

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0605

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Kesia-Mbe Mindua, Judge Tomoko Akane and Judge Kimberly Prost
7 Trial Hearing - Courtroom 3
8 Monday, 29 August 2022
9 (The hearing starts in open session at 9.33 a.m.)
10 THE COURT USHER: [9:33:51] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MINDUA: [9:34:23](Interpretation) The hearing is open.
14 Good morning to one and all. And I look forward to a productive week.
15 Can I call upon the court officer to call the case, please.
16 Mr Court Officer.
17 THE COURT OFFICER: [9:34:54] Good morning, Mr President. Good morning,
18 your Honours.
19 This is the Situation in the Republic of Mali, in the case of The Prosecutor versus
20 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
21 ICC-01/12-01/18.
22 And for the record, we're in open session.
23 PRESIDING JUDGE MINDUA: [9:35:11](Interpretation) My thanks, court officer.
24 As custom dictates, let's have the appearances, and let's begin with the Office of the
25 Prosecutor, please.

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1 Mr Prosecutor.

2 MR DUTERTRE: [9:35:27](Interpretation) Good morning, your Honour, honourable
3 members of the Bench. Here with me on my bench this morning, we have exactly
4 the same staffing as Friday, in other words, Madam Yayoi Yamaguchi on my left,
5 Mr Lucio Garcia sitting behind me. We also have Mr Moussa Allafi on my left, and
6 of course, I myself, Gilles Dutertre.

7 Of course, I'd like to say hello to everybody in and outside of the courtroom.

8 PRESIDING JUDGE MINDUA: [9:36:04](Interpretation) Thank you very much,
9 Mr Prosecutor.

10 I now turn to the Defence.

11 MS GERRY: [9:36:06] (Microphone not activated)

12 THE INTERPRETER: [9:36:07] Microphone, please.

13 MS GERRY: [9:36:09] Good morning, Mr President, your Honours. The Defence
14 are represented today by myself, Felicity Gerry, by Dolly Chahla, who sits to my right,
15 and Leila Abid, who sits behind me. Thank you.

16 PRESIDING JUDGE MINDUA: [9:36:32](Interpretation) Thank you very much.

17 The Chamber has been duly informed of Ms Taylor's absence this morning.

18 MS GERRY: [9:36:46] (Microphone not activated)

19 THE INTERPRETER: [9:36:47] Microphone, please.

20 MS GERRY: [9:36:48] I should have mentioned that. I'm very grateful for --

21 PRESIDING JUDGE MINDUA: [9:36:53] Microphone, microphone.

22 MS GERRY: [9:36:54] It is on now.

23 I should have mentioned that. I'm very grateful for the permission. Thank you.

24 PRESIDING JUDGE MINDUA: [9:37:03](Interpretation) Very well. Thank you.

25 And I would like to note the presence in the courtroom of Mr Al Hassan, the accused.

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1 And over to the victims now, please.

2 MR DOUMBIA: [9:37:23](Via video link)(Interpretation) Good morning, Presiding

3 Judge, members of the Bench. The LRVs this morning are represented by

4 Ms Prisque Biyéké-Dipanga and myself, Mr Seydou Doumbia. Thank you very

5 much. And a good day to one and all.

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

7 I now look to the counsel appearing under Rule 74. Over to you.

8 MS TERZIEVA: [9:37:53] Good morning, your Honours. Good morning, everyone.

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

10 PRESIDING JUDGE MINDUA: [9:38:07](Interpretation) My thanks.

11 Today we'll be continuing with the oral evidence of P-0605, appearing on the part of

12 the Defence.

13 Now I turn to the witness.

14 Good morning, Witness. How are you?

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

16 (The witness speaks Arabic)

17 (The witness gives evidence via video link)

18 THE WITNESS: [9:38:33](Interpretation) I'm doing very well. Thank you very

19 much.

20 PRESIDING JUDGE MINDUA: [9:38:37](Interpretation) Thank you very much,

21 Mr Witness. I wish you welcome on behalf of the Chamber this morning.

22 And let me remind you, please, Mr Witness, that you are still under oath. As a

23 consequence, you should tell the truth, nothing but the truth.

24 Let me also reiterate my practical housekeeping points; namely that you should speak

25 slowly, that you should enunciate clearly and that you should observe pauses.

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1 So, without further ado, I now turn to the Office of the Prosecutor to hear from the
2 Prosecutor in the furtherance of his cross-examination.

3 MR DUTERTRE: [9:39:30](Interpretation) Your Honour, my thanks. On Friday last,
4 we finished on an objection, and I think there was a decision pending. But I think I
5 may have wanted to do that in close session or not, but since we're in open court as
6 we speak.

7 That being said, I can continue pending the decision.

8 (Trial Chamber confers)

9 PRESIDING JUDGE MINDUA: [9:40:22](Interpretation) Mr Prosecutor, we shall
10 proceed on this basis. We shall continue. And after the midmorning break, we will
11 revisit the matter of the objections, if that sits well with you.

12 MR DUTERTRE: [9:40:35](Interpretation) That's fine. I thought it was in your
13 intention to hand down your decision. But as we say in German, we have to wait
14 and see.

15 PRESIDING JUDGE MINDUA: [9:40:41](Interpretation) Very well. Proceed.

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

17 Q. [9:40:48] Good morning, Mr Witness, are you doing well this morning?

18 A. [9:40:57] Good morning.

19 Q. [9:41:04] Mr Witness, I'd like to put to you one or two questions going to the
20 matter of the Islamic police. We'll be starting on that particular point, if that's
21 agreeable to you, Mr Witness.

22 And so I turn to my first question. You confirmed to us that the Islamic police wore
23 uniforms, vests with the writing featuring on it "Islamic police"; is that right?

24 A. [9:41:35] That's right.

25 Q. [9:41:38] And the Islamic police also bore weapons; is that right?

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1 A. [9:41:48] That's right.

2 Q. [9:41:52] And we are talking about Kalashnikovs; isn't that right?

3 A. [9:42:00] That's right.

4 Q. [9:42:04] And you stated at transcript 194, page 98 in the transcript, you stated at
5 that juncture that the police were seized of the most serious crimes. Consequently, it
6 was the police that brought the accused to the Islamic tribunal; is that right?

7 A. [9:42:42] That's right.

8 Q. [9:42:48] And the police were also involved in -- in carrying out the penalties
9 determined by the Islamic tribunal; is that right?

10 A. [9:43:04] It wasn't an obligation to do so, but it wasn't the police who undertook
11 the penalties.

12 Q. [9:43:21] You say it's not an obligation, but the police were indeed present when
13 penalties were carried out as determined by the tribunal; is that right?

14 A. [9:43:36] Yes, sometimes a member of the police force was indeed present.

15 Q. [9:43:45] Very well. So members of the Islamic police were indeed present
16 when the penalties were being carried out. All right.

17 And also they were there to guarantee a certain degree of security that the police were
18 present; is that right?

19 A. [9:44:15] Yes.

20 Q. [9:44:19] And at a given point in time, the Islamic police moved to occupy the
21 governor's building that you called Wilaya. We're in agreement on that point; is that
22 right?

23 A. [9:44:42] Yes.

24 Q. [9:44:46] And you would agree with me when I say that this is -- the governor's
25 building was one of the most important buildings in Timbuktu, yes?

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1 A. [9:45:01] Yes.

2 Q. [9:45:08] Mr Witness, 192 transcript reference, page 93, in the French version, at
3 that point in the transcript, the Defence put a question to you, namely, if the security
4 battalion was situated higher or underneath the Islamic police in the hierarchy. And
5 your answer was, and I quote, and I read:

6 "I don't know. But as far as I do know, as far as I understood, I think the security
7 groups were higher up in the hierarchy, because they bore weaponry and they
8 provided security in the entry points into the city. And so they held more power, or
9 they were situated higher up the scale than the police."

10 End quote.

11 So, Mr Witness, that's just your private personal opinion, isn't it?

12 A. [9:47:07] I think I must correct something. I didn't say that they had weapons.

13 All I said was that they checked weapons. In other words, all weapons that were
14 circulating at their avail, they registered the existence of the weapons. So it was up
15 to them to check the circulation of weapons. And so I think they were situated
16 higher in the hierarchy than the Islamic police.

17 Q. [9:47:48] You never worked with the security battalion or within the ranks of
18 this latter; is that right, Mr Witness?

19 A. [9:48:02] No, I didn't.

20 Q. [9:48:05] And you were never in attendance with meetings of the head or heads
21 of the security battalion or the *Hesbah* or the Islamic authorities; is that right? The
22 police, Islamic police.

23 THE INTERPRETER: [9:48:31] English booth comment: The Arabic interpreter
24 colleague didn't hear the utterance of the witness.

25 MR DUTERTRE: [9:48:37](Interpretation)

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1 Q. [9:48:37] So you are unable to say --

2 PRESIDING JUDGE MINDUA: [9:48:41](Interpretation) Please wait, Mr Prosecutor.

3 Mr Witness, could you take up again your utterance because the Arabic interpreter
4 didn't understand what you said.

5 THE WITNESS: [9:48:52](Interpretation) No, I was never in attendance of any
6 meeting with any senior official, if that's the thrust of your question.

7 PRESIDING JUDGE MINDUA: [9:49:04](Interpretation) Do you have anything to
8 say, Defence?

9 MR DUTERTRE: [9:49:11](Interpretation) Mr President --

10 PRESIDING JUDGE MINDUA: [9:49:16](Interpretation) I wanted to have
11 clarification from the witness.

12 MR DUTERTRE: [9:49:20](Interpretation) Yes. If there is an objection, then I think
13 we need to cut the sound. I put that before you in all due respect.

14 PRESIDING JUDGE MINDUA: [9:49:30](Interpretation) Defence counsel, an
15 objection?

16 MS GERRY: [9:49:33] Mr President, the question asked by the Prosecutor --

17 PRESIDING JUDGE MINDUA: [9:49:36](Interpretation) No, no, no. Answer my
18 question, please. Do you want to enter an objection, because the Prosecutor wishes
19 to cut sound if that's indeed the case?

20 MS GERRY: [9:49:46] Yes. Yes, please.

21 PRESIDING JUDGE MINDUA: [9:49:52](Interpretation) Court officer, please cut the
22 sound with the witness.

23 THE COURT OFFICER: [9:50:02] Your Honours, the sound to the witness has been
24 cut off.

25 PRESIDING JUDGE MINDUA: [9:50:08](Interpretation) Thank you very much,

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1 court officer.

2 Over to you, Counsel Gerry.

3 MS GERRY: [9:50:13] Mr President, firstly, my apologies for being slow with the
4 technology this morning. I will get better at that today, I promise.

5 Secondly, my objection is this: The question that was asked by the Prosecutor
6 contained the heads of three different departments. He asked a question about the
7 heads of security, and the topic that he seemed to be discussing was security, but then
8 he added on *Hesbah* and the Islamic police. I'm not sure that the witness will have
9 understood that he's being asked about all three organisations. It may be that the
10 witness did and that's the answer that we had. But I stood at the point before the
11 witness had answered, and I wonder whether that could be clarified, please. It's
12 essentially a compound question of three different departments, so I would suggest
13 that we break that down. Thank you.

14 PRESIDING JUDGE MINDUA: [9:51:12](Interpretation) Mr Prosecutor, the Defence
15 is right. We shouldn't be putting stacked-up complex questions to the witness.

16 MR DUTERTRE: [9:51:21](Interpretation) I did this advisedly. I thought it was
17 clear, my question. And the witness did offer an answer. If it sits well with the
18 Bench, I can break that up. But I think it was said by the witness that he attended no
19 meeting - I don't have the text in front of my -- in front of me - but, anyway, with the
20 senior officials. It was an umbrella answer. But I'm in your hands, your Honour.

21 PRESIDING JUDGE MINDUA: [9:51:51](Interpretation) Well, perhaps you could
22 rephrase your question, please.

23 Mr Court Officer, could you restore the sound with the witness.

24 THE COURT OFFICER: [9:52:02] Your Honours, the sound to the witness has been
25 re-established.

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1 PRESIDING JUDGE MINDUA: [9:52:08](Interpretation) My thanks, court officer.

2 Mr Prosecutor, over to you.

3 MR DUTERTRE: [9:52:13](Interpretation) Thank you very much, your Honour.

4 Q. [9:52:15] Mr Witness, let me take up where we left off to -- well, lest there be any
5 doubt and to lift any ambiguity, let me break up my previous question so that we
6 properly understand your answer.

7 So you never attended any meeting involving the heads of the security battalion; is
8 that right?

9 A. [9:52:41] No, I never attended such meetings.

10 Q. [9:52:48] And you never attended meetings involving the *Hesbah* leaders; is that
11 right?

12 A. [9:53:00] No.

13 Q. [9:53:07] And neither did you attend meetings with the leaders of the Islamic
14 police; is that right?

15 A. [9:53:19] No.

16 Q. [9:53:25] Thank you very much for these clarifications.

17 So, Mr Witness, in actual fact, you're not in a position to say that the security battalion
18 was higher up in the scale than the Islamic police. This is just your personal opinion,
19 isn't it?

20 A. [9:53:50] I'm grounding myself on information at my avail, as an ordinary rank
21 and file member of the police.

22 Q. [9:54:11] But we would agree that in the police you held a subordinate position.
23 That's right, isn't it, Mr Witness?

24 A. [9:54:27] I didn't understand your question.

25 Q. [9:54:31] "Subordinate" was my word. You held a subordinate position, a

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1 lower -- you held a low-ranking position in the police; is that right?

2 A. [9:54:42] Yes, an ordinary rank and file position.

3 Q. [9:55:01] All right. Let's continue with a matter of the Islamic police,

4 Mr Witness. Transcript reference T-192, page 98 in the French version, lines 13 to 15.

5 Here you stated, and I read: "The work and the functions of the Islamic police was

6 similar to any police conducted in any area in the world or state."

7 End of quote.

8 So, Mr Witness, in 2012, in Timbuktu, the Islamic police circulated in the city armed

9 with Kalashnikovs, patrolled the streets armed to the teeth. This isn't typical of any

10 police force anywhere in the world. Do you agree, Mr Witness?

11 A. [9:56:45] The police was armed in some circumstances and in others, it wasn't

12 armed at all. Sometimes it simply carried pistols. I don't know whether you have

13 that information or not. Police officials in hospitals don't carry weapons, for

14 example. That holds true of public areas as well. The police are not armed. In

15 marketplaces and in some public areas, the police don't carry weapons. But in some

16 other areas, the police carry pistols. And everywhere, the police wear significant

17 weapons but in other areas, light weapons, small weapons.

18 Q. [9:57:34] Mr Witness, I didn't ask you to talk about the hospital, but this Bench

19 have seen the Islamic police circulating in the city with Kalashnikovs. This isn't a

20 typical trait of any police force, to move around with weapons of war, Mr Witness.

21 Would you agree?

22 A. [9:58:10] But what particular place are you talking about? They can be -- they

23 would be wearing -- they would be carrying weapons in any unsafe area.

24 Q. [9:58:25] I will put a question on the back of your question, Mr Witness. You

25 never saw during the ten months in Timbuktu in question and while you were a

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1 member of the Islamic police, you never saw the Islamic police circulating in the city
2 with Kalashnikovs. Is that what you're saying? Is that what your evidence is,
3 Mr Witness?

4 A. [9:58:55](No interpretation)

5 THE INTERPRETER: [9:58:56] Message from the Arabic interpreter: I didn't hear the
6 question.

7 THE WITNESS: [9:59:03](Interpretation) I didn't say that. Even if you went to
8 Timbuktu now, you will see that the police are carrying Kalashnikovs. Even up to
9 this very point in time, they carry Kalashnikovs because the region is not entirely safe.

10 MR DUTERTRE: [9:59:26](Interpretation)

11 Q. [9:59:26] So, Mr Witness, the Islamic police circulated in the city with
12 Kalashnikovs in 2012; isn't that right?

13 A. [9:59:39] Yes.

14 Q. [9:59:41] Mr Witness, we hold a report from the Islamic police. This deals with
15 a case of the selling of alcohol. ERN 0001-7514. I say this for the benefit of the
16 Bench.

17 PRESIDING JUDGE MINDUA: [10:00:10](Interpretation) Do you have the tab?

18 MR DUTERTRE: [10:00:13](Interpretation) Yes, I can provide you with the tab,
19 your Honour. 166, with translation at 167. But I'm not going to refer the witness to
20 it visually. I'm just going to make reference to it.

21 PRESIDING JUDGE MINDUA: [10:00:27](Interpretation) Over to you.

22 MR DUTERTRE: [10:00:29](Interpretation) 0034-0069. That's the other reference for
23 the translation.

24 Q. [10:00:44] Report from the Islamic police, Witness. It's dated 16 July 2012, and
25 it is signed by Mr Al Hassan. And he says -- and it refers to the person who had

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1 been arrested for selling alcohol. And I quote: (Speaks English) "He was

2 interrogated and tortured, but to no avail."

3 (Interpretation) So he was interrogated, tortured but didn't confess.

4 Normal police, Witness, do not torture, do they?

5 A. [10:02:08](No interpretation)

6 THE INTERPRETER: [10:02:18] The answer wasn't clear. The Arabic booth didn't

7 get the answer.

8 PRESIDING JUDGE MINDUA: [10:02:24](Interpretation) Please repeat your answer,

9 Witness.

10 THE WITNESS: [10:02:32](Interpretation) Even the Islamic police don't torture.

11 The Islamic police probably interrogated him. They applied *ta'zir*, but they didn't

12 torture him. According to the information that I had, the Islamic police did not

13 practice torture.

14 PRESIDING JUDGE MINDUA: [10:02:54](Interpretation) Ms Gerry.

15 MR DUTERTRE: [10:02:57](Interpretation) Could we cut the sound, your Honour.

16 PRESIDING JUDGE MINDUA: [10:03:01](Interpretation) Court officer, please, could

17 you cut the sound with the witness, the sound to the witness.

18 THE COURT OFFICER: [10:03:16] Your Honours, the sound to the witness has been

19 cut off.

20 PRESIDING JUDGE MINDUA: [10:03:22](Interpretation) Thank you very much.

21 Maître Gerry.

22 MS GERRY: [10:03:26] Mr President, you probably didn't need to cut the sound, but

23 my suggestion at this point is that the witness is shown the original Arabic document

24 rather than being read the translation in case there is a problem with the translation.

25 As I understand it, this witness may be able to read the original.

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1 And I recall on Friday - I'm sorry I don't have the line - that there was a mix-up
2 between the word "torture" and "*ta'zir*", and because of that, in my submission, it
3 would be helpful for the witness to see the original. And perhaps that could be put
4 on the screen before we go down the line of torture and interrogation. I'd be
5 grateful.

6 PRESIDING JUDGE MINDUA: [10:04:13](Interpretation) Indeed, Maître Gerry.

7 Can we present the original to the witness.

8 MR DUTERTRE: [10:04:16](Interpretation) Absolutely, your Honour. Having said
9 that, there is no problem of translation in this document which, furthermore, was
10 shown to the accused and which he recognised and appended signature thereto.

11 Now, we can show the document which is at tab 166. The translation for you, tab
12 167. And the ERN 0034-0170.

13 I'd just like to ask for a moment.

14 PRESIDING JUDGE MINDUA: [10:04:59](Interpretation) Court officer, could we
15 have the sound back.

16 THE COURT OFFICER: [10:05:20] Your Honours, the sound to the witness has been
17 re-established.

18 PRESIDING JUDGE MINDUA: [10:05:28](Interpretation) Thank you very much,
19 court officer.

20 MR DUTERTRE: [10:05:36](Interpretation)

21 Q. [10:05:36] Witness --

22 PRESIDING JUDGE MINDUA: [10:05:36](Interpretation) I was going to give you
23 the floor to present the text.

24 MR DUTERTRE: [10:05:48](Interpretation)

25 Q. [10:05:49] Witness, can you see the picture on your screen?

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1 A. [10:06:10] (No interpretation)

2 Q. [10:06:17] Witness, could you read the document?

3 Zoom in.

4 A. [10:06:29] (No interpretation)

5 Q. [10:06:39] You can't see it?

6 I would possibly ask my colleague to read the document in Arabic with the leave of
7 the Chamber. I would call my colleague, Mr Allafi, who's going to read the entire
8 document, including the passage in question.

9 PRESIDING JUDGE MINDUA: [10:07:09](Interpretation) Maître Gerry.

10 MS GERRY: [10:07:11] It may be if the document is expanded on the screen that the
11 witness will be able to see it. It looks as though he is reading it now. His eyes are
12 moving. My suggestion is he is given that opportunity first. He very much looks
13 as though he's reading.

14 PRESIDING JUDGE MINDUA: [10:07:37](Interpretation) Witness, can you now read
15 the document?

16 THE WITNESS: [10:07:48](Interpretation) No. It's blurred. I'm sorry. I don't
17 know. I can read certain words. I can make out certain words, but I cannot read it.

18 PRESIDING JUDGE MINDUA: [10:08:02](Interpretation) Then please follow the
19 reading given by one of the representatives of the Office of the Prosecutor.

20 Mr Allafi.

21 MR ALLAFI: [10:08:16](Interpretation) Thank you, your Honour.

22 "Prayers be paid to God's prophet. This man was arrested, [REDACTED]

23 And after having observed the house in which he was living, we arrested him while
24 he was selling alcohol. We found seven bags of alcohol with him. There was a
25 woman with him who was neither his wife nor his mother. And we also found

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1 clients who were drunk, and he too, he was drunk. He was interrogated and he was
2 tortured, but in vain. He told us -- he only told us that alcohol was brought by one
3 of the collaborators, the lorry driver of the JDF company, and he said he didn't know
4 that person's name."

5 It was the 16th of the 7th, 2012.

6 PRESIDING JUDGE MINDUA: [10:09:55](Interpretation) Thank you very much,

7 Mr Allafi.

8 Prosecutor.

9 MR DUTERTRE: [10:10:08](Interpretation) Thank you, your Honour. There's just a
10 small technical problem. There we are.

11 Q. [10:10:14] Witness, normal police do not torture people, do they?

12 A. [10:10:32] No. Whatever the case, not publicly, not public torture. According
13 to the law, the police don't torture people. But if you come to Mali, you will see that
14 torture is widely practised, even if it is not something that is recognised or stated.

15 Q. [10:11:19] Witness, there was a mention of torture in this passage and now you
16 are taking us to *ta'zir*. I also have a question about *ta'zir*, which is different to torture.
17 A normal policeman does not practice *ta'zir* in all places in the world.

18 A. [10:12:00] Perhaps you don't know the sense of the word "*ta'zir*". But the police
19 in -- no police practice the *ta'zir*.

20 Q. [10:12:26] I think that there is a problem with the translation, at least in French.
21 It doesn't correspond with what the witness said in Arab, and it doesn't make much
22 sense either.

23 Witness, could you repeat your answer, your answer to my question.

24 THE INTERPRETER: [10:12:51] Overlapping speakers.

25 THE WITNESS: [10:12:57](Interpretation) Yes.

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1 I said that the police could exercise *ta'zir* in any place in the world, but you personally,
2 you cannot know what *ta'zir* means, the meaning of *ta'zir*. And the --

3 THE INTERPRETER: [10:13:26] *Ta'zib* is torture in Arab and *ta'zir* is something else.
4 That was a note from the Arabic booth.

5 MR DUTERTRE: [10:13:31](Interpretation)

6 Q. [10:13:33] Let's take another example, Witness. Normal police, they don't
7 smash historic and religious monuments everywhere in the world, such as the
8 mausolea of the Timbuktu saints, do they?

9 A. [10:13:56] It's not the police who had smashed them up. You are speaking
10 about *ta'zir*. All police practice *ta'zir*. When you punish somebody for a traffic
11 offence, that's not a *ta'zir*.

12 Q. [10:14:18] No, there is confusion. I wasn't speaking about *ta'zir*. I was talking
13 about the destruction of mausolea. And you said it's not the police who smashed the
14 mausolea in Timbuktu in 2012. So who was it, Witness?

15 A. [10:14:38] It was the *Hesbah*. The *Hesbah* did that. This comes from the
16 commission for the promotion of virtue and prohibition of vice. It has nothing to do
17 with the police.

18 Q. [10:15:00] But you know that the police did take part in the destruction of the
19 mausolea in Timbuktu in 2012.

20 A. [10:15:12] Yes, I was in Timbuktu in 2012. However, it was the *Hesbah* who
21 destroyed the mausolea, perhaps with the participation of some members of the
22 police, but it was not the police as such that participated in the destruction of the
23 mausolea.

24 Q. [10:15:34] You were in Timbuktu, you were a member of the police, and you still
25 say before this Chamber that you were not aware that the police participated with the

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1 *Hesbah* in the destruction of the mausolea. Is that your testimony?

2 A. [10:15:54] You didn't understand what I said. You haven't understood or you
3 don't want to. I said it was the *Hesbah* that destroyed the mausolea, perhaps with
4 participation of some members of the police, but not with the police as a body as such.

5 Q. [10:16:35] Before joining the Islamic police in 2012 in Timbuktu, towards the
6 month of July 2012, you were not able to say what was happening in the Islamic
7 police, were you, before joining it?

8 A. [10:17:01] No, I don't know.

9 Q. [10:17:07] (No interpretation)

10 THE INTERPRETER: [10:17:07] Could the witness get closer to the microphone.

11 PRESIDING JUDGE MINDUA: [10:17:16](Interpretation) Witness, could you speak
12 closer to the microphone to help our interpreters.

13 THE WITNESS: [10:17:27](Interpretation) Very well. I'm close to the microphone.

14 PRESIDING JUDGE MINDUA: [10:17:29](Interpretation) Thank you very much.

15 MR DUTERTRE: [10:17:37](Interpretation) I'll restart.

16 PRESIDING JUDGE MINDUA: [10:17:43](Interpretation) Indeed.

17 MR DUTERTRE: [10:17:45](Interpretation)

18 Q. [10:17:45] After you left the Islamic police four months later in October 2012,
19 Witness, you were at home for a couple of months, and you were not able to know
20 what was happening in the Islamic police for those two months; is that correct?

21 A. [10:18:17] Yes.

22 Q. [10:18:27] And during these months at the Islamic police, these four months,
23 between July and October 2012, you had rest. You weren't there every day. You
24 had holidays, did you not?

25 A. [10:18:59] I was there almost every day. Almost every day.

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1 Q. [10:19:05] From July to October, you were at the Islamic police almost every day.

2 Have I understood that well?

3 A. [10:19:17] I told you, almost every day. I cannot tell you that I was there every
4 day. But I was there almost every day, on an almost daily basis.

5 Q. [10:19:39] To help the Chamber understand, you weren't there 24 hours a day?

6 A. [10:19:50] Of course I wasn't.

7 Q. [10:19:56] So you would go home to eat, would you not, Witness, to sleep?

8 A. [10:20:10] Yes.

9 Q. [10:20:16] Witness, you are therefore not able to say everything that happened in
10 the Islamic police, were you?

11 A. [10:20:30] Of course. Of course. Nobody could know what was happening.
12 Even when I was within the Islamic police, I didn't know absolutely everything that
13 was happening.

14 Q. [10:20:56] And it was particularly the case because your role was limited to a
15 certain activity; is that not correct? A specific task or work.

16 A. [10:21:12] Yes. Yes, of course.

17 Q. [10:21:20] And you weren't behind every policeman who was driving around
18 town, were you?

19 A. [10:21:31] Of course. Of course. That's certain.

20 Q. [10:21:39] You also weren't responsible for monitoring or controlling the facts
21 and acts and gestures of Mr Al Hassan; isn't that right, Mr Witness?

22 A. [10:21:54] Of course.

23 Q. [10:22:01] Just by way of clarification, the translation says "of course". Could
24 you say "of course, yes; "of course, no".

25 A. [10:22:14] Yes, of course.

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1 Q. [10:22:22] You said *na'am* in Arabic, did you not?

2 A. [10:22:30] Yes, I said yes. I was not responsible for monitoring anybody's
3 behaviour. That's what I said.

4 Q. [10:22:45] I put it to you, Witness, that Abu Zhar was not the two in the Islamic
5 police, Witness.

6 A. [10:23:11] Well, that's something I'm learning today. I'm hearing it today for
7 the first time from you.

8 Q. [10:23:23] This was a question. I see that you're laughing.

9 A. [10:23:36] It's bizarre. Everybody knows in the Islamic police that Abu Zhar
10 was number two. Now, if you say he wasn't number two, it makes me laugh.

11 Q. [10:23:53] Witness, everybody knew that Mr Al Hassan was the police
12 commissioner of the Islamic police, don't they?

13 A. [10:24:12] No, nobody knew that.

14 THE INTERPRETER: [10:24:14] The interpreter didn't hear the rest of the sentence.
15 The speaker moved away from the microphone.

16 PRESIDING JUDGE MINDUA: [10:24:25](No interpretation)

17 THE INTERPRETER: [10:24:26] Overlapping speakers.

18 THE WITNESS: [10:24:28](Interpretation) No, nobody had this information, apart
19 from you. It was known by everyone that Al Hassan was number three, and
20 sometimes he was responsible for police activities. And why? Because he knew
21 what was happening within the police, and he was the one who met people. And
22 some of them could think that he was the only person responsible within the police
23 because he was their interface, if you like. He knew all the languages. He spoke all
24 the languages, Songhai, Tamasheq and Arab -- Arabic. So -- and that was the reason
25 why we had this impression, that he was the person who was responsible.

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1 MR DUTERTRE: [10:25:22](Interpretation)

2 Q. [10:25:22] So, to be clear, and to take your answer a moment ago concerning

3 Abu Zhar, so here today in the courtroom, it's here in the courtroom that you're

4 hearing for the first time that Al Hassan was known as the Islamic police

5 commissioner?

6 A. [10:25:57] Am I meant to answer?

7 Q. [10:26:01] Yes, please, Witness.

8 A. [10:26:07] I explained this to you. I said that Al Hassan could be considered by

9 some of the inhabitants as the commissioner of the Islamic police because he was the

10 only person who they would see. He knew Tamasheq, he spoke Arabic, he spoke

11 Songhai. So for the ordinary man living in the region, he was their only interface.

12 Abu Zhar didn't know all of these languages. So a person who comes who can't -- he

13 can't speak Bambara with Abu Zhar or other people. But Abu -- Al Hassan didn't

14 need translators. He knew all the languages from the region.

15 I hope you've understood my answer.

16 Q. [10:27:13] A couple of points, Witness. You said there were some issues with

17 translation. He spoke Koroboro, Al Hassan? Koroboro.

18 A. [10:27:29] No, I'm not sure of that. No, I'm not sure of that. I know he speaks

19 Arabic, French and Tamasheq. But the Koroboro, no, I'm not sure about that.

20 Q. [10:27:46] And, Witness, if people took him to be the *commissaire*, it was because

21 he behaved like the *commissaire*, did he not?

22 A. [10:28:02] No, no, not at all. The person -- Al Hassan was the person who

23 understood people the best. So he was close to the people. He helped people. But

24 as the proverb says, sometimes you help people and you receive harm, and people

25 misunderstand you. No, he didn't act as the commissioner. He was in the police,

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1 like any normal member of the police.

2 Q. [10:28:41] (Speaks English) I see.

3 (Interpretation) We'll come back to this element, Witness.

4 Now, you spoke about Al Hassan sitting at his desk in the Islamic police, and he

5 would also have activities within the police outside of the BMS, would he not?

6 A. [10:29:20] I haven't understood your question. Could you reformulate it,

7 please.

8 Q. [10:29:29] Mr Al Hassan, as a member of the Islamic police, he wasn't working

9 just simply in an office, was he, Witness?

10 A. [10:29:53] (No interpretation)

11 THE INTERPRETER: [10:29:53] The interpreter didn't hear the sentence of the

12 witness.

13 THE WITNESS: [10:29:59](Interpretation) Yes, Al Hassan was at his desk or at the

14 police HQ. Al Hassan was always at the police HQ or at his office. I couldn't know

15 where he was when I wasn't there, but what I do know is that he was always there.

16 MR DUTERTRE: [10:30:28](Interpretation)

17 Q. [10:30:30] But that's not true, that he was throughout the entire day at the BMS,

18 Mr Witness; isn't that right?

19 A. [10:30:40] He went home and then he returned. He relaxed at home. He had

20 a meal. He did his shopping, like any other ...

21 Q. [10:31:00] And where was that exactly, his home, Mr Witness? Was it in the

22 Sans Fil neighbourhood, in Hamabangou; is that right?

23 A. [10:31:17] [REDACTED] His house was in

24 Hamabangou and he lived in the Alkara neighbourhood between Sans Fil and

25 Hamabangou, on the road --

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1 THE INTERPRETER: [10:31:39] The Arabic interpreter says that he didn't hear the
2 end of the utterance.

3 MR DUTERTRE: [10:31:45](Interpretation)

4 Q. [10:31:46] A small digression on the back of my question. He frequented the
5 Mohamed Moussa mosque in 2012 in Timbuktu, didn't he, Mr Witness? That's
6 where he went to pray.

7 A. [10:32:09] The evening and the dawn prayers only, possibly.

8 Q. [10:32:23] What do you mean by "possibly", Mr Witness?

9 A. [10:32:33] Because the dawn prayer is done at home, or he did it at home. But
10 in the -- well, the evening prayer, most times, he did that in the police station. But
11 most times, in fact, he did the evening prayer at the police station.

12 Q. [10:33:07] I think there is a hiccup in the translation.

13 Mr Witness, Mr Al Hassan, he went to the mosque, the Mohamed Moussa mosque in
14 the Sans Fil neighbourhood of Hamabangou; is that correct?

15 A. [10:33:35] I stated, yes, possibly, he went to that particular mosque.

19 Q. [10:34:06] And you already had seen Mr Al Hassan at the Mohamed Moussa
20 mosque in 2012. That's right, isn't it, Mr Witness?

21 A. [10:34:20] Yes, I saw him there.

22 Q. [10:34:25] I'd like to show you a -- some video footage, Mr Witness, please.
23 ERN 0018-0673, tab 53. This material has been formally submitted. And can we
24 start the footage, please, from 00:02:52:22, pretty much.

25 THE COURT OFFICER: [10:35:10] (Microphone not activated)

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- 1 THE INTERPRETER: [10:35:16] Inaudible, says the interpreter.
- 2 MR DUTERTRE: [10:35:18] (No interpretation)
- 3 PRESIDING JUDGE MINDUA: [10:35:24](Interpretation) Can you open your
4 microphone, please, court officer.
- 5 THE COURT OFFICER: [10:35:30] (Microphone not activated)
- 6 PRESIDING JUDGE MINDUA: [10:35:36](Interpretation) Court officer, your
7 microphone is not functioning.
- 8 Now you can use the microphone because the interpreters didn't understand what
9 you said, court officer.
- 10 THE COURT OFFICER: [10:35:49] Would counsel kindly confirm whether the video
11 can be played publicly. Thank you.
- 12 PRESIDING JUDGE MINDUA: [10:35:57](Interpretation) Counsel Gerry.
- 13 MS GERRY: [10:35:58] Mr President, before it is played --
- 14 MR DUTERTRE: [10:36:03](Interpretation) We need to cut the sound to the witness
15 if you wish to enter an objection.
- 16 MS GERRY: [10:36:10] I was about to say that. I can do that myself. Thank you.
17 May we cut the sound briefly to the witness, please, Mr President.
- 18 PRESIDING JUDGE MINDUA: [10:36:20](Interpretation) Court officer, please do so.
19 Cut the sound to the witness, please.
- 20 THE COURT OFFICER: [10:36:29] Your Honours, the sound to the witness has been
21 cut off.
- 22 PRESIDING JUDGE MINDUA: [10:36:34](Interpretation) My thanks, court officer.
23 Counsel Gerry.
- 24 MS GERRY: [10:36:38] Mr President, this is item 53 on the list of documents
25 that -- and videos that we were provided with in advance of the cross-examination.

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1 As I understand it, this particular video is a montage of clips. It is not a continuous
2 video. And in our submission, it would be very important for this witness to be told
3 before it is played that this is a number of clips that have been put together. It
4 would not be fair for this witness to be misled that this is a -- is continuous footage.
5 So our request is, when this is used, that that is made perfectly clear before the
6 pressing of the play button, please.

7 PRESIDING JUDGE MINDUA: [10:37:28](Interpretation) Yes, Mr Prosecutor, out of
8 concern of fairness in respect of the witness, could you inform the witness that this is
9 a compilation, the footage you are putting before him.

10 MR DUTERTRE: [10:37:45](Interpretation) Yes, exactly so, your Honour. I shall
11 do so.

12 PRESIDING JUDGE MINDUA: [10:37:49](Interpretation) Very well.

13 MR DUTERTRE: [10:37:51](Interpretation) This has been objected to a number of
14 times and has been arbitrated upon, but anyway, I do apologise for going over old
15 ground.

16 PRESIDING JUDGE MINDUA: [10:37:59](Interpretation) Court officer, could you
17 restore the sound to the witness, please.

18 THE COURT OFFICER: [10:38:06] Your Honours, the sound to the witness has been
19 re-established.

20 Question for counsel, is the transcript on tab 54?

21 PRESIDING JUDGE MINDUA: [10:38:25](Interpretation) This question goes to you,
22 Mr Prosecutor.

23 MR DUTERTRE: [10:38:31](Interpretation) Yes, but I'm sorry, I didn't understand
24 the question in English or in French. But the transcript doesn't need to be published,
25 if you will, because we are only interested in the sound.

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1 PRESIDING JUDGE MINDUA: [10:38:43](Interpretation) Yes, but at tab 54, we have
2 the transcript. That's right, isn't it?

3 MR DUTERTRE: [10:38:52](Interpretation) That's right, transcript 0069- --

4 THE INTERPRETER: [10:39:05] The interpreter missed the reference in English. It
5 went too fast. Interpreter comment.

6 PRESIDING JUDGE MINDUA: [10:39:13](Interpretation) Over to you,

7 Mr Prosecutor.

8 MR DUTERTRE: [10:39:17](Interpretation)

9 Q. [10:39:17] Mr Witness, I am going to be showing you some video footage now.
10 This was filmed in Timbuktu in July 2012.

11 Now, there were a number of filmed sequences of the same event. The sequences
12 have been edited to appear consecutively. The word "edited" is not really the
13 appropriate term. They have been set up to appear sequentially.

14 And so now I'm going to be showing you this video footage first, and after that, I'll
15 put questions to you, Mr Witness.

16 Is this way of proceeding clear to you, Mr Witness?

17 A. [10:40:18] Yes, I'm all ears.

18 Q. [10:40:25] Can you see the image appearing on your screen, Mr Witness?

19 A. [10:40:33] Yes, I can.

20 Q. [10:40:37] So let me now play the video footage, Mr Witness.

21 My apologies. My icons have disappeared during my question. Let me -- let me
22 have another go at it.

23 00:02:51, that's the starting point, please.

24 (Viewing of the video excerpt)

25 MR DUTERTRE: [10:43:15](Interpretation)

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1 Q. [10:43:15] I stop at 00:04:40, Mr Witness. Were you able to see the images
2 properly, Mr Witness?

3 A. [10:43:31] Yes, I had a clear view.

4 Q. [10:43:46] So, Mr Witness, I've returned the footage to image 00:03:21:23. On
5 the right of the person being whipped, we see a member of the Islamic police who is
6 wearing the top or the vest of the Islamic police; isn't that right, Mr Witness?

7 A. [10:44:19] Yes, that's right.

8 Q. [10:44:26] And on the far left of this picture, we see somebody whipping the
9 individual wearing blue. And that is in actual fact Mr Al Hassan; isn't that right,
10 Mr Witness?

11 A. [10:44:49] (No interpretation)

12 THE INTERPRETER: [10:44:49] The interpreter missed the utterance. Message
13 from the Arabic interpreter.

14 PRESIDING JUDGE MINDUA: [10:44:54](Interpretation) Mr Witness, can you
15 reiterate your utterance, please.

16 THE WITNESS: [10:45:01](Interpretation) He looks like Mr Al Hassan. That's what
17 I said. As if it was him.

18 (Viewing of the video excerpt)

19 MR DUTERTRE: [10:45:37](Microphone not activated)

20 THE INTERPRETER: [10:45:45] Microphone, please.

21 MR DUTERTRE: [10:45:48](Interpretation)

22 Q. [10:45:50] 00:04:20:00, Mr Witness, I refer you to that particular point in the
23 footage. Here we see Mr Al Hassan on the left of the screen who is in the process of
24 whipping that individual; isn't that right?

25 A. [10:46:11] Yes.

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1 Q. [10:46:17] He wasn't always sitting behind a desk, was he, Mr Witness?

2 A. [10:46:29] It's possible. Perhaps he went out. But I'm only basing myself on
3 my knowledge and my information, that he -- he went out. But at this *ta'zir* I wasn't
4 in attendance and I don't know whether Mr Al Hassan was present.

5 Q. [10:47:02] This is a *ta'zir*, though, isn't it, Mr Witness, what we're seeing here?

6 A. [10:47:15] I don't know whether it's a *hadd* or a *ta'zir*, because I don't know how
7 much strokes of the whip were actually meted out. I don't know whether it's the
8 *hadd* for an adultery or for consuming alcohol, or whether it's just simply a *ta'zir*.

9 Q. [10:47:45] And the penalty for consuming alcohol, Mr Witness, is not a *hadd*.
10 It's a *ta'zir*; isn't that right?

11 A. [10:48:01] This could be a *ta'zir* for the consumption of alcohol. That's what I
12 said. Or an adultery or fornication, a *zina*.

13 Q. [10:48:12] All right. In fact, my question was more in a general nature. This
14 wasn't -- my question wasn't linked to the footage per se anymore, but consumption
15 of alcohol is punished by *ta'zir*. That's right, isn't it, Mr Witness?

16 A. [10:48:34] It's punished by whipping.

17 Q. [10:48:42] And more accurately, the whipping is a *ta'zir* when it is a penalty for
18 consuming alcohol.

19 A. [10:48:54] Yes, that's the *ta'zir*.

20 Q. [10:48:58] Very well. I move to the tribunal now, Mr Witness. You weren't
21 part of the Ansar Dine group, if I've understood properly, when the -- that entity was
22 constituted in Timbuktu in 2012. You hadn't yet joined the police at that point.

23 A. [10:49:35] Yes, yes, but I was in the vicinity.

24 Q. [10:49:44] And if I've understood properly, you yourself were not part of the
25 establishment of the Islamic tribunal in Timbuktu in 2012; isn't that right?

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1 A. [10:49:58] Of course I wasn't.

2 Q. [10:50:06] Neither did you attend any discussions that gave rise to the institution
3 of the Islamic tribunal in Timbuktu in 2012.

4 A. [10:50:24] No, quite obviously.

5 Q. [10:50:33] And the AQMI and Ansar Dine senior officials didn't come to keep
6 you abreast of the decisions that were being made in respect of that, Mr Witness.

7 A. [10:50:49] No, they didn't come to tell me about that.

8 Q. [10:50:58] All right. So in actual fact, Mr Witness, you had no personal
9 knowledge whatsoever going to the establishment of the Islamic tribunal in Timbuktu
10 in 2012; isn't that right, Mr Witness?

11 A. [10:51:19] Sorry, I didn't understand your last question.

12 Q. [10:51:23] Let me reiterate. Please forgive me.

13 You had no personal direct knowledge about the establishment of the Islamic tribunal
14 in 2012, Mr Witness.

15 A. [10:51:43] No, I wasn't aware of that, but I heard talk of somebody who lived in
16 the region who met with a problem, and Ansar Dine was seized of that particular
17 matter. And a tribunal upon which sat *sheikhs* was established to try to provide an
18 outcome of that matter. But I heard about that just like any ordinary citizen.

19 Q. [10:52:31] So it's just -- that's just hearsay, isn't it, Mr Witness?

20 A. [10:52:45] Yes, exactly. It's just hearsay.

21 Q. [10:53:01] Mr Witness, you stated that the role of the Islamic tribunal was to
22 arbitrate litigation or deal with major matters of concern, such as conflicts, matters of
23 vengeance, of inheritance, divorce, marriage, and other matters going to everyday
24 life.

25 A. [10:53:47] Yes.

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1 Q. [10:53:47] Very well. Thank you.

2 But you omitted to mention that the Islamic tribunal also tried people for being
3 accused of transgressing certain forbidden acts. They had been made forbidden by
4 Ansar Dine and AQMI in Timbuktu in 2012.

5 A. [10:54:17] Forbidden acts applied by the sharia and applied by Ansar Dine.

6 PRESIDING JUDGE MINDUA: [10:54:30](Interpretation) Counsel Gerry.

7 MS GERRY: [10:54:34] May we -- thank you. May we cut the sound to the witness,
8 please.

9 PRESIDING JUDGE MINDUA: [10:54:41](Interpretation) Court officer, could you
10 mind cutting the sound to the witness.

11 THE COURT OFFICER: [10:54:53] Your Honours, the sound to the witness has been
12 cut off.

13 MS GERRY: [10:54:55] Thank you. I rise at this stage --

14 PRESIDING JUDGE MINDUA: [10:54:58](Interpretation) Thank you very much,
15 court officer.

16 Counsel Gerry, allow me to thank the court officer.

17 Over to you, Counsel Gerry.

18 MS GERRY: [10:55:09] Mr President, I rise at this stage because I am concerned
19 about the way in which the last question was framed. Mr Prosecutor started with,
20 "But you omitted to mention that the Islamic tribunal also tried people for", and then I
21 don't need to read the rest. I'm sure you have transcript in front of you.

22 It is not correct to say that this witness omitted to mention those types of cases. In
23 fact, this witness gave examples of those types of cases. So I wonder if that question
24 could be reframed, please. Thank you.

25 PRESIDING JUDGE MINDUA: [10:55:49](Interpretation) Mr Prosecutor.

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1 MR DUTERTRE: [10:55:53](Interpretation) I think the witness provided an answer.

2 Perhaps I can move on with my questions. I don't think there is any point in -- in
3 raking over that.

4 PRESIDING JUDGE MINDUA: [10:56:04](Interpretation) You're right, yes, but by
5 reference to the objection just entered, you have no answer to give, because the
6 phrasing of your question was contended by Defence.

7 MR DUTERTRE: [10:56:19](Interpretation) I referred to and I read out basically what
8 the witness stated to the question put by Counsel Gerry, which was, could you
9 describe the Islamic tribunal's roles in 2012. And I simply read out the answer
10 offered by the witness.

11 PRESIDING JUDGE MINDUA: [10:56:45](Interpretation) Counsel Gerry, so the
12 Prosecutor has seen that the witness did not quote the forbidden act.

13 MS GERRY: [10:57:04] I apologise, I don't have the specific line reference, but my
14 recollection of the witness's evidence-in-chief was that he gave examples of cases
15 involving rape and other types of what he labeled fornication. And if that is the
16 forbidden acts that Mr Prosecutor is referring to, then it would be incorrect to suggest
17 that the witness omitted to mention that the Islamic tribunal also tried people.

18 [REDACTED] So the question, in
19 my submission, is either selective of parts of this witness's evidence or inaccurate.
20 But either way, it would mislead this witness and, in my submission, should be
21 reframed.

22 PRESIDING JUDGE MINDUA: [10:58:05](Interpretation) Okay.

23 Mr Prosecutor, this is the problem at hand, but the witness said in his answer that
24 these were forbidden acts, forbidden acts as stated under sharia law, and applied by
25 *Hesbah*.

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1 But Defence's objection is meritorious to the extent that you intimated that the witness
2 deliberately omitted certain information. So would you mind reframing your
3 question so that we can deal with this objection.

4 MR DUTERTRE: [10:58:48](Interpretation) The French transcript, line 1 to 8,
5 transcript 192, page 68 in the French version, the question was a general one. The
6 answer was the one given by the witness, and I refer you simply to that.

7 May I now continue?

8 PRESIDING JUDGE MINDUA: [10:59:14](Interpretation) Please continue,
9 Mr Prosecutor.

10 MR DUTERTRE: [10:59:18](Interpretation) I don't know whether the sound has been
11 cut.

12 PRESIDING JUDGE MINDUA: [10:59:23](Interpretation) Court officer, can you
13 restore the sound, please.

14 MR DUTERTRE: [10:59:31](Interpretation) But it is 11 o'clock. I don't know
15 whether you want to stop at the juncture.

16 THE COURT OFFICER: [10:59:40] Your Honours, the sound to the witness has been
17 re-established.

18 PRESIDING JUDGE MINDUA: [10:59:44](Interpretation) My thanks, court officer.
19 All right, Mr Prosecutor. It's 10.59. If you wish to stop at this point, we can do so.

20 MR DUTERTRE: [10:59:50](Interpretation) We can -- I can continue. It's not a
21 problem.

22 PRESIDING JUDGE MINDUA: [10:59:52](Interpretation) Let's continue so that we
23 can use our minutes to the full.

24 MR DUTERTRE: [11:00:00](Interpretation)

25 Q. [11:00:00] Mr Witness, the Islamic tribunal in Timbuktu in 2012 convicted to

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1 amputation Dédéou Maïga; isn't that right?

2 A. [11:00:29] Yes.

3 Q. [11:00:30] The Islamic tribunal in 2012 condemned people to a hundred flogs,
4 did they not?

5 A. [11:00:48] Yes, for people who committed adultery or fornication.

6 Q. [11:00:58] And the Islamic tribunal in Timbuktu in 2012, they sentenced people
7 to prison for practising magic, did they not?

8 A. [11:01:15] I don't know anyone who was imprisoned for committing magic.

9 Where somebody was questioned or interrogated, I haven't heard a case of that. But
10 what I do know is that the tribunal executed the legal sentences. If you're Muslim,
11 you believe in the sanction of amputation for the thief, and that is what a believer
12 does. If the person who commits *zina* is a believer, then that is the sentence which is
13 prescribed under sharia, and the tribunal would proceed on that basis.

14 PRESIDING JUDGE MINDUA: [11:02:09](Interpretation) Thank you, Prosecutor.

15 It's time. I think we can stop there for a half an hour, and we will be back at 11.30.

16 Court is suspended.

17 THE COURT USHER: [11:02:22] All rise.

18 (Recess taken at 11.02 a.m.)

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

20 THE COURT USHER: [11:34:32] All rise.

21 Please be seated.

22 PRESIDING JUDGE MINDUA: [11:34:58](Interpretation) Court is in session.

23 Prosecutor, the Defence, we are now going to answer the objection raised by the

24 witness on Friday. I'm going to call for a private session. I have to say that for the

25 public. I'm going to order a private session because the Chamber needs to deliberate

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1 and render its decision on an objection from the witness. That's going to take five to
2 six minutes.

3 Court officer, please take us into private session.

4 (Private session at 11.35 a.m.)

5 THE COURT OFFICER: [11:35:52] We are in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [11:35:57](Interpretation) Thank you very much,
7 court officer.

8 Witness, on Friday, the Prosecutor put a question to you [REDACTED]
9 [REDACTED] [REDACTED] [REDACTED]
10 [REDACTED] So I

11 would like to remind you that this Court functions under pre-established rules, and
12 where it concerns you, in particular, we have Rule 64 -- 74 of the Rules of Procedure
13 and Evidence which protects you against your own incrimination. On this subject,
14 we've made available a counsel to you, Maître Terzieva, who is here.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Witness, you stated solemnly that you would tell the truth, nothing but the truth and
19 all the truth. [REDACTED]

20 [REDACTED]
21 [REDACTED]
22 [REDACTED] [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 Maître Terzieva.

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1 MS TERZIEVA: [11:39:21] Mr President, your Honours, may I seek leave to address
2 the Chamber on this issue?

3 I would like to say first that my mandate, pursuant to my letter of appointment, is
4 limited to issues of self-incrimination under Rule 74. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 MR DUTERTRE: [11:39:48](Interpretation) Mr President.

8 MS TERZIEVA: [11:39:51] I'm seeking leave to address the Chamber. If I may
9 finish my request, and then -- your Honour, may I finish my request?

10 PRESIDING JUDGE MINDUA: [11:40:05](Interpretation) Just a minute.

11 Prosecutor, do you want the sound to be cut, or something else?

12 MR DUTERTRE: [11:40:09](Interpretation) No. I just wanted to say that

13 Maître Terzieva isn't in her role when [REDACTED] That
14 goes beyond the reason why she was specifically appointed, and I think there is no
15 reason to hear her on that question.

16 PRESIDING JUDGE MINDUA: [11:40:26](Interpretation) Well, she's just mentioned
17 what the principles are. She hasn't said anything specific.

18 Please go ahead.

19 MS TERZIEVA: [11:40:35] I rose to request leave from the Chamber to address the
20 Chamber [REDACTED] for the following reasons: [REDACTED] rules concern personal
21 circumstances of the witness. [REDACTED] [REDACTED] are concerned with the
22 circumstances of the witness. And on this basis, I think -- I have met with the
23 witness, and he has expressed relevant considerations. For this reason, I seek leave
24 to address the Chamber.

25 PRESIDING JUDGE MINDUA: [11:41:10](Interpretation) Thank you very much,

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1 Maître Terzieva, for your application, but I think it goes beyond your mandate. And
2 the Chamber is not going to accept it. The Chamber is very careful when it comes to
3 [REDACTED] And you will see throughout the questions
4 that I put that this concern will be maintained.

5 Very well. Witness, you have the floor. Why ...

6 MS GERRY: [11:41:44] May I just clarify the process, please? I can see
7 your Honour's concern, but I have a concern on behalf of the witness, that it may be
8 that questions [REDACTED]

9 [REDACTED] That I understand would fall within the remit of my
10 learned friend.

11 If there is a concern around [REDACTED] as I understand it, you would expect me to rise.

12 PRESIDING JUDGE MINDUA: [11:42:29](Interpretation) No, counsel. That's the
13 responsibility of the witness to answer the question because, otherwise, we'll -- won't
14 finish.

15 I can already see the Prosecutor standing up.

16 Witness, please answer this simple question. It doesn't involve any incrimination for
17 the moment. Why do you think that you can't answer the question?

18 THE WITNESS: [11:43:02](Interpretation) I informed the counsel, the lawyers and
19 the Defence team previously that I did not want for [REDACTED]

20 [REDACTED] I am ready to give all the information, [REDACTED]
21 And when I met my own counsel, I expressed my concerns and I said that I didn't

22 [REDACTED]
23 [REDACTED]

24 I can testify about anything you want, but if my testimony ends up or goes towards

25 [REDACTED]

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1 PRESIDING JUDGE MINDUA: [11:44:05](Interpretation) Witness, testifying before
2 a court is a responsibility because each one of us can testify voluntarily, but the
3 tribunal can also summon somebody to testify as well. And when you accept to
4 testify and you take the oath, you do it in all honesty.

5 You are protected by the statute and the rules [REDACTED]
6 This is something I've already said. But you cannot reject any question with regards
7 [REDACTED] That wouldn't be possible. That would be against the
8 law.

9 But I can see the two lawyers from the Defence standing up. I've said that our
10 objection would be five minutes. I don't want to extend it infinitely.

11 Very briefly, Maître Gerry, what's your concern? Because to this point, there is
12 nothing incriminatory. So why are you getting up?

13 MS GERRY: [11:45:12] Mr President, in my submission, you have perhaps
14 [REDACTED] which you've ruled upon that allows this witness not to
15 answer a question. But the [REDACTED] may enable this Chamber to take
16 his refusal into account. So you have made a ruling already on [REDACTED] that he can
17 refuse to answer a question in relation [REDACTED] That's the process.
18 He's entitled to refuse to do so. It's been dealt with in my learned friend's report. If
19 he refuses, you can take that into account in the way that [REDACTED]
20 allows.

21 So I'm concerned that your Honour is misrepresenting the framework of [REDACTED] to
22 this witness, and in fact it has been explained correctly by my learned friend who is
23 acting as his counsel today.

24 If it assists, in my submission, it would be helpful for witness to know that
25 Ms Terzieva can help him on [REDACTED] Rule 74 [REDACTED] That would require your leave.

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1 But at the moment he can refuse to answer questions.

2 PRESIDING JUDGE MINDUA: [11:46:24](Interpretation) Very well, Maître Gerry.

3 You've said that our decision was erroneous, but it's the Chamber's decision. We
4 can't adopt that language.

5 Maître Terzieva, and then I give the floor to the Prosecutor.

6 MS TERZIEVA: [11:46:40] Thank you very much, your Honours. I will not address
7 the substance because I don't have leave. I would just -- I'd like to suggest that the
8 question whether evidence might tend to incriminate is a legal question which may
9 not be within the knowledge and ability of the witness to understand. So he should
10 receive legal assistance on this topic, if you want to hear an answer from him, or
11 maybe the Defence would like to take a position.

12 If you allow me leave, I have indicated why this may be incriminating when reading
13 together with other questions put to him on Friday afternoon and this morning.

14 And I have specific references to the transcript.

15 Thank you very much. I'm in your hands. Thank you very much.

16 PRESIDING JUDGE MINDUA: [11:47:27](Interpretation) Thank you very,

17 Maître Terzieva.

18 Office of the Prosecutor.

19 MR DUTERTRE: [11:47:33](Interpretation) Your Honour, three or four points that
20 I'd like to make. Maître Terzieva is outside her field of intervention.

21 Secondly, criminal responsibility is individual. And so I don't see how the

22 [REDACTED] [REDACTED]
[REDACTED]

24 Thirdly, [REDACTED] is not a blank cheque or a *carte blanche*. If we try to understand why
25 a witness doesn't want to answer a question -- but whatever the case, the instructions

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1 of your Chamber were clear. Transcript 192, page 7, he can put up his hand,
2 certainly, and explain why he doesn't want to answer a question. But that doesn't
3 mean you can't continue -- it doesn't mean you can't continue with other questions.
4 And in that way, we should be able to do things.
5 Thank you, your Honour.

6 PRESIDING JUDGE MINDUA: [11:48:45] (Interpretation) Very good. Thank you,
7 Prosecutor.

8 No, Maître Gerry, you've already spoken.

9 Witness, I think that you've followed the exchanges between your lawyer, your
10 counsel, so 74, and the Prosecutor. [REDACTED] is protected. But you have also the
11 obligation to answer the Chamber's questions.

12 So my question, for the moment, is to know why you don't want to answer about the
13 [REDACTED]. Your answer doesn't refer to any -- you can't say, "I'm not
14 answering [REDACTED]" You can't say that because you are a witness.
15 But what you can explain is to say why you don't want to answer.

16 Do you understand that?

17 THE WITNESS: [11:49:57](Interpretation) Presiding Judge, I came to testify in the
18 Al Hassan case, and I'm not here to open a case [REDACTED] or anything
19 else. When I was proposed to testify, I said that any questions [REDACTED]
20 should not be mentioned, and I said if I am put a question [REDACTED] I will not
21 answer it. And I said that I could testify about anything else on the condition that
22 it's not a dossier concerning [REDACTED]

23 PRESIDING JUDGE MINDUA: [11:50:36](Interpretation) Witness, we're repeating
24 ourselves. You say that you accepted to testify on the condition that you didn't
25 answer any question concerning [REDACTED]. I am telling you that by accepting to

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1 testify, you have to answer all questions, but [REDACTED] for questions

2 that would incriminate [REDACTED]

3 So, now, if you don't wish to answer, tell at least why you can't answer. But you

4 can't say, "I'm not going to answer." We need to know why. Very well.

5 MS GERRY: [11:51:19] Mr President, may I please speak.

6 PRESIDING JUDGE MINDUA: [11:51:23](Interpretation) I don't think it's your role,

7 Maître Gerry. I am waiting for the answer of witness. This isn't an incriminating

8 question for him [REDACTED] I just want to know why. Apart from saying, "I'm

9 not answering", I just want to know why.

10 MS GERRY: [11:51:43] In my submission, it would help (Overlapping speakers)

11 PRESIDING JUDGE MINDUA: [11:51:45](Interpretation) I didn't give you the floor.

12 MS GERRY: [11:51:45] (Overlapping speakers) to be reminded of some of the

13 evidence.

14 PRESIDING JUDGE MINDUA: [11:51:46] (Interpretation) I didn't give you the floor.

15 The witness has not given evidence or anything.

16 Yes, Witness, you've put your hand up.

17 THE WITNESS: [11:52:06](Interpretation) Do I have to answer you, or do I have a

18 choice?

19 PRESIDING JUDGE MINDUA: [11:52:13](Interpretation) You have to tell me why

20 you don't want to answer. You are protected against incriminations, for you and

21 [REDACTED]. Now, you say that you are not going to answer. Why don't you want

22 to answer? Quite simply.

23 THE WITNESS: [11:52:52](Interpretation) Your Honour, I told you, here, it is about

24 my will. If you would allow me, I would not take any question about [REDACTED]

25 unless I was obliged to say what I wouldn't want to say. This puts me ill at ease with

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1 my conscience as well. I don't want to speak [REDACTED] I don't want to
2 speak about [REDACTED]. This is something in me which renders it
3 in -- difficult to do.

4 But I swear by God that if I had known that I would have spoken about [REDACTED] I
5 wouldn't have accepted to testify. I said that to the lawyer. I said if it's a question
6 about [REDACTED] I will not testify. And I was promised that I could say it, and that I
7 wouldn't have to answer a question about which I wouldn't want to answer. But
8 now I'm told quite the contrary, the opposite of what I was told. They said, "You are
9 free to ask the questions you want", but now you're telling me the contrary. You're
10 telling me that I'm obliged to answer.

11 PRESIDING JUDGE MINDUA: [11:54:10](No interpretation)

12 MS GERRY: [11:54:10] (Overlapping speakers)

13 MR DUTERTRE: [11:54:13](Interpretation) Very quickly, your Honour,
14 your Honours.

15 The witness says that he doesn't want to speak about [REDACTED] but everything
16 concerning [REDACTED] isn't necessarily incriminating [REDACTED] And it's also for
17 that reason that your order at the start of his testimony, that you said he could put up
18 his hand at the beginning of the testimony. Now, when you have an agreement
19 between the Defence and the witness can't bind the Chamber and derogate from the
20 Rules of Procedure and Evidence. So one can be established at the firm position of
21 the witness and commitment which goes well beyond [REDACTED]

22 PRESIDING JUDGE MINDUA: [11:55:01](Interpretation) Thank you, Prosecutor.
23 Maître Gerry, last time.

24 MS GERRY: [11:55:04] Mr President, these questions arose against a background
25 where the Prosecutor has suggested that [REDACTED] [REDACTED]

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1 [REDACTED] and that this witness -- someone told this
2 witness to join Ansar Dine. It is perfectly plain that the questions that this
3 Prosecutor seeks to ask this witness are incriminating [REDACTED]
4 This witness is entitled by Rule 74 [REDACTED] not to answer those questions. If you
5 deem it to be a [REDACTED] question, you may be able to draw the inferences in [REDACTED]
6 But this witness needs to know that -- the ways in which Rule 74 [REDACTED] work, and he
7 has had that explained to him properly by my learned friend, his counsel. And
8 unfortunately, the way in which your Honour has approached it today is not as
9 accurate as she has provided in her report.
10 My submission is that we should pause, the Court should remind itself of her report
11 and the rules before proceeding with this witness.
12 The Prosecutor is wrong to suggest that we have made some sort of deal. It is
13 wholly inappropriate for him to say so. This witness has made his position clear and
14 the Prosecutor is seeking to go behind your ruling.
15 PRESIDING JUDGE MINDUA: [11:56:32](Interpretation) Very well. So last time,
16 please, Maître.
17 MS TERZIEVA: [11:56:38] Thank you very much, your Honours. Just to clarify,
18 when the witness raised the issue about testifying [REDACTED] during the
19 meeting, I am notifying him of the content of your decision and also of the content of
20 the rule which provides protection from being required to answer, to provide
21 evidence which may -- might tend to incriminate [REDACTED] It's a very
22 light standard, "might tend to incriminate".
23 Now, this question put to the witness per se is not incriminating. But when we read
24 it together with an earlier line of questioning about [REDACTED]
25 [REDACTED] that was on Friday afternoon, and earlier, and it continued

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1 this morning with the questioning about [REDACTED]
2 [REDACTED] when this evidence is considered together, it -- I would suggest it
3 might -- it can be described as evidence that might tend [REDACTED]
4 And beyond the circumstances of the witness, there is a risk that putting too much
5 pressure on the witness may prevent the Chamber from receiving the entirety of his
6 evidence.
7 So this is something that may also play -- play a role or may be a factor (Overlapping
8 speakers)
9 PRESIDING JUDGE MINDUA: [11:58:04](Interpretation) Very well.
10 Prosecutor.
11 MR DUTERTRE: [11:58:07](Interpretation) Your Honour, very quickly. I don't
12 understand the intervention very well, because on one hand, never objected at 74
13 when he spoke about his participation in the Islamic police [REDACTED] So I think
14 that things are clear.
15 Secondly, the witness said that *Hesbah* had only done good things, and the relevance
16 of the question is what is incriminating when it comes to answering such a question.
17 And I'll now sit down. Thank you.
18 PRESIDING JUDGE MINDUA: [11:58:40](Interpretation) Very well, Witness, we've
19 followed the debate, so I'll put to you the following question for a last time.
20 As the Prosecutor has just said, in our proceedings, you have several times stressed
21 that the *Hesbah* did good things. Now, you do not want to answer the question as to
22 whether [REDACTED] and, beyond that, to [REDACTED]
23 [REDACTED] For this aspect, I say, no, you don't have the right. But you are
24 protected against anything that [REDACTED]
25 So I'll put my question differently. Why do you not want to answer a question

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1 concerning [REDACTED] Is it because you are afraid, for example, that an issue

2 [REDACTED] Is that why you refuse any questions at all?

3 THE WITNESS: [12:00:01](Interpretation) Yes, I'm afraid. And I'm not at ease

4 when it comes to mentioning any questions at all concerning [REDACTED] I want to

5 help the tribunal, but I don't want to harm [REDACTED] in any way. That's the reason

6 why, sir, Presiding Judge. I would ask you personally not to ask me to answer this

7 question. I don't want to answer this question.

8 PRESIDING JUDGE MINDUA: [12:00:49](Interpretation) Very well. The Chamber

9 is going to deliberate quickly.

10 (Trial Chamber confers)

11 PRESIDING JUDGE MINDUA: [12:03:05](Interpretation) Mr Witness, we have

12 deliberated. As you can see, this is an important matter. You are compelled to

13 provide evidence, but at the same time, under the rule, you are protected, as well as

14 [REDACTED] is protected against any incrimination.

15 Now, the Prosecutor is wondering whether [REDACTED] at the

16 material time, and you say that you don't wish to offer an answer to that question on

17 the basis that you are frightened that -- that your answer could potentially incriminate

18 yourself.

19 Now, on that particular ground, applying [REDACTED] of the Rules of Procedure and

20 Evidence, the Chamber has found, as a majority, that it will not compel you to answer

21 that question, by a majority, I clarify. It is not a unanimous decision, but I think we

22 will rest -- leave it at that for that matter.

23 And we can now return to open session.

24 (Open session at 12.04 p.m.)

25 THE COURT OFFICER: [12:04:48] We're back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [12:04:54](Interpretation) Thank you very much,
2 court officer.

3 Right. We're back in open session. I ask the forbearance of the people in the public
4 gallery. I said it was one or two moments, but of course it was more lengthy.
5 Sometimes it turns out that way.

6 Anyway, Mr Prosecutor, over to you for the furtherance of your cross-examination.

7 MR DUTERTRE: [12:05:20](Interpretation) We all have a tendency to speak at
8 length.

9 PRESIDING JUDGE MINDUA: [12:05:26](Interpretation) Sorry, I didn't hear you.

10 MR DUTERTRE: [12:05:28](Interpretation) All lawyers tend to speak at length, and
11 I'm guilty of that as well. So every five minutes is longer than five minutes in actual
12 fact.

13 PRESIDING JUDGE: [12:05:38] Thank you very much.

14 MR DUTERTRE: [12:05:41](Interpretation)

15 Q. [12:05:41] Mr Witness, you will agree with me when I say that you are not a
16 *cadi*?

17 A. [12:05:52] No.

18 Q. [12:05:55] And you're not a legal expert either.

19 A. [12:06:11] What do you mean by "legal expert"? Can you expand on that.

20 Q. [12:06:20] You're not a lawyer, somebody in that particular profession.

21 A. [12:06:34] Under Islamic sharia, there is -- there are no lawyers. There is a
22 theological science for each Muslim, and I was a pupil at an Islamic madrasa.

23 Consequently, I have the sharia. In other words, I have knowledge by dint of my
24 studies.

25 Q. [12:07:05] But you haven't studied that with a view to become a *cadi*; is that

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1 right?

2 A. [12:07:20] Possibly I'll be a *cadi* one day because I've sufficiently studied. I can
3 become an imam or a *cadi* or what have you on the basis of my current level of
4 knowledge.

5 Q. [12:07:39] During the Defence's questions, you talked about *hadd* of *qisas*. It
6 can't be both. It's either a *hadd* or a *qisas*; isn't that right, Mr Witness?

7 A. [12:08:01] The *qisas* is a *hadd* as well. A *qisas* is the talion law, eye for eye. In
8 other words, if somebody has hurt somebody's eye, then their eye needs to be hurt.
9 Same for the hand, same for any blood that's shed. It's the *qisas*, in other words,
10 every act committed should have an equivalent response of the same nature.

11 Q. [12:08:36] Yes, but the *qisas* and the *hadd* are entirely different. Didn't you
12 know that?

13 A. [12:08:50] The *hadd* is a generic term for all legal penalties under Islamic case law.
14 In other words, murder or -- the *hadd* of murder or *hadd* of theft. In other words, you
15 would amputate the thief's hand. And that's how it goes. So the *qisas* falls under
16 the *hudud* category of penalties, but the *hadd* doesn't apply to all *qisas*, to all the *qisas*.
17 So one *hadd* can be a *qisas*, but it could also be something else. But the *qisas* is always
18 a *hadd*.

19 Q. [12:09:33] I think we'll move on. I have noted your answer.
20 And in 2012, you only went once to the Islamic tribunal to perform a particular act.
21 We're in open session, hence the vague character of my question.

22 A. [12:10:06] Very well.

23 Q. [12:10:12] Is it yes or no, your answer, Mr Witness?

24 A. [12:10:17] Yes, yes.

25 Q. [12:10:22] So, Mr Witness, in actual fact, you are not in a position to say

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1 anything whatsoever about the Timbuktu Islamic tribunal's proceedings in 2012?

2 You can't say anything precise to that effect during the Ansar Dine and AQMI
3 occupation.

4 A. [12:10:52] They didn't take the city. They're not foreigners. They're people
5 from the locality. So you can say under the reign of Ansar Dine and those at
6 Timbuktu.

7 Q. [12:11:08] Could you answer my question, Mr Witness. In actual fact, you are
8 not able to anything accurate about the proceedings before the Timbuktu 2012 Islamic
9 tribunal?

10 A. [12:11:24] As a Muslim, as an ordinary citizen, I can express my general view,
11 but everything that goes to the other questions, I don't know much. I can talk about
12 the general situation, but I can't answer any specific question to that point.

13 Q. [12:11:46] All right. Mr Witness, I'd like to hark back to something that we
14 addressed ourselves to at the beginning of our hearing today. [REDACTED]

15 [REDACTED] isn't that right?

16 A. [12:12:24] Could you put this question to me in closed session, please, because I
17 don't want to raise a matter that will come to the ears of the public in the public
18 gallery.

19 PRESIDING JUDGE MINDUA: [12:12:42](Interpretation) Can we go into private
20 session, please, court officer.

21 (Private session at 12.12 p.m.)

22 THE COURT OFFICER: [12:12:50] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:12:53](Interpretation) My thanks.

24 Mr Prosecutor.

25 MR DUTERTRE: [12:12:59](Interpretation) I'm grateful, your Honour.

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(Private Session)

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1 Q. [12:13:04] So, Mr Witness, I'll just take up my question again now that we find
2 ourselves in private session. [REDACTED]

3 [REDACTED] isn't that right?

4 A. [12:13:25] Yes.

5 Q. [12:13:26] And it was subsequent to [REDACTED]

6 [REDACTED]

7 [REDACTED] isn't that right?

8 A. [12:13:49] Yes, [REDACTED]

9 [REDACTED]

10 THE INTERPRETER: [12:14:01] Correction from the interpreter: [REDACTED]

11 [REDACTED]

12 THE WITNESS: [12:14:04] (Interpretation) [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

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

17 Q. [12:14:25] Thanks very much for that clarification. [REDACTED]

18 [REDACTED]

19 A. [12:14:38] Yes, [REDACTED]

20 [REDACTED]

21 PRESIDING JUDGE MINDUA: [12:14:46](Interpretation) Mr Prosecutor, can we
22 return into open session?

23 MR DUTERTRE: [12:14:50](Interpretation) I just have one question that may -- may
24 potentially identify the witness.

25 Q. [12:14:57] [REDACTED]

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1 [REDACTED]
2 [REDACTED]

3 A. [12:15:15] [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 Q. [12:15:33] [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 A. [12:15:45] [REDACTED]
10 [REDACTED] of what the witness
11 said.

12 Can you retake up your answer, Mr Witness.

13 A. [12:16:03] Yes. [REDACTED]
14 [REDACTED]

15 Q. [12:16:21] And here we can move back into public session --

16 No, sorry. [REDACTED] answer that
17 question, please, and then we can move back into open session.

18 PRESIDING JUDGE MINDUA: [12:16:35](Interpretation) Please go ahead,
19 Mr Witness.

20 THE WITNESS: [12:16:42](Interpretation) I just have one request, one request.

21 [REDACTED] I would like it to be mentioned in
22 private session only, please.

23 PRESIDING JUDGE MINDUA: [12:16:59](Interpretation) Well, quite naturally,
24 Mr Witness, we don't have to say his name in open session. We can say "an
25 individual, "a person". I don't know how to put it.

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1 MR DUTERTRE: [12:17:12](Interpretation) Mr [REDACTED] Does that suit you, Mr Witness,
2 if we refer to him as "Mr [REDACTED]"? Then we'll say "Mr [REDACTED]".

3 PRESIDING JUDGE MINDUA: [12:17:22](Interpretation) That's fine.

4 All right. Court officer, can we move into public session, please.

5 (Open session at 12.17 p.m.)

6 THE COURT OFFICER: [12:17:34] We're back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [12:17:38](Interpretation) My thanks, court officer.

8 Right. Mr Prosecutor.

9 MR DUTERTRE: [12:17:45](Interpretation)

10 Q. [12:17:50] So, Mr Witness, that particular mosque is a Wahhabite mosque.

11 We would agree on that, would we?

12 A. [12:18:13] It is a Muslim mosque. It's a Sunni mosque.

13 Q. [12:18:27] And in 2012 in Timbuktu, the Ansar Dine people took an oath in that
14 particular mosque. That's right, isn't it?

15 A. [12:18:43] Yes, everybody prayed in the mosque.

16 Q. [12:18:52] This was not interpreted properly.

17 PRESIDING JUDGE MINDUA: [12:18:56](Interpretation) You mean the answer
18 was?

19 MR DUTERTRE: [12:18:58](Interpretation) No, the question was poorly translated.

20 PRESIDING JUDGE MINDUA: [12:19:02](Interpretation) Counsel Gerry, can we
21 correct this mischaracterisation of the question?

22 MS GERRY: [12:19:08] Yes, I rise for a different reason. In private session, we
23 agreed a mnemonic. May I suggest the letter "X" rather than the letter that was
24 suggested for -- for what I suggest are obvious reasons.

25 PRESIDING JUDGE MINDUA: [12:19:31](Interpretation) Okay. Yes, we accept the

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1 letter X instead [REDACTED]

2 MR DUTERTRE: [12:19:36](Interpretation) Okay. That's fine.

3 PRESIDING JUDGE MINDUA: [12:19:39](Interpretation) So the question that was
4 poorly interpreted.

5 MR DUTERTRE: [12:19:47](Interpretation) It was -- my question was, in 2012, in
6 Timbuktu, the members of Ansar Dine came to preach in that particular mosque.

7 Q. [12:20:00] Isn't that right, Mr Witness? It's preach and not prayer.

8 A. [12:20:10] Each person goes to his local mosque. There isn't a mosque devoted
9 to a particular group of people. So that mosque existed before Ansar Dine's arrival,
10 and it was built in 2008 and not 2012, or even 2011. Anyway, people -- everybody
11 came to pray there, including Ansar Dine people or even MNLA members, or even
12 soldiers in the regular Mali army came to pray in that particular mosque.

13 Q. [12:20:47] Mr Witness, this is just to understand what you said. I didn't say
14 that it was a mosque devoted to Ansar Dine elements. My question was simply to
15 establish that there were people at -- well, who were members of Ansar Dine who
16 came to preach at that particular mosque in Timbuktu in 2012. Isn't that right?

17 A. [12:21:11] Yes, but like in any other mosque, like in any other mosque that they
18 wish to attend.

19 Q. [12:21:24] Yes, it was the -- it was that that wasn't properly translated. Very
20 well.

21 Now, we've talked about a madrasa. What's the name of the madrasa, please, that
22 we made mention of earlier on, Mr Witness?

23 A. [12:21:46] *Kouttab* it's called in Arabic. That's the madrasa. It's inside the
24 mosque.

25 Q. [12:22:01] But does it have a particular name, though, that particular madrasa?

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1 A. [12:22:09] It's in the mosque. It's not a school room, but everybody turns up
2 with their book to study and then the *sheikh* explains things.

3 Q. [12:22:22] Mr Witness, [REDACTED] that individual was a
4 member of the Islamic tribunal in Timbuktu in 2012. That's right, isn't it?

5 A. [12:23:01] I don't think I've fully understood your question, because I think we
6 had agreed on using a symbol or a letter to designate that particular individual. Isn't
7 that right?

8 MR DUTERTRE: [12:23:22](Interpretation) I think we're going to have to redact
9 something. I was putting a general question.

10 PRESIDING JUDGE MINDUA: [12:23:28](Interpretation) That's exactly right,
11 Mr Prosecutor. Can you move on and we can return to this matter later on, perhaps?

12 MR DUTERTRE: [12:23:52](Interpretation) Indeed, we shall do that, your Honour.

13 Q. [12:23:57] So, Mr Witness, transcript 194, in its French version, pages 7 to 11.

14 Here you spoke of a matter of adultery, the case of adultery, where a slave was
15 involved. And you heard about the fact that Al Hassan allegedly discovered that the
16 interested party was indeed a slave, and that's why the *hadd* wasn't ultimately
17 applied.

18 A. [12:24:52] Yes, the *hadd* of lapidation, of being stoned.

19 Q. [12:24:57] So if I've understood, the master of that slave or the owner of the slave
20 was a Tuareg; is that right?

21 A. [12:25:07] Yes.

22 Q. [12:25:09] And that slave belonged to which ethnicity? What was his ethnic
23 group?

24 THE INTERPRETER: [12:25:22] The interpreter did not hear the answer of the
25 witness, says the Arabic interpreter.

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(Open Session)

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WITNESS: MLI-D28-P-0605

1 MR DUTERTRE: [12:25:29](Interpretation)

2 Q. [12:25:29] Could you repeat your answer, Mr Witness.

3 A. [12:25:35] Imghad.

4 THE INTERPRETER: [12:25:38] Said the witness. Imghad.

5 MR DUTERTRE: [12:25:42](Interpretation)

6 Q. [12:25:43] You're saying that the slave himself was an Imghad? Is that what
7 you're saying, Mr Witness?

8 A. [12:25:54] Yes. In fact, the slave was a member of the same tribe as the master
9 or owner, or necessarily had to be.

10 Let me just give you some background knowledge that I think will be of help to you.

11 Q. [12:26:18] Please go ahead, Mr Witness.

12 A. [12:26:22] We live in a Tuareg society and there are four social classes. The first
13 are the masters. Under them, immediately after them come the slaves. The third
14 class are called the adepts or the partisans of the same tribe, in other words, people
15 who are working in drilling --

16 THE INTERPRETER: [12:26:57] The Arabic interpreter is not certain of that
17 translation.

18 THE WITNESS: [12:27:03](Interpretation) Do you understand what I said,
19 Mr Prosecutor?

20 MR DUTERTRE: [12:27:07](Interpretation)

21 Q. [12:27:07] Yes, I did. But perhaps we need to clarify what you meant by the
22 third class. It wasn't very, very clear.

23 A. [12:27:22] These are the tradespeople, and they are members of the same tribe as
24 those belonging to the first class.

25 Q. [12:27:37] So in 2012, Mr Al Hassan did nothing to release that slave or to be

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1 instrumental in the release of that slave; isn't that right?

2 A. [12:28:00] I told you on the basis of information that I had at my avail, I told you
3 what I had heard. He did the examination-in-chief because the tribunal -- the tribe,
4 rather, that the slave belonged to was near Al Hassan's village, and so he was more
5 familiar with the subject than anybody else. And so he got the information that the
6 interested party was a member of that tribe. And it was on the basis of what I heard,
7 information that I had at my fingertips, that I offered the answer that I gave. And
8 also this was circulating in the neighbourhood at the time.

9 Q. [12:28:39] Thank you very much. I do apologise, but my question was poorly
10 translated into Arabic or wasn't -- or possibly I didn't state it very clearly.

11 Al Hassan, in 2012, did nothing to release that slave as a slave, in order to free him, to
12 give him his franchise, if you like, stop him from being a slave anymore?

13 A. [12:29:05] No. Al Hassan nor anybody else for that matter had the power, had
14 the authority to do that, to free the slave. This is all about tradition and custom that
15 has been having currency for years and years and years. Nobody can free a slave
16 over-night. We have slaves today. Should they be freed? They are slaves by dint
17 of their own will.

18 Q. [12:29:34] So they are slaves because they want to be. All right.

19 Can we go into private session, your Honour.

20 PRESIDING JUDGE MINDUA: [12:29:40](Interpretation) Yes, very briefly.

21 Court officer.

22 (Private session at 12.29 p.m.)

23 THE COURT OFFICER: [12:29:56] We are in private session, Mr President.

24 PRESIDING JUDGE MINDUA: [12:30:00](Interpretation) Thank you very much,
25 court officer.

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1 Prosecutor, isn't there a problem with terminology? What is a slave who is a slave
2 by his own volition? Could we obtain clarification from the interpreters.

3 MR DUTERTRE: [12:30:19](Interpretation) I'm also as perplexed as you are,
4 your Honour. We take it as it comes.

5 THE INTERPRETER: [12:30:31] Overlapping speakers.

6 PRESIDING JUDGE MINDUA: [12:30:34](Interpretation) Please go ahead.

7 THE WITNESS: [12:30:40](Interpretation) Slavery in our country is hereditary.
8 That is to say, it's not slavery in the sense that you hear it or understand it. The
9 slavery comes from tradition. I need you; you need me. You cultivate the land,
10 and I support you financially. You do other activities, and I support you financially.

11 You work in a specific field; I work in another. And it's a process of solidarity.
12 Since I was born, we have known this system. You don't sell me; I don't sell you.
13 It's not about selling people, but it's about mutual interests. Somebody has the
14 statute of slave and somebody else has the statute of master -- status of master.

15 PRESIDING JUDGE MINDUA: [12:31:38](Interpretation) Thank you very much,
16 Witness.

17 MR DUTERTRE: [12:31:41](Interpretation)

18 Q. [12:31:42] Witness, [REDACTED] there is the practice of slavery; is there
19 not?

20 A. [12:32:01] In all Tuareg nations, this is practised. I am Tuareg. I'm from this
21 Tuareg nation.

22 Q. [12:32:17] [REDACTED] had an ex-slave, a domestic
23 worker.

24 A. [12:32:32] She wasn't his property.

25 Q. [12:32:40] There is a problem with the translation.

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1 [REDACTED] had a slave, did [REDACTED] not?

2 A. [12:32:52] No, [REDACTED] didn't have a slave.

3 Q. [12:32:57] A domestic slave.

4 A. [12:33:02] No, [REDACTED] didn't.

5 MR DUTERTRE: [12:33:08] (Interpretation) We can go back into open session,
6 your Honour.

7 PRESIDING JUDGE MINDUA: [12:33:12](Interpretation) Indeed.

8 Court officer.

9 THE WITNESS: [12:33:17](Interpretation) Wait. I'm going to answer your question.
10 Because you insist on it, I will answer you.

11 [REDACTED] a domestic worker who
12 belonged to [REDACTED]. She wasn't a slave. Let's be clear.

13 MR DUTERTRE: [12:33:43](Interpretation)

14 Q. [12:33:43] So she belonged to [REDACTED]. She belonged.

15 A. [12:33:51] Yes.

16 Q. [12:33:52] Thank you for the clarification.

17 PRESIDING JUDGE MINDUA: [12:33:55](Interpretation) Court officer, please take
18 us into public session.

19 (Open session at 12.34 p.m.)

20 THE COURT OFFICER: [12:34:09] We're back in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [12:34:15](Interpretation) Thank you very much.
22 Prosecutor.

23 MR DUTERTRE: [12:34:16](Interpretation) Thank you, your Honour.

24 Q. [12:34:18] Witness, you explained, in the French transcript, and that's 192, page
25 52, that you joined Ansar Dine because it was a movement in which there was no

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1 racist discrimination or discrimination at other levels.

2 A. [12:35:00] Yes, that's my conviction.

3 Q. [12:35:05] Ansar Dine was doing nothing about Ansar Dine -- to free slaves from
4 their status, were they?

5 A. [12:35:24] That's true. And the Republic of Mali, which was 60 years old, what
6 it had done for slaves? And before that, the French colonial masters, what had they
7 done for slavery?

8 Q. [12:35:42] And, Witness, when you say that there was no discrimination of a
9 racist nature or other in Ansar Dine, tolerating slavery is nevertheless discriminatory,
10 is it not?

11 A. [12:36:07] There are things which neither you nor other people can change.
12 These are traditions and customs which have gone on for thousands of years. So if
13 Ansar Dine or any other movement, even the Malian government, which is 60 years
14 old, if they decide to change this state of affairs, well, there would be a war, an
15 endless war. Would there be an idiot who would want to open up that front?
16 Perhaps there would be provocations in order to liberate them, but neither
17 Ansar Dine nor other people could change the situation. It's the slaves who consent.
18 They recognise their condition and they accept it. So only they can change it. As
19 for the rest, everything was all decided on the basis of legality.

20 Q. [12:37:25] Witness, in 2012, when Ansar Dine prevented the inhabitants from
21 praying at mausolea and they destroyed the mausolea, that was discriminatory, was
22 it not?

23 A. [12:37:54] In what way discriminatory? Discriminatory in what way so that I
24 can understand? What do you mean by "discriminatory"? Discrimination against
25 whom?

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1 Q. [12:38:12] I'm going to reformulate my question, but in close terms. The fact of
2 preventing people from practising their religious practices as they wish is
3 discriminatory, is it not, Witness?

4 A. [12:38:37] For me personally, I don't see that it's discriminatory. I think it's to
5 rectify the situation and the behaviour of the faithful. And I can tell you my own
6 situation. For me, it's a type of correction of the pathway of the faithful.

7 Q. [12:39:09] I'm going on to another subject, Witness.

8 Mr Z -- Mr X, excuse me, in 2012, in Timbuktu, he was a member of the Islamic court,
9 was he not?

10 A. [12:39:41] He was a *sheikh*, a notable in the region. He was a member of
11 Imepe (phon). In the past, he was part of a group of *ulema* from the region. And
12 these *ulema* afterwards formed the Islamic tribunal.

13 Q. [12:40:08] So if I understand well, he was part of the Islamic tribunal in 2012 in
14 Timbuktu, Mr X.

15 A. [12:40:32] He was one of the *sheikhs*, one of the notables of the region and some
16 of those notables were in the composition of the tribunal, they were members of the
17 tribunal.

18 Q. [12:40:50] Some of the notables, but you -- you wouldn't know whether
19 Mr Z -- Mr X was a member of the Islamic tribunal in 2012. That's not something
20 that you know?

21 A. [12:41:08] I'm going to explain something to you so that you will see it more
22 clearly. Within the tribunal, the Islamic tribunal, there was a judge and there were
23 two deputies. There were members of the tribunal. There were persons who
24 composed the committee of notables who were consulted from time to time. And he
25 was one of this -- one of these notables who was in this committee of notables.

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1 Daoud and another, the person you speak about today, all these people were in a
2 group who were consulted from time to time. So ...

3 Q. [12:42:17] Witness, in 2012, in Timbuktu, Mr X, he was persecuting women who
4 were not wearing a veil. That's right, is it not?

5 A. [12:42:41] I don't know. [REDACTED]

6 [REDACTED]

7 MR DUTERTRE: [12:43:10](Interpretation) Your Honour, I'm in your hands. I have
8 a series of questions of this type. We could perhaps go to private session, and it's
9 part of a full cross-examination.

10 PRESIDING JUDGE MINDUA: [12:43:29](Interpretation) Private session, please.
11 (Private session at 12.43 p.m.)

12 THE COURT OFFICER: [12:43:41] We are in private session, Mr President.

13 PRESIDING JUDGE MINDUA: [12:43:47](Interpretation) Thank you very much.

14 MR DUTERTRE: [12:43:58](Interpretation)

15 Q. [12:43:59] A prior question. Witness, do you not know or do you not want to
16 answer my question, namely, to know [REDACTED]

17 [REDACTED] Do you not know or do you not want to
18 reply?

19 A. [12:44:21] [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 MS GERRY: [12:44:58] Mr President, may we cut the connection to the witness,

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1 please.

2 PRESIDING JUDGE MINDUA: [12:45:08](Interpretation) Please cut the sound to the
3 witness, court officer.

4 THE COURT OFFICER: [12:45:15] Your Honours, the sound to the witness has been
5 cut off.

6 PRESIDING JUDGE MINDUA: [12:45:21](Interpretation) Thank you very much.
7 Maître Gerry, quickly.

8 MS GERRY: [12:45:27] I'll be quick. First of all, my concern is that this Prosecutor is
9 using this court as an opportunity to investigate. In my submission, that question is
10 not framed in a precise way that is relevant to Mr Al Hassan who is on trial here.

11

12 [REDACTED] In my submission, these questions need to be focused on the issues
13 at hand.

14 Secondly --

15 THE COURT OFFICER: [12:45:51] (Overlapping speakers)

16 PRESIDING JUDGE MINDUA: [12:45:51] (No interpretation)
17 (Speaks English) One moment.

18 THE COURT OFFICER: [12:45:59] Your Honour, there may be an interpretation
19 issue. We're going to check with the interpreters.

20 MS GERRY: [12:46:07] Sorry. I spoke more quickly than I normally do.

21 PRESIDING JUDGE MINDUA: [12:46:16] (No interpretation)

22 THE COURT OFFICER: [12:46:17] We are in private.

23 PRESIDING JUDGE MINDUA: [12:46:20](Interpretation) Has it been resolved now,
24 the interpretation problem?

25 THE COURT OFFICER: [12:46:25] Yes, your Honours, it appears to be resolved.

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1 Thank you.

2 MS GERRY: [12:46:28] So my first objection is relevance.

3 PRESIDING JUDGE MINDUA: [12:46:28] Okay.

4 MS GERRY: [12:46:30] My second objection is the framing of the question.

5 My third objection is that we should not engage in an investigation. That we should
6 be focusing on the issues at hand.

7 And my fourth concern, it doesn't amount to an objection yet, is that the questions are
8 framed in a way that allows the witness to choose between those that are

9 incriminating and those that are not. They need to be framed in a way so the witness
10 can understand which is incriminating and which is not. Broad persecution

11 questions, in my submission, do not allow that to happen.

12 So those are my four objections.

13 PRESIDING JUDGE MINDUA: [12:47:16](Interpretation) Very well, Witness. You
14 have followed your counsel.

15 MS GERRY: [12:47:20] (Overlapping speakers)

16 MR DUTERTRE: [12:47:29](Interpretation) Could I -- could I answer very briefly?

17 PRESIDING JUDGE MINDUA: [12:47:33](Interpretation) Prosecutor.

18 MR DUTERTRE: [12:47:34](Interpretation) With regards to the relevance, the

19 Defence often ask questions about the *Hesbah*, so obviously it's relevant, the same as
20 the role of each and every person in the general administration in Timbuktu by AQMI
21 and Ansar Dine is also relevant.

22 And I would stop there because I haven't understood the other objections. It goes
23 into the credibility of the witness and it affects the determination of the truth, which
24 the Chamber has to achieve, notably through the testimony of this witness and other
25 witnesses.

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1 PRESIDING JUDGE MINDUA: [12:48:08](Interpretation) Yes, I agree.

2 Maître Gerry, we have to finish with the ping-pong.

3 MS GERRY: [12:48:16] I appreciate the need for speed. However, what my -- the

4 Prosecutor explained is not what he asked. If [REDACTED]

5 [REDACTED] that has been relevant in this trial. What he actually asked

6 was, [REDACTED]? That is not the focus of this trial. So if

7 he asks questions about [REDACTED] I wouldn't have objected.

8 But I objected to the way in which he was investigating [REDACTED] rather than

9 focusing on the issues in the trial.

10 PRESIDING JUDGE MINDUA: [12:48:52](Interpretation) Very well. This

11 Chamber's not going to accept carrying out an investigation [REDACTED], but the

12 questions [REDACTED] are relevant because we have spoken about them here.

13 Maître Gerry has said that the questions which aren't incriminating [REDACTED]

14 are possible.

15 And the witness, your lawyer -- so as the Court has already said, these questions are

16 acceptable, but obviously, if you think that they are incriminating, then not.

17 MR DUTERTRE: [12:49:41](No interpretation)

18 PRESIDING JUDGE MINDUA: [12:49:44] (Interpretation) Is there no sound for the

19 witness? Okay.

20 Court officer, please could we have the sound for the witness.

21 MR DUTERTRE: [12:49:51](Interpretation) I'm just saying that I'm not carrying out

22 an investigation at this time. That is completely false.

23 THE COURT OFFICER: [12:50:01] Your Honours, the sound to the witness has been

24 re-established.

25 PRESIDING JUDGE MINDUA: [12:50:06](Interpretation) Thank you very much,

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1 court officer.

2 So, Witness, I'm going to take up what I said before. All incriminating statements

3 [REDACTED] are not accepted in the sense that

4 you are protected by [REDACTED] but if you think that a question has a tendency to

5 incriminate, you have the obligation to take it. And if you fear it, well, don't take it.

6 So if you think that a question does doesn't incriminate, you have to take it.

7 This is the last question, do you think that it's incriminating and you don't want to

8 answer it?

9 THE WITNESS: [12:51:08](Interpretation) No, I won't answer it.

10 PRESIDING JUDGE MINDUA: [12:51:14](Interpretation) Very well. The

11 Prosecutor is going to move on to something else.

12 We're still in private session.

13 MR DUTERTRE: [12:51:19](Interpretation) Yes, I have a series of questions. It can

14 go -- question, they are relevant. I have a series of important questions. I don't

15 have everything, the whole of it.

16 PRESIDING JUDGE MINDUA: [12:51:30](Interpretation) Do you want us to stay in

17 private session?

18 MR DUTERTRE: [12:51:32](Interpretation) Yes, quickly.

19 PRESIDING JUDGE MINDUA: [12:51:34](Interpretation) Very well. Go ahead,

20 please put your questions.

21 MR DUTERTRE: [12:51:39](Interpretation)

22 Q. [12:51:39] Witness, [REDACTED]

23 [REDACTED]

24 You lifted your hand. Does that mean you don't want to answer?

25 A. [12:52:06] I told you, did I tell you that [REDACTED] Did I tell

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1 you that [REDACTED] So your question is
2 non-receivable. If you have other questions to put about other subjects, do so. But
3 not this question. You know very well I wouldn't answer this type of question.

4 Q. [12:52:33] To be clear, and this is your choice, you don't want to answer the
5 question.

6 A. [12:52:40] Yes, I do not wish to answer questions [REDACTED]
7 PRESIDING JUDGE MINDUA: [12:52:48](Interpretation) Very well. Prosecutor,
8 we can move on.

9 MR DUTERTRE: [12:52:50](Interpretation)

10 Q. [12:52:50] Witness, [REDACTED]
11 [REDACTED]

12 A. [12:53:15] What do you want me to answer you?

13 Q. [12:53:20] You're not obliged to reply.

14 A. [12:53:24] No, I'm not answering.

15 Q. [12:53:31] Witness, in 2012, in Timbuktu, [REDACTED]
16 [REDACTED]

17 A. [12:53:45] No, that's a lie. That is a lie. [REDACTED]
18 [REDACTED]

19 Q. [12:53:50] Witness, if you had been insulted once in the streets, you would
20 have -- [REDACTED] if you had been insulted in the street, you
21 would have told that in the examination-in-chief, [REDACTED]
22 [REDACTED] in 2012 in Timbuktu.

23 A. [12:54:25] No, no. [REDACTED]
[REDACTED]
[REDACTED]

1 Q. [12:54:56] Witness, [REDACTED]
 2 [REDACTED]
 3 [REDACTED]

4 A. [12:55:16] I don't know. [REDACTED] at the time.

5 Q. [12:55:24] But you saw [REDACTED] Witness, did you not? [REDACTED]
 6 [REDACTED]

7 A. [12:55:34] Yes, [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]

10 Q. [12:55:54] You didn't ask yourself [REDACTED] Witness?

11 A. [12:56:03] Yes. You want me to question [REDACTED]

12 Q. [12:56:11] Generally, Witness, in your opinion, [REDACTED]
 13 [REDACTED]

14 A. [12:56:33] Yes, [REDACTED]
 15 [REDACTED]
 16 [REDACTED]

17 Q. [12:56:51] And this is the truth, like everything else you have said to the
 18 Tribunal today, Witness?

19 A. [12:57:05] Yes, this is the truth, like everything I've said. [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED]
 ■ [REDACTED] And I can tell you more

24 about our religion in our region.

25 Q. [12:57:50] Witness, [REDACTED]

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1 [REDACTED] in January 2013. It was looted.

2 A. [12:58:07] Yes, I think so.

3 MR DUTERTRE: [12:58:15](Interpretation) We can go into open session,

4 your Honour.

5 PRESIDING JUDGE MINDUA: [12:58:19](Interpretation) Court officer, please take

6 us into open session.

7 (Open session at 12.58 p.m.)

8 THE COURT OFFICER: [12:58:34] We're back in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [12:58:38](Interpretation) Thank you very much.

10 MR DUTERTRE: [12:58:43](Interpretation)

11 Q. [12:58:43] Witness, this house was ransacked because the population was tired.

12 [REDACTED] didn't they?

13 A. [12:58:58] It's the opposite. This house and other houses, furthermore, all the

14 houses of people of light skins were ransacked. All the houses which belonged to

15 people with light skin were smashed. The doors were ripped off. They were

16 ransacked, and also the shops that belonged to them. So those are two racist

17 reactions on an ethnic basis.

18 And there were also certain acts which had been carried out by some people because

19 of a personal hatred or because of a conflict or religious conflict, personal hate. But

20 that had nothing to do with it.

21 And I would challenge you, you and others who are present here, I challenge you to

22 tell me one house, the house of a person with light skin which was not destroyed,

23 which was not ransacked in Timbuktu. I challenge you to do that. All the houses

24 of light-skinned people and their shops were ransacked.

25 Q. [13:00:29] Witness, I'm moving on.

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1 In 2012, Al Hassan spoke to Moussa's family concerning the execution of *al diya*
2 because Moussa was Tuareg, a member of the group, and he was close to Al Hassan,
3 was he not?

4 A. [13:00:58] No. You're asking my personal view and so I'm giving you my view.
5 I don't know what Al Hassan had in his mind and I don't know what his impression
6 or feeling was. But my personal view is that Al Hassan tried to be a mediator
7 between the two parties, to try and reach an agreement that would be agreeable to
8 both camps. Now, in terms of impression and what was going through Al Hassan's
9 mind or heart, I can't speak to that.

10 MR DUTERTRE: [13:01:32](Interpretation) Perhaps I've only got five or ten minutes
11 left to conclude. Either I do that after the luncheon break or I do it now. I'm -- I'll
12 be guided by you. But we will finish the witness's evidence today.

13 PRESIDING JUDGE MINDUA: [13:01:47](Interpretation) I think we should return
14 after the break.

15 There we are. So it is 1 p.m. We are now going to rise for the luncheon
16 adjournment and we will resume at half past 2.

17 Court is adjourned.

18 THE COURT USHER: [13:02:08] All rise.

19 (Recess taken at 1.02 p.m.)

20 (Upon resuming in open session at 2.34 p.m.)

21 THE COURT USHER: [14:34:20] All rise.

22 Please be seated.

23 PRESIDING JUDGE MINDUA: [14:34:45](Interpretation) We shall resume.

24 Good afternoon to one and all. I turn to the Prosecutor for the continuation of his
25 cross-examination.

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1 Mr Prosecutor, over to you.

2 MR DUTERTRE: [14:35:03](Interpretation) I'm grateful, your Honour.

3 Q. [14:35:15] So, Mr Witness, we are going to be rounding off this

4 cross-examination before the end of this afternoon. It remains for me to address one

5 or two brief points, the first of which, transcript 192, French version, page 52, line 12.

6 We see that you indicate that you weren't incriminating the Ansar Dine people, that

7 you were not frightened of them?

8 THE INTERPRETER: [14:36:01] Corrects the interpreter.

9 MR DUTERTRE: [14:36:05](Interpretation)

10 Q. [14:36:05] You were not frightened of them because you subscribe to their

11 methods. That's right, isn't it?

12 A. [14:36:16] No. I'm not frightened of the Ansar Dine people, because I know

13 that they are unjust to nobody.

14 Q. [14:36:29] And because you were [REDACTED] and the police

15 force; right?

16 A. [14:36:41] [REDACTED]

17 because I felt that they were unjust towards nobody. I left that movement because I

18 did see a form of injustice, and the breach of the rights of some of people within the

19 community or some -- in some social classes.

20 Q. [14:37:11] Maybe there is an interpretation problem. You said that you joined

21 the tribunal or the Islamic police? Here I see "tribunal". Would you mind clarifying

22 that point, please.

23 A. [14:37:24] I joined Ansar Dine. Ansar Dine. And within that movement, I

24 became a member of the police force.

25 Q. [14:37:37] And you weren't targeted by the forbidden -- the acts forbidden by

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1 Ansar Dine and AQMI at Timbuktu; isn't that right?

2 A. [14:37:57] Sorry, I didn't really understand your question. Would you mind
3 expanding so I can understand.

4 Q. [14:38:04] You weren't frightened of Ansar Dine at the time because what it
5 forbade didn't concern you, ultimately, Mr Witness.

6 A. [14:38:18] They applied to me, just like anybody like me. Having said that, I
7 avoided breaching those prescriptions, like anybody else. Even a *ta'zir* was
8 pronounced against me. And anybody violating the law should pay the price. I
9 put my foot wrong and a *ta'zir* was pronounced against me because I made a mistake,
10 and that despite the fact that I was a member.

11 Q. [14:38:59] And you weren't frightened of Ansar Dine [REDACTED]

[REDACTED] That's right, isn't it, Mr Witness?

13 A. [14:39:09] When I joined Ansar Dine, I had no links, no interactions with that
14 group.

15 THE INTERPRETER: [14:39:24] The Arabic interpreter didn't follow the answer
16 offered by the witness.

17 MR DUTERTRE: [14:39:30](Interpretation)

18 Q. [14:39:30] Would you mind repeating your answer, Mr Witness.

19 A. [14:39:34] When I joined Ansar Dine, Mr X wasn't even at Timbuktu at that time.
20 He wasn't in Timbuktu and he had no link whatsoever with that group. And you
21 can record that. This is just information that I give you.

22 Q. [14:39:59] Mr Witness, the Chamber has seen written documents establishing the
23 fact that Mr X sat upon the Islamic tribunal as early as May 2012. You weren't aware
24 of that then?

25 A. [14:40:18] I told you that when I joined Ansar Dine, Mr X wasn't even at

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1 Timbuktu. At that time he hadn't even entered the city.

2 Q. [14:40:34] I have taken due note. And you weren't frightened of Ansar Dine
3 because Mr X knew Iyad Ag Ghaly personally; right?

4 A. [14:40:49] All the Tuaregs knew him. All the Tuaregs knew Iyad. Iyad was a
5 revolutionary leader, a symbol, a symbol really, an icon for the Tuaregs, an icon.
6 And all the Tuaregs loved him and respected him.

7 Q. [14:41:11] Mr X, he knew Iyad Ag Ghaly personally; isn't that right, Mr Witness?

8 A. [14:41:21] Yes, he knew him on a personal footing, yes.

9 Q. [14:41:26] Mr Witness, a moment ago you said that:

10 "I left the movement because I felt that there was an injustice in it and that some
11 members of the community had or some social classes had seen their rights
12 infringed."

13 A. [14:41:49] That's right.

14 Q. [14:41:52] Could you, for the benefit of the Bench, could you clarify what you
15 exactly mean by that.

16 A. [14:42:02] Okay. So let me give you an example by way of explanation. In
17 some groups, and I'm not going to give any names, I'm not going to name the groups,
18 but in some groups, some people were discriminated against on the basis of the
19 colour of their skin or their ethnic origin. So when the movements entered
20 Timbuktu, some air-conditioning units were confiscated or removed from some
21 individuals because they belonged to some ethnic groups. Ansar Dine retrieved
22 those objects and gave them back to their original owners.

23 But no one can tell you that there was any discrimination against people on the basis
24 of their confession, their religion or their tribal origin. And personally, I hate racism.
25 I don't like it. And that's why I joined the group.

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1 Q. [14:43:19] Mr Witness, I'll just repeat because there may have been an
2 interpretation hiccup. On the transcript, page 78, lines 5 through to 8 in French, we
3 can read:

4 "I left that movement because I saw a certain degree of injustice in it, and that some
5 members of the community had seen their rights violated."

6 This is what you said? Is that a faithful representation of what you said,
7 Mr Witness?

8 A. [14:43:59] I said something similar to that. I said that I didn't join some groups
9 for that particular reason, for the reason you've just cited, contrary to Ansar Dine.

10 Q. [14:44:23] I move to another point, Mr Witness.

11 You had a number of interactions with the Defence; isn't that right?

12 A. [14:44:34] Yes.

13 Q. [14:44:36] How many interactions in all?

14 A. [14:44:48] I can't quite recall. Maybe three -- three or four times. I can't
15 remember.

16 Q. [14:44:58] Can you recall when the first contact was established?

17 A. [14:45:11] I can't remember what month it was, but it was this year. Possibly
18 four or five months ago. I really can't tell you.

19 Q. [14:45:28] And who was it within the Defence team that was present at that
20 initial contact?

21 A. [14:45:45] ██████████

22 THE INTERPRETER: [14:45:56] The witness continues.

23 MR DUTERTRE: [14:45:59](Interpretation)

24 Q. [14:46:00] Continue.

25 A. [14:46:03] No, ██████████

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1 Q. [14:46:14] And that first interaction with [REDACTED] that was through a text
2 message or over the phone, or was it a -- a face-to-face meeting? Could you give the
3 specifics?

4 A. [14:46:36] Yes, it was a [REDACTED]

5 Q. [14:46:46] And who organised that meeting, Mr Witness? And where -- in fact,

6 [REDACTED]

7 A. [14:47:00] [REDACTED]
8 [REDACTED]

9 Q. [14:47:21] [REDACTED]
10 [REDACTED]

11 A. [14:47:32] Yes, he was the one who told me about it.

12 Q. [14:47:39] Before going to the meeting, Mr Witness, [REDACTED]
13 [REDACTED]

14 PRESIDING JUDGE MINDUA: [14:47:49](Interpretation) Ms Gerry.

15 MS GERRY: [14:47:52] May we go into private session briefly, please.

16 PRESIDING JUDGE MINDUA: [14:47:58](Interpretation) Court officer, private
17 session, please.

18 (Private session at 2.48 p.m.)

19 THE COURT OFFICER: [14:48:09] We're in private session, Mr President.

20 PRESIDING JUDGE MINDUA: [14:48:13](Interpretation) Thank you very much.
21 Counsel Gerry.

22 MS GERRY: [14:48:16] Mr President, I have two concerns. That -- would you like
23 me to pause whilst members of the public gallery sit down. Sorry.

24 I have two concerns. Firstly, that this line of questioning seems to be directed
25 towards discovering the perfectly sensible methods that the Defence have used to

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1 protect people's identity and to make arrangements for which they are safe. It is not
2 at all clear why these questions need to be asked, as to where this witness met with
3 members of our team. And I'm concerned that we will then go on to questions about
4 what was discussed, which may well be the subject of legal professional privilege.
5 My concern is that this is a fishing expedition that is designed to somehow criticise
6 the Defence team, where there is no foundation for any criticism in relation to this
7 witness. Disclosure has been made. And I would like to understand why these
8 questions are being asked at all.

9 So, simply, first of all, he's trying to expose the way in which we meet witnesses,
10 which is not fair or safe on them. And secondly, the lack of foundation for those
11 questions.

12 We will ask for the [REDACTED] to be redacted from the transcripts,
13 obviously, but that is one example of where this -- these questions are putting our
14 witnesses at risk. In our submission, these questions shouldn't be asked at all.

15 PRESIDING JUDGE MINDUA: [14:50:07](Interpretation) All right. Counsel Gerry,
16 the problem is probably such that you've just joined the ranks of the Defence team.
17 You don't know how things are done here. Because the question put by the
18 Prosecution rests on the foundation laid by maybe Melinda Taylor herself in respect
19 of the methods used by the Prosecution.

20 Perhaps we can continue, Mr Prosecutor.

21 Do you wish to answer? I don't know.

22 MS GERRY: [14:50:37] I do. I do wish to answer if I may. In my submission, this
23 has nothing do with my joining the Defence team briefly. I'm perfectly well aware of
24 what has been going on in this case and I read into it before I arrived.

25 In our submission, this is an attempt to use cross-examination to find out information

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1 covered by Rule 81(2), and the Prosecutor should justify what he is trying to do to this
2 Court, because he is risking the safety of our witnesses and seeking to fish into the
3 way in which we have properly approached witnesses. And it is, in our submission,
4 not appropriate. It has nothing to do with when I arrived in the case.

5 PRESIDING JUDGE MINDUA: [14:51:27](Interpretation) All right. Mr Prosecutor,
6 I think I have already offered an answer. If you would like to add something, please
7 proceed.

8 MR DUTERTRE: [14:51:35](Interpretation) I do not wish to reply. Perhaps I can
9 continue.

10 PRESIDING JUDGE MINDUA: [14:51:38](Interpretation) I think we have clarified
11 this point, Counsel Gerry.

12 Court officer, could you restore, please, the sound link.

13 THE INTERPRETER: [14:51:46] Correction from the interpreter.

14 PRESIDING JUDGE MINDUA: [14:51:49](Interpretation) Could you now move back
15 into open session.

16 (Open session at 2.51 p.m.)

17 THE COURT OFFICER: [14:51:58] We're back in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [14:52:00](Interpretation) My thanks.

19 Mr Prosecutor.

20 MR DUTERTRE: [14:52:06](Interpretation) My thanks, your Honour.

21 Q. [14:52:08] Mr Witness, ██████ told you of the subject of the meeting beforehand;
22 isn't that right?

23 A. [14:52:26] No. He told me simply that -- that I'd been asked to appear as a
24 witness in the Al Hassan case. And I said I'm -- I'm frightened of this case, and he
25 allayed my fears. And he said, "Look, I'll put you in touch with the Defence team

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1 and the Defence team will tell you what it's all about. And then afterwards, we can
2 meet at the appointed place and then, you know, you can say what you know about
3 the case."

4 And then there was a second contact that was organised. And I met them --

5 MS GERRY: [14:53:00] Mr President, if I may. Mr President, if I may, please.

6 PRESIDING JUDGE MINDUA: [14:53:12](Interpretation) You'd like to take the floor
7 again, Counsel Gerry?

8 MS GERRY: [14:53:13] I would --

9 PRESIDING JUDGE MINDUA: [14:53:14] This -- just a second.

10 This question put by the Prosecutor, I tell you that Ms Taylor puts this type of
11 question regularly to the Prosecution witnesses. So I don't know whether -- what
12 you want to comment -- what comment I can make on that point. Please proceed.

13 MS GERRY: [14:53:33] My submission is that this is a deliberate violation of the
14 confidentiality of our witnesses and our team, and it is a deliberate attempt to seek to
15 go behind legal professional privilege that enables us to properly prepare the Defence
16 case. It is also being done in open session, which puts both our operatives and our
17 witnesses at risk. In our submission, this line of questioning is wholly improper and
18 should not continue. It's confidential. It's risking people's safety. It's designed to
19 go behind the arrangements that we have properly made to deal with witnesses.

20 And in our submission, it is entirely inappropriate.

21 This Court should at the very least go into private session and to control this
22 questioning by the Prosecutor who is asking questions that are giving rise to answers
23 that should not be admitted and are confidential.

24 PRESIDING JUDGE MINDUA: [14:54:30](Interpretation) Mr Prosecutor.

25 In respect to the question, I've already talked about that, Counsel Gerry. We need to

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1 address ourselves to the open session or the private session point.

2 MR DUTERTRE: [14:54:53](Interpretation) We can go into private session, but I have
3 a tendency to stay in closed session quite a lot, and I take that criticism. But we can
4 go into private session if that sits well with the Defence.

5 PRESIDING JUDGE MINDUA: [14:55:09](Interpretation) Our position is to allow
6 the Prosecution to put its questions. But we will move quickly into private session to
7 that end to -- to safeguard [REDACTED]
8 Court officer, let's move into private session, please.

9 MS GERRY: [14:55:29] If I may, Mr President, I have information (Overlapping
10 speakers)

11 PRESIDING JUDGE MINDUA: [14:55:32](Interpretation) No, no, no. We've
12 already ruled on this.

13 (Private session at 2.55 p.m.)

14 THE COURT OFFICER: [14:55:45] We are in private session, Mr President.

15 PRESIDING JUDGE MINDUA: [14:55:47](Interpretation) Thank you very much,
16 court officer.

17 Mr Prosecutor.

18 MR DUTERTRE: [14:55:53](Interpretation) There is no matter of privilege here that
19 is raised in this particular instance.

20 Q. [14:56:00] Mr Witness, I am scrolling back up to your answer, your previous
21 answer, where you said: "I was asked to appear as a witness in the Al Hassan case.

22 And I said that I was frightened of this case, and he reassured me."

23 What were you frightened of exactly, Mr Witness?

24 A. [14:56:35] Well, to be perfectly frank, I'm very lively and dynamic, and
25 everything that happened in 2012 is part of the past now, and I've moved on. And

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1 everything that takes me back into that period, I don't really want to talk about it.

2 Q. [14:57:00] Yes, Mr Witness, but this is very important to appear as a witness and

3 to come before the International Criminal Court. You must have talked [REDACTED]

4 [REDACTED] before making that decision to appear as a witness; is that right?

5 A. [14:57:23] No. I talked to nobody about that for fear of my personal security.

6 Because this is a serious case. It's an important case. And there are two parties to

7 these proceedings. Maybe I'm providing testimony against people and that will give

8 rise to problems for me. What happened in 2012 is not known to everybody. And

9 if it comes out, then it will have an impact on my life now and in my future and even

10 in my work.

11 Q. [14:58:12] Mr Witness, you did, however, [REDACTED]

12 [REDACTED]

13 A. [14:58:25] Impossible. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. [14:58:50] And regarding this very important decision, [REDACTED]

17 [REDACTED]

18 A. [14:59:04] No, because this is something I'm doing on my own personal

19 initiative.

20 Q. [14:59:13] Mr Witness, in -- perhaps, sorry, we can move back into open session,

21 your Honour.

22 PRESIDING JUDGE MINDUA: [14:59:22](Interpretation) Exactly so.

23 Court officer, could we do that.

24 (Open session at 2.59 p.m.)

25 THE COURT OFFICER: [14:59:36] We're back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [14:59:40](Interpretation) Thank you very much.

2 Prosecutor.

3 MR DUTERTRE: [14:59:44](Interpretation)

4 Q. [14:59:45] Witness, you indicated that you hadn't had contact with Al Hassan
5 since you left Timbuktu in 2013, if I remember correctly.

6 A. [15:00:05] No.

7 Q. [15:00:06] But since then, you've had news from Mr Al Hassan, haven't you?

8 A. [15:00:15] Yes, I've had news.

9 Q. [15:00:22] And you've had news via the family of Mr Al Hassan, have you not?

10 A. [15:00:30] No. More through the public.

11 Q. [15:00:40] You indicated, transcript, French transcript page 28: "[REDACTED]
12 [REDACTED]." End of quote. That's transcript 194, page 78.

13 A. [15:01:00] Yes.

14 Q. [15:01:00] So since you left in 2013, you never had the opportunity to speak to
15 members of the family of Mr Al Hassan?

16 A. [15:01:16] No.

17 Q. [15:01:20] And in Timbuktu, in 2012 [REDACTED]

18 A. [15:01:34] [REDACTED]

19 MR DUTERTRE: [15:01:52](Interpretation) There was no -- there was no translation.

20 Q. [15:02:01] So your testimony is that you never met somebody from the family of
21 Mr Al Hassan till 2013.

22 A. [15:02:13] That's true.

23 Q. [15:02:22] Witness, you came to testify before this tribunal to help Mr Al Hassan.

24 A. [15:02:36] This is what I would wish for. If my declaration would help him, I
25 would be happy to do so.

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1 Q. [15:02:56] And furthermore, you indicate in transcript 194, page 28, and here I
2 quote: "He had a lot of affection for me. He advised me. He guided me." That's
3 lines 19 and 20, real-time, 14 and 15. And line 19 and 20 says, and here I quote:
4 "That's the reason why I wanted to thank him. And I will be most grateful to him for
5 all my life." End of quote.

6 Witness, you came to testify for Mr Al Hassan to thank him, did you not, to testify in
7 his favour to thank him?

8 A. [15:04:12] I appeared as a witness even if -- if my evidence would help
9 Al Hassan, I would be happy to do so. And if it did not help him, I would have said
10 what I knew. And this is what I believe is true.

11 MR DUTERTRE: [15:04:43](Interpretation) I've finished my cross-examination,
12 your Honour. There are no further questions. Thank you.

13 PRESIDING JUDGE MINDUA: [15:04:51](Interpretation) Thank you very much,
14 Prosecutor, for your cross-examination.

15 So I now turn towards the Legal Representatives of Victims to ask if they still wish to
16 put their questions, having followed the examination-in-chief and the
17 cross-examination. Maître.

18 MR DOUMBIA: [15:05:19](Interpretation) Thank you very much, your Honour. It's
19 true that, to a large extent, the questions of the Prosecutor have been sufficiently
20 decisive, but there are certain aspects which need to be dealt with, but which I would
21 like to address from another angle for the benefit of these proceedings, if you would
22 allow me. It won't be long, but I think it wouldn't go beyond 15 minutes.

23 PRESIDING JUDGE MINDUA: [15:06:03](Interpretation) The Chamber has no
24 problem. As far as the parties are concerned, it's normal. You've got the floor,
25 Mr Doumbia.

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1 MR DOUMBIA: [15:06:12](Interpretation) Thank you very much, President.

2 QUESTIONED BY MR DOUMBIA: (Interpretation)

3 Q. [15:06:19] Witness, I am Seydou Doumbia. I represent the victims in these
4 proceedings before this Chamber.

5 Witness, I would like to put some questions to you, some simple questions, with no
6 hidden agenda. And the first is as follows: To the best of your knowledge, is there
7 a state religion in Mali? In other terms, the state of Mali, is it a secular state, is it an
8 Islamic state, or other?

9 MS GERRY: [15:07:12] Mr President, if I may.

10 PRESIDING JUDGE MINDUA: [15:07:16](Interpretation) Yes, Maître Gerry.

11 MS GERRY: [15:07:19] I wonder if there's a time scale that we are talking about or
12 whether that matters to the nature of the question that's being asked. Is the question
13 being asked about Mali now, about Mali during French colonial times or some other
14 time?

15 PRESIDING JUDGE MINDUA: [15:07:36](Interpretation) Very well, Maître Gerry.

16 Maître Doumbia, the Defence raises the question as to the clarity with regards to the
17 timeline. Could you be more precise.

18 MR DOUMBIA: [15:07:49](Interpretation) Yes, your Honour. Given that we are in
19 a time period which is well defined, my question will address this period, this time
20 period; that is to say, the period of 2012 to 2013.

21 PRESIDING JUDGE MINDUA: [15:08:16](Interpretation) Very well. That's very
22 clear now.

23 So, Witness, could you answer the question.

24 THE WITNESS: [15:08:24](Interpretation) Yes, I can answer. We do not talk here
25 about Mali as a whole. We talk about Timbuktu. Timbuktu is a well-known village

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1 in history. It's an Islamic village. 99 per cent of the Timbuktu population or even
2 100 per cent of them are Muslims. There are no other religion. Even if there are
3 people from other religions, they are not to -- they don't exceed the 1 per cent. Even
4 though those religions are very recent, they espouse this new religion recently. It
5 was not an old religion. This was not in 2012.

6 MR DOUMBIA: [15:09:34](Interpretation) Your Honour, you see my question is
7 very simple. Timbuktu was part of Mali, and I ask a question with regards to the
8 existence of a state religion in Mali. He can answer with "yes" or "no", but he cannot
9 deny that Timbuktu is part of Mali.

10 PRESIDING JUDGE MINDUA: [15:10:19](Interpretation) Maître Doumbia, would
11 you like him to react with regard to this clarification?

12 MR DOUMBIA: [15:10:23](Interpretation) Yes, of course.

13 PRESIDING JUDGE MINDUA: [15:10:25](Interpretation) Witness, did you hear
14 what Maître Doumbia has just said? Do you want to complete your answer?

15 THE WITNESS: [15:10:39](Interpretation) Yes, what Mr Doumbia has said is clear,
16 but I have nothing to answer. Mr Doumbia is trying to talk about Mali. However,
17 we try to talk about Timbuktu. We were not under the Malian authority at that time.
18 We had -- we were under a movement of an Islamic character. Most of this village or
19 this city -- most of the population of the city were Muslims, and I do not see the
20 reason why I do not -- why I do need to answer about that.

21 PRESIDING JUDGE MINDUA: [15:11:32](Interpretation) Maître Doumbia, I think
22 we've got the answer. Please continue.

23 MR DOUMBIA: [15:11:41](Interpretation)

24 Q. [15:11:41] Witness, what was the judicial system applied in Timbuktu at this
25 time?

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1 Did the witness hear me?

2 A. [15:12:37] The judicial system at Timbuktu was the system that was -- that used
3 to be applied before the French colonialism and before the Malian government have
4 arrived. That was the Islamic system. This was applied in the deserts, in the
5 villages, on all inhabitants. Sankore used to -- that was a college that has a
6 lot -- many graduates. That was the system applied at the time.

7 Q. [15:13:38] Thank you.

8 You said that before 2012, Islam existed in Timbuktu; is that correct?

9 A. [15:13:58] Yes, before the French colonialism, Islam was there.

10 Q. [15:14:14] Witness, Islam as practised in Timbuktu before the intervention of
11 Ansar Dine, were you in agreement with it or not?

12 A. [15:14:35] In the desert and the villages, yes, it was convenient. Even when
13 Ansar Dine were there, it was convenient for me. Everything was according to law.
14 This is my doctrine, and this is the doctrine of any Muslim.

15 Q. [15:15:04] Very well.

16 Witness, as regarding Islam practised after the arrival of Ansar Dine, did you prefer
17 that to the type of Islam practised before their arrival?

18 A. [15:15:41] It was a minor difference. Islam was applied before the arrival of
19 Ansar Dine. It was applied in the deserts and villages. It was also applied in
20 communities. At the time of Ansar Dine, Islam started to be applied in bigger cities
21 in a protected way, in a protected way.

22 Q. [15:16:18] Very well.

23 To the best of your knowledge, Witness, before the intervention of Ansar Dine, did
24 you know that a sentence had been put down of amputation of people who were in
25 conflict with the law?

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1 A. [15:17:06] Yes, I do not know that it was against the international law, but not
2 against the Islamic law and the Islamic sharia. This is according to sharia that was
3 provided for in God's book. We should accept that. This is a doctrine of which we
4 believe. We believe -- even we believe in the whole Islam, or we do not believe in
5 Islam.

6 Q. [15:17:48] Very well.

7 Witness, in the same vein, do you know about the application of a decision of an
8 Islamic judge before Ansar Dine which consisted of flagellating people or flogging
9 people in a public square?

10 A. [15:18:24] Not in the middle of big regions. However, in villages, small villages
11 and the deserts, yes, that was the case. That was applied in plain view to protect the
12 tribes.

13 Q. [15:18:58] Very well.

14 Now, Witness, as a Malian citizen, did you know that during this period there was a
15 decision of Malian judges, a general one, a judicial decision which ordered
16 amputation of the arm or of any member or which consisted of flogging a person who
17 was acting against the law?

18 A. [15:20:00] Sorry, I did not understand. I do not know if you were talking if the
19 decision was issued by the Malian government. Probably it's a translation issue.
20 Was it a decision by the Malian government?

21 Q. [15:20:22] Yes. I'll put the question again.

22 In the period 2012 to 2013, were you aware of any decision rendered by the
23 governmental Malian system ordering amputation of a -- the member of a person in
24 contradiction with the law or otherwise ordering their flogging in a public square?

25 A. [15:21:04] No, I did not know about that.

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1 Q. [15:21:14] Therefore, Witness, are you in agreement that the system of justice
2 applied by Ansar Dine was, to a certain extent, contrary to Islamic justice as practised
3 in Timbuktu prior to 2012, and also against the justice applied by the Malian
4 government in Mali?

5 A. [15:22:05] Yes, it was contrary to the judicial system and the Malian government.
6 I do not wish -- there are some words that I do not wish to say because you are
7 dragging me to the Malian government. And that is not my issue.
8 As far as Ansar Dine, the Ansar Dine were applying the Islamic legal law. Some
9 people, they are called Islamic, they might be contrary to the traditions of some
10 people and it might be contrary to the laws in the country. However, these are true
11 Islamic rules, and it is -- it goes in hand with all the customs in the region where we
12 were living.

13 Q. [15:23:14] Very well.

14 So, to be clear, with this question, I put it to you that the system of justice applied by
15 Ansar Dine was both different from the judicial system applied before Ansar Dine
16 and also contrary to the justice of the Malian state applied in 2012 and 2013.

17 A. [15:24:11] Yes, it was contrary to the justice or the judicial system in the Malian
18 government. This is very clear. But it was to a certain extent contrary to the system
19 that was adopted in the deserts. In one aspect, this judicial system was applied
20 among tribes. And after the arrival of Ansar Dine, it was being applied to all people,
21 also to civilized people, even those -- the bedouins who did not have -- who did not
22 have any idea about that. Also bedouins and tribes.

23 Q. [15:25:08] Very well.

24 Would you be in agreement with me, Witness, that when you arrive on a territory, the
25 application of legislative measures are required, contrary to what was applied before

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1 and, in addition, they are against the state in which these new rules are applied,
2 necessarily you're getting into a logic of persecution, where at any time serious
3 violations of people's rights can occur who have asked for nothing when it comes to
4 this application of these new provisions.

5 MR DUTERTRE: [15:26:26](Interpretation) Your Honour.

6 PRESIDING JUDGE MINDUA: [15:26:36] (Interpretation) You are talking about
7 new provisions of law. You're talking about persecution without proof of the
8 contrary. Our witness is not a legal expert in our sense, so I think that these
9 questions aren't appropriate for him.

10 Furthermore, I think that you should try to shorten your intervention because there
11 are also questions of the Chamber and probably additional questions from the
12 Defence. That's it.

13 MR DOUMBIA: [15:27:13](Interpretation) Okay. Very well. If you would allow
14 me I will just reformulate that very quickly.

15 PRESIDING JUDGE MINDUA: [15:27:22](Interpretation) Please go ahead.

16 MR DOUMBIA: [15:27:25](Interpretation)

17 Q. [15:27:26] Witness, justice as applied by Ansar Dine, did it significantly damage
18 the justice applied in this local population at the time?

19 A. [15:27:53] I already said that there was not a significant change. Those laws
20 used to be applied among tribes and bedouins and now it was being applied in big
21 cities. People were not used to it, but, however, since they are Muslims, then there is
22 no problem about that. These laws would be applied among any other people.
23 These laws were applied in a city that was of an Islamic culture and nature. This law
24 is not new to a city. It was not applied in a city that had another religion. This was
25 an Islamic region. There are other places where they did not have this religion

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1 as -- did not have this religion originally.

2 Q. [15:29:09] Very well.

3 So just by way of remark, so never were there amputation of people's members or the
4 non-application of -- in the name of justice of any kind.

5 PRESIDING JUDGE MINDUA: [15:29:41](Interpretation) Maître Gerry.

6 MS GERRY: [15:29:42] Briefly, Mr President. I believe this is asked and answered.

7 PRESIDING JUDGE MINDUA: [15:29:50](Interpretation) Yes. I don't think the
8 question is appropriate, Mr Doumbia. I think you're finished, Mr Doumbia.

9 MR DOUMBIA: [15:30:00](Interpretation) I agree. It was just to finish with this line
10 of questioning and to put the additional small question.

11 PRESIDING JUDGE MINDUA: [15:30:11](Interpretation) Very briefly,

12 Maître Doumbia, because I would remind you that the Chamber has questions and
13 the Defence too.

14 MR DOUMBIA: [15:30:21](Interpretation) Yes. Your Honour, I will have finished.
15 I've got very few questions left.

16 Q. [15:30:27] Witness, I would like to take you back to this period. When the crisis
17 broke out you were in this town. I'm not going to pronounce the name here. We all
18 know what town we're talking about. [REDACTED]

19 [REDACTED]

20 PRESIDING JUDGE MINDUA: [15:31:48](Interpretation) Is the witness receiving
21 any interpretation?

22 Mr Witness, did you hear the question?

23 THE WITNESS: [15:32:01](Interpretation) I'm listening to you, your Honour.

24 PRESIDING JUDGE MINDUA: [15:32:06](Interpretation) What's happening to
25 Mr Doumbia's question?

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1 Counsel, perhaps you can put your question one last time.

2 MR DOUMBIA: [15:32:17](Interpretation)

3 Q. [15:32:18] Mr Witness, this was my question: You told the Court that when the
4 crisis occurred in 2012, you were in a particular city, and you were there for your
5 studies. So that city, which I shall not name, [REDACTED]

6 [REDACTED]

7 A. [15:32:53] Yes.

8 Q. [15:32:56] Do you confirm that you had to interrupt your studies in that location
9 because --

10 THE INTERPRETER: [15:33:10] Overlapping speakers.

11 MR DOUMBIA: [15:33:14](Interpretation)

12 Q. [15:33:14] -- because the person was targeted? Do you confirm that?

13 A. [15:33:20] Yes, I do confirm that. And it's unfortunate. And it really was a
14 turning point in my life, because I was never able to continue with my studies. And
15 everything then became very different in my life.

16 Q. [15:33:39] I put this before you, Mr Witness, namely, neither in that particular
17 city nor in Bamako, nor even in any other area or in the south, were red-skinned
18 people persecuted at that particular time. They were, on the contrary, significantly
19 represented in the Mali security defence forces, as well as other areas of the
20 administration. How would you respond to that statement?

21 A. [15:34:29] You are not me, counsel, and you weren't in that country. Possibly
22 you were in another country other than Mali. What you are saying is just not
23 possible, and it wouldn't be possible to say such a thing if you had been in the
24 country at the time.

25 Q. [15:34:55] Very well.

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1 I suggest, Mr Witness, that you abandoned your studies out of your own personal
2 conviction in order to join Ansar Dine in the hope of finding work. How do you
3 respond to that?

4 A. [15:35:21] It's out of the question. When I abandoned my studies, I hadn't even
5 heard of Ansar Dine, and I didn't know that Ansar Dine's work was going to
6 dominate Timbuktu. Things had started unravelling when I abandoned my studies.
7 And when I came to Timbuktu, the Mali army was already there and the city had
8 been encircled by the Arab militias. And even if it had happened, I would never
9 hesitate to say it. And I wasn't alone in that.

10 In that particular city, an MP was killed in a hotel, and some north Africans were
11 killed because they were light-skinned. And a number of crimes were committed.
12 So everything you say is perfectly impossible.

13 Q. [15:36:40] Mr Witness --

14 PRESIDING JUDGE MINDUA: [15:36:43](Interpretation) Counsel Doumbia --

15 MR DOUMBIA: [15:36:42](Interpretation) This is my last question, your Honour,
16 with your leave.

17 Q. [15:36:55] This is my last question, Mr Witness. I have listened carefully to
18 your oral evidence, and I learned from that that you -- that you thought it was right
19 and proper, the certain conduct and practices of Ansar Dine at the time in 2012,
20 including the conduct of Mr Al Hassan at that particular time. Does that tally with
21 your thinking as well, Mr Witness?

22 A. [15:37:57] Only God is infallible. Humans make mistakes, and I say this for
23 your better instruction. Only God is infallible and is safe from any error.

24 MR DOUMBIA: [15:38:17](Interpretation) Thank you very much, your Honours. I
25 have no further questions.

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1 PRESIDING JUDGE MINDUA: [15:38:20](Interpretation) My thanks, Counsel, for
 2 your questions.

3 My colleagues on the Bench will offer their questions, and then Counsel Gerry, you
 4 can then step in. You will then -- you will put your questions after the questions
 5 from the Bench, if you do have any follow-up questions, which obviously you are not
 6 compelled to put.

7 My colleague on my left would like to put a question. Off you go, your Honour.

8 JUDGE PROST: [15:38:58] Thank you, Mr President. Could we go briefly into
 9 private session, please.

10 PRESIDING JUDGE MINDUA: [15:39:03](Interpretation) Private session, please,
 11 court officer, briefly.

12 (Private session at 3.39 p.m.)

13 THE COURT OFFICER: [15:39:17] We are in private session, your Honours.

14 PRESIDING JUDGE MINDUA: [15:39:21](Interpretation) Thank you very much,
 15 court officer.

16 JUDGE PROST: [15:39:26] Thank you.

17 Mr Witness, you stated during your testimony, we've heard your evidence, that you
 18 [REDACTED] for the Islamic police in Timbuktu in 2012.

19 And that's transcript 192, English RT, at page 47.

20 Could you explain to me, just so I'm clear, and explain to the Chamber, which

21 [REDACTED] while you
 22 were working for the Islamic police.

23 THE WITNESS: [15:40:13](Interpretation) [REDACTED]
 [REDACTED]
 [REDACTED]

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1 JUDGE PROST: [15:40:53] And when you were [REDACTED]

4 THE WITNESS: [15:41:11](Interpretation) [REDACTED]

7 JUDGE PROST: [15:41:37] Thank you. And you mentioned that you believed you
8 [REDACTED] for Abu Zhar on one
9 occasion.

10 And that's transcript 194, English, pages 22 to 23 and 25.

11 Could you tell the Chamber, if you're able to, which people in the Islamic police,
12 mainly, that you [REDACTED] for the Islamic police in 2012.

13 THE WITNESS: [15:42:16](Interpretation) I worked for Abu Zhar, Khaled as well, as
14 well as a third individual.

15 THE INTERPRETER: [15:42:24] The Arabic interpreter did not hear the utterance
16 clearly.

17 JUDGE PROST: [15:42:29] Sorry, Mr Witness, the interpreter didn't catch. You said
18 a third person. You said Abu Zhar, Khaled and a third person. Did you name that
19 person?

20 Adam. Okay, thank you.

21 THE WITNESS: [15:42:40](Interpretation) Adam.

22 JUDGE PROST: [15:42:41] And, finally, Mr Witness, do you know if there [REDACTED]
[REDACTED] working at the Islamic police in Timbuktu in 2012?

24 THE WITNESS: [15:43:04](Interpretation) No, I can't recall having seen [REDACTED]

[REDACTED] But people in the region are familiar with [REDACTED]

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- 1 [REDACTED]
- 2 JUDGE PROST: [15:43:26] So you don't recall seeing anyone else doing that work [REDACTED]
- 3 [REDACTED]
- 4 THE WITNESS: [15:43:40](Interpretation) I can't remember ever seeing anybody
- 5 whose [REDACTED]
- 6 [REDACTED]
- 7 [REDACTED]
- 8 [REDACTED]
- 9 [REDACTED]
- 10 [REDACTED]
- 11 JUDGE PROST: [15:44:20] Thank you, Mr Witness.
- 12 Thank you, Mr President.
- 13 PRESIDING JUDGE MINDUA: [15:44:25](Interpretation) I thank you, Judge Prost.
- 14 And I turn now to Judge Akane.
- 15 Over to you, madam.
- 16 JUDGE AKANE: [15:44:44] We are -- thank you. Thank you.
- 17 PRESIDING JUDGE MINDUA: [15:44:44] We are in private session.
- 18 JUDGE AKANE: [15:44:46] Yes, please. I would like to continue private session for
- 19 my first couple of questions.
- 20 Mr Witness, you should -- you stated during your testimony that you worked for
- 21 several months at the Islamic police and [REDACTED]
- 22 before returning again to the Islamic police.
- 23 That is transcript 192, English real-time, pages 47 to 49.
- 24 My questions are: Could you explain to the Chamber who assigned you to the
- 25 Islamic police [REDACTED] if you remember.

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1 THE WITNESS: [15:45:44](Interpretation) Abu Zhar asked me to join the police. [REDACTED]
2 [REDACTED] the police, the Islamic police
3 were asked to send me there to assist them [REDACTED] but after a given point
4 in time, they realised they didn't need me in actual fact. And all their cases were
5 local. So Abu Zhar brought me in to the Islamic police.

6 JUDGE AKANE: [15:46:31] So you were assigned by Abu Zhar to each institution.

7 THE WITNESS: [15:46:50](Interpretation) Yes, it was he who brought me in and he
8 basically recruited me.

9 JUDGE AKANE: [15:46:57] Thank you. Did you have to undergo any training
10 before you joined either of those institutions?

11 THE WITNESS: [15:47:13](Interpretation) No. My job simply [REDACTED]

12 JUDGE AKANE: [15:47:19] Thank you.

13 So go back to open session, please.

14 PRESIDING JUDGE MINDUA: [15:47:26](Interpretation) Court officer, open session,
15 please.

16 (Open session at 3.47 p.m.)

17 THE COURT OFFICER: [15:47:40] We're back in open session, Mr President.

18 PRESIDING JUDGE PROST: [15:47:43] Thank you very much, court officer.

19 Madam Akane.

20 JUDGE AKANE: [15:47:48] Thank you.

21 Mr Witness, you stated during your testimony that Mr Al Hassan used to know most
22 of the languages spoken by the people, local people. That is transcript 193, English
23 real-time, page 20.

24 And that he used these languages when he was at the Islamic police in Timbuktu in
25 2012. That is transcript 193, English real-time, page 24. You also stated today that

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1 Mr Al Hassan knew all the languages in the region. That is transcript 195, English
2 real-time, page 25.

3 Based on your knowledge and experience at the time, could you clarify for the
4 Chamber which languages Mr Al Hassan spoke during his work at the Islamic police
5 in Timbuktu in 2012. Please name the languages.

6 THE WITNESS: [15:49:01](Interpretation) He used Arabic, French, Tuareg.

7 JUDGE AKANE: [15:49:16] So mainly three languages?

8 THE WITNESS: [15:49:24](Interpretation) Yes.

9 JUDGE AKANE: [15:49:24] Thank you.

10 The last question from myself. Mr Witness, you testified concerning the case of the
11 police officer who raped a woman, that Mr Al Hassan listened to the victim and
12 relayed her voice and evidence to the Islamic court.

13 That is in the transcript 193, English real-time, page 45.

14 Could you please elaborate on what you meant when you stated that Mr Al Hassan
15 relayed the victim's voice and evidence to the Islamic court.

16 THE WITNESS: [15:50:20](Interpretation) He heard the complaint made by the lady,
17 he recorded it, and the tribunal was seized of the matter to adjudicate expeditiously
18 but also fairly.

19 JUDGE AKANE: [15:50:43] Thank you very much for your answers. Thank you.

20 PRESIDING JUDGE MINDUA: [15:50:52](Interpretation) My thanks for those
21 questions.

22 I now turn to the Defence.

23 The Prosecutor.

24 MR DUTERTRE: [15:51:02](Interpretation) Just a point of clarification. In French
25 and English, there is "recorded", but I think in the Arabic, there was "taken down"

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1 rather than "recorded". Could you clarify that, possibly.

2 PRESIDING JUDGE MINDUA: [15:51:19](Interpretation) The Arabic-speaking

3 Prosecutor will put the question directly to the witness? How do you wish to

4 proceed?

5 MR DUTERTRE: [15:51:28](Interpretation) Perhaps he can write that down because

6 the word "recorded" was a bit -- it's a word which I would describe as -- as a bit too

7 loose to the meaning. Perhaps we can ask him whether he wrote it down.

8 PRESIDING JUDGE MINDUA: [15:51:45](Interpretation) You've heard the concern

9 raised by the Prosecutor. Did you take any notes?

10 THE WITNESS: [15:51:57](Interpretation) He took written notes. In other words,

11 he wrote down and didn't record.

12 PRESIDING JUDGE MINDUA: [15:52:09](Interpretation) I think that's what it is, in

13 fact.

14 Very well. Thank you very much.

15 So now I look to Counsel Gerry. You have any follow-up questions, Counsel?

16 QUESTIONED BY MS GERRY:

17 Q. [15:52:32] (Microphone not activated) ... Mr Witness, some questions in what we

18 call re-examination, so questions from me again.

19 You were asked about telephone calls and text messages on Friday, 26 August, last

20 Friday, when you were asked questions by the Prosecutor. Do you remember being

21 asked questions about telephone calls and text messages?

22 A. [15:53:06] Yes, I do remember.

23 Q. [15:53:08] To the best of your recollection, in 2012, in Timbuktu, did you have a

24 mobile telephone?

25 A. [15:53:25] Yes, I had a mobile phone at that time.

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1 Q. [15:53:27] As you sit here now, do you remember your mobile telephone
2 number from 2012?

3 A. [15:53:42] To be honest with you, I can't remember (Overlapping speakers)

4 Q. [15:53:47] You were shown a document and for -- I'm going to try and deal with
5 this briefly, but in a --

6 MR DUTERTRE: [15:53:59](Interpretation) We should let the -- let the witness
7 continue in his answer.

8 MS GERRY: [15:54:00] Yes, certainly.

9 PRESIDING JUDGE MINDUA: [15:54:03](Interpretation) Yes.

10 MS GERRY: [15:54:04] I thought he'd finished. I apologise.

11 PRESIDING JUDGE MINDUA: [15:54:04] Mr Witness.

12 MR DUTERTRE: [15:54:06](Interpretation) Because he said, "I can't remember, but
13 when", and that's when he was cut off in his -- in his answer.

14 PRESIDING JUDGE MINDUA: [15:54:11](Interpretation) Mr Witness, could you
15 complete your answer, please.

16 THE WITNESS: [15:54:20](Interpretation) I can't remember the telephone number
17 per se, but when I saw the list, the number that I saw there resembled a little bit the
18 telephone number I had at the time. I couldn't -- couldn't be certain about it, but it
19 looked like my telephone number. I can't exactly remember. I even tried to retrieve
20 the telephone number, but I couldn't remember what it was. And this is what
21 stopped me actually getting the number in -- ultimately.

22 PRESIDING JUDGE MINDUA: [15:55:01](Interpretation) Counsel Gerry.

23 MS GERRY: [15:55:02] Thank you.

24 Q. [15:55:04] To your knowledge, did Abu Zhar have a mobile telephone in 2012?

25 A. [15:55:14] Yes.

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1 Q. [15:55:20] As you sit here now, do you recall his telephone number?

2 A. [15:55:31] I don't even remember my telephone number. So his, I couldn't tell
3 you. I don't know it.

4 Q. [15:55:39] You were shown four text messages between two numbers on
5 4 July 2012. Did that refresh your memory at all as to what those four text messages
6 were about?

7 PRESIDING JUDGE MINDUA: [15:56:02](Interpretation) Mr Prosecutor.

8 MR DUTERTRE: [15:56:05](Interpretation) Two SMSs, not four SMSs, to be exact.

9 MS GERRY: [15:56:07] Oh, sorry (Overlapping speakers)

10 MR DUTERTRE: [15:56:07](Interpretation) I would ask my learned friend to -- to
11 refer to the transcript in a more accurate fashion when she's putting her questions
12 because this can introduce a deliberate skew of the -- of the witness's answers.

13 PRESIDING JUDGE MINDUA: [15:56:26](Interpretation) There were two texts.

14 MS GERRY: [15:56:29] I asked for it to be checked specifically this morning. I was
15 going to put four SMSs and two calls; is that wrong? Is it two SMS and four calls? I
16 just want to be clear from the Prosecutor before I do it. I don't want to put it -- I
17 don't want to get it wrong, but I -- two SMS were -- six entries were shown. My
18 understanding is that it was four SMS and two calls. If I've got that wrong, I'm
19 happy to be corrected.

20 PRESIDING JUDGE MINDUA: [15:56:58](Interpretation) Mr Prosecutor.

21 MR DUTERTRE: [15:57:00](Interpretation) The transcript is available to all the
22 parties to these proceedings.

23 MS GERRY: [15:57:02] That's very helpful --

24 MR DUTERTRE: [15:57:02] And it is two texts and the other calls.

25 MS GERRY: [15:57:09] Yes. Well, unfortunately, the Prosecutor is not going to be

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1 helpful, but as I understand it, it's two SMS and two calls. I will be corrected if I'm
2 wrong. It's unfortunate that there is that lack of courtesy, but there we go.

3 Q. [15:57:24] It is alleged that there were two text messages -- sorry. I'll start
4 again.

5 Mr Witness, it is alleged that there were two text messages on 4 July 2012 and two
6 calls on 12 October 2012; one for ■ seconds and one for ■ seconds. Did that
7 information refresh your memory at all as to what those text messages or calls were
8 about?

9 A. [15:58:05] It's possible. I've got no idea, really. Possibly I received texts from
10 Abu Zhar or even telephone calls. But I'm not sure of it. And I've got really no idea
11 at this point in time. Even his telephone number, I don't know it and I can't
12 remember it. Even my own telephone number and -- telephone number is shown to
13 me, it resembles my telephone number, but I can't quite exactly remember it.

14 Q. (Overlapping speakers)

15 A. [15:58:31] Even the -- even the name resembles my name, but it's only a
16 resemblance.

17 Q. [15:58:41] If those text messages and calls were from you to Abu Zhar, do you
18 have any memory of what they might be about?

19 MR DUTERTRE: [15:58:54](No interpretation)

20 PRESIDING JUDGE MINDUA: [15:58:54](Interpretation) The Prosecutor wishes to
21 speak?

22 MR DUTERTRE: [15:58:57](Interpretation) This question was put. It's asked and
23 answered, your Honour.

24 PRESIDING JUDGE MINDUA: [15:59:04](Interpretation) Counsel Gerry

25 (Overlapping speakers)

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1 MS GERRY: [15:59:09] In my submission, it was not. And this Chamber is entitled
2 to hear whether this witness recalls any of those specific communications.

3 PRESIDING JUDGE MINDUA: [15:59:24](Interpretation) Counsel Gerry, the
4 witness has already answered this question.

5 MS GERRY: [15:59:30] I submit he was not asked it as clearly, and I'm asking it
6 clearly now.

7 PRESIDING JUDGE MINDUA: [15:59:41](Interpretation) Very well.
8 Yes, Mr Prosecutor.

9 MR DUTERTRE: [15:59:46](Interpretation) The question was crystal clear, page 110,
10 line 28, and 111, line 22. "This information, does it help you -- remind you what
11 these telephone calls and these text messages were about?" It's crystal clear, and it
12 was answered by the witness. And my learned colleague is now putting the
13 question again.

14 MS GERRY: [16:00:13] I'll accept the objection.

15 PRESIDING JUDGE MINDUA: [16:00:15](Interpretation) Thank you very much,
16 Maître Gerry.

17 MS GERRY: [16:00:19]

18 Q. [16:00:19] Mr Witness, you told us that you would go to work at BMS. We're in
19 open session, so I'm not going to ask you about the type of work. But you -- can you
20 help us to understand how you would find out when to go to work.

21 A. [16:00:52] I worked in the morning, and then I'd come back at midday and I
22 would return to work in the afternoon. And after prayers in the evening, I would go
23 home.

24 Q. [16:01:04] Were those regular hours, or were there occasions when you were
25 asked to come in at irregular hours?

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1 A. [16:01:24] It was not a regular hour. Sometimes -- sometimes I would find out
2 that I do not have work any more and I would go back home. And at other times, I
3 would be called to perform or to meet a certain need, then I would also appear to
4 perform this task. But mostly, I arrive in the morning, I leave in the afternoon, and
5 then I come back after the evening prayer.

6 Q. [16:02:00] And if you were called to go to work, what method would you be
7 called by?

8 A. [16:02:14] They used to call me, of course.

9 Q. [16:02:18] Just for the translation. Do you mean calling by calling through
10 voice or calling through a system?

11 A. [16:02:30] If I was at the centre, they would call me by name. If I was not, if I
12 was absent, they would call me on a certain system.

13 Q. [16:02:41] And what would they use -- what would be used to communicate
14 with you when you were not at the BMS?

15 A. [16:02:52] My personal mobile phone.

16 Q. [16:02:56] And would you use that personal mobile phone to reply or not?

17 A. [16:03:07] Yes, I would use it to reply.

18 Q. [16:03:12] Thank you.

19 The next topic is timings.

20 I see the time. Would you wish me to continue today, Mr President, or come on
21 tomorrow?

22 PRESIDING JUDGE MINDUA: [16:03:40](Interpretation) Maître Gerry, how many
23 minutes do you need in order to finish with your additional questions?

24 MS GERRY: [16:03:46] Well, when counsel for the victims started and said he had 15
25 minutes, there were 45 minutes left. And I estimated I would be about 25 of those

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1 minutes. I've had five. So I have about 20 left.

2 PRESIDING JUDGE MINDUA: [16:04:14](Interpretation) Court officer, can you
3 check with your services if they can continue for another 20 minutes.

4 Very well. We can continue for 20 more minutes, but no more.

5 MS GERRY: [16:05:13]

6 Q. [16:05:13] Mr Witness, it was suggested to you on Friday that [REDACTED]
7 When you answered my questions, you said you worked [REDACTED] for a period of
8 time.

9 Is it correct to say you joined [REDACTED]

10 A. [16:05:36] I worked for [REDACTED]

11 Q. [16:05:41] The Prosecution asked you when you worked [REDACTED] As you sit
12 here now, do you know the exact dates that you worked [REDACTED]?

13 MR DUTERTRE: [16:05:55] *Monsieur le Président.*

14 THE WITNESS: [16:05:56](Interpretation) I know the period --

15 MR DUTERTRE: [16:06:04](No interpretation)

16 PRESIDING JUDGE MINDUA: [16:06:20](Interpretation) Maître Gerry.

17 MS GERRY: [16:06:21] That wasn't --

18 PRESIDING JUDGE MINDUA: [16:06:24](Interpretation) Can you limit yourself to
19 the questions.

20 MS GERRY: [16:06:27] It's actually simpler to answer the question than to have the
21 interruption. I was dealing with specific dates because the Prosecution tried to deal
22 with specific dates and that's the context of my re-examination.

23 I wonder if I might just get on. It'll be much quicker.

24 PRESIDING JUDGE MINDUA: [16:06:48](Interpretation) Yes, but you should limit
25 yourself to questions raised in the cross-examination and not the other questions of

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1 interest to the Prosecutor.

2 MS GERRY: [16:07:02] In my submission, I was doing exactly that. I'll rephrase the
3 question, if that's helpful.

4 Q. [16:07:14] Mr Witness, the Prosecution asked you questions about timing and
5 they put to you certain specific months at which you worked at BMS [REDACTED]
6 Having heard those questions for the Prosecution, does that help you remember the
7 exact dates that you worked [REDACTED] or not?

8 A. [16:07:44] No. I do not remember any of the dates. I can pinpoint the period,
9 but not the dates.

10 Q. [16:07:55] Mr Witness, you were asked some questions by the Judges, as well as
11 the Prosecution, about what you -- what you did when you worked [REDACTED]. I'm
12 not going to ask you what you did because we are in open session, but your answer to
13 the Judges was that you were [REDACTED] but they didn't need you.
14 Did you actually do any work [REDACTED] or not?

15 A. [16:08:34] I was working [REDACTED]. I was supposed to work [REDACTED] but
16 they did not need me there. So I was -- I returned to the police. I was asked to
17 return to the police. I do not remember any work I've done there.

18 Q. [16:09:00] You were asked a question, and it's on transcript T-94, page 109,
19 English version. The question that you were asked was: You were with the police.
20 You were [REDACTED]. I'm reading line 9 and 10, to be short, it's the tail end of the
21 question. Your answer was this:

22 "Yes, we had heard of the departure of foreigners and that there would only be people
23 from the country. And that is what we believed. Those were our convictions."

24 You were then asked to repeat your answer and clarify it. And you said:

25 "Yes. We believed that, according to what we were told, foreigners were going to

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1 leave the country and there would only be people from the country, from the
2 provinces. They would be the ones who would take control of things. And that is
3 what we believed in, but unfortunately, [that did not] happen."

4 Can you explain to us what that answer meant, please.

5 A. [16:10:18] Yes. I meant that, that as nationals, when we joined Ansar Dine,
6 we -- it was our conviction that it was an Islamic movement that would control the
7 region and that we would be members of this new government and a new state that
8 we would dream of. We used to believe that all the foreigners that they were there,
9 that they would leave at a certain point, because they had arrived only to assist us.
10 And after that, after we recover or we reclaim our rights and everything would be all
11 right, they would leave the country. Each would leave to his own country.

12 Q. [16:11:23] You were asked by the Prosecution about your attendance at a
13 particular punishment relating to the death of a member of your tribe, Mr Moussa.
14 It's at T-94, page 91, English version. And in part, your answer is: "... I did not
15 want to participate or to go there, and this was my own decision and my own wish at
16 the time."

17 Can you help us to understand whether there were any rules around attendance at a
18 particular punishment or not?

19 A. [16:12:27] No, there were no rules for that. That was anyone who would attend
20 would attend, and whoever did not want to attend would not attend.

21 Q. [16:12:43] And was that the same for the civilians as it was for the police force or
22 different as between civilians and the police force?

23 A. [16:12:57] Yes.

24 Q. [16:12:57] Sorry, same or different? Which was it? Were there requirements
25 for the police to attend or not?

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1 MR DUTERTRE: [16:13:06](Interpretation) Your Honour.

2 PRESIDING JUDGE MINDUA: [16:13:07](Interpretation) Yes, Prosecutor.

3 MR DUTERTRE: [16:13:09](Interpretation) There we are going outside the
4 framework of the re-examination. This is a new point, and Maître Gerry could have
5 done this during her examination-in-chief. She decided not to do it, so we're clearly
6 going outside the framework put for her intervention at this time.

7 PRESIDING JUDGE MINDUA: [16:13:32](Interpretation) Maître Gerry.

8 MS GERRY: [16:13:33] I thought it arose out of cross-examination because this
9 witness was both a person and a police officer, and the Prosecution have suggested
10 that at times he is giving his personal evidence and not his professional evidence. So
11 in my submission, it was perfectly proper for me to make that clarification about this
12 point in his evidence. I've simply done it because of the way in which the
13 Prosecution approach their cross-examination, somehow separating him from the
14 work that he was doing.

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

16 MR DUTERTRE: [16:14:13](Interpretation) Your Honour, the question was asked.
17 We haven't been looking at the rules, who should be there, who shouldn't be there,
18 this type of thing. So it's a new element which effectively goes beyond the
19 re-examination.

20 PRESIDING JUDGE MINDUA: [16:14:35](Interpretation) Maître Gerry, please move
21 on.

22 MS GERRY: [16:14:43] May I tell your Honour about page 90, the question was:

23 "Witness, you explained to us this morning, you yourself could not participate in the
24 sanctions." So in my submission, whether someone could or couldn't was raised by
25 the way in which the questions were asked in cross-examination.

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1 Do you still wish me to move on, or may I ask the question?

2 PRESIDING JUDGE MINDUA: [16:15:11](Interpretation) Prosecutor.

3 MR DUTERTRE: [16:15:12](Interpretation) I maintain what I said That goes outside
4 the re-examination framework because the question was limited to what the witness
5 does, not with regards to the other aspects. We are not in that area. And if
6 Maître Gerry wanted to do so, that could have been done during the
7 examination-in-chief.

8 Furthermore, what's also being done, you've got asked and answered, and outside the
9 framework which would be allowed to put questions in.

10 PRESIDING JUDGE MINDUA: [16:15:48](Interpretation) Maître Gerry, I'm in
11 agreement with the Prosecutor because we are currently leaving the concern which
12 was the cross-examination issue. So, please, move on.

13 MS GERRY: [16:16:02]

14 Q. [16:16:03] You were asked in cross-examination about [REDACTED]
15 It's today's evidence at page 14 to 18. And you were also shown a document, which
16 is our document 166.

17 You started to tell us what you know about that case on our line 14. Can you help us
18 understand what you knew about that case before you were shown the document.
19 Tell us what you remember from your knowledge.

20 A. [16:16:46] Which [REDACTED]?

21 Q. [16:16:49] My note [REDACTED]. Would you just give me a moment to
22 double-check that. [REDACTED]

23 You were shown a document in Arabic by the Prosecution and it was read to you, and
24 you tried to see it when it was on the screen. I see you nodding. I appreciate that
25 you have now seen that document. But if you can, can you complete what you were

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1 going to tell us before you were shown that document, what your memory was of
2 that case, please.

3 A. [16:17:51] I do not remember the story of that man. I cannot even -- I could not
4 even remember his name because I do not know anything about case, and I did not
5 hear anything of it.

6 Q. [16:18:04] Thank you.

7 You were asked questions today about slaves, and I just want to be clear that we can
8 understand the Tuareg structure that you were trying to explain this morning, please.
9 You began telling us, on today's transcript, pages 63 and 64, about the Tuareg
10 traditions and customs. You mentioned four classes of Tuareg. Can you tell us
11 what those four classes were, please.

12 A. [16:18:50] The masters, the sheikhs. There are people -- the knowledgeable
13 people, the professionals, and slaves.

14 Q. [16:19:11] And just so that we understand the timing, has it always been those
15 four structures, or has that changed in history at all?

16 A. [16:19:24] They were all there in every tribe. Every tribe had the same four
17 ranks. They had their masters, *sheikhs*, professionals and slaves. And no one would
18 intervene in the function and specificities of others.

19 Q. [16:19:45] And is that still true of the Tuareg today or not?

20 A. [16:19:54] Yes, until this very -- this very second.

21 Q. [16:20:01] Now, I want you to help us understand what you mean by the label
22 "slave". Was this a situation whereby people were owned or some other situation?

23 A. [16:20:22] We have the --the "slave" term is different from the term that is
24 internationally known. The slave that you know is people that they are being slaved
25 by force. They were bought and sold. However, our slaves, these are types of

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1 people living in this community. They have their own function. For example, if we
2 say those *sheikhs* are holding the reins and they are the masters of -- or they own the
3 property. The knowledgeable -- there are knowledgeable people. They judge on
4 religious issues. There are also the professionals. They would also perform or meet
5 at the needs of the communities with regard to drinking, eating, weaponry, anything
6 that would be needed by the society. There is also another society called the slave
7 society. These are the farmers and the herders. And so on. There are other
8 communities that are neither slaves nor masters. They would also be under the
9 umbrella -- under the same umbrella. But slave does not have one colour. All
10 the -- all those categories do not have a specific colours.

11 Q. [16:21:58] Now it is a class that you described as being a class "by the dint of
12 their own will". Can you explain what you meant "by the dint of their own will" in
13 the class structure amongst the Tuareg.

14 A. [16:22:28] These are -- these are the people who are cultivating, building,
15 destructing, also the professionals would do that. This class would benefit from the
16 community. People who have money, they can buy wheat, they can buy petrol,
17 et cetera, but this would be given to the slaves and they would cultivate and they
18 would have their own portion. They have their own rights, everybody has their own
19 rights. And this would be called -- would be called with the same name. So this
20 category would include masters, professionals and slaves.

21 Q. [16:23:15] Is there a word in your own language that you can help us
22 understand by the meaning of this type of class of person that we have been labelling
23 "slave", is there a word in your language that would help us to understand?

24 A. [16:23:36] Yes.

25 THE INTERPRETER: [16:23:39] Sorry, the interpreter did not catch the word.

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1 MR DUTERTRE: [16:23:44](Overlapping speakers)

2 MS GERRY: [16:23:54]

3 Q. [16:23:54] Can you spell -- can we spell that -- we can at least record you saying
4 it in Tamasheq.

5 A. [16:23:57] I said -- I said -- okay. I spoke -- I spoke Tamasheq. My own
6 language is Tamasheq, and I said the name in Tamasheq, not in Arabic.

7 Q. [16:24:09] I wonder -- we can sometimes hear you. If we keep quiet and you
8 say the word again, it will at least be caught on the recording. Can you just say the
9 word again, please.

10 A. [16:24:19] Yes. The word is *iklan*. *Iklan*. It's a Tuareg term. *Iklan*.

11 Q. [16:24:33] Thank you. You were asked questions about the slave that
12 Mr Al Hassan -- the slave case that Mr Al Hassan was involved in. In your evidence,
13 you referred to that person as a hereditary slave. Does that help us to understand?

14 A. [16:25:02] Yes, this is it.

15 Q. [16:25:05] Is that that same word?

16 A. [16:25:12] Yes. The slavery -- slaves and professionals have the same
17 appellation. I was born -- also, I was born and I have this title. Also my children
18 would grow up with this title. There is no problem with that. It's in the benefit of
19 all.

20 Q. [16:25:34] Just in relation to that slave case that you've given evidence about,
21 when you were asked questions by the Prosecution about that case, can you help us to
22 understand whether that person was working as a slave at the time that the case was
23 going on?

24 A. [16:26:02] He was not working. He was just living in Timbuktu. He was not
25 working.

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1 Q. [16:26:11] And again, just so that we understand the -- sorry. Go on.

2 I think it's probably my last question. Just so long -- just so that we can
3 understand -- sorry.

4 A. [16:26:26] He was not working. He was just living his life in Timbuktu.

5 However, the community has branded him as a slave. That's all. What I would like
6 to say, that I could not find it in this language. However, the distributions or the
7 repartitions in the Tuareg community, that was branded him as a slave. He is not a
8 slave like he was bought by someone. He was just someone living in Timbuktu.

9 Probably he never saw the tribe he belongs to. However, as branded by the
10 community, he is under the umbrella of slavery.

11 Q. [16:27:15] So we should understand, should we not, that he is from that class of
12 the word that you gave us; is that correct or not correct?

13 A. [16:27:39] Oh, what is correct?

14 Q. [16:27:42] Is it correct to say that we should understand that he was from that
15 class of people, or is it not correct to say that he was from that class of people?

16 A. [16:27:57] Yes. He used to belong to this class called slavery, but this does not
17 mean that he was a slave that was being bought and sold in the Tuareg community.

18 Q. [16:28:10] Thank you very much, Mr Witness. That completes my questions as
19 well. So I will stop now and hand back to Mr President. Thank you.

20 PRESIDING JUDGE MINDUA: [16:28:23](Interpretation) Thank you very much,
21 Maître Gerry. And thank you for having been punctual with regard to the time.

22 Witness, with the questions, the additional questions of Maître Gerry, we are coming
23 to the end of your testimony. On behalf of the Chamber, I would like to thank you
24 for having aided us by answering clearly and patiently the questions that were put to
25 you. Your testimony has now finished, and I would like to wish you all the best for

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1 the followup.

2 Now I turn now towards the parties and participants and our public. We are going

3 to continue tomorrow with our work but it won't be at 9.30 because tomorrow we

4 have to start with the Defence Witness D-0544, and the VWU has some work to do

5 with the witness. We will, therefore, start tomorrow at 10.45. Tomorrow at 10.45 in

6 the morning.

7 Maître Gerry, I can see you're concerned. What's the matter?

8 MS GERRY: [16:30:10] Yes. In order to keep to the 24-hour disclosure rule, we are

9 not in a position to call Witness 544 until Wednesday. The Tamasheq interpretation

10 is occurring today. We then have to provide the summary to the Prosecution, and,

11 therefore, they have 24 hours after we complete the Tamasheq interpretation today,

12 which would mean that this witness cannot give evidence until Wednesday. So in

13 order to observe the courtesy to the Prosecution, they are entitled to a day post our

14 disclosure.

15 PRESIDING JUDGE MINDUA: [16:30:56](Interpretation) I'm going to consult my

16 colleagues.

17 Prosecutor.

18 MR DUTERTRE: [16:31:03](Interpretation) Obviously, we haven't had the log, but

19 also it depends on the length of the log, when we are going to receive the log. If

20 Maître Gerry could give us some indications about it, would it be today? That will

21 help the Chamber decide usefully on the matter.

22 PRESIDING JUDGE MINDUA: [16:31:24](Interpretation) Maître Gerry, did you

23 follow the Prosecutor?

24 MS GERRY: [16:31:27] I did. And, Mr President, you very kindly allowed

25 Ms Taylor not to be here today so that she could conduct the relevant witness

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1 preparation. I don't have a message at the moment whether or not she is finished,
2 but I'm relatively confident we will be producing some documents this evening.
3 However, there is also another witness waiting for preparation. So I can't a hundred
4 per cent say it will be tonight. It might be first thing in the morning. I'm hoping it
5 will be tonight. I simply don't know the answer to the question. But it -- either
6 sometime this evening or first thing in the morning. Either way, I accept that the
7 Prosecution would usually have 24 hours, so it's either from tonight or first thing in
8 the morning, before that witness is called. So we are working as hard as we can to
9 deal with witnesses when they are available. There are literally three witnesses all
10 going on at once at the moment.

11 PRESIDING JUDGE MINDUA: [16:32:36](Interpretation) I thought I understood
12 that the Prosecutor was prepared to renounce the 24 hours if he had certain
13 documentation. Is that correct?

14 MS GERRY: [16:32:45] Ah. Well, maybe I didn't understand that --

15 MR DUTERTRE: [16:32:48](Interpretation) Well, your Honour, there is the idea that
16 if it's a log of one page, it's not the same as if you've got ten pages. And we can be
17 flexible.

18 MS GERRY: [16:33:01] It isn't long.

19 PRESIDING JUDGE MINDUA: [16:33:03](Interpretation) The Chamber's going to
20 briefly consult.

21 (Trial Chamber confers)

22 MS GERRY: [16:33:52] Mr President, I may have misled you slightly. So before you
23 make a decision, I need to make what I said clearer. I apologise if I've misled the
24 Court. I now have a message.

25 As soon as I am out of here, I need to deal with Witness 544 to deal with the

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1 translation into Tamasheq and then to produce the documents. My estimate is that I
2 wouldn't be able to do that before 8 o'clock this evening, but we will do our best to do
3 it by that time. I'm sorry if that wasn't clear.

4 PRESIDING JUDGE MINDUA: [16:34:31](Interpretation) Well, I think time is
5 running. We're not going to abuse the goodwill of the Registry.

6 Prosecutor, normally the Witness 0544 is a paragraph 74(3) witness.

7 MR DUTERTRE: [16:34:50](Interpretation) Yes.

8 PRESIDING JUDGE: [16:34:51] So the preparation should be very short. Let's say
9 this: Normally, we should start tomorrow at 10.45, unless anything happens, like the
10 Defence, which might cause a problem, then the parties and the participants will be
11 informed by email. Can we make this arrangement?

12 Normally, tomorrow 10.45, unless there is something. And at that time, the parties
13 will be informed by email, for example, by 9.30.

14 MR DUTERTRE: [16:35:28](Interpretation) Thank you, your Honour. We are
15 flexible. We'll try and make sure it works like that. If the log's very long and it
16 contains a lot that we have to react to, then we would recontact the Chamber and the
17 parties to say that we need a bit of time, perhaps just to the afternoon. But we'll do
18 whatever we can.

19 PRESIDING JUDGE MINDUA: [16:35:48](Interpretation) I think that's a good
20 arrangement.

21 So before ending the session, I would like to thank the parties and the participants,
22 the court reporters and the interpreters, the security guards, as well as our public.

23 So I would say to all of you, have a good evening, and we shall be attentive to our
24 emails to see if there is anything new.

25 We shall, therefore, end the session.

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- 1 Court is adjourned.
- 2 THE COURT USHER: [16:36:22] All rise.
- 3 (The hearing ends in open session at 4.36 p.m.)