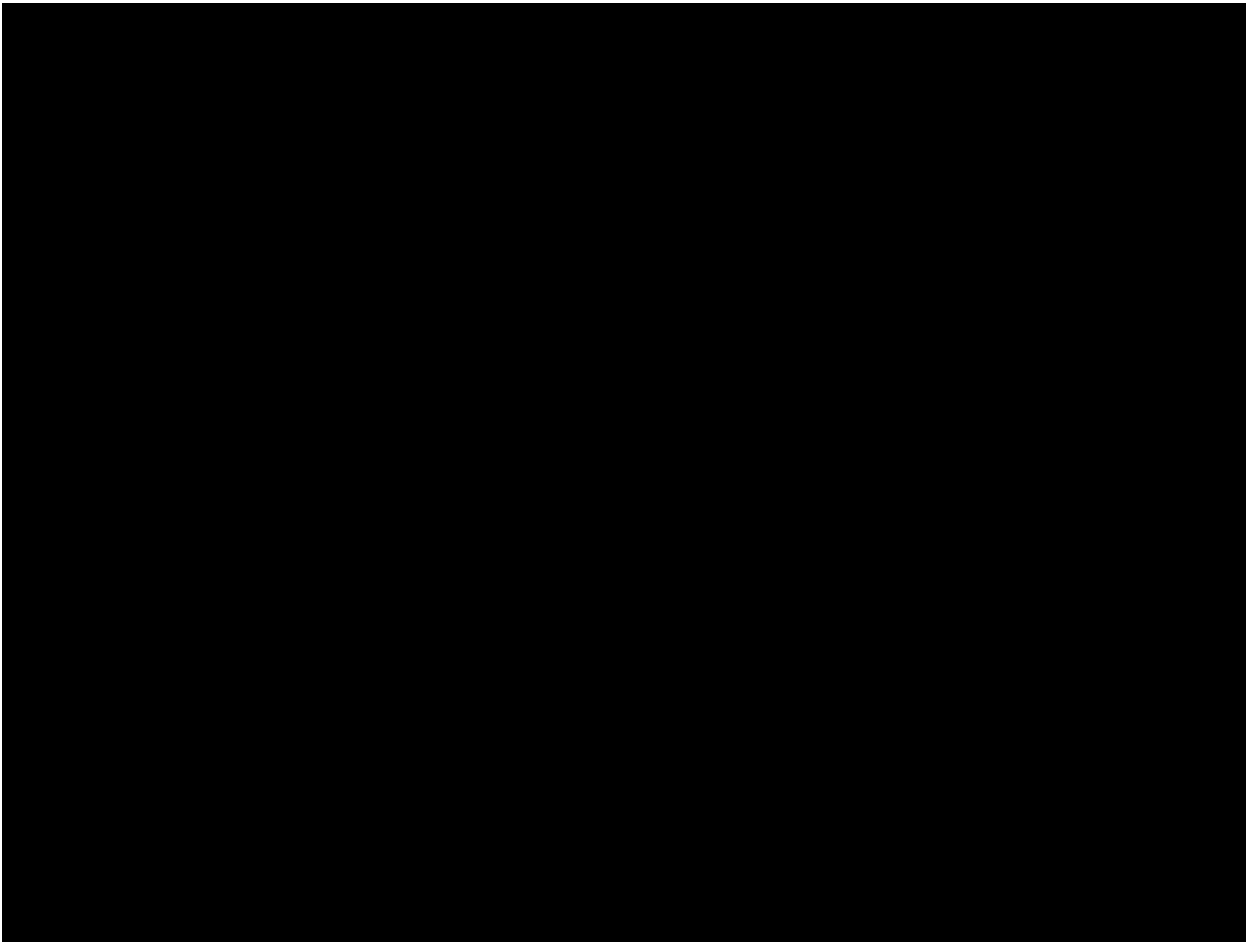
1 related to bigger felonies that will require *hadd*. Usually they try to not make any  
2 judgments regarding such cases and, if they do, they usually do it in secret without  
3 the knowledge of the government.

4 Q. [12:42:43] And why would they do it in secret without the knowledge of the  
5 government?

6 A. [12:43:04] Because the government recognised the role of Islamic judgment as a  
7 part of custom, not an official thing. But it was very helpful. So the government  
8 was using it to reach reconciliation and consensus amongst people instead of, instead  
9 of filing legal cases to the state. So many problems were resolved before it reached  
10 the official court in the Malian government.

11 Just to clarify, the judges were not allowed to work in any penal justice matters.

12 Q. [12:44:27] 

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1 A. [12:46:53] 

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7 A. [12:47:51] Maybe that was a mistake in or a problem with the translation. I  
8 don't think that I said the sentence in that way.

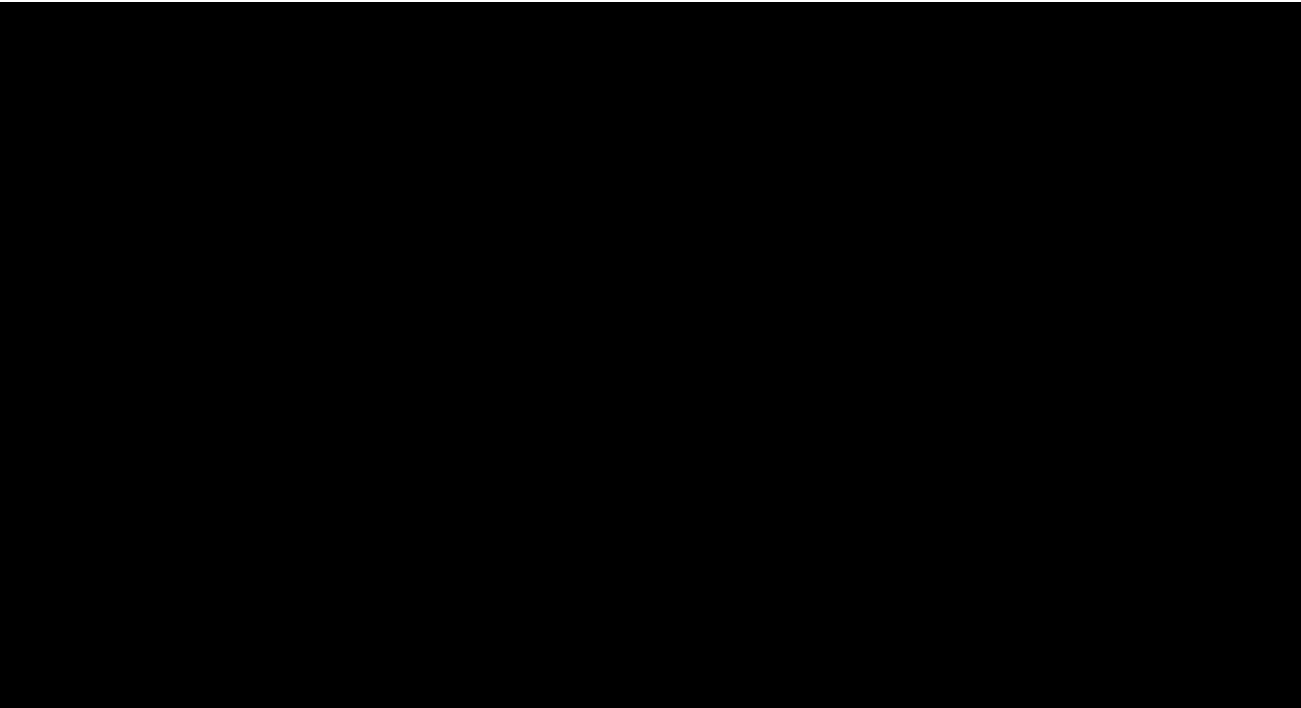
9 PRESIDING JUDGE MINDUA: [12:48:03](Interpretation) Ms Taylor.

10 MS TAYLOR: [12:48:04] Thank you, Mr President. But I believe the witness has  
11 said exactly what I was going to say and that I did not see that in the transcript.

12 PRESIDING JUDGE MINDUA: [12:48:19](Interpretation) Very good.

13 MR DUTERTRE: [12:48:24](Interpretation) It's in the French, page 50, lines 1 and 2,  
14 but there may be a problem of translation. Maybe our interpreters can help us here.

15 What exactly did you say? 

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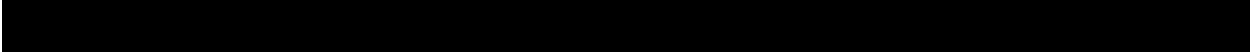
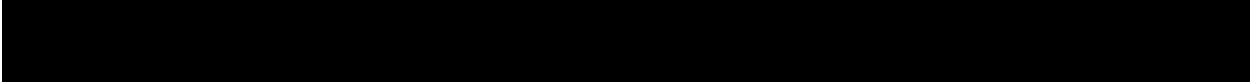
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1 Q. [12:50:12] Understood. So one final point. So did you use the word "fatwa" in  
2 your previous reply or was it a translation issue? We need to get this clear for the  
3 record.

4 PRESIDING JUDGE MINDUA: [12:50:37](Interpretation) I'm going to police the  
5 discussions. Ms Taylor.

6 MS TAYLOR: [12:50:40] Thank you, Mr President. If I could refer the Prosecution  
7 to page 48 of the English transcript, that's lines 24 to 25, I believe we have the  
8 witness's answer reflected there where it says 

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11 So I do believe we have the answer in the English transcript and it was just an issue  
12 with the French transcript.

13 PRESIDING JUDGE MINDUA: [12:51:29](Interpretation) Noted.

14 MR DUTERTRE: [12:51:33](Interpretation) But I don't actually know which is the  
15 correct transcript, the French or the English. I'm trying to get to the bottom of what  
16 the witness said. The two languages are equivalent in translation so we need to find  
17 out which is correct.

18 PRESIDING JUDGE MINDUA: [12:51:55](Interpretation) So let's get to the bottom  
19 of them by asking the question once and for all.

20 MR DUTERTRE: (Interpretation)

21 Q. [12:52:04] Mr Witness, you have understood what's just been discussed. Could  
22 you please repeat what you said exactly relating to this precise element of your reply.

23 A. [12:52:17] Yes. I repeated it, but if you want to know in which context I used  
24 the word "fatwa", yes I remember that I used it, but I think it was in a previous  
25 question.

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[REDACTED]

PRESIDING JUDGE MINDUA: [12:53:39](Interpretation) I think that is now very clear. Yes, that's it.

Please continue, Mr Prosecutor.

MR DUTERTRE: [12:53:48](Interpretation) Thank you, your Honour.

Q. [12:53:53] So, Mr Witness, one further point of clarification, 51, 20, [REDACTED]

[REDACTED]

[REDACTED] What precisely do you mean by that?

A. [12:54:35] I'm explaining here [REDACTED]

[REDACTED]

[REDACTED] some of them stayed, but they did not work [REDACTED]


Q. [12:55:45] [REDACTED]

[REDACTED]

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1 A. [12:56:20] 

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12 Q. [12:58:06] I would like to start with a point that we will finish -- something we  
13 will finish after the break, but I'd like to use the time fully. So that's binder 5 and tab  
14 922, and the translation is at 923. The document itself is 0068-4795. And the  
15 reference of the translation is 0077-4443.  
16 I'm going to ask a very brief question in view of the time and we'll continue  
17 afterwards.

18 In one word, Mr Witness, what is this document?

19 A. [13:00:23] 

20 PRESIDING JUDGE MINDUA: [13:00:34](Interpretation) Excellent.  
21 It's now 1 o'clock. We've come back to our normal time schedule. So we will have  
22 a one and a half hour lunch break and we will recommence at 1430 and sit until 4 p.m.  
23 The hearing is adjourned.

24 THE COURT USHER: [13:00:58] All rise.

25 (Recess taken at 1.00 p.m.)

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1 (Upon resuming in closed session at 2.30 p.m.)

2 THE COURT USHER: [14:30:16] All rise.

3 Please be seated.

4 PRESIDING JUDGE MINDUA: [14:30:41](Interpretation) Court is back in session.

5 Prosecutor, you have the floor to continue.

6 MR DUTERTRE: [14:30:53](Interpretation) Thank you, your Honour, your Honours.

7 Before starting, I would like to inform the Chamber and the parties, and the people in  
8 the courtroom, about time and organisational aspects.

9 Whatever the case, the intention of the Prosecution is to finish approximately 22,  
10 23 June. We're not going to use the 90 hours, it would appear. And we won't go  
11 beyond the four weeks which would be up to the 25th. And this is because we are  
12 aware of the need for balance between the time of the Prosecution and the Defence,  
13 the time necessary for the Legal Representative of Victims to put their questions, for  
14 the Chamber as well, and of course for the well-being of the witness, who is spending  
15 long hours with us in this courtroom.

16 And in accordance with what time you stop me on Tuesday, 22nd, or Wednesday  
17 23rd, that makes it possible for the Chamber, if you so wish, to have a break of a day,  
18 or what you consider to be necessary, such that everybody can have a break. It's not  
19 up to me to decide on that, but there will be the time necessary for the Chamber.

20 PRESIDING JUDGE MINDUA: [14:32:20](Interpretation) Thank you very much,

21 Prosecutor. The Chamber greatly appreciates your concern to take into account the  
22 instructions that have been given. Thank you.

23 MR DUTERTRE: [14:32:36](Interpretation) So, you know, your Honour, your

24 Honours, in the afternoon in general we have a small cinema session. I am now

25 going to come back just afterwards to the document that we are seeing, but I'm going

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1 to show one video to the witness, and I will ask questions about that, and then we  
2 will continue with our line of questioning after this item of evidence.

3 This is on evidence 2.

4 So you can see the picture on your screen but I can't see it on my computer.

5 Hopefully it will come back.

6 So just by way of information, this is the document at tab -- it's on the list of evidence

7 tab 1269 for this witness and this is a panoramic view.

8 So I'm going to turn it slowly.

9 Q. [14:35:10] Witness, have you had the time to look at this video?

10 PRESIDING JUDGE MINDUA: [14:35:15](Interpretation) Ms Taylor.

11 MS TAYLOR: [14:35:16] Thank you, Mr President. The Defence respectfully

12 submits, out of fairness to the witness, the Prosecution should describe exactly what

13 this is, in that this is not necessarily a film that was taken in the 360 degree way, but

14 it's something that's been put together. So I think that out of fairness I think it is

15 appropriate to describe exactly what it is so the witness does not have an idea that it's

16 something which it is not.

17 PRESIDING JUDGE MINDUA: [14:35:50](Interpretation) Prosecutor, would you

18 like to reply?

19 MR DUTERTRE: [14:35:52](Interpretation) Well, I can describe it, but it would be

20 leading. That's the difficulty. What I can say is that these are photos that have been

21 put together, taken later, and I can -- I don't want to give the answer to the witness.

22 PRESIDING JUDGE MINDUA: [14:36:10](Interpretation) Ms Taylor, that is the

23 problem, because obviously we know -- oh, it's already been described what's

24 happened. We were told how these panoramic pictures were put together. Now

25 asking the Prosecutor to explain to the witness is a leading -- a reply, so we wouldn't

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1 need the witness then, would we? What would you like to add to that?

2 MS TAYLOR: [14:36:34] Thank you, Mr President. The Defence respectfully

3 submits that it's not in this instance leading because the Prosecution wouldn't be

4 eliciting information from this witness because this witness is not a witness of fact as

5 concerns the creation of this image. It's simply a matter of making sure that the

6 witness is aware when they have been given -- this in itself is a visual aid, it consists

7 of various items that's been put together. It is an item that's being contested and

8 I think it's important that it's not being put in a way that might create an impression

9 that it's something which it is not.

10 PRESIDING JUDGE MINDUA: [14:37:17](Interpretation) Very well. I will grant

11 your request. But you can't say afterwards that the Prosecutor is leading the witness.

12 Prosecutor.

13 MR DUTERTRE: [14:37:30](Interpretation) Thank you, your Honour.

14 Q. [14:37:32] Witness, the Office of the Prosecutor is going to state that X took a

15 certain number of photos in this place, they were given to another person, Y, who put

16 the photographs together such as they could constitute a 360 degree view. So the

17 image can be turned around in order to represent, as far as possible, a particular

18 location. So that's the technical aspect thereof. And indeed the witness isn't there

19 to discuss the technical aspects of the panorama but to state whether he recognises the

20 location.

21 So, Witness, would you like me to show the -- or go around the panorama once more

22 or is this enough?

23 A. [14:38:36] What I saw is enough. Thank you.

24 Q. [14:38:43] And are you able to say where this place is that we can see in the

25 panorama?

1 A. [14:38:55] Yes. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. [14:40:22] Thank you, Witness.

8 So we were at tab 922, binder 5. Do you have this document, Witness? Is it still  
9 with you?

10 A. [14:41:28] Which document exactly? Which number is the document?

11 Q. [14:41:38] (Microphone not activated)

12 THE INTERPRETER: [14:41:44] Microphone.

13 THE WITNESS: [14:41:47](Interpretation) Yes, I have it.

14 MR DUTERTRE: [14:41:53](Interpretation)

15 Q. [14:41:54] Very well. So we discussed this.

16 Now, you have that in mind. I'd ask you to go, with the aid of the court usher, to  
17 tab -- to 483, binder 3, 0053-0258. With the translation 484, tab 484, 0078-0111 (sic).  
18 (Speaks English) You can put it back, the previous one, normally.

19 (Interpretation) What is this document, Witness?

20 A. [14:44:12] This is a copy, [REDACTED]

21 [REDACTED] which we've previously seen.

22 Q. [14:44:33] And when you say that we've already seen it, are you referring to the  
23 previous document, 0078 -- 0068 -- corrects the interpreter -- 4795.

24 A. [14:44:53] Yes.

25 PRESIDING JUDGE MINDUA: [14:44:57](Interpretation) Ms Taylor.

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1 MS TAYLOR: [14:44:58] Thank you, Mr President. I apologise for interrupting, but  
2 I believe what we're seeing on the screen is what was written on the transcript as  
3 being 0111 when it should be 0011. So it might be that the wrong document is being  
4 shown and the wrong document is on the transcript. It should be the document  
5 corresponding to 0078-0011.

6 PRESIDING JUDGE MINDUA: [14:45:38](Interpretation) You're right. On the  
7 screen it's not the correct document.

8 Court officer.

9 THE COURT OFFICER: [14:45:45] The correct document is being loaded.

10 PRESIDING JUDGE MINDUA: [14:45:48](Interpretation) Thank you very much.

11 I've got the right document now on evidence 1.

12 MR DUTERTRE: [14:46:32](Interpretation) Indeed. Now we can move.

13 Q. [14:46:36] So I'm going to show you a photograph, Witness, in binder 8, tab 1458,  
14 translation 1459 at tab 1459. The document, original, 0001-7493, and the translation  
15 0077-2446.

16 What is this document, Witness?

17 A. [14:48:35] [REDACTED]

18 [REDACTED]

19 THE INTERPRETER: [14:49:00] Note from the interpreters: We could not gather  
20 the entire number that was mentioned by the witness.

21 MR DUTERTRE: [14:49:13](Interpretation)

22 Q. [14:49:14] Could you repeat your answer, Witness.

23 A. [14:49:22] I said that [REDACTED]

24 [REDACTED] we saw previously under [REDACTED]

25 Q. [14:49:50] Do you recognise anything else in this picture, Witness?



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1 A. [14:49:59] Yes. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. [14:51:09] Witness, I'd now like to show you a document, binder 8, tab 1464,  
8 1465, 0055-1813. With the translation 0054-0341.

9 Witness, what is this document?

10 A. [14:53:14] [REDACTED]

11 [REDACTED]

12 Q. [14:53:37] And when you say the chief of the *Hesbah*, which person are you  
13 talking about?

14 A. [14:53:49] Here I would say it's Mohamed Moussa, [REDACTED]

15 [REDACTED]

16 Q. [14:54:13] [REDACTED]

17 A. [14:54:22] [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 Q. [14:55:34]

[REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 Q. [14:56:20] So I would ask you, Witness, now to be so kind as to go to binder 5.  
6 Your Honour, your Honours, tab 862 and 863 for a document 0068-4753, with the  
7 translation 0078-0401.

8 PRESIDING JUDGE MINDUA: [14:57:24](Interpretation) Prosecutor, I think that it's  
9 binder 4 [REDACTED]

10 MR DUTERTRE: [14:57:34](Interpretation) Yes, apologies. Yes, 862 and 863, you  
11 are completely right.

12 Q. [14:58:57] What is this

[REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

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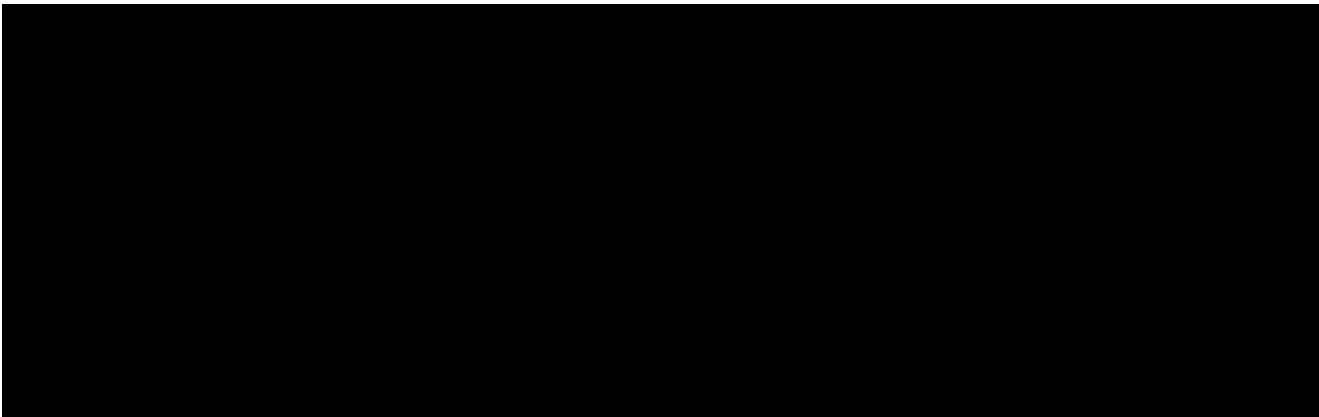
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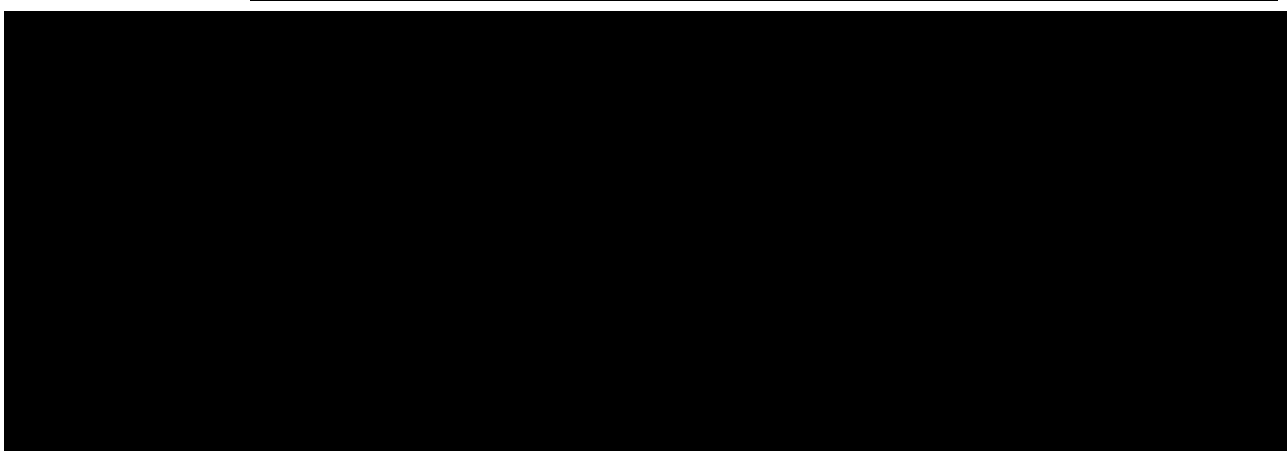


Q. [15:02:39] Thank you.

Can we now move to binder number 1 -- number 2, tabs 205 and 206. And at 205 we find document 0001-7428, and the translation is 0078-0194 and that's at 206. And I'd like you to look at the right-hand page, Mr Witness.

What is this document, Mr Witness?

A. [15:04:21] 



Q. [15:05:32] I'd now like to show you another document, Mr Witness. Which is in binder 8, 1460, with translation at 1461. 0055-1022. And the translation 0054-0337.



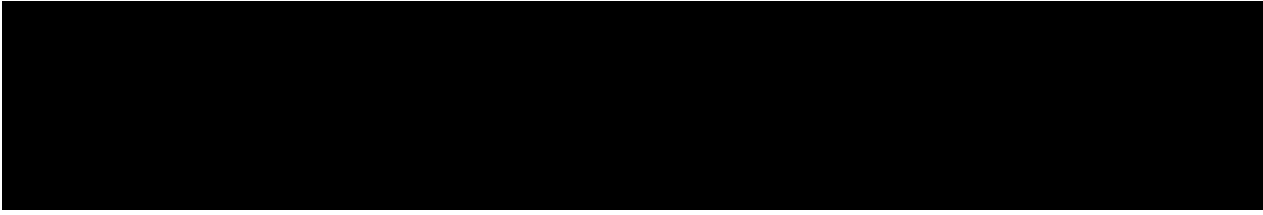
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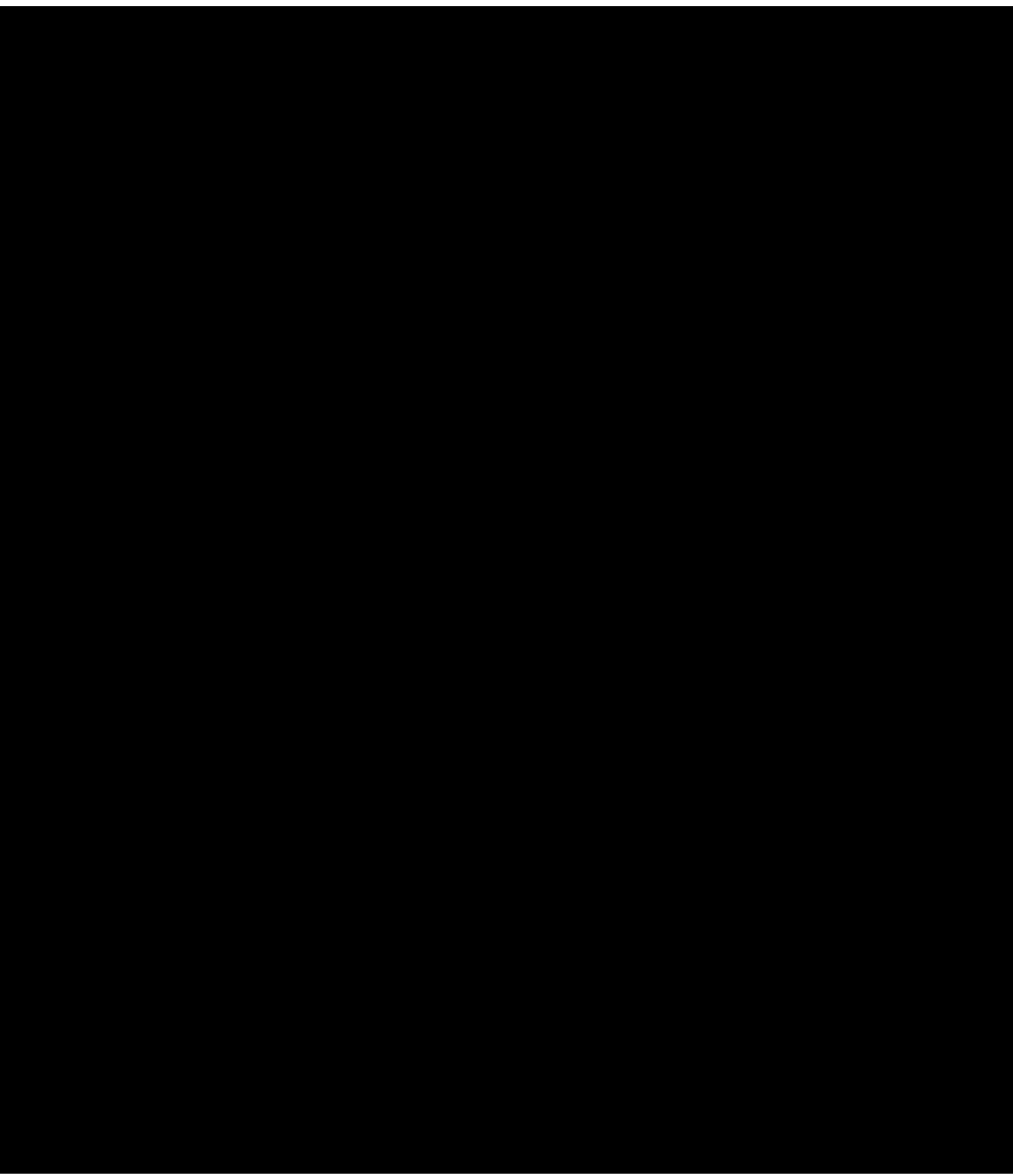
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Q. [15:09:02] What word did you use exactly in Arabic?



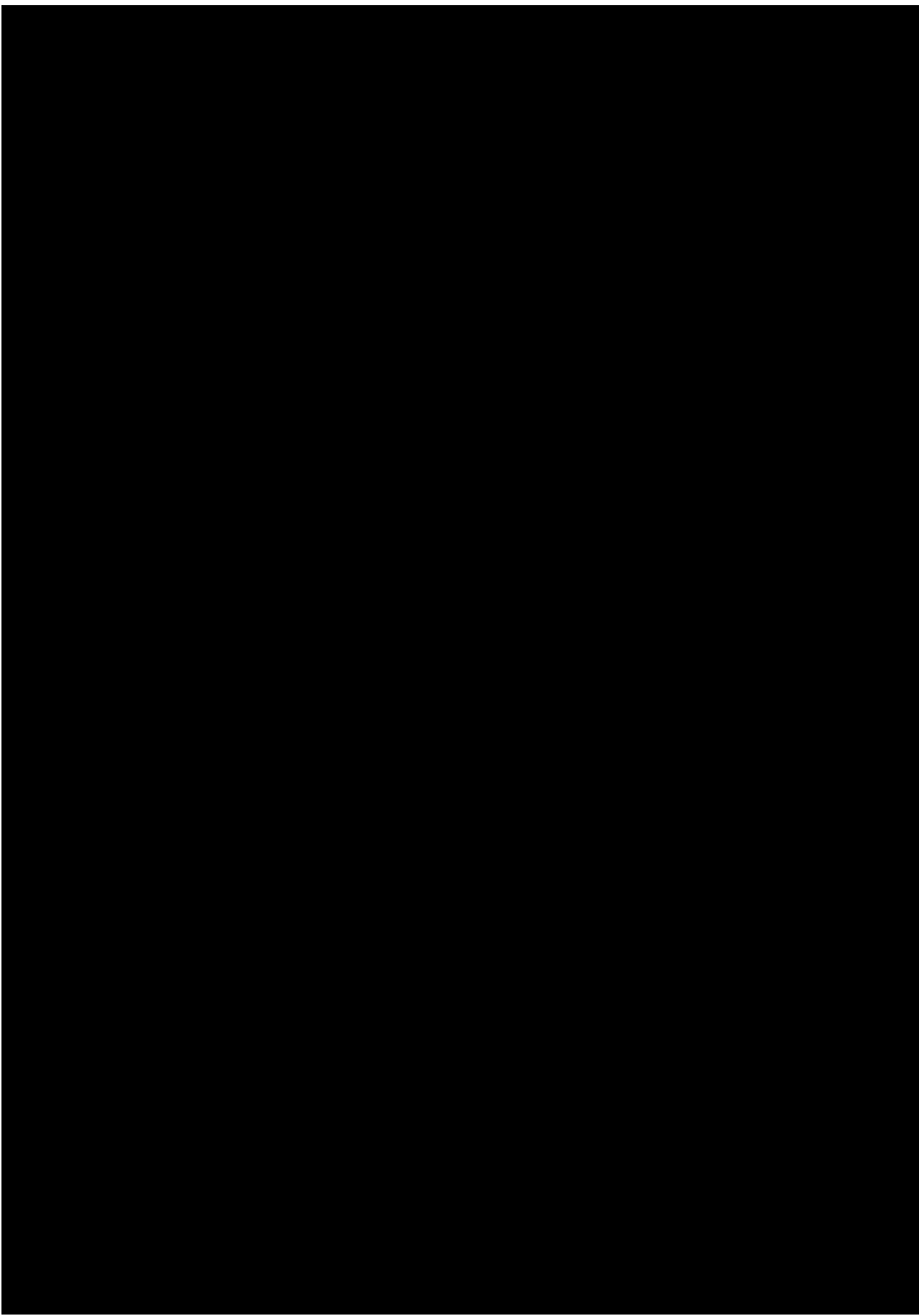
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Pursuant to the Trial Chamber X's directions, ICC-01/12-01/18-789-AnxA, dated 6 May 2020, the lesser-redacted version of the transcript is filed in the record of the case.

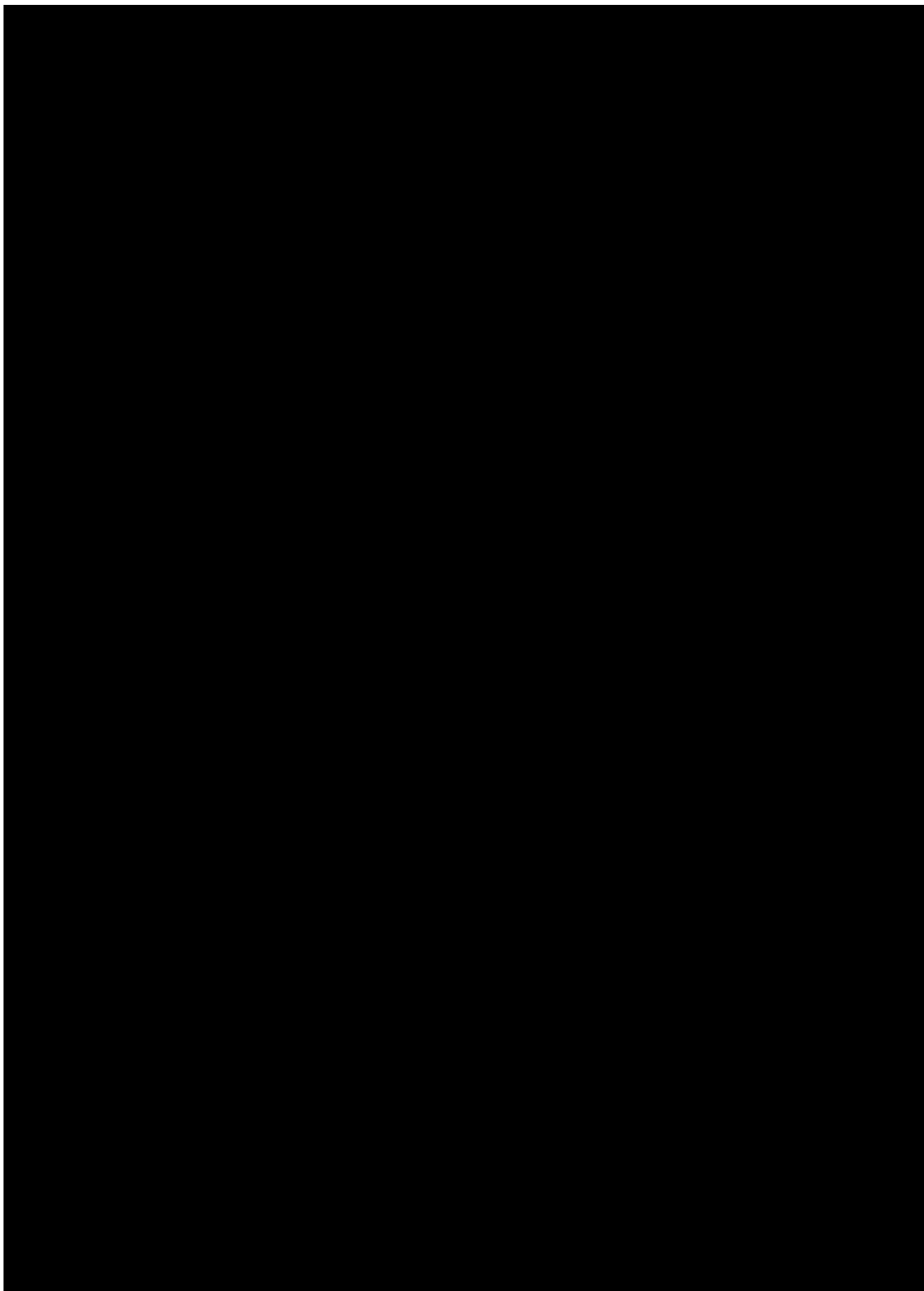
Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

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Trial Hearing

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ICC-01/12-01/18

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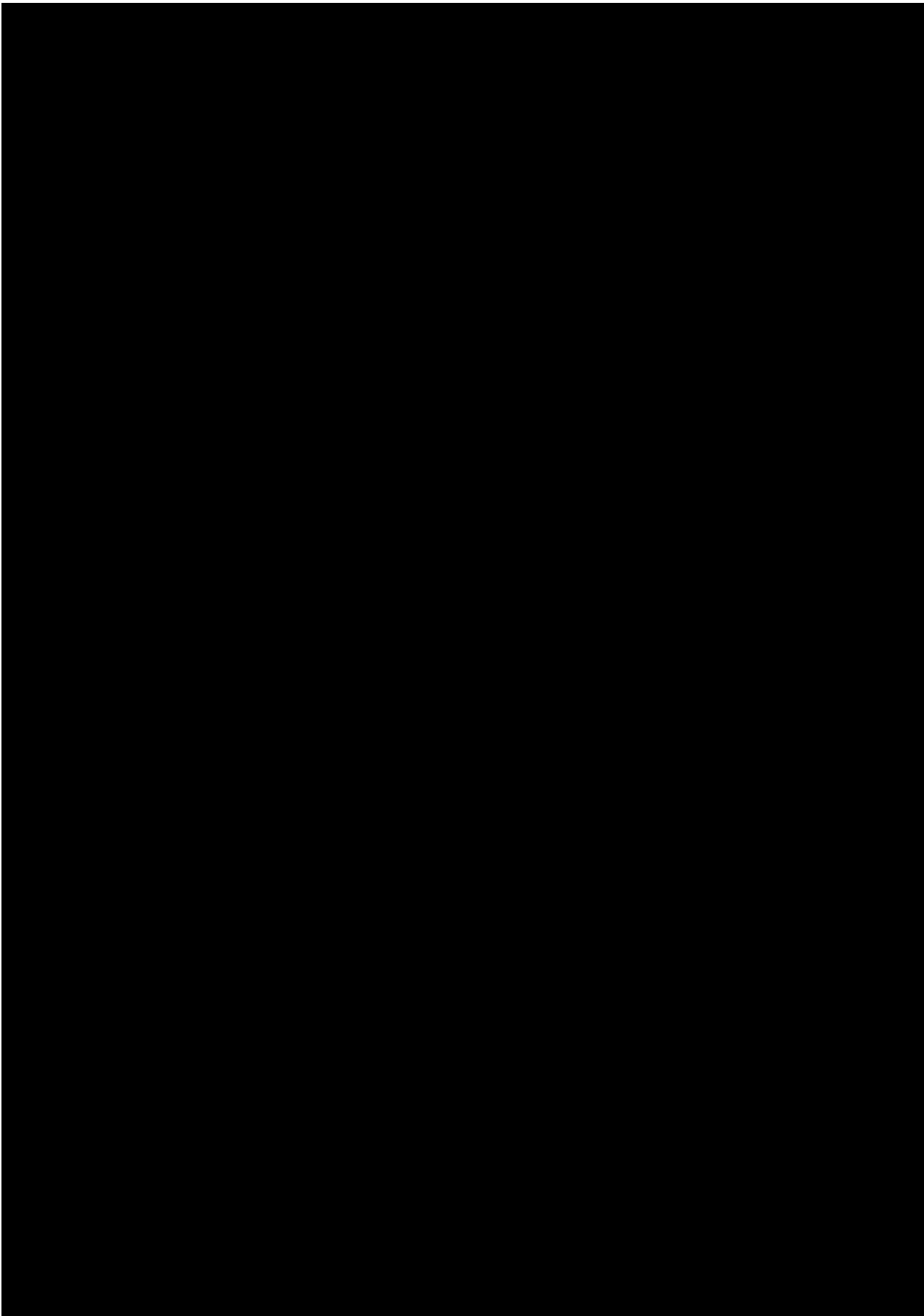
Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

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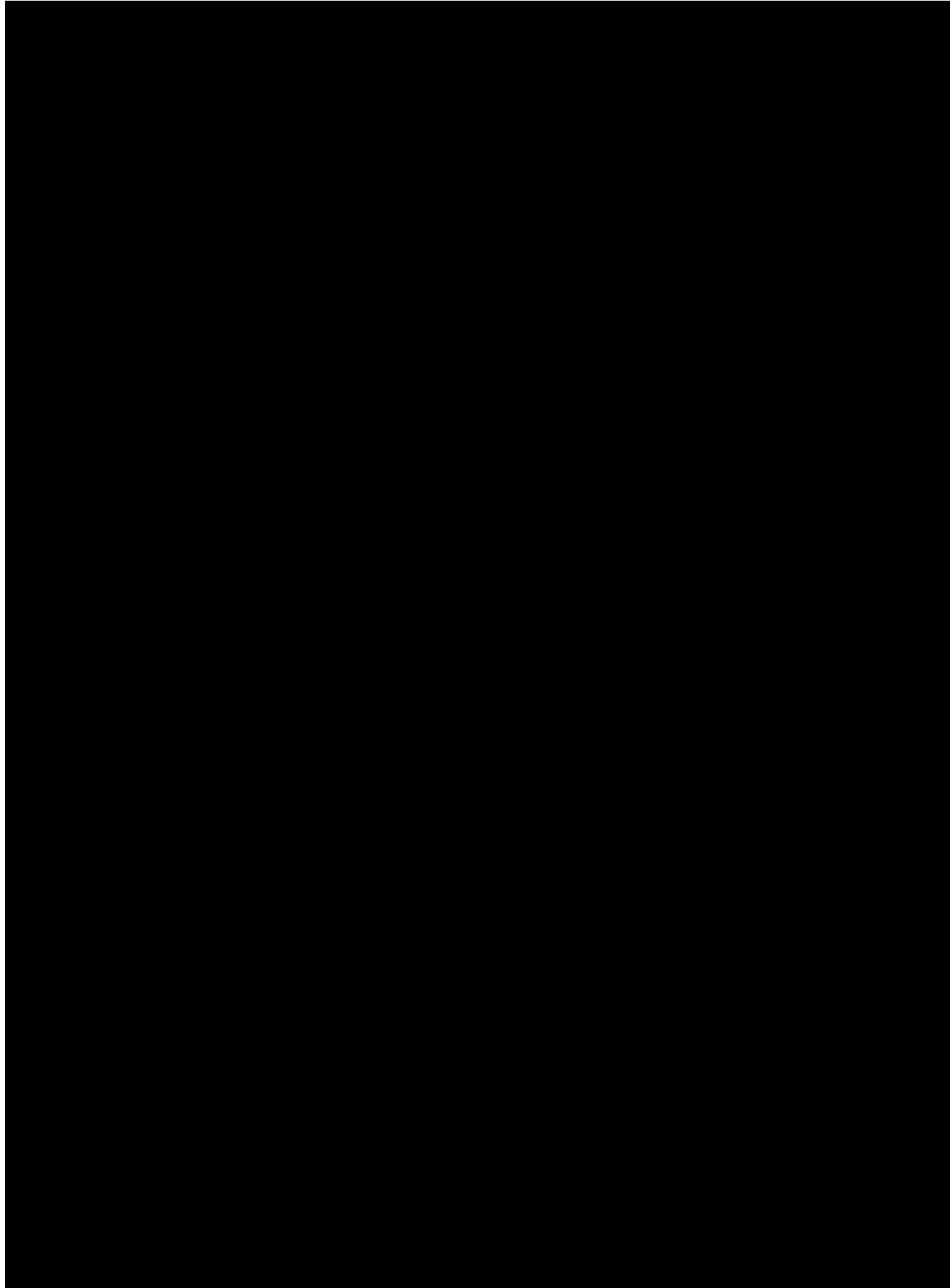


Trial Hearing  
WITNESS: MLI-OTP-P-0150

(Closed Session)

ICC-01/12-01/18

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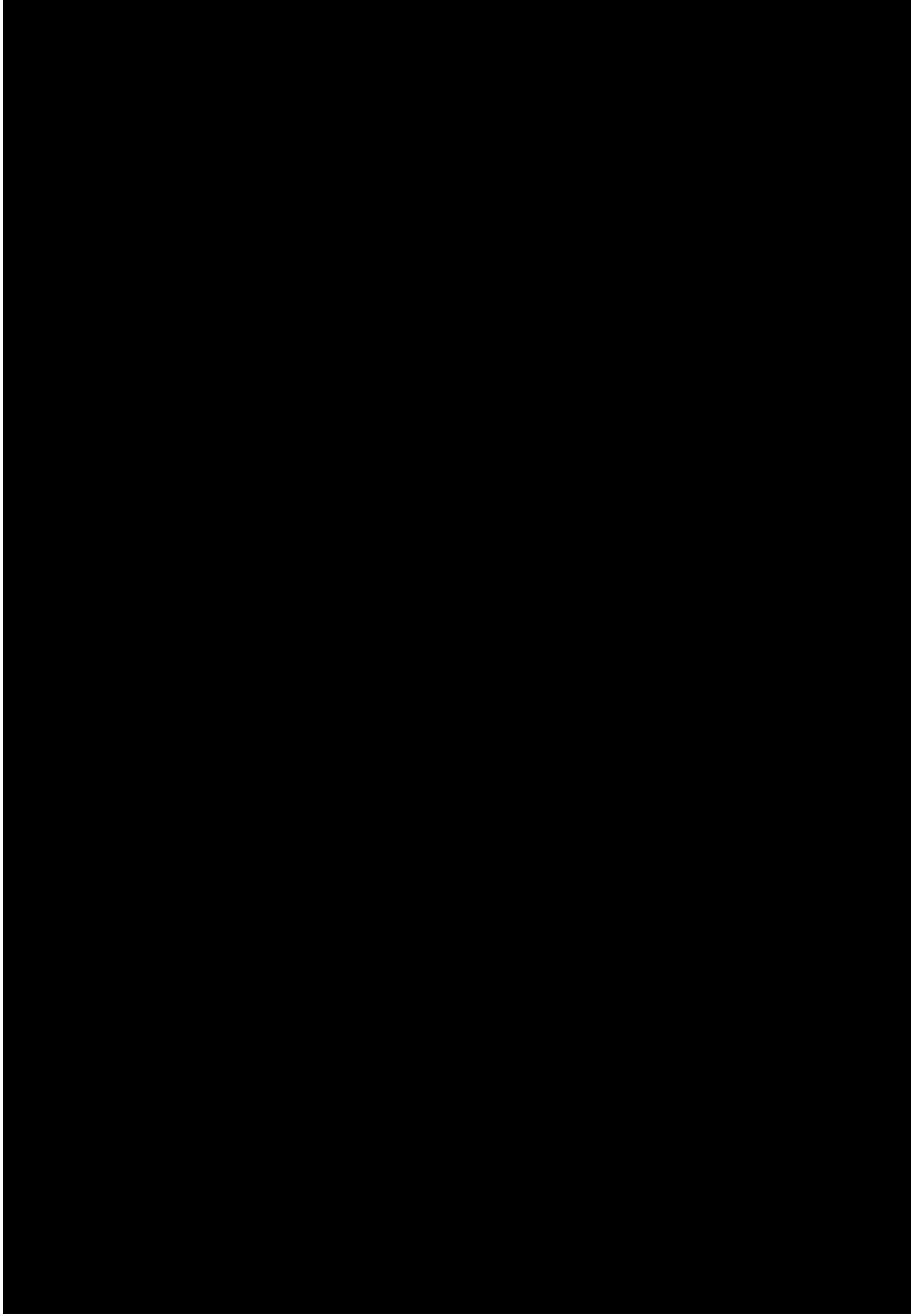
Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

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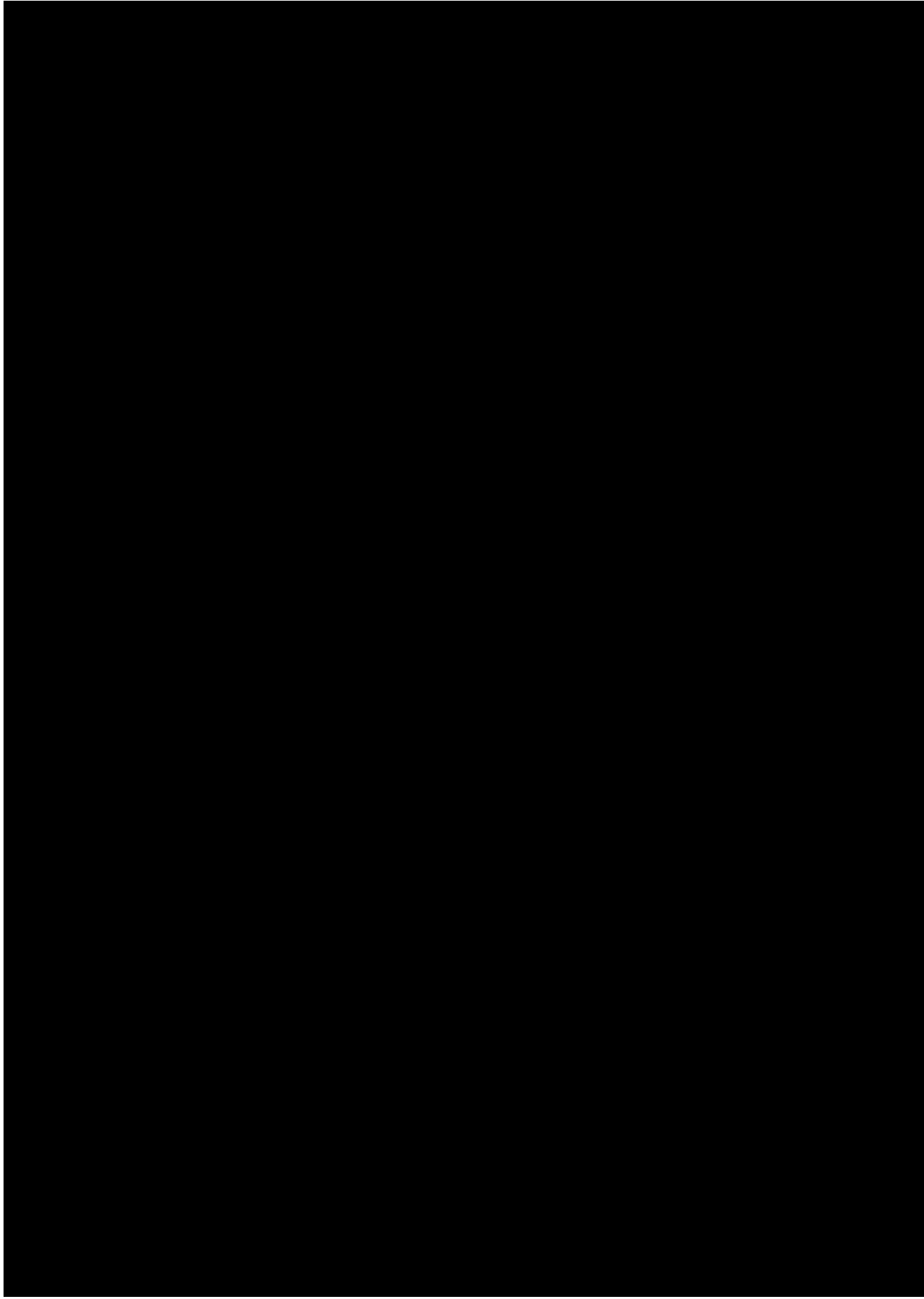
Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

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Trial Hearing

(Closed Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0150

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[REDACTED]

Witness, we're going to speak about the document by way of illustration.

I'm going to refer you, your Honours, to binder 1, tab 137, 138. ERN 0001-7394, 7394.

Translation 0078-1607.

[REDACTED]

A. [15:43:28] [REDACTED]

[REDACTED]

Q. [15:44:40] I would now ask you to go to binder 4, your Honour, your Honours.

Tab 798 and 799, tab 798 and 799.

And so ERN is 0068-4708. Translation -- and the translation is 0078-1716. Thank

you.

So I will allow myself to be somewhat leading on this. [REDACTED]

[REDACTED]

A. [15:47:22] Yes, indeed. [REDACTED]

[REDACTED]

Q. [15:47:37] So we're going to make progress in this chain and I'm going to go to

binder number 3, your Honour, your Honours. Tab 513 and 514. ERN 0053-0348.

And the translation 0078-0041.

[REDACTED]

A. [15:49:28] Yes, indeed. That is correct.

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1 Q. [15:49:34] [REDACTED]

2 A. [15:49:41] [REDACTED]

3 Q. [15:49:51] And finally, to complete the chain, I'm going to go to binder 8, tab  
 4 1466, 1467. ERN 0001 -- 0001-7470. 0078-0224. ERN 0001-04 -- 1466 and 1467.  
 5 ERN 0001-0470, translation 0078-0224.

6 [REDACTED]

7 A. [15:51:21] [REDACTED]

8 MR DUTERTRE: [15:51:29](Interpretation) Your Honour, your Honours, I now have  
 9 to go into a presentation [REDACTED]. I think that at this  
 10 time I would ask the indulgence of the Chamber to start on Monday. It will not  
 11 change my deadline to finish with the examination-in-chief, I can assure the Chamber.  
 12 I promise.

13 PRESIDING JUDGE MINDUA: [15:52:01](Interpretation) Very well. If that's the  
 14 case, as we have 10 minutes left, we can stop, can we not?

15 We shall therefore stop there for this week. Thank you for your presentation and  
 16 your examination-in-chief.

17 Witness, we have come to the end of today's hearing, and the end of this week's  
 18 hearings, which I imagine has been very tiring for you. You at least are able to finish  
 19 today 10 minutes early.

20 So, as your testimony has not yet finished, you are going to come back on Monday, 14  
 21 June, at 9.30. In the meantime, the Chamber would like to thank you immensely for  
 22 your presence, for the clarity with which you have answered the questions and your  
 23 serious attitude to that.

24 You will therefore be able to rest this weekend, but remember my advice that I give  
 25 every day, that you are prohibited from speaking about your testimony with anyone

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ICC-01/12-01/18

1 at all.

2 And now I turn towards the parties and the participants to thank them as well, and I  
3 do not forget the court reporters and the interpreters. I thank everyone for their  
4 hard work. And I would also like to thank our security guards.

5 So I wish you all a very good weekend and please take care of yourselves. We shall  
6 be back here on Monday.

7 Court hearing is adjourned.

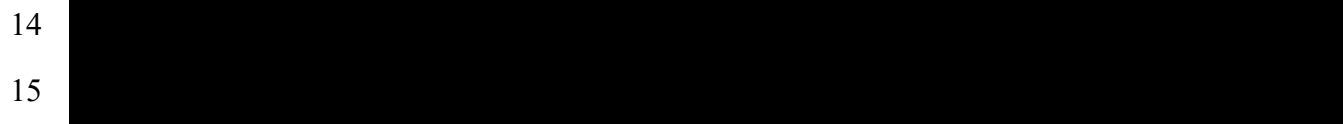
8 THE COURT USHER: [15:54:20] All rise.

9 (The hearing ends in closed session at 3.54 p.m.)

10 CORRECTIONS REPORT

11 The following corrections, marked with an asterisk and not included in the  
12 audio-visual recording of the hearing, are brought into the transcript.

13 Page 15 line 7



16 Page 29 line 24

17 "it was" Is corrected to it was not"

18 The following correction, marked with an asterisk and included in the audio-visual  
19 recording of the hearing, is brought into the transcript.

20 Page 49 line 18

21 "the of Abdallah" Is corrected to "the name of Abdallah"