

Trial Hearing
WITNESS: MLI-D28-P-0202

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed
5 Ag Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 21 September 2022
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:59] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:45](Interpretation) The Court is in session.
15 Good morning, everyone.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:32:56] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
19 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
20 ICC-01/12-01/18.
21 And for the record, we're in open session.
22 PRESIDING JUDGE MINDUA: [9:33:25](Interpretation) Thank you very much,
23 court officer.
24 So, as we do every morning, we will start with the presentation of the various teams,
25 starting with the Prosecution. Mr Prosecutor.

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1 MR GARCIA: [9:33:38](Interpretation) Good morning, Mr President, your Honours.

2 Lucio Garcia for Prosecution here with Mr Duterte and my colleague who is just

3 behind me.

4 PRESIDING JUDGE MINDUA: [9:33:57](Interpretation) Thank you very much.

5 And I would like to welcome your new colleague here today.

6 It's now Defence.

7 MS TAYLOR: [9:34:10] Good morning, Mr President. Good morning,

8 your Honours. Good morning to everyone in the courtroom and around

9 the courtroom. And welcome to Maître Maktouf. My name is Melinda Taylor, and

10 I will be representing Mr Al Hassan today, together with Maître Mohamed Youssef,

11 Dr Felicity Gerry KC and Maître Leila Abid. Thank you very much.

12 PRESIDING JUDGE MINDUA: [9:34:40](Interpretation) Thank you very much,

13 Ms Taylor.

14 Legal Representative of Victims.

15 MR KASSONGO: [9:34:47](Interpretation) Good morning. Thank you very much,

16 Mr President, your Honours.

17 The -- I am the sole legal representative of the victims today, Maître Kassongo. I am

18 sorry that our team is in reduced state. And I would like to thank everybody in

19 the room and wish everybody a good sitting, good hearing.

20 PRESIDING JUDGE MINDUA: [9:35:18](Interpretation) Indeed, your team is as

21 reduced as it could possibly be.

22 So now I turn to the counsel for Rule 74.

23 MS MAKTOUF: [9:35:34](Interpretation) Good morning, Mr President. Good

24 morning, your Honours. I am Samia Maktouf and I represent the interest of

25 the witness here present.

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1 PRESIDING JUDGE MINDUA: [9:36:01](Interpretation) Thank you, Ms Maktouf.

2 So today we are going to commence hearing Witness D-0202, a Defence witness. So I

3 turn now to the witness.

4 Good morning, Mr Witness. Can you hear me?

5 WITNESS: MLI-D28-P-0202

6 (The witness speaks Arabic)

7 THE WITNESS: [9:36:21](Interpretation) Yes, I can hear you.

8 PRESIDING JUDGE MINDUA: [9:36:37](Interpretation) Thank you, Mr Witness.

9 I was just waiting for the interpreting to be completed.

10 Mr Witness, on behalf of the Chamber I would like to welcome you here today.

11 You are going to testify in order to help the Chamber establish the truth in the case

12 against Mr Al Hassan.

13 (No interpretation)

14 THE INTERPRETER: Yes, your Honour, the witness has heard the interpretation,

15 but he hasn't spoken yet.

16 PRESIDING JUDGE MINDUA: [9:37:31](Interpretation) When you speak,

17 Mr Witness, you put on your microphone. When you finish speaking, you turn off

18 your microphone, and that way we are able to follow what is happening by watching

19 the red lights on the microphone.

20 Court officer ...

21 We had a few technical issues which now seem to have been resolved.

22 Mr Witness, protective measures have been put in place so that your identity will not

23 be revealed to the public.

24 THE WITNESS: [9:39:06](Interpretation) Yes, thank you.

25 PRESIDING JUDGE MINDUA: [9:39:11](Interpretation) Whenever you are going to

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1 give details which risk revealing your identity, we will discuss these matters in
2 private session.

3 THE WITNESS: [9:39:27](Interpretation) Yes, thank you.

4 PRESIDING JUDGE MINDUA: [9:39:33](Interpretation) In that way, nobody
5 outside the courtroom will be able to hear what you say. Have you understood this?

6 THE WITNESS: [9:39:44](Interpretation) Yes, I understand that very well.

7 PRESIDING JUDGE MINDUA: [9:39:51](Interpretation) Mr Witness, I would now
8 like to proceed to your solemn declaration. As paragraph 66(1) of the Rules of
9 Procedure and Evidence, this solemn declaration will oblige you to speak the truth,
10 the whole truth.

11 THE WITNESS: [9:40:20](Interpretation) Yes. God willing.

12 PRESIDING JUDGE MINDUA: [9:40:25](Interpretation) So I would like you to
13 repeat aloud the words that I will speak in a moment, to repeat them after me.

14 THE WITNESS: [9:40:41](Interpretation) I solemnly declare that I will tell the truth,
15 the whole truth and nothing but the truth. God willing.

16 PRESIDING JUDGE MINDUA: [9:40:51](Interpretation) Thank you. I see that you
17 have found the wording and that has now been read.

18 Mr Witness, you are now under oath. The representative of the Victim and Witness
19 Section and the representatives of Defence will have already explained to you what
20 that means, so I will not go over that again.

21 THE WITNESS: [9:41:27](Interpretation) Yes. God willing. Thank you.

22 PRESIDING JUDGE MINDUA: [9:41:33](Interpretation) I now have some advice of
23 a practical nature for you.

24 You should bear in mind throughout your testimony that everything said in this
25 courtroom is transcribed by court reporters and translated simultaneously into

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1 a number of languages by our interpreters.

2 THE WITNESS: [9:42:02](Interpretation) Thank you.

3 PRESIDING JUDGE MINDUA: [9:42:06](Interpretation) It is therefore important to
4 speak clearly and slowly.

5 THE WITNESS: [9:42:14](Interpretation) God willing.

6 PRESIDING JUDGE MINDUA: [9:42:22](Interpretation) Please do not start speaking
7 until the person putting the question to you has completed their question.

8 THE WITNESS: [9:42:31](Interpretation) I will try to do that.

9 PRESIDING JUDGE MINDUA: [9:42:38](Interpretation) Thank you very much.

10 And you must leave a pause between the question and the answer.

11 THE WITNESS: [9:42:49](Interpretation) God willing.

12 PRESIDING JUDGE MINDUA: [9:42:54](Interpretation) This pause is essential so
13 that your words can be duly recorded.

14 THE WITNESS: [9:43:05](Interpretation) Thank you.

15 PRESIDING JUDGE MINDUA: [9:43:07](Interpretation) And, of course, if you have
16 a question, just raise your hand to indicate that you wish to speak.

17 THE WITNESS: [9:43:19](Interpretation) Yes.

18 PRESIDING JUDGE MINDUA: [9:43:25](Interpretation) We are now going to hear
19 your testimony. We are going to start with the examination-in-chief which will be
20 led by the Defence. Then the Office of the Prosecutor will undertake
21 the cross-examination, and the Legal Representative of Victims are likely to wish to
22 question you, and possibly also the Chamber as the last people.

23 So without further ado, I hand over to the Defence, which I believe will be Ms Taylor,
24 for the examination-in-chief.

25 Ms Taylor.

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1 MS TAYLOR: [9:44:13] Thank you very much, Mr President.

2 QUESTIONED BY MS TAYLOR:

3 Q. [9:44:18] Good morning, Mr Witness. How are you today?

4 A. [9:44:22] Good morning. I am -- I am fine.

5 Q. [9:44:25] My name is Melinda Taylor and I will be putting questions to you
6 today on behalf of the Defence.

7 A. [9:44:35] Thank you.

8 Q. [9:44:38] Mr Witness, as mentioned by the Presiding Judge, it's important to
9 have breaks between questions and answers.

10 A. [9:44:52] God willing.

11 Q. [9:44:54] It's possible during your testimony I might put up my hand. That's
12 not a sign of disrespect. That's just to let you know to have a break for
13 the interpreters.

14 A. [9:45:14] Yes, God willing.

15 Q. [9:45:15] And if you think you need to give a long response, it might be helpful
16 if you announce it at the beginning and take a pause in the middle of your response.

17 A. [9:45:31] God willing.

18 Q. [9:45:33] Mr Witness, I'm not going to refer to your name in public session. I
19 will be referring to you, if necessary, in public session as D-202.

20 A. [9:45:52] Thank you.

21 Q. [9:45:53] And before putting questions to you, Mr Witness, I have two
22 terminological questions about certain Arabic words. I would like to know from you
23 what you believe the word *ashuk* means?

24 A. [9:46:20] *Ashuk* for me is something that is difficult, arduous.

25 Q. [9:46:34] It seems I mispronounced the word and it should be *ashuk*. But

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1 perhaps my colleague, with your permission, Mr President, could say the word for
2 me, because there's two words that were discovered can create a bit of confusion, so
3 we would like to clarify that before we put questions to avoid confusion. The two
4 words are *ashuk* and (Overlapping speakers), but my colleague with pronounce them
5 better than I can.

6 PRESIDING JUDGE MINDUA: [9:47:03](Interpretation) Please, Mr Youssef.

7 MR YOUSSEF: [9:47:07](Interpretation) The two words are in Arabic *ashuk* and *azon*.

8 THE WITNESS: [9:47:24](Interpretation) Yes, I understand.

9 MS TAYLOR: [9:47:26]

10 Q. [9:47:26] And, Mr Witness, what do these words mean to you?

11 A. [9:47:36] They are synonymous, they have the same meaning for me.

12 Q. [9:47:44] Thank you very much, Mr Witness.

13 Mr President, it's my understanding that *ashuk* means "I doubt" and *azon* means "I
14 think", but the witness has indicated that for him they're interchangeable. So we
15 believed it was important to clarify that at the beginning in case he uses any of those
16 words in his answers.

17 PRESIDING JUDGE MINDUA: [9:48:12](Interpretation) Thank you very much,

18 Ms Taylor. We have taken note.

19 MS TAYLOR: [9:48:18]

20 Q. [09:48:18] Thank you, Mr Witness.

21 MR GARCIA: [9:48:20](No interpretation)

22 PRESIDING JUDGE MINDUA: [9:48:21](Interpretation) Mr Prosecutor.

23 MR GARCIA: [9:48:23](Interpretation) I don't want to interrupt too -- so early, but I
24 think it's important for the witness to explain what he means by these words, not for
25 Ms Taylor to interpret the words. I'm not saying that's the case, but if these words

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1 are going to play in -- an important role in what's happening, it's important for
2 the witness himself to explain what he means by these words if they've been used in
3 transcripts and so on.

4 PRESIDING JUDGE MINDUA: [9:49:08](Interpretation) Well, Mr Prosecutor, I
5 understood that when Mr Youssef said the two words, the witness confirmed. But
6 Ms Taylor can of course again ask Mr Youssef to speak each of these words and
7 the witness will then explain.

8 MS TAYLOR: [9:49:28] Mr President, I'm happy to do that. But the point of
9 the exercise was simply to establish that for this witness, these two words mean
10 the same to him. So even if they're translated in English in a slightly different
11 manner, it's the witness's intention that they are synonymous, because the witness
12 cannot control how the word is translated.

13 PRESIDING JUDGE MINDUA: [9:50:02](Interpretation) Exactly. And I said to
14 the Prosecutor, if you were following, that I had understood. But because there was
15 an objection, I wanted to avoid any problems in the future. So I wanted to carry out
16 this exercise.

17 So, Mr Youssef, please give us the words and the witness will speak and we will hear
18 what he says in French and in English.

19 MR YOUSSEF: [9:50:29](Interpretation) The first word is *ashuk* and
20 the first -- the second word is *azon*. Both are in Arabic.

21 PRESIDING JUDGE MINDUA: [9:50:48](Interpretation) Mr Witness, you heard
22 these two words. What -- how would you explain these two words?

23 THE WITNESS: [9:51:01](Interpretation) Thank you. There is no difference
24 between those two words, between what I think and what I see. So the two words
25 are similar for me. They have the same meaning for me. *Ashuk* and *azon* have

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1 the same meaning.

2 PRESIDING JUDGE MINDUA: [9:51:29](Interpretation) So I would now ask
3 the interpreters to take note of this, to be cautious, and to interpret the witness
4 according to this.

5 Mr Prosecutor, are we happy now?

6 MR GARCIA: [9:51:43](Interpretation) Thank you, Mr President.

7 PRESIDING JUDGE MINDUA: [9:51:47](Interpretation) Ms Taylor, you have
8 the floor.

9 MS TAYLOR: [9:51:48] Thank you very much, Mr President.

10 Q. [9:51:49] Now, Mr Witness, you have a bundle of documents next to you. Do
11 you see that? It's in a folder, a black folder. It's to your left.

12 A. [9:52:06] Yes. Yes, I see it.

13 Q. [9:52:07] I'm going to ask the Registrar to show tab 34, that's MLI-OTP-0078-5881.
14 It should not be shown to the public.

15 And, Mr Witness, it's tab 34 in your bundle. There should be little kind of Post-it
16 notes with numbers. I don't know if you need assistance with that. Otherwise it
17 will come up on your screen in front of you.

18 A. [9:53:05] For me, seeing that on the screen is enough for me. Thank you.

19 Q. [9:53:10] Now, Mr Witness, without referring to the contents, do you recognise
20 this document?

21 A. [9:53:20] Yes, I do.

22 Q. [9:53:24] Who created the document?

23 A. [9:53:33] I did.

24 Q. [9:53:36] Did you have a chance to review it during the preparation session?

25 A. [9:53:45] Yes.

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1 Q. [9:53:48] And is it an accurate description of your education and professional
2 qualifications?

3 A. [9:54:02] No.

4 MS TAYLOR: [9:54:06] Okay. I think we'll have to go into private session,
5 Mr President.

6 PRESIDING JUDGE MINDUA: [9:54:14](Interpretation) Yes, indeed.

7 Court officer, private session, please.

8 (Private session at 9.54 a.m.)

9 THE COURT OFFICER: [9:54:26] We're in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [9:54:33](Interpretation) Thank you, court officer.

11 Ms Taylor.

12 MS TAYLOR: [9:54:37] Thank you very much, Mr President.

13 Q. [9:54:38] Mr Witness, we're now in private session, which means that the public
14 cannot hear you or see you.

15 Now, you've indicated this is not accurate. Could you please explain what you
16 consider not to be accurate in this curriculum vitae.

17 A. [9:55:01] I said yes, this is precise. I said that it was precise. I didn't say that
18 there was anything not precise in it.

19 Q. [9:55:16] I apologise, Mr Witness. That was a misunderstanding there.

20 So, Mr Witness, I just have some follow-up questions which are of an identifying
21 nature.

22 Mr Witness, could you please tell us what your tribe is?

23 A. [9:55:40] Yes. [REDACTED]

24 Q. [9:56:03] Mr Witness, you've said [REDACTED]. [REDACTED]

[REDACTED] [REDACTED]? Can you help me to understand

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1 [REDACTED]?

2 A. [9:56:24] Yes. [REDACTED]

3 [REDACTED]

4 [REDACTED].

5 Q. [9:56:48] And, Mr Witness, [REDACTED],

6 [REDACTED]?

7 A. [9:57:06] In [REDACTED].

8 THE INTERPRETER: [9:57:09] Note from the interpreter: We missed the last part
9 of the witness's statement.

10 MS TAYLOR: [9:57:16]

11 Q. [9:57:16] Mr Witness, I've been informed by the interpreters they didn't catch
12 the last part of your answer. [REDACTED]?

13 A. [9:57:30] No, I said [REDACTED].

14 [REDACTED].

15 Q. [9:57:43] Thank you for that clarification.

16 Now, is the [REDACTED] tribe a big tribe or a small tribe? How would you describe it
17 in terms of size?

18 A. [9:57:58] The [REDACTED] tribe is a very big tribe. [REDACTED]

19 It is well known there.

20 Q. [9:58:12] Mr Witness, do you know the defendant Mr Al Hassan Ag Abdoul
21 Aziz?

22 A. [9:58:26] Yes, I know him. He is from the Kel Ansar tribe, yes.

23 Q. [9:58:31] Do you have any direct family relationship to him?

24 A. [9:58:42] No, no, no.

25 Q. [9:58:46] Do you know where Mr Al Hassan's tribe is based, his specific tribe?

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1 A. [9:59:00] Yes, he is from Kel Ansar. However, there are people from Kel Ansar
2 in the western part of Timbuktu and there are people from the eastern part of
3 Timbuktu. And he is from the eastern part.

4 Q. [9:59:18] [REDACTED]
5 [REDACTED]?

6 A. [9:59:38] [REDACTED]
7 [REDACTED]

8 MS TAYLOR: [9:59:59] Mr President, I have some further questions about his
9 curriculum vitae but before doing so, I have a general question which could be asked
10 in open session, since it falls within this topic and isn't identifying.

11 PRESIDING JUDGE MINDUA: [10:00:21](Interpretation) Indeed.

12 Court officer, open session, please.

13 (Open session at 10.00 a.m.)

14 THE COURT OFFICER: [10:00:35] We're back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [10:00:42](Interpretation) Thank you very much,
16 court officer.

17 Ms Taylor.

18 MS TAYLOR:

19 Q. [10:00:46] Mr Witness, since we're discussing tribes, I'd like to know if you know
20 the Kel Essouk tribe.

21 A. [10:00:59] Yes, I am familiar with the Kel Essouk tribe.

22 Q. [10:01:05] What is this tribe known for?

23 A. [10:01:12] This tribe is known for its honour, scholarly accomplishment, and
24 they live east of Gao and Kidal. And most of its members -- or many of its members
25 also reside in Timbuktu.

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1 Q. [10:01:30] And do members of this tribe have a particular status in Tuareg
2 communities?

3 A. [10:01:43] All of these tribes are Tuareg tribes. Ansar, Kel Essouk, Idnan,
4 Imoshek (phon), these are all Tuareg tribes.

5 Q. [10:01:58] I have some further questions on the document, if we can go back into
6 private session.

7 PRESIDING JUDGE MINDUA: [10:02:09](Interpretation) Private session, please,
8 court officer.

9 (Private session at 10.02 a.m.)

10 THE COURT OFFICER: [10:02:20] We're in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [10:02:26](Interpretation) Thank you very much.
12 Ms Taylor.

13 MS TAYLOR: [10:02:29]

14 Q. [10:02:29] Now, Mr Witness, according to your curriculum vitae you went to
15 school at t [REDACTED] that's correct?

16 A. [10:02:43] Yes.

17 Q. [10:02:44] Do you recall who the director of the school was?

18 A. [10:02:53] Yes.

19 Q. [10:02:54] What was his name?

20 A. [10:02:57] [REDACTED].

21 Q. [10:03:08] Do you remember any other teachers who were there when you were
22 a student.

23 A. [10:03:18] [REDACTED],

24 [REDACTED]

25 [REDACTED].

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1 Q. [10:03:37] Now, Mr Witness, according to your curriculum vitae [REDACTED]

2 [REDACTED]; is that correct?

3 A. [10:03:54] Yes, correct.

4 Q. [10:03:56] [REDACTED]

5 A. [10:04:05] [REDACTED] [REDACTED]

6 [REDACTED]

7 Q. [10:04:17] [REDACTED]

8 A. [10:04:30] [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. [10:04:51] [REDACTED]

12 A. [10:05:04] [REDACTED] [REDACTED]

13 [REDACTED]

14 Q. [10:05:16] [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 A. [10:05:43] This was before 2012.

19 Q. [10:05:46] [REDACTED]

20 A. [10:05:55] This was in 2012.

21 Q. [10:06:00] [REDACTED]

22 [REDACTED]

23 A. [10:06:12] [REDACTED].

24 Q. [10:06:16] [REDACTED]

25 [REDACTED]

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1 A. [10:06:37] Yes.

2 Q. [10:06:42] And what about in 2012, did [REDACTED]

3 in 2012?

4 A. [10:06:52] No. The groups paid on their behalf. However, should someone
5 wish to donate money, that would be welcome.

6 Q. [10:07:03] And speaking of the period before 2012, [REDACTED]

7 [REDACTED], were you paid?

8 A. [10:07:19] Yes, I receive [REDACTED] CFA. Correction: I received [REDACTED] French francs.

9 Q. [10:07:39] Mr Witness, I understand that there's a difference in numbers between

10 Arabic and French. Would you be able to give your salary in French, the number in

11 French.

12 A. [10:07:59] [REDACTED] C francs.

13 Q. [10:08:07] Thank you, Mr Witness. Now the salary of [REDACTED] CFR, is that per

14 month?

15 A. [10:08:22] Per month, yes.

16 Q. [10:08:24] Was that a lot of money or not?

17 A. [10:08:31] It was little money.

18 Q. [10:08:36] And, Mr Witness, according to your CV you left this position. Why
19 did you leave this position?

20 A. [10:08:53] Because it gave me very little money, a very small wage. I wanted to
21 get more money.

22 Q. [10:09:05] [REDACTED]

23 [REDACTED]

24 [REDACTED]

[REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 PRESIDING JUDGE MINDUA: [10:09:44](Interpretation) Court officer, open session,
6 please.

7 (Open session at 10.09 a.m.)

8 THE COURT OFFICER: [10:09:54] We're back in open session, Mr President.

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

11 Ms Taylor.

12 MS TAYLOR: [10:10:05] Thank you very much, Mr President.

13 Q. [10:10:07] Now, Mr Witness, you've referred to an individual called Mohamed
14 Lamine. Is this individual alive today?

15 A. [10:10:19] He is not.

16 Q. [10:10:24] Mr Witness, what happened to him?

17 A. [10:10:30] He was killed by the Malian government during the Barkhane
18 operations in the military intervention in 2013 in Timbuktu, along with 19 other
19 individuals. They were in total 20 of fair-skinned Arabs.

20 Q. [10:10:50] Mr Witness, did you hear or learn why he had been killed?

21 A. [10:11:03] Because of his race. They were perceived as red skinned. That is
22 why they were killed. And -- and they were concerned to be jihadists. Every
23 person red skinned, in their view, was considered a jihadist.

24 Q. [10:11:24] And, Mr Witness, to your knowledge, was he a jihadist?

25 A. [10:11:36] Absolutely not. He was never involved in such things. He is

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1 completely innocent of such things.

2 Q. [10:11:46] Now, Mr Witness, you've mentioned another individual, Alphadi
3 Wangara, and you've mentioned that he taught at a school. Did he have any other
4 functions?

5 A. [10:12:03] Yes, he was the imam of the Sidi Yahya mosque in Timbuktu and he is
6 in Timbuktu now.

7 Q. [10:12:14] You've mentioned he was a teacher. Do you know what he taught at
8 the school?

9 A. [10:12:27] He was teaching Islamic education in school.

10 MS TAYLOR: [10:12:33] Mr President, I have some more follow-up questions
11 regarding the information in that document. If we can go into private session to
12 continue.

13 PRESIDING JUDGE MINDUA: [10:12:46](Interpretation) Yes, of course.

14 Madam Court Officer, private session, please.

15 (Private session at 10.13 a.m.)

16 THE COURT OFFICER: [10:13:00] We're in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [10:13:06](Interpretation) Thank you very much.

18 Ms Taylor.

19 MS TAYLOR: [10:13:09]

20 Q. [10:13:09] Now, Mr Witness, you've stated that Alphadi Wangara taught Islamic
21 education [REDACTED]. [REDACTED]

22 [REDACTED]?

23 A. [10:13:38] [REDACTED].

24 Q. [10:13:40] [REDACTED]

25 A. [10:13:48] [REDACTED]

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1 A. [10:17:06] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

25 MR GARCIA: [10:20:03](Interpretation) Your Honour.

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1 PRESIDING JUDGE MINDUA: [10:20:08](Interpretation) Prosecutor.

2 MR GARCIA: [10:20:08](Interpretation) That's the second question of this type.

3 And I would ask what the relevance is to see if that person has a -- on the CV is in
4 agreement to act by way of a reference or not.

5 PRESIDING JUDGE MINDUA: [10:20:24](Interpretation) Yes, Ms Taylor. I don't
6 really see the relevance. Perhaps you could miss it. They're on the CV, so it's good.

7 MS TAYLOR: [10:20:36] Mr President, someone could obviously be put on a CV
8 without agreeing to be on a CV. And I do believe it is relevant to some future lines
9 of questioning. If I were to explain them, I would have to ask for the witness to
10 leave. It's a very discreet question. We won't lose any time. I believe it's quicker
11 if we just ask the question and then move on. I do believe we lose more time
12 discussing it than allowing me to ask a brief question.

13 PRESIDING JUDGE MINDUA: [10:21:06](Interpretation) I don't think it's useful to
14 put the question. Because the OTP is not against the -- we're not against and we
15 suppose that it's good. Please go ahead. So let's consider that these people did give
16 their agreement.

17 MS TAYLOR: [10:21:20] Certainly, Mr President. If that's accepted, then I'll move
18 on.

19 Q. [10:21:26] Now, Mr Witness, until what point in time did you work [REDACTED]

20 [REDACTED]
21 A. [10:21:38] Until 2012.

22 Q. [10:21:45] And why did you stop working [REDACTED]?

23 A. [10:21:53] Because everything ended, then people left. MNLA and
24 the Mujahidin entered and everyone went to Bamako. So I remained there jobless.

25 Q. [10:22:09] So, Mr Witness, if I could have a bit of clarity. You said everything

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1 ended and people left. At what point did people start to leave [REDACTED]?

2 A. [10:22:28] Once they heard that there were conquests. When they heard that
3 Kidal and Gao were conquered by MNLA, at that point everything stopped.

4 Q. [10:22:41] And when everything stopped, what happened [REDACTED]?

5 A. [10:22:55] [REDACTED]

8 MS TAYLOR: [10:23:14] Mr President, we can go into open session.

9 PRESIDING JUDGE MINDUA: [10:23:15](No interpretation)

10 MS TAYLOR: [10:23:21] I've just gotten Arabic. Mr President, if you were asking if
11 we can go into open session, then I was about to go into open session. But
12 unfortunately I didn't get your intervention.

13 PRESIDING JUDGE MINDUA: [10:23:39](Interpretation) That's exactly what I said.
14 I wanted to go into open session.

15 MS TAYLOR: [10:23:44] Perfect. Then if we could go into open session.

16 PRESIDING JUDGE MINDUA: [10:23:51](Interpretation) Very well.

17 Madam Court Officer, your office, please.

18 (Open session at 10.24 a.m.)

19 THE COURT OFFICER: [10:24:04] We're back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [10:24:11](Interpretation) Thank you very much.

21 Ms Taylor.

22 MS TAYLOR: [10:24:15] Thank you, Mr President.

23 Q. [10:24:16] Now, Mr Witness, I have some questions about the situation in your
24 community before 2012. I'm not going to name your tribe. And just to be clear, my
25 questions are all based on the situation before 2012.

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1 Now, Mr Witness, before 2012, did you yourself ever appear before a Malian judge,
2 *un juge malien*.

3 A. [10:24:59] Could you please clarify the question. I didn't quite understand it.

4 Q. [10:25:05] Of course, Mr Witness. And before doing so, I might make
5 a clarification. I'm going to be using two terms. One term is *le juge malien* and that
6 refers to judges that are appointed by the Malian state. The other term I might use is
7 the *qadi* and that does not refer to a judge that's been appointed by the Malian state.
8 That refers to the Islamic judge. Is that clear?

9 A. [10:25:43] It is still not clear for me.

10 Q. [10:25:49] Mr Witness, when I refer to a *juge malien*, a judge paid for by
11 the Malian state, do you know what I'm referring to?

12 A. [10:26:07] Yes, I fully understand.

13 Q. [10:26:11] Now, speaking of the period before 2012, did you yourself ever have
14 any interactions with a *juge malien*?

15 A. [10:26:29] I absolutely had no interaction of that nature.

16 Q. [10:26:37] Do you know anyone who had any interactions with a *juge malien*
17 before 2012?

18 A. [10:26:52] Speaking of my family, I don't know of any such case.

19 Q. [10:27:01] And how were the *juges maliens* viewed by you or your family?

20 A. [10:27:15] As far as I'm concerned, as far as my family is concerned, a *juge malien*
21 is someone who would accept bribe with total disregard for whether you are rightful
22 or not. If you're able to pay, you'll make it. If you're poor, then you mean nothing
23 to that person.

24 Q. [10:27:39] Now, Mr Witness, if I use the word lawyer or "advocate", do you
25 know what I'm referring to?

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- 1 A. [10:27:50] Yes, I recognise the word lawyer.
- 2 Q. [10:27:54] And did you yourself have any interactions with lawyers before 2012?
- 3 A. [10:28:05] No, absolutely not.
- 4 Q. [10:28:09] Did you know any lawyers in your community?
- 5 A. [10:28:19] Absolutely not.
- 6 Q. [10:28:25] Mr Witness, do you know the word *faqih*?
- 7 I hope I'm pronouncing it right.
- 8 A. [10:28:36] Yes, a *faqih* is someone of a certain scholarly accomplishment.
- 9 Q. [10:28:46] Mr Witness, you've said that a *faqih* is someone of a certain scholarly
- 10 accomplishment. What type of scholarship have they accomplished?
- 11 A. [10:29:02] To have mastery of the Koran, certain things in Islamic jurisprudence,
- 12 to be able to deliver religious opinions on religious questions.
- 13 Q. [10:29:21] And do these individuals have any particular role in your community
- 14 or tribe?
- 15 A. [10:29:33] Certainly they did.
- 16 Q. [10:29:35] Can you describe this role?
- 17 A. [10:29:42] Yes. Regarding the Tuareg tribe in general in northern Mali, there
- 18 are several tribes, numerous, like I have already explained. In every tribe of these,
- 19 there has to be a senior sheikh. Should there be a dispute, it would be put to that
- 20 person.
- 21 Q. [10:30:12] So, Mr Witness, if I could just understand. Is a sheikh also a *faqih*?
- 22 A. [10:30:24] The sheikh and the *faqih* are similar. They are one person.
- 23 Q. [10:30:32] And what type of disputes could a sheikh or a *faqih* deal with?
- 24 A. [10:30:47] All disputes in general can be settled with the sheikh. We are talking
- 25 about the different problems and disputes.

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1 Q. [10:31:05] Now, Mr Witness, I'm going to have some follow-up questions but I'm
2 going to go into some more general questions before I have the follow-up questions.

3 Mr Witness, you've mentioned *faqih*s and sheikhs. Is there any difference between
4 a sheikh and a *qadi*?

5 A. [10:31:26] No, there is no difference between them for me. The sheikh, the *faqih*
6 and the *qadi* are one.

7 Q. [10:31:37] Is it necessary to have certain qualifications to be a *qadi*?

8 A. [10:31:48] Yes. A person has to be knowledgeable about the Koran, about
9 the *fiqh* or jurisprudence. And then he has to be a kind person, he has to be
10 respected among his people and then a person can become a *qadi*. This is one of
11 the qualifications that are required.

12 Q. [10:32:12] And what was the role of the *qadi* in your community?

13 A. [10:32:21] The *qadi*'s role is that, whenever there are problems, people would go
14 to him with them. So he would be the one to settle disputes and find solution for
15 the problems.

16 Q. [10:32:38] And would the people who came to the *qadi* respect his opinion?

17 A. [10:32:50] Yes. Very much. He was very much respected. And whatever
18 the decision was, that decision was to be implemented.

19 MS TAYLOR: [10:33:02] Mr President, may I go into private session to ask some
20 follow-up questions.

21 PRESIDING JUDGE MINDUA: [10:33:12](Interpretation) Very well, Ms Taylor.

22 Court officer, private session, please.

23 (Private session at 10.33 a.m.)

24 THE COURT OFFICER: [10:33:24] We're in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:33:31](Interpretation) Thank you very much.

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1 Ms Taylor.

2 MS TAYLOR: [10:33:34]

3 Q. [10:33:34] Now, Mr Witness, you've mentioned that you -- in your community
4 there was *faqih*s, sheikhs and *qadis*. Could you please give us the names of
5 the people who had this status in your community before 2012?

6 A. [10:34:04] Yes, I am speaking on behalf of my family personally. In our family
7 we have *qadi* [REDACTED]
8 he is a *qadi*.

9 Q. [10:34:31] Mr Witness, you've said that this individual [REDACTED] was a *qadi*
10 after 2012. Was he a *qadi* before 2012?

11 A. [10:34:46] Before 2012, yes, he was a *qadi*. He was a *qadi* for [REDACTED] years before
12 2012. He is still a *qadi* and he will die as one.

13 Q. [10:35:04] Now, apart from [REDACTED], were there any other sheikhs or *faqih*s
14 in your tribe?

15 A. [10:35:16] Yes, there are other *faqih*. [REDACTED]
16 [REDACTED] used to choose the people to become *faqih*.

17 Q. [10:35:44] Mr Witness, [REDACTED]
18 Do you recall their names?

19 A. [10:35:55] [REDACTED] phon).

20 Q. [10:36:06] Now, Mr Witness, [REDACTED] [REDACTED] was a *qadi* for
21 [REDACTED] before 2012. Did he have the qualifications to be a *qadi* or not?

22 A. [10:36:21] Yes. He had qualifications. [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 Q. [10:36:49] Now, which ethnicities would bring disputes to [REDACTED]? And
2 by ethnicities, I mean Songhai, Arab, Tamasheq or Tuareg.

3 A. [10:37:10] All the ethnicities in general in Timbuktu, the Songhai, the Arabs,
4 they would all come to him.

5 PRESIDING JUDGE MINDUA: [10:37:22](Interpretation) Ms Taylor, Ms Taylor,
6 these questions can be done in public session, can they not?

7 MS TAYLOR: [10:37:35] Mr President, I was about to move on to a topic about
8 where the witness was living in Timbuktu. [REDACTED]

9 [REDACTED]. I do believe that would be identifying.

10 PRESIDING JUDGE MINDUA: [10:37:53](Interpretation) Very well, Ms Taylor.
11 Please proceed.

12 MS TAYLOR: [10:37:57]

13 Q. [10:37:57] Mr Witness, where were you living between [REDACTED]?

14 A. [10:38:08] I always lived in Timbuktu, in my house in Timbuktu, [REDACTED]
15 [REDACTED].

16 Q. [10:38:19] Now, Mr Witness, which neighbourhood was this?

17 A. [10:38:28] [REDACTED].

18 Q. [10:38:31] And, Mr Witness, [REDACTED]
19 [REDACTED]

20 [REDACTED]

21 Q. [10:38:43] Now, you've mentioned previously an individual called [REDACTED]
22 Where did he live?

23 A. [10:38:53] [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED]

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1 [REDACTED]

2 [REDACTED]

3 A. [10:39:25] Yes, this is correct.

4 Q. [10:39:29] Now, Mr Witness, I'm going to ask [REDACTED] and I'm
5 going to do so in open session. [REDACTED]

6 [REDACTED]

7 [REDACTED] Is that clear?

8 A. [10:39:54] Yes, thank you. This is clear.

9 MS TAYLOR: [10:39:59] Mr President.

10 PRESIDING JUDGE MINDUA: [10:40:04](Interpretation) Court officer, public
11 session, please.

12 (Open session at 10.40 a.m.)

13 THE COURT OFFICER: [10:40:14] We're back in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [10:40:24](Interpretation) Thank you very much,
15 court officer.

16 Ms Taylor.

17 MS TAYLOR: [10:40:29]

18 Q. [10:40:29] [REDACTED]

19 [REDACTED]. Did the Malian
20 authorities know that he was a *qadi* before 2012?

21 MR GARCIA: [10:40:44](Interpretation) Objection.

22 PRESIDING JUDGE MINDUA: [10:40:49](Interpretation) Mr Prosecutor.

23 MR GARCIA: [10:40:51](Interpretation) I don't see how the witness can answer
24 a question put in this way. We will have to have questions which relate to facts that
25 he is able to attest to himself.

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1 PRESIDING JUDGE MINDUA: [10:41:13](Interpretation) Ms Taylor.

2 MS TAYLOR: [10:41:16] Thank you, Mr President. I'm happy to reformulate.

3 PRESIDING JUDGE MINDUA: [10:41:25](Interpretation) Yes, please. Please do
4 reformulate.

5 MS TAYLOR: [10:41:30]

6 Q. [10:41:30] Mr Witness, to your knowledge, did it appear to you that the Malian
7 authorities were aware that Houka Houka was hearing disputes as a *qadi* before 2012?

8 MR GARCIA: [10:41:43](Interpretation) Objection.

9 PRESIDING JUDGE MINDUA: [10:41:53](Interpretation) Yes, Mr Prosecutor.

10 MR GARCIA: [10:41:55](Interpretation) I think we need to simplify this if we want
11 to have something useful, because he's being asked whether he knew or whether he
12 thought he knew whether the authorities had heard that. That is a very complicated
13 question. I believe they should be questions asked about the facts -- the witness
14 should be asked to talk about facts and not give his opinion on a matter.

15 PRESIDING JUDGE MINDUA: [10:42:33](Interpretation) Yes, this is a somewhat
16 complicated question, Ms Taylor, because you are talking about what the witness
17 might be able to imagine and the appointment process by the authorities. Perhaps
18 you could find some way to simplify the question or perhaps to put it in stages.

19 MS TAYLOR: [10:43:01] Mr President, I had a very simple question originally,
20 which was, "Did the Malian authorities know that Houka Houka was a *qadi*?" and my
21 follow-up question was going to be, "How do you know that?" So I could have
22 addressed it in two stages in a very simple manner.

23 Now, following the objection from the Prosecution, I was forced to make a compound
24 question, a more complicated question, at your direction. Now, I do believe this is
25 not a matter of opinion. It's not a matter of speculation. The witness is before us,

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1 he can tell us what he saw, what he heard and whether what he saw or heard would
2 lead him to understand that the Malian authorities had knowledge, were aware.
3 Now, this is something I do believe that the witness can either say he can't answer or
4 he can answer. But it's not a matter of the speculation. There are specific examples
5 that could be provided, which I can follow up on, but I do need to be able to ask
6 a preliminary question without losing time.

7 PRESIDING JUDGE MINDUA: [10:44:12](Interpretation) Then ask the preliminary
8 question and then you can continue reformulating.

9 MS TAYLOR: [10:44:23]

10 Q. [10:44:25] Well, my preliminary question was: Mr Witness, were the Malian
11 authorities -- did they -- did they see or were they aware that Mr Al Hassan -- sorry,
12 were the Malian authorities aware that Houka Houka was -- was resolving disputes
13 before 2012?

14 A. [10:44:48] Yes.

15 Q. [10:44:51] And, Mr Witness, how do you know that?

16 A. [10:45:02] There was a document, document from the sheikh.

17 Q. [10:45:14] And was this document distributed to the Malian authorities, or not?

18 A. [10:45:25] I don't know. For Timbuktu, the authorities in Timbuktu already
19 know about that. They are aware about that.

20 Q. [10:45:35] I'd like to play a video. It's tab 7, it's MLI-OTP-0072-0022. And
21 we're going to play it without sound.

22 And, Mr Witness, I'm first going to play it without sound for 10 seconds so you can
23 identify whether you recognise anyone. And then if you do recognise someone, I'm
24 going to play it in its entirety without sound and I'm going to ask you to raise your
25 hand when you see someone that you know.

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1 Once again, I'm going to advise you that we're in open session and not to mention any
2 identifying information.

3 We'll be playing this from evidence 2.

4 THE COURT OFFICER: [10:46:19] Could counsel confirm whether the video can be
5 played in -- broadcast to the public or whether it should stay confidential.

6 MS TAYLOR: [10:46:27] I believe it can be broadcast to the public as it's an
7 open-source video.

8 (Viewing of the video excerpt)

9 MS TAYLOR: [10:46:59] So we're going to start playing it. We're at zero time
10 stamp. We're going to play it ten seconds. And, Mr Witness, if you recognise
11 anything or anyone, please raise your hand. Thank you.

12 (Viewing of the video excerpt)

13 MS TAYLOR: [10:47:15] I'm noting that we've stopped at 03:21.

14 Q. [10:47:20] Mr Witness, are you able to describe what you see in open session?

15 A. [10:47:32] I see a person in front of me who is wearing green with a black turban.
16 He is the *qadi* Houka Houka.

17 Q. [10:47:45] And do you know this location?

18 A. [10:47:50] Yes, I know it. It is Zouera village.

19 Q. [10:47:56] We're going to continue playing and, again, if you see something that
20 you recognise, if you could put up your hand and I'll stop.

21 (Viewing of the video excerpt)

22 MS TAYLOR: [10:48:13] We're stopping at 9.18.

23 Q. [10:48:16] Mr Witness, is there something that you saw that you recognised?

24 A. [10:48:28] (Microphone not activated).

25 THE INTERPRETER: [10:48:28] Microphone for the witness, please.

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1 MS TAYLOR: [10:48:32]

2 Q. [10:48:32] Mr Witness, I apologise (Overlapping speakers)

3 PRESIDING JUDGE MINDUA: [10:48:33](Interpretation) Mr Witness, your
4 microphone, please.

5 THE INTERPRETER: [10:48:47] Excuse me, note from the interpreter.

6 THE WITNESS: [10:48:49](Interpretation) This is the person who is facing me, I can
7 see him very clearly now and he is Houka Houka.

8 MS TAYLOR: [10:48:59]

9 Q. [10:48:59] We're going to continue and, again, if you could raise your hand if
10 you see something and otherwise I'm going to stop at 33 seconds.

11 (Viewing of the video excerpt)

12 MS TAYLOR: [10:49:33]

13 Q. [10:49:33] We're stopping at 31:17.

14 A. [10:49:44] The man in white with a black turban, he is his brother. He is called
15 Mohamed Ali Ag Al Hussein.

16 Q. [10:49:56] And does this individual have any particular status?

17 A. [10:50:01] Yes. He has a high educational attainment.

18 Q. [10:50:09] When you say "high educational attainment", what subject are you
19 referring to?

20 A. [10:50:20] He helps in judicial matters.

21 Q. [10:50:29] And, Mr Witness, when you refer to "judicial matters", what type of
22 judicial matters are you referring to?

23 A. [10:50:43] All problems and disputes can be resolved when brought to him.

24 Q. [10:50:56] I'm going to continue -- we're at 31:17. We're going to continue to 33.

25 (Viewing of the video excerpt)

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1 MS TAYLOR:

2 Q. [10:51:08] Mr Witness, we're stopping at 33:18. What can we see here?

3 A. [10:51:23] (Microphone not activated).

4 Q. [10:51:26] Microphone, Mr Witness, sorry.

5 A. [10:51:30] I see the stamp of the *qadi*, the council of the Zouera village.

6 Q. [10:51:38] So what does this stamp signify?

7 A. [10:51:45] This is the stamp of the *qadi* Houka Houka. We have a signature
8 here. And this shows that he has issued that ruling or judgment.

9 Q. [10:52:00] Now, Mr Witness, you said that this is, I believe, the council of Zouera
10 village. Where is Zouera, in relation to Timbuktu?

11 A. [10:52:22] It is 110 kilometres to the north-west of Timbuktu.

12 Q. [10:52:28] Is it a municipality of Timbuktu region?

13 A. [10:52:37] Yes, yes, it is affiliated with Timbuktu. It is a region that is affiliated
14 with Goundam and Goundam is also part of Timbuktu.

15 Q. [10:52:52] Do you know what ethnicities would come to this council?

16 A. [10:53:05] All the problems used to come to the council. So there would be no
17 difference between the Songhai and the rest of the ethnicities, they would all come to
18 this council with their cases and disputes.

19 Q. [10:53:26] I'm going to continue to -- and, again, if you see something you
20 recognise, put up your hand. Otherwise we'll continue to 57 seconds.

21 (Viewing of the video excerpt)

22 MS TAYLOR:

23 Q. [10:53:54] We're stopping at 46. Mr Witness, can you explain what you see
24 here?

25 A. [10:54:06] I see *Qadi* Houka Houka signing the paper. He himself is signing

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1 the paper over the stamp, over his stamp.

2 Q. [10:54:21] And do you know what the paper is that he's signing?

3 MR GARCIA: [10:54:26](Interpretation) Objection, Mr President.

4 PRESIDING JUDGE MINDUA: [10:54:31](Interpretation) Please allow

5 the interpreters to complete before they -- before starting.

6 Please go ahead.

7 MR GARCIA: [10:54:41](Interpretation) With regard to the relevance, we're talking

8 about something that was filmed in June 2019 and we're asking the witness now

9 about the document that's being signed and so on. This is quite a long way from

10 the evidence and the charges that concern this tribunal, and therefore I'm wondering

11 why we're talking about 2019 and questions like the last one, to know what is on

12 a particular document.

13 PRESIDING JUDGE MINDUA: [10:55:25](Interpretation) Ms Taylor.

14 MS TAYLOR: [10:55:27] Thank you, Mr President. I don't have that many

15 questions about this video, but they are relevant to the common purpose. They are

16 relevant to the Prosecution's allegations in this case. I do believe that I will go

17 through these quite quickly and that we should be given leeway to present our case,

18 particularly given the amount of leeway that was provided to the Prosecution for

19 some of its key witnesses. This is one of our last witnesses. I do believe we should

20 be given sufficient opportunity to elicit evidence that this witness is in a particular

21 position to provide, and I think that we will go a lot more quickly without objections.

22 I can ask specific questions, but you do understand I'm in open session. The role of

23 this individual is of key importance.

24 PRESIDING JUDGE MINDUA: [10:56:22](Interpretation) Ms Taylor, that's good.

25 Mr Prosecutor, it is true that the document is a video from 2019, but Ms Taylor is

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1 asking questions about the *qadi*. And there the witness is saying that this is -- this
2 man is a *qadi* who is signing papers without going into the strategy. I think we can
3 accept these questions.

4 So please proceed, Ms Taylor.

5 MS TAYLOR: [10:56:54] Thank you very much, Mr President.

6 Q. [10:56:56] Mr Witness, do you know what type of documents would be signed
7 during these sessions?

8 A. [10:57:10] The documents that are signed in such times are about disputes,
9 the marital disputes, domestic disputes. So these are usually the documents that are
10 signed in such settings.

11 Q. [10:57:30] I'm going to continue to 57 seconds.

12 (Viewing of the video excerpt)

13 MS TAYLOR: [10:57:35] I believe the witness raised his hand. We're at 55:14.

14 Q. [10:57:51] Mr Witness, what do you see here?

15 A. [10:58:01] (Microphone not activated)

16 Q. [10:58:02] Microphone. Microphone, Mr --

17 THE INTERPRETER: [10:58:03] Microphone.

18 THE WITNESS: [10:58:06](Interpretation) I see the *qadi* Houka Houka writing on
19 the board, because he is an Arabic teacher in his village. He is the director of his
20 school. He spends every Tuesday in the Zouera village doing that.

21 MS TAYLOR: [10:58:26]

22 Q. [10:58:27] Mr Witness, you state that he is an Arabic teacher. Is that a public
23 position or a private position?

24 A. [10:58:38] This is a public position. The government appointed him as
25 a director of that school. He was a teacher only in Timbuktu. But upon request of

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1 the government, he was appointed as teacher in his school and this is what happened.

2 Q. [10:58:59] Now, Mr Witness, had you seen this video before you met

3 the Defence?

4 A. [10:59:11] Yes, I saw that video in the media.

5 Q. [10:59:17] Do you know approximately when the video was filmed?

6 A. [10:59:27] I don't know exactly, but I was hearing just now that it was filmed in

7 2019. I heard that now in this session.

8 MS TAYLOR: [10:59:40] Mr President, I have a brief question in private session.

9 And then I believe we can go for the break.

10 PRESIDING JUDGE MINDUA: [10:59:50](Interpretation) Very well.

11 Private session, please, court officer.

12 (Private session at 11.00 a.m.)

13 THE COURT OFFICER: [11:00:02] We're in private session, Mr President.

14 PRESIDING JUDGE MINDUA: [11:00:07](Interpretation) Thank you very much.

15 Ms Taylor.

16 MS TAYLOR: [11:00:10]

17 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 Q. [11:00:43] Thank you, Mr Witness.

23 It's 11 o'clock, so it might be a good time for the break.

24 PRESIDING JUDGE MINDUA: [11:00:52](Interpretation) Indeed.

25 Open session, please, Madam Court Officer.

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1 (Open session at 11.01 a.m.)

2 THE COURT OFFICER: [11:01:05] We're back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [11:01:11](Interpretation) Thank you, Madam
4 Court Officer.

5 It is now 11.01. We will now take a break and we will start again at 11.30.

6 The hearing is suspended.

7 THE COURT USHER: [11:01:26] All rise.

8 (Recess taken at 11.01 a.m.)

9 (Upon resuming in open session at 11.38 a.m.)

10 THE COURT USHER: [11:38:13] All rise.

11 Please be seated.

12 PRESIDING JUDGE MINDUA: [11:38:42](Interpretation) Court is in session.

13 The Defence has the floor to continue with the examination-in-chief.

14 Ms Taylor.

15 MS TAYLOR: [11:38:53] Thank you very much, Mr President. Before starting, I
16 notice from the transcripts that the Prosecutor didn't announce the name of their
17 colleague, and I checked with the Registrar and we don't have a record of that. So
18 I was wondering if it would be possible for the Prosecutor to give the name of their
19 colleague on the record.

20 Thank you very much.

21 PRESIDING JUDGE MINDUA: [11:39:17](Interpretation) Ms Taylor, you're
22 speaking about the OTP's team?

23 MS TAYLOR: [11:39:19] Yes, exactly, Mr President.

24 PRESIDING JUDGE MINDUA: [11:39:21](Interpretation) No. This morning, they
25 did give their appearances this morning. But for the transcript, perhaps the -- or

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1 Prosecutor, you could say it again.

2 MR GARCIA: [11:39:36](Interpretation) Certainly, your Honour.

3 To repeat, because I went too fast, Karim Tounsi, who is - and this is a name that was
4 sent to the Registry - present in this courtroom this morning as well.

5 PRESIDING JUDGE MINDUA: [11:39:55](Interpretation) Thank you very much.

6 MS TAYLOR: [11:40:00] Thank you very much.

7 Q. [11:40:02] Good morning, Mr Witness. How are you?

8 A. [11:40:08] I'm well.

9 Q. [11:40:14] Now, Mr Witness, on this video we can see a particular village. Do
10 you know if this village or the village of Houka Houka has a borehole or a well?

11 A. [11:40:38] Yes. This is a Houka Houka's village. It does have a well. And it
12 also has a borehole.

13 Q. [11:41:05] And, Mr Witness, do you know who drilled borehole in this village?

14 A. [11:41:23] Yes, a company called Hydraulic.

15 Q. [11:41:31] And do you know why they drilled the borehole in your -- this
16 village?

17 MR GARCIA: [11:41:37](Interpretation) Your Honour, what's the relevance?

18 PRESIDING JUDGE MINDUA: [11:41:43](Interpretation) Yes, Prosecutor.

19 Prosecutor, take into account the interpreters.

20 So what is your question?

21 MR GARCIA: [11:41:52](Interpretation) I have an objection, your Honour. We've
22 had a few questions already, but I'm wondering what the relevance is of this type of
23 question.

24 PRESIDING JUDGE MINDUA: [11:42:04](Interpretation) Ms Taylor, would you like
25 to speak in the presence of the witness?

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1 MS TAYLOR: [11:42:08] Well, Mr President, if the Prosecutor had read the prep log,
2 they would see that there's a direct link to the time period of the charges. And I do
3 believe we should be allowed to present our case. There is a direct link. If I'm
4 allowed to ask the follow-up questions, we'll get there very quickly.

5 PRESIDING JUDGE MINDUA: [11:42:39](Interpretation) Please go ahead,
6 Ms Taylor.

7 Q. [11:42:42] Now, Mr Witness, I was asking why the director, the hydroelectric
8 director, built a well in the village of Houka Houka.

9 A. [11:43:07] He began digging the hole before 2012. When the groups intervened,
10 he relied -- he gave him his vehicles and equipment and trusted him with continuing
11 the digging of this hole with the purpose of providing solar energy, eventually.

12 Q. [11:43:38] Now, Mr Witness, could you please help me understand who was the
13 "he". So you said he began digging the hole, and when the groups intervened, he
14 gave them his vehicles and equipment and trusted him with continuing digging
15 the hole.

16 Who were the individuals you're speaking of here?

17 A. [11:44:07] The director of the hydraulic company. He began the work before
18 2012, digging the hole there. After the intervention, he stopped. Afterwards there
19 were cars -- some of the cars were stationed in the village and others were in
20 Timbuktu. Judge Houka Houka was entrusted with those vehicles. When
21 the other men came back afterwards, he was able to carry on the digging operation.

22 Q. [11:44:35] So, Mr Witness, can you help us to understand what the interaction
23 was between Houka Houka and the director of the hydroelectric company in 2012?

24 A. [11:44:54] It was a phone communication between them. They were
25 acquainted with each other before 2012 and they had their phone details and they

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1 would interact over the phone. He would tell him, "I have" -- he would tell him, "I
2 have my cars there, and when I come back, I will continue digging the well for you."

3 Q. [11:45:19] And when you say "there", are you talking about Timbuktu or
4 Ariyao?

5 A. [11:45:31] Some of the cars were in Ariyao, others were in Timbuktu.

6 Q. [11:45:49] So, Mr Witness, I'm going to turn to an article. It's Defence tab 5.
7 MLI-OTP-0072-0086. If that could be shown on evidence 1.

8 Mr Witness, can you see a photograph before you?

9 A. [11:46:44] Yes, I can see him. And that is Judge Houka Houka.

10 Q. [11:46:51] I'd like to turn to page 0092. And if the interpreters could read out
11 the paragraph starting with: "*En revanche, j'ai des preuves du fait ...*"

12 MR GARCIA: [11:47:17](Interpretation) I'm objecting, your Honour.

13 PRESIDING JUDGE MINDUA: [11:47:20](Interpretation) Yes, Prosecutor.

14 MR GARCIA: [11:47:23](Interpretation) Your Honour, one thing is obviously to
15 present an article. We don't understand the link with the witness. I don't think
16 there is one, indeed, first of all. And secondly, to start to ask the witness to comment
17 or to put to the witness an account, I imagine there are going to be questions
18 thereafter to ask whether he's in agreement or not. And we are in

19 examination-in-chief. If there are facts that the witness knows which have been
20 drafted in this article, then the witness can speak about it under oath and he can have
21 questions put to him. But you don't use an article from a newspaper or from
22 the media to suggest or lead the witness and to see if he remembers this or whether
23 he's in agreement with that. That's completely inappropriate in the circumstances.

24 PRESIDING JUDGE MINDUA: [11:48:20](Interpretation) Yes, Prosecutor, what's
25 our procedure? You present an article and you ask about the basis, is it not that?

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1 MR GARCIA: [11:48:28](Interpretation) Yes, indeed, your Honour. You ask for
2 the factual basis, namely if there is a link with the witness, and to see if the witness
3 can speak about the identification of the document firstly. And here, I didn't object
4 because it's a question identifying somebody. But we're drawing his attention to
5 0092, I'm not going to go into the details, but this is an event which happened in 2015
6 and this account is by somebody else.

7 So I don't see how -- well, this way of proceeding is inappropriate. If we want to get
8 the witness speak about an event which took place before or after 2012 and which is
9 relevant, may questions be put on that event, asking him general questions. This is
10 an inappropriate use of the document and an article.

11 PRESIDING JUDGE MINDUA: [11:49:26](Interpretation) Very well, Ms Taylor,
12 you've got possibilities, two possibilities. Either ask direct questions or use this
13 article and ask for the basis as usual.

14 MS TAYLOR: [11:49:37] Thank you, Mr President. If I may be heard, this objection
15 is entirely premature and spurious. If the Prosecutor had taken the time to see
16 the specific paragraph I'm referring to, they would see I've already put questions to
17 the witness about this specific incident. I have laid a foundation for establishing that
18 the witness has knowledge of the particular matter that's in this paragraph. What
19 I'm doing now is just establishing whether it's the same thing or not.

20 I believe that this is something that's been done by the Prosecution routinely with
21 their witnesses. It's not necessarily for the witness to have written the article. All
22 that is necessary is to establish that they have a foundation for commenting and they
23 know what's being referred to in the article.

24 I have laid that foundation. I have only one or two questions on one paragraph in
25 this article, and I do believe I've made the linkage between my previous questions,

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1 which related to the drilling of a borehole in the village, and the specific

2 paragraph that's here.

3 And I do believe that we'll go much more quickly and effectively if the witness is

4 given an opportunity to clarify if there is a linkage between the two. He can say yes

5 or no, based on his own personal knowledge --

6 PRESIDING JUDGE MINDUA: [11:51:02](Interpretation) No, Ms Taylor. Thank

7 you. Your explanation is too long.

8 As we said, there are two possibilities. If you have a question to put, and ask

9 a question about the facts, he will be able to respond to that. The problem is

10 the article. If you want to use the article, proceed in the usual way. He will read

11 the -- what's the relationship between him and this article? Who drafted it? This is

12 what we've always done.

13 MS TAYLOR: [11:51:34] Mr President, with the greatest respect, that's not what

14 we've always done. It's not necessarily for the witness to have read the article or to

15 know the author. It is necessary to establish a foundation between what's discussed

16 in the article. And with your permission --

17 PRESIDING JUDGE MINDUA: [11:51:53](Interpretation) If the witness has never

18 read the article, he didn't write it, he's never seen it, why is he being presented with it?

19 Put the question directly. We don't even need the article. There's no connection

20 between him and the article. That's what we're saying.

21 MS TAYLOR: [11:52:12] Mr President, we can't make a determination as to the

22 connection --

23 PRESIDING JUDGE MINDUA: [11:52:17](Interpretation) No, no, no, no, no. No.

24 MS TAYLOR: [11:52:17] -- when I haven't put a question.

25 PRESIDING JUDGE MINDUA: [11:52:20](Interpretation) Please. We're wasting

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1 time. We're wasting time, Ms Taylor.

2 Take the article away, put the question to the witness or take the approach that I have
3 suggested.

4 MS TAYLOR: [11:52:29] Thank you, Mr President, for your direction.

5 Q. [11:52:31] Now, Mr Witness, perhaps you could help explain the relationship
6 between Houka Houka and the director of the hydroelectric director. Was it a good
7 one, was it a bad one? Were they in good terms or bad terms after 2012?

8 A. [11:53:00] It was a good relationship both before and after 2012. They never
9 had any disagreement.

10 Q. [11:53:08] Now, you've mentioned this issue of cars and a discussion concerning
11 cars. Can you please explain that further, what Houka Houka's role was in relation
12 to this issue of cars in 2012?

13 A. [11:53:29] His role was merely upon the request from the director of
14 the company that, given that MNLA was looting all belongings, all governmental
15 belongings, he told him that he had left some cars and that he should keep them, and
16 that once things progress, he will be able to finish the well. So that was his promise
17 and he delivered on his promise.

18 Q. [11:53:57] Thank you, Mr Witness. If I can just understand. The person who
19 delivered on the promise, was that Houka Houka or the director?

20 A. [11:54:14] Both delivered in their promises, the director of the hydraulic
21 company delivered on his promise, as did Houka Houka by keeping an eye on
22 the cars. So both parties delivered on their respective promises.

23 Q. [11:54:28] And how did Houka Houka keep an eye on the cars?

24 A. [11:54:39] He was able to keep an eye on them because he kept them in places in
25 the village and he assigned guards there in the countryside. And -- and he was

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1 a dignitary, he was known to everyone. People listened to his word. Every time
2 someone asks about an asset, a property of some kind, his word counted.

3 Q. [11:55:14] Now, Mr Witness, I'm moving on to a different topic and that
4 concerns community values in your community before 2012.

5 Now, Mr Witness, can you explain what the word *haram* means?

6 A. [11:55:33] *Haram* means anything that the sharia recommends against. And
7 the Koran recommends against. Theft, fornication and any other act that is
8 condemned by sharia, that is considered prohibited by sharia is *haram*.

9 Q. [11:55:56] Now, Mr Witness, you've mentioned theft and fornication. What
10 acts were considered by your community to be *haram* before 2012?

11 A. [11:56:12] Anything prohibited by the Koran and the Sunna, before 2012 and
12 after 2012, things prohibited by Islam for Muslims. If you are a Muslim, these things
13 are prohibited for you in general.

14 Q. [11:56:31] And can you briefly explain what is prohibited by the Koran and
15 Sunna.

16 A. [11:56:44] What is prohibited is that which is prohibited by God. Theft,
17 fornication, murder, premeditated murder. All these are instances of *haram* or
18 prohibitions as per the Koran.

19 Q. [11:57:03] And according to your faith, Islam, what should you do if you see
20 someone from your community committing something *haram* in public?

21 A. [11:57:21] If able, if I'm able to extract the person out of that *haram* directly, as
22 per the Hadith of the Prophet Muhammad, peace be upon him. He said:
23 "Whomever among you sees a wrong, let him change it with his hand. If he is not
24 able, then with his tongue. If he is not able, then with his heart, and that is the least
25 a believer can do."

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1 Q. [11:57:48] Now, Mr Witness, I'm going to go through these one by one.

2 According to this Hadith, what does it mean when it says to use your hand? What
3 does that refer to?

4 A. [11:58:10] It means if you have a son, a brother, a spouse, if you are able, as
5 a member of their kin, if you're able to extract that person, to take them from their
6 hand out of that bad conduct, then you should follow that course of action. That's
7 my understanding of it.

8 Q. [11:58:41] Can you explain what you mean, extracting them, "to take them from
9 their hand out of that bad conduct"?

10 A. [11:58:56] For example, you have a son who is drinking alcohol in front of you
11 and you know drinking alcohol is not allowed. You would take the bottle of alcohol,
12 you would break it and then you would come back to your son and tell him, "That's
13 prohibited, you should never do that again." Or if you see your daughter doing
14 fornication in front of you, you should take her away and take her back to your home
15 and tell her that, "That is prohibited, you should not do that."

16 Q. [11:59:22] And you've referred to using your tongue. What does that mean?

17 A. [11:59:32] "If not able, then with your tongue" means, simply, if you -- if you are
18 a sheikh or if you are someone with knowledge and you see people drinking alcohol
19 in front of you, you can stand and speak to them and tell them, "God has forbidden
20 alcohol and fornication and other acts." But you are not physically able to change
21 anything. You just inform them of what God's instructions are.

22 Q. [12:00:01] And what does it mean "by your heart"?

23 A. [12:00:12] "If not able, then with your heart" means that that is the least thing
24 you can do as a believer, which means even if -- if you're not even able to be against
25 that in your heart, then there is no faith in you. You are seated among people who

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1 are doing these things or saying these things or drinking alcohol and you know that
2 alcohol is prohibited and you're not able to take to them because you're afraid of them.

3 As a Muslim, if you have a minimum of faith, you should at least not sit with them
4 because that is a prohibited act. If you stay there, then you are a hypocrite, you are
5 not a Muslim at all.

6 Q. [12:00:55] So how would your community react if someone committed
7 something that was *haram* and didn't follow advice afterwards?

8 A. [12:01:16] No one would speak to him. No one would speak to him. He
9 would left alone. He would not be given even water, unless he goes back on what he
10 did. If he goes back on what he did, then things are okay. Otherwise, no one
11 would talk to him.

12 Q. [12:01:36] And, Mr Witness, you've said "unless he goes back on what he did."
13 Is it possible to atone for committing an act that is *haram*?

14 A. [12:01:54] He can repent. They can repent. So something that is
15 forbidden -- if something is forbidden and done by a certain person, that person
16 would repent for what he did.

17 Q. [12:02:12] Can you explain what the Koran says about how someone can repent
18 for something that is *haram*?

19 A. [12:02:33] The person who repents will be forgiven by God. All your sins will
20 be forgiven, no matter what you did. And whenever you do something that's
21 virtuous, you would be forgiven by God.

22 Q. [12:02:50] Now, Mr Witness, you've explained what happens after you repent.
23 Would it be possible for you to explain what you mean by doing something virtuous
24 and to describe what an act of repenting involves?

25 A. [12:03:15] He would go directly to the *qadi* or to a senior person. He would go

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1 to him, be honest to him and he would tell him, "I forgot everything that I did." So
2 he would repent and then that person would go back to his normal life.

3 Q. [12:03:42] Can you describe to the Chamber what the system was for arranging
4 marriages in your community before 2012.

5 A. [12:04:01] Could you clarify, please, the question.

6 Q. [12:04:03] Certainly, Mr Witness. Speaking of the period before 2012, if
7 someone wanted to get married to someone else in your community, how would that
8 be arranged?

9 A. [12:04:19] The man would go to the guardian of the woman, the father,
10 the brother. The guardian, that is. He would tell them, "I want to marry her." He
11 can go personally or he can be replaced by his brother. And he would ask her hand
12 in marriage and things would be done accordingly.

13 Q. [12:04:44] And who would have the responsibility for saying yes or no?

14 A. [12:04:58] For us in our traditions, if a woman is too young, then the guardian
15 can give her in marriage. And if she is silent, then she has accepted the marriage.
16 He would ask her, "Do you love that man or not?" But if a woman is not righteous,
17 then she would give -- would be given in marriage, whether she accepts that or not.

18 Q. [12:05:39] I think there's a difference between the English and the French. In
19 the French it says, "if she is silent, if she keeps her silence", but in the -- oh, no. It's
20 okay.

21 Mr Witness, can you explain what you mean by, "if it is not a woman virtuous".

22 I don't know if that's an exact translation of the word you were using. It's -- ah, zieba
23 (phon). I think that might -- does that mean someone who has been married before?

24 A. [12:06:20] If she is a young woman who has never been married before, her
25 father can give her in marriage for anyone -- for anyone. And her guardian can send

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1 to that man a sister or someone else to ask for the same matter. And if the woman
2 remains silent, it means that she has accepted that man in marriage.

3 Q. [12:06:49] Now, Mr Witness, did -- you spoke earlier about *faqihs*. Did
4 the *faqihs* play any role in arranging marriages?

5 A. [12:07:05] Yes, the *faqih* -- the people would go to the *faqih* and there would be
6 witnesses who come too. So there would be two witnesses and they would go to
7 the *faqih* and ask for his acceptance and ask for his prayers too.

8 Q. [12:07:31] And did the *qadis* play the same role? Earlier you said the *faqihs* and
9 the *qadis* played the same role generally. Did they play the same role in marriages?

10 A. [12:07:48] Yes, even the *qadi* would do that, would play that role. He would be
11 a witness for everything that's happening.

12 Q. [12:07:57] Mr Witness, how is divorce viewed in your community?

13 A. [12:08:12] Divorce, what do you want to know about divorce? Can you please
14 ask the question?

15 Q. [12:08:18] I apologise for not being clear. Is it viewed positively or negatively?

16 A. [12:08:30] For the Islamic sharia, divorce exists, but it is not accepted by
17 the sharia. But divorce exists. And if divorce is bound to happen, then divorce can
18 happen. It is not -- it is frowned upon by the Islamic sharia. However, it is
19 something that happens.

20 Q. [12:08:53] Speaking of the time period before 2012, what was the system in your
21 community for a woman to obtain divorce?

22 A. [12:09:14] If the woman has a problem with her husband, she would go to
23 the *qadi*, to the *qadi* of the tribe or the *qadi* of the village, and the woman would bring
24 witnesses and the man would do the same. And the *qadi* would issue his ruling or
25 his sentence accordingly, for both.

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1 Q. [12:09:34] And if the woman didn't bring any witnesses or evidence, what
2 would happen?

3 A. [12:09:44] The *qadi* would look into that case and the parents of the husband
4 would come and it would be inferred from whatever they say that something that
5 allows the woman to be divorced.

6 Q. [12:10:14] Mr Witness, can you explain what you mean that "it would be
7 inferred from whatever they say that something that allows the woman to be
8 divorced"?

9 A. [12:10:31] Yes. If a woman comes and she doesn't have a witness, and if
10 someone comes and the judge asks him, "Can you bring witness or evidence", and if
11 the witnesses come and they are asked questions about whether they know
12 something about the woman or not, then these -- the testimony would be taken into
13 consideration by the *qadi* or the judge and he would issue the ruling accordingly.

14 Q. [12:11:10] And, Mr Witness, if the man opposed the divorce, could the *qadi* issue
15 a ruling granting divorce before the witnesses had come, or would the *qadi* have to
16 wait for the witnesses?

17 A. [12:11:37] The *qadi* has to wait for the witnesses. And sometimes the case could
18 take one or two months, or even years, and the witnesses are very important and
19 the *qadi* would wait for the witnesses to come.

20 Q. [12:11:56] Now, you mentioned if the woman had problems she could ask for
21 a divorce. What type of problems would be such that would justify a divorce?

22 A. [12:12:13] If her husband hurt her or doesn't pay the expenses that he should
23 pay. If a husband is wealthy but does not give her money or does not provide for
24 her. So these are the things that can be brought up by the woman and this will allow
25 her to ask for divorce and to go to the judge asking for divorce.

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WITNESS: MLI-D28-P-0202

1 Q. [12:12:43] If the woman simply doesn't like her husband, can she obtain

2 a divorce if the husband opposes?

3 A. [12:13:00] If she doesn't like him at all, she will hate him. And this is final.

4 And she can obtain divorce. The *qadi* would do investigations and then he would

5 ask for -- for evidence sometimes. But if she only says that she dislikes her husband,

6 then he would issue that ruling. And she can obtain divorce if she -- she gives back

7 the dowry that she already took from her husband.

8 Q. [12:13:39] Did sheikhs play any role in divorces?

9 A. [12:13:51] Yes, the sheikh would look into such matters. The parents of

10 the husband and the parents of the woman would talk about these things and would

11 discuss among themselves if such things would take place or if the divorce would

12 take place.

13 Q. [12:14:15] In your community, was there any system for mediation?

14 A. [12:14:28] Could you clarify your question, please.

15 Q. [12:14:33] For example, in terms of marriages or divorces, would people go

16 straight to the *qadi* or were there any systems for mediation?

17 A. [12:14:51] No mediator is needed. They would go to the judge directly.

18 Anyone, anyone could go to the judge or the *qadi*.

19 Q. [12:15:05] How is -- Mr Witness, could you explain what the word *zina* means?

20 A. [12:15:17] Yes. Fornication or *zina*, adultery, is when the woman has

21 a relationship with other than her husband. It is when she enters into a relationship

22 with someone who is other than her husband.

23 Q. [12:15:33] How is *zina* viewed by your community?

24 A. [12:15:44] *Zina* is *haram*, because it is said in the Koran. It is frowned upon in

25 the Koran.

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(Open Session)

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WITNESS: MLI-D28-P-0202

1 Q. [12:15:54] Is it possible to atone for *zina*?

2 A. [12:16:07] Yes, yes, it is possible. It is possible to atone. Repentance in Islam
3 is welcome. Yes, even for that.

4 Q. [12:16:32] Mr Witness, did you in your previous answer refer to a verse from
5 the Koran?

6 A. [12:16:43] Yes, I did mention a verse from the Koran.

7 Q. [12:16:48] Could you please repeat that, please.

8 A. [12:16:59] So one hundred lashes should be given to the person who has
9 committed adultery, whether men or women. Compassion should not be used with
10 any of them.

11 Q. [12:17:19] If someone has committed *zina* and then been flogged a hundred
12 times, does that mean they have then atoned?

13 A. [12:17:32] Yes, that would be considered atonement, yes.

14 Q. [12:17:37] Now, if someone commits *zina* and doesn't atone, can they get
15 married afterwards, or not?

16 A. [12:17:53] Yes, they can remarry. But repentance is key. Some people do not
17 like women to be -- to have committed adultery. They simply do not marry them.
18 But repentance is acceptable.

19 Q. [12:18:06] So, Mr Witness, do I understand that it was easier to get married if
20 you had repented; is that correct?

21 A. [12:18:22] Yes. Repentance, repentance is essential, otherwise a woman who
22 had committed adultery would not remarry.

23 Q. [12:18:33] Now, Mr Witness, if I refer to the -- the celebration of Maouloud, do
24 you know what I'm referring to?

25 A. [12:18:55] Yes, I know the celebration of Maouloud.

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1 Q. [12:19:00] Mr Witness, do you know if there were any problems or incidents
2 concerning the celebration of Maouloud before 2012 in Timbuktu?

3 A. [12:19:21] There was one incident that happened in Timbuktu before 2012 when
4 there was a celebration of Maouloud.

5 Q. [12:19:34] And what do you recall happening on this occasion?

6 A. [12:19:47] There was a type of a stampede, because they were celebrating at that
7 time. Some people have been injured and some people have been killed
8 through -- at the time of that incident.

9 Q. [12:20:04] And what were they doing at the time that the stampede occurred?

10 A. [12:20:15] They were going around the mosque of Djinguereber, the big mosque
11 of Djinguereber. There was a celebration of Maouloud at that time. That was
12 the occasion.

13 Q. [12:20:31] This act of walking around the mosque of Djinguereber, is that an act
14 that's accepted by all Islamic scholars in Timbuktu?

15 A. [12:20:53] The Bedayoun (phon) do not accept such practices, but they do it.
16 The heretics don't accept such a manifestation.

17 Q. [12:21:20] Mr Witness, is it correct that you said that the Bedayoun accept but
18 the Sunni don't?

19 A. [12:21:35] Yes, this is correct.

20 Q. [12:21:41] And when the stampede occurred and people died, how did
21 the religious authorities in the village react?

22 A. [12:21:58] The Sunna said to the Buda (phon) that this manifestation caused that
23 incident and they only practised that. They did not have any evidence for that.
24 And even until today, such manifestation does not happen around the mosque.

25 Q. [12:22:27] Bless you.

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1 PRESIDING JUDGE MINDUA: [12:22:34](Interpretation) Ms Taylor, a moment,
2 please.

3 In the transcript in French it says: "The Bedayoun, phonetic, do not accept this
4 manifestation." And then there was talk of Sunni and then heretics. Could you
5 please just clarify this for us.

6 MS TAYLOR: [12:23:01][12:23:01] Mr Witness -- sorry, Mr President, I think I
7 clarified it in my next question because it was -- there was a confusion and then I
8 asked is it correct that the Bedouin accept and the Sunna do not accept. Is that what
9 you're referring to in the transcript? I believe in French there was a -- it was page 55,
10 lines 1 to 2, and then in the next line, 3, I attempted to clarify that.

11 PRESIDING JUDGE MINDUA: [12:23:32](Interpretation) That's perfect, Ms Taylor.
12 Please proceed.

13 MS TAYLOR: [12:23:38] Thank you very much, Mr President.

14 Q. [12:23:38] Now, Mr Witness, what were the rules for building mosques in
15 Timbuktu before 2012?

16 A. [12:23:56] What do you mean by "rules"?

17 Q. [12:23:58] I apologise for not being clear. Was it necessary to ask for
18 authorisation to build a mosque?

19 A. [12:24:09] Yes. Authorisation is needed. A permit is needed to build
20 a mosque. A mosque cannot be built without authorisation or a permit.

21 Q. [12:24:21] And who was responsible for giving this authorisation?

22 A. [12:24:30] The government. You can get that in Timbuktu or you can go to
23 the capital in order to have that authorisation issued for you.

24 MS TAYLOR: [12:24:44] Mr President, may I ask a question in private session.

25 PRESIDING JUDGE MINDUA: [12:24:52](Interpretation) Yes, of course.

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1 Court officer, private session, please.

2 (Private session at 12.25 p.m.)

3 THE COURT OFFICER: [12:25:04] We're in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:25:09](Interpretation) Thank you very much.

5 Ms Taylor.

6 MS TAYLOR: [12:25:13]

7 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 [REDACTED]
[REDACTED]
[REDACTED]

19 Q. [12:26:21] Thank you for that clarification.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED] Is that clear?

23 A. [12:26:45] Yes, thank you.

24 MS TAYLOR: [12:26:48] Mr President, if we could go into open session.

25 PRESIDING JUDGE MINDUA: [12:26:54](Interpretation) Yes, of course.

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(Open Session)

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1 Court officer.

2 (Open session at 12.27 p.m.)

3 THE COURT OFFICER: [12:27:05] We're back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:27:11](Interpretation) Thank you very much.

5 Thank you.

6 Ms Taylor.

7 MS TAYLOR: [12:27:16]

8 Q. [12:27:16] Mr Witness, I'm going to apologise in advance for my pronunciation,
9 but can you explain what the term *madhhab* refers to?

10 A. [12:27:33] *Madhhab*, there is the *madhhab* of Sunna and the *madhhab* of *bid'ah*. It
11 is the way, the way they look at religion. There is the Sunna *madhhab* and the *bid'ah*
12 *madhhab*.

13 Q. [12:27:53] Now, you've referred to a mosque of Houka Houka. What *madhhab*
14 did Houka Houka follow?

15 A. [12:28:09] The Maliki, it's a Sunna *madhhab*, a Sunna sect.

16 Q. [12:28:19] So, Mr Witness, if I understand correctly, the Maliki is part of
17 the Sunna sect; is that right?

18 A. [12:28:29] Maliki is a *madhhab*. Some Bedri (phon), they would say that they
19 follow the Maliki and some Sunna, they would say that they follow the Maliki.
20 However, things are not well clear.

21 Q. [12:28:53] Thank you for clarifying that.

22 So we've discussed a mosque belonging to Houka Houka. Were there any other
23 mosques in Timbuktu before 2012?

24 A. [12:29:13] There are many mosques in Timbuktu.

25 Q. [12:29:20] Do you know an individual called Mohamed or Hamed Moussa?

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- 1 A. [12:29:28] Yes, I know him. He is the imam of a mosque in Sans-fil
2 neighbourhood.
- 3 Q. [12:29:41] And what *madhhab* was followed at this mosque?
- 4 A. [12:29:51] It is the Maliki Sunni *madhhab*.
- 5 Q. [12:30:02] Do you know an individual called Mohamed Lamine?
- 6 A. [12:30:12] Mohamed Al Lamine is the imam of a mosque in the Abaraz
7 neighbourhood. The mosque is called the Imam Malik Mosque.
- 8 Q. [12:30:25] And what *madhhab* was followed at the Imam Malik Mosque?
- 9 A. [12:30:37] It is the Sunni Maliki *madhhab*.
- 10 Q. [12:30:46] Do you know an individual called Daoud Maïga?
- 11 A. [12:30:57] Yes, I know Daoud. He's a Songhai from the Bellaferandi or
12 Hamabangou neighbourhood. He too is an imam of a mosque.
- 13 Q. [12:31:09] And what *madhhab* was followed at his mosque?
- 14 A. [12:31:15] The *madhhab* of Imam Malik, the Sunni Maliki *madhhab*.
- 15 Q. [12:31:25] And do you know an individual called Daoud Cissé?
- 16 A. [12:31:33] Yes, I recognise him. He is in the Bellaferandi neighbourhood and he
17 is an imam of a mosque there.
- 18 Q. [12:31:43] And what *madhhab* was followed at this mosque?
- 19 A. [12:31:49] Likewise, it is the Sunni Maliki *madhhab*.
- 20 Q. [12:31:57] I'm turning on to a new topic.
- 21 Mr Witness, do you know an association called the *Union des jeunes musulmans de Mali*,
22 Timbuktu?
- 23 A. [12:32:14] Yes, I know that association, I was a member of that association.
24 And the president of the association is called Khato (phon) From Bellaferandi.
- 25 Q. [12:32:26] And this person called Khato, did he have any particular status?

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1 Was he an imam, a sheikh?

2 A. [12:32:36] Yes, he was -- he is the imam of a mosque in Bellaferandi.

3 Q. [12:32:44] And what *madhhab* is followed at this mosque?

4 A. [12:32:50] Likewise, it is the Sunni Maliki *madhhab*.

5 Q. [12:32:56] You refer to this association, the *Union des Jeunes Musulmans de Mali*,
6 Timbuktu, what did this association do, what type of activities?

7 A. [12:33:12] The activities of this association consist in delivering sermons in
8 neighbourhoods, over the radio. So it's mainly religion, religious preaching in
9 Timbuktu.

10 Q. [12:33:35] Did they interact with the local community?

11 A. [12:33:44] The association was founded in Bamako originally. Then a branch
12 was opened there and was opened everywhere in Mali. So a branch was opened in
13 Timbuktu.

14 Q. [12:33:59] And in Timbuktu did they interact with the local community in any
15 way?

16 A. [12:34:11] Yes, they interacted with all imams. Every imam of every mosque,
17 and also the commoners. They interacted with everyone.

18 Q. [12:34:23] Now, you've mentioned that they did religious preaching. What did
19 they consider to be *haram*?

20 A. [12:34:39] Everything prohibited by the Koran and Sunna was in their eyes also
21 prohibited, *haram*.

22 Q. [12:34:48] Now, Mr Witness, earlier you said that if someone of the faith sees
23 something that's *haram*, they should use their hand, their tongue and their heart.

24 Was this approach followed by the *Union des Jeunes Musulmans* as well?

25 MR GARCIA: [12:35:11](Interpretation) Your Honour.

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1 PRESIDING JUDGE MINDUA: [12:35:12](Interpretation) Prosecutor.

2 MR GARCIA: [12:35:13](Interpretation) I would ask that questions -- open questions
3 be put. We've had many leading questions which I let past, given the nature of
4 the questions, but this is too much.

5 PRESIDING JUDGE MINDUA: [12:35:27](Interpretation) Ms Taylor, please
6 reformulate.

7 MS TAYLOR: [12:35:34]

8 Q. [12:35:35] Were the members of the *Union des jeunes musulmans de Mali*, were
9 they Muslims?

10 A. Of course. How could they not be, as founders or members of such association?
11 They are certainly Muslim.

12 Q. [12:35:59] Did they follow the Koran, or not?

13 A. [12:36:07] Yes, they did, the Koran and the Sunna.

14 Q. [12:36:12] And in their preachings, did they address this issue of what was and
15 was not *haram*?

16 A. [12:36:25] Very much so. Yes, they talked about what is *haram* in their sermons.
17 They would talk about what is prohibited, what is allowed, and so forth, as per
18 the faith.

19 Q. [12:36:37] And did they talk about what a faithful member should do if they see
20 something that's *haram*?

21 A. [12:36:52] Yes, they would say that.

22 MR GARCIA: [12:36:54](Interpretation) Your Honour.

23 PRESIDING JUDGE MINDUA: [12:36:57](Interpretation) Prosecutor.

24 MR GARCIA: [12:36:59](Interpretation) It's leading again, your Honour, and
25 the question's already been put. I'm asking for an open question. This could have

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1 been put in another way, in a general way, to ask what it was about. But the answer
2 is led in the question.

3 PRESIDING JUDGE MINDUA: [12:37:26](Interpretation) Ms Taylor.

4 MS TAYLOR: [12:37:29] Mr President, I don't believe it is leading. I'm leading up,
5 in a sense, to the question I put before. But I am building it up step by step in terms
6 of the witness's knowledge about the -- the organisation, the type of approach of
7 the organisation. He said earlier that they gave sermons. I've asked about the
8 content of the sermons. And this is a question that follows on from his earlier
9 questions. I mean, if I'm going to ask him the content of every single sermon, we
10 might be here for a week.

11 I do believe, given the witness's earlier answers, I have a basis for asking whether
12 they -- given that he's said that the sermons discussed issues of what is and is not
13 *haram*, whether they also addressed how people should react if they saw something
14 that was *haram*. He can say yes or no. It doesn't lead him to a particular answer.

15 PRESIDING JUDGE MINDUA: [12:38:30](Interpretation) Yes, Prosecutor, I think we
16 can let this question go, because there's a basis. The Defence is proceeding on
17 a step-by-step basis. If not, it would be too general. And it's already being objected
18 to. Don't you think?

19 MR GARCIA: [12:38:50](Interpretation) Your Honour, where it concerns
20 the question, I'm not going to suggest the question to be put, but what could be
21 questioned is to say what was said or what was asked concerning -- or at least it's not
22 necessary to put the question precisely in the way it was put.

23 We speak about efficiency during the examination-in-chief, but it's the Defence who
24 chooses the terms that they're going to use. They can't afterwards invoke the fact
25 that it takes too much time. We're going into all sorts of different subjects which do

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1 not address the subject before the Chamber and the charges, et cetera, and questions
2 are being put here and there.

3 I object, obviously, concerning the relevance. But now, with the leading
4 parts -- I didn't want to object to other points to make things move along quickly, but
5 this is not a question that I'm prepared to give carte blanche so that there can be
6 therein all sorts of leading aspects.

7 PRESIDING JUDGE MINDUA: [12:40:02](Interpretation) Ms Taylor, you've heard
8 the concern of the Office of the Prosecutor. So please try to reformulate.

9 MS TAYLOR: [12:40:12] Thank you very much, Mr President.

10 Q. [12:40:13] Now, Mr Witness, earlier you stated, yes, they did explain what you
11 should do if you saw something that was *haram*. What did they explain?

12 A. [12:40:35] They would explain to people that alcohol was prohibited; fornication,
13 prohibited. And so forth. All the things that are prohibited as per the texts of
14 the Koran and the Sunna. These people who were familiar with the Koran and
15 the Sunna, they had it in front of them, but they would forget. So what
16 the preaching was about was to remind them of the teachings of those texts. As
17 Muslims, they should abide by the teachings of the Koran and the sayings of
18 the prophet, peace be upon him.

19 Q. [12:41:07] Now, Mr Witness, to your knowledge was Al-Qaeda present in the
20 north of Mali before 2012?

21 A. [12:41:21] Yes, I heard about its presence as of 2007. I heard this from what
22 other people were saying.

23 Q. [12:41:33] And did the Malian authorities take any steps to combat Al-Qaeda in
24 the north of Mali?

25 A. [12:41:45] I don't know about that. I don't know anything about the Malian

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1 authorities.

2 Q. [12:41:55] Mr Witness, you've just said you don't know anything about
3 the Malian authorities. Did they have any presence in your village?

4 A. [12:42:08] They were present in my village and they were present in Timbuktu
5 too.

6 Q. [12:42:16] Mr Witness, do you know an association called the MNA,
7 the *Mouvement National de Azawad*?

8 A. [12:42:28] Yes, and I was a member of that organisation.

9 Q. [12:42:33] And what type of association was it?

10 A. [12:42:45] It's a youth organisation. Those who were from northern Mali and
11 who were seeking their rights from the state of Mali.

12 Q. [12:43:03] You said they were seeking their rights. What type of rights were
13 they seeking?

14 A. [12:43:16] Just development for northern Mali. Because if you go to Mali, you
15 could see the huge difference between north and south. They wanted development,
16 they wanted hospitals, wells, schools, so development in general.

17 Q. [12:43:34] Now, Mr Witness, you've said they wanted hospitals, wells, schools.
18 Were there sufficient hospitals, wells, schools at this time, or not?

19 A. [12:43:51] There were such facilities but they wanted more. There were villages
20 that had no hospitals, wells or schools.

21 Q. [12:44:03] And why did the members consider it necessary to set up an
22 organisation to ask for these rights?

23 A. [12:44:22] Because they wanted to make their requests. They saw that
24 the well-educated youth of northern Mali needed to ask for these things from
25 the government of Mali to grant people their rights.

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1 MS TAYLOR: [12:44:41] Mr President, may I ask some questions in private session.

2 It's just one or two questions.

3 PRESIDING JUDGE MINDUA: [12:44:53](Interpretation) Indeed.

4 Court officer, please take us into private session.

5 (Private session at 12.45 p.m.)

6 THE COURT OFFICER: [12:45:09] We're in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [12:45:15](Interpretation) Thank you very much.

8 Ms Taylor.

9 MS TAYLOR: [12:45:19]

10 Q. [12:45:19] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 Q. [12:46:34] Thank you.

20 I do believe I can ask -- actually, before going into open session.

21 [REDACTED]

[REDACTED] When we met there for

23 the first time, the Malian police stopped us and told us, "You can't continue." So we

24 had to finish the meeting [REDACTED] Afterwards, two members of our

25 group were arrested in Bamako.

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1 Q. [12:47:11] Now, Mr Witness, I have some follow-up questions. I'm going to ask
2 these in open session. [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 With the permission of the Presiding Judge.

7 PRESIDING JUDGE MINDUA: [12:47:41](Interpretation) Indeed, Ms Taylor.

8 Court officer, open session, please.

9 (Open session at 12.47 p.m.)

10 THE COURT OFFICER: [12:47:55] We're back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [12:48:03](Interpretation) Thank you very much,
12 court officer.

13 Ms Taylor.

14 MS TAYLOR: [12:48:08]

15 Q. [12:48:08] Now, Mr Witness, we were speaking about a meeting that happened
16 in the town hall in Timbuktu. It was an MNA meeting. And you said that
17 the Malian police came and they stopped it and they said it wasn't allowed. Did
18 they say why it wasn't allowed?

19 A. [12:48:35] They did. They said we had no permission to hold such meeting.
20 We decided to hold that meeting for three days, but we had to stop on day one
21 because they told us you -- we had no permission. And they told us, "We need your
22 president and your vice president to be present at the police office."

23 Q. [12:49:02] Do you recall how many police officers came?

24 A. [12:49:08] Approximately two or three officers.

25 Q. [12:49:16] And what were they wearing?

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1 A. [12:49:20] They were dressed in police uniform, the green shirt and
2 a black -- and black pants, as the Malian police would usually be dressed.

3 Q. [12:49:33] And did they have weapons or not?

4 A. [12:49:39] Yes, they carried pistols and they had also handcuffs which they
5 would use in arresting someone. They had those.

6 Q. [12:49:52] Can you recall what type of pistols they had?

7 A. [12:50:00] I do not recall the type of pistols. And I think some of them had,
8 perhaps, Kalashnikovs.

9 Q. [12:50:22] Now, Mr Witness, you've referred to two members of the groups
10 being arrested and taken to Bamako. Who were these two members?

11 A. [12:50:36] Mr Moussa Asheikh Kadma (phon) and Aboubakar Fadil.

12 Q. [12:50:43] And do you know where they were detained or held in Bamako?

13 A. [12:50:55] They were put in the prison in Bamako, the prison of the state security,
14 or the prison of *Sécurité d'État*.

15 Q. [12:51:05] And do you know how long they were detained?

16 A. [12:51:15] Approximately three months, perhaps a little less.

17 Q. [12:51:21] And was a reason given for their arrest?

18 A. [12:51:31] It was said that they held a meeting without permission. That's what
19 I think.

20 Q. [12:51:40] Now, Mr Witness, you've referred to almost a two-step process,
21 the meeting starting at the town hall and then taking place afterwards at another
22 house.

23 When the meeting was continued, were any declarations or statements issued at the
24 time?

25 A. [12:52:05] Yes. When the participants went to this house, they had a statement

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1 and they spoke on Al Jazeera and said that two of their members were arrested and
2 that the representatives of the Malian state did not allow the meeting to continue.

3 Q. [12:52:33] And, Mr Witness, I'd like you to refer to a document in your binder.

4 It's tab 8, it's Arabic, it's MLI-D28-0005-8820. The French is tab 38, it's

5 MLI-D28-0005-8491.

6 Now, if we go to the bottom, we can see that it's purportedly dated on

7 1 November 2010.

8 Mr Witness, could you please read the first three paragraphs and tell us if you

9 recognise it or not.

10 A. [12:53:49] Yes, I can see the document, but I have not seen it before.

11 Q. [12:53:56] Mr Witness, this statement was issued on 1 November 2010 in

12 Timbuktu. Do you know if there were further meetings on this date, or was this

13 the date of the meeting you were referring to?

14 MR GARCIA: [12:54:15](Interpretation) Your Honour.

15 PRESIDING JUDGE MINDUA: [12:54:18](Interpretation) Yes, Prosecutor.

16 MR GARCIA: [12:54:20](Interpretation) From what I understand from the answer of

17 the witness, the witness has never seen this document. So if we want to refresh his

18 memory, may it be said clearly, I just want the procedure to be done in an appropriate

19 way. He's shown a document, he's never seen it before, and he's put a question on it

20 on the basis of the presumption that he knows it, which isn't the case.

21 PRESIDING JUDGE MINDUA: [12:54:47](Interpretation) Ms Taylor, I'm in

22 agreement with the Prosecutor.

23 MS TAYLOR: [12:54:51] Mr President, I've seen you nodding while they were

24 speaking, but I do believe it's premature because my question was purely to refresh

25 the witness's memory about the date of the meeting. It was not to ask questions

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1 about the content of the document. This document refers to something happening in
2 Timbuktu, 1 November 2010. I'm trying to establish dates. Now, it's been a long
3 time, it's difficult for witnesses to remember dates. And I'm trying to establish if
4 the meeting that he's referring to where two individuals were arrested happened in
5 2009 or if it happened in November 2010. He can say "yes" or "no" or he can say
6 "I don't know". But, with witnesses, it's very difficult to remember dates after
7 10 years in a very long investigation time accorded to the Prosecution, so I do believe
8 it would assist the interests of justice to establish if the witness is able to recollect
9 whether it occurred -- whether the arrest occurred on this occasion or a year earlier.
10 It's just a matter of asking him about dates. That's all.

11 PRESIDING JUDGE MINDUA: [12:56:04](Interpretation) Your problem is just
12 the date.

13 MS TAYLOR: [12:56:07] That's all I was asking, Mr President, was whether he is
14 aware of other meetings happening in November 2010 in Timbuktu of the MNA or if
15 this is the same meeting.

16 PRESIDING JUDGE MINDUA: [12:56:22](Interpretation) Very well. Understood.
17 It's good. The document's been used.

18 MS TAYLOR: [12:56:32] Yes, Mr President. And I was about to put the question to
19 the witness so he can answer.

20 Q. [12:56:34] If he's aware whether there were other MNA meetings - MNA, not
21 MNLA - a year later in Timbuktu, or is it possible the meeting he's referring to
22 happened in 2010?

23 A. [12:57:02] [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 Q. [12:57:18] Now, Mr Witness, to your knowledge, did the MNA continue to exist
2 after the arrest of its two leaders?

3 A. [12:57:36] Yes, it continued to exist until it changed its name. It continued to be
4 active in places, including in Timbuktu where it also had gatherings, but it would
5 hold them in secret.

6 Q. [12:57:56] So if I understand correctly, you did not attend any other gatherings;
7 is that right?

8 A. [12:58:07] I attended some of the secret meetings. They were not public
9 gatherings. This one was a public meeting. It was announced. But we did hold
10 secret meetings later on in Timbuktu.

11 Q. [12:58:26] Now, you've mentioned the MNA, if I understand correctly, changing
12 to the MNLA; is that correct?

13 A. [12:58:41] Yes, it changed its name, indeed.

14 Q. [12:58:47] Do you recall when it changed its name?

15 A. [12:58:54] After the soldiers had left Libya and came to Mali. It is then that
16 they changed the name to the Movement for the Liberation of Azawad, because at
17 that point they had force to liberate Azawad.

18 Q. [12:59:16] And do you recall approximately what year or after what event
19 soldiers left Libya and came to Mali?

20 A. [12:59:31] I do not recall precisely.

21 MS TAYLOR: [12:59:39] I see it's 1 o'clock.

22 PRESIDING JUDGE MINDUA: [12:59:48](Interpretation) Yes. It's five to 1, or one
23 minute to 1. Would you like to stop, is that it?

24 MS TAYLOR: [13:00:00] I think now it's almost 30 seconds to 1. So I think it's
25 almost moot.

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- 1 PRESIDING JUDGE MINDUA: [13:00:06](Interpretation) Very well.
- 2 So it's 1 o'clock at the moment. We are going to have a break for lunch and we will
- 3 be back at 2.30.
- 4 Court is adjourned.
- 5 THE COURT USHER: [13:00:23] All rise.
- 6 (Recess taken at 1.00 p.m.)
- 7 (Upon resuming in open session at 2.32 p.m.)
- 8 THE COURT USHER: [14:32:15] All rise.
- 9 Please be seated.
- 10 PRESIDING JUDGE MINDUA: [14:32:45](Interpretation) The Court is once more in
- 11 session.
- 12 Good afternoon, everybody.
- 13 The Defence still has the floor for the examination-in-chief.
- 14 Ms Taylor, please continue.
- 15 MS TAYLOR: [14:33:04] Thank you very much, Mr President.
- 16 Q. [14:33:06] Good afternoon, Mr Witness. How are you?
- 17 A. [14:33:15] Yes, I'm fine. How are you?
- 18 Q. [14:33:17] I'm well, thank you. I know it's been a long day and I'm going to
- 19 keep everything as quick as possible.
- 20 I'm reminding you we're in open session. So I'd ask you not to give any information
- 21 that's identifying.
- 22 Now, before the break, page 74, lines 4 to 5, we were discussing an association called
- 23 the MNA and you testified that it was set up and they were asking the government to
- 24 give them the rights or their rights for northern Mali. Do you remember that,
- 25 Mr Witness?

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1 A. [14:34:11] Yes, I remember.

2 Q. [14:34:14] Now, Mr Witness, did the government give them their rights? Did
3 they respond to the demands?

4 A. [14:34:31] They did respond to some of their demands. They did give them
5 some of their rights.

6 Q. [14:34:38] And, Mr Witness, can you help us by explaining what rights they
7 gave and what rights they didn't give.

8 A. [14:35:00] Some of the rights -- well, they have given them a lot of the rights that
9 they demanded, but I can't really specify which rights they got and which rights were
10 denied.

11 Q. [14:35:16] Now, Mr Witness, you referred to an organisation called the MNLA.
12 What does this stand for?

13 A. [14:35:34] The Movement of the Liberation of Azawad.

14 Q. [14:35:43] So you've said that the word -- L stands for liberation. What was it
15 liberation from? What did this word mean?

16 A. [14:36:08] First, they put this name because they wanted that it will give them
17 strength in order to liberate their -- their land. They felt that now they have
18 the power to do so, to finally liberate their country.

19 Q. [14:36:26] And do you know why they thought it necessary to liberate their
20 land?

21 A. [14:36:40] This was their point of view. They were asking for the rights and
22 they couldn't get the rights before, but now they have the weapons and they have
23 the power to liberate their land. They felt that they can do what they need to do in
24 order to do so.

25 Q. [14:37:02] And who were the leaders of the MNLA?

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1 A. [14:37:14] Bilal Ag Cherif was their chief, and he was a politician. And

2 Mohamed Ag Najim was their military commander.

3 Q. [14:37:27] Now, Bilal Ag Cherif, had he been a member of the MNA or not?

4 A. [14:37:40] Yes, he was the chief.

5 Q. [14:37:46] And what about Mohamed Ag Najim, was he a member of the MNA

6 or not?

7 A. [14:37:58] No. No, no, no. He was in Libya when this organisation was set

8 up.

9 Q. [14:38:09] Do you know what the objective of the MNLA was?

10 A. [14:38:25] Their objectives were to liberate their land and to completely seek

11 independence from Mali.

12 Q. [14:38:38] Mr Witness, can you help me, when you refer to "their land", are you

13 referring to a particular area? What land was being liberated?

14 A. [14:38:53] The land of the Azawad, starting from Douentza to the borders of

15 Algeria, to the east of Kidal.

16 THE INTERPRETER: [14:39:06] The interpreter is not sure of the pronunciation of

17 the last name.

18 MS TAYLOR: [14:39:14]

19 Q. [14:39:14] Was the last name you gave Kidal?

20 A. [14:39:22] Yes, Kidal. The three regions, Timbuktu, Gao and Kidal.

21 Q. [14:39:35] And do you know who joined the MNLA, what type of communities

22 were part of this organisation?

23 A. [14:39:50] The Tuareg tribes and Arab tribes and also the Songhai and the black

24 Tamasheq and the Fulani as well.

25 Q. [14:40:03] And do you know why these Azawadi communities thought that

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1 liberation from the Malian state was necessary?

2 A. [14:40:19] Because they thought that Mali was not giving them their rights.

3 And if you go there, you will see the difference between the area of Azawad and
4 the rest of Mali.

5 Q. [14:40:36] Mr Witness, unfortunately, I haven't gone there, so perhaps you could
6 explain for the Court what you mean by this difference. Can you describe it to us,
7 the difference that was subpoenaed by the Azawadi communities in their area as
8 compared to the rest of Mali?

9 A. [14:41:01] As for the Azawad, Azawad is completely different from the rest. It
10 had no roads. It had no hospitals. It had no infrastructure whatsoever. While
11 the rest of Mali had all of that. This is the distinction that I am talking about.

12 Q. [14:41:23] And what about the Azawadi people themselves, how were they
13 treated by the Malian state?

14 A. [14:41:37] They were treating them in a very bad way. They didn't give them
15 their rights. All the organisations that came, they -- all the organisations that came
16 only worked in the south, nobody went to the north.

17 MS TAYLOR: [14:42:02] Mr President, I have a few identifying questions. Can we
18 go into private session.

19 PRESIDING JUDGE MINDUA: [14:42:11](Interpretation) Yes, of course.

20 Court officer, private session, please.

21 (Private session at 2.42 p.m.)

22 THE COURT OFFICER: [14:42:23] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [14:42:28](Interpretation) Thank you very much.

24 Ms Taylor.

25 MS TAYLOR: [14:42:32]

1 Q. [14:42:32] Mr Witness, I have some questions about [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 Q. [14:43:44] Thank you for that clarification.

12 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 I have some follow-up questions to this, to make it in open session and [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Do you recall that?

22 A. [14:44:58] Yes, I remember. I remember.

23 MS TAYLOR: [14:45:01] Mr President, if we can go into open session.

24 PRESIDING JUDGE MINDUA: [14:45:09](Interpretation) Court officer, open session,
25 please.

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1 (Open session at 2.45 p.m.)

2 THE COURT OFFICER: [14:45:23] We're back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [14:45:26](Interpretation) Thank you very much.

4 Ms Taylor.

5 MS TAYLOR: [14:45:30]

6 Q. [14:45:30] Now, Mr Witness, you told us that your supervisors left Timbuktu
7 after Kidal and Gao had been taken by the MNLA. My question is, what about
8 the other Malian authorities in Timbuktu, what did they do? Did they stay or go?

9 A. [14:45:58] They left, all of them.

10 Q. [14:46:02] And just to be clear, what about *juges maliens*, did they stay or did
11 they go?

12 A. [14:46:17] No, he left as well.

13 Q. [14:46:20] And Malian police?

14 A. [14:46:34] Yes.

15 Q. [14:46:37] Sorry, my question wasn't that clear. Did the Malian police stay or
16 go?

17 A. [14:46:49] Yes, they left Timbuktu. Everybody left Timbuktu. Only
18 the population stayed.

19 Q. [14:46:56] Now, at the beginning of 2012 was there a governor in Timbuktu?

20 A. [14:47:06] Yes, the *wali* of Timbuktu was there.

21 Q. [14:47:12] What was his name?

22 A. [14:47:16] I can't remember the name.

23 Q. [14:47:20] And do you remember what happened to him?

24 A. [14:47:28] Yes, he left as well. He left to Bamako. He left with his soldiers.

25 Q. [14:47:45] So, Mr Witness, what happened after all these Malian authorities left

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1 Timbuktu?

2 A. [14:47:58] MNLA entered, to start with, but then they were followed by

3 Ansar Dine.

4 MS TAYLOR: [14:48:10] Mr President, may I ask a question in private session.

5 PRESIDING JUDGE MINDUA: [14:48:18](Interpretation) Yes, of course.

6 Court officer, please.

7 (Private session at 2.48 p.m.)

8 THE COURT OFFICER: [14:48:28] We're in private session, Mr President.

9 PRESIDING JUDGE MINDUA: [14:48:34](Interpretation) Thank you very much.

10 Ms Taylor.

11 MS TAYLOR: [14:48:38]

12 Q. [14:48:38] Mr Witness, when the MNLA entered Timbuktu, [REDACTED]

[REDACTED]

[REDACTED]

15 THE INTERPRETER: [14:49:06] Message from the interpreter, I think the answer

16 was not clear. Can we ask the witness to repeat, please.

17 MS TAYLOR: [14:49:12]

18 Q. [14:49:13] Mr Witness, I've been told that your answer wasn't clear. We have
19 on the transcript that you said [REDACTED]; is that correct or not?

20 A. [14:49:24] [REDACTED]

[REDACTED].

22 Q. [14:49:40] Thank you for that clarification.

23 And after the MNLA -- MNLA arrived, did they have any interactions with the local
24 leaders of Timbuktu?

25 A. [14:49:57] Yes. There were interactions between them.

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1 Q. [14:50:02] And how were these interactions organised?

2 A. [14:50:13] Through people who attended with those leaders. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. [14:51:16] Mr Witness, you've stated that the objective of the MNLA was to
13 liberate the lands of Azawad. Do you know if the local leaders were in agreement
14 with this objective or not?

15 A. [14:51:37] What do you mean by "the local leaders"? You mean the *qadis* or
16 the population of the villages?

17 Q. [14:51:45] Mr Witness, you've talked about meetings, [REDACTED] some
18 meetings between some of the leaders of Timbuktu and the MNLA. I can go back a
19 step, and perhaps you could explain to us who these leaders [REDACTED]

[REDACTED]

21 A. [14:52:10] The notables of Timbuktu, such as Daoud Cissé and
22 Mohamed Moussa. These are the notables in Timbuktu. I can't really remember
23 each one of them right now.

24 Q. [14:52:27] And the notables, do you know what their position was towards
25 the liberation of Azawad?

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1 A. [14:52:45] Yes, in principle they were agreed, they agreed with the liberation.

2 Yes, they thought that this is the right thing to do.

3 Q. [14:52:54] Now, where did these meetings take place, was it in Timbuktu or
4 outside of Timbuktu?

5 A. [14:53:05] In the airport. And that was about 4 kilometres away from
6 Timbuktu.

7 PRESIDING JUDGE MINDUA: [14:53:14](No interpretation)

8 MS TAYLOR: [14:53:15] I have one more question and then I'll go into open session.

9 PRESIDING JUDGE MINDUA: [14:53:19](Interpretation) Yes, one more question.

10 Please proceed.

11 MS TAYLOR: [14:53:23]

12 Q. [14:53:23] Now, Mr Witness, you've talked about MNLA meetings [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Q. [14:53:56] [REDACTED]

18 [REDACTED] s [REDACTED]

[REDACTED]

[REDACTED]

21 A. [14:54:26] Understand -- understood.

22 MS TAYLOR: [14:54:28] Mr President.

23 PRESIDING JUDGE MINDUA: [14:54:33](Interpretation) Court officer, public
24 session, please.

25 (Open session at 2.54 p.m.)

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1 THE COURT OFFICER: [14:54:43] We're back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [14:54:49](Interpretation) Thank you very much.

3 Ms Taylor.

4 MS TAYLOR: [14:54:53]

5 Q. [14:54:53] Now, Mr Witness, we were speaking about a meeting in Gao with
6 sheikhs. This was an MNLA meeting. Do you know which sheikhs attended?

7 A. [14:55:15] Yes, Sheikh El Wafi Al Hussein, Abdoul Haye Mohamedoune or
8 Mohamed Moussa and many other sheikhs of Timbuktu. I can't remember all their
9 names now.

10 Q. [14:55:29] And why were the sheikhs invited to this meeting?

11 A. [14:55:38] This was a meeting to have an agreement or make an agreement
12 between MNLA and Ansar Dine and they wanted to Timbuktu to be -- they wanted --

13 THE INTERPRETER: [14:55:54] Correction from the interpreter: They wanted this
14 place to be the capital of Azawad where MNLA and Ansar Dine work together.

15 MS TAYLOR: [14:56:06]

16 Q. [14:56:11] And did the sheikhs have a role in this agreement or in this -- this new
17 capital or this idea of Azawad? I'll reformulate my question, Mr Witness. Could
18 you explain to me if there were any discussions concerning the role of sheikhs in
19 this -- this new capital of Azawad?

20 A. [14:56:36] Yes, the discussions were all with the sheikhs. They wanted to
21 establish Islamic justice and they chose judges for it from all the areas.

22 Q. [14:56:59] Can you explain what you mean by "Islamic justice".

23 A. [14:57:12] I said that the sheikhs, Islamic sheikhs -- all the issues usually are
24 referred to the sheikhs and to the *qadis* in this area. That's what I said.

25 Q. [14:57:34] Now, you told us that judges were chosen. Do you remember which

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1 judges were chosen during this meeting?

2 A. [14:57:52] So from each area there was usually a *qadi*, a traditional *qadi* for it. So
3 some of them were chosen and sometimes they ask the people of the area and they
4 say, "Who do you think is the best person to be appointed to this job?" But I can't
5 remember each one of them right -- I can't mention each one of them right now.

6 Q. [14:58:18] Can you remember if they chose any judges from Timbuktu?

7 A. [14:58:32] Yes, as for Timbuktu, I remember *qadi* Houka Houka. He was one of
8 the people who got chosen.

9 Q. [14:58:40] Now at this point in time, were there any Malian courts -- and here
10 I'm referring to *les juges maliens*, the judges paid and appointed by the Malian state.
11 Were there any Malian judges working in the north of Mali at this point in time?

12 A. [14:59:11] No. No, we didn't have anything to do with Mali at that point.

13 Q. [14:59:22] Now, you've talked about the *qadis* hearing disputes. What type of
14 disputes would they hear?

15 A. [14:59:39] All kinds of disputes. In brief, they were responsible for all kinds of
16 disputes.

17 Q. [14:59:53] Now, earlier we talked about *madhhab*. Was there any discussion as
18 to what *madhhab* would be applied by the *qadis*?

19 I don't think that was -- I said it properly. *Madhhab*, was there any discussion as to
20 what *madhhab* would be followed by the *qadis* in Azawad?

21 A. [15:00:29] Yes. There were obviously the four *madhhabs*, but because north Mali
22 and Africa in general, they usually follow the Maliki *madhhab*, so they decided to
23 follow the *madhhab* of Imam Malik.

24 Q. [15:00:57] I'm going to turn to tab 9. It's MLI-D28-0006-3138. And I'm going
25 to read out the title. It's: (Interpretation) Declaration of notables at the meeting of

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1 Gao -- declaration of the notable and managers of Azawad at the end of the meeting
2 of Gao on 25 and 26 April 2012. (Speaks English) Mr Witness, does this meeting
3 signify anything to you, this description?

4 A. [15:01:43] Yes, it's basically the same meeting I was talking about. This is
5 the meeting.

6 Q. [15:01:50] And, Mr Witness, were you familiar with -- did they issue any
7 declarations during this meeting?

8 A. [15:02:00] Yes, a declaration was issued. It was issued.

9 Q. [15:02:06] Were you familiar with the contents of the declaration that was
10 issued?

11 A. [15:02:13] I know what they -- what was agreed upon in the -- in this -- in this
12 meeting. All was written in that declaration, but I am unable to mention everything
13 right now.

14 MS TAYLOR: [15:02:27] If the interpreters could read out the third paragraph on
15 the first page, starting with: "*Considérant la volonté*". And if that could be translated
16 into Arabic for the witness, as it's in French.

17 THE INTERPRETER: [15:02:46] Can you scroll down a bit, please.

18 "Considering the wish expressed many times by the populations of Azawad through
19 their traditional chiefs for self-government in a strict respect of their customs and
20 laws."

21 MS TAYLOR: [15:03:12]

22 Q. [15:03:12] Mr Witness, does this refresh your memory? Do you recall if this
23 was discussed?

24 A. [15:03:19] Yes, that was discussed during that meeting.

25 Q. [15:03:25] This refers to traditional chiefs. What does "traditional chiefs" refer

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1 to?

2 A. [15:03:37] The *qadis* or the traditional *qadis* in the villages are not *juges maliens*
3 that used to exist in Mali previously. These are the traditional judges and their -- they
4 existed in villages. These are the Islamic judges.

5 Q. [15:03:58] This paragraph refers to manners and customs. Do you know what
6 is meant by "manners and customs"?

7 A. [15:04:21] Yes, the manners of the Azawad, their own manners, which is
8 the Islamic Sharia. This is their tradition. But the -- the tradition that came with
9 the *juges maliens*, these are not our traditions.

10 MS TAYLOR: [15:04:42] Mr President, I have a few questions of an identifying
11 nature. If I may ask them and then I can go into open session.

12 PRESIDING JUDGE MINDUA: [15:04:57](No interpretation)

13 (Private session at 3.05 p.m.)

14 THE COURT OFFICER: [15:05:11] We're in private session, Mr President.

15 PRESIDING JUDGE MINDUA: [15:05:18](No interpretation)

16 MS TAYLOR: [15:05:23]

17 Q. [15:05:23] Now, Mr Witness, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24 Q. [15:06:12] So, Mr Witness, I'm about to go into open session. [REDACTED]

[REDACTED]

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2 Mr President, if we can go into open session.

3 PRESIDING JUDGE MINDUA: [15:06:34](Interpretation) Court officer, public
4 session, please.

5 (Open session at 3.06 p.m.)

6 THE COURT OFFICER: [15:06:49] We're back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [15:06:57](Interpretation) Thank you very much.
8 Ms Taylor.

9 MS TAYLOR: [15:07:00]

10 Q. [15:07:01] Now, Mr Witness, we were discussing someone who worked for
11 the MNLA at the airport. Do you know if this person that we were discussing, did
12 they sleep at the airport at night or did they sleep in Timbuktu *ville*?

13 A. [15:07:19] He used to return to Timbuktu upon the -- upon the completion of
14 work.

15 Q. [15:07:31] And did this person wear a uniform or not?

16 A. [15:07:34] Yes, he used a uniform. He wore a uniform.

17 Q. [15:07:39] Can you describe the uniform this person wore?

18 A. [15:07:48] He used to wear a turban and a thobe and pants similar to all
19 the inhabitants of the city.

20 Q. [15:08:04] How often did this person go to the airport?

21 A. [15:08:18] For about a month or so, or a little bit less than a month, since
22 the MNLA did not stay long in Timbuktu, the Ansar Dine expelled them. So he used
23 to go and come.

24 Q. [15:08:39] Mr Witness, I have a -- a point of clarification. You referred to
25 the person wearing a uniform. Are you referring to a military uniform or

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1 a traditional uniform, as in traditional clothes?

2 A. [15:08:58] The traditional uniform of the inhabitants of the city.

3 Q. [15:09:05] Now, Mr Witness, are you able to describe the route between

4 Timbuktu *ville* and the airport where the MNLA was based?

5 A. [15:09:23] Yes, the route, there were some walls between the airport and

6 Timbuktu. It went through the city centre and then through the military base and

7 then exited the -- out of the city and then to the airport.

8 Q. [15:09:50] Mr Witness, did you use the word *goudron* (phon)? Were you

9 referring to there being *goudron* between the city and the airport?

10 A. [15:10:05] The road, the black road which is asphalt, there is -- it's not dust road.

11 In other words, paved road.

12 Q. [15:10:17] So if I understand correctly, you're saying that there was a paved road

13 between the city and the airport.

14 A. [15:10:28] Yes, yes.

15 Q. [15:10:31] Now, when you went along this paved road, were there any

16 checkpoints?

17 A. [15:10:44] There was a checkpoint affiliated with Ansar Dine upon the exit

18 of -- of -- upon exiting the city, before you reach the airport.

19 Q. [15:10:54] And were there any MNLA checkpoints?

20 A. [15:11:03] Yes, before you enter the -- the airport, there was an MNLA

21 checkpoint approximately 3.5 kilometres before the airport.

22 Q. [15:11:14] Can you describe this checkpoint?

23 A. [15:11:22] It was a checkpoint when you -- if you're driving a car, you have to

24 stop the car, open it, check -- to be checked if there is a weapon. If you come with

25 a bike, you just pass. There was no issue.

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1 Q. [15:11:38] So if I understand correctly, a bike could pass through it?

2 A. [15:11:47] Yes, that's correct. It can easily pass.

3 Q. [15:11:51] Now, Mr Witness, you've talked about the MNLA leaving the airport.

4 If I could ask one question or two questions, perhaps, in private session.

5 PRESIDING JUDGE MINDUA: [15:12:10](Interpretation) Court officer, please take
6 us into private session.

7 (Private session at 3.12 p.m.)

8 THE COURT OFFICER: [15:12:20] We're in private session, Mr President.

9 PRESIDING JUDGE MINDUA: [15:12:29](Interpretation) Thank you very much.

10 Ms Taylor.

11 MS TAYLOR: [15:12:31] Mr President, I'm looking at my next couple of questions
12 and I do believe I would have to ask them all in private session. It's about eight
13 questions. It won't be long. But otherwise I would have to go into open session
14 only to go directly back into private session.

15 And then my next section could be in open session.

16 PRESIDING JUDGE MINDUA: [15:13:12](Interpretation) You're saying that you're
17 going to put questions in open session and then for the last minutes before 4 o'clock
18 you'll be going into private session; is that it?

19 MS TAYLOR: [15:13:23] Mr President, I apologise for being unclear. It's
20 the opposite. I have about 10 to 15 minutes of questions for private session and then
21 I can go into open session. I had thought it was one question but when I looked at
22 the following questions, they're all of an identifying nature. So I'm asking
23 permission to spend approximately 15 to 20 minutes in private session. I hope it can
24 be shorter. It could -- potentially can be shorter, before going into open session.

25 PRESIDING JUDGE MINDUA: [15:14:02](Interpretation) Ms Taylor, why don't we

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1 do the opposite. We'll carry on in open session and then the last 10 minutes in
2 private session, because we've got public in the gallery.

3 MS TAYLOR: [15:14:21] Mr President, I'm very attentive to that. But my next
4 questions concern [REDACTED], which needs to be in private
5 session. And everything after that follows that. So it would be putting the cart
6 before the horse to go into details that follow the steps by which [REDACTED]

7 [REDACTED] I do believe I can do it quite quickly and that it would be more
8 efficient than going in and out because everything in this line of -- this very specific
9 and discrete line of questioning is identifying.

10 PRESIDING JUDGE MINDUA: [15:15:13](Interpretation) So our public doesn't
11 know if we go in private session, because the principle is publicity of proceedings, if
12 you could do it very quickly and then you reserve the rest for the end of the hearing.

13 MS TAYLOR: [15:15:31] Certainly, Mr President.

14 Q. [15:15:32] Now, Mr Witness, you talked about the MNLA been -- leaving
15 the airport. [REDACTED]

16 A. [15:15:44] [REDACTED]
17 [REDACTED]

18 Q. [15:15:53] Were there any MNLA members who were unable to leave on that
19 day?

20 A. [15:16:02] There was one who was sick. He remained. And some others
21 returned to pick him. They came after he recovered and they picked him up and he
22 left.

23 Q. [15:16:20] And, Mr Witness, what do you know about this person who was sick?
24 Do you know his name, his tribe, why he was sick?

25 A. [15:16:32] I don't know about his sickness, but I think he -- he was called Moussa

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1 and he was -- he belonged to the tribe Ifoghas.

2 Q. [15:16:46] And do you know any names of the people who tried to help him?

3 A. [15:16:56] Yes. One of them was called Mohamed Moussa Al Souki, he was
4 the one who went to pick him up in his car.

5 Q. [15:17:06] Do you know where he was taken?

6 A. [15:17:13] They took him, he was taken to the hospital, and this is all I know.

7 PRESIDING JUDGE MINDUA: [15:17:22](Interpretation) Ms Taylor, up this point,
8 the three or four questions that you put really are not identifying for our witness.

9 You can put them in open session. So try to look at the list of your questions to see if
10 it's really necessary to ask them in closed session.

11 MS TAYLOR: [15:17:45] Certainly, Mr President.

12 Q. [15:17:46] Now, Mr Witness, what did you yourself do after the MNLA left
13 Timbuktu?

14 THE INTERPRETER: [15:18:04] A message from the interpreter, could the witness
15 be asked to repeat the answer, please.

16 MS TAYLOR: [15:18:14]

17 Q. [15:18:14] I apologise, Mr Witness. Your answer wasn't recorded. Do you
18 mind repeating it?

19 A. [15:18:19] I said I remained in Timbuktu. I stayed there. [REDACTED]

21 Q. [15:18:26] And was it -- what was the situation at that time in terms of finding
22 jobs? Was it easy? Was it hard?

23 A. [15:18:44] Employment was really -- was very difficult. There was no
24 employment or job opportunities. If you don't work with Ansar Dine, it was really
25 difficult to find a job.

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1 Q. [15:18:58] And did you find a job?

2 A. [15:19:06] Are we in a private session?

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

4 [REDACTED]

■ [REDACTED]

6 MS TAYLOR: [15:19:38]

7 Q. [15:19:39] [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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1 [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

5 A. [15:22:04] [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

10 Q. [15:22:31] [REDACTED]

■ [REDACTED]

12 A. [15:22:43] [REDACTED]

■ [REDACTED]

14 MS TAYLOR: [15:22:52] Thank you for your patience, Mr President. I believe I can
15 ask the following questions in open session.

16 PRESIDING JUDGE MINDUA: [15:23:06](Interpretation) Very well.

17 Court officer, please take us into open session.

18 (Open session at 3.23 p.m.)

19 THE COURT OFFICER: [15:23:18] We're back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [15:23:26](Interpretation) Thank you very much.

21 Ms Taylor.

22 MS TAYLOR: [15:23:29]

23 Q. [15:23:29] Now, Mr Witness, you've mentioned a group called Ansar Dine.

24 Who did you understand to be the leader of Ansar Dine?

25 A. [15:23:45] Abu al-Fadl, Iyad Ag Ghaly, he was the leader or the chief of

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1 Ansar Dine.

2 Q. [15:24:04] This person Abu al-Fadl, Iyad Ag Ghaly, was this someone you had
3 heard of before 2012?

4 A. [15:24:18] Yes, I heard about him and I knew him before 2012.

5 Q. [15:24:25] And what had you heard about him before 2012?

6 A. [15:24:35] He was a man of scholarly accomplishment and he was also -- he
7 worked also in the military in Mali before. He has -- he has personality, presence
8 and also experience in the army.

9 Q. [15:24:54] Do you know how he was viewed by members of your tribe?

10 A. [15:25:07] What can I say, he was viewed as a very important person for them.

11 Q. [15:25:17] Can you explain what you mean by "a very important person"?

12 A. [15:25:26] He was a notable. He was well known. He belonged to -- he had
13 a high status and he had a presence and attitude in the -- among the Azawad. He
14 witnessed all the previous revolutions.

15 Q. [15:25:52] Mr Witness, you've referred to previous revolutions. Can you
16 explain what you are referring to?

17 A. [15:26:06] For example, in the '90s there was a revolution which he witnessed,
18 the one before 2012. There was one in the '90s and another one in the '60s. But
19 I don't remember these ones.

20 Q. [15:26:19] And what was the role of Iyad Ag Ghaly in these revolutions? Do
21 you know?

22 A. [15:26:28] He was the leader of these revolutions. He was the chief of these
23 revolutions.

24 Q. [15:26:36] And who was he the chief of?

25 A. [15:26:46] He was the head or the leader of the movement that went out of Mali

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1 to demand the rights. That was in the 90s. And the same in 2012, he -- he went out
2 and he called himself Ansar Dine.

3 Q. [15:27:04] Earlier you stated that Ansar Dine came to Timbuktu after the MNLA.
4 When they came to Timbuktu, did they explain why they came to Timbuktu?

5 A. [15:27:19] Yes, they did. They said they are -- were going to establish the laws
6 of Islamic Sharia in Timbuktu.

7 Q. [15:27:28] And did they have any meetings to discuss what they were going to
8 do or what they were trying to achieve?

9 A. [15:27:40] I know -- I know that they met with the chiefs of Timbuktu and they
10 explained to them the mission and the reason why they came to Timbuktu.

11 MS TAYLOR: [15:27:54] Mr President, may I ask a couple of questions in private
12 session?

13 PRESIDING JUDGE MINDUA: [15:28:03](Interpretation) Court officer, private
14 session.

15 (Private session at 3.28 p.m.)

16 THE COURT OFFICER: [15:28:16] We are in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [15:28:22](Interpretation) Thank you very much.

18 Ms Taylor.

19 MS TAYLOR: [15:28:25]

20 Q. [15:28:27] Now, you've referred to a meeting with the chiefs of

21 Timbuktu -- between Ansar Dine and the chiefs of Timbuktu. [REDACTED]

24 A. [15:28:50] [REDACTED]

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1 Q. [15:29:03] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

5 A. [15:29:29] All these individuals were invited by Ansar Dine. Nobody went
6 without an invitation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 MS TAYLOR: [15:30:21] I think we can ask some follow-up questions in open
15 session.

16 PRESIDING JUDGE MINDUA: [15:30:32](Interpretation) Madam Court Officer,
17 open session, please.

18 (Open session at 3.30 p.m.)

19 THE COURT OFFICER: [15:30:45] We're back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [15:30:51](Interpretation) Thank you very much.
21 Ms Taylor.

22 MS TAYLOR: [15:30:55]

23 Q. [15:30:56] Now, after Ansar Dine arrived in Timbuktu, did they set up any
24 administrative structures? And here I think the word in Arabic might be *idarat*
25 (phon), for administrative structures.

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1 A. [15:31:14] Yes. They set up the police and the Islamic tribunal, or Islamic court,
2 and the *Hesbah*.

3 Q. [15:31:34] Now, I have some questions about the Islamic tribunal, and we're in
4 open session. Mr Witness, are you able to tell us who were the members of
5 the Islamic tribunal?

6 A. [15:32:00] I -- I can only tell you what I can remember.

7 MS TAYLOR: [15:32:09] Mr President, may I go briefly into private session. I'll be
8 out very quickly.

9 PRESIDING JUDGE MINDUA: [15:32:23](Interpretation) Ms Taylor, the question is
10 the names of the Islamic tribunal. [REDACTED]

11 [REDACTED]. So why do you now need to
12 go into private session?

13 MS TAYLOR: [15:32:44] It was to say something which would be five seconds and
14 then we could get right back out of it. This is out -- I believe it would go more
15 smoothly afterwards.

16 PRESIDING JUDGE MINDUA: [15:32:59](Interpretation) Okay. For five seconds
17 then.

18 Private session, please, Madam Court Officer.

19 (Private session at 3.33 p.m.)

20 THE COURT OFFICER: [15:33:12] We're in private session, Mr President.

21 PRESIDING JUDGE MINDUA: [15:33:17](Interpretation) Thank you very much.
22 Ms Taylor.

23 MS TAYLOR: [15:33:21]

24 Q. [15:33:22] Now, Mr Witness, I'm going to have some questions about
25 the members of the Islamic tribunal and their role. [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 A. [15:34:04] Yes, I understand.

6 PRESIDING JUDGE MINDUA: [15:34:08](Interpretation) Very good.

7 Public session, please, Madam Court Officer.

8 (Open session at 3.34 p.m.)

9 THE COURT OFFICER: [15:34:21] We're back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [15:34:28](Interpretation) Thank you very much.

11 Ms Taylor.

12 MS TAYLOR: [15:34:33]

13 Q. [15:34:34] Now, Mr Witness, I had a question about the members of the Islamic
14 tribunal. Are you able to tell us the names of any of the members of the Islamic
15 tribunal?

16 A. [15:34:51] Yes. They were 10, 10 members. Mohamed Lamine,
17 Mohamed Lamine. Then Houka Houka Al Houssein, he was a *qadi*. Abdallah
18 Al Chinguetti, Koutaïba, Radwan, Daoud Ali, Daoud Cissé, Abdoul Haye and
19 Mohamed Moussa. These are the names that I can remember.

20 Q. [15:35:23] I'm going to go through them one by one. You've referred to
21 Mohamed Lamine. Was he a *qadi* or sheikh before 2012?

22 A. [15:35:42] He was a sheikh and an imam of a mosque in Abaraz.

23 Q. [15:35:47] Was he a member of any of the groups?

24 A. [15:35:57] No.

25 Q. [15:36:00] And what was his position in the tribunal, if you know it?

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1 A. [15:36:12] That's something that I don't know. He was one of the 10 judges.

2 They all played the same role. They deliberated about a certain case and they passed
3 judgments.

4 Q. [15:36:30] I'm going to turn to the next person. That's Houka Houka. Was he
5 a member of any of the groups?

6 A. [15:36:46] No. No, no, no. He was a former *qadi* and he also an imam of
7 a mosque in Abaraz. The name of the mosque was Al Farouk.

8 Q. [15:36:58] And you've referred to someone called Abdallah Al Chinguetti. Was
9 he a member of any group?

10 A. [15:37:07] Yes. He was a member of Al-Qaeda, AQMI.

11 Q. [15:37:14] And what were his qualifications?

12 A. [15:37:24] He was a knowledgeable person. They said that he was a sheikh and
13 also a *qadi* for them. But Koutaïba was the official judge at the time or *qadi*.

14 Koutaïba was the real judge. But I think that he was a knowledgeable person.

15 Q. [15:37:49] Mr Witness, when you say that "Koutaïba was the real judge", are you
16 saying he was the real judge of the tribunal or the real judge of Al-Qaeda? Can you
17 explain what you mean?

18 A. [15:38:02] He was the real judge of Al-Qaeda, before they arrived, in AQMI.

19 Q. [15:38:13] And what were his qualifications?

20 A. [15:38:21] He was also a very knowledgeable person in the Islamic
21 jurisprudence and in Koran.

22 Q. [15:38:32] You referred to Daoud Ali. Was he a member of any group?

23 A. [15:38:41] No. He was also an imam of a mosque in an area called
24 Hamabangou. He was a sheikh.

25 Q. [15:38:53] You've said he was an imam and a sheikh. What were his

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1 qualifications?

2 A. [15:39:05] He was also a knowledgeable person. He had a high level of
3 knowledge in Islamic jurisprudence and Koran.

4 Q. [15:39:24] Mr Witness, you gave a name of a particular area when we were
5 talking about Daoud Ali. I believe you said he was the imam of the mosque in
6 Hamabangou; is that correct?

7 A. [15:39:41] It was a village -- not a village. It was a neighbourhood in Timbuktu
8 called Hamabangou, very close to Bellaferandi.

9 Q. [15:39:56] You referred to an individual called Radwan. What were his
10 qualifications?

11 A. [15:40:05] He was a member of Ansar Dine and he was a sheikh and also
12 a knowledgeable person in Koran and Hadith.

13 Q. [15:40:20] And you've preferred to someone called Daoud Cissé, I believe. Was
14 he -- what was his qualifications?

15 A. [15:40:29] He was also a sheikh and he was the imam of Bellaferandi mosque.
16 He was the imam of that mosque.

17 Q. [15:40:41] Was he a member of a group?

18 A. [15:40:45] No. No, he wasn't a member.

19 Q. [15:40:51] You referred to an individual call Abdoul Haye. What was his
20 qualifications?

21 A. [15:41:02] He was a student and he had a lot of knowledge about computers.
22 And I think that he was also an imam in his village, which was about 40 kilometres
23 away from Timbuktu.

24 Q. [15:41:25] And was he a member of any groups in 2012?

25 A. [15:41:32] No, he wasn't.

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1 Q. [15:41:37] I think you referred to an individual called Hamed Moussa. What
2 was his qualifications?

3 A. [15:41:48] He was a sheikh and he also working in Sans-fil mosque. Also he
4 was considered a knowledgeable man in jurisprudence and Koran.

5 Q. [15:42:04] And what was his tribe?

6 A. [15:42:13] Kel Essouk.

7 THE INTERPRETER: [15:42:16] The interpreter is not sure of the pronunciation.

8 MS TAYLOR:

9 Q. [15:42:20] And was Mohamed Moussa -- did he work with any of the groups in
10 2012?

11 A. [15:42:34] Yes, he was working with MNLA and Abou Zeid.

12 Q. [15:42:49] So you said he was working with the MNLA. Can you explain to us
13 what he was doing with the MNLA?

14 A. [15:43:00] He was a sheikh. He used to deliver speeches. A preacher. That's
15 what he did in MNLA.

16 Q. [15:43:11] And do you know where he did this?

17 A. [15:43:21] In the airport, because MNLA was based in the airport.

18 Q. [15:43:27] And you said he worked with Abou Zeid. Was this while he was
19 with the MNLA or after he was with the MNLA?

20 A. [15:43:45] No, after he finished working with MNLA, after they left, then he
21 worked with him.

22 Q. [15:43:55] And was he a member of the tribunal while the MNLA were at the
23 airport?

24 A. [15:44:09] No, no. He was with MNLA and then when they left he joined
25 the Islamic tribunal.

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1 Q. [15:44:21] And who had the highest qualifications on the tribunal?

2 A. [15:44:32] Sheikh Koutaïba and Sheikh Abdullah.

3 Q. [15:44:39] Now, you've referred to various individuals. Are you able to tell us
4 what their ethnicities were?

5 A. [15:44:52] Yes. Sheikh Koutaïba Chinguetti was from Mauritania and Abdallah
6 Al Chinguetti was from Mauritania. Houka Houka was from Kel Ansar.

7 THE INTERPRETER: [15:45:06] The witness is going really fast.

8 MS TAYLOR: [15:45:10]

9 Q. [15:45:10] So, Mr Witness, if you could just slow down a little bit. Thank you
10 very much.

11 A. [15:45:24] Koutaïba was from -- so Koutaïba and Abdallah Al Chinguetti were
12 from Mauritania. Mohamed Moussa from Kel Essouk. Abdoul Haye, al-Ansar.

13 And Houka Houka, Idnan Al-Ansar also. And Daoud Ali was Songhai. And

14 Daoud Cissé was from Bellaferandi Tamasheq. And Mohamed Lamine, Arab

15 Berabish.

16 Q. [15:46:04] Were the different ethnicities of Timbuktu represented in the tribunal?

17 A. [15:46:17] Yes, they were all represented.

18 Q. [15:46:22] And what *madhhab* did the tribunal follow?

19 A. [15:46:33] Al Maliki, *madhhab* Imam Malik.

20 Q. [15:46:40] Mr Witness, can you explain to us the process that the judges or
21 the *qadis* used to reach their decisions?

22 A. [15:46:55] Yes. The case gets referred to them, they study it, and then they
23 deliberate about it. And also they start questioning people and witnesses, and then
24 they deliberate between themselves. And then they discuss, yes, I saw in this book
25 or I read in this book about this or that. And then they pass a judgment and they

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1 write it down.

2 Q. [15:47:27] Where was this tribunal based? What building was it in?

3 A. [15:47:36] In a hotel, a hotel of a Christian person who was in Timbuktu. It's
4 very close to the big mosque in Abaraz.

5 Q. [15:47:53] And what days would it sit?

6 A. [15:48:03] Monday and Tuesday.

7 MS TAYLOR: [15:48:08] Mr President, I do believe my next questions are getting
8 very identifying.

9 PRESIDING JUDGE MINDUA: [15:48:21](Interpretation) Yes, Ms Taylor. Before
10 we move to these questions, I would like you, if possible, to clarify with the witness
11 a certain point of terminology. In the list of these 10 people, the witness referred to
12 some of them as *qadi*, imam, and sheikh, depending on the individual. If I've
13 understood correctly, imam is the person in charge of a mosque, who -- who preaches
14 there. The *qadi* is a judge. And a sheikh -- well, I don't know exactly what that
15 means here. Is that a title? And how is someone awarded the title of sheikh? Can
16 one just declare oneself to be a sheikh? How does it work?

17 MS TAYLOR: [15:49:21] Thank you, Mr President.

18 Q. [15:49:22] Mr Witness, are you able to -- to assist Mr President in this regard?

19 A. [15:49:33] Yes. As for the sheikh, it's someone who has got a certain level of
20 knowledge in Islamic jurisprudence and Koran. And then this person can become
21 an imam of a mosque.

22 I will finish this part. Let the interpreters finish first.

23 As for the *qadi*, he is a sheikh as well, he's considered a sheikh because he has a high
24 level of knowledge in the religion, but they are usually chosen by the people of
25 the area. They choose this person as a suitable person to become a judge. So they

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1 usually -- whether this person is an imam or not, but they usually hear about disputes
2 and they pass judgments as well.

3 PRESIDING JUDGE MINDUA: [15:50:45](Interpretation) Mr Witness, my problem
4 has not yet been resolved. Imam is a function, one sees an imam preaching in
5 a mosque or is in charge of the mosque. *Qadi* is a function, we see a *qadi* engaged in
6 judging. But sheikh, I get the impression that sheikh is a title. But

7 who -- who -- who awards the title of sheikh, or can anybody declare themselves to be
8 one, or how does this work?

9 THE WITNESS: [15:51:25](Interpretation) If that person has knowledge in Koran
10 and Hadith and has a lot of knowledge in religion in general, this person is usually
11 called sheikh, whether he's an imam or a *qadi* or not, but the fact that he's got a certain
12 level of knowledge in religion, he becomes a sheikh.

13 PRESIDING JUDGE MINDUA: [15:52:02](Interpretation) I understand. It's not like
14 a doctor where somebody awards a title of doctor of medicine, but it's somebody
15 who's knowledgeable of jurisprudence and theology and then opinion would then
16 start to call him sheikh; is that the correct understanding?

17 THE WITNESS: [15:52:30](Interpretation) Yes. Yes, that's correct. Correct.

18 PRESIDING JUDGE MINDUA: [15:52:34](Interpretation) Thank you very much.
19 So, Ms Taylor, you wanted to move into private session?

20 MS TAYLOR: [15:52:43] Perhaps before doing so I can ask some follow-up questions
21 on this topic.

22 PRESIDING JUDGE MINDUA: [15:52:55](Interpretation) Yes, do go ahead,
23 Ms Taylor.

24 MS TAYLOR: [15:52:59]

25 Q. [15:52:59] Mr Witness, do you know if the different ethnicities in Timbuktu

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1 would use different titles for their -- their religious leaders, for example, would
2 the Tuareg communities use a term like sheikh, or would the Songhai communities,
3 would they call their religious leaders a sheikh or an imam? Was there a difference
4 between the communities in terms of what they would call their religious leaders?

5 A. [15:53:32] No, no, there are -- there aren't different title. The *qadi*, imam and
6 sheikh, that was the same whether in the Fulani or Tamasheq or Songhai or Arabs.
7 They all use the same titles.

8 Q. [15:53:51] And earlier you talked about the sheikh and the *qadis* hearing
9 disputes. Could imams hear disputes?

10 A. [15:54:10] As for the imams who used to work in mosques, sometimes the
11 people used to go to get some kind of advice from them and they used to do that, of
12 course, in their mosques. But as for the *qadis*, they had their own base. They used
13 to work from a specific place, and people used to go to them in order to hear their
14 disputes.

15 Q. [15:54:39] And is there a difference between the religious qualifications of a *qadi*
16 and an imam?

17 A. [15:54:52] No, there is no difference. It's just the level of knowledge in Koran
18 and Hadith. When people reach a certain level of knowledge, they become sheikh.
19 And then the sheikh can become an imam. And then, if chosen, those people can
20 become *qadi*, if people agree to appoint them in that position.

21 MS TAYLOR: [15:55:22] Mr President, I believe we can go into private session now.

22 PRESIDING JUDGE MINDUA: [15:55:31](Interpretation) Of course.
23 Court officer, private session, please.

24 (Private session at 3.55 p.m.)

25 THE COURT OFFICER: [15:55:45] We're in private session, Mr President.

1 PRESIDING JUDGE MINDUA: [15:55:49](Interpretation) Thank you very much.
2 Ms Taylor.
3 MS TAYLOR: [15:55:56]
4 Q. [15:55:57] Now, Mr Witness, we were talking about a building where
5 the tribunal would issue their judgments. [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 Q. [15:56:21] And which rooms did the tribunal use?
9 A. [15:56:30] It was in the upper floor. [REDACTED]
10 [REDACTED]
11 Q. [15:56:39] [REDACTED]
12 A. [15:56:48] [REDACTED]
13 Q. [15:56:54] [REDACTED]
14 [REDACTED]
15 A. [15:57:06] [REDACTED]
16 Q. [15:57:14] [REDACTED]
17 A. [15:57:21] [REDACTED]
18 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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1 [REDACTED]
2 MS TAYLOR: [15:58:38] Mr President, it's one minute to 4. I believe that tomorrow
3 I can start in open session.

4 PRESIDING JUDGE MINDUA: [15:58:57](Interpretation) Yes. Very good. So
5 would you like us to stop now?

6 MS TAYLOR: [15:59:05] Yes, Mr President.

7 PRESIDING JUDGE MINDUA: [15:59:11](Interpretation) Yes. Very good.
8 Court officer, public session, please.

9 (Open session at 3.59 p.m.)

10 THE COURT OFFICER: [15:59:24] We're back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [15:59:33](Interpretation) Thank you very much,
12 court officer.

13 Mr Witness, this brings us to the end of our working day. You will have realised
14 that your testimony is not yet complete, therefore we will continue tomorrow. On
15 behalf of the Chamber, I would like to thank you very sincerely for having replied
16 very clearly and very patiently to the questions that have been put to you. We will
17 meet again here tomorrow morning at 9.30. However, between now and then,
18 please do not forget that you are not authorised to talk about your testimony to
19 anyone at all, not to any members of your family, not to any friends. Have you
20 understood this?

21 THE WITNESS: [16:00:48](Interpretation) Yes, I understand, your Honour. Thank
22 you.

23 PRESIDING JUDGE MINDUA: [16:00:57](Interpretation) Very good. Thank you
24 very much.

25 Before we leave, before we finish the sitting, I would like to, as usual, express my

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- 1 thanks to the parties and the participants, the court reporters and the interpreters, and
- 2 our security officers, and our public.
- 3 I wish everybody a very pleasant evening and we will be back here tomorrow
- 4 morning.
- 5 The hearing is now adjourned.
- 6 THE COURT USHER: [16:01:37] All rise.
- 7 (The hearing ends in open session at 4.01 p.m.)