

Trial Hearing
WITNESS: MLI-D28-P-0605

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed
5 Ag Mahmoud - ICC-01/12-01/18
6 Presiding Judge Kesia-Mbe Mindua, Judge Tomoko Akane and Judge Kimberly Prost
7 Trial Hearing - Courtroom 3
8 Thursday, 25 August 2022
9 (The hearing starts in open session at 11.31 a.m.)
10 THE COURT USHER: [11:31:08] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MINDUA: [11:31:42](Interpretation) Court is in session.
14 Good morning to everybody.
15 Court officer, please call the case.
16 THE COURT OFFICER: [11:31:53](No interpretation)
17 (Interpretation) Case ICC-01/12-01/18.
18 And we are in open session, your Honour.
19 PRESIDING JUDGE MINDUA: [11:32:11](Interpretation) Thank you very much,
20 court officer.
21 As usual, we are going to start with the appearances. First of all, with the Office of
22 the Prosecutor.
23 Prosecutor.
24 MR DUTERTRE: [11:32:24](Interpretation) Good morning, your Honour,
25 your Honours.

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1 The Office of the Prosecutor is composed of Lucio Garcia, behind me; Mousa Allafi,
2 on my left; and myself, Gilles Dutertre. Thank you.

3 And I take this opportunity to greet everybody in and outside this courtroom,
4 including the public in the gallery.

5 PRESIDING JUDGE MINDUA: [11:32:50](Interpretation) Thank you very much,
6 Prosecutor Dutertre.

7 I now turn towards the Defence.

8 Counsel.

9 MS GERRY: [11:32:58](Microphone not activated)

10 THE INTERPRETER: [11:33:00] Microphone.

11 PRESIDING JUDGE MINDUA: [11:33:02] Microphone, please.

12 MS GERRY: [11:33:04] I was determined to switch it on when I began. I'm sorry.

13 It's a bit like the mute button on Zoom. One day I'll get used to it.

14 Good morning, Mr President. Good morning, your Honours.

15 The Defence team today are represented by myself, Felicity Gerry; by Melinda Taylor
16 and Leila Abid, who sit behind me; and Mohamed Youssef, who sits to my right.

17 I also greet everyone in the courtroom, in the public gallery, and, of course, recognise
18 that Mr Al Hassan is with us at the back of the court. Thank you very much.

19 PRESIDING JUDGE MINDUA: [11:33:42](Interpretation) Thank you very much,
20 *Maitre* Gerry.

21 I'd like to also greet Mr Al Hassan.

22 I now turn towards the Legal Representatives of Victims.

23 Counsel.

24 MR DOUMBIA: [11:33:59](Interpretation) Good morning, your Honour.

25 Your Honours, good morning.

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1 The Legal Representative of Victims is carried out by Madam Romane, as usual, and
2 myself, *Maître* Doumbia, from Bamako. Thank you.

3 PRESIDING JUDGE MINDUA: [11:34:17](Interpretation) Thank you very much,
4 *Maître* Doumbia.

5 I now turn towards the counsel of our witness under Rule 74 of the Rules of
6 Procedure and Evidence.
7 Counsel.

8 MS TERZIEVA: [11:34:35] Good morning, your Honours.

9 Vessela Terzieva, Rule 74 counsel for Witness 605, D-0605. Thank you very much.

10 PRESIDING JUDGE MINDUA: [11:34:53](Interpretation) Thank you very much,
11 *Maître* Terzieva.

12 So this morning we are going to continue with taking the testimony of Witness
13 D-0605 of the Defence.

14 I now turn towards the witness.

15 Good morning, Witness. Can you hear me?

16 WITNESS: MLI-D28-P-0605 (On former oath)

17 (Witness speaks Arabic)

18 (Witness gives evidence via video link)

19 THE WITNESS: [11:35:22](Interpretation) Good morning, your Honour. I can hear
20 you.

21 PRESIDING JUDGE MINDUA: [11:35:26](Interpretation) Thank you very much,
22 Witness.

23 Witness, I would like to welcome you on behalf of the Chamber. I would like to
24 remind you that you are still under oath and that you must say the truth, the whole
25 truth and nothing but the truth.

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1 I would like you to keep in mind also the practical considerations that I have already
2 spoken about yesterday. Please speak clearly and at a moderated pace, even slowly,
3 in order to facilitate the work of the interpreters. Please wait a few seconds before
4 answering, and please do not speak at the same time as somebody else.

5 Have you understood that well?

6 THE WITNESS: [11:36:41](No interpretation)

7 PRESIDING JUDGE MINDUA: [11:36:44](Interpretation) Witness, have you
8 understood that?

9 THE WITNESS: [11:36:53](Interpretation) Yes, I've understood that.

10 PRESIDING JUDGE MINDUA: [11:36:55](Interpretation) Thank you. There wasn't
11 any interpretation.

12 This morning, as we have said, we will continue our hearing with the
13 examination-in-chief of the Defence.

14 *Maître* Gerry, you have the floor. Please go ahead.

15 QUESTIONED BY MS GERRY: (Continuing)

16 Q. [11:37:15] Mr Witness, can you see and hear me clearly?

17 A. [11:37:27] Yes, I can see you and I can hear you very well.

18 Q. [11:37:32] You told us yesterday that Adam was in charge of the Islamic police
19 and there came a time when he was replaced by Khaled. Do you know when that
20 time was, when Adam was replaced by Khaled?

21 A. [11:38:11] I don't remember the date nor the day.

22 Q. [11:38:19] Do you celebrate Eid?

23 A. [11:38:31] Yes, I celebrate Eid.

24 Q. [11:38:34] In 2012, did Eid occur once or more than once?

25 A. [11:38:52] Two times. Eid al-Fitr and Eid al-Adha.

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1 Q. [11:39:03] Are you able to help us as to the months in which those two
2 celebrations occurred?

3 A. [11:39:30] I wouldn't be able to tell you exactly which months. It is according
4 to the calendar -- the Gregorian calendar. But Eid al-Fitr comes at the end of
5 Ramadan, and Eid al-Adha, the sacrifice, is at the end of the year, the lunar year.

6 Q. [11:39:45] Thank you.

7 Do those celebrations help you to remember when Adam was replaced by Khaled at
8 all?

9 A. [11:40:10] No, because I didn't pay attention to this case. And I wasn't focused
10 on this event. I just know that there was Adam and then there was Khaled. That's
11 it.

12 Q. [11:40:27] Thank you. Do you know why Adam was dismissed?

13 A. [11:40:45] Adam was dismissed because he arrested certain women who were
14 from an Arab tribe, and that was something deemed unacceptable and undesirable.
15 And as such, he was dismissed. And this was the reason why he was dismissed,
16 because he arrested these women. And they were freed, and he was dismissed from
17 his post subsequently.

18 Q. [11:41:31] Are you able to give us some more details about the arrest of those
19 Arab women by Adam?

20 A. [11:41:57] I'm not aware of the details. All I know is that I heard people speak
21 about this story. That is to say, that he had arrested certain women who belonged to
22 this Arab tribe in Timbuktu. And when I arrived at the police commissariat, I found
23 out about the affair, and a small time afterwards, I heard people speak about a
24 meeting. And during that meeting, Adam was fired. And I didn't find these
25 women within the commissariat. But I did hear people speak about this affair from

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1 people at work, that Adam had arrested these women, they were freed thereafter, and

2 Adam was fired after the meeting. That's all that I know, or that's all I remember.

3 Q. [11:42:55] Do you know who fired Adam?

4 A. [11:43:10] I don't know the person. I don't know who it was exactly. All I

5 know is that the management had a meeting, and he was fired following that

6 meeting.

7 Q. [11:43:27] You told us that it was deemed unacceptable and non-desirable to

8 arrest Arab women. Can you help us to understand why it was deemed

9 unacceptable and non-desirable to arrest women at that time?

10 A. [11:43:58] It's not desirable and it's not acceptable to arrest women during this

11 period, whether they are Arab or whether they belong to other tribes, Tuareg tribes or

12 others. To arrest women is something which is unacceptable and non-desirable.

13 You can arrest one or two women for a crime that they have committed, but just

14 arresting women in the street, that's something that's unacceptable. And that's the

15 reason why he was fired.

16 Q. [11:44:45] I just want to be clear that the period of time that you're talking about

17 is in 2012 in Timbuktu. Have I understood you correctly?

18 A. [11:45:04] Yes, that's correct.

19 Q. [11:45:06] And you told us that it was unacceptable and not desirable to arrest

20 any woman in the street. Were you talking about that time in 2012 in Timbuktu or

21 some other time?

22 A. [11:45:29] I'm speaking about the same period. And as I said, arresting women

23 because they were walking in the street ...

24 THE INTERPRETER: [11:45:46] And the witness stopped there.

25 MS GERRY: [11:45:50]

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1 Q. [11:45:50] So was it your understanding, when you learned about the dismissal
2 of Adam, that the women he had arrested were in the streets when he arrested them,
3 or were they somewhere else?

4 PRESIDING JUDGE MINDUA: [11:46:12](Interpretation) Prosecutor.

5 MR DUTERTRE: [11:46:14](Interpretation) The witness said that he didn't know the
6 details with regarding to this case -- with regards to this case. So I think that we've
7 exhausted this line of questioning on the subject.

8 PRESIDING JUDGE MINDUA: [11:46:27](Interpretation) *Maître* Gerry.

9 MS GERRY: [11:46:30] In my submission, it was a perfectly proper question. The
10 witness has plainly indicated there is an issue with women being arrested in the
11 streets, and it would be helpful for this Chamber to know whether that is the
12 mechanism that he does understand that was used or not. In our submission, this
13 Chamber, in its truth-seeking function, would wish to know what Adam was
14 dismissed for.

15 PRESIDING JUDGE MINDUA: [11:47:03](Interpretation) Prosecutor, apparently the
16 witness has already answered, but according to the Defence, this is a follow-up
17 question. So we authorise one question, and we'll see.

18 *Maître* Gerry.

19 MS GERRY: [11:47:17] Thank you, Mr President. I'll just make sure I ask the
20 question correctly again.

21 I've got the French translation. Can you just get me the English translation on here.

22 Would you just give me a moment.

23 I've got it on that side, but I don't know how to scroll. Could you scroll back.

24 Q. [11:48:15] Mr Witness, you told us that it was deemed unacceptable and
25 non-desirable to arrest women in the street in Timbuktu in 2012. You told us -- you

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1 also told us that Adam was dismissed for arresting Arab women. Was it your
2 understanding that those Arab women were arrested in the street or somewhere else?

3 A. [11:49:00] As I said at the start, I'm not aware of how the case went, but from
4 what I heard, the women were arrested in the street. And their only crime was that
5 they were walking alone in the street.

6 Q. [11:49:23] Thank you.

7 You told us that Adam was replaced by Khaled. Can you tell us what work Khaled
8 did at the Islamic police.

9 A. [11:49:48] Yes. He replaced Adam. He was the chief of the Islamic police at
10 that time.

11 Q. [11:50:05] Yesterday you told us of the type of work that the Islamic police force
12 carried out. You told us it was the work of any ordinary police force, and it involved
13 arrests, investigations and interrogations.

14 Can you help us as to the type of police work that Khaled did when he was at the
15 Islamic police.

16 A. [11:50:53] When Khaled took over management of the Islamic police, he was
17 more calm, more relaxed than -- more serene than Adam, and he was not very
18 audacious or very violent. But the work of the police was the same. It carried out
19 patrols, awareness raising of young people concerning the activities which were illicit,
20 and arresting criminals, rapists, traffickers, thieves. They would carry out
21 investigations, and they would also question the accused or people who were under
22 any kind of suspicion.

23 Q. [11:52:00] You have used the word "they". Can you be specific about what
24 Khaled did when he worked at the Islamic police as the chief of the Islamic police.

25 A. [11:52:28] What I said was that he was the chief of the police. All orders were

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1 issued by him, and he gave the orders in the prerogative so the people carrying out
2 the investigations or interviews. He was the one who gave orders for the patrols,
3 and he was the one who determined the work of the police. And I don't know if I
4 said --

5 THE INTERPRETER: [11:53:08] The interpreter says: I don't know if he used "il" in
6 French with an "s" or not, meaning "he" or "they". That's not clear.

7 MS GERRY: [11:53:19]

8 Q. [11:53:20] Can you make it clear to us, Mr Witness, whether you are describing
9 the work of Khaled on his own or the work of the police generally at this point in
10 your evidence.

11 A. [11:53:42] I'm describing the work of the police in general when Khaled was in
12 charge of the police, but as I said, Khaled's work consisted of ensuring the
13 management of it. He was the person who would question people or give orders
14 that people be interrogated or to carry out investigations, or he would give orders to
15 people such that they would carry out investigations, i.e. the investigators.

16 Q. [11:54:10] You told us that Khaled was more calm and less audacious. Are you
17 able to describe Khaled as a person or as a chief from your own personal knowledge?

18 A. [11:54:40] Yes. Khaled was a calm person. He wouldn't -- he wasn't hasty,
19 speaking relatively. And that's what I know about him. He was calm. He didn't
20 take hasty decisions --

21 Q. [11:54:59] You told us that --

22 A. [11:54:59] -- despite the fact that he was at the head of the police.

23 Q. [11:55:11] You told us that he would manage the police and tell other police
24 officers what to do. Did you see him doing that, telling other police officers what to
25 do?

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1 A. [11:55:39] Yes, indeed.

2 Q. [11:55:43] And how would he do that? In what sort of manner would he do
3 that?

4 A. [11:56:00] He issued orders orally. I wouldn't be able to say how. But, for
5 example, he would give an order to X to go to a certain place, and he would tell Y to
6 do such-and-such a thing, as any other chief would do to his subordinates.

7 Q. [11:56:23] Did you ever see anyone working in the Islamic police react to his
8 orders?

9 MR DUTERTRE: [11:56:42](Interpretation) Your Honour.

10 PRESIDING JUDGE MINDUA: [11:56:43](No interpretation)

11 MR DUTERTRE: [11:56:44](Interpretation) I think if I don't understand the question
12 myself, then I don't think the witness himself is going to be able to understand this
13 question.

14 PRESIDING JUDGE MINDUA: [11:56:47](Microphone not activated)

15 THE INTERPRETER: [11:56:55] Microphone.

16 MR DUTERTRE: [11:56:56](Interpretation) I haven't understood the question of my
17 colleague. If somebody reacts. If I don't understand the question, the witness isn't
18 going to understand the question. It's not very clear.

19 PRESIDING JUDGE MINDUA: [11:57:15](Interpretation) Yes.

20 *Maître* Gerry.

21 MS GERRY: [11:57:18] I thought it was a neutral way of asking a question that gives
22 the witness the opportunity to deal with whether there was an agreement to or refusal
23 of, rather than give the witness words to put in the witness's mouth. It was an open
24 question that enables the witness to answer from his own personal experience. But if
25 my learned friend does not understand that, I am happy to put the question in an

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1 alternative way, using the words whether this witness saw people carry out their
2 orders or refuse. And that was the purpose of the question. I thought it was
3 understandable. If it's not clear to my -- Mr Prosecutor, I can give that optional
4 question, did people carry out the orders or refuse. Those are options that this
5 witness may be able to help us with.

6 I'm perfectly content to leave it as an open question to start with, did he see people
7 reacting to orders, people in the Islamic police, or to use an optional question, or both,
8 whichever, Mr President, you would prefer.

9 PRESIDING JUDGE MINDUA: [11:58:31](Interpretation) Very well, *Maître Gerry*,
10 but I think -- Prosecutor, did you want to add something?

11 MR DUTERTRE: [11:58:36](Interpretation) The way in which it was translated into
12 French wasn't very understandable and ambiguous, and that is where my reaction
13 comes from now. You have to ask the question in an open way. How people react.
14 There is no need to go into alternatives at this stage.

15 PRESIDING JUDGE MINDUA: [11:58:58](Interpretation) Very well.

16 So I have to admit that in French on the transcript, from what we've heard, was the
17 word "react". But the Defence proposes to reformulate.

18 Please reformulate in an open way, if you would be so kind.

19 MS GERRY: [11:59:16] Mr President, I'm afraid I don't understand now. Because I
20 think Mr Prosecutor was agreeing with me that the -- it's the translation that's the
21 problem, not the question. My question was did this witness see members of the
22 Islamic police react to those orders. In my submission, that is an open question. I
23 just want to be clear that that's the question that everybody agrees I can ask, rather
24 than my learned friend jumping up again after I've asked it.
25 Is that an acceptable question to the Chamber?

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1 PRESIDING JUDGE MINDUA: [11:59:53](Interpretation) For the moment, the
2 question is a lot clearer: How did the members of the police react to the orders of
3 their chief, Witness?

4 MS GERRY: [12:00:08] Thank you.

5 Q. [12:00:08] Mr Witness, how did members of the Islamic police react to the orders
6 of Khaled when he was chief?

7 A. [12:00:29] Everybody reacted to his orders. Nobody could disobey the orders.

8 Q. [12:00:39] Why could nobody in the Islamic police disobey the orders of Khaled
9 when he was chief?

10 A. [12:00:57] As I told you, when he was the chief, so naturally, nobody could
11 disobey the chief, the person who was in charge of the police.

12 Q. [12:01:15] Has he finished?

13 May I take you back to Adam for a moment. Are you able to describe Adam as a
14 person or the manner in which he behaved as the chief of police?

15 A. [12:01:57] Adam was very strict. He would always hurry with things, and he
16 would be hasty in his reactions. And as I said, nobody could disobey the orders of
17 Adam or even reflect on them because he was very strict, very severe. And he rarely
18 smiled.

19 Q. [12:02:30] Yesterday you mentioned a person in the Islamic police called Abou
20 Zhar, and you told us that he was second to the chief. Can you tell us the type of
21 police work that Abou Zhar did in Timbuktu in 2012.

22 A. [12:02:59] Yes. Abou Zhar was the number two within the Islamic police, and
23 he was also the deputy of the chief. He was a normal person. He was more open.
24 That's everything that I know about him.

25 Q. [12:03:37] In terms of the types of police work that were carried out by the

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1 Islamic police that you told us about - arrests, investigations, and
2 interrogations - was -- did Abou Zhar carry out those types of work when he was at
3 the Islamic police?

4 A. [12:04:08] Yes. He -- he -- Abou Zhar would do that, and he was -- had an
5 order to do that.

6 Q. [12:04:22] You've -- when you say "to do that", can you be clearer? You've
7 given us three types of work, arrests, investigations and interrogations. Can you
8 help us to understand what you mean by the type of work that Abou Zhar did.

9 A. [12:04:56] Interrogations and investigations. Those work or those function
10 would be done by the person receiving an order by the chief of the police, and
11 sometimes Abou Zhar would do that or the person who would be commanded by the
12 chief. I do not know if I correctly understood the question.

13 Q. [12:05:34] Did you see Abou Zhar being given -- being given orders or giving
14 orders to other people, or both?

15 A. [12:05:58] I did not understand the question properly.

16 Q. [12:06:02] You told us that Adam, when he was chief, would give orders that
17 could not be disobeyed.

18 A. [12:06:19] (No interpretation)

19 Q. [12:06:20] You told us yesterday that when Adam wasn't there, then other
20 people might issue orders. Who were the other people who issued orders if Adam
21 wasn't there?

22 A. [12:06:40] Abou Zhar would do that. Abou Zhar would issue orders in Adam's
23 absence. Or if Adam would authorise Al Hassan -- Al Hassan to do that, Al Hassan
24 would issue the order himself, or -- or if he authorised Khaled to do that, he would
25 also issue the orders.

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1 Q. [12:07:10] So when Adam was chief, was Khaled in the Islamic police or not?

2 A. [12:07:22] No. He was not -- he was not in the police when Khaled was in the
3 police.

4 Q. [12:07:34] Yesterday you mentioned someone called Khoubayb.

5 A. [12:07:43] (No interpretation)

6 Q. [12:07:44] Khoubayb, sorry. Can you help us to understand Khoubayb's role in
7 the Islamic police.

8 A. [12:08:01] I did not see Khoubayb in the Islamic police. He might have been
9 there before I arrived.

10 Q. [12:08:15] Did you know where Khoubayb or -- worked or who Khoubayb
11 worked for?

12 A. [12:08:29] As far as I know, I -- he was working for the security.

13 Q. [12:08:35] To your personal knowledge, did Khoubayb have any connection
14 with the Islamic police or not?

15 A. [12:08:49] I told you that he might have a connection before I arrived to the
16 police. After I arrived, Khoubayb did not have any relation to the police.

17 Q. [12:09:07] I just want to make clear that this is your personal knowledge rather
18 than speculation. Did you have personal knowledge of a specific connection
19 between Khoubayb and the Islamic police, either through what you saw or heard, or
20 are you just speculating? I just want to be clear on your last answer, please.

21 PRESIDING JUDGE MINDUA: [12:09:39](Interpretation) Mr Prosecutor.

22 MR DUTERTRE: [12:09:40](Interpretation) Here we are suggesting an answer at the
23 end of the question of Counsel Gerry, but more so, it's been two or three times we've
24 been asking the same question. So I think we have to not keep asking the question
25 until we get an answer that pleases Counsel Gerry. The question has been asked.

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1 It's been answered. I think we should go on to other questions.

2 PRESIDING JUDGE MINDUA: [12:10:10](Interpretation) Counsel Gerry, what
3 would you respond to that?

4 MS GERRY: [12:10:15] Mr President, the witness's answer is that he might
5 have -- that Mr Khoubayb might have had a connection with the Islamic police before
6 this witness arrived. That's at 16, lines 7 and 8. I was merely trying to clarify
7 whether that is something he is speculating about or something from his personal
8 knowledge.

9 This Court can hear evidence about what he heard and what he saw, and my concern
10 was that his answer was not clear, when he said "he might have [had] a connection [to
11 the police] before I arrived". That may be something that this witness has heard, or
12 this witness may be speculating. And in my view, this Court need to be clear on
13 whether that was something that was within his knowledge from what he'd seen
14 or -- and heard. That's all I'm trying to achieve. It's to make his answer clear.

15 PRESIDING JUDGE MINDUA: [12:11:16](Interpretation) Yes. Okay.

16 Prosecutor, I think that the Defence is right to ask the question because the question
17 was: Are you speaking on the basis of speculation of some suppositions or your
18 personal knowledge? And indeed, when the witness had answered the question,
19 whether Khoubayb had relations with the Islamic police, he says, no, but then maybe
20 in the past or prior to that. The problem is the "maybe". So it would be interesting
21 to know what this "perhaps" or "maybe" is all about.

22 So, Mr Witness, have you understood the Defence's question?

23 THE WITNESS: [12:12:06](Interpretation) Yes, I did.

24 PRESIDING JUDGE MINDUA: [12:12:11](Interpretation) So please answer the
25 question.

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1 THE WITNESS: [12:12:29](No interpretation)

2 THE INTERPRETER: [12:12:35] Sorry, the microphones -- sorry, the microphone
3 was turned off. Message from the interpreter.

4 Could you please ask the witness to repeat the answer.

5 PRESIDING JUDGE MINDUA: [12:12:55](No interpretation)

6 THE WITNESS: [12:13:03](Interpretation) Yes. As far as I heard, Khoubayb was in
7 the police at some point before he joined the police. However, I could not say which
8 date, and I do not know what was he doing, what was his function. I do not know
9 the dates. I do not have any information about him. I only heard that at some
10 point he was at the police. That's why he said probably he used to work at the police
11 before I arrived.

12 MS GERRY: [12:13:45] Thank you.

13 Q. [12:13:45] Mr Witness, I now want to ask you about Mr Al Hassan. Can you
14 describe the work that Mr Al Hassan did at the Islamic police.

15 A. [12:14:11] Al Hassan --

16 PRESIDING JUDGE MINDUA: [12:14:15](Interpretation) Prosecutor.

17 MR DUTERTRE: [12:14:17](Interpretation) Could we know when, during which
18 period Counsel Gerry wants to have this information?

19 PRESIDING JUDGE MINDUA: [12:14:27](Interpretation) Yes, Counsel Gerry.

20 MS GERRY: [12:14:29] I thought the timing was abundantly clear, but I'll try again.

21 Q. [12:14:41] In Timbuktu, in 2012, were you able to observe Mr Al Hassan
22 working for the Islamic police?

23 A. [12:15:01] Yes. In 2012, in Timbuktu, when I joined the police, Al Hassan used
24 to work for the Islamic police.

25 Q. [12:15:11] You told us about two periods of time that you can help us with in

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1 relation to the Islamic police. The first period of time was a four-month period.

2 Focusing on that four-month period, can you describe the work of Mr Al Hassan at
3 the Islamic police.

4 A. [12:15:44] Yes. During the first period where I had joined the police, Al Hassan
5 was considered to be the third man in the police, after the directors. He -- he used to
6 be closer to the people because he was one of the Timbuktu people. He was one of
7 the Tuareg community. He used to know most of the languages spoken by the
8 people. He used to know the character of those people. He was closer to the
9 people, among the police -- among the police directors.

10 Q. [12:16:34] You told us about the type of work that the Islamic police did; arrests,
11 investigations, and interrogations. Did you see Mr Al Hassan doing any type of
12 police work?

13 PRESIDING JUDGE MINDUA: [12:16:55](Interpretation) Prosecutor.

14 MR DUTERTRE: [12:16:59](Interpretation) Just a point of clarification. In Arabic,
15 we're not sure about the word that was used by the witness. Is it the third or second?
16 This is something we would like to check with the witness.

17 PRESIDING JUDGE MINDUA: [12:17:15](Interpretation) Yes, I heard in French that
18 he was number two.

19 So, Counsel Gerry, could you ask the witness what was his role in the police.

20 MS GERRY: [12:17:24] I will. Before I do, I can say that in the English it was third,
21 and yesterday he described the chief, followed by Abou Zhar and followed by
22 Mr Al Hassan. So in my submission, the question has been asked and answered.
23 But I am certainly happy to clarify the translation, if that's what you would wish.

24 PRESIDING JUDGE MINDUA: [12:17:49](Interpretation) Prosecutor.

25 MR DUTERTRE: [12:17:51](Interpretation) This comment has just been made in

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1 front of the witness, and it was inappropriate to refer to that.

2 MS GERRY: [12:17:58] It isn't a comment. It's a reminder of what the evidence was.

3 If my learned friend has forgotten the evidence, then it's a reminder for him that it

4 must be that the translation is inaccurate and the witness was not inaccurate.

5 PRESIDING JUDGE MINDUA: [12:18:13](Interpretation) Prosecutor, your doubt

6 comes from the fact that you have the text in Arabic, or your colleague heard it in

7 Arabic.

8 MR DUTERTRE: [12:18:24](Interpretation) Indeed. We're not sure what was used

9 exactly with respect to this word "third".

10 PRESIDING JUDGE MINDUA: [12:18:33](Interpretation) So ...

11 MS GERRY: [12:18:36] I'll deal with it. I'll ask him. It's simpler.

12 PRESIDING JUDGE MINDUA: [12:18:41](Interpretation) Yes, that would be much

13 better. Ask the question.

14 MS GERRY: [12:18:44]

15 Q. [12:18:44] Mr Witness, using numbers, with the chief as number one, what

16 number was Mr Al Hassan?

17 A. [12:19:03] He was after Abou Zhar always, and Abou Zhar was the second, he

18 had the second rank. So we can say that Al Hassan's rank was the third one at the

19 police.

20 Q. [12:19:20] Just going to check that that translation came through for everyone.

21 I see nods. Third. Thank you.

22 You told us about the type of police work that the Islamic police would do,

23 Mr Witness; arrests, investigations and interrogations. Did you see Mr Al Hassan

24 carrying out any type of police work?

25 A. [12:19:52] Yes, I did. I saw Al Hassan doing some of the police functions.

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1 That was during an investigation in a case. I do not know if I need to mention it
2 right now, or if I need to wait for the translation.

3 Q. [12:20:14] Just wait for the question. I'll help you through it.

4 You just used the word "investigation". Did you see Mr Al Hassan carrying out
5 investigations?

6 A. [12:20:38] Yes, I saw Mr Al Hassan performing an investigation in one case.

7 Q. [12:20:49] Focusing on the types of police work, because I will ask you about
8 cases later, you mentioned two other types of police work; arrests and interrogations.
9 So I want to ask you about those separately.

10 In relation to arrests, did you see Mr Al Hassan carrying out arrests or not?

11 A. [12:21:27] Yes. I saw Mr Al Hassan arresting one of the police members when
12 he violated the police law and raped one of the women in the village.

13 Q. [12:21:46] Thank you.

14 I will ask you the details about that case later, but I'm just focusing on the types of
15 police work now. The other type of police work you told us about was
16 interrogations.

17 Did you see Mr Al Hassan carrying out interrogations or not?

18 A. [12:22:11] No, I did not see him.

19 Q. [12:22:20] Did you know Mr Al Hassan personally before you worked with the
20 police?

21 A. [12:22:32] Yes, I -- I knew him in a superficial way before I worked for the police
22 because we are both from Timbuktu and from Tuareg -- and from the Tuareg.

23 Q. [12:22:48] Had you met Mr Al Hassan face to face before you went to work for
24 the police?

25 A. [12:23:07] No. I only had a superficial knowledge of him.

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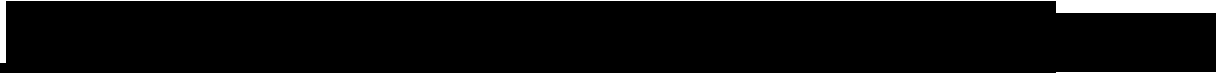

1 Q. [12:23:12] Can you help us to understand what you mean by "superficial
2 knowledge of him", please.

3 A. [12:23:20] I knew that he was the -- this person is X. He is the son of X. But I
4 never had any conversation with him. I just know his parents, who he is. That's all.

5 Q. [12:23:39] You told us that "he was closer to the people". Can you help us to
6 understand what you mean when you say "he was closer to the people".

7 A. [12:24:03] Because he was one of them. He was one of the community
8 members. He would understand them more than others. He would know their
9 traditions and customs. He would also know how they would understand things.
10 That's why he was closer to the people than any other chiefs. Because the other
11 chiefs might be foreigners and new to this community, any behaviour or conduct,
12 they might misunderstand it, contrary to Al Hassan who used to understand
13 everything and knew this community quite well and knew the traditions and the
14 customs. He knew also the community structure.

15 Q. [12:25:01] You mentioned that he knew languages, Mr Al Hassan knew
16 languages. To your observation, did he use those languages when he was in the
17 Islamic police force in that four-month period that we are considering at the moment?

18 A. [12:25:28] Yes, I believe he used to use these languages because during my
19 
20 

21 Q. [12:25:48] What type of day-to-day work did you see Al Hassan doing in that
22 four-month period in the Islamic police force? What sort of functions would he do
23 day to day?

24 A. [12:26:07] He used to work on his computer. He used to write a lot. I do not
25 know what was he writing. He used to be busy with writing and busy with his

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1 computer the whole time. In the evenings, he used to leave his office and go to the
2 streets and he used to sit there, and the people would come. He would meet people,
3 and he would be -- he would meet people in front of the police station.

4 Q. [12:26:52] Again, just to make sure that I've understood you clearly, I am told
5 that you mentioned BMS when you were speaking -- giving your last answer. Have
6 I understood that correctly? Did you mention BMS?

7 A. [12:27:11] Yes, I mentioned BMS.

8 Q. [12:27:16] You mentioned that Mr Al Hassan was -- you saw him working on a
9 computer. Was that -- where was that? Where did you see him working on a
10 computer?

11 A. [12:27:38] In one room in the centre of the station, the police station, in, like, an
12 office.

13 Q. [12:27:47] And do you know whose office that was?

14 A. [12:27:57] It is a police office. It is -- usually Adam used to sit there, Adam or
15 Khaled used to sit there. Al Hassan was working on his computer, and he used to
16 write down some things.

17 Q. [12:28:19] So that we can understand your evidence clearly, was that an office
18 that was used by one person or more than one person?

19 A. [12:28:38] The office was a police office. Khaled or Adam used to use this office,
20 and sometimes Abou Zhar used to sit there and sometimes also Al Hassan, if
21 Al Hassan was working on his computer.

22 Q. [12:28:54] You told -- you told us that you saw Mr Al Hassan writing a lot.
23 Where was he when he was writing a lot?

24 A. [12:29:10] In the same room, in the same office.

25 Q. [12:29:15] You told us that his day-to-day function in the Islamic police took

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1 place at BMS. Did you ever see him carrying out any police function outside of
2 BMS?

3 A. [12:29:38] No, I did not see him.

4 Q. [12:29:43] You told us that he would meet people.

5 A. [12:29:53] Yes, he used to meet passers-by and people.

6 Q. [12:29:59] Whereabouts would he meet people?

7 A. [12:30:06] In front of the police station, the BMS police station.

8 Q. [12:30:10] And what sort of people would he meet?

9 A. [12:30:16] The people, the passers-by, the people coming and going by the
10 market, the people walking on the streets.

11 Q. [12:30:28] And to your memory, what would he talk to those people about?

12 You said that he would speak to them. What would they be -- I'll ask that question
13 again, sorry.

14 I'll start again.

15 You told us that the people would come and speak to him. Can you help us as to
16 what the people would come and speak to him about.

17 A. [12:31:08] I have no idea. I did not -- I was not interested in that. People
18 would pass by.

19 Q. [12:31:20] To your understanding, did this have something to do with his work
20 in the Islamic police or was it for some other reason?

21 PRESIDING JUDGE MINDUA: [12:31:31](Interpretation) Prosecutor.

22 MR DUTERTRE: [12:31:33](Interpretation) The witness has just said he doesn't
23 know anything about that, so there's no point in asking this second question. His
24 answer is very clear.

25 PRESIDING JUDGE MINDUA: [12:31:45](Interpretation) I agree with the Prosecutor.

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1 The witness has just answered. So please go on to other -- something else.

2 MS GERRY: [12:31:52]

3 Q. [12:31:53] You were helping us as to how Al Hassan carried out his police work.

4 You told us that he used languages and that he did administration, the computers and
5 writing a lot.

6 MR DUTERTRE: [12:32:16](Interpretation) Mr President.

7 PRESIDING JUDGE MINDUA: [12:32:19](Interpretation) Prosecutor.

8 MR DUTERTRE: [12:32:21](Interpretation) Here we are distorting, transforming
9 what the witness said. I don't want to speak in front of the witness because -- or we
10 can cut the sound.

11 PRESIDING JUDGE MINDUA: [12:32:30](Interpretation) Court officer, please cut
12 the sound.

13 THE COURT OFFICER: [12:32:42](Interpretation) The sound has been cut,
14 your Honour.

15 PRESIDING JUDGE MINDUA: [12:32:46](Interpretation) Thank you very much,
16 court officer.

17 Prosecutor.

18 MR DUTERTRE: [12:32:51](Interpretation) Thank you, your Honour.

19 Firstly, the witness didn't use the word about "administrative work". This is *Maître*
20 Gerry who puts that in the mouth of the witness.

21 Secondly, by way of consequence it's misleading. It's leading, as I said. It's
22 misleading, it's leading, and thirdly, you have to put open questions on these points
23 which are extremely important. They are at the heart of what the Chamber has to
24 decide. And so I would invite my learned colleague who is in charge of the
25 examination-in-chief to put open questions with prudence.

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- 1 PRESIDING JUDGE MINDUA: [12:33:45](Interpretation) *Maître* Gerry.
- 2 MS GERRY: [12:33:47] I think it's dancing on the head of a pin, this objection.
- 3 Ultimately, using a computer and writing a lot is administration. But I can continue
- 4 without using the word "administration", if that's the problem, of course.
- 5 MR DUTERTRE: [12:34:02](Interpretation) Everything depends on what is being
- 6 written.
- 7 PRESIDING JUDGE MINDUA: [12:34:08](Interpretation) *Maître* Gerry, I'm not sure
- 8 that when you work in front a computer, you are doing administrative work. You
- 9 could do interpretation, translation. I don't know. But this is a polemic. Please
- 10 put an open question. That's far more simple.
- 11 MS GERRY: [12:34:35] Of course.
- 12 PRESIDING JUDGE MINDUA: [12:34:42](No interpretation)
- 13 MS GERRY: [12:34:45]
- 14 Q. [12:34:46] Mr Witness, when you say --
- 15 THE COURT OFFICER: [12:34:48] Wait a moment, please. It's not established.
- 16 PRESIDING JUDGE MINDUA: [12:34:53] One moment, one moment.
- 17 THE COURT OFFICER: [12:34:58] The witness can now hear us. Thank you.
- 18 MS GERRY: [12:35:00] Thank you. Sorry.
- 19 Q. [12:35:03] Mr Witness --
- 20 PRESIDING JUDGE MINDUA: [12:35:04](Interpretation) Thank you very much,
- 21 court officer.
- 22 *Maître* Gerry, you have the floor.
- 23 MS GERRY: [12:35:08] Thank you.
- 24 Q. [12:35:11] Mr Witness, when you saw Mr Al Hassan using a computer, are you
- 25 able to help us as to the type of function he was carrying out when he was using a

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1 computer?

2 A. [12:35:35] I don't know. I know that he used a computer. As to what he was
3 doing or what he was writing, I don't know anything about that. Was he writing?
4 Was he looking at something? I wouldn't be able to tell you that.

5 Q. [12:35:53] How many times do you think you saw him using a computer in that
6 four-month period?

7 A. [12:36:16] He was with his computer most of the time. In the evening, he was
8 outside his office, sat on a chair.

9 Q. [12:36:36] You told us that Mr Al Hassan would write a lot and that he was in
10 BMS when he was writing a lot. How much of the time that you were able to
11 observe him was he writing a lot?

12 MR DUTERTRE: [12:37:04](Interpretation) Your Honour.

13 PRESIDING JUDGE MINDUA: [12:37:09](Interpretation) Yes, Prosecutor.

14 MR DUTERTRE: [12:37:11](Interpretation) This question was put and the witness
15 has already answered. I think we are going around the same question, and that's not
16 helpful. If you look at page 28, line 14: I don't know. I know that he was -- I don't
17 know what he was doing or writing. I don't know anything about that.

18 Page 28, line 14: "I wouldn't be able to tell you ..."

19 PRESIDING JUDGE MINDUA: [12:37:45](Interpretation) Yes, *Maître* Gerry, I think
20 that he's already answered that. Do you really want to insist on that?

21 MS GERRY: [12:37:52] Yes. The question was how much time. It wasn't what he
22 was doing. It was how much time. It's a different question. My learned friend is
23 reading back a question that deals with the type of writing. The question that I
24 asked dealt with the amount of time that Mr Al Hassan was writing.

25 We have at the moment an answer in relation to the computer. I'm not going to

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1 repeat that answer because I'll get an -- a suggestion that I'm putting words in the
2 witness's mouth. But we have a portion of time in relation to the computer. I am
3 trying assist the Court to understand the portion of time in relation to writing.

4 PRESIDING JUDGE MINDUA: [12:38:33](Interpretation) Very well. It's true that
5 the witness has already said that he was all the time. Well, put the question and we
6 will see. We'll see if we can quantify it in terms of hours or days. I don't know.

7 Please go ahead.

8 MS GERRY: [12:38:49] Thank you.

9 Q. [12:38:50] Mr Witness, are you able to quantify the amount of time that
10 Mr Al Hassan was writing? You used the word "a lot" and I want to be able to
11 understand that. And it was in the context of asking you about Mr Al Hassan's
12 day-to-day activities. Are you able to quantify the amount of a day-to-day activity
13 that Mr Al Hassan carried out that involved writing?

14 A. [12:39:38] As far as I know, he was at the office from the morning until midday,
15 and thereafter, after the break, the lunch break, he would use his computer until the
16 end of his work. And when he entered the house. Most of the time he was on his
17 computer.

18 Q. [12:40:17] You told us that Mr Al Hassan knew the character of the people.
19 You gave us that answer when I asked you about the type of police work that
20 Mr Al Hassan would carry out.

21 Can you help us to understand what you meant. Why was the -- why did you link
22 the -- his knowledge of the character of the people to the work that he did at the
23 Islamic police, please?

24 A. [12:41:10] The person who knew the character of the people and their logic, who
25 understands people best, and that's why I made this link. He knew the region, he

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1 knew the people, their traditions, their customs. In our society, there is a hierarchy.
2 There is a diversity of tribes. He was aware of everything. So a person who has
3 that knowledge is capable of interacting with Bedouins, with civilians, with citizens.
4 I mean with illiterate people, with wise people, with educated people. That's
5 different from somebody from outside who doesn't know the traditions and the
6 customs, and that's the reason why I say that.

7 Q. [12:42:29] You told us that you had not spoken to Mr Al Hassan before you
8 joined the Islamic police. Can you help us as to how you came to know that
9 Mr Al Hassan was capable of interacting with Bedouin, citizens, illiterate and
10 educated people. How did that come to your knowledge?

11 A. [12:43:14] These were examples. If he knew the society, he would know how to
12 interact with people necessarily. I didn't see him interact with a Bedouin or a citizen.
13 All I'm saying is that he had a lot of knowledge, and he knew how to interact, and
14 how to do so -- and how to do so with anyone.

15 Q. [12:43:42] And can you help us on your evidence as to what you saw and heard
16 of him knowing those things. What did you see and hear in his approach to people?

17 A. [12:44:14] I haven't understood anything about your question.

18 THE INTERPRETER: [12:44:23] Well understood your question, corrects the
19 interpreter.

20 MS GERRY: [12:44:27]

21 Q. [12:44:27] When Mr Al Hassan --

22 I'm just going to pause for a moment. I don't know whether there's a problem with
23 the English translation, it's going very quiet at times, and whether the interpreter is
24 able to stay at close to the microphone as possible. I'd be very grateful.

25 THE INTERPRETER: [12:44:44] Certainly.

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1 MS GERRY: [12:44:44] Thank you.

2 Q. [12:44:50] When Mr Al Hassan was working at BMS, you told us that at the end
3 of the day, he would go and sit outside and talk to people. Did you see him talking
4 to people inside BMS?

5 A. [12:45:35] Yes, I saw him speaking to people within or inside the BMS.

6 Q. [12:45:50] Which people did you see him speaking to?

7 A. [12:46:02] I saw him speaking to the family of the person who was killed.

8 Q. [12:46:19] Did you speak -- see him speaking to any other people when he was
9 inside BMS?

10 A. [12:46:33] I don't remember. Perhaps he spoke to other people. Perhaps, but I
11 wouldn't be able to tell you.

12 Q. [12:46:51] You told us that -- would you just give me a moment.

13 (Counsel confers)

14 MS GERRY: [12:47:10] May I very briefly ask to go into private session, please.

15 PRESIDING JUDGE MINDUA: [12:47:18](Interpretation) Court officer, please take
16 us into private session.

17 (Private session at 12.47 p.m.)

18 THE COURT OFFICER: [12:47:31] We are in private session, your Honours.

19 PRESIDING JUDGE MINDUA: [12:47:35](Interpretation) Thank you very much.
20 *Maitre* Gerry.

21 MS GERRY: [12:47:39] Thank you.

22 Q. [12:47:40] Mr Witness, we are now in private session. You have told us that
23 your work at the Islamic police was [REDACTED]. Can you give us some
24 examples of -- of the types -- of the cases [REDACTED]

25 A. [12:48: [REDACTED] For

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1 example, a woman who had come and she was raped, and the --

2 THE INTERPRETER: [12:48:42] No, correction.

3 THE WITNESS: [12:48:43](Interpretation) The air-conditioning of her house had

4 been stolen. [REDACTED] a case to do with Abou Zhar. And another woman

5 came to complain about her husband and [REDACTED] I

6 wouldn't be able to give you all the different examples because there were many

7 different cases [REDACTED]

8 MS GERRY: [12:49:15]

9 Q. [12:49:17] You mentioned earlier on a case involving a police officer. [REDACTED]

10 [REDACTED]

11 A. [12:49:46] Yes. Yes, [REDACTED]

12 Q. [12:49:49] Thank you. I will ask you to tell us about that case back in public

13 session with [REDACTED] So I just want to deal with the

14 [REDACTED] in private session.

15 You told us that you saw Mr Al Hassan speak to the family of a person who was

16 killed. [REDACTED]

17 A. [12:50:25] [REDACTED]

18 [REDACTED]

19 Q. [12:50:32] Again, I'll ask you about the case in public session. You -- but I just

20 want [REDACTED] in private session. You have just told us [REDACTED]

21 [REDACTED] Can you help us as to the cases t [REDACTED]

22 [REDACTED] the Islamic tribunal. Are you able to give us examples?

23 A. [12:51:10] The case where a girl was raped by a policeman.

24 Q. [12:51:30] Thank you.

25 And I may be able to ask this in public session, but I am just going to ask it in private

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1 session in case it reveals your identity.

2 Did you work directly with Mr Al Hassan?

3 A. [12:51:52] No. [REDACTED] and he gave me a lot of advice. But I didn't
4 give him -- [REDACTED]

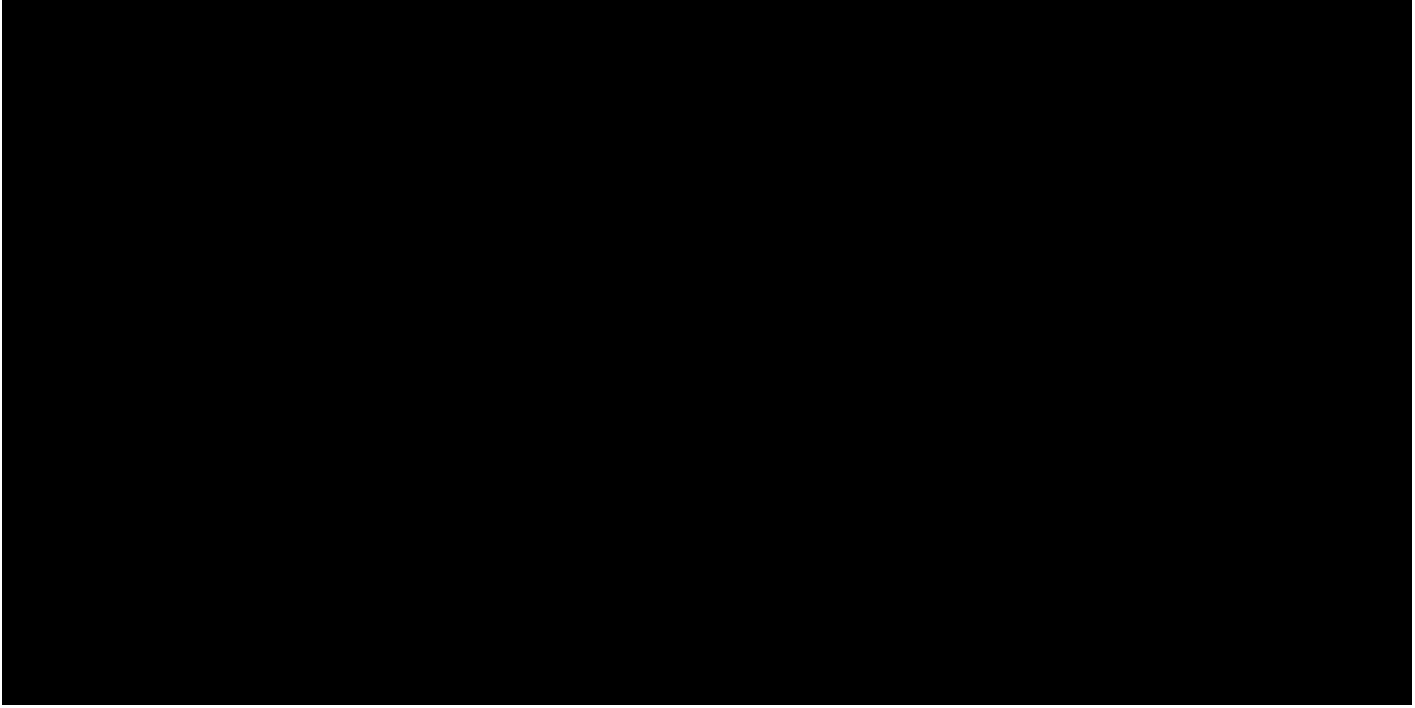
5 [REDACTED]

6 Q. [12:52:18] And if I ask you about what advice he gave you, would that -- would
7 you be able to answer those questions without revealing your identity, or should I ask
8 you those questions now?

9 A. [12:52:51] I would prefer to listen and to answer the questions here so as not to
10 reveal details about myself to the public.

11 Q. [12:53:02] Then can you tell us the advice that he gave you in as much detail as
12 possible. Give us the circumstances in which you were given that advice and what
13 he said. Thank you.

14 A. [12:53:27] He gave me advice, as any person can give to a younger brother. He
15 advised me to be calm and not to take things too seriously.



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13 Q. [12:57:12] You told us that Mr Al Hassan said to you about the shooting that this
14 was infantile and childish and barbarous and it spreads fear. Are you -- are you able
15 to remember his exact words?

16 A. [12:57:43] I wouldn't be able to tell you, but what I said is very close to what he
17 said. It's very clear -- close to what I remember from his words. Perhaps it's very,
18 very close, but I wouldn't be able to tell you his exact words.

19 MS GERRY: [12:58:02] May we go back into public session, please.

20 PRESIDING JUDGE MINDUA: [12:58:07](Interpretation) Indeed.

21 Court officer, please take us into public session.

22 (Open session at 12.59 p.m.)

23 THE COURT OFFICER: [12:59:19] We are back to open session, your Honour.

24 Sorry for the delay.

25 PRESIDING JUDGE MINDUA: [12:59:23](Interpretation) Thank you very much,

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1 Madam Court Officer.

2 *Maître* Gerry.

3 MS GERRY: [12:59:28] Mr President, the next stage of my questioning relates to
4 asking questions about specific cases. I imagine that will take some time. And I
5 notice that it is one minute to 1 o'clock. Would you like to stop for lunch now and I
6 start my questioning later?

7 PRESIDING JUDGE MINDUA: [12:59:49](Interpretation) Indeed, you are quite right,
8 *Maître* Gerry. It is 12.59. We are going to stop there for the lunch break. And as
9 usual, we will be back at 2.30.

10 Court is suspended.

11 THE COURT USHER: [13:00:09] All rise.

12 (Recess taken at 1.00 p.m.)

13 (Upon resuming in open session at 2.31 p.m.)

14 THE COURT USHER: [14:31:05] All rise.

15 Please be seated.

16 PRESIDING JUDGE MINDUA: [14:31:37](Interpretation) Court is in session.

17 Good afternoon to everyone.

18 We are continuing with hearing the Defence Witness D-0608 with the
19 examination-in-chief of the Defence.

20 *Maître* Gerry, you have the floor.

21 MS GERRY: [14:32:04] Mr President, I think you said 608, and the number is 605.

22 Have I ...

23 PRESIDING JUDGE MINDUA: [14:32:19](Microphone not activated)

24 (Interpretation) Yes, in French I said *D-0605. Very well. So to be clear: D-0605.

25 THE INTERPRETER: [14:32:33] In the French transcript, it is D-0608, notes the

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1 interpreter, in the French transcript as well.

2 PRESIDING JUDGE MINDUA: [14:32:39](Interpretation) Thank you.

3 MS GERRY: [14:32:42]

4 Q. [14:32:42] Mr Witness, can you -- focusing on the four-month period that you
5 have been telling us about, can you give us some examples of cases that you know
6 about that were dealt with by the Islamic police.

7 A. [14:33:10] Some of the cases I knew are cases or disputes over real estates,
8 islands. One of the islands near Marma village. There was a dispute between
9 Tuareg and other tribes. The police tried -- tried to treat this. It was adjudicated on
10 by consent among the two parties.

11 Q. [14:34:05] I'm told that you said this was the Songhai tribe. Can you give us
12 some more detail about the dispute over the islands near what I think you had said
13 was Marma.

14 A. [14:34:32] I said it was an island next to the Marma village. I believe it's called
15 the Ilwa (phon) island. The dispute was between a Tuareg in Marma and between
16 the Songhai of the Ilwa village.

17 Q. [14:35:02] What was the -- sorry.

18 A. [14:35:05] The dispute was between farmers. The Songhai farmers and the
19 Tuareg herders, they -- they were herding cows. There was -- in the end, ultimately,
20 there was a consent between them. During herding the cows ...

21 THE INTERPRETER: [14:35:38] Message from the interpreter: The last couple of
22 words I couldn't hear.

23 MS GERRY: [14:35:45]

24 Q. [14:35:45] Mr Witness, can you describe to us what the dispute was about.

25 A. [14:35:56] One of the islands.

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1 Q. [14:36:00] And what was the problem with the cows?

2 A. [14:36:07] In order to herd those cows in this island. During this -- during this
3 season, cows would be herded in the islands. They -- they would be in the desert,
4 and then they would come from the -- to the islands where they can graze. Do you
5 understand what I mean?

6 Q. [14:36:33] Yes, thank you.

7 Who was the dispute between?

8 A. [14:36:44] It was among two tribes. One of the Tuareg -- one is Tuareg and the
9 other is Songhai.

10 Q. [14:36:53] Whose --

11 A. [14:36:56] Tuareg, it was in the Marma village.

12 Q. [14:37:00] Whose cows were they? Tuareg or Songhai?

13 A. [14:37:08] To the Tuareg.

14 Q. [14:37:10] And whose islands were they?

15 A. [14:37:19] Originally, the islands were -- used to be -- used to belong to the
16 Tuareg tribes. However, that tribe left the region. So the Marma village was -- so
17 the Songhai were performing farming or cultivating in this island. I do not know
18 who tried to prohibit who from that. We do not know if the Tuareg prohibited the
19 Songhai from cultivating or the Songhai had tried to prohibit the Tuareg from
20 herding their cows. I do not know who started the problem. However, I heard that
21 there was a solution for that.

22 Q. [14:38:14] You mentioned the police. What was the involvement of the police
23 in that dispute over the islands and the cows?

24 A. [14:38:36] The case was brought before the police to adjudicate on. As far as I
25 believe, one of the elders of the Marma village brought that complaint. Thereafter,

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1 the file was transferred to the tribunal and -- or the court, and the court decided on
2 this case by consent.

3 Q. [14:39:11] When the person brought the complaint to the police, where were the
4 police?

5 A. [14:39:26] It was in the BMS.

6 THE INTERPRETER: [14:39:31] But the interpreter is not sure. Can the witness
7 please repeat the question -- the answer.

8 MS GERRY: [14:39:38] Yes, please.

9 Q. [14:39:39] Can you tell us where were the police?

10 A. [14:39:44] Yes. It was at the BMS headquarters.

11 Q. [14:39:49] You told us that the -- sorry, before I ask that question: Are you able
12 to help us on which members of the police were involved in this case?

13 A. [14:40:11] I did not understand your question properly. Could you please
14 repeat.

15 Q. [14:40:15] Are you able to help us as to which police officers were part of this
16 case?

17 A. [14:40:32] I do not remember who participated. However, the person who
18 brought the complaint, as I knew from the Marma village elders, it is most certain that
19 this would be examined by Al Hassan. I believe that Al Hassan examined or
20 listened to that person, and he relayed -- Al Hassan relayed that to the others.

21 Q. [14:41:18] You told us that the case was adjudicated upon. Who was it
22 adjudicated upon by?

23 A. [14:41:34] The court adjudicated on this case.

24 Q. [14:41:45] I think you mentioned the tribunal earlier. I'll be corrected if I'm
25 wrong. I haven't quite had a chance to check the transcript, but I see some nods.

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1 Do you mean the same tribunal as we were talking about before, the Islamic tribunal
2 in Timbuktu in 2012, or some other tribunal?

3 A. [14:42:13] Yes. I mean the Islamic court in Timbuktu in 2012.

4 Q. [14:42:20] And you told us that that dispute was resolved. Can you help us to
5 understand how that dispute was resolved.

6 A. [14:42:37] I told you it was resolved by a consensual agreement. The farmers,
7 they then -- the cow herders, they were not -- they said that they will not herd their
8 cows there. And after the harvest, the cows would come back to graze there. As far
9 as I understood or heard, and God knows.

10 Q. [14:43:16] You told us that the court adjudicated on the dispute. Can you help
11 us to understand how an adjudication reaches an agreement by consent. How does
12 that system work, or did that system work?

13 A. [14:43:44] I told you that the farmers would not intervene with the herders, with
14 the cow herders. This were -- the farmers would be pleased with that until they
15 have their -- until they harvest their crops. This also would please also the cow
16 herders.

17 Q. [14:44:07] I understand that both parties were pleased. What I'd like you to
18 help me understand is what role did the court play in that adjudication.

19 A. [14:44:25] The court played a role in convincing everyone that they have
20 interests in that and not in continuing with the dispute.

21 Q. [14:44:39] And can you help us on how the court played the role of helping them
22 to understand. What is it that the court or the members of the court did?

23 A. [14:45:01] I do not know that because I was not inside the court. I am talking
24 now from what I heard outside the court, from what I heard from the public. The
25 court consists of the scholars and they all -- they all know the Tuareg and some of

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1 them knew the Songhai. So none of the two parties would feel that they are
2 strangers. They would understand each other. They were all -- they all come from
3 the same region. They also understand what happens in that region. Therefore,
4 they reached an agreement that would please both parties.

5 Q. [14:45:56] Thank you.

6 Before the break, you mentioned a case involving a police officer. Do you remember
7 that case?

8 A. [14:46:10] Yes, I do remember. The case related to one of the police officers
9 who raped a woman from the public on one night. I do not know all the details of
10 the case, but this is from what I heard from the -- the victim. He raped her during
11 the night. In the morning, she brought the complaint before the police. Al Hassan
12 listened to her. Thereafter, as far as I believe, the case was referred to the court.

13 [REDACTED] to the judges. After that, [REDACTED]

14 [REDACTED] I heard that -- that that police officer was dismissed, and he was imprisoned
15 for one year. And the woman also received compensation, financial indemnity.
16 Yeah.

17 Q. [14:47:39] Can you help us to understand the role that Mr Al Hassan played in
18 that case.

19 A. [14:47:53] The role played by Mr Al Hassan in this case was -- he was the one
20 who listened to the victim. He also relayed her voice and her evidence to the court.
21 In addition to that, at that day, he was very angry. I've never seen him like that
22 before, ever since I knew him. He did -- investigated the case himself until the rapist
23 or the criminal was found and arrested. I do not know how. However, I know that
24 he was arrested probably by Al-Qaeda first and then he was imprisoned.

25 Q. [14:49:05] You told -- you told us that the -- you had observed Mr Al Hassan

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1 mostly on his computer and doing a lot of writing. Was that the same or different
2 when it came to this case involving the rape by the police officer?

3 PRESIDING JUDGE MINDUA: [14:49:45](No interpretation)

4 MR DUTERTRE: [14:49:47](Interpretation) Your Honour, perhaps this is a question
5 that's due to my English, but I honestly don't understand the question.

6 MS GERRY: [14:49:56] I'll rephrase.

7 PRESIDING JUDGE MINDUA: [14:49:58](Interpretation) Yes, please reformulate.

8 MS GERRY: [14:50:01]

9 Q. [14:50:01] Mr Witness, you told us that Al Hassan spoke to the victim.

10 A. [14:50:14] (No interpretation)

11 Q. [14:50:15] Before the break, you told us that Mr Al Hassan was mostly on his
12 computer and he did a lot of writing.

13 A. [14:50:26] (No interpretation)

14 Q. [14:50:26] Can you help us --

15 MR DUTERTRE: [14:50:29](Interpretation) Your Honour, could we cut the sound,
16 possibly.

17 PRESIDING JUDGE MINDUA: [14:50:39](Interpretation) Court officer, please cut
18 the sound to the witness, please.

19 THE COURT OFFICER: [14:50:57] The sound to the witness has been disconnected.

20 PRESIDING JUDGE MINDUA: [14:51:04](Interpretation) Thank you very much,
21 Madam Court Officer.

22 Prosecutor.

23 MR DUTERTRE: [14:51:11](Interpretation) Your Honour, I think the Defence is
24 putting words into the mouth of the witness, on the one hand. And on the other
25 hand, it is being slightly leading as well. The witness stated, this was this morning,

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1 page 28:

2 "I don't know. I know that he used a computer. What he was doing or what he was
3 writing, I don't know anything about that. Was he writing? Was he looking at it?
4 I don't know."

5 Secondly, the witness isn't able to observe Mr Al Hassan all the time. He didn't
6 spend his days looking at Mr Al Hassan and watching over him. That wasn't his
7 [REDACTED] So saying that the -- that he was mostly using the
8 computer is putting words into the mouth of the witness. He never said that he
9 wrote a lot.

10 And it's about the way the question is formulated. Ultimately, it's leading for the
11 witness. So there needs to be a reformulation of this question.

12 PRESIDING JUDGE MINDUA: [14:52:43](Interpretation) Thank you, Prosecutor.

13 *Maître* Gerry, I agree with the Prosecutor. I think that there's -- it's leading here
14 because the witness did say that he didn't know what Mr Al Hassan was doing with
15 his computer. Was he writing? Was he looking at things, films? The witness said
16 he didn't know.

17 MS GERRY: [14:53:14] (Microphone not activated) mostly. The objection was in
18 relation to my use of the word "mostly". That appears on page 29, line 24. The
19 evidence was that Mr Al Hassan was with his computer most of the time. And the
20 witness went on to say, at two lines further on -- sorry, further back. I'll get the
21 number in a moment. He said that he was writing a lot. I'm afraid I don't have the
22 line number at the moment, but I can get it for you.

23 So the foundation of my question was in fact based on what this witness had said.

24 So I'm afraid the objection is incorrect. I have the line number for you. It's on
25 page 30. He said he was writing a lot.

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1 So on this occasion, the witness has said that Mr Al Hassan spoke to a witness. The
2 purpose of my question was to elicit whether the speaking to a -- a victim, rather, was
3 something that Mr Al Hassan did once or more than once. That was what I was
4 leading up to. It was a foundation for that.

5 But on reflection, it may be more helpful for the Chamber for me to simply go
6 through the cases to have this witness's recollection, and then I'll come back to the
7 question of how many times and so forth.

8 So I hear the objection, I don't agree with it, but I would rather assist the Court with
9 the descriptions of the cases than have any further delay.

10 PRESIDING JUDGE MINDUA: [14:54:59](Interpretation) Very well. Please
11 proceed in that way.

12 MS GERRY: [14:55:01] Thank you.

13 Q. [14:55:05] Mr Witness, you --

14 PRESIDING JUDGE MINDUA: [14:55:09](Interpretation) Just one minute. We
15 need to reconnect the sound.

16 MS GERRY: [14:55:13] Sorry.

17 PRESIDING JUDGE MINDUA: [14:55:13](Interpretation) Court officer.

18 THE COURT OFFICER: [14:55:24] The audio to the witness has been re-established.

19 PRESIDING JUDGE MINDUA: [14:55:29](Interpretation) Thank you very much,
20 Madam Court Officer.

21 *Maître* Gerry.

22 MS GERRY: [14:55:40] Thank you, Mr President.

23 Q. [14:55:47] Are you -- Mr Witness, are you able to help us on why Mr Al Hassan
24 spoke to the victim?

25 A. [14:56:05] Yes. Al Hassan did not talk to the victim. The victim herself came

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1 to the police station to claim her rights and to say that she was raped. Al Hassan,
2 who was -- he was the one who talked to her, as I said previously. He comes from
3 the same region. He understands the mentality. He was the one who talked to her.
4 No one else would -- was able to talk to her because she said that her rapist was from
5 the police. As long as her rapist was from the police, that's why he -- he wanted to
6 talk to her personally in order to know the whole truth and to investigate or -- and
7 after he performed his investigations, the rapist was -- or the criminal was found and
8 he was arrested.

9 Q. [14:57:07] Can you help us as to how the rapist was found and arrested.

10 A. [14:57:20] The rapist, when he -- when he did his crime, when he knew that they
11 learnt about him, he tried to flee. When she described him, he was recognised. He
12 tried to flee. There was a reward to the person who would find him. I did not
13 know that if this -- if -- if he tried to flee before he was arrested or after he was
14 arrested. Things were intervening. What I know for sure, that he was arrested, and
15 he tried at some point -- tried to flee. And there was a reward given to the person
16 who would find him. And the person who found him was given the reward in fact.
17 And then he was tried, and the victim was rewarded and compensated. She
18 had -- she had the necessary compensation.

19 Q. [14:59:05] Can you tell us the description she gave of her rapist.

20 PRESIDING JUDGE MINDUA: [14:59:18](Interpretation) Yes, Prosecutor.

21 MR DUTERTRE: [14:59:23](Interpretation) You have to take things in the order.

22 And I would like the sound to be cut. I'm sorry, I could make objections very often.
23 I don't do it because I don't want to cut the sound because it takes a lot of time. But
24 sometimes I have to do it. And in doing so, I have to ask for that.

25 PRESIDING JUDGE MINDUA: [14:59:45](Interpretation) Please cut the sound to the

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1 witness, Madam Court Officer.

2 THE COURT OFFICER: [15:00:02] The sound to the witness has been disconnected.

3 PRESIDING JUDGE MINDUA: [15:00:07](Interpretation) Thank you, Madam Court
4 Officer.

5 Prosecutor.

6 MR DUTERTRE: [15:00:14](Interpretation) There are three different elements,

7 your Honour. Firstly, what is the relevance of this question in reality for the

8 Chamber? They speak about a member of the police. And whatever the

9 description is, I don't see what it adds to the dossier. That's the first point.

10 The second point is that -- and it's up to the Defence to establish this, but what is the

11 basis of the knowledge of the witness with regards to the description that this victim

12 could have given to Mr Al Hassan. We don't know if it was hearsay. We don't

13 know. And we also didn't see in the previous response -- well, we see that he's quite

14 evasive. He's heard something. He doesn't know if the person escaped, or was it

15 before, or was it after all this. This is quite vague.

16 First of all, we have to establish the relevance. Secondly, the basis, the knowledge of

17 the witness, and then we can put the question.

18 PRESIDING JUDGE MINDUA: [15:01:28](Interpretation) *Maître* Gerry.

19 MS GERRY: [15:01:33] Mr President, the basis was provided in private session.

20 This -- Mr Prosecutor knows perfectly well the content of the private session. The

21 witness's evidence in the public session was that the victim described her rapist. The

22 witness has also given evidence that that person was a police officer. It is my

23 intention to elicit that description, the connection -- the -- how this witness knows that

24 he was a police officer, and indeed, the connections between the police investigation

25 and what occurred in the Islamic tribunal based on the foundation that was provided

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1 in the private session.

2 If I need to remind everyone of the foundation that was in the private session, we'd
3 need to go into private session. I hope that you, Mr President, you recall it.

4 So the question was about her -- her description and that's what I want to ask. Sorry.

5 PRESIDING JUDGE MINDUA: [15:02:52](Interpretation) Counsel Gerry, I'm sure
6 you have grounds for -- with regards to what has happened, but what is the relevance
7 with regard to the charges against the accused?

8 MS GERRY: [15:03:08] In our submission, the way in which Mr Al Hassan dealt with
9 this case goes to the very core of the allegations that relate to his role within the police
10 and, of course, his alleged role in the treatment of women. This is a very specific
11 case on a very specific topic. I'm certainly not going to ask this witness what she
12 described in relation to what happened to her. There is no dispute in relation to that.
13 But who it was and how Mr Al Hassan investigated this matter, in our submission,
14 goes to the heart of the Prosecution's allegations relating to his role.

15 PRESIDING JUDGE MINDUA: [15:04:07](Interpretation) Thank you very much.
16 Mr Prosecutor, I think that the Defence has provided this explanation in the closed
17 hearing, and I think this is in keeping with the strategy that Counsel Gerry has just
18 explained. We will hear the answer of the witness and see.

19 Court officer, please re-establish the sound.

20 THE COURT OFFICER: [15:04:45] The sound to the witness has been re-established,
21 Mr President.

22 PRESIDING JUDGE MINDUA: [15:04:49](Interpretation) Thank you very much,
23 court officer.

24 Counsel Gerry.

25 MS GERRY: [15:04:56]

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1 Q. [15:04:56] Mr Witness, can you help us as to how the woman described her
2 rapist.

3 A. [15:05:21] Yes. She described him as a black man who was tall and limping,
4 somewhat limping, and belonging to the Bambara tribe. And within the police,
5 there were two police officers from the Bambara tribe. One of them was the rapist
6 and the other was smaller and did not limp. So, by process of elimination, we were
7 able to reveal him.

8 And as far as I know, and I'm no longer sure today, I think that he was brought before
9 her, and she was able to identify him. But I'm not sure. Perhaps my memory is
10 playing tricks on me in that regard. But I think that he was brought to that place
11 where she was, and she was able to recognise him.

12 Q. [15:06:22] You told us that the woman spoke to Mr Al Hassan about being raped
13 by that police officer. Are you able to tell us about any other actions that
14 Mr Al Hassan took on that case?

15 A. [15:06:55] I don't know if he took other measures within the framework of this
16 case, but he prevented all the police officers from leaving at that moment in order to
17 identify the rapist. And when he was discovered, he was arrested. Subsequently,
18 the case was put before the tribunal, and it was the tribunal that adjudicated on this
19 case.

20 Q. [15:07:31] Do you know who carried out the arrest?

21 A. [15:07:47] I don't know exactly who proceeded to the arrest, but I know that
22 Al Hassan conducted the investigation on Adam's orders. I'm not sure if it was
23 under Adam's or Khaled's order. But I know that he was given an order, and then
24 the rapist was arrested.

25 Q. [15:08:11] And when you say "Mr Al Hassan conducted the investigation", can

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1 you help us as to what you saw or heard Mr Al Hassan do.

2 A. [15:08:35] What I saw is that Al Hassan asked to bring all the police officers
3 together. And once he had got them all together, he told them that a woman had
4 been raped on the eve by a member of the police force. And he said, "No one is
5 allowed to leave until we find out who the criminal or rapist is." And then when we
6 discovered who the rapist was, he was arrested. I wasn't there at that point, but I
7 found out that he had been arrested and imprisoned, and that the case, the file had
8 been sent to the tribunal. And at that point [REDACTED] of the

9 [REDACTED]

10 Q. [15:09:30] Okay. Just pause -- sorry.

11 PRESIDING JUDGE MINDUA: [15:09:36](Interpretation) Prosecutor.

12 MR DUTERTRE: [15:09:38](Interpretation) A question of clarification on which I
13 would need to have -- we need a sound cut from the witness.

14 PRESIDING JUDGE MINDUA: [15:09:49](Interpretation) We need to cut the sound.
15 Court officer, please cut the sound.

16 THE COURT OFFICER: [15:09:58] The sound to the witness has been disconnected,
17 Mr President.

18 PRESIDING JUDGE MINDUA: [15:10:03](Interpretation) Thank you very much.
19 Prosecutor.

20 MR DUTERTRE: [15:10:08](Interpretation) Mr President, I would like to have a
21 point of clarification. And in English and French we have just about the same thing.
22 Mr Al Hassan asked that all the police officers be brought together, "asked for". And
23 I'm told that in Arabic it was "ordered", which is not quite the same thing. So I
24 understand that when we -- there is a translation, there can be some losses. That's
25 human. But I want to clarify. Please ask the witness did he use the word "order" or

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1 "ask", because that does have a certain importance. Thank you.

2 PRESIDING JUDGE MINDUA: [15:10:49](Interpretation) Indeed, Mr Prosecutor.

3 So, Counsel Gerry, we will re-establish the sound, and you will check this with the

4 witness.

5 Madam Court Officer.

6 THE COURT OFFICER: [15:11:10] The sound to the witness has been re-established,

7 Mr President.

8 PRESIDING JUDGE MINDUA: [15:11:17](Interpretation) Thank you very much,

9 court officer.

10 Counsel Gerry.

11 MS GERRY: [15:11:22]

12 Q. [15:11:22] Mr Witness, can you help us as to how Mr Al Hassan brought the

13 police officers together.

14 MR DUTERTRE: [15:11:41](Interpretation) I think we need to ask him the question

15 directly. It's a matter of translation. And I think we should ask the question the

16 way I had modestly worded it.

17 PRESIDING JUDGE MINDUA: [15:11:52](Interpretation) Counsel Gerry, it's just a

18 matter of the word that he has used.

19 MS GERRY: [15:12:03] I'm content to do it in that way, of course.

20 Q. [15:12:06] Mr Witness, can you clarify for our benefit, when you told us that

21 Mr Al Hassan brought the police officers together, did you say that he told the police

22 officers to come together, or he asked the police officers to come together, or he

23 ordered the police officers to come together? Can you help us as to which is the

24 correct word.

25 A. [15:12:49] He brought together all the police officers after having asked that all

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1 of them come together and meet. And so they all met at that moment. And we
2 then informed them of the case, and we told them that they were not allowed to leave
3 until all the truth would be done and until this question would be cleared and to put
4 their hands on the criminal.

5 PRESIDING JUDGE MINDUA: [15:13:28](Interpretation) And what does the
6 Prosecution have to say?

7 MR DUTERTRE: [15:13:32](Interpretation) We -- I think it's very easy. We will just
8 check the recording.

9 PRESIDING JUDGE MINDUA: [15:13:38](Interpretation) Very well.
10 Counsel Gerry, proceed, please.

11 MS GERRY: [15:13:43] Thank you. May we briefly go into private session, please.
12 Just very briefly.

13 PRESIDING JUDGE MINDUA: [15:13:53](Interpretation) Of course.

14 MS GERRY: [15:13:55] Thank you.

15 PRESIDING JUDGE MINDUA: [15:13:55](Interpretation) Court officer.

16 (Private session at 3.14 p.m.)

17 THE COURT OFFICER: [15:14:06] We are in private session, Mr President.

18 PRESIDING JUDGE MINDUA: [15:14:10](Interpretation) Thank you very much.
19 Counsel Gerry.

20 MS GERRY: [15:14:14]

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4 Q. [15:15:21] Thank you.

5 MS GERRY: [15:15:25] May I reassure the witness that that portion was redacted
6 from the public session?

7 PRESIDING JUDGE MINDUA: [15:15:38](Interpretation) Yes, indeed.

8 MS GERRY: [15:15:40] Thank you.

9 Q. [15:15:41] Mr Witness, I just want to reassure you that when you spoke about
10 that in the public session, that has been redacted. So that information is not public.

11 A. [15:16:00] Very well.

12 MS GERRY: [15:16:01] Thank you.

13 May we go back into public session, please.

14 PRESIDING JUDGE MINDUA: [15:16:08](Interpretation) Madam Court Officer,
15 please, let's have an open session.

16 (Open session at 3.16 p.m.)

17 THE COURT OFFICER: [15:16:20] We're back in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [15:16:25](Interpretation) Thank you very much.
19 Counsel Gerry.

20 MS GERRY: [15:16:29]

21 Q. [15:16:30] Mr Witness, you told us that the Islamic tribunal adjudicated on the
22 case of the woman who was raped by a police officer. Can you tell us what you
23 know of that adjudication, please.

24 A. [15:16:59] Yes. The decision of the tribunal was, first, to apply the sanction of
25 *hadd*, fornication. The sanction of whips, whipping of the accused, and

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1 imprisonment for one year, and indemnity to the witness. So financial compensation
2 to the victim. This is what I heard about the decision, the way in which the tribunal
3 had adjudicated on this case.

4 Q. [15:17:56] And do you have any knowledge as to whether or not those
5 adjudications were carried out?

6 MR DUTERTRE: [15:18:05](Interpretation) Mr President, I am sorry.

7 PRESIDING JUDGE MINDUA: [15:18:10](Interpretation) Prosecutor.

8 MR DUTERTRE: [15:18:12](Interpretation) I clearly heard the witness talk about
9 *ta'zir* and not *hadd*, and that's a significant difference.

10 PRESIDING JUDGE MINDUA: [15:18:24](Interpretation) You have been very
11 vigilant. In French I heard *hadd*. Perhaps in Arabic it was different. Do you want
12 to have us check this with the victim?

13 Counsel Gerry, there is a problem. Is this a matter of *hadd* or of *ta'zir*? Could you
14 check that with the victim -- with the witness.

15 THE INTERPRETER: [15:18:46] The interpreter corrects herself.

16 MS GERRY: [15:18:49]

17 Q. [15:18:49] Mr Witness, in relation to the adjudication -- ah. Am I still waiting?
18 What's the problem?

19 THE INTERPRETER: [15:19:06] No, the English interpreter had merely said "victim"
20 instead of "witness". That was the correction.

21 MS GERRY: [15:19:16] I'm just going to ask the question. I think they corrected --

22 PRESIDING JUDGE MINDUA: [15:19:17](No interpretation)

23 MS GERRY: [15:19:22] I'm getting three pieces of information. I'm sorry. I'm just
24 going to ask the question that you've asked me to ask.

25 Q. [15:19:28] Mr Witness, in relation to the adjudication on the case involving the

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1 rape of a woman by a police officer, can you help us as to whether the adjudication
2 was a *ta'zir* or a *hadd*, or *hudud*?

3 A. [15:19:56] Yes, it's true. It's true, I said *ta'zir* at the beginning, and then I
4 corrected myself and I said *al hadd*, because the truth is that the correct word is *al hadd*
5 and not the *ta'zir*. The *ta'zir* is a sanction that is not set. *Ta'zir* is a sanction that is
6 discretionary. It's at the discretion of the judge. But when you have a *hadd*, it's a
7 sanction that is set forth in text. And this was a case of a *hadd*, because it is a sanction
8 that is set forth in the crime of fornication.

9 Even if I did pronounce the word *ta'zir*, it was an error on my part. And, in fact, this
10 is a matter of *hadd* and not *ta'zir*. It is not a *ta'zir* sanction but a *hadd* sanction,
11 because here it is a major sin, a very reprehensible act that is, therefore, punished by
12 *hadd*.

13 Q. [15:21:08] Thank you.

14 To your knowledge, was that -- was that adjudication, that *hadd*, carried out?

15 A. [15:21:32] Yes, of course, it was. It was implemented. It was enforced to the
16 letter, in fact.

17 Q. [15:21:44] Thank you.

18 Would Your Excellency just give me a moment.

19 (Counsel confers)

20 MS GERRY: [15:22:10]

21 Q. [15:22:12] Mr Witness, one point of clarification. You have told us that the
22 woman complained of being raped by the police officer, and you told us that at the
23 Islamic tribunal there was -- you used the word "fornication". Can you help us to
24 understand why you used the word "fornication"?

25 A. [15:22:51] Because rape here is a sexual rape, a sexual act. So according to the

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1 sharia, it is equivalent, tantamount to fornication. And if the rapist has committed
2 this crime, he will be the only one to be punished; whereas the victim will be
3 compensated. And *zina*, in Arabic, means that he raped that person. He practiced a
4 sexual act on this person, fornication on this person.

5 Q. [15:23:52] Mr Witness, you told us this morning about a case involving a killing.
6 Can you tell us about the case involving the killing, please.

7 A. [15:24:22] Yes. The case where there was a murder, which I had mentioned, is
8 the case concerning Moussa, who killed one of the Songhais of Koroboro in the
9 islands after a conflict over the cows and the farm belonging to this man. I don't
10 know if the cows of one entered on to the farm of another, or something else. In any
11 case, Moussa opened fire on this man and killed him. Subsequently, he surrendered
12 himself to a group in Goundam, and then he was transferred to Timbuktu.

13 Q. [15:25:37] I asked you to focus on the four-month period that you were talking
14 about when you can help us in relation to the Islamic police. Are you able to help us
15 when this person was transferred into Timbuktu in that four-month period?

16 A. [15:26:13] What I know is that -- what I'm sure of is that this person spent the
17 month of Ramadan at the headquarters of the police, and ended the fasting at police
18 headquarters with us.

19 Q. [15:26:34] And just to be clear, at this time, where was police headquarters?

20 A. [15:26:47] It was at the BMS.

21 Q. [15:26:54] And when you say he ended his fasting with you, what do you mean?

22 A. [15:27:13] I mean that during the month of Ramadan, every day, we know that
23 all Muslims observe a fast all day, and in the evening, they all sit at a table and they
24 break their fast together. It's called the *iftar*.

25 Q. [15:27:37] And was it usual or unusual for a person accused of a crime to break

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1 fast with you?

2 A. [15:27:57] No. It was not often something that happened. But as this person
3 surrendered to the police, and given that this person thought that this person had
4 faced injustice and the person was in a situation of self-defence, the person was not
5 really imprisoned. The person was treated like a normal person up until the
6 moment when that person would be convicted. And then the *qisas* sanction was
7 applied to him.

8 THE INTERPRETER: [15:28:45] And the witness said, textually, the *hadd* -- the *qisas*
9 sanction. The interpreter specifies this.

10 MS GERRY: [15:29:02]

11 Q. [15:29:09] Do you know who investigated that case once the person had arrived
12 in Timbuktu?

13 A. [15:29:24] I do not know who precisely conducted the investigation on this case,
14 but I know that when this case or when the case got to Timbuktu, it was referred to
15 the tribunal, and everyone was seeking the truth in this case. It was toward the end
16 of the proceedings, and before the application of the *qisas*, which is a punishment or a
17 sanction. Al Hassan was trying to find a settlement to this matter which would be
18 agreeable to the two parties. And he was able to speak to Moussa's parents and with
19 the mother and brother of the person who had been killed, I think, if I remember
20 correctly. And subsequently, they came to an agreement. They accepted an
21 agreement, but then subsequently, they changed their minds.

22 Q. [15:30:38] I'm just going to go back over some of what you've told us so that I
23 can make sure I understand. Firstly, you told us that the person thought he had
24 faced an injustice and he was in a situation of self-defence.
25 Can you tell us what that means or what you know about that.

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1 A. [15:31:17] What I know about that is what I have mentioned. On one of the
2 islands close to Goundam, some -- one herder, a cow herder and one farmer had a
3 dispute. The farmer threw an iron tool at the cow herder. He -- it hit his femur or
4 under his abdomen, and it was fatal.

5 As far as Moussa said, he fired -- he fired at him, and he killed him. And after that,
6 he surrendered himself in Goundam to the security group, and he was referred to
7 Timbuktu. And his file was brought before the court to decide on it.

8 Q. [15:32:12] Thank you.

9 Just again, so that I can understand correctly, who had the iron bar?

10 A. [15:32:26] The farmer had the iron tool or the iron bar. And Moussa was one of
11 the Ansar Dine group. He was in uniform. He also had a weapon. Despite that,
12 that man attacked him. And when the case was investigated, Moussa was an Ansar
13 Dine member because the -- the court decided that this was -- this was like an injustice
14 to him.

15 Q. [15:33:06] We might have a translation problem. I'm not sure, Mr Witness.
16 But how was the iron bar used?

17 A. [15:33:34] The farmer hit Moussa with an iron bar. He hit him. It was sharp.
18 It hit him - I do not know exactly where - in his thigh or somewhere under his
19 abdomen. Moussa, he was in pain, so he opened fire at him.

20 Q. [15:34:02] Thank you.

21 When Moussa was -- oh, sorry.

22 MR DUTERTRE: [15:34:08](No interpretation)

23 PRESIDING JUDGE MINDUA: [15:34:09](Interpretation) Prosecutor.

24 MR DUTERTRE: [15:34:11](Interpretation) Could we know what the source of all
25 this information is. He was there, he wasn't there. And a large part of this

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1 testimony, we just don't know what the source of it is. And I don't know to what
2 extent that helps the Chamber. But we are given details, but we don't know where it
3 comes from. We don't know where he gets it from. Perhaps the Defence at a
4 certain time needs to get some precision with regards to these elements.

5 PRESIDING JUDGE MINDUA: [15:34:38](Interpretation) Very well, but we are in
6 open session.

7 Court officer, I fear that -- well, we are going to briefly go into private session in order
8 to give the possibility for the Defence to answer the question or answer the objection
9 of the prosecutor, with the help of the witness, of course.

10 Court officer, please take us into private session.

11 (Private session at 3.35 p.m.)

12 THE COURT OFFICER: [15:35:18] We are in private session, Mr President.

13 PRESIDING JUDGE MINDUA: [15:35:22](Interpretation) Thank you very much,
14 court officer.

15 So, *Maître* Gerry, did you hear the objection of the Prosecutor? I have made us go
16 into private session, so please could you answer this objection.

17 MS GERRY: [15:35:39] Of course.

18 Q. [15:35:42] Mr Witness, you told us you heard about this case. Can you help us
19 as to where you were when you heard about this case, first of all.

[REDACTED]

[REDACTED]

[REDACTED] This is an -- it was like a long-standing
23 case. There was a lot of saying in this case. There was a long investigation in this
24 case, until the -- until justice is done.

25 So I heard that from Moussa himself, and I heard some information [REDACTED]

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1 and from witnesses. Some of the information, I heard also from the people who
2 surrendered themselves. And it's information they heard about this case.

3 Q. [15:37:06] Where were you when you heard the information from Moussa
4 directly?

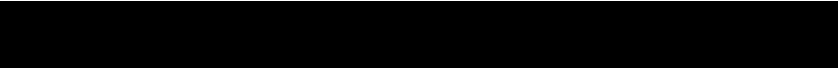
5 A. [15:37:15] At the police station when he was eating and drinking with us.


6 Q. [15:37:23] We have a possible translation problem that I want to check with you.

7 When you talked about parents, did you hear about this case  or
8 Moussa's parents?

9 A. [15:37:39] Moussa's parents.

10 Q. [15:37:44] Thank you.


12 A. [15:37:54] No.


15 A. [15:38:15] No.

16 MS GERRY: [15:38:16] Mr President, I believe we can go back into public session.

17 PRESIDING JUDGE MINDUA: [15:38:23](Interpretation) Indeed, *Maître* Gerry.

18 Court officer, please take us into public session.

19 (Open session at 3.38 p.m.)

20 THE COURT OFFICER: [15:38:37] We are in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [15:38:42](Interpretation) Thank you very much.

22 *Maître* Gerry.

23 MS GERRY: [15:38:48]

24 Q. [15:38:48] Mr Witness, when this -- before this case went to the Islamic tribunal,
25 when Moussa was at BMS, are you able to help us understand any actions that were

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1 taken by Mr Al Hassan?

2 A. [15:39:15] Moussa was close to everyone. He was close to Al Hassan.

3 Al Hassan tried to be close to him and to understand everything from him. He tried
4 to help him as much as possible with relation to his livelihoods, his personal issues,
5 everything he would need. And this is what I know. I do not know anything else.

6 Q. [15:39:59] Can you explain what you mean -- oh, sorry. Can you explain what
7 you mean by "help". How did Mr Al Hassan help Moussa or try to help Moussa?

8 A. [15:40:11] In his personal issues, personal matters, anything he would need with
9 regard to his personal needs or to his family. Any service that Al Hassan might
10 perform without obstructing the work of the tribunal. So Al Hassan would help him
11 with regard to his food, to his drinking, everything relating to him. Al Hassan will
12 try to meet all his needs and to be close to him so that he doesn't feel any -- any
13 pressure or any stress. This is what I know. Because he was from the Tuareg.
14 Al Hassan was also from the Tuareg. And he would understand everything. He
15 used -- Al Hassan used to know Moussa's tribes and vice versa. Both tribes, they
16 had like -- they used to joke sometimes among each other, and Al Hassan used to use
17 that to assuage the situation sometimes.

18 Q. [15:41:28] Now, you told us that this case, Moussa's case, went to the Islamic
19 tribunal. Did the Islamic tribunal adjudicate upon this case?

20 A. [15:41:45] Yes, it adjudicated on this case.

21 Q. [15:41:49] Can you tell us what the adjudication was.

22 A. [15:41:56] It was *qisas*, or sanction or punishment.

23 Q. [15:42:02] We -- I have a note that you said the *hadd* of *qisas*; is that correct or not?
24 Was it a *hadd* of *qisas*?

25 A. [15:42:13] Yes, it's correct.

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1 Q. [15:42:15] Okay. And what does that mean? What is a *hadd* of *qisas*?

2 A. [15:42:24] It means that the killer would be killed.

3 Q. [15:42:33] And previously you have told us that some punishments are
4 discretionary and some are direct from the Koran. Which type of punishment was
5 this? Was it discretionary, or did it come direct from the Koran?

6 A. [15:42:56] It was from the Koran.

7 Q. [15:43:03] Did you have any knowledge of how the information about the case
8 that was -- was transmitted to the Islamic tribunal? Do you know how the
9 information gets to the Islamic tribunal on this case?

10 A. [15:43:38] I do not know exactly. I know that they searched the parents of
11 the -- of the killed also came. Also the criminal or the killer's parents also came.
12 They stem their information from eyewitnesses, from relatives of both parties.
13 Subsequently, as far as I heard, there were two phases. The first phase, they were
14 waiting for the son of the killed to give his opinion regarding this punishment. And
15 after that, the mother of the killed, her statement was taken. Then first she accepted
16 to take the *diyya*, and then she changed her mind and she said they would go for the
17 *qisas*, or for the sanction.

18 Q. [15:44:59] Thank you for your answer.

19 I just want to clarify that I have understood you correctly. We have a note that you
20 said: "The son of the killed person was to grow up and then say his opinion." Did
21 you say that?

22 A. [15:45:26] He was young. They had to wait for him until he grows up if they
23 can -- to decide whether he wants to kill the killer of his father. Then they followed
24 the Maliki school of thought to follow the mother -- the mother's statement. And
25 then the Hanbali school of thought was left out, the one that says that the son -- the

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1 killer's son would need -- they would need to wait for the killer's son to grow up and
2 decide himself.

3 Q. [15:46:03] I just want to unpack that a little bit, if I may.

4 Can I understand you that they did -- nobody waited for the son to grow up, that a
5 decision was taken before the son grew up. Have I understood you correctly?

6 A. [15:46:25] Yes.

7 Q. [15:46:25] And you told us something about the Hanbali school of thought.

8 How is that linked to a son growing up? Can you help us to understand that in
9 Islamic law, because that's what you were talking about. I just want to make sure I
10 understand you.

11 A. [15:46:55] In the sharia, there are four school of thoughts that have -- we have
12 the Shafei school of thought, the Hanafi, the Hanbali and the Maliki. Every part of
13 the Muslims follow their own school of thoughts. Any case, if there -- every decision
14 would be stemmed from the school of thought followed by the part or the region.
15 Some of the judges from the Hanbali school of thought, some of them used to think
16 that the son should -- they should wait for the son to grow up because he is carrying
17 the blood. And other judges would think that it was better to listen to the -- to the
18 killed -- to the mother of the killed because she was maintaining this blood. And this
19 is the Maliki school of thought. This school of thought was followed because it was
20 popular in the region. That's how they listened to the mother.

21 Q. [15:48:28] And what happened to Moussa?

22 A. [15:48:31] He was killed.

23 Q. [15:48:39] And it may be obvious to everyone, but was why Moussa killed?

24 A. [15:48:50] Moussa was killed because he had already killed himself.

25 Q. [15:48:54] You told us about the *qisas* sanction. You said he was convicted and

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1 then the *qisas* sanction was applied. Can you explain to us what that means, please.

2 A. [15:49:14] *Qisas* means killing, means killing. That the person would be killed
3 just in the same way as he killed other people. If he was shot, he would also be shot
4 in turn. If he was killed with a sword, he would be killed with a sword. If he had
5 killed someone else by burning, he would also be burned in turn.

6 Q. [15:49:45] Now, you told us that Mr Al Hassan -- before Moussa was killed by
7 that sanction, you told us that Mr Al Hassan was able to talk to the family of the
8 killed person, the farmer. They accepted and made an agreement, but then changed
9 their minds.

10 Can you explain to us what you meant by that, please.

11 A. [15:50:20] After the killed persons family arrived, Al Hassan was the only
12 person that he would understand their language. He would -- he could talk to them.
13 He had talked to them until they understood what he meant. They were convinced
14 that -- to take the *diyya*, or the blood money. After that, they changed their minds and
15 asked for *qisas*.

16 Q. [15:50:59] Thank you.

17 This morning you mentioned a case where a woman complained about a husband.

18 Can you tell us about that case, please.

19 A. [15:51:20] A woman about her husband? Or the case of a man who raped a
20 woman and did not marry her? I would like to verify the case you mean.

21 Q. [15:51:36] You tell us which case you remember, please.

22 A. [15:51:44] The case as I remember is the case of the slave who raped a woman or
23 he was with her in an illegal relationship. She was pregnant. And after that, she
24 brought complaint to the police. His file was referred to the court, and then the case
25 was investigated by Al Hassan. It was revealed that the person or the defendant, he

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1 was owned by a man from the Imghad tribe. And the sanction was reduced because
2 had he -- had he been -- he had been free, he would be thrown by stones in a hole
3 until -- until he dies. He was married. Because he was married and was in an
4 illegal relationship with a woman.

5 Q. [15:53:25] Mr Witness, first of all, I think we may have a translation problem.
6 We think that you said the word "*zina*". Did you say the word "*zina*"?

7 A. [15:53:39] Yes, I said that.

8 Q. [15:53:45] What does "*zina*" mean, please?

9 A. [15:53:47] Illegal relationship, illegitimate relationship without -- outside the
10 marriage. This is the *zina* in Islamic law. A relationship without marriage.

11 Q. [15:54:06] So that translation to me in English was translated as "rape". Would
12 it be correct to say that this was rape or not correct to say that this was rape?

13 A. [15:54:20] It was -- it was not a rape. It was an illegitimate relationship.

14 Q. [15:54:30] You told us that the woman brought a complaint to the police. Have
15 I understood that correctly?

16 A. [15:54:41] Yes.

17 Q. [15:54:43] Did you see that happen or did you hear about it separately?

18 A. [15:54:50] I saw the woman coming to the police station. And what she -- I
19 could not know what happened after that, what did she say, but I heard that she was
20 complaining that she was in an illegitimate relationship with a man and that she
21 became pregnant, and he refused to get married to her.

22 Q. [15:55:17] Who did you hear that from? Did you hear from directly from her or
23 from someone else?

24 A. [15:55:29] From the talks that was going on and -- in the police station.

25 Q. [15:55:41] You told us that she complained that she was -- there was an illegal

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1 relationship. Can you help us to understand what you mean by illegal relationship?

2 A. [15:55:59] It's a relationship outside the marriage. This is what we call in the
3 sharia or Islamic law, when it's a relationship outside marriage, it's called illegitimate.

4 Q. [15:56:15] And did you understand from what you heard why she had chosen to
5 complain to the police?

6 A. [15:56:32] Because it was known that whoever come to the police would -- can
7 claim his right. She knew she has right and she wanted to have her right back.

8 Q. [15:56:50] And what rights did you understand she wanted?

9 MR DUTERTRE: [15:57:00](Interpretation) This is speculative. This is hearsay.
10 It's speculative. I object to this question because I don't know where we're going
11 with it.

12 PRESIDING JUDGE MINDUA: [15:57:20](Interpretation) Prosecutor, I find it
13 difficult to follow you. In private session, we already explained what had happened.
14 Now there he is explaining it. You're saying it's hearsay or speculation.

15 MR DUTERTRE: [15:57:45](Interpretation) He has just said, your Honour: Then I
16 saw the woman go to the police station. I don't know what happened afterwards.
17 What she said, I heard it -- I heard it said, what she said.

18 So it's full hearsay. And we haven't even explored who was involved in this.

19 Secondly, you can't put into the mind of -- you can't be in the mind of this woman to
20 know exactly what she wanted or what she was doing. So she's asked -- he's asked
21 to speculate on the motives for this person coming to the police station.

22 And the Defence can plead all that at the end in its closing brief if it wishes to do so.

23 But you can't make the witness say things that he doesn't know or to invent things, to
24 speculate. It's an invitation to do so.

25 PRESIDING JUDGE MINDUA: [15:58:41](Interpretation) I'm not going to repeat

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1 what the Prosecutor said, but I think he is right. So please reformulate your question

2 and move on to something else.

3 MS GERRY: [15:58:51] Certainly.

4 Q. [15:59:01] Mr Witness, you told us that she wanted her rights. Did you hear

5 that from her or from someone else?

6 A. [15:59:20] According to what was said, she came to the police station

7 complaining because there was a man who was with her in an illegitimate

8 relationship and she was pregnant of him. And after that, he refused to get married

9 to her. This was her problem, that that man did not want to marry her. If he

10 wanted to marry her, she wouldn't have come to the police station, and this case

11 wouldn't have been referred to the court. All that she needed is that this man would

12 get married to her after she got pregnant to him, because he was in an illegitimate

13 relationship with her.

14 Q. [16:00:04] Thank you.

15 And from what you were hearing, did you -- you told us that he was married and he

16 was in an illegal relationship. Can you help us as to what that means. When you

17 told us that your understanding was he was married and was in an illegal

18 relationship, what was your understanding of what that meant?

19 MR DUTERTRE: [16:00:30](Interpretation) Your Honour --

20 PRESIDING JUDGE MINDUA: [16:00:31](Overlapping speakers)

21 THE WITNESS: [16:00:31](Overlapping speakers)

22 THE INTERPRETER: [16:00:33] Overlapping speakers.

23 PRESIDING JUDGE MINDUA: [16:00:32](No interpretation)

24 MR DUTERTRE: [16:00:35](Interpretation) I'm objecting. We've already gone into

25 these elements. It's been repeated. It's in the transcript. I don't know where we're

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1 going. And furthermore, the clock will speak for itself.

2 PRESIDING JUDGE MINDUA: [16:00:50](Interpretation) Yes, before going on to the
3 time, I would like to resolve the objection first.

4 *Maître* Gerry, I think that here you are calling for hearsay and speculation. So yes.

5 MS GERRY: [16:01:05] Mr President, if I may respond to the objection. May I? I
6 appreciate the time. It's my submission that it was a point of clarification on what
7 this witness's understanding was as to the nature of the case that was to go to the
8 Islamic tribunal. It's, therefore, important to understand what the allegation was.
9 The witness has said that it was investigated by Mr Al Hassan. So we need to be
10 clear what the allegation was. Is it an illegal relationship? I don't want to be
11 accused of putting words into the mouth of the witness, but that is important and the
12 objection --

13 PRESIDING JUDGE MINDUA: [16:01:51](Interpretation) Counsel, counsel, no, no,
14 no. In addition, the witness is listening to us and you are pleading with regards the
15 situation. And I can see the Prosecutor standing up. No.
16 Yes, Prosecutor.

17 MR DUTERTRE: [16:02:05](Interpretation) Yes. All that is on page 70, lines 2 to 13.
18 There are the elements of the answer to the question, which is just repeating again the
19 same question.

20 PRESIDING JUDGE MINDUA: [16:02:17](Interpretation) Very well. We've already
21 had the answer from the witness. I don't know in what sense you want to explore
22 that again. Have a look at your notes, and tomorrow perhaps you will be more
23 inspired.

24 So we have finished, therefore, for this afternoon.

25 Witness, we are coming to the end of our day, and as you will have noted, your

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- 1 testimony has not yet finished. For the moment, the Chamber would like to thank
2 you most sincerely for having answered the questions, and you will continue with
3 your testimony tomorrow from 9.30.
4 I would like to remind you that, until then, you must not forget that you are
5 prohibited from talking about your testimony with anyone at all, neither with
6 members of your family, friends, should you be in contact with them this evening.
7 So, before ending the session, as usual, I would like to thank the parties and the
8 participants, the court reporters and the interpreters, the security guards, our public
9 in the gallery and our public in video conference. And to all of you, I wish you a
10 very good evening.
11 We are now going to finish the session. Court is adjourned.
12 THE COURT USHER: [16:04:08] All rise.
13 (The hearing ends in open session at 4.04 p.m.)