

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0202

1 International Criminal Court

2 Trial Chamber X

3 Situation: Republic of Mali

4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag

5 Mahmoud - ICC-01/12-01/18

6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge

7 Kimberly Prost

8 Trial Hearing - Courtroom 3

9 Thursday, 22 September 2022

10 (The hearing starts in open session at 9.37 a.m.)

11 THE COURT USHER: [9:37:19] All rise. The International Criminal Court is now

12 in session. Please be seated.

13 PRESIDING JUDGE MINDUA: [9:37:50](Interpretation) The Court is now in

14 session.

15 Good morning, everyone.

16 Court officer, please call the case.

17 THE COURT OFFICER: [9:38:05] Good morning, Mr President, your Honours.

18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al

19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.

20 And for the record, we are in open session.

21 PRESIDING JUDGE MINDUA: [9:38:23](Interpretation) Thank you very much,

22 court officer.

23 We will now move to the presentation of teams as usual, starting with the Prosecution.

24 Mr Prosecutor.

25 MR GARCIA: [9:38:42](Interpretation) Good morning. Lucio Garcia for the

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1 Prosecution with Maître Dutertre and Maître Karim Tounsi. Thank you.

2 PRESIDING JUDGE MINDUA: [9:38:55](Interpretation) Thank you, Prosecution.

3 Defence?

4 MS TAYLOR: [9:39:01] Good morning, Mr President, good morning, your Honours,
5 good morning to everyone in and outside the courtroom. A welcome to

6 Maître Maktouf. The Defence for Mr Al Hassan is represented today by Maître

7 Mohamed Youssef, Maître Leila Abid, we will be joined later by Dr Felicity Gerry and

8 also represented by myself, Melinda Taylor. Thank you.

9 PRESIDING JUDGE MINDUA: [9:39:34](Interpretation) Thank you very much,

10 Ms Taylor.

11 And now the legal representative of victims.

12 MR KASSONGO: [9:39:43](Interpretation) Thank you, Mr President. Good morning,

13 everybody. The team representing the LRV this morning is Ms Romane Tovia Vila,

14 my assistant, and myself, Mayombo Kassongo. And our team wishes everybody

15 a profitable session.

16 PRESIDING JUDGE MINDUA: [9:40:00](Interpretation) Thank you very much,

17 Mr Kassongo.

18 And now I, too, turn to our counsel for Rule 74, for our witness.

19 Maître -- good morning, Maître Maktouf.

20 MS MAKTOUF: [9:40:18](Interpretation) I wish a good day to everybody. I am

21 here to represent the interests of Mr Witness.

22 PRESIDING JUDGE MINDUA: [9:40:30](Interpretation) Thank you,

23 Maître Maktouf.

24 Finally, I turn to our witness.

25 Good morning, Mr Witness, can you hear me?

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1 THE WITNESS: MLI-D28-P-0202 (On former oath)

2 (The witness speaks Arabic)

3 THE WITNESS: [9:40:40](Interpretation) Yes, I can hear you.

4 PRESIDING JUDGE MINDUA: [9:40:44](Interpretation) Thank you, Mr Witness.

5 So for the record, I note that this morning we are continuing to hear the witness

6 D-0202, a Defence witness, with examination-in-chief being conducted by the

7 Defence.

8 Mr Witness, on behalf of the Chamber, I would like to welcome you again to the

9 courtroom.

10 THE WITNESS: [9:41:25](Interpretation) Thank you, your Honour.

11 PRESIDING JUDGE MINDUA: [9:41:27](Interpretation) I would like to remind you

12 that you are still under oath and you must speak the truth, the whole truth and

13 nothing but the truth.

14 THE WITNESS: [9:41:41](Interpretation) I will, God willing.

15 PRESIDING JUDGE MINDUA: [9:41:46](Interpretation) I would like you also to

16 bear in mind the practical advice I gave you with regard to speaking here.

17 THE WITNESS: [9:42:02] Yes, very well.

18 PRESIDING JUDGE MINDUA: [9:42:05](Interpretation) You should speak clearly

19 and at a moderate or even a slow speed in order to facilitate the work of the

20 interpreters.

21 So with nothing further to say, I hand over to Ms Taylor for the continuation of the

22 examination-in-chief.

23 Ms Taylor.

24 MS TAYLOR: [9:42:39] Thank you very much, Mr President.

25 QUESTIONED BY MS TAYLOR (Continuing)

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1 Q. [9:42:48] Good morning, Mr Witness, how are you today?

2 A. [9:42:52] Good morning, I'm very well.

3 Q. [9:42:53] I'm glad to hear that.

4 Now I'm going to start with a clarification question from something you said

5 yesterday, and I'm referring to what you said at transcript 202, page 115, line 13, I

6 asked if Mohamed Moussa was working with any of the groups, and, according to the

7 transcript, you apparently said he was working with the MNLA and Abou Zeid.

8 Mr Witness, did you say "Abou Zeid" or Mr "Z"?

9 A. [9:43:43] I said "Mr Z." "Mr Z."

10 Q. [9:43:47] Now Mr Witness, in order to avoid "Mr Z" being confused with Abou

11 Zeid, I'm going to suggest we change "Mr Z" to Mr X or X. I think there's less risk of

12 confusion then, is that clear?

13 A. [9:44:08] Very, very clear.

14 Q. [9:44:11] Thank you very much.

15 Now we were discussing at the end of the session yesterday, the processes at the

16 Islamic tribunal and I have some follow-up questions on that subject. We are in

17 open session.

18 A. [9:44:33] Please, go ahead.

19 Q. [9:44:34] Mr Witness, did any witnesses appear before the

20 Islamic tribunals -- Islamic tribunal, sorry?

21 A. [9:44:45] Yes, there were witnesses, yes, they attended or came before the court.

22 Q. [9:44:54] And were the witnesses obliged to attend or was it voluntary?

23 A. [9:45:04] They attended voluntarily.

24 Q. [9:45:09] And could the defendant bring witnesses or not?

25 A. [9:45:21] Yes. They were able to call witnesses if they had any. There was no

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1 problem.

2 Q. [9:45:31] And if the witnesses lived outside of Timbuktu ville, what would
3 happen?

4 A. [9:45:43] The police was able to bring them if -- if the prosecutor requested.

5 Q. [9:45:54] And was there interpretation at the hearings or not?

6 A. [9:46:01] Yes, they had interpreters to do interpretation.

7 Q. [9:46:11] And into which languages?

8 A. [9:46:16] For example, Songhai, Arabic, Tamasheq.

9 Q. [9:46:23] Mr Witness, at page 5, lines 12 to 13, it says -- you apparently told us
10 that the police were able to bring the witnesses if the prosecutor requested. Did you
11 use the word "prosecutor" or "plaintiff"?

12 A. [9:46:46] There was no difference. Whoever asked for help from the police, the
13 police would help.

14 Q. [9:46:59] And was a record made of what the witnesses said?

15 A. [9:47:10] Yes.

16 Q. [9:47:13] Did the defendant address the judges?

17 A. [9:47:22] Yes.

18 Q. [9:47:24] What about the plaintiff, did the plaintiff address the judges?

19 A. [9:47:33] Yes.

20 Q. [9:47:36] And was a record made of what they said?

21 A. [9:47:42] Yes.

22 Q. [9:47:46] And what records did the judges rely on to make their judgments?

23 A. [9:47:57] What the -- what the plaintiff or the defendant said, they would
24 deliberate on the case. They would do investigation and eventually pass judgment.

25 Q. [9:48:12] Now, Mr Witness, you've said what the plaintiff or the defendant said.

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1 Who did they say this to?

2 A. [9:48:25] To the 10 judges. And with the witnesses, they would listen -- hear
3 the witnesses' testimony. They would do investigation to all this and eventually
4 pass judgment.

5 Q. [9:48:44] If the defendant or the plaintiff had spoken to the police or *Hesbah*
6 before the hearings at the tribunal, did the judges rely on those records or not?

7 MR GARCIA: [9:48:55](No interpretation) *Monsieur le Président* (Overlapping
8 speakers)

9 PRESIDING JUDGE MINDUA: [9:49:04](Interpretation) Prosecutor, you are always
10 in a hurry. Please await the end of the interpreting and then I will give you the floor.
11 So please, could you -- you can now speak.

12 MR GARCIA: [9:49:23](Interpretation) The first part of the last question could call
13 for conjecture on the part of the witness. I don't want to repeat the question, it's in
14 the transcript:

15 If the defendant or plaintiff --

16 THE INTERPRETER: [9:49:44] Message from the English booth: Please, could
17 Mr Garcia speak into his microphone.

18 MR GARCIA: [9:49:53](Interpretation) I understand that we're now talking to the
19 witness about the way the Islamic tribunal operated, but ...

20 PRESIDING JUDGE MINDUA: [9:50:09](Interpretation) Was there a problem, court
21 officer?

22 THE COURT OFFICER: [9:50:16] Could counsel please repeat his submission and
23 speak into the microphone - and, slowly - so that the interpreters can fully interpret
24 what you're saying.

25 MS TAYLOR: [9:50:33] Mr President, if I may?

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- 1 PRESIDING JUDGE MINDUA: [9:50:38](Interpretation) Yes, Ms Taylor?
- 2 MR GARCIA: [9:50:41](Overlapping speakers)
- 3 PRESIDING JUDGE MINDUA: [9:50:44](Interpretation) It may be something that is
4 relevant -- one moment, the Prosecutor hasn't yet expressed his objection.
- 5 MS TAYLOR: [9:50:53] Yes, Mr President, but I -- firstly, I would be concerned about
6 the Prosecutor going into any issues of substance in front of the witness, there's that
7 issue. And secondly, as you mentioned yourself, Mr President, this does appear to
8 be premature. The witness actually commenced to answer and I do believe this is
9 obstructing his answer.
- 10 Thank you. It's an important point and there's no basis for objection, particularly in
11 front of the witness.
- 12 PRESIDING JUDGE MINDUA: [9:51:33](Interpretation) Very well.
- 13 You heard Mr Prosecutor, the witness is there.
- 14 MR GARCIA: [9:51:40](Interpretation) Yes, and I noted that I am not -- I'm not the
15 person who's going to make comments of substance in front of the witness, but we
16 can do this -- but the problem is, it's -- there are questions being asked asking for
17 conjecture. We haven't yet had established by the Defence on what basis the witness
18 is currently replying to these questions. Obviously, we already know what was said
19 by the witness yesterday, but the requests to give us an answer about what happened
20 in a specific case, if somebody were talking in a certain (indiscernible), that's
21 a question of conjecture and that's my major concern. We're talking about replies
22 which are asking for conjecture, without having established a reasonable basis.
- 23 PRESIDING JUDGE MINDUA: [9:52:54](Interpretation) We're not going to try
24 and -- we're not going to take the witness out in order to gain time.
- 25 So Ms Taylor, you heard what the Prosecutor said. He spoke in a general manner,

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1 but he recalled the principle. Questions should not call for speculation by the
2 witness - and, we are in open session, so I don't want to go into detail - but our
3 witness is not a lawyer, and, therefore, there should be an appropriate form of
4 questioning.

5 MS TAYLOR: [9:53:40] Thank you, Mr President. We are in open session as the
6 Prosecutor is well aware and there was a foundation established for these questions at
7 the end of yesterday's session. I can reformulate to say "when" rather than "if" and
8 then put the question to the witness. We do have that foundation in evidence from
9 private session and I would hope that ...I'm sorry. This is an important point. It's
10 not appropriate to object as soon as the Defence gets to an important point. I've
11 offered to reformulate. I don't see why the Prosecutor is on their feet.

12 PRESIDING JUDGE MINDUA: [9:54:33](Interpretation) Mr Prosecutor, counsel for
13 the Defence will reformulate and we will see. So please, return to your seat.

14 MR GARCIA: [9:54:43](Interpretation) Yes, of course, Mr President.

15 MS TAYLOR: [9:54:54]

16 Q. [9:54:55] Now, Mr Witness, when the judges deliberated, did they rely on the
17 records received from the police or *Hesbah* or did they rely on the records created at
18 the Islamic tribunal?

19 A. [9:55:18] The tribunal would receive reports and records from the police and
20 *Hesbah*, but they were not taken into consideration because the police or *Hesbah*,
21 the -- the tribunal was concerned that they might have practiced some sort of coercion
22 or torture. So they relied mainly on what the person or the individual said before
23 the court.

24 Q. [9:55:51] And Mr Witness, in which room would witnesses be heard?

25 A. [9:55:56] In the courtroom.

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1 Q. [9:56:04] And who would be present in this room?

2 A. [9:56:13] The judges, in general, whoever was present.

3 Q. [9:56:19] And what did the judges wear during the hearings?

4 A. [9:56:28] Regular clothing. They didn't have a uniform to wear.

5 Q. [9:56:33] And did they have anything else present in the room with them or not?

6 A. [9:56:39] Yes, sometimes there were some weapons, but these -- these weapons
7 were not to threaten or intimidate the speakers. They were there just for the security.
8 It was not taken as a form of threat or something.

9 Q. [9:57:03] Where were the weapons?

10 A. [9:57:07] It was in the courtroom, but behind the judges. It was hanging on the
11 wall, but it was not to threaten the speaker. There was no threat at all. The speaker
12 would say whatever they wished.

13 Q. [9:57:27] I'm going to show a video, it's tab 24, it's MLI-OTP-0018-0102. It
14 should not be shown to the public. I think it's a confidential video. Actually, I
15 think it's best to go into private session. I have four questions which I think would
16 be best in private session.

17 PRESIDING JUDGE MINDUA: [9:57:58](Interpretation) Madam Court Officer,
18 private session, please.

19 (Private session at 9.58 a.m.)

20 MS TAYLOR: [9:58:13] Playing without sound.

21 THE COURT OFFICER: [9:58:16] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [9:58:22](Interpretation) Thank you, court officer.
23 Ms Taylor.

24 MS TAYLOR: [9:58:25]

25 Q. [9:58:25] If we can play it on evidence 2. We are going to start now.

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1 (Viewing of the video excerpt)

2 Q. [9:58:51] Mr Witness, you've raised your hand. Do you recognise something at
3 03:1:2 -- sorry, 3:12?

4 A. [9:59:00] Yes, I recognise three individuals in -- in -- facing me.

5 Q. [9:59:07] And who are those individuals?

6 A. [9:59:12] The first, the judge, Houka Houka. He's wearing white clothing and
7 red turban. To his left, the one wearing black, is Radwan. And to his left -- to the
8 left of Radwan, the one wearing yellow is Koutaïba. The others, they had some issue,
9 I think they had a problem. I can't see them and I can't recognise them.

10 Q. [9:59:41] We'll continue playing, and if you raise your hand if you see something
11 you identify.

12 (Viewing of the video excerpt)

13 That's the end of the video.

14 Do you recognise the location?

15 A. [10:00:18] Yes, this is the court that I was describing for you. [REDACTED]

[REDACTED]. This is the courtroom that they used to use.

17 Q. [10:00:32] [REDACTED]

18 A. [10:00:41] [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 Q. [10:01:00] [REDACTED]

22 A. [10:01:07] [REDACTED]

23 Q. [10:01:13] I think we can go into open session.

24 PRESIDING JUDGE MINDUA: [10:01:22](Interpretation) Indeed. Court officer,
25 please take us into open session.

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1 (Open session at 10.01 a.m.)

2 THE COURT OFFICER: [10:01:29] We are back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [10:01:41](Interpretation) Thank you very much,

4 Madam Court Officer.

5 Ms Taylor.

6 MS TAYLOR: [10:01:46]

7 Q. [10:01:46] Now, Mr Witness, is rape considered to be haram or not?

8 A. [10:01:56] Of course, very much so haram.

9 Q. [10:02:01] And to your knowledge, did Ansar Dine consider rape to be haram or
10 not?

11 A. [10:02:10] Yes, they considered it haram, of course, it's prohibited in Islam.

12 Q. [10:02:17] Was it possible for members of the local population to file complaints
13 against members of Ansar Dine?

14 A. [10:02:30] Yes. Very much so. A soldier -- a police officer, actually, raped
15 a girl in 2012 and he was arrested and a judgment was passed against him.

16 Q. [10:02:48] I'd like to turn tab 2 of your binder, Mr Witness, it's

17 MLI-OTP-0053-0168. It's in Arabic, if someone could assist the witness, and then on
18 the screen the translation is tab 3, MLI-OTP-0077-2229.

19 And if on the screen, we could bring up 2230.

20 A. [10:03:53] Yes, go ahead.

21 Q. [10:03:55] Mr Witness, are you familiar with this document?

22 A. [10:04:02] Yes. This is a judgment. It's the judgment about this young man
23 who was sentenced, and this is the sentence.

24 MS TAYLOR: [10:04:13] Mr President, may we go into private session?

25 PRESIDING JUDGE MINDUA: [10:04:21](Interpretation) Madam Court Officer,

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 MR GARCIA: [10:07:43](Interpretation) I object, your Honour.

7 PRESIDING JUDGE MINDUA: [10:07:45](Interpretation) Prosecutor.

8 MR GARCIA: [10:07:47](Interpretation) This is a leading question [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

12 PRESIDING JUDGE MINDUA: [10:08:12] (No interpretation)(Overlapping
13 speakers)

14 MS TAYLOR: [10:08:15] Thank you, Mr President. I'll move on to a different
15 question.

16 [REDACTED]

■ [REDACTED]

18 MR GARCIA: [10:08:30](Interpretation) I object, your Honour.

19 PRESIDING JUDGE MINDUA: [10:08:33](Interpretation) Yes, Prosecutor.

20 MR GARCIA: [10:08:35](Interpretation) Given the nature of my objection, I would
21 like the witness to be escorted out because what I say -- well, I risk going into the
22 substance of the matter.

23 PRESIDING JUDGE MINDUA: [10:08:50](Interpretation) Madam Court Officer,
24 please escort out the witness for a moment.

25 (The witness exits the courtroom)

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1 evidence.

2

■

■

5 trying to get to the truth. We should not be obstructing it. We should not be telling
6 a witness who was present that they can't testify.

7 The Prosecutor can address these issues in cross-examination. He's quite rightly said
8 that my question was quite precise. So where's the basis for objection, Mr President?
9 I do ask that we be able to proceed. It's not fair to the witness to keep him outside
10 for this long. It's going to make him nervous. That might be the point of the
11 objection, but that's not fair and that's not conducive to the establishment of the truth.
12 Again ...

13 MR GARCIA: [10:14:32](Interpretation) A procedural question.

14 PRESIDING JUDGE MINDUA: [10:14:34](Interpretation) Yes, Prosecutor.

15 MR GARCIA: [10:14:36](Interpretation) I would ask that the Defence to take away
16 its last point. If I get up, it's to make a legal objection that's (indiscernible). The
17 Prosecution isn't acting in bad faith and to allege anything like that is inappropriate.

18 PRESIDING JUDGE MINDUA: [10:14:50](Interpretation) Yes, Ms Taylor, we are
19 between professionals here. I don't think that you can impute bad faith on the part
20 of the Prosecutor. You would agree with that, would you not?

21 MS TAYLOR: [10:15:03] Mr President, I did not impute bad faith. I made the
22 observation that a very long-winded objection would make a witness nervous,
23 particularly if they are not familiar with the proceedings at the ICC, and I do believe
24 that none of that of which was said was necessary.

25 PRESIDING JUDGE MINDUA: [10:15:23](Interpretation) Very well. I consider that

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1 you haven't imputed bad faith. The issue is closed.

2 [REDACTED]
[REDACTED]

13 I'm going to let you pose your question and then the Chamber will assess the matter.

14 In terms of the different elements that I've just raised, you will be careful to ensure
15 that your question doesn't give rise to conjecture or the personal opinions of the
16 witness; whereas, this is a fact witness.

17 Are we in agreement?

18 MS TAYLOR: [10:17:26] Thank you, Mr President. I would like to note that this
19 [REDACTED] a fact that the Prosecutor has not referred to,
20 and I'm concerned about the characterisation of a witness's evidence in advance of the
21 conclusion of their evidence.

22 I will proceed with my questions. Thank you for your direction.

23 PRESIDING JUDGE MINDUA: [10:17:58](Interpretation) Very well, thank you very
24 much.

25 Madam Courtroom Officer, please, could you bring back the witness.

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1 a parent or a guardian would be obtained. [REDACTED]

6 Q. [10:22:36] I'd like to refer to you, Defence tab 22, it's MLI-OTP-0024-2814, it's in
7 Arabic in your binder, Mr Witness. And if you could turn to page 2858.

8 And I think it would be important for him to have assistance so he only sees that page.

9 And the translation can be brought up on the screen, it's tab 23, MLI-OTP-0067-1015
10 at 1016.

11 PRESIDING JUDGE MINDUA: [10:23:21](Interpretation) Ms Taylor, we are in
12 private session, are we not?

13 MS TAYLOR: [10:23:25] Mr President, in light of the objections from the Prosecution,
14 which have required me to establish a foundation each and every time I ask
15 a question, I do believe I'm going to have to ask these questions in private session to
16 avoid going in and out from objections. It's the only way to do this clearly and
17 quickly. I had tried to do it in a different way, but unfortunately that didn't work.

18 PRESIDING JUDGE MINDUA: [10:23:53](Interpretation) Very well, we can
19 continue in private session.

20 THE COURT OFFICER: [10:24:15] Could counsel please specify there is no page
21 1066 in tab 23.

22 MS TAYLOR: [10:24:23] Sorry, it should have been --

23 THE COURT OFFICER: [10:24:36] Is it 1016?

24 MS TAYLOR: [10:24:49] It's 1016, yes.

25 Q. [10:25:00] Mr Witness, do you recognise this document?

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1 [REDACTED]

■ [REDACTED]

11 MR GARCIA: [10:26:38](Interpretation) Your Honour?

12 PRESIDING JUDGE MINDUA: [10:26:40](Interpretation) Yes, Prosecutor.

13 MR GARCIA: [10:26:43](Interpretation) I just want to ensure that the record is clear

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

19 PRESIDING JUDGE MINDUA: [10:27:25](Interpretation) Yes --

20 MS TAYLOR: [10:27:26] Yes --

21 PRESIDING JUDGE MINDUA: [10:27:26](Interpretation) -- the document itself,

■ [REDACTED]

23 MR GARCIA: [10:27:31] *Oui* (Overlapping speakers)...

24 MS TAYLOR: [10:27:32] But it's -- if you could scroll down --

25 THE INTERPRETER: [10:27:33] Overlapping speakers.

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1 MS TAYLOR: [10:27:35] -- [REDACTED]
[REDACTED]

13 So now perhaps the witness will explain the difference.

14 Witness -- please go ahead, witness.

15 THE WITNESS: [10:28:36](Interpretation) Yes, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

21 MS TAYLOR: [10:29:23]

22 Q. [10:29:24] Mr Witness, if you can assist us, we have --

23 [REDACTED]
[REDACTED]

25 Can you assist us with understanding what [REDACTED]

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1 [REDACTED]

2 THE INTERPRETER: [10:29:44] Message --

3 PRESIDING JUDGE MINDUA: [10:29:47](Interpretation) Can you repeat what you
4 said and slow down a bit, please.

5 MS TAYLOR: [10:29:51] Certainly, Mr President. It might help for the interpreters
6 if we can scroll up so they can see what I'm referring to as well. [REDACTED]

7 [REDACTED]

8 Q. [10:30:01] Now Mr Witness, we have the words --

9 [REDACTED]

10 Can you assist us with understanding [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. [10:31:01] I do believe that is clarified.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

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■ [REDACTED]

2 Q. [10:32:34] Now during 2012, did Houka Houka continue to practice as a *cadi*
3 outside of the Islamic tribunal or not?

4 A. [10:32:49] Yes. He is a *cadi*, whether he works off from his house or any time
5 you visit him, he is a *cadi* and he continues to be in his village.

6 Q. [10:33:05] I believe we can go into open session.

7 PRESIDING JUDGE MINDUA: [10:33:18](Interpretation) Court officer, open session,
8 please.

9 (Open session at 10.33 a.m.)

10 THE COURT OFFICER: [10:33:22] We are back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [10:33:35](Interpretation) Thank you very much.

12 Ms Taylor.

13 MS TAYLOR: [10:33:36]

14 Q. [10:33:38] Now Mr Witness, can you explain what a *ta'zir* is?

15 A. [10:33:47] *Ta'zir* is -- it has no definition, in particular. *Hudud*, for example,
16 there are definitions. The *zina*, for example, the one who commits adultery is -- has,
17 for example, is being -- is being flogged 100 times. But *ta'zir* is at the discretion of
18 the judge. For example, one could be flogged 10 times, it -- depending on the -- the
19 nature of the case.

20 Q. [10:34:22] And did the tribunal issue judgments that concerned *ta'zirs* or not?

21 PRESIDING JUDGE MINDUA: [10:34:34](Interpretation) We need to have breaks,
22 Ms Taylor, between the speakers; otherwise, the interpreters cannot keep up. The
23 witness as well.

24 Mr Witness, please try to slow down your delivery and also to observe pauses
25 between the interventions. Thank you.

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1 MS TAYLOR: [10:35:06]

2 Q. [10:35:06] Mr Witness, I will repeat my question. Did the tribunal issue
3 judgments that concerned *ta'zirs* or not?

4 A. [10:35:19] Yes. It issued decisions of *ta'zir*. For example, some -- a soldier, an
5 Arab soldier who was one of the judges, he used to stay in a hotel, and he stole some
6 equipment from the court and the court issued *ta'zir* for this offence.

7 Q. [10:35:50] Now, Mr Witness, according to our transcripts you've said -- you've
8 referred to an Arab soldier who was one of the judges. Did you mean to use the
9 word "judge" or were you referring to, for example, an emir or a different word?

10 A. [10:36:10] He's a *cadi* from the group of *cadis*. He is an imam and he was
11 appointed by this 10 -- the group of 10 *cadis*.

12 Q. [10:36:24] And when the tribunal issued a judgment, were other sections of
13 Ansar Dine required to implement this judgment or not?

14 A. [10:36:52] Yes, the tribunal, whenever a decision is made, it is passed to the
15 police, which needs to execute the sentence or the decision. That was their duty.

16 Q. [10:37:13] In terms of the penalties that were applied by the tribunal, to your
17 knowledge was there any distinction between the penalties that applied to someone
18 who was free as compared to someone who had the status of a slave?

19 A. [10:37:34] Yes. Yes, Islam mandates this and it's mandated by sharia and they
20 execute sharia. A free man -- the *ta'zir* of a slave is half that of the free man. For
21 example, if a free man -- a *ta'zirs* decision is 100 floggings, then that of a slave would
22 be half, 50 flogs.

23 MS TAYLOR: [10:38:12] Mr President, may we go into private session.

24 PRESIDING JUDGE MINDUA: [10:38:25](Interpretation) Court officer, private
25 session, please.

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1 (Private session at 10.38 a.m.)

2 THE COURT OFFICER: [10:38:35] We are in private session, Mr President.

3 PRESIDING JUDGE MINDUA: [10:38:43](Interpretation) Thank you very much.

4 Ms Taylor.

5 MS TAYLOR: [10:38:45]

6 Q. [10:38:46] Now, Mr Witness, you have mentioned the distinction between

7 penalties for a free person as compared to a slave. [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED] was the slave living with the owner at the time or not?

14 A. [10:39:47] No. He lives in Timbuktu, and his owner, his master, lived far in

15 Goundam.

16 Q. [10:40:02] Can you explain what you mean by this word "master"?

17 A. [10:40:08] The person whom he said owns him, because he said he -- it was

18 a slave of that person, we -- that person was called and confessed that yes, he was the

19 owner of that slave.

20 MS TAYLOR: [10:40:36] I think we can go into open session.

21 PRESIDING JUDGE MINDUA: [10:40:42](Interpretation) Court officer, public

22 session, please.

23 (Open session at 10.40 a.m.)

24 THE COURT OFFICER: [10:40:51] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:40:57](Interpretation) Thank you very much,

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1 court officer.

2 Ms Taylor.

3 MS TAYLOR: [10:41:04]

4 Q. [10:41:04] Now, Mr Witness, you've referred to an individual, a slave, who was
5 living in Timbuktu and you told us that the owner lived far away. Now after the
6 judgment was issued, did the defendant have to go to where his owner stayed as part
7 of the judgment or did he stay in Timbuktu to your knowledge?

8 A. [10:41:29] He remained in Timbuktu.

9 Q. [10:41:38] Did the tribunal hear any cases concerning theft?

10 A. [10:41:51] Yes, yes, it did. It did hear some cases involving theft.

11 Q. [10:42:08] And were there cases where the *hadd* was not imposed?

12 A. [10:42:23] All the cases that had sentences or judgments were -- those decisions
13 or judgments were, in fact, executed.

14 Q. [10:42:37] I believe my question might have been too general. I was talking
15 specifically about cases of theft. Were there cases of theft where the tribunal decided
16 not to impose the *hadd*?

17 A. [10:43:11] No. No. All the cases before the tribunal, if the tribunal
18 decides -- if I understand the question correctly, could you -- could you please
19 elaborate more on the question.

20 Q. [10:43:31] I apologise, Mr Witness, I think my question is indeed confusing.
21 Do you know what -- do you know what the *hadd* for theft is?

22 A. [10:43:47] Yes, the *hadd* for theft, as mandated by the Koran, any thief, male or
23 female, their hands are too -- his hand is to -- or her hand is to be cut, and there's no
24 compassion towards them. That was a judgment or decision by Allah.

25 Q. [10:44:12] And how many times was this *hadd* decided?

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1 A. [10:44:20] In Timbuktu, to cut a person's hand, that which is the *hadd*, the *hadd*
2 for theft, that was -- that happened just once.

3 Q. [10:44:38] And during 2012, did the tribunal hear other cases of theft?

4 A. [10:44:46] Yes. There were so many theft cases, but the one -- but they were not
5 concluded and also there are conditions to implement the amputation, and if all the
6 conditions are met in a case, then this decision is passed and only one case had this
7 decision passed, which is to cut the hand and that was implemented, in fact.

8 Q. [10:45:18] Mr Witness, are we to understand that in the other cases, the judges
9 found that the conditions were not met?

10 A. [10:45:32] Yes.

11 Q. [10:45:35] Now, Mr Witness, you've referred to an institution called "*Hesbah*."
12 What was the role of *Hesbah*?

13 A. [10:45:50] To enjoin good and forbid wrong in the streets, in the markets.

14 Q. [10:46:07] And did *Hesbah* bring cases to the tribunal?

15 A. [10:46:20] Yes, if they had cases to be presented before the court, they had this
16 option. There was no distinction between them and the police.

17 Q. [10:46:34] And what type of cases did *Hesbah* bring to the tribunal?

18 A. [10:46:43] This, I can't answer. I can't remember the specific cases. I can't
19 mention this.

20 Q. [10:46:54] I have a question to put into private session.

21 PRESIDING JUDGE MINDUA: [10:47:04](Interpretation) Court officer, private
22 session, please.

23 (Private session at 10.47 a.m.)

24 THE COURT OFFICER: [10:47:10] We are in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:47:21](Interpretation) Thank you very much.

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1 Ms Taylor.

2 MS TAYLOR: [10:47:23]

3 Q. [10:47:24] Now, Mr Witness, after you started working with Ansar Dine, did
4 you visit *Hesbah*?

5 A. [10:47:33] Yes.

6 Q. [10:47:37] And where was it based at the time?

7 A. [10:47:42] In BMS, close to the small market.

8 Q. [10:47:53] And who did you see there when you visited the BMS?

9 A. [10:48:01] I found the soldiers -- or the officers of *Hesbah*, they were there.

10 Q. [10:48:18] I believe we can go into open session.

11 PRESIDING JUDGE MINDUA: [10:48:25](Interpretation) Court officer, open session,
12 please.

13 THE COURT OFFICER: [10:48:31] We are back in open session, Mr President.

14 (Open session at 10.48 a.m.)

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

16 Ms Taylor.

17 MS TAYLOR: [10:48:47]

18 Q. [10:48:47] I'd like to play an audio, it's tab 25, it's MLI-OTP-0043-0271. And if
19 we can play it for 10 seconds so that the witness can indicate whether he recognises
20 the voices or not.

21 THE COURT OFFICER: [10:49:09] Could counsel specify it's marked as confidential?

22 That it can be played in open session because the audio will obviously go to the
23 public.

24 MS TAYLOR: [10:49:20] Does the Prosecution ...?

25 It's a Prosecution document. From our side, I don't think we have any objection, but

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1 it's for the Prosecution to decide whether we should have it in open or closed session.

2 PRESIDING JUDGE MINDUA: [10:49:40](Interpretation) Yes, Mr Prosecutor.

3 MR GARCIA: [10:49:43](Interpretation) It's a confidential document. I haven't had
4 a chance to look at the transcript, but it all depends on the questions that are going to
5 be asked about the recording.

6 PRESIDING JUDGE MINDUA: [10:49:54](Interpretation) We can't -- we won't have
7 decided that it's a confidential document without reason.

8 MR GARCIA: [10:50:07](Interpretation) If it's simply a question of identifying voices,
9 then we have no objection. If it's anything else, then I will raise an objection if
10 necessary.

11 PRESIDING JUDGE MINDUA: [10:50:20](Interpretation) Yes, very well. In that
12 case, Ms Taylor, please proceed.

13 MS TAYLOR: [10:50:26] If we can play it from evidence 2.

14 (Viewing of the audio excerpt)

15 THE INTERPRETER: [10:50:54](Interpretation of the audio excerpt)

16 It's due to Allah and all peace and prayers --

17 MS TAYLOR: [10:51:09] If we could stop, if we can perhaps not have interpretation
18 and translation so that the witness and everyone can hear the voices.

19 We are going to start again.

20 (Playing of the audio excerpt)

21 PRESIDING JUDGE MINDUA: [10:52:24](Interpretation) Mr Witness, you raised
22 your hand?

23 MS TAYLOR: [10:52:34]

24 Q. [10:52:34] Mr Witness, do you recognise any of the voices?

25 A. [10:52:39] Yes.

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1 Q. [10:52:39] What did you hear?

2 A. [10:52:43] It's the voice of Sheikh Koutaïba and Sheikh Mohamed Mousa

3 Al-Souki.

4 Q. [10:52:53] And if you could assist us, in which language is Sheikh Koutaïba
5 speaking in?

6 A. [10:53:00] Koutaïba speaks Arabic and Sheikh Mohamed Mousa interprets into
7 Tamasheq.

8 Q. [10:53:07] I'm going to perform the same exercise with another audio, it's tab
9 28,it's MLI-OTP-0043-0272. Again, I would ask the interpreters not to interpret, we
10 are just going to play it for 10 seconds to allow the witness to identify whether he
11 recognises any of the voices. We are playing it from evidence 2.

12 (Audio excerpt played)

13 MS TAYLOR: [10:55:52] I note that the witness has raised his hand and I'm just
14 going to ask for the time stamp.

15 (Counsel confers)

16 MS TAYLOR: [10:55:59] It's 02:07, we played from 0 until 02:07.

17 Q. [10:56:09] Mr Witness?

18 A. [10:56:12] Again, similar to the previous one. Koutaïba is speaking in Arabic
19 and Mohamed Mousa is interpreting into Tamasheq and the subject is *Hesbah*.

20 Q. [10:56:26] And Mr Witness, based on what you heard, is Mohamed Mousa
21 repeating what Sheikh Koutaïba says in Tamasheq or is he saying something
22 different?

23 A. [10:56:40] He interprets -- he only interprets what Koutaïba was saying, exactly
24 as Koutaïba said, he just interprets that into Tamasheq.

25 Q. [10:56:54] I have one more audio.

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1 MR GARCIA: [10:57:00](Interpretation) If I may?

2 PRESIDING JUDGE MINDUA: [10:57:06](Interpretation) Mr Prosecutor.

3 MR GARCIA: [10:57:09](Interpretation) A correction to the transcript. I see that
4 twice mentioned document 0043-0271 on 31 and then she says tab 28, and, again, in
5 the transcript, it gives the same reference 0043-0271. I just simply wanted to point
6 out the good one for -- the correct one for 28 -- it's 0272 and not 0271.

7 PRESIDING JUDGE MINDUA: [10:57:50](Interpretation) I see there is no objection
8 from the Defence. Thank you.

9 MS TAYLOR: [10:57:56] I thank my learned colleague for pointing that out to us and
10 I'm now moving on to tab 31,
11 MLI-OTP-0043-0273.

12 Q. [10:58:08] Mr Witness, we are going to perform the same exercise as we did
13 previously, playing from evidence 2, for approximately 10 seconds to allow you to
14 identify whether you recognise any of the voices.

15 (Audio excerpt played)

16 MS TAYLOR: [11:00:16] I'm noting that the witness has raised his hand.

17 PRESIDING JUDGE MINDUA: [11:00:19](Interpretation) Yes, indeed.

18 MS TAYLOR: [11:00:19] And I'm going to give the timestamp. It's 01:45.

19 Q. [11:00:20] Mr Witness, we're about to break, but before we do so, could you
20 please help us. Do you identify any of these voices?

21 A. [11:00:32] Yes. The one speaking Arabic is Koutaïba, and the one who is
22 interpreting, this one I don't know. He's not Mohamed Mousa, but I don't know
23 him.

24 Q. [11:00:48] Thank you, Mr Witness.

25 MS TAYLOR: [11:00:49] I see that it's now 11 o'clock, would now be a good time for

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1 a break?

2 PRESIDING JUDGE MINDUA: [11:00:59](Interpretation) Yes, indeed. Court

3 officer, we are in private session, are we? No, we are in public session. So it is 11

4 o'clock precisely. We will stop for half an hour and we will start again at 11.30.

5 The hearing is suspended.

6 THE COURT USHER: [11:01:22] All rise.

7 (Recess taken at 11.01 a.m.)

8 (Upon resuming in open session at 11.33 a.m.)

9 THE COURT USHER: [11:33:59] All rise. Please be seated.

10 PRESIDING JUDGE MINDUA: [11:34:26](Interpretation) Court is in session.

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

12 Ms Taylor.

13 MS TAYLOR: [11:34:37] Thank you very much, Mr President. Before commencing,

14 I would just like just to make two minor announcements. One with your permission,

15 Dr Felicity Gerry would like to enter the courtroom, she will arrive in a couple

16 of minutes. With your permission, if she can come in?

17 PRESIDING JUDGE MINDUA: [11:35:03](Interpretation) A member of your team?

18 MS TAYLOR: [11:35:09] Yes, Dr Felicity Gerry.

19 PRESIDING JUDGE MINDUA: [11:35:10](Interpretation) Yes, because you

20 have -- normally have questions for Ms Gerry, of course, of course, she can come in.

21 MS TAYLOR: [11:35:17] Thank you very much.

22 Second, is that I'm hoping to finish as soon as possible. I understand that the witness

23 has been here a long time and that it would be ideal to finish as quickly as possible; so

24 I would just like to give notice that I hope to finish as quickly as possible, and

25 potentially before the end of the day in case that's relevant to the Prosecution so that

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1 they can start their cross-examination today.

2 PRESIDING JUDGE MINDUA: [11:35:53](Interpretation) Thank you very much,

3 Ms Taylor.

4 Obviously this is a very important communication. I think that the Office of the

5 Prosecutor will make good use thereof.

6 MR GARCIA: [11:36:05](Interpretation) I would just like to thank my learned

7 colleague for mentioning this to us in advance.

8 PRESIDING JUDGE MINDUA: [11:36:10](Interpretation) Very well. That has been

9 done.

10 Ms Taylor, please continue.

11 MS TAYLOR: [11:36:16] Thank you very much, Mr President.

12 Q. [11:36:19] Now, Mr Witness, how are you, firstly?

13 A. [11:36:26] I'm very well, thank you.

14 Q. [11:36:29] Glad to hear. Now, Mr Witness, before the break you identified

15 a voice belonging to someone you called Koutaïba. Is this the same Koutaïba that you

16 said was a member of the Islamic tribunal?

17 A. [11:36:48] Yes.

18 Q. [11:36:51] And you told us that the audios concerned *Hesbah*. Was Koutaïba

19 familiar with the work of *Hesbah*?

20 A. [11:37:10] Yes. He was one of the people who decided to establish the *Hesbah*.

21 Q. [11:37:20] And you mentioned another individual called Mohamed

22 Mousa -- Mohamed Mousa. Was he familiar with the work of *Hesbah* in Timbuktu?

23 A. [11:37:34] Yes. He was the chief of *Hesbah*, I think second in the hierarchy. I

24 think there was somebody else called Walid.

25 THE INTERPRETER: [11:37:51] The interpreter couldn't get the full name, I'm afraid.

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1 MS TAYLOR: [11:37:59]

2 Q. [11:38:01] Mr Witness, the interpreter was unable to get the full name of "Walid"
3 that you referred to.

4 A. [11:38:08] Abou Walid El Chinguetti -- Abou El Walid El Chinguetti.

5 Q. [11:38:16] To your knowledge was it necessary for the head of *Hesbah* to have
6 certain qualifications?

7 A. [11:38:26] Yes, he had to have a certain level of knowledge so that he can
8 become chief of the *Hesbah* or the head of the *Hesbah*.

9 Q. [11:38:41] And in what field should he have knowledge?

10 A. [11:38:53] For example, people -- if people had a high level of knowledge in the
11 Koran and jurisprudence and not enough to distinguish between *halam* and *halal* - to
12 know the difference between permissible acts and objectionable acts - that's the kind
13 of person.

14 Q. [11:39:19] And to your knowledge did Mohamed Mousa possess these
15 qualifications?

16 A. [11:39:29] Yes.

17 Q. [11:39:35] Do you know if Abou El Walid possessed these qualifications?

18 A. [11:39:44] Yes, he had these qualifications. He might be better than him or not,
19 but they made that change and I really can't tell why they did so.

20 Q. [11:39:59] Now you told us that you visited the BMS when the BMS -- when the
21 *Hesbah* was there, did you see them with your own eyes perform any of the work in
22 the BMS?

23 A. [11:40:11] No, no. I just visited there. I entered and I saw that people had
24 a certain uniform with the "*Hesbah*" written on their vests, but I don't know what they
25 were doing exactly. I don't know what kind of work was conducted there.

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1 Q. [11:40:44] I believe you also referred to a security section, what was the role of
2 the security section in Timbuktu?

3 A. [11:41:07] You mean the headquarters of the security services. It was also in
4 the BMS bank. They were working together. There was a room for the *Hesbah* and
5 there was a room for the security services, and their head was Talha Al Chinquetti.

6 Q. [11:41:34] And what did the security services do in Timbuktu?

7 A. [11:41:46] The security forces were responsible for providing the police with
8 everything that they needed. As we say, you know, security, what -- what would
9 a security services do, I think you understand what this word means, and so if there is
10 any problem related to security, they get involved.

11 Q. [11:42:18] Was security important at the time or not?

12 A. [11:42:30] Yes, it was very important at the time. They had to establish security
13 in the city. Of course, there were disputes and theft cases and the like; so the
14 security forces were responsible for all of that.

15 Q. [11:42:53] Mr Witness, did you just refer to the case of the Arab you'd told us
16 before as an example? The Arab who stole, is that something you just referred to?

17 A. [11:43:29] Yes, yes.

18 Q. [11:43:34] And Mr Witness, did you say that the security was involved in that
19 case?

20 A. [11:43:46] Yes. They are the ones who brought this man. When the soldiers
21 told them that he is doing certain objectionable acts, they monitored him and then
22 they brought him in.

23 PRESIDING JUDGE MINDUA: [11:44:07](Interpretation) Ms Taylor, we are going to
24 note for the record the presence of Ms Gerry for the record. Very well, it's noted.

25 Please continue.

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1 MS TAYLOR: [11:44:20] Thank you, Mr President.

2 Q. [11:44:21] Mr Witness, would it be possible to speak more slowly. Some of
3 your answers haven't been fully captured and I just want to make sure that all of your
4 evidence is captured.

5 A. [11:44:40] Okay, thank you.

6 Q. [11:44:43] Now in 2012, did you ever visit the building of the Islamic police, the
7 *shurta*?

8 A. [11:44:59] Yes.

9 Q. [11:44:59] And where was it based at the time?

10 A. [11:45:13] At the beginning, it was at the BMS bank and then it was transferred
11 to the *Gouvernorat* building where the governor used to work in Timbuktu.

12 Q. [11:45:31] And who was the chief of the Islamic police?

13 A. [11:45:45] When they were at the BMS, the head was a person called Adam Al
14 Chinquetti; he was dark skinned. And the second person was Khaled Al Sahrawi,
15 and that's when they moved to the *Gouvernorat* building.

16 Q. [11:46:08] This individual called "Khaled Al Sahrawi", can you describe him?

17 A. [11:46:20] Yes, he was an average -- of an average build, not very tall and not
18 very short. And he was white -- not really white, can -- we call it red skinned.
19 That's -- that's all what I can say about him.

20 Q. [11:46:42] And for how long was he the chief of the police?

21 A. [11:46:58] When they moved from the BMS to the *Gouvernorat* building, he
22 became the chief of the police until the mujahideen left Timbuktu in 2013.

23 Q. [11:47:15] And what were the duties -- or what was the role of Khaled?

24 A. [11:47:28] He was the emir of the police. When judgments are passed in the
25 tribunal, he was the one to execute the judgment and he is the one who arranged for

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1 the execution of judgments.

2 Q. [11:47:51] Do you know what languages he spoke?

3 A. [11:48:00] He spoke Arabic and also the dialect of the desert. So he needed
4 interpreters, he needed interpreters to help him understand all the other languages of
5 the area.

6 Q. [11:48:18] Did Khaled ever visit the tribunal?

7 A. [11:48:33] Yes, he used to visit the tribunal sometimes. He used to come with
8 people -- people who are supposed to appear before the court, he is the one who
9 brought them in the car.

10 Q. [11:48:50] Now if the police -- when the police received complaints, were they
11 obliged to forward these complaints to the tribunal or not?

12 A. [11:49:16] Well, yes, the police can look into the case themselves and if the case
13 needs to be referred to the court, then they used to write reports and send it to the
14 court and then refer the case to it.

15 Q. [11:49:32] Perhaps you can help me. In what circumstances would it be
16 necessary for the police to refer the case to the court?

17 A. [11:49:46] If a case needs a judgment, according to sharia law, such as theft and
18 *zina* - adultery and the like - if the case needs the judges to look into it, then it gets
19 referred to the tribunal.

20 Q. [11:50:08] If we could turn to tab 21 of your binder, it's in Arabic.

21 If someone can assist the witness. It's MLI-OTP-0001-7508, the translation is tab 22,
22 MLI-OTP-0052-073 ...

23 (Counsel confers)

24 THE COURT OFFICER: [11:50:48] Counsel, is it tab 20?

25 MS TAYLOR: [11:50:51] Yes. I think it might be tab 20, sorry, I apologise for that.

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WITNESS: MLI-D28-P-0202

1 I apologise, so tab 20 was the Arabic and tab 21 was the translation. So we should be
 2 putting tab 21, it's MLI-OTP-0052-0073 at 0074 on the screen.

3 And Mr President, if I may go into private session briefly.

4 PRESIDING JUDGE MINDUA: [11:51:44](Interpretation) Court officer, please take
 5 us into private session.

6 (Private session at 11.51 a.m.)

7 THE COURT OFFICER: [11:51:52] We are in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [11:51:57](Interpretation) Thank you very much.

9 Ms Taylor.

10 MS TAYLOR: [11:52:00]

11 Q. [11:52:02] Mr Witness, can you see this document in front of you?

12 A. [11:52:13] Yes, I can see it.

13 [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

18 Q. [11:53:11] And do you know why this case was sent to the tribunal?

19 A. [11:53:23] Because there is a dispute here, the police was not able to look into it
 20 and reach a decision; so they had to send it to the judiciary.

21 Q. [11:53:42] I'm going to play a video.

22 I believe we can now go into open session.

23 The video is tab 35, I believe that this is a confidential video, so we can't show it to the
 24 public, it's MLI-OTP-0041-0612.

25 PRESIDING JUDGE MINDUA: [11:54:12](Interpretation) Court officer, can we go

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1 into open session.

2 Ms Taylor, we are going into open session, is that not correct?

3 MS TAYLOR: [11:54:32] We are playing it without sound.

4 (Open session at 11.54 a.m.)

5 THE COURT OFFICER: [11:54:40] We are back in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [11:54:43](Interpretation) Thank you very much,

7 court officer.

8 Ms Taylor.

9 MS TAYLOR: [11:54:47]

10 Q. [11:54:49] We are going to play it from the beginning without sound.

11 Now, Mr Witness, if you recognise anyone, if you could put up your hand, please.

12 (Viewing of the video excerpt)

13 MS TAYLOR: [11:55:15] The timestamp is 0709.

14 Q. [11:55:16] Mr Witness, who did you recognise?

15 A. [11:55:24] I recognised Sheikh Koutaïba, he is one of those people standing here.

16 He is wearing a turban. And this vest is a vest for the Islamic police, that's what is

17 written on it, "Islamic police".

18 Q. [11:55:51] Now, Mr Witness, you've said he's wearing a turban. Are you able

19 to tell us what colour turban he's wearing?

20 A. [11:56:01] He is the one close to this person whose hand is up and he is facing

21 me. It's a turban -- I think it's greenish. Can you see the person with the

22 Islamic police vest? He is the one facing him. He is the one facing him

23 straightaway and the one behind him is Koutaïba.

24 Q. [11:56:34] And just to be entirely clear, is he short or tall?

25 A. [11:56:44] He's short. Short to some extent.

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1 Q. [11:56:52] To your knowledge, did Koutaïba visit the police?

2 A. [11:57:04] Yes, he was a *cadi* and a knowledgeable person; so yes, he went to all
3 the different places whenever he -- wherever he's needed. Some of these
4 establishments needed his advice and he would go to these places.

5 Q. [11:57:24] And to your knowledge, was he familiar with the role of the *shurta* in
6 Timbuktu?

7 A. [11:57:38] Yes. He was maybe one of the people who said -- or took decisions
8 about the *shurta* or the police and the tribunal and the *Hesbah*, and where they would
9 be working from and all the other details, given the fact that he was a *cadi* and a very
10 knowledgeable person.

11 Q. [11:58:05] Mr Witness, do you know an individual called Abu Zhar?

12 A. [11:58:15] Yes. Abu Zhar was an Algerian and he was the one who was in
13 charge of implementing the *hadd*. So, for example, if a certain person was sentenced
14 with a *hadd*, then Abu Zhar was summoned by the police in order to execute the *hadd*.

15 Q. [11:58:41] And to your knowledge, could Abu Zhar say no? Could he refuse to
16 implement it?

17 A. [11:58:53] No. If a judgment was passed by the tribunal, no one can say no.

18 Q. [11:59:05] Do you know an individual called Al Hassan?

19 A. [11:59:11] Yes, I know him. He was working in the Islamic police.

20 Q. [11:59:21] And do you know what his roles or duties were in the Islamic police?

21 A. [11:59:28] Yes. He was an -- administrative. He used to sit in an office and
22 type all of these reports on the computer, and he was also working as a translator or
23 an interpreter because he knew, I think about five languages. He is the one who
24 interpreted for Khaled and anyone else who needed interpretation.

25 Q. [12:00:04] Now, Mr Witness, I'm going to turn to another topic. Did

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1 Ansar Dine have a detention facility or prison in Timbuktu?

2 A. [12:00:20] Yes, they had their prison in Timbuktu, it's the big prison, the
3 previous -- the former one, and they took control of it.

4 Q. [12:00:35] To your knowledge, if someone was detained before the tribunal
5 issued a judgment, would the time served in prison be deducted from the time they
6 had to serve from their sentence?

7 A. [12:01:01] Could you explain the question a little bit further, please.

8 Q. [12:01:07] Certainly, Mr Witness. I'll give a concrete example. If a person was
9 given a *ta'zir* of one month and he was in jail for 15 days before the sentence was
10 issued, how many more days would he have to spend in prison?

11 MR GARCIA: [12:01:26](Interpretation) objection, your Honour.

12 PRESIDING JUDGE MINDUA: [12:01:33](Interpretation) Mr Prosecutor.

13 MR GARCIA: [12:01:38](Interpretation) There have been a number of questions of
14 this nature, which, again, rely on conjecture. If somebody had a certain sentence or
15 a certain punishment -- punishment of a month, I mean, we have to take account of
16 the knowledge of the witness. I won't go back over what I said earlier, but it's a very
17 hypothetical question which requires conjecture on the part of the witness.

18 PRESIDING JUDGE MINDUA: [12:02:13](Interpretation) Ms Taylor, what is your
19 response to this?

20 MS TAYLOR: [12:02:16] Thank you, Mr President. Now firstly, the witness is very
21 capable of saying what he knows and what he doesn't know; that's the first point.
22 Secondly, he has indicated he has knowledge of this during the preparation session as
23 the Prosecutor is well aware. He's asked me to give a more concrete example. I can
24 go into more details as concerns his knowledge of the prison in private session, but as
25 per the Judges' directions, I've been trying to do as many questions as possible in

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1 open session to facilitate the publicity of the proceedings.

2 The problem we face is these objections consistently require us to go into private

3 session and disrupt the train of publicity. I can establish the foundation in private

4 session, but I do believe it's in the interests of publicity to have some questions at least

5 in open session.

6 I can reframe my question.

7 PRESIDING JUDGE MINDUA: [12:03:23](Interpretation) Yes, to save time, please

8 try and rephrase your question.

9 MS TAYLOR: [12:03:30]

10 Q. [12:03:30] Mr Witness, to your knowledge, if a person was given a *ta'zir*, which

11 involved jail time and they had already been in jail before the *ta'zir* was issued, would

12 that be deducted from the time they had to spend in jail afterwards?

13 MS TAYLOR: [12:04:01] I think this has already been ruled upon, we should be able

14 to proceed with the question without facing another objection.

15 PRESIDING JUDGE MINDUA: [12:04:20](Interpretation) Mr Prosecutor, I see you

16 are on your feet. If you want to come back to the fact that this witness is not

17 a lawyer with a qualification or that this is a hypothetical case - what we used to call

18 a "*casus*" - I think there is no point in doing that because we won't appreciate such

19 a comment. [REDACTED]

[REDACTED]

[REDACTED] It's a -- that's the point.

22 I think we can hear the answer and then we will be able to appreciate this for

23 ourselves.

24 MS TAYLOR: [12:05:22] Thank you, Mr President.

25 Q. [12:05:23] Mr Witness?

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1 A. [12:05:30] Yes, if someone, for example, is sentenced to a month and he had
 2 spent five -- 15 days during an investigation, if a sentence of a month was issued, he
 3 would spend only 15 days more in prison.

4 MS TAYLOR: [12:05:52] Mr President, may we go into private session?

5 PRESIDING JUDGE MINDUA: [12:05:59](Interpretation) Yes, of course.

6 Court officer, please.

7 (Private session at 12.06 p.m.)

8 THE COURT OFFICER: [12:06:10] We are in private session, Mr President.

9 PRESIDING JUDGE MINDUA: [12:06:17](Interpretation) Thank you very much.

10 Ms Taylor.

11 MS TAYLOR: [12:06:20]

12 [REDACTED]

[REDACTED]

[REDACTED] how were the prisoners

15 treated?

16 A. [12:06:47] They were treated very well. They were in prison somewhere and
 17 they had their washroom to take a shower and they were allowed to have a phone call.

18 They would -- he would go out and given a phone. If food was given from their
 19 family, they would call that person and hand him the food that was provided.

20 Q. [12:07:17] Did they have -- you've mentioned washroom facilities, did they have
 21 access to bathroom facilities?

22 A. [12:07:29] Yes. There was a bathroom and a toilet inside the facilities, however,
 23 it -- it was easily accessible.

24 Q. [12:07:51] Were they given access to fresh air, that is, were they able to leave
 25 their cells at any point during the day?

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1 A. [12:08:01] No. They don't go outside. They go only in the yard, the big yard
2 where there are washrooms and also windows. Whoever wanted to drink tea or
3 wash -- do their laundry. At night, they go back to their rooms -- to the inner rooms,
4 the one that is locked.

5 PRESIDING JUDGE MINDUA: [12:08:43](Interpretation) Ms Taylor, we are still in
6 private session, I don't think this is still justified.

7 MS TAYLOR: [12:08:51] We can go into open session, Mr President.

8 PRESIDING JUDGE MINDUA: [12:08:56](Interpretation) Court officer, open session,
9 please.

10 (Open session at 12.09 p.m.)

11 THE COURT OFFICER: [12:09:05] We are back in open session, Mr President.

12 PRESIDING JUDGE MINDUA: [12:09:12](Interpretation) Thank you very much.
13 Ms Taylor.

14 MS TAYLOR: [12:09:14]

15 Q. [12:09:17] Mr Witness, what is "*zakat*"?

16 A. [12:09:27] Could you repeat the question about *zakat*.

17 Q. [12:09:34] Can you explain to us what this word "*zakat*" means?

18 A. [12:09:44] *Zakat* is money, a donation from the person's position or money. If
19 you have, for example, 40 sheep, you need to donate one of them every year. This is
20 *zakat*. There's also another type of *zakat* called, "*zakat al Fitr*" in the month of
21 Ramadan, which is the amount of four -- four handfuls of food for each individual.

22 Q. [12:10:21] And to your knowledge did Ansar Dine collect *zakat* when they were
23 present in Timbuktu?

24 A. [12:10:32] Yes, they could collect *zakat*, but I personally don't know about this
25 issue.

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1 Q. [12:10:49] To your knowledge, did Ansar Dine distribute anything to the
2 population in 2012?

3 A. [12:11:04] Yes, they would distribute water, electricity -- for free in hospitals,
4 they would give medicines or medications for free. Maybe half of the medications
5 were given for free.

6 Q. [12:11:26] Were there any poor people in Timbuktu in 2012?

7 A. [12:11:41] Yes, there were poor people.

8 Q. [12:11:45] And was any assistance given to them or not?

9 A. [12:11:50] Yes, assistance was provided to the poor, yes, this happened. They
10 assisted the poor, they gave assistance to them, yes.

11 Q. [12:12:08] Mr Witness, you've used the word "they," are you referring to
12 Ansar Dine or not?

13 A. [12:12:17] I mean Ansar Dine.

14 Q. [12:12:22] Mr Witness, did you yourself visit the hospital in 2012?

15 A. [12:12:28] Yes.

16 Q. [12:12:36] And was this when Ansar Dine was present?

17 A. [12:12:42] Yes, it was when Ansar Dine was there, I visited the hospital, yes.

18 Q. [12:12:52] This might be obvious, but was the hospital open when you visited it?

19 A. [12:13:04] Yes. There was no change before or after 2012 in the hospital. It
20 was open.

21 MS TAYLOR: [12:13:15] Mr President, I have about two or three questions
22 concerning the witness's family. If I could ask those in private session.

23 PRESIDING JUDGE MINDUA: [12:13:30](Interpretation) Yes, of course.

24 Court officer, private session, please.

25 (Private session at 12.13 p.m.)

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- 1 THE COURT OFFICER: [12:13:44] We are in private session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [12:13:49](Interpretation) Thank you very much.
- 3 Ms Taylor.
- 4 MS TAYLOR: [12:13:50]
- 5 Q. [12:13:52] Mr Witness, [REDACTED]
- 6 [REDACTED]
- 7 A. [12:14:03] Yes. [REDACTED] Al
- 8 Hassan Bin Abdoul Aziz [REDACTED] [REDACTED]
- 9 [REDACTED]
- 10 [REDACTED]
- 11 [REDACTED]
- 12 [REDACTED]
- 13 [REDACTED]
- 14 [REDACTED]
- 15 [REDACTED]
- 16 [REDACTED]
- 17 MS TAYLOR: [12:15:16] Mr President, I believe we can go into open session.
- 18 PRESIDING JUDGE MINDUA: [12:15:23](Interpretation) Ms Taylor, in the
- 19 transcript, [REDACTED] "Al Hassan Bin Aziz -- Bin Aziz, that's Arabic.
- 20 Which Al Hassan are we talking about here, Al Hassan Ag -- or which Al Hassan?
- 21 THE WITNESS: [12:15:57](Interpretation) Al Hassan Ag Abdoul Aziz who was
- 22 serving in the police -- in the administration of the police. [REDACTED]
- 23 [REDACTED]
- 24 [REDACTED]
- 25 PRESIDING JUDGE MINDUA: [12:16:23](Interpretation) So are we talking about

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1 the accused?

2 THE WITNESS: [12:16:32](Interpretation) Yes.

3 MS TAYLOR: [12:16:41]

4 Q. [12:16:42] Mr Witness, is "Bin" the same as "Ag"? Does it mean "the son of"?

5 A. [12:16:50] Bin is in Arabic and Ag is in Tamasheq.

6 Q. [12:16:56] And do both of them mean "son of"? "Son of Abdoul Aziz"?

7 A. [12:17:06] Yes, both mean son of Abdoul Aziz.

8 PRESIDING JUDGE MINDUA: [12:17:15](Interpretation) So my question is, which
9 Al Hassan are we talking about? Are we talking about the accused or are we talking
10 about a different person?

11 THE WITNESS: [12:17:29](Interpretation) Thanks. We are talking about the
12 accused. The accused himself.

13 PRESIDING JUDGE MINDUA: [12:17:38](Interpretation) Thank you very much.

14 MS TAYLOR: [12:17:43] Perhaps before we go into open session --

15 Q. Mr Witness, [REDACTED]

[REDACTED]

[REDACTED]

18 MS TAYLOR: [12:18:01] If we can go into open session.

19 PRESIDING JUDGE MINDUA: [12:18:08](Interpretation) Court officer, open session,
20 please.

21 (Open session at 12.18 p.m.)

22 THE COURT OFFICER: [12:18:16] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:18:24](Interpretation) Thank you very much.

24 Ms Taylor.

25 MS TAYLOR: [12:18:26]

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1 Q. [12:18:27] We are going to play a video, it's tab 10. The video should not be
2 shown to the public. It's MLI-D28-0006-3315. And we are going to play from
3 approximately 13.20 to 14.25 without sound.

4 (Viewing of the video excerpt)

5 MS TAYLOR: [12:20:22] We are stopping at 14.25 and if we could go back to 13.24
6 and freeze there.

7 So we are at 13.21.

8 Q. [12:20:43] Mr Witness, do you recognise this location?

9 A. [12:20:51] Yes, this is the grand hospital of Timbuktu.

10 Q. [12:20:58] And which part of the hospital is it?

11 A. [12:21:04] This is the emergency section towards the eastern gate. The eastern
12 part towards the emergency gate.

13 PRESIDING JUDGE MINDUA: [12:21:29](Interpretation) Ms Taylor, is this
14 a confidential item or is it public?

15 MS TAYLOR: [12:21:36] It's confidential. There's a written document which
16 explains why it's confidential that's been filed in the record.

17 PRESIDING JUDGE MINDUA: [12:21:54](Interpretation) Very well. Please
18 proceed.

19 MS TAYLOR: [12:21:58]

20 Q. [12:22:00] And did you use this entrance in 2012?

21 A. [12:22:08] Yes.

22 Q. [12:22:11] I'm going to turn to a different topic, I have a few questions which
23 might need to be in private -- well, do need to be in private session and then I believe
24 we can go into open session.

25 PRESIDING JUDGE MINDUA: [12:22:30](Interpretation) Court officer, private

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1 session, please.

2 (Private session at 12.22 p.m.)

3 THE COURT OFFICER: [12:22:36] We are in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:22:48](Interpretation) Thank you very much,
5 court officer.

6 MS TAYLOR: [12:22:56]

7 Q. [12:22:57] Now, Mr Witness, at transcript 202, page 17, yo [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

14 [REDACTED] there was a shortage in teachers, [REDACTED]

15 Q. [12:24:06] And why was there a shortage of teachers?

16 A. [12:24:13] Because teachers -- some of them fled to Bamako, they fled Timbuktu.

17 Q. [12:24:23] And did they flee at the same time as the Malian authorities fled or
18 afterwards?

19 A. [12:24:36] Particularly, the time they fled, I don't know, but I know that they fled.
20 I think they fled because the -- some of the authorities fled because they were not
21 part -- there were no auditors and they -- some of them belonged to these movements.

22 Q. [REDACTED]

■ [REDACTED]

24 A. [12:25:15] [REDACTED] ladies needed

25 a room -- all of them to be in a room, and another room for men. But as for children,

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1 they just needed to have a segregation. The girls in a row and boys in another row.

2 That's all.

3 Q. [12:25:44] So you said the boys were in one row and the girls were in another
4 row. Was this in the same room? This is talking about the children?

5 A. [12:25:55] They were all in the same room, but boys were in one row and girls
6 were in a different row, but in the same room.

7 Q. [12:26:13] [REDACTED]

■ [REDACTED]

19 MR GARCIA: [12:27:33](Interpretation) Mr President.

20 PRESIDING JUDGE MINDUA: [12:27:38](Interpretation) Yes, Mr Prosecutor.

21 MR GARCIA: [12:27:40](Interpretation) There have been a number of leading
22 questions that -- I didn't object to those, but I would like to object to this one, please.

23 I think -- I understand that they're trying to save time, but it would be better to put

24 open questions: [REDACTED]

■ [REDACTED]

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1 PRESIDING JUDGE MINDUA: [12:28:11](Interpretation) Ms Taylor, yes, please, do
2 rephrase.

3 MS TAYLOR: [12:28:17]

4 Q. [12:28:17] [REDACTED]
[REDACTED]

14 Q. [12:29:28] Mr Witness, this term "hijab", can you explain what you mean by that?
15 It can mean different things in different contexts.

16 A. [12:29:42] The word "hijab" is whatever covers the woman, in general, (Arabic
17 spoken) whether it's an abaya or whatever her -- covers her attractions because that
18 should be covered according to Islam. She need to be covered; that is the notion of
19 "hijab".

20 Q. [12:30:07] And did she have to cover her face, this part or not? Sorry, Mr
21 Witness, I understand that you said they had to cover except the face and hands -- is
22 that correct, that you said that?

23 A. [12:30:27] Yes, I did.

24 [REDACTED]
[REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]

5 Q. [12:31:12] Was any other measure imposed or not?

6 A. [12:31:18] As far as women were concerned, that's all. As for men, they did not
7 need -- they were not required to have their pants pass the -- passed the ankle.
8 That's what really mattered.

9 Q. [12:31:46] And if they didn't follow the advice, what measures would be
10 imposed?

11 A. [12:31:56] What's important is that there was no *ta'zir*, it was just advice. If you
12 were given advice once or twice, you would commit to that, you would stick to that
13 and you would remain so.

14 Q. [12:32:17] I believe we can go into open session.

15 PRESIDING JUDGE MINDUA: [12:32:24](Interpretation) Court officer, open session,
16 please.

17 (Open session at 12.32 p.m.)

18 THE COURT OFFICER: [12:32:31] We are back in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [12:32:42](Interpretation) Thank you very much.
20 Ms Taylor.

21 MS TAYLOR: [12:32:44]

22 Q. [12:32:46] Now, Mr Witness, I have some questions about marriages. I'm going
23 to ask these questions in open session, but if you need to give names, we'll need to go
24 into private session. So perhaps if you need to give a name to answer, if you could
25 put up your hand and I'll ask the permission of the presiding judge.

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1 A. [12:33:05] Thank you.

2 PRESIDING JUDGE MINDUA: [12:33:25](Interpretation) Ms Taylor, what would
3 you wish?

4 MS TAYLOR: [12:33:28] Nothing, Mr President.

5 PRESIDING JUDGE MINDUA: [12:33:31](Interpretation) Please continue then.

6 MS TAYLOR: [12:33:33]

7 Q. [12:33:33] Now, Mr Witness, did anyone from your tribe get married to
8 members of Ansar Dine or Islamists in 2012?

9 A. [12:33:54] Yes, yes.

10 Q. [12:33:56] And to your knowledge, how was the marriage arranged, and, as
11 mentioned, if we need to say names, I can ask to go into private session.

12 MR GARCIA: [12:34:11](Interpretation) I object.

13 PRESIDING JUDGE MINDUA: [12:34:14](Interpretation) Prosecutor.

14 MR GARCIA: [12:34:15](Interpretation) Once again, your Honour, there's the
15 manner in which the questions are put, "How they were arranged". Open questions
16 must be put to the witness who can explain to us exactly what was done at these
17 marriages. Already in the framework of the question, you have part of the answer.
18 Ask an open question.

19 PRESIDING JUDGE MINDUA: [12:34:44](Interpretation) Ms Taylor -- Ms Taylor,
20 there, I agree with the Prosecutor because when you see, if I look at the question,
21 "How was -- how were the marriages arranged?" You are suggesting the answer.
22 It's a leading question. So put your question in an open way, please.

23 MS TAYLOR: [12:35:08] Thank you, Mr President. Although maybe it's
24 a difference between the English and the French as the English "arranged" is quite
25 open.

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1 Q. [12:35:16] Was the marriage arranged?

2 MR GARCIA: [12:35:24](Interpretation) Again, it's leading.

3 PRESIDING JUDGE MINDUA: [12:35:28] *Monsieur le Procureur*.

4 MR GARCIA: [12:35:29](Interpretation) The question needs to be put simply,
5 your Honour. I'm not going to tell my colleague how to do so, but the -- an example
6 of an open question --

7 PRESIDING JUDGE MINDUA: [12:35:40](Interpretation) Yes, the Prosecutor speaks
8 English too, so what would "arrange" be in English?

9 MR GARCIA: [12:35:49](Interpretation) That's the term, your Honour, which is used
10 already, and my colleague knows exactly what it -- arranged, what it means. An
11 open question needs to be put. I didn't object to several questions that were leading
12 so that we could be efficient. But there, there have been several.

13 PRESIDING JUDGE MINDUA: [12:36:06](Interpretation) We are going to move on.
14 Ms Taylor, please reformulate.

15 MS TAYLOR: [12:36:10] Thank you, Mr President. My understanding of the word
16 "arranged", is, it means organised, put together. How did it happen? We have that
17 there was marriage, how did the marriage happen.

18 PRESIDING JUDGE MINDUA: [12:36:23](Interpretation) Ms Taylor, very well, but I
19 said move on. Perhaps use a different word because the interpreters have problems
20 with this word.

21 MS TAYLOR: [12:36:32]

22 Q. [12:36:32] How did the marriage happen?

23 MS TAYLOR: [12:36:37] Perhaps we can go into private session, I do believe that's
24 better. I can be clearer and we're not going to have any risks and I can ask a very
25 general question. I do believe it will be a lot simpler if I can just go into private

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1 session and ask this witness to tell us what he knows about this marriage or
2 marriages. In that way, it will be completely open and we will save time.

3 PRESIDING JUDGE MINDUA: [12:37:09](Interpretation) Very well. Just for a few
4 moments, Ms Taylor, because the other element is the publicity of proceedings.
5 Please take us into private session, court officer.

6 (Private session at 12.37 p.m.)

7 THE COURT OFFICER: [12:37:27] We are in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [12:37:32](Interpretation) Thank you very much.
9 Ms Taylor.

10 MS TAYLOR: [12:37:35]

11 Q. [12:37:36] Now, Mr Witness, we're now in private session, which means that the
12 public can't hear. Can you assist the Chamber -- can you tell the judges everything
13 you know about these marriages that took place between members of your tribe and
14 the Islamists or Ansar Dine?

15 A. [12:38:11] Yes. [REDACTED]

16 [REDACTED] And
17 marriage in Islam is just one. The man who seeks marriage goes to the guardian of
18 the woman and asks for her hand. There was no change. There's no change before
19 2012 or during 2012 or after 2012. Marriage was one. The same. Ansar Dine did
20 not change it. And [REDACTED] asked his daughter if she agreed to
21 marry [REDACTED] and she agreed, and that's it. They brought the witnesses and
22 they conducted the marriage. That's it. In brief, that's marriage in Islam.

23 Q. [12:39:11] Did the marriage between [REDACTED] and this woman end or not?

24 A. [12:39:23] It -- the marriage stayed until Ansar Dine left Timbuktu, and after
25 they left in 2013, [REDACTED] sent a message to [REDACTED], stating

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1 that he is going to divorce his daughter, and they brought witnesses and they carried
2 out the divorce.

3 Q. [12:39:59] And after this woman got divorced, did she get remarried or not to
4 your knowledge?

5 PRESIDING JUDGE MINDUA: [12:40:07](Interpretation) Ms Taylor, because we
6 already know who the protagonists are, we can go back into open session, can't we?

7 MS TAYLOR: [12:40:16] Certainly.

8 PRESIDING JUDGE MINDUA: [12:40:20](Interpretation) Court officer, please take
9 us into open session.

10 Witness, please note that we are now in open session.

11 (Open session at 12.40 p.m.)

12 THE WITNESS: [12:40:44](Interpretation) Thank you.

13 THE COURT OFFICER: [12:40:46] We are back in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [12:40:48](Interpretation) Thank you very much,
15 court officer.

16 Ms Taylor

17 MS TAYLOR: [12:40:51]

18 Q. [12:40:51] Now, Mr Witness, we were discussing a woman who got divorced.
19 After the divorce to your knowledge, did she get married again or not?

20 A. [12:41:07] Yes, I know this woman, and I think she got married twice after this
21 marriage. She married a man and then she got divorced and then she married
22 another man and she's still married to this person now.

23 Q. [12:41:25] Now earlier you mentioned an individual called "Talha" who worked
24 in the security. To your knowledge, did he get married when Ansar Dine was
25 present in Timbuktu or not?

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- 1 MR GARCIA: [12:41:42](Interpretation) I object.
- 2 PRESIDING JUDGE MINDUA: [12:41:47](Interpretation) Prosecutor.
- 3 MR GARCIA: [12:41:51](Interpretation) Once again, it's completely leading, the
4 question itself. The colleague can put a question with regards to the name of the
5 person, and afterwards we can go into details and not to say immediately
6 such-and-such a person was married or not.
- 7 PRESIDING JUDGE MINDUA: [12:42:13](Interpretation) Ms Taylor.
- 8 MS TAYLOR: [12:42:16] Mr President, with respect, either someone gets married or
9 they don't get married. Both possibilities were in my question. It is therefore not
10 leading towards a particular outcome. The witness is free based on his knowledge to
11 tell us if this individual got married in 2012 or if he didn't get married in 2012. I
12 would have thought that would be consistent with the truth-seeking purposes of this
13 Court.
- 14 PRESIDING JUDGE MINDUA: [12:42:58](Interpretation) Yes, Prosecutor, because
15 there, the Defence is talking about a precise person. I think the question is
16 acceptable.
- 17 MR GARCIA: [12:43:07](Interpretation) Your Honour, it's the way of formulating
18 the questions that's formulated that's the problem. It's not an open question. I'm
19 not going to go back to the question itself, if -- whether a person is married or not.
20 But when you put a name forward, you are suggesting the answer and it's not
21 because you say yes or no that the question isn't leading as such. When you are
22 asking or indicating a name to the witness, it is leading and the fact that saying yes or
23 no at the end of the question doesn't change the nature of the question, the question
24 was already put.
- 25 I made my comments, that's it.

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1 PRESIDING JUDGE MINDUA: [12:43:47](Interpretation) Very well, Prosecutor.

2 Because I think it is about a precise person. So the Defence wants to have

3 information about this precise person.

4 I don't know where the question is, I don't see it anymore. Ms Taylor, please

5 continue.

6 MS TAYLOR: [12:44:05] Thank you very much, Mr President.

7 Q. [12:44:08] Mr Witness, did you hear my question? To your knowledge, the

8 individual you've referred to as "Talha", did he get married in 2012 when Ansar Dine

9 was present or not?

10 A. [12:44:28] Yes, he got married to a woman who got divorced via the

11 Islamic tribunal.

12 Q. [12:44:45] Now you've told us this woman got divorced by the Islamic tribunal.

13 Was that before or after she married Talha?

14 A. [12:44:55] If a -- if a woman is married, she can't, of course, marry again. She

15 had to be divorced. She received her divorce decree from the tribunal, then she had

16 to wait for the *iddah* period, and then she was allowed to marry again.

17 Q. [12:45:27] Do you know what ethnicity this woman was?

18 A. [12:45:32] She was an Arab, Berabish.

19 Q. [12:45:42] And what ethnicity was Talha?

20 A. [12:45:47] He was also from the Arab Berabish, Shinqit?

21 Q. [12:46:00] Now you've told us that she went to the tribunal to ask for a divorce

22 before marrying Talha. So did she herself request the divorce?

23 A. [12:46:13] Yes, a woman can ask for a divorce in the court if her husband doesn't

24 come to live with her for a very long time. I think that her previous husband was

25 imprisoned in Mauritania. He was sentenced for a few years in prison, and she went

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1 and asked to end the marriage, and the judge knows very well all the conditions for
2 divorcing a woman and when they found all the conditions were met, they decided to
3 give her the divorce decree.

4 Q. [12:46:57] Now you've mentioned one marriage concerning Talha, are you
5 aware of any other marriages or not?

6 A. [12:47:14] No. I only remember Talha's marriage.

7 Q. [12:47:20] Do you know an individual called Abdel Jalil?

8 A. [12:47:29] Yes. He is a French person who was a resident in Timbuktu.

9 Q. [12:47:39] Now you've told us he was a resident in Timbuktu. Was he
10 a resident in Timbuktu before the group arrived or did he arrive after the group?

11 A. [12:47:54] No. He was in Timbuktu before the arrival of the groups.

12 Q. [12:48:01] To your knowledge, did he have a particular position in the groups?

13 A. [12:48:13] I know only that he joined the group, but I don't know what role he
14 had.

15 Q. [12:48:21] Do you know what the -- how the group --

16 Sorry, I'm going to rephrase that.

17 How would you describe his mental state based on what you saw and heard in 2012?

18 MR GARCIA: [12:48:36](Interpretation) I object.

19 PRESIDING JUDGE MINDUA: [12:48:43](Interpretation) Prosecutor.

20 MR GARCIA: [12:48:43](Interpretation) If we look at the last question of the Defence,

21 I don't know, but we don't have a witness who's an expert on the mental state of

22 people and we simply -- have been asked a question or two about the knowledge of

23 this person and he said what he knew. He joined the group without knowing

24 anything more about it -- nor the role, and then a question is added, which is a lot

25 more important, which asks for an intimate knowledge of the person. Without

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1 having established a reasonable basis for the question, the witness does not have the
2 competence as to the mental state of the person. I don't know how this witness is
3 going to explain that. I don't think he's able to respond to that type of question.

4 MS TAYLOR: [12:49:39] I can reformulate --

5 PRESIDING JUDGE MINDUA: [12:49:41](Interpretation)(Overlapping speakers)

6 *Oui*, Maître Taylor, I think that -- well, the Prosecutor spoke about two questions,
7 didn't he. Now the first question was with regards to the functions and the second
8 was with regards to the comments. What do you say?

9 MS TAYLOR: [12:49:54] Mr President, as I said, I will reformulate.

10 PRESIDING JUDGE MINDUA: [12:49:59](Interpretation) Yes. That's a lot better.
11 Reformulate, please.

12 MS TAYLOR: [12:50:02]

13 Q. [12:50:04] Mr Witness, are you able to tell the judges what you recall about this
14 individual? What you heard at the time about this individual?

15 A. [12:50:24] Yes, Abdel Jalil, the French, was in Timbuktu, and he had donkeys.
16 Some people said that he was a crazy man, wandering around in the streets of
17 Timbuktu, and when the groups came, he joined Ansar Dine. And after a while,
18 Talha took him. Talha was responsible for the security and he said that he worked
19 with the Mauritanian intelligence services.
20 That's all what I knew about him.

21 Q. [12:50:58] Thank you, Mr Witness. Just to be clear, you said Talha was
22 responsible for security and he said that he worked with the Mauritanian intelligence
23 services.

24 When you say -- I understand you're saying Talha said -- did Talha say that Abdel
25 Jalil worked with the Mauritanian intelligence services? Is that the "he" that we

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1 should understand?

2 A. [12:51:31] Talha was the one in charge of security and he is the one who said
3 that he was working with the intelligence services. That's only what I heard. That
4 was the reason that he was arrested. That's all I know.

5 Q. [12:51:50] Thank you, Mr Witness. I'm sorry to go back to this, it's just an issue
6 of the "he," and I understand it's very clear to you. Who was working with the
7 Mauritanian intelligence services, Abdel Jalil or Talha?

8 A. [12:52:08] Abdel Jalil is the one who was working with the intelligence services,
9 the Mauritanian ones.

10 Q. [12:52:14] Thank you for helping clarify that for me.

11 I'm now going turn to a video which, again, should not be shown in public session.

12 It is tab 12, it's MLI-D28-0006-3316. I'm going to play it without sound from 00:34 to
13 00:46, and if you could indicate if you recognise any locations or individuals. It's
14 going to be played from evidence 2.

15 (Viewing of the video excerpt)

16 We are stopping 34:29. And I am noting for the record that the witness has raised
17 his hand.

18 Mr Witness, do you identify someone or something.

19 A. [12:54:01] I have here the picture of someone called Abdallah, he is one of the
20 notables of the tribe of Al Cherifène from a village called Koigama in the area of *cercle*
21 *le Goundam*, I think it was about 45 -- to the west of Goundam.

22 Q. [12:54:36] Now, Mr Witness, you have given the name "Abdallah". Are you
23 able to give the full name of this individual?

24 A. [12:54:48] He was called Abdallah. Abdallah. I can't remember the name.
25 Abdallah, just Abdallah, I can't remember the name of his father.

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1 Q. [12:55:04] Do you know which tribe he was or ethnicity? I apologise, I see
2 you've given the tribe. I apologise for that. Now you've said he's a notable, can
3 you explain to us what you mean by a "notable"?

4 A. [12:55:26] He was like the chief of the village and he was considered a person
5 with a -- an important family and he had a high status amongst his tribe.

6 Q. [12:55:48] Now, Mr Witness, you've used a word "charif", what does that mean?

7 A. [12:56:13] I mean by that, he was one of the notables, he was of a high status in
8 his -- his tribe; that's what I mean by the word "charif". And I remember the name
9 now, Medou (phon) Ag Abdallah.

10 Q. [12:56:34] Now Mr Witness, I'm moving on to a different topic. Did you have
11 a phone in 2012?

12 A. [12:56:48] Yes.

13 Q. [12:56:48] And who -- again, we are in open session, who used your phone?

14 A. [12:56:57] I used it, but also anyone who needed to use it. Anyone from the
15 brothers who asked me to use my phone, I let them do so.

16 Q. [12:57:21] Now up until what point were you present in Timbuktu?

17 A. [12:57:35] I stayed in Timbuktu until 2013. I think it was maybe January, late
18 January. It was late January that I left, when the French intervened militarily.

19 Q. [12:57:53] Now while you were in Timbuktu, did you hear or learn anything
20 about what was happening with the manuscripts?

21 A. [12:58:06] [REDACTED]

22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1 see that they had changed anything [REDACTED]

2 [REDACTED]

3 Q. [12:59:01] Now, Mr Witness, you've said that you heard that manuscripts were
4 burnt. Did you hear this while you were in Timbuktu or did you hear this
5 afterwards?

6 A. [12:59:13] This is when I left. These were the rumours that I heard. After I left,
7 I heard that they were burnt. When I was present in Timbuktu, I didn't see any
8 manuscripts being burnt.

9 MS TAYLOR: [12:59:35] It's now one o'clock, Mr President, I think it's a good time
10 for a break.

11 PRESIDING JUDGE MINDUA: [12:59:45](Interpretation) Indeed, Ms Taylor, we're
12 going to stop.

13 It's now one minute to one, we're going to stop for the lunch break, and we'll be back
14 at 14.30 as usual.

15 Court is suspended.

16 THE COURT USHER: [13:00:13] All rise.

17 (Recess taken at 1.00 p.m.)

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

19 THE COURT USHER: [14:31:53] All rise. Please be seated.

20 PRESIDING JUDGE MINDUA: [14:32:29](Interpretation) The Court is once more in
21 session.

22 Good afternoon, everybody.

23 The Defence still has the floor for the continuation and conclusion I believe of the
24 examination-in-chief.

25 Ms Taylor.

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1 MS TAYLOR: [14:32:52] Thank you very much, Mr President. I am just noting for
2 the record that Mr Al Hassan is not well, so he is not here for this afternoon's session
3 and that is with the authorisation of the Chamber.

4 PRESIDING JUDGE MINDUA: [14:33:06](Interpretation) Thank you very much - I
5 was about to mention it.

6 But that's very good.

7 Mr Al Hassan is not here.

8 Please proceed.

9 MS TAYLOR: [14:33:24]

10 Q. [14:33:28] Good afternoon, Mr Witness, how are you?

11 A. [14:33:34] I'm very well.

12 Q. [14:33:38] Now, Mr Witness, before the break we were discussing the time
13 period that coincided with the French intervention and the departure of Ansar Dine,
14 do you remember that?

15 A. [14:33:57] Yes.

16 Q. [14:34:01] You told us that you left Timbuktu. To your knowledge, did
17 Al Hassan stay in Timbuktu or did he leave?

18 A. [14:34:12] I don't know anything regarding Mr Al Hassan in brief -- in that
19 regard.

20 Q. [14:34:31] Did you see Mr Al Hassan again after you left Timbuktu?

21 A. [14:34:44] I did. I saw him in Libya. After leaving Friday prayer, I'd run into
22 him in the street. I greeted him and we had a brief discussion, and I haven't seen
23 him since.

24 Q. [14:35:04] Which village or town in Libya did you see him?

25 A. [14:35:12] Southern Libya, the village of Ubari.

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1 accommodated 20 individuals. There was a large room, there was a lavatory there
2 and food was provided; so it was okay back then. However, when we were moved
3 to [REDACTED] that's when things took a tough direction. For three months, things
4 were very restrictive on us to the extent that three individuals among us died under
5 the pressure and duress. We were about 60 people in a very small room, with no
6 access to fresh air.

7 Q. [14:51:02] Now, Mr Witness, I'm going to get to [REDACTED], but I'm just going ask
8 a few follow-up questions about [REDACTED] before getting to [REDACTED]

9 Now you have told us that there were 20 people in a room. How big was the room?
10 Can you remember?

11 A. [14:51:29] Perhaps about five by four or five by five metres as far as this room is
12 concerned.

13 Q. [14:51:45] Were you able to lie down fully or not?

14 A. [14:51:51] Yes, we were free inside the room -- inside this facility. We had the
15 ability to do whatever we wanted.

16 PRESIDING JUDGE MINDUA: [14:52:11](Interpretation) Ms Taylor, we are still in
17 closed -- in private session, could we not return to open session?

18 MS TAYLOR: [14:52:18] [REDACTED]

19 [REDACTED] I think if I were to put these questions in open session,
20 that could be identifying, particularly if I proceed to the questions about [REDACTED]

21 [REDACTED]
22 PRESIDING JUDGE MINDUA: [14:52:43](Interpretation) Very well, in that case, let
23 us continue. Please proceed.

24 MS TAYLOR: [14:52:50]

25 Q. [14:52:51] Mr Witness, I perhaps wasn't clear in my question. My question

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1 wasn't whether you were free to walk around. It was how much personal space you
2 had. Was there a sufficient space for you to lie fully out -- for each individual to lie
3 fully out is my question?

4 A. [14:53:18] Yes. It was possible.

5 Q. [14:53:24] And were you handcuffed at any point in [REDACTED]

6 A. [14:53:32] If I need -- if I had to go to the interrogation, for example, to be
7 interrogated by the judge, yes, I would be handcuffed. Until I reached the
8 destination, at that point they would remove the shackles.

9 Q. [14:53:58] And was your face ever covered or not?

10 A. [14:54:08] No. No.

11 Q. [14:54:12] Now, you've talked about your detention at [REDACTED] and you said
12 that you were in a room with 60 persons. Can you -- can you recall how large this
13 room was? I think you said it was five by five, is that correct?

14 PRESIDING JUDGE MINDUA: [14:54:37](Interpretation) The witness has replied to
15 this question, Ms Taylor.

16 MS TAYLOR: [14:54:40]

17 Q. [14:54:41] So speaking specifically about this room at [REDACTED] can you
18 describe this room to us?

19 A. [14:54:48] The [REDACTED] room was actually four by three. It was tiny. There
20 were 60 people. There was no fresh air. It was extremely small room, four by three.

21 Q. [14:55:24] And did you have any bathroom facilities in this room or not?

22 MR GARCIA: [14:55:34](Interpretation) Mr President.

23 PRESIDING JUDGE MINDUA: [14:55:36](Interpretation) Yes, Mr Prosecutor.

24 MR GARCIA: [14:55:37](Interpretation) My colleague is carrying out the
25 examination-in-chief, but I am wondering about the relevance of these questions in

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1 such detail. The witness seems somewhat ill at ease and given the charges -- given
2 what this witness has already told us --

3 PRESIDING JUDGE MINDUA: [14:56:07](Interpretation) The Chamber is
4 wondering about the same thing. Perhaps -- we've talked now about his detention,
5 perhaps it would be a good time to move on to another point.

6 MS TAYLOR: [14:56:21] Thank you, Mr President. Now obviously the Prosecutor
7 is aware that they interviewed this witness on several occasions and on their list of
8 evidence, they have certain transcripts that were taken during these interviews. This
9 goes directly to the heart of the probative value and reliability of any transcripts that
10 the Prosecution might seek to use -- or it goes to the heart of the probative value and
11 reliability of any Malian documents that they might seek to use. So we should be
12 entitled to put questions to the witness about the conditions that existed at the time
13 that could have impacted upon the evidence that he gave in Mali.

14 PRESIDING JUDGE MINDUA: [14:57:12](Interpretation) Yes, Mr Prosecutor.

15 MR GARCIA: [14:57:13](Interpretation) So for the record, all this has been affirmed
16 in -- in front of the witness by the Defence, which is inappropriate. If I look at most
17 of the transcripts, most of these were done before the witness was here. This is the
18 witness, not the accused. I think there is some sort of confusion by the Defence with
19 regard to the value of what he has affirmed or not. I have a document here, which
20 says that the witness was here -- at these transcripts, so when it comes to the
21 probative value, this has been discussed with the Defence in the preparatory notes
22 with the witness.

23 PRESIDING JUDGE MINDUA: [14:58:09](Interpretation) So I would like to repeat
24 what I have already said, Ms Taylor, the Chamber has understood and you can move
25 on to something else.

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1 MS TAYLOR: [14:58:21] Thank you, Mr President. I do have further questions,
2 which I believe we will need to ask.

3 Q. [14:58:35] Now, Mr Witness, did you meet anyone from the ICC Prosecution
4 while you were detained?

5 PRESIDING JUDGE MINDUA: [14:58:48](Interpretation) No, I wanted to know
6 whether we need to carry on in private session?

7 MS TAYLOR: [14:58:57] Well, my questions concern meetings with the ICC
8 Prosecution in Bamako. I can ask those in open session, but it might be better to do
9 so in private session.

10 PRESIDING JUDGE MINDUA: [14:59:19](Interpretation) Prosecution.

11 MR GARCIA: [14:59:20](Interpretation) Yes, Mr President, to reassure my learned
12 colleague, if they are an identifying question, we can deal with part of it in private
13 session. We are now in private session, but if it's questions of knowing what he
14 said -- what he confirmed, we can do that in public; unless there is confidential
15 information with regard to the procedures of the OTP. I can't guess what's going to
16 be said, but that is perhaps what I might suggest.

17 PRESIDING JUDGE MINDUA: [14:59:54](Interpretation) Yes, indeed. We can do
18 this in public session, Ms Taylor.

19 MS TAYLOR: [15:00:01] (Overlapping speakers).

20 PRESIDING JUDGE MINDUA: [15:00:03](Interpretation) Court officer, public
21 session, please.

22 (Open session at 3.00 p.m.)

23 THE COURT OFFICER: [15:00:12] We are back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [15:00:24](Interpretation) Thank you very much,
25 court officer.

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1 Mr Witness, we are now back in open session.

2 Ms Taylor.

3 MS TAYLOR: [15:00:30]

4 Q. [15:00:31] Now, Mr Witness, you told us -- or we have records that you met with
5 the ICC Prosecution while you were detained. Do you recall when you first met
6 them?

7 A. [15:00:50] Yes. I don't remember dates. However, I met them for the first time
8 in 2014.

9 Q. [15:01:00] Were you told in advance that you would be meeting the ICC
10 Prosecution?

11 A. [15:01:10] No. I was only told that there was someone going to meet me, so I
12 went out.

13 Q. [15:01:21] Were you told in advance what the purpose of the meeting was?

14 A. [15:01:27] No.

15 Q. [15:01:31] What did you think the purpose was?

16 A. [15:01:40] I thought I was going to the tribunal -- to the court to meet the judge.

17 Q. [15:01:48] Were you given a choice to go to this meeting or not?

18 A. [15:01:58] No.

19 Q. [15:02:02] Did you ask to have a lawyer present or not?

20 A. [15:02:11] No. I did not ask for that.

21 Q. [15:02:15] Why did you not ask for a lawyer?

22 A. [15:02:18] In Mali, I did not have financial means to pay for a lawyer. And
23 second, I know that in Mali usually a lawyer would not help anyone. He was not of
24 any use, and, for me, personally, I didn't have any problems that would require the
25 presence of a lawyer.

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1 Q. [15:02:52] Now after you met the Prosecution, what did you think would
2 happen if you spoke to them?

3 A. [15:03:01] I spoke with them. However, I did not know anything about what
4 was going on at that time. But after that, I understood.

5 Q. [15:03:23] Did speaking to the Prosecution - the ICC Prosecution - have any
6 impact on your situation in detention?

7 A. [15:03:45] After the first and the second meeting with them, I personally saw
8 that they -- I personally thought that they had something to do with me being there,
9 but I understood that contrary, and afterwards I refused to have any interaction with
10 them until I was released or I was out.

11 Q. [15:04:17] Now, Mr Witness, you've said that you thought that the Prosecution
12 had something to do with you being there. Why did you think that?

13 A. [15:04:34] Because after I stayed around one or two months there, I was given
14 a provisional release -- a provisional release was given to the government and it was
15 rejected and refused and a second attempt was done and it was also refused. I
16 talked to someone from CICR, and I was told that it was something that has to do
17 with the Prosecution. That was it.

18 Q. [15:05:16] Mr Witness, you've used a word, I'm just going to check if it is in the
19 French transcript. I heard "CICR", that is, the Red Cross. Is that correct, that you
20 spoke to the Red Cross and this is what they told you?

21 A. [15:05:40] Yes, yes. This is what I under- -- what I understood from what they
22 said. They said something similar. However, it was not explicit from their side. I
23 only understood that.

24 Q. [15:05:57] And when you say "Prosecution," do you mean the "ICC
25 Prosecution"?

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1 A. [15:06:06] Yes, yes.

2 Q. [15:06:08] And did you ever speak to a Malian judge about your release or not?

3 A. [15:06:15] No.

4 Q. [15:06:24] Now, Mr Witness, did you read the transcripts of your interviews
5 during the preparation session?

6 A. [15:06:40] Yes.

7 Q. [15:06:43] How did reading the transcripts make you feel?

8 MR GARCIA: [15:06:56](No interpretation)

9 PRESIDING JUDGE MINDUA: [15:06:58](Interpretation) Yes, Prosecutor.

10 MR GARCIA: [15:07:00](Interpretation) Your Honour, we're asking the witness how
11 he felt reading the transcripts. I don't see the relevance of the question, firstly. And
12 once again, all these questions about transcripts - about the corrections,
13 whatever - this was already addressed by the Defence counsel during the preparatory
14 session and we have all the answers.

15 I don't see the relevance of these questions. I think that there was also the matter of
16 the detention previously, I think there was a word that wasn't interpreted, but I'm
17 going to come back to that in cross-examination where he confirmed that initially he
18 believed that the Office of the Prosecutor was (Overlapping speakers)

19 MS TAYLOR: [15:07:52] I think we should not be discussing this in the presence of
20 the witness.

21 MR GARCIA: [15:07:59](Interpretation) So, your Honour, I'm in your hands. There
22 is a question of interpretation. If not, I will come back to it, there's no problem about
23 that. But the main objection is the relevance of the question that has been just put to
24 the witness.

25 PRESIDING JUDGE MINDUA: [15:08:18](Interpretation) Yes, Ms Taylor, because

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1 your question was ambiguous, how did he feel when he read his transcript or
2 statement, I think that you can reformulate it or drop it.

3 MS TAYLOR: [15:08:31] I will reformulate it, Mr President.

4 Q. [15:08:35] Mr Witness, [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED]

9 [REDACTED] I don't see the relevance of that.

10 And all of these questions come from what we see in paragraph -- on 93, line 1 to 19,
11 where the witness firstly answered the question of my colleague. And afterwards, in
12 explaining that he had misunderstood, my colleague came back thereafter
13 (Overlapping speakers)

14 MS TAYLOR: [15:09:34] Mr President, again, we're in the presence of the witness
15 and the Prosecution is making submissions of content in his presence that concern his
16 potential cross-examination.

17 PRESIDING JUDGE MINDUA: [15:09:47](Interpretation) Prosecutor, please sit
18 down. I will authorise the question and we will see the answer and then we'll move
19 on.

20 Ms Taylor, you have asked about the impact of his detention on him, is that it?

21 MS TAYLOR: [15:10:05] Yes, Mr President. Can the witness describe in his own
22 words whether his detention at a particular facility where three persons died had any
23 effect on him? Just to give him an opportunity to talk to us in his own words.

24 THE WITNESS: [15:10:32](Interpretation) Yes. Yes. I lost my memory in general
25 there in the four years that [REDACTED]. I had a totally empty memory. This

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1 is what I can say in summary.

2 MS TAYLOR: [15:10:53]

3 Q. [15:10:55] Do you know anyone who was detained at the --

4 MS TAYLOR: [15:11:02] Can I go into private session, I believe that this will
5 potentially elicit information that is identifying. I don't have that many questions to
6 go.

7 PRESIDING JUDGE MINDUA: [15:11:15](Interpretation) Madam Court Officer,
8 private session, please.

9 (Private session at 3.11 p.m.)

10 THE COURT OFFICER: [15:11:19] We are in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [15:11:29](Interpretation) Thank you very much.

12 Ms Taylor.

13 MS TAYLOR: [15:11:32]

14 Q. [15:11:34] Mr Witness, do you know anyone who was detained at the *sécurité*
15 *d'État*?

16 A. [15:11:45] Yes, I know one Arab, I cannot recall his name. [REDACTED]

17 [REDACTED] He was Arab, and I do not remember his name.
18 He was at the *sécurité d'État*.

19 Q. [15:12:07] And [REDACTED] [REDACTED] did he describe the conditions of his
20 detention at the *sécurité d'État*?

21 PRESIDING JUDGE MINDUA: [15:12:21](Interpretation) Ms Taylor, I think that
22 we're starting to get away from the objective while we're here, the charges against
23 your client namely. So the question can be left aside.

24 MS TAYLOR: [15:12:38]

25 Q. [15:12:38] Mr Witness, [REDACTED] [REDACTED]

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1 [REDACTED]?

2 A. [15:12:53] [REDACTED] [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 THE INTERPRETER: [15:13:14] Note from the English interpreter: We haven't
7 heard the second name.

8 MS TAYLOR: [15:13:27]

9 Q. [15:13:27] [REDACTED] Was he

10 detained at the *sécurité d'État*, is that what you meant to say?

11 A. [15:13:43] No. [REDACTED]

■ [REDACTED]

13 Q. [15:13:52] [REDACTED]

■ [REDACTED]

■ [REDACTED] [REDACTED]?

16 MR GARCIA: [15:14:11](Interpretation) I object, your Honour.

17 PRESIDING JUDGE MINDUA: [15:14:14](Interpretation) Yes, Prosecutor.

18 MR GARCIA: [15:14:15](Interpretation) Once again, it's the relevance of this
19 question.

20 PRESIDING JUDGE MINDUA: [15:14:19](Interpretation) Yes, Ms Taylor, we don't
21 need all this, no. It's far from the charges against your client. You can drop this
22 question. These are details, they aren't important.

23 MS TAYLOR: [15:14:32] Thank you very much, Mr President. I'm just going to
24 note for the record that I've been directed not to ask any further questions on a line of
25 questioning that concerns an individual that this Prosecutor is very well aware of and

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1 I'm referring specifically to Mr Garcia. Thank you.

2 MR DUTERTRE: [15:14:54](Interpretation) Could Maître Taylor (Overlapping
3 speakers)

4 PRESIDING JUDGE MINDUA: [15:14:57](Interpretation) Wait a minute. Wait to
5 be given the floor, Prosecutor. Now you can speak.

6 MR DUTERTRE: [15:15:03](Interpretation) I just wanted to say one thing, which is
7 that the words of Ms Taylor are a bit elliptic -- cryptical, but they are above all
8 accusatory and I would like her to explain exactly what she is saying and what
9 accusatory words she's formulating with regards to a member of the
10 Prosecution -- a member of a team that I represent.

11 And I take advantage of this opportunity to say that the Prosecution has nothing to
12 do with the detention of the present Witness. And, furthermore, that the interviews
13 that were held with him were done when he was in [REDACTED] just
14 to clarify things because there were some very misleading points.

15 Now perhaps Ms Taylor could explain what she's saying with regard to my colleague.

16 MS TAYLOR: [15:15:53] If I may be heard, Mr President. That intervention was
17 entirely inappropriate to make in the face of the witness. Entirely inappropriate.

18 That has now contaminated any response I could have elicited from the witness
19 (Overlapping speakers)

20 PRESIDING JUDGE MINDUA: [15:16:08] *Non, non, non. Non --*

21 MS TAYLOR: [15:16:08](Interpretation)(Overlapping speakers) and in the future
22 cross-examination.

23 PRESIDING JUDGE MINDUA: [15:16:09](Interpretation) No, Ms Taylor, because
24 during the day -- and this is the second time that you've made accusations against the
25 Prosecutor. The first time the Prosecutor had asked you to withdraw your remarks.

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1 In a diplomatic way, I let the incident pass. Now it's a second time and I think I have
2 to repeat that we are between professionals. You have to act with courtesy towards
3 the others and not to suspect people because certain things have been understood,
4 which are very serious.

5 I think you have no further questions, Ms Taylor, because now we're getting into
6 details which are not useful, because it's in the transcript, you already had it
7 confirmed with the witness, so why are you continuing with these details, Ms Taylor?

8 MS TAYLOR: [15:17:01] Thank you, Mr President. I note your direction to
9 conclude my cross-examination and I will do so.

10 PRESIDING JUDGE MINDUA: [15:17:18](Interpretation) Witness, what would you
11 like to say?

12 THE WITNESS: [15:17:25](Interpretation) She is asking about someone [REDACTED]

[REDACTED]
[REDACTED] I remember him now. [REDACTED]
[REDACTED]

16 PRESIDING JUDGE MINDUA: [15:17:45](Interpretation) Very well. Madam Court
17 Officer, we are still in private session. Let's go back into open session, please.

18 Ms Taylor?

19 (Open session at 3.18 p.m.)

20 THE COURT OFFICER: [15:18:15] We are back in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [15:18:20](Interpretation) Thank you very much,
22 Madam Court Officer.

23 Ms Taylor, you have the opportunity to say goodbye to your client where it concerns
24 the examination-in-chief.

25 MS TAYLOR: [15:18:39] I'm sorry, I don't understand. The witness ...

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1 PRESIDING JUDGE MINDUA: [15:18:49](Interpretation) What I was saying is that
2 you conclude with an examination-in-chief with a polite formula as you normally do
3 with your witness.

4 MS TAYLOR: [15:19:01] Certainly, Mr President. Thank you, Mr Witness, we've
5 been directed to conclude our examination and we are doing so. Thank you very
6 much. We appreciate the time that you've spent answering questions clearly and
7 assisting the Chamber in the determination of the truth in the charges in this case.

8 THE WITNESS: [15:19:25](Interpretation) Thank you.

9 (Trial Chamber confers)

10 PRESIDING JUDGE MINDUA: [15:19:41](Interpretation) Ms Taylor, I'm just
11 checking the transcript. I think that you should work on your way of expressing
12 yourself, not only towards the Office of the Prosecutor, but in particular towards the
13 Chamber as well because you say that the Chamber -- or the presiding judge has told
14 you to put an end to your examination-in-chief. No. The Chamber has noted that
15 you have no further questions -- no further relevant questions, and therefore it was
16 time to put an end to it because we have to be the police of the hearings and we can't
17 accept that the Court's time is wasted.

18 Therefore, I didn't decide to end your examination-in-chief, but I noted that there
19 were no further questions. That's it.

20 So I now turn towards the Office of the Prosecutor now.

21 Prosecutor, what do you think? Can you start immediately?

22 MR GARCIA: [15:20:43](Interpretation) I could immediately, if it is the wish of the
23 Chamber, but I would just need some minutes to set myself up.

24 PRESIDING JUDGE MINDUA: [15:20:51](Interpretation) Indeed, you have the time,
25 Prosecutor.

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1 MR GARCIA: [15:20:54](Interpretation) Thank you, your Honour.

2 (Pause in proceedings)

3 MR GARCIA: [15:23:56](Interpretation) I'm sorry, if I could have the assistance of
4 the court usher.

5 Court usher, please provide the President with the binder, with relevant evidentiary
6 items. They're on the list of materials.

7 No, I'm sorry. It's for the President, and, however, this one is for the witness.

8 Thank you.

9 QUESTIONED BY MR GARCIA: (Interpretation)

10 Q. [15:24:58] Good afternoon, witness.

11 MR GARCIA: [15:25:00](Interpretation) Your Honour, if the Chamber is ready, I can
12 start.

13 PRESIDING JUDGE MINDUA: [15:25:03](Interpretation) Certainly. Witness, you
14 are in the hands of the Prosecutor for the cross-examination.

15 MR GARCIA: [15:25:12](Interpretation) Thank you, your Honour, your Honours.

16 Q. [15:25:17] Good afternoon, witness.

17 A. [15:25:20] Yes, hello.

18 Q. [15:25:22] So we've already met briefly last week -- and I just have a few
19 questions to put to you. If you have any difficulty in understanding them, tell me
20 and I will reformulate -- very well?

21 A. [15:25:45] Go ahead, sir.

22 Q. [15:25:48] So if I understand well, witness, we started with the time when
23 Ansar Dine and AQIM entered the town of Timbuktu, is that right?

24 A. [15:26:08] Go ahead, sir.

25 Q. [15:26:11] If I've followed your testimony, you were present in the town of

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1 Timbuktu, is that correct?

2 A. [15:26:21] Yes.

3 Q. [15:26:25] Furthermore, you've always lived in the same neighbourhood, is that
4 right?

5 A. [15:26:36] Yes.

6 Q. [15:26:39] And you said to the Office of the Prosecutor when you met the OTP
7 that when the Islamists - because this is the way you called them at the time - when
8 the Islamists entered, they started to address people and ask them to gather together.
9 Is this correct?

10 A. [15:27:07] Yes.

11 Q. [15:27:12] And if I understand well, at the time, witness, the Islamists, as you
12 called them, they were going around in vehicles. They were armed, were they not?

13 A. [15:27:23] Yes.

14 PRESIDING JUDGE MINDUA: [15:27:25](Interpretation) Ms Taylor.

15 MS TAYLOR: [15:27:26] Mr President, this is an inappropriate way of questioning
16 the witness. Basically the Prosecutor is referring to past interviews and putting that
17 to him. We've got --

18 "[...] you said to the Office of the Prosecutor when you met the OTP that when ..." blah
19 blah blah.

20 Now if the Prosecutor wants to refer to prior statements, they should do so in the
21 appropriate way. They shouldn't just summarise and put to the witness prior
22 statements without actually first asking the witness openly, what he remembers and
23 then going to any prior statements. I'm not quite sure what we are doing here.

24 MR GARCIA: [15:28:07](Interpretation) Your Honour?

25 PRESIDING JUDGE MINDUA: [15:28:10](Interpretation) Prosecutor, you want to

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1 answer.

2 MR GARCIA: [15:28:12](Interpretation) Of course, your Honour, I think there's
3 some confusion on the part of my colleague. She's in examination-in-chief. I'm in
4 the cross-examination. So I can lead responses to the witness and if I can base myself
5 on previous statements such as this - the one that I'm making reference to, a statement
6 that was given to the Office of the Prosecutor - that is the basis of an adversarial
7 system itself. So I can put a question. If there's any problem ...

8 PRESIDING JUDGE MINDUA: [15:28:44](Interpretation) Ms Taylor, we are in
9 cross-examination, leading questions are admissible and the Prosecutor is basing
10 himself on evidentiary items in front of him. So I think that it's normal, so he'll
11 continue.

12 MS TAYLOR: [15:28:57] Mr President, I think there may have been
13 a misunderstanding concerning my objection. It was not the leading nature. It was
14 basically to do with the fact -- I've done cross-examination, and I remember that the
15 Chamber issued a decision on the conduct of the proceedings, I think it might have
16 been the third decision, where they specifically directed the parties, not just the
17 Defence, in cross-examination that firstly, we always had to read out the relevant
18 paragraph of the prior statement; and secondly, that we couldn't go to that prior
19 statement without first putting questions to the witness. Leading is not the point
20 here. It's the procedure that you -- the Chamber directed.

21 PRESIDING JUDGE MINDUA: [15:29:38](Interpretation) Very well, Ms Taylor.
22 That's the general rule that we promulgated in our decision on the conduct of
23 proceedings. But last week you weren't there, we've already spoken with Ms Gerry
24 that during the cross-examination - to save time - you can sum up. It's not
25 necessarily every time to read every single bit of a paragraph for each question each

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1 time.

2 So I will authorise the Prosecutor to continue, but obviously if the witness isn't able to
3 follow, he will say so.

4 Go ahead, Prosecutor.

5 MR GARCIA: [15:30:26](Interpretation) I can also assure the Chamber if it's about
6 contradicting the witness, of course I'll give the reference; that's the normal procedure
7 in this system, whatever the case.

8 Q. [15:30:38] So Witness, I shall come back to my last question, I'm sorry we were
9 interrupted.

10 A. [15:30:54] Please proceed.

11 Q. [15:31:00] So to put this in context, again, we were talking about the arrival of
12 the Islamists and I asked you whether you were there. I would like to know, is it
13 correct - and I can just check the reference, looking at the words you used with the
14 interview with the Office of the Prosecutor - that they said and you heard them say,
15 "We want to apply the sharia because we see that women are not wearing veils,
16 nobody is wearing veils."

17 Did you relate this to the Office of the Prosecutor when you met? Is that correct?

18 A. [15:31:48] Yes, that is true. Because they are Muslims who came to deal with
19 Muslims, and they found that the Muslims there who -- were not practising Muslims.
20 Hence they're not real Muslims. They wanted -- so they wanted to inform them of
21 what Islam instructs people to do. A woman's body is not allowed to be shown
22 unless -- except the face and the hands. So if they called themselves Muslims, they
23 had to stick with those rules.

24 Q. [15:32:40] So if I understand correctly, the Muslims who arrived -- the Islamists
25 came to show the Muslims of Timbuktu how they should conduct themselves?

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1 A. [15:32:57] Exactly.

2 Q. [15:33:01] And if I understand correctly, Mr Witness, the reason why they did
3 that because the people in Timbuktu were not behaving in the way the Islamists saw
4 things, is that correct?

5 A. [15:33:17] They are Muslims. They call themselves Muslims, but their action
6 showed otherwise. That's the bottom line, and now there were these people who
7 had the force to implement Islam. So they told them what Islam is, and, actually, the
8 locals recognised what Islam is because it's shown in the Koran and the texts of the
9 Sunnah.

10 Q. [15:33:46] And so it's essentially by adopting the prohibitions proclaimed by the
11 Islamists that they wish to ensure that the people of Timbuktu behaved correctly, is
12 that -- is that correct?

13 A. [15:34:09] Yes, but they had to be informed about that -- preached about that,
14 reminded of that. They were Muslims but they had forgotten what the rules are, so
15 they have to do some preaching in that regard, and, afterwards, they would tell them,
16 "We have a force that we can use, but since you're Muslims, remember yourselves
17 that this is what the Koran and the Sunnah teach, and you call yourselves Muslims,
18 then you should not oppose Islam as long as you call yourselves Muslims."

19 Q. [15:34:52] And if I follow you correctly, Mr Witness, in order to ensure that
20 people would follow what the Islamists have said, it was necessary to punish them if
21 they contravened -- to punish them, for example, by flogging; is that correct?

22 A. [15:35:15] True. If someone is caught fornicating and they can verify
23 that conduct, if the person is interrogated before judges, if certain rules are applied
24 regarding the *hadd* and other requirements, as per the rules of Islam and as per what
25 Muslims recommend, then yes, something would be implemented in consequence.

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1 Q. [15:35:46] So you agreed with the prohibitions imposed by Islam, Mr Witness, is
2 that correct?

3 A. [15:36:02] True. As long as I'm a Muslim, then I would be in agreement with
4 that. I am not a disbeliever, I am a Muslim; so I am in agreement with that, yes.

5 Q. [15:36:18] And you also agreed with the fact that a person had their hand
6 amputated because they had stolen -- because the Islamic tribunal decided that this
7 person had indeed stolen. Were you in agreement with that?

8 A. [15:36:41] It's in the -- to the discretion of the court. If the court applies the
9 rules and reaches a conclusion of such a nature, then why -- how come I wouldn't
10 agree. If I'm a Muslim, if I follow what Islam teaches, then I would be in agreement.

11 Q. [15:37:01] And Mr Witness, were you a witness to any of these
12 punishments -- these sanctions that took place in public in Timbuktu in 2012?

13 PRESIDING JUDGE MINDUA: [15:37:26](Interpretation) Maître Maktouf?

14 MS MAKTOUF: [15:37:28](Interpretation) I fear that some information could reveal
15 the identity of Mr Witness. Please, could we go to private session while these
16 questions are being asked, at least partially, Mr President.

17 PRESIDING JUDGE MINDUA: [15:37:48](Interpretation) Mr Prosecutor, do you
18 intend to continue with questions that could reveal the identity of the witness?

19 MR GARCIA: [15:37:57](Interpretation) No, and I'm a bit surprised because I'm not
20 sure how my last question could have revealed any identity. It was general with
21 regard to the fact of whether this witness saw or observed things, and I understand
22 that my learned colleague is here for matters that fall under Rule 74.

23 PRESIDING JUDGE MINDUA: [15:38:25](Interpretation) Yes, she's there for Rule
24 74.

25 Ms Taylor.

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1 MS TAYLOR: [15:38:29] Thank you, Mr President. I think that's the specific
2 concern that this line of questioning does trigger Rule 74 issues; so if Rule 74 is to
3 have any meaning, it should be implemented. And if the Prosecutor is going to
4 pursue this very direct line of questioning concerning the witness himself, what he
5 believes -- what he agrees with, that should be done in closed session.

6 MR GARCIA: [15:39:04](Interpretation) Mr President, could one perhaps go into
7 private session briefly, so that I can talk about this briefly.

8 PRESIDING JUDGE MINDUA: [15:39:14](Interpretation) Yes, I think that would be
9 the best way to deal with this.

10 Court officer, private session, please.

11 (Private session at 3.39 p.m.)

12 THE COURT OFFICER: [15:39:24] We are in private session, Mr President. May I
13 also remind everybody to speak slow and observe pauses.

14 Thank you very much.

15 PRESIDING JUDGE MINDUA: [15:39:44](Interpretation) Thank you very much,
16 court officer.

17 Mr Prosecutor.

18 MR GARCIA: [15:39:50](Interpretation) With regard to myself, I am currently asking
19 general questions, but people who were there or who have knowledge could answer
20 without revealing any identity. If that had been the case, I would have asked for
21 private session, but I would like to come back to the fact that in the
22 examination-in-chief, there was reference to the fact that [REDACTED]

■ [REDACTED]
■ [REDACTED] And now I'm dealing with his perception of the events in

25 Timbuktu when the Islamists arrived, things that many witnesses have already talked

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1 about in the Chamber, and now suddenly a Rule 74 is being invoked. For that to be
2 relevant there has to be a procedure followed and we should follow that and there
3 should be mention of in what way this rule needs to be invoked.

4 PRESIDING JUDGE MINDUA: [15:41:09](Interpretation) I believe Maître Maktouf
5 got up by -- as a precaution and ordered to ensure that the problem was not raised.
6 She did not say that it (Overlapping speakers)

7 THE INTERPRETER: [15:41:21] Please, overlapping speakers.

8 MR GARCIA: [15:41:24](Interpretation) I need to come back to the matter of the
9 witness and Ansar Dine [REDACTED] there were no questions involving
10 the implementation of Rule 74. That's what I wanted to say on the matter. When I
11 raised this matter, I indicated to the Chamber and we will do what is necessary.

12 PRESIDING JUDGE MINDUA: [15:41:59](Interpretation) Mr Prosecutor, you will
13 note that I paused before replying to because these pauses are necessary in order to
14 allow the interpreters to complete their work.

15 So please continue, Mr Prosecutor.

16 MR GARCIA: [15:42:13](Interpretation) I would now like to request us to return into
17 open session, the questions I'm dealing with now are of a public nature.

18 PRESIDING JUDGE MINDUA: [15:42:32](Interpretation) You are quite right,
19 Mr Prosecutor.

20 Court officer, public session, please.

21 (Open session at 3.42 p.m.)

22 THE COURT OFFICER: [15:42:41] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [15:42:52](Interpretation) Thank you very much,
24 court officer.

25 Mr Prosecutor.

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(Private Session)

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1 MR GARCIA: [15:42:59](Interpretation)

2 Q. [15:43:02] Mr Witness, am I right in saying that when the Islamists arrived in
3 Timbuktu a lot of people left. They left the town, is that correct?

4 A. [15:43:28] True, yes.

5 Q. [15:43:33] Because they were afraid of them, is that right?

6 [REDACTED]

■ [REDACTED]

■ [REDACTED]

9 Q. [15:43:59] (Overlapping speakers)

10 THE INTERPRETER: [15:44:03] ... interrupt the statement.

11 MR GARCIA: [15:44:08](Interpretation) Could I please request that we go back to
12 open -- into private session, and I think there will be a redaction necessary because of
13 what has just been said.

14 PRESIDING JUDGE MINDUA: [15:44:24](Interpretation) Court officer, private
15 session, please.

16 (Private session at 3.44 p.m.)

17 THE COURT OFFICER: [15:44:33] We are in private session, Mr President.

18 PRESIDING JUDGE MINDUA: [15:44:39](Interpretation) Thank you very much,
19 court officer.

20 Ms Taylor.

21 MS TAYLOR: [15:44:43] Thank you, Mr President. I have been advised by my
22 colleague that the question on page 110, line 13: "Because -- because they were afraid
23 of them, is that right?" The "of them" was not translated in Arabic. So the witness
24 only heard: "Because they were afraid." The word "them" is, in any case, quite
25 ambiguous.

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(Private Session)

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WITNESS: MLI-D28-P-0202

1 So I'd invite the Prosecution to clarify that; otherwise, the transcript should be
2 corrected.

3 PRESIDING JUDGE MINDUA: [15:45:28](Interpretation) Mr Prosecutor, perhaps
4 this should be checked with the witness as to whether the term "them" should be
5 included.

6 MR GARCIA: [15:45:45](Interpretation) I'm having technical problems, so I've lost
7 control of my mouse, which is making my life a little difficult.

8 Q. [15:45:48] Mr Witness, to get things recorded correctly, I asked you - to know - is
9 it not correct that people left the town of Timbuktu because they were afraid of the
10 Islamists, is that correct or not?

11 A. [15:46:05] I have answered you, yes. They were afraid. Before their arrival
12 they had heard of them and they were not familiar with them. I was also afraid

13 [REDACTED]
14 [REDACTED] But when they arrived, my fear went away. I realised that they were just
15 advising people on Islam and the faith and so forth. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Q. [15:46:53] But, Mr Witness, I -- [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] So I wasn't in full command of what the situation is like. I was just
24 hearing things from people and seeing people reacting [REDACTED]

25 [REDACTED]

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(Private Session)

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WITNESS: MLI-D28-P-0202

1 Q. [15:47:59] I would like things to be clear. You have spoken to the members of
2 the OTP on various occasions, but to refresh your memory, I would like to go to
3 MLI-OTP-0024- -- it's item 2 in the list of materials.

4 THE INTERPRETER: [15:48:26] Apologies for missing the reference.

5 MR GARCIA: [15:48:29]

6 Q. [15:48:29] You will be able to see this on your reference on evidence -- on your
7 screen on evidence 2, and we will go to 2412 ... One moment sorry. We will go to
8 page ...

9 If I can just check this.

10 THE INTERPRETER: [15:49:12] The reference was 0024-2371 corrects the interpreter.
11 The original reference.

12 MR GARCIA: [15:49:14](Interpretation) So we are going to go to page 2412.

13 PRESIDING JUDGE MINDUA: [15:49:33](Interpretation) Prosecution, perhaps we
14 could move on to something else and you come back to this later when you've got the
15 reference.

16 MR GARCIA: [15:49:42](Interpretation) I have the reference, but I have technical
17 issues here.

18 Q. [15:49:47] [REDACTED]

19 [REDACTED]

20 PRESIDING JUDGE MINDUA: [15:50:02](Interpretation) Ms Taylor --

21 THE WITNESS: [15:50:18](No interpretation) (Overlapping speakers)

22 PRESIDING JUDGE MINDUA: [15:50:12](No interpretation)(Overlapping speakers)

23 MS TAYLOR: [15:50:28] I believe the witness has answered:

24 "La la la", which means no. And I believe this was asked and answered; in any case,
25 the witness was asked the same question several times and he's now answered the

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1 same thing twice.

2 PRESIDING JUDGE MINDUA: [15:50:36] *Oui* --

3 MR GARCIA: [15:50:47](Interpretation)

4 Q. [15:50:50] I would like us to see, please -- I would like to see

5 MLI-OTP-0080-7045.

6 PRESIDING JUDGE MINDUA: Do you need to remain in closed session?

7 MR GARCIA: [15:51:12](Interpretation) Yes, I do.

8 PRESIDING JUDGE MINDUA: [15:51:15](Interpretation) I am getting slightly

9 concerned, we've got a large number of people in the gallery and this is slightly

10 concerning. Could we perhaps move to something else and you could come back to

11 this tomorrow?

12 MR GARCIA: [15:51:28](Interpretation) I can move to another subject for eight or

13 nine minutes that are remaining, I could move to another subject given that we do

14 have people in the gallery.

15 PRESIDING JUDGE MINDUA: [15:51:42](Interpretation) Yes, please. Public

16 session, please, court officer.

17 (Open session at 3.51 p.m.)

18 THE COURT OFFICER: [15:51:54] We are back in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [15:52:06](Interpretation) Thank you very much,

20 court officer.

21 Prosecution.

22 MR GARCIA: [15:52:11](Interpretation) Thank you.

23 Q. [15:52:14] So I turn to you again, Mr Witness, is it not correct that when the

24 Islamists entered Timbuktu they also established checkpoints at the exits and entry

25 points of the town, is that correct?

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1 A. [15:52:32] That's correct.

2 Q. [15:52:34] And at these checkpoints there were people, there were Islamists who
3 were armed, is that correct?

4 A. [15:52:44] Correct. And what's wrong with that? Every car entering they
5 would inspect it, but they were not intimidating visitors to the city or anything like
6 that.

7 Q. [15:53:07] But I'm correct, am I not, Mr Witness, that if one were to be bringing
8 in products -- such as alcohol or cigarettes, one was likely to be arrested and the
9 products confiscated because this does not comply with the prohibitions of Islam, is
10 that correct?

11 A. [15:53:31] Certainly, because alcohol and cigarettes are prohibited, and they are
12 implementing sharia, why would they accept these things if they are implementing
13 sharia? They would take these things and break them because these things are
14 prohibited by the Koran and the Sunnah and these people were Muslims.

15 Q. [15:53:55] So if I follow you correctly, the vehicles and the people were searched?
16 The people entering or exiting the town?

17 A. [15:54:12] Correct. They were inspecting every person coming and they would
18 take -- take away such belongings, alcohol and so forth. They wouldn't do anything
19 to the person, they would just take away such belongings and they would advise the
20 person not to bring such belongings in the future. But that was all.

21 Q. [15:54:38] But Mr Witness, if people were arrested in town, who were smoking
22 or drinking alcohol, there could be problems -- these people could have problems
23 with the Islamic police or with the *Hesbah*, is that correct?

24 A. [15:55:01] Yes, if someone is drinking alcohol, he would be taken to the police
25 station or to the *Hesbah* office and be advised, he would receive advice. He would be

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1 told that that's prohibited by the faith, he would be reminded that -- what Islam
2 teaches; that the person - if they call themselves a Muslim - they have to follow a
3 certain conduct, and if the person repents, then that's it.

4 So the police and the *Hesbah* were aware of how to handle such situations.

5 Q. [15:55:44] Mr Witness, I'm right, am I not, that if the person was not -- did
6 not -- did not repent and was stubborn, then they could be sanctioned? They could
7 be beaten?

8 A. [15:56:09] Yes, but not arbitrarily. There are sharia rules. If sharia is
9 implemented, there are rules, there are restrictions. Not anyone would be just
10 beaten and so forth. There are certain rules and safeguards as per the sharia that had
11 to be followed.

12 Q. [15:56:39] But, for example, Mr Witness, if the Islamic police had arrested
13 someone who was smoking or drinking alcohol, they could also impose a physical
14 punishment, if this person was stubborn?

15 A. [15:56:58] Yes, it is possible to ...

16 THE INTERPRETER: [15:57:11](Overlapping speakers)...interrupts the statement.

17 PRESIDING JUDGE MINDUA: [15:57:13](Interpretation) Ms Taylor.

18 MS TAYLOR: [15:57:14](Overlapping speakers) Thank you, Mr President. Now the
19 question that's been put to the witness is identical to the question that was put to him
20 at page 116, lines 5 to 7. At page 116, lines 5 to 7, the Prosecutor said:

21 "[...] if the person was not -- [...] did not repent and was stubborn, then they could
22 be sanctioned? They could be beaten?"

23 We then had the identical question at lines 13 to 16; it's asked and answered. It's
24 exactly the same question being put to the witness a second time. It was even the
25 same language about stubborn.

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1 PRESIDING JUDGE MINDUA: [15:57:57](Interpretation) Yes, Prosecutor, I think
2 that repetitive questions are not allowed.

3 MR GARCIA: [15:58:04](Interpretation) I asked this again because there had been
4 a start of a reply, and I was looking for a precision that had been given. The -- I can't
5 see exactly where it is, but - "Yes, it is possible" - the witness answered this question,
6 but the objection cut through the interpretation; that's rather difficult.

7 So I would ask for the interpretation to be finished before continuing because
8 sometimes it is useful to put the same question again as in this case.

9 PRESIDING JUDGE MINDUA: [15:58:51](Interpretation) No. We're not going to
10 carry on this game of ping-pong. Repetitive questions are not allowed, but this was
11 a question of follow-up and the reply was not allowed and it --

12 MR GARCIA: [15:59:10](Interpretation) It was heard, but it wasn't captured --

13 THE INTERPRETER: [15:59:14] Overlapping speakers.

14 MR GARCIA: [15:59:17](Interpretation)

15 Q. [15:59:18] Mr Witness, you answered: "Yes, it is possible" and then you were
16 interrupted. Could you please complete your reply. Thank you very much.

17 A. [15:59:29] Yes, I said if a person is caught, he would be taken to the police office
18 or the *Hesbah* office, then there will be an outcome of that. For example, if a person
19 has drank alcohol, that's a serious issue. The police wouldn't take any decision on it.
20 He would be referred to the judge. The police would draft a report and it would be
21 referred to the court. The court has the authority to decide on such matter.

22 MR GARCIA: [16:00:05] (Interpretation) I see that it is exactly four o'clock by my
23 time -- by my watch. I would like the President to confirm whether this is a good
24 time to stop and then I can resolve my technical problems for tomorrow.

25 PRESIDING JUDGE MINDUA: [16:00:21](Interpretation) Yes, indeed

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1 Mr Prosecutor.

2 Yes, indeed. It is indeed four o'clock, we will finish work for today.

3 Mr Witness, you will have noticed that we have reached the end of our working day.

4 But your testimony is not yet finished. You are going to be able to continue

5 tomorrow morning at 9.30, as usual.

6 On behalf of the Chamber, I would like to thank you most sincerely for having replied

7 very clearly and patiently to the questions you have been put as is your want.

8 Between now and tomorrow morning, please bear in mind that you are not allowed

9 to talk about your testimony to anybody at all. Not to any family members, nor to

10 any friends.

11 THE WITNESS: [16:01:45](Interpretation) God willing.

12 PRESIDING JUDGE MINDUA: [16:01:47](Interpretation) Thank you very much.

13 Thank you. So before closing the session, I would like to express my thanks to the

14 parties and participants, to the court reporters and the interpreters, to our security

15 officers, and, of course, to our public in the gallery, and also our public watching

16 remotely. I wish everybody a very pleasant evening and we will be back here

17 tomorrow morning.

18 The hearing is adjourned.

19 THE COURT USHER: [16:02:26] All rise.

20 (The hearing ends in open session at 4.02 p.m.)