

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Opening Statements - Courtroom 1
9 Tuesday, 14 July 2020
10 (The hearing starts in open session at 10.01 a.m.)
11 THE COURT USHER: [10:01:30] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [10:02:21](Interpretation) Courtroom officer, could
15 you please call the case.
16 THE COURT OFFICER: [10:02:39](Interpretation) Thank you, Mr President.
17 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
18 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
19 We are in open session, your Honour.
20 PRESIDING JUDGE MINDUA: [10:03:40](Interpretation) It would seem that we
21 have a few problems concerning the interpretation, as far as the accused is concerned.
22 (Pause in proceedings)
23 Thank you.
24 Good morning. I would like to welcome the parties and participants, as well as the
25 staff members from Chambers and the Registry who are present in the courtroom,

1 and all those who are following us, following these proceedings remotely.

2 I note that Mr Al Hassan is present in the courtroom.

3 Good morning, Mr Al Hassan.

4 MR AL HASSAN: [10:04:48](Interpretation) Good morning, your Honour.

5 PRESIDING JUDGE MINDUA: [10:04:57](Interpretation) Thank you.

6 Please be seated.

7 The Chamber would like to thank the Registry for having endeavoured to make this

8 hearing possible, especially during these times of limited human contact as a result of

9 the current pandemic. I'm also particularly thankful to see that everyone is in good

10 health after this extended period of confinement and closure of the permanent

11 premises of the court.

12 But the virus is still in our midst, so please take care of yourselves.

13 Before we commence the hearing, we must ensure that the accused understands the

14 languages of this hearing, that is to say, French, English, but also Arabic.

15 Mr Al Hassan, the Chamber is addressing you now. Mr Al Hassan, can you please

16 indicate to us whether you have indeed received interpretation of what I have just

17 said in a language that you understand?

18 Mr Al Hassan, please.

19 MR AL HASSAN: [10:06:37](No interpretation)

20 PRESIDING JUDGE MINDUA: [10:06:47](Interpretation) Very well. I do

21 understand Arabic words, some Arabic words, but I don't hear the interpretation

22 from Arabic into French in my headset.

23 THE INTERPRETER: [10:07:01] Says Judge Mindua.

24 PRESIDING JUDGE MINDUA: [10:07:06](Interpretation) Thank you very much.

25 To the accused, Mr Al Hassan, to the victims, who are following these proceedings

1 from afar, to the people who are taking part in the hearing here in the courtroom or
2 remotely, may I now remind you of the composition of this Chamber, or for most of
3 you actually introduce the members of Trial Chamber X who will be examining this
4 case.

5 This Chamber, over which I have the honour of presiding, is composed of, to my right,
6 Judge Tomoko Akane and, to my left, Judge Kimberly Prost, and myself, Antoine
7 Kesia-Mbe Mindua, Presiding Judge of this Trial Chamber.

8 I would now like to call upon the parties and participants to introduce themselves.

9 May I ask Madam Prosecutor to introduce herself and the members of her team,
10 please.

11 Madam Prosecutor.

12 MS BENSOUA: [10:08:33] Thank you, Mr President.

13 Mr President, the Office of the Prosecutor is represented today by Mr Gilles Dutertre,
14 senior trial lawyer; Ms Dianne Luping, trial lawyer; Ms Sarah Coquillaud, assistant
15 trial lawyer -- I'm sorry, associate trial lawyer; and Mousa Allafi, assistant trial
16 lawyer.

17 Thank you, Mr President. And myself of course, Fatou Bensouda, Prosecutor.

18 PRESIDING JUDGE MINDUA: [10:09:09](Interpretation) Thank you very much,
19 Madam Prosecutor.

20 I will now ask the representatives of the Defence team for Mr Al Hassan to introduce
21 themselves.

22 Ms Taylor.

23 MS TAYLOR: [10:09:21] Good morning, Mr President, good morning, your Honours,
24 good morning, colleagues. My name is Melinda Taylor and I'm appearing on behalf
25 of Mr Al Hassan today with Ms Nicoletta Montefusco, Mr Mohamed Youssef,

1 Ms Sarah Marinier-Doucet, and Ms Dolly Chahla.

2 Thank you.

3 PRESIDING JUDGE MINDUA: [10:09:46](Interpretation) Thank you very much,

4 Ms Taylor.

5 Now I will turn to the Legal Representatives of Victims. Could I please ask you to
6 introduce yourselves and the members of your team.

7 MR LUVENGIKA: [10:10:01](Interpretation) Thank you very much, Presiding Judge,
8 your Honours.

9 The team of the Legal Representatives of Victims is -- comprises,

10 Mr Kassongo Mayombo; Mr Doumbia Seydou, who has not been able to come
11 because of the situation, the health situation that we are only too familiar with, that is
12 to say COVID-19; Madam Laplace and Madam Biyéké; and myself Fidel Nsita,
13 counsel. Thank you.

14 PRESIDING JUDGE MINDUA: [10:10:41](Interpretation) Thank you very much,
15 Counsel Nsita.

16 I don't know whether there's anybody representing the Office of the Registrar in our
17 midst today and I'm told that no. Very well.

18 I would like first of all to make a few general observations concerning the main
19 procedural steps of this case. Then, the charges will be read out to the accused and
20 he will have the possibility to plead guilty or not guilty.

21 We shall then move on to the opening statements from the Office of the Prosecutor.

22 And the Legal Representatives of Victims and Defence counsel have chosen, for their
23 part, to present their opening statements at a later date before the presentation of their
24 evidence, so we shall therefore not be hearing their opening statements today.

25 I recall that Mr Al Hassan was transferred to The Hague on 31 March 2018,

1 subsequent to the issuance of a warrant of arrest against him by Pre-Trial Chamber I.
2 Subsequent to the procedural work undertaken by the Pre-Trial Chamber,
3 a confirmation of charges hearing was held in July 2019 and the Document
4 Containing the Charges was issued on 30 September 2019.
5 Of course, I'm pausing for the interpreters to be able to keep up. The
6 Pre-Trial Chamber then issued a decision amending the charges on 23 April 2020.
7 This Chamber was constituted and seized of the case in November 2019, after which
8 there ensued a trial preparation phase in order to rapidly prepare for the substantive
9 part of the case which commences today.
10 We come now to the reading of the charges and entering of pleas.
11 Pursuant to Article 64(8) of the Statute, and I quote:
12 "At the commencement of the trial, the Trial Chamber shall have read to the accused
13 the charges previously confirmed by the Pre-Trial Chamber. The Trial Chamber
14 shall satisfy itself that the accused understands the nature of the charges. It shall
15 afford him or her the opportunity to make an admission of guilt in accordance with
16 Article 65 or to plead not guilty."
17 End of quote.
18 Pursuant to Article 64(8) of the Statute, the charges will therefore be read out to the
19 accused as set out in the self-contained set of charges, which was drafted, which was
20 drafted in preparation for this hearing on the basis of the decision containing the
21 charges and the decision modifying the charges issued by the Pre-Trial Chamber on,
22 respectively, 30 September 2019 and 23 April 2020.
23 Some elements of the charges remain confidential at this point in order to protect the
24 victims concerned and they will be read out in closed session. The accused will be
25 asked if he understands the nature of each charge.

1 Mr Al Hassan will also be asked if he intends to enter a plea of guilty or not guilty,
2 though it should be recalled that this is not an obligation for the accused under
3 Article 64(8) of the Statute.

4 Firstly, the Chamber is of the opinion that it is necessary to read a brief summary of
5 the charges brought against the accused with a view to informing the public of the
6 nature of the hearings on the merits that commence today. I note that this summary
7 is not a substitute for the charges as confirmed by the Pre-Trial Chamber, it is simply
8 a presentation of the case to the public listening to us today.

9 This presentation can also be found in the documents made available to the public
10 and the media by the public affairs unit of the Court.

11 So I shall provide you with a very brief summary:

12 The case brought before this Chamber concerns the following facts. Between
13 1 April 2012 and 28 January 2013, the armed groups Ansar Dine/AQMI, constituting
14 an organisation, allegedly carried out a widespread and systematic attack on the
15 civilian population of Timbuktu and of the region which bears the same name.

16 During that period, Ansar Dine/AQMI - in English - allegedly imposed its ideology
17 on the population and, to this end, the members of Ansar Dine/AQMI are alleged to
18 have committed multiple crimes under Article 7(1) of the Statute, pursuant to or in
19 furtherance of the policy of the armed groups to conduct such an attack.

20 The acts charged are alleged to have been committed as part of this attack and are as
21 follows:

22 Torture, count 1; other inhumane acts, count 2; other inhumane acts in the form of
23 forced marriages, count 8; sexual slavery, count 9; rape, count 11; and persecution,
24 count 13 as crimes against humanity.

25 The crimes under Article 8(2)(c) and 8(2)(e) of the Statute with which Mr Al Hassan is

1 charged were allegedly committed in the context of a non-international armed conflict
2 taking place in Mali at the material time and are linked to the armed conflict. The
3 acts charged are as follows:

4 Torture, count 3; cruel treatment, count 4; outrages upon personal dignity, count 5;
5 the crime of passing sentences without previous judgment by a regularly constituted
6 court, affording all judicial guarantees generally acknowledged as indispensable,
7 count 6; the crime of directing attacks against protected objects, count 7; the crime of
8 sexual slavery, count 10; and of rape, count 12 as war crimes.

9 Mr Al Hassan is alleged to have exercised powers and functions on a daily basis
10 within the Islamic police and within the organisation and is alleged to have
11 contributed to the activities of the organisation within Timbuktu from 7 May at the
12 latest, 7 May 2012, that is, until 28 January 2013.

13 Mr Al Hassan is alleged to be criminally responsible for the crimes set out under the
14 aforementioned counts, 1 to 13, as confirmed by the Pre-Trial Chamber.

15 Now that we have read out the summary, we shall now move into closed session to
16 read out the entirety of the charges confirmed by the Pre-Trial Chamber.

17 For the attention of the public, we should be returning into open session in
18 approximately 45 minutes.

19 Madam courtroom officer, may we go into closed session, please.

20 (Private session at 10.26 a.m.)

21 THE COURT OFFICER: [10:26:16] (Interpretation) We are in private session,
22 your Honour.

23 (Redacted)

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10 (Open session at 11.09 a.m.)

11 THE COURT OFFICER: [11:09:36](Interpretation) We are in open session,

12 your Honour.

13 PRESIDING JUDGE MINDUA: [11:09:50](Interpretation) Very well. Thank you

14 very much, courtroom officer.

15 So I will now turn to Mr Al Hassan to ask him if he understands the nature of each

16 charge against him and to afford him the opportunity to make an admission of guilt

17 or plead not guilty pursuant to Article 64(8) of the Statute.

18 I can see that Ms Taylor is on her feet.

19 Ms Taylor, please.

20 MS TAYLOR: [11:10:29] Thank you very much, Mr President. With your

21 permission, I would ask that the Chamber allow Ms Montefusco to address the Bench

22 on a specific issue of Mr Al Hassan addressing these questions.

23 Thank you.

24 MR DUTERTRE: [11:11:00](Interpretation) Please, Counsel Montefusco, you have

25 the floor.

1 MS MONTEFUSCO: [11:11:06] Is the Chamber able to hear me? Yes, okay.
2 Thank you, your Honours. This morning the Defence would like to verbally raise
3 the motion asserting its doubt of the accused's fitness to stand trial at this time and it
4 moves the Chamber to order a qualified examination to assist it in making this
5 determination and also to assess whether Mr Al Hassan has the capacity to
6 meaningfully exercise his fair trial rights that are enumerated in Article 67 of
7 the Statute. And they are further detailed, which are in the filings so I will avoid
8 going into the judgments themselves, of Gbagbo, Ongwen, both of which refer to the
9 Strugar fitness decision in the ICTY.
10 In the Chamber's taking into account of all the relevant circumstances in this
11 particular case to determine whether the putting in place of certain practical
12 arrangements could have mitigated the negative impact against a fair and expeditious
13 trial, the latter appears to be the predominant concern of the Chamber.
14 It is the Defence's position that prioritising expeditiousness to the fundamental
15 precondition to trial of fitness is paramount to the rendering of all of the accused's fair
16 trial rights so that they are not merely illusory and therefore engage in absolute
17 prejudice to the defendant.
18 With respect to the issue of timeliness, the fitness to stand trial doesn't expire, it is an
19 issue that can be raised at any time throughout the proceeding, beginning with the
20 initial appearance clear through the rendering of a verdict. It is even an issue that
21 can be raised retrospectively and therefore it is the Defence's position that contrary to
22 the Chamber's position that the order that motions having repercussions on the
23 conduct of the trial must be submitted in a timely manner also applies to a Defence
24 motion raising a doubt as to the fitness of the Defendant to stand trial does not apply.
25 The prescription to the raising of a doubt as being untimely or even as causing undue

1 delay amounts to an arbitrary self-ascription of discretion which applying to
2 a precondition to trial, namely the fitness to stand trial to meaningfully participate in
3 the exercise of all of his fair trial rights, cannot be superseded by expeditiousness.
4 The Defence has repeatedly and consistently throughout the procedural history of
5 this case raised this issue in its termination request, again in the status conference on
6 30 June, again in the adjournment series, the filings, again in the fitness filings and
7 again this morning at 10 a.m.
8 During the status conference on the 30th the Single Judge acknowledged that
9 the Defence, once it had the chance to meet Mr Al Hassan, might have other matters
10 to bring before the Chamber and that the Chamber would receive them as it was
11 sympathetic to the situation the Defence is facing in terms of discussing matters with
12 its client.
13 In that regard, the Defence had to seek a court order to effect its request to visit its
14 client in person. Given the challenges that COVID has posed against all parties and
15 also the Court, the Defence wasn't able to see Mr Al Hassan.
16 When the Defence met him for the first time in four months, the Defence was alarmed
17 with the current status of their client. Engaged in a discussion with him and based
18 on the results of the Defence's in-person meeting on that day, the Defence sought to
19 confirm or disconfirm or even simply to understand whether or not the alarm that it
20 sensed was valid and asked Dr Porterfield to have an emergency phone conference
21 with him, who is an expert of trust to Mr Al Hassan.
22 She issued a letter on July 8 of 2020, which the Defence has provided to the Chamber,
23 acknowledging that he was experiencing dissociative features that result from severe
24 maltreatment, causing serious impairment and distress and, very importantly, the
25 avoidance of memories.

1 She then went on to state he is experiencing dissociation, which is a neuropsychiatric
2 symptom in which there is a rupture, a rupture in sensory experiences and
3 perceptions of oneself and of the environment.

4 Fitness to stand trial requires that the accused is not only able to understand the
5 charges against him, but that the accused is able to conceptualise the outcome or the
6 consequences of the trial that he is facing. That requires that he is able to completely
7 assist Defence counsel in preparing his defence and that requires, looking at the
8 fourth capacity in the Strugar decision, that he has the ability to understand the
9 details of the evidence.

10 How can somebody who is experiencing such post-traumatic stress that they are
11 dissociating in a way that they avoid memories properly assist counsel in analysing
12 the evidence that to date it still has not had the opportunity to even investigate in
13 order to prepare an adequate defence?

14 So with timeliness not being an issue by law, the Defence is moving this Court
15 verbally, and has done so in writing as of 10 a.m. this morning, to order assessment of
16 fitness to stand trial of Mr Al Hassan because at this time the Defence affirmatively
17 raises the doubt that he is actually fit to proceed.

18 PRESIDING JUDGE MINDUA: [11:18:36](Interpretation) Thank you very much,
19 Counsel.

20 You have noted that the Chamber followed very attentively what you just had to say.
21 Now, in reality, if I understand you correctly, you are saying that your client is not fit
22 to stand trial for the time being. But the Chamber has been regularly seized of the
23 matter as to whether he is physically able to stand trial or not. You cited the name of
24 the doctor, but according to the doctor's report that I have in my possession, he has
25 said that a clinician would have to be in a position to be able to examine the accused.

1 We have not yet been seized of the matter. Your team filed some submissions and
2 the Chamber has deliberated upon these.

3 I would like to remind you of a number of said decisions. Just after the plea is
4 entered by the accused, I will do so.

5 And as you are raising this issue now, I see that we have 10 minutes before the break,
6 the Chamber shall withdraw with a view to answering your question upon its return
7 and also read out the -- or, rather, recall the decisions that have already been taken on
8 the matter with regard to which you have filed further submissions.

9 The Chamber shall now withdraw, but before we do so I would like to know whether
10 the Prosecutor has anything to say in this regard.

11 Madam Prosecutor -- ah, Mr Dutertre.

12 MR DUTERTRE: [11:20:47](Interpretation) Good morning, your Honour, good
13 morning, your Honours.

14 I shall try and be very brief.

15 (Speaks English) This request is obviously late. The opening was set for today at
16 10 o'clock. At 9.57 we got, everyone, a courtesy copy of a Defence request on
17 Mr Al Hassan's fitness. This is literally last minute, three minutes before the opening
18 of a trial.

19 And this is way after the 1 June deadline for motion requiring resolution before the
20 commencement of trial, a deadline that was postponed to 16 June based on a request
21 by the Defence.

22 Expeditiousness, your Honours, as the Ongwen appeals judgment number 1562 has
23 underscored in paragraph 2, I quote: "... forms ... part of a trial; procedural rules that
24 require parties to raise certain issues at a given point in time are not necessarily
25 incompatible with the rights of the accused." End of quote.

1 More generally, the Appeals Chamber has emphasised that parties must act within
2 a reasonable time, especially regarding objections that may impact on the expeditious
3 conduct of the proceeding. And I'm referring to the Katanga appeals judgment
4 number 2259, paragraph 54.

5 In the present case, there was ample of time for Defence to file such a request before
6 and to organise an ad hoc phone call with Mr Porterfield, as they did on 8 July.

7 What they did on 8 July they could have done before.

8 There are, that being said, clear indicia that Al Hassan has an overall understanding
9 of the proceeding and also has the ability to provide specific instructions to his
10 counsel. And there is insufficient evidence of lack of fitness.

11 Defence is relying on his own consultant report, which remains to be tested. And in
12 fact there are indicia today of the contrary that he is still -- he is fit to stand trial.

13 In this context, the Prosecution considers that the Defence request for reconsideration
14 of a decision on the Defence adjournment request is moot. This late request sent this
15 morning can be dealt with before the presentation of the actual evidence, starting
16 25 August. We can proceed today and the accused will be afforded an opportunity
17 indeed to make an admission of guilt or to plead not guilty, as you had suggested,
18 bearing in mind that it is not an obligation.

19 So for this reason the Prosecution requests that we should proceed today and
20 continue the opening.

21 Thank you, your Honours.

22 PRESIDING JUDGE MINDUA: [11:24:54](Interpretation) Thank you very much,
23 Mr Duterte.

24 Ms Taylor.

25 MS TAYLOR: [11:24:58] Thank you very much, Mr President. Given that

1 the Defence should generally have the right of the last word, I wish to address one
2 discrete point, one very important factual point.
3 Possibility is the limits of the law. And until this very day we have not been able to
4 have an expert go into the detention unit and see Mr Al Hassan. And I think any
5 expert on medical issues would laugh you out of the courtroom if you were to say
6 that you could do a proper fitness assessment with someone you do not know on the
7 telephone.
8 So for the last four months we have regularly, repeatedly insisted "we need to go into
9 the detention unit". We have put that in almost every filing, and in so doing, we
10 have linked it to the need to conduct proper assessments of his fitness. We have
11 placed all the information that we had on his fitness that was prepared before COVID
12 in our 16 June filing and we asked for an evidentiary hearing so that the doctors could
13 be here and you could question them about dissociative disorder. But what
14 we cannot do is waive a fundamental right - even if it's not an obligation, it is a right
15 to enter an informed plea - just because COVID has prevented Mr Al Hassan from
16 seeing a medical expert and we have been prevented from actually facilitating that
17 and have it happen.
18 So it's all very well and good to talk about COVID and how it's impacted upon
19 persons, but thus far the only counterbalancing remedies that have been given have
20 been given to one side of the courtroom and not the other. And as a result, it's
21 created a significant inequality of arms. It's impeded our key defence preparation,
22 and yet when we move the Chamber for a remedy, we're being told we are not timely,
23 for reasons beyond our control and even though issues of fitness are not static.
24 Again, we have been repeatedly saying issues of fitness will depend on his conditions,
25 they will be impacted by COVID, there is the likelihood it would worsen. These are

1 issues that raised the doubt that impelled us to file today's request.

2 We cannot do earlier what's not possible. And Mr Al Hassan, as a defendant in this
3 trial, should not have these fundamental rights put in peril because of issues beyond
4 our control and because of bureaucratic formalities that could not be fulfilled in an
5 effective, rather than illusory, manner.

6 Thank you.

7 PRESIDING JUDGE MINDUA: [11:27:57](Interpretation) Thank you, very much,
8 Ms Taylor.

9 The Chamber shall now withdraw. It's virtually time to take the break anyway.

10 The break will be 45 minutes of duration. So in 45-minutes time we shall reconvene
11 and we shall hand down a decision with regard to what you have just raised.

12 Court is adjourned.

13 THE COURT USHER: [11:28:29] All rise.

14 (Recess taken at 11.28 a.m.)

15 (Upon resuming in open session at 12.48 p.m.)

16 THE COURT USHER: [12:48:22] All rise.

17 Please be seated.

18 PRESIDING JUDGE MINDUA: [12:48:50](Interpretation) The hearing shall resume.

19 Good morning to one and all. I would like to clarify that the staffing of the
20 respective teams has not changed. Madam Prosecutor, Mrs Taylor, the Legal
21 Representative of Victims? My thanks.

22 Before the brief adjournment, the Defence raised a matter going to the fitness of the
23 accused to attend his trial and looking into potential for a medical assessment, and I
24 said that there were a certain number of files tendered by the Defence and that now
25 we are minded to remedy.

1 I therefore read the decision of the Trial Chamber.

2 The Trial Chamber recalls that the Defence had requested on 3 July last that today's
3 proceedings be adjourned, document 927, application to which the Chamber declined
4 to look upon favourably on 10 July.

5 The 9 July, the Defence also filed another motion. In that motion it submitted that
6 Mr Al Hassan was unable to stand for trial.

7 The Chamber yesterday handed down a decision upon that motion by finding that,
8 bearing in mind the notice given by the Defence, the document had been filed at an
9 inappropriate time and that it hadn't provided sufficient information to the effect that
10 Mr Al Hassan was unable to stand trial, document 952.

11 The Chamber recalls that yesterday, at the end of the day, the Defence asked of
12 the Chamber to show reconsideration of its own decision to decline the adjournment
13 of the trial or, in the alternative, to authorise the fact that this matter should be
14 brought before the Chamber of appeal by referring to information *de novo* justifying,
15 warranting, in the Defence's eyes, such reconsideration to be envisaged by the
16 Appeals Chamber.

17 During this morning's proceedings, the Defence has made an oral submission
18 detailing a certain number of contentions which in substance takes up those that were
19 expanded upon in the pre-mention -- in the aforementioned submissions, in particular
20 in the reconsideration motion that was filed by the Defence yesterday.

21 The Chamber recalls that this morning during our proceedings, the Defence explicitly
22 formulated an application to the effect that a qualified medical assessment be
23 conducted on their client and that this medical assessment should determine the
24 matter whether the accused is indeed able to stand trial.

25 Regarding the reconsideration application, the Chamber considers such

1 application - this was submitted at 17.54 yesterday - additionally bearing in mind its
2 content and purpose, the Chamber does not find it necessary to hear submissions
3 from the Prosecutor or from the Legal Representative of Victims.

4 The Chamber dismisses the application and will provide a reasoned decision in due
5 course.

6 I move to the application for going on appeal. The Chamber has formally
7 acknowledged this course of action and will hand down its decision in due course,
8 after having received responses from the parties and participants.

9 I move to the oral application made this morning. This oral application, by way of
10 reminder, takes up in its substance the arguments expanded upon in recently filed
11 motions by the Defence. In light of that, the Chamber reiterates what it said in its
12 own decision 952, this decision was handed down yesterday, and we refer to that to
13 formulate our decision.

14 First, the Chamber reiterates, by referring to the case law handed down by the
15 Appeals Chamber, that even though the instant motion is particularly tardy, it is
16 disposed to address the merits regarding the exceptional circumstances that may
17 warrant the tardy filing of such an application. As stated by the Chamber in
18 paragraph 26 of its decision 952, the Chamber sees no reason why the Defence would
19 have been unable to file its motion at a preceding stage of the proceedings.

20 My second point, the Chamber reiterates that the case file contains a number of
21 examples demonstrating the fact that Defence counsel could have received specific
22 instructions from their client going to a significant number and a variety of matters, in
23 particular his state of health. I here refer to paragraph 27 of the decision 952.

24 Thirdly, the Chamber holds that the application which implicitly refers to Rule 135 of
25 the Rules of Procedure and Evidence is tardy. As the Chamber stated in

1 paragraph 29 of its 952 decision, let me quote from the English: (Speaks English)
2 "Should the Chamber entertain the Defence request at this stage to discuss the present
3 issue, the Defence would, in effect, be forcing the Chamber to postpone the
4 commencement of trial. The Chamber reiterates in the strongest possible terms that
5 this Chamber will not permit such tactics to be used in the present trial proceedings."
6 (Interpretation) End of quote.

7 For these reasons, and considering the submissions and information that has been
8 placed before our Chamber, the Trial Chamber concludes that, as things stand, no
9 information, no adequate information has been made available to the Chamber to
10 warrant a view that Mr Al Hassan is unfit for trial.

11 The Chamber will determine whether Mr Al Hassan understands the nature of the
12 charges made against him.

13 That said, the Chamber may order a medical assessment in keeping with Rule 135 of
14 the Rules of Procedure and Evidence. Accordingly, the Chamber instructs
15 the Registry, in consultation with the parties, to make recommendations before
16 24 July 2020, going to experts who may undertake said medical assessment.

17 The Chamber also instructs the parties to submit their submissions on the
18 recommendations made by the Registry and this, at the latest, by 24 July 2020.

19 The Chamber will now turn to Mr Al Hassan to ask of him whether he understands
20 the nature of the charges, the nature of each individual charge made against him,
21 these charges having been read to him in closed session. And we seek from him
22 a plea, innocent or guilty, under Article 64(8) of the Statute.

23 So everything is crystal clear, you have the Chamber's decision and we shall now
24 continue with the entering of the plea.

25 Count 1: Torture as a crime against humanity under Article 7(1)(f) of the Statute.

1 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
2 of this charge, the charge that has been -- or charges that have been read to you whilst
3 we were in closed session, that is.

4 MR AL HASSAN: [13:01:01](No interpretation)

5 PRESIDING JUDGE MINDUA: [13:01:10](Interpretation) Thank you very much.

6 Do you intend to plead guilty or not guilty to this charge or do you wish to remain
7 silent?

8 MR AL HASSAN: [13:01:27](No interpretation)

9 PRESIDING JUDGE MINDUA: [13:01:39](Interpretation) Thank you very much.

10 The Chamber notes that at this stage of the proceedings Mr Al Hassan intends to not
11 enter a plea, either a guilty or a not guilty plea to this charge.

12 Count 2 --

13 MR DUTERTRE: [13:02:09](Interpretation) I have not been able to hear the French or
14 English translation and in the transcript in English we cannot see the interpretation of
15 the accused's answer, unless I have made a mistake.

16 PRESIDING JUDGE MINDUA: [13:02:29](Interpretation) Madam courtroom officer,
17 please.

18 THE COURT OFFICER: [13:02:36](Interpretation) I have been informed that there
19 was an interpretation problem from English to Arabic.

20 Could the interpreters please confirm to me that now everything is all right.

21 Everything is fine.

22 PRESIDING JUDGE MINDUA: [13:02:51](Interpretation) Thank you very much.

23 Mr Prosecutor, we shall therefore move on to count 2 and you will ascertain whether
24 everything is going all right, please.

25 Count number 2: Other inhumane acts as a crime against humanity under

1 Article 7(1)(k) of the Statute.

2 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
3 of this charge?

4 MR AL HASSAN: [13:03:31](Interpretation) Yes, I have indeed understood.

5 PRESIDING JUDGE MINDUA: [13:03:35](Interpretation) Thank you very much.

6 Mr Al Hassan, do you intend to plead guilty or not guilty to this charge or would you
7 rather remain silent?

8 MR AL HASSAN: [13:03:46](Interpretation) I cannot answer this question. I cannot
9 answer this question.

10 PRESIDING JUDGE MINDUA: [13:03:56](Interpretation) Thank you very much.

11 The Chamber notes that at this stage of the proceedings the accused has chosen not to
12 enter a plea whether as to admission of guilt or a plea of not guilty to this charge.

13 Count 3: Torture as a war crime under Article 8(2)(c)(i) of the Statute.

14 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
15 of this charge?

16 MR AL HASSAN: [13:04:44](Interpretation) Yes, I have indeed understood the
17 nature of this charge.

18 PRESIDING JUDGE MINDUA: [13:04:48](Interpretation) Thank you very much.

19 Mr Al Hassan, do you intend to plead guilty or not guilty to this charge or do you
20 prefer to remain silent?

21 MR AL HASSAN: [13:04:56](Interpretation) I cannot answer this question.

22 PRESIDING JUDGE MINDUA: [13:05:07](Interpretation) Thank you very much.

23 The Chamber notes that at this stage of the proceedings the accused has chosen not to
24 enter a plea whether to an admission of guilt or not guilty.

25 Count 4: Cruel treatment as a war crime under Article 8(2)(c)(i) of the Statute.

1 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
2 of this charge?

3 MR AL HASSAN: [13:05:51](Interpretation) Yes, I have indeed understood the
4 nature of this charge.

5 PRESIDING JUDGE MINDUA: [13:05:58](Interpretation) Very well.

6 Mr Al Hassan, do you intend to plead guilty or not guilty to this charge or do you
7 prefer to remain silent?

8 MR AL HASSAN: [13:06:09](Interpretation) I cannot answer this question.

9 PRESIDING JUDGE MINDUA: [13:06:22](Interpretation) That means that you
10 prefer to remain silent.

11 MR AL HASSAN: [13:06:29](Interpretation) Yes, that is correct.

12 PRESIDING JUDGE MINDUA: [13:06:33](Interpretation) The Chamber notes that at
13 this stage of the proceedings the accused has chosen to refrain from entering a plea of
14 guilty or not guilty to this charge.

15 Court 5: Outrages upon personal dignity as a war crime under Article 8(2)(c)(ii)
16 of the Statute.

17 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
18 of this charge?

19 MR AL HASSAN: [13:07:09](Interpretation) Yes, I have indeed understood.

20 PRESIDING JUDGE MINDUA: [13:07:15](Interpretation) Mr Al Hassan, do you
21 intend to plead guilty or not guilty to this charge or would you rather remain silent?

22 MR AL HASSAN: [13:07:26](Interpretation) I cannot answer this question.

23 PRESIDING JUDGE MINDUA: [13:07:36](Interpretation) Very well. So once again
24 the Chamber notes that at this stage of the proceedings the accused has chosen to
25 refrain from entering a plea of guilty or not guilty to this charge.

1 Count 6: Passing of sentences without previous judgment pronounced by
2 a regularly constituted court, affording all judicial guarantees which are generally
3 acknowledged as indispensable under Article 8(2)(c)(iv) of the Statute.

4 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
5 of this charge?

6 MR AL HASSAN: [13:08:34](Interpretation) Yes, I have indeed understood.

7 PRESIDING JUDGE MINDUA: [13:08:41](Interpretation) Thank you very much.

8 Mr Al Hassan, do you intend to plead guilty or not guilty to this charge or would you
9 rather remain silent?

10 MR AL HASSAN: [13:08:51](Interpretation) I cannot answer this question.

11 PRESIDING JUDGE MINDUA: [13:08:58](Interpretation) Thank you very much.

12 So you prefer to remain silent.

13 The Chamber notes that at this stage of the proceedings the accused has chosen to
14 refrain from entering a plea of guilty or not guilty to this charge.

15 Count 7: Directing attacks against protected objects as a war crime under
16 Article 8(2)(e)(iv) of the Statute.

17 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
18 of this charge?

19 MR AL HASSAN: [13:09:48](Interpretation) Yes, I have indeed understood.

20 PRESIDING JUDGE MINDUA: [13:09:53](Interpretation) Thank you very much,

21 Mr Al Hassan.

22 Do you intend to plead guilty or not guilty to this charge, or would you rather remain
23 silent?

24 MR AL HASSAN: [13:10:04](Interpretation) I cannot answer this question.

25 PRESIDING JUDGE MINDUA: [13:10:10](Interpretation) Once again you would

1 prefer to remain silent. Thank you.

2 The Chamber notes that at this stage of the proceedings the accused has chosen to
3 refrain from entering a plea of guilty or not guilty to this charge.

4 Count 8: Other inhumane acts in the form of forced marriage as a crime against
5 humanity under Article 7(1)(k) of the Statute.

6 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
7 of this charge?

8 MR AL HASSAN: [13:10:58](Interpretation) Yes, I have indeed understood.

9 PRESIDING JUDGE MINDUA: [13:11:02](Interpretation) Mr Al Hassan, do you
10 intend to plead guilty or not guilty to this charge, or would you rather remain silent?

11 MR AL HASSAN: [13:11:12](Interpretation) I cannot answer this question.

12 PRESIDING JUDGE MINDUA: [13:11:22](Interpretation) Once again, you would
13 prefer to remain silent. Thank you very much.

14 The Chamber notes that at this stage of the proceedings the accused has chosen to
15 refrain from entering a plea of guilty or not guilty to this charge.

16 Count 9: Sexual slavery as a crime against humanity under Article 7(1)(g) of
17 the Statute.

18 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
19 of this charge?

20 MR AL HASSAN: [13:12:05](Interpretation) Yes, I have understood.

21 PRESIDING JUDGE MINDUA: [13:12:11](Interpretation) Thank you very much,
22 Mr Al Hassan.

23 Do you intend to plead guilty or not guilty to this charge, or would you rather remain
24 silent?

25 MR AL HASSAN: [13:12:25](Interpretation) I cannot answer this question.

1 PRESIDING JUDGE MINDUA: [13:12:29](Interpretation) So once again you prefer
2 to remain silent. Thank you very much.

3 The Chamber notes that at this stage of the proceedings the accused has chosen to
4 refrain from entering a plea of guilty or not guilty to this charge.

5 Count 10: Sexual slavery as a war crime under Article 8(2)(e)(vi) of the Statute.

6 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
7 of this charge?

8 MR AL HASSAN: [13:13:19](Interpretation) Yes, I have understood.

9 PRESIDING JUDGE MINDUA: [13:13:21](Interpretation) Thank you very much.

10 Mr Al Hassan, do you intend to now plead guilty or not guilty to this charge or
11 would you rather remain silent?

12 MR AL HASSAN: [13:13:31](Interpretation) I cannot answer that question.

13 PRESIDING JUDGE MINDUA: [13:13:35](Interpretation) Thank you very much.

14 So once again you prefer to remain silent.

15 The Chamber notes that, at this stage of the proceedings, the accused has chosen to
16 refrain from entering a plea of guilty or not guilty to this charge.

17 Count 11, rape as a crime against humanity under Article 7(1)(g) of the Statute.

18 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
19 of this charge?

20 MR AL HASSAN: [13:14:17](Interpretation) Yes, I have understood.

21 PRESIDING JUDGE MINDUA: [13:14:22](Interpretation) Thank you very much,

22 Mr Al Hassan.

23 Do you intend to plead guilty or not guilty to this charge or would you rather remain
24 silent?

25 MR AL HASSAN: [13:14:33](Interpretation) I cannot answer this question.

1 PRESIDING JUDGE MINDUA: [13:14:40](Interpretation) Thank you very much.

2 You prefer to remain silent.

3 The Chamber notes that, at this stage of the proceedings, the accused has chosen to
4 refrain from entering a plea of guilty or not guilty to this charge.

5 Count 12, rape as a war crime under Article 8(2)(e)(vi) of the Statute.

6 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
7 of this charge?

8 MR AL HASSAN: [13:15:24](Interpretation) Yes, I have indeed understood.

9 PRESIDING JUDGE MINDUA: [13:15:31](Interpretation) Thank you very much.

10 Mr Al Hassan, do you intend to plead guilty or not guilty to this charge or would you
11 rather remain silent?

12 MR AL HASSAN: [13:15:42](Interpretation) I cannot answer that question.

13 PRESIDING JUDGE MINDUA: [13:15:52](Interpretation) Thank you very much.

14 The Chamber notes that, at this stage of the proceedings, the accused has chosen to
15 refrain from entering a plea of guilty or not guilty to this charge.

16 Persecution as a crime against humanity under Article 7(1)(h) of the Statute.

17 Mr Al Hassan, can you confirm to the Chamber that you have understood the nature
18 of this charge?

19 MR AL HASSAN: [13:16:35](Interpretation) Yes, I have understood.

20 PRESIDING JUDGE MINDUA: [13:16:39](Interpretation) Thank you very much,

21 Mr Al Hassan.

22 Do you intend to plead guilty or not guilty to this charge or would you rather remain
23 silent?

24 MR AL HASSAN: [13:16:50](Interpretation) I cannot answer that question.

25 PRESIDING JUDGE MINDUA: [13:16:57](Interpretation) Thank you very much.

1 So you prefer to remain silent.

2 The Chamber notes that, at this stage of the proceedings, the accused has chosen to
3 refrain from entering a plea of guilty or not guilty to this charge.

4 You may be seated.

5 The Chamber now intends to make some observations of a procedural nature.

6 The Chamber notes, firstly, that yesterday it received a Defence filing entitled, "Notice
7 of affirmative defence", document number 951, in which the Defence informs
8 the Chamber of its intention to raise grounds for excluding Mr Al Hassan's criminal
9 responsibility, including the assertion that his conduct during the period of the crimes
10 was allegedly coerced.

11 The Defence also alleges other grounds for excluding the criminal responsibility of the
12 accused, such as mistake of fact or of law under Article 32 of the Statute, as well as
13 superior orders under Article 33 of the Statute. The Chamber takes due note thereof.

14 Intends to clarify that it is currently seized of a Defence termination request to
15 discontinue the proceedings against Mr Al Hassan. This is document number 885.

16 The Chamber considered that, given the time limits in which this request was filed,
17 less than four weeks before the start of trial, and the time deemed necessary for
18 parties and participants to respond thereto, it was not possible to address this request
19 prior to the commencement of the trial. Nor did it consider it appropriate to
20 suspend the commencement of trial in order to address this issue. The Chamber will,
21 therefore, consider this request in parallel with the trial and in due course.

22 Further, I recall that the Chamber set a deadline for the submission of any observation
23 or objections by the Prosecutor and the Defence pursuant to Rule 134(2) of the Rules
24 of Procedure and Evidence. This deadline is set to 1 June 2020 and it was
25 subsequently extended to 10 June 2020 following a Defence request.

1 In accordance with Rule 134(2) of the Rules, the Chamber is now asking the parties
2 whether they wish to raise objections or make observations on the conduct of
3 proceedings subsequent to the confirmation hearing, other than those they have
4 already made and those that they were not able to raise before the deadline set by
5 the Chamber.

6 In accordance with Rule 134(2) of the Regulations of the Court, such objections may
7 not be raised in the proceedings without leave of the Chamber.

8 Madam Prosecutor, you have the floor, if you have any objections.

9 MS BENSOUDA: [13:22:30] Mr President, we do not have any, any objections.

10 PRESIDING JUDGE MINDUA: [13:22:42](Interpretation) Thank you very much,
11 Madam Prosecutor.

12 I now turn towards Counsel Taylor for the Defence.

13 Counsel.

14 MS TAYLOR: [13:22:51] Thank you very much, Mr President. The Defence has set
15 out in its pleadings its objections to commencing the trial and substantive testimony
16 before it has had an effective ability to investigate this case. Now, we have done so
17 before the deadline, but we would also respectfully submit this is an issue that will
18 necessarily be impacted by the events as they arise, and that is reflected by
19 the Chamber's own decisions, which have repeatedly stated that they remain seized
20 of the possibility of receiving Defence applications for adjournments depending on
21 how circumstances unroll.

22 So we would respectfully submit that the right to bring these types of objections
23 under Rule 134(2) should not and cannot preclude the Defence from seizing
24 the Chamber in relation to specific investigative issues that we face, have faced,
25 continue to face and are likely to face before the commencement of testimony. And

1 then that's not an issue that can be time-barred because, once again, it depends on
2 issues beyond our control and it will depend on how things unroll with COVID and
3 the security in Mali.

4 Thank you.

5 PRESIDING JUDGE MINDUA: [13:24:28](Interpretation) Thank you very much,
6 counsel.

7 The problem that you raise is one that was already resolved in a previous decision of
8 the Chamber and the Chamber is currently examining it, so you can be aware of that.
9 The Chamber is not preventing you from addressing it when any issues should arise.
10 I don't know if the Prosecutor would like to intervene with regards to this statement
11 of the Defence.

12 MR DUTERTRE: [13:24:58](Interpretation) Thank you, your Honour.

13 Very briefly, just to say that the objections that have already been made can't be
14 renewed ad infinitum. If there are new elements, then of course they can be raised,
15 that is for the Chamber, but one cannot come back ad infinitum to the same questions.

16 PRESIDING JUDGE MINDUA: [13:25:26](Interpretation) Thank you, Prosecutor.
17 Maître Taylor.

18 MS TAYLOR: [13:25:30] Thank you very much.

19 One, just a discrete clarification. We agree that we should not be able to relitigate
20 issues, but when one is dealing with fairness, there's a threshold and it's possible that
21 the threshold for unfairness might not have been reached at one point in time. But
22 the cumulation of prejudice, the cumulation of factors might bring us over that
23 threshold.

24 So for that reason, we are respectfully submitting that in future applications,
25 we cannot divorce ourselves from what has happened up until this point. And we

1 should be permitted to raise all of the issues in its entirety, so that in future
2 applications, the Chamber is not dealing with things in a piecemeal manner, but is
3 considering prejudice on the basis of the record as a whole and in relation to the
4 threshold of fairness as a whole.

5 Thank you.

6 PRESIDING JUDGE MINDUA: [13:26:32](Interpretation) Thank you very much,
7 counsel, I understand you very well and I don't see any problem of fairness. The
8 Chamber is doing its best to ensure it is up to the issue, but the problem is that when
9 you present submissions, the Chamber decides and sometimes you would seem to
10 come back to the same subject in a new written submission; so you can also pay
11 attention to that. Nevertheless, if you have any observations, you have until
12 Monday, 10th of ... 2020 to make them, and the parties and participants will have until
13 Friday, 21 August 2020. So the Chamber takes good note of your observations and
14 awaits your input.

15 We are now going to hear the opening statements of the Office of the Prosecutor.

16 I note that yesterday the Chamber, by email, decided to reject the Defence objections
17 concerning the material that the Prosecutor intends to use during its opening
18 statements and has given the Prosecutor leave to use the material included in the list
19 that it disclosed on 6 July.

20 In accordance with annex A of decision 789 on the conduct of proceedings, you have
21 four hours, Madam Prosecutor.

22 I would recall also that in accordance with decision 867 of the Chamber, you have the
23 possibility to ask that confidential elements in your presentation be only disseminated
24 within the courtroom through a procedure that will make it possible for us to remain
25 in open session. I would like you to indicate if you wish to avail yourself of this

1 possibility and when, whilst recalling that recourse thereto must be as limited as far
2 as possible and must only be for opening statements with a view to adherence to the
3 principle of publicity of proceedings to the maximum degree.

4 Prosecutor, Madam Prosecutor, you now have the floor, but once again the Chamber
5 reminds you nevertheless that the task of the interpreters and the court reporters will
6 be far more simple if you would speak slowly, and yet more importantly, the
7 presentations will be clearer and better understood by all who follow them or will
8 follow them, whether that is here or outside this courtroom. And Madam
9 court officer has the task of reminding us whenever it is necessary to do so.

10 Madam court officer, nobody will take offence if you call us to order from time to
11 time. It is indeed incumbent upon you so to do.

12 Madam Prosecutor, you have the floor.

13 MS BENSOUDA: [13:30:43](Interpretation) Thank you, President.

14 Your Honour, your Honours, today marks the beginning of the long awaited trial of
15 the unimaginable crimes which have been committed in Mali.

16 For almost a year, between April 2012 and 2013, Timbuktu suffered from moral and
17 physical violence meted out by the armed groups Ansar Dine and al-Qaeda in the
18 Islamic Maghreb. Timbuktu, the pearl of the desert, where the population have been
19 living in peace for years, was subject to their diktats. Timbuktu was subjected to
20 their tyranny.

21 As soon as they took the city, the members of Ansar Dine and AQIM created organs
22 of control and repression. They created the Islamic court and the Islamic police of
23 which Al Hassan was the key and zealous commissioner.

24 In doing so, the members of these groups exercised a relentless grip on Timbuktu, its
25 region and the helpless civilian population. Their plan and design was to subjugate

1 the men and women of Timbuktu to their power and control.

2 Their plan and design was to impose their personal religious and ideological vision,
3 and this, by force, with a great deal of brutality and abuses constituting crimes against
4 humanity and war crimes under the Rome Statute.

5 This is at the heart of the present case: The use of violence, the commission of crimes
6 against inhabitants who were belittled, humiliated, assaulted and, to say it all, subject
7 to a veritable persecution on religious and gender grounds to which they saw no end
8 and in which Al Hassan, the acting and thinking embodiment of the Islamic police,
9 played a central role.

10 Your Honour, your Honours, I would like to clarify from the outset the following
11 point: This case is in no way directed against Islam, nor is it directed against any
12 religion or system of law or thought.

13 It is simply a criminal case involving grave crimes. You have before you the case of
14 a man, Al Hassan, who we will demonstrate beyond all reasonable doubt is
15 responsible for crimes under the Rome Statute committed against the inhabitants of
16 Timbuktu and its region, crimes committed against Malians, against his own
17 compatriots. No more, no less.

18 It is for your Court to show that individuals such as Al Hassan cannot join armed
19 groups of any kind, nor occupy part of a sovereign state that has chosen its system of
20 government, and impose through force of arms and violence on an entire population
21 precepts and prohibitions under the pretext of implementing their ideological and
22 religious vision. This applies regardless of the ideas, regardless of the principles or
23 religion one claims to follow. That applies irrespective of the rules that one allegedly
24 wishes to apply.

25 It is the very nature of the criminal acts and the pure violence against the civilian

1 population that justifies the Prosecution of Al Hassan before your Chamber. The
2 variety of new prohibitions and rules were unmatched in the cruelty with which the
3 institutions established by Ansar Dine and AQIM and the men such as Al Hassan
4 punished mercilessly the inhabitants of Timbuktu, who were merely exercising their
5 fundamental rights when they didn't bow to the new diktats.

6 Your Honour, your Honours, allow me to quote the words of an inhabitant of
7 Timbuktu, as they embody and summarise the pain and despair of the inhabitants.
8 He says, and I quote:

9 "The town has become a ghost town. Fear in the sense that all the population were
10 hiding away in their houses out of fear of being punished, fear of being humiliated,
11 fear of being brutalised, fear of being assaulted."

12 The word fear is repeated on four occasions in this sentence. It is a leitmotif therein.
13 It perfectly describes the *calvaire* that the inhabitants of Timbuktu experienced on
14 a daily basis during the entire occupation.

15 You will see the example of Dédéou Maiga, who is unfortunately now deceased. He
16 was bound to a chair in a public square, before the entire population. His hand was
17 amputated in the most brutal way possible with a type of long knife. Who found
18 him guilty? The irregularly constituted Islamic court established by Ansar Dine and
19 AQIM in Timbuktu to give a semblance of legitimacy to their tyrannical regime. His
20 life was turned upside down. As far as he was concerned, his life was over.

21 The purpose of this punishment was twofold.

22 Firstly, to demonstrate that there was no limit to the power of armed groups in
23 Timbuktu, to demonstrate that nobody could oppose them, even when they
24 committed the most extreme and violent acts, and with good reason, Ansar Dine and
25 AQIM held all the weapons.

1 And secondly, they wanted to make an example, to strike fear into people, to spread
2 terror. And thus further subjugate and coerce the population into obeying the new
3 rules and prohibitions.

4 And who do you imagine arrested Dédéou? It was Al Hassan himself. You will
5 see today Al Hassan in a video. He totally sanctions this criminal and brutal
6 mutilation.

7 In fact, as my Office will prove, Al Hassan was directly involved in the violence and
8 torture inflicted upon the population, on the men, the women, and the children of
9 Timbuktu. As a commissioner, he held a central function. He worked in
10 a proactive way within the heart of an oppressive, repressive and persecuting system
11 in which the crimes in this present case were committed.

12 The evidence will show that Al Hassan led the organisation, the management and
13 was responsible for the functioning of the Islamic police; that Al Hassan arrested and
14 detained persons; that Al Hassan conducted investigations on alleged violations of
15 rules imposed by the groups, during which suspects were tortured and threatened in
16 order to obtain confessions; that Al Hassan referred cases to the Islamic court; that
17 Al Hassan participated personally in the meting out of corporal punishment by the
18 police and those decided on by the irregularly constituted Islamic court, and this was
19 done in public or at the headquarters of the Islamic police.

20 Having stated that Al Hassan worked with the groups, the armed groups Ansar Dine
21 and AQMI during the entire occupation of Timbuktu.

22 The very day of the arrival of these groups in Timbuktu, the start of April 2012,
23 a witness saw Al Hassan and members of the armed groups at the bank which was
24 soon going to become the headquarters of the Islamic police. We have the evidence
25 that he investigated and wrote at least one police report in a case which was among

1 those heard by the Islamic court during its session of 7 May 2012. He remained the
2 commissioner of the Islamic police, a veritable pillar of that organ, until the departure
3 of the armed groups from Timbuktu in January 2013.

4 If you would allow me, your Honour, to now speak in English.
5 (Speaks English) I will now continue my statement in English.

6 Mr President, your Honours, Ansar Dine and AQMI are still active in Mali and
7 Timbuktu region. They pose a grave danger to the safety of witnesses and victims.
8 I shall therefore not go into specific detail here, you have them in the confidential
9 version of the trial brief and other filings. The people of Timbuktu themselves know
10 full well what I'm alluding to, because they have experienced these crimes and
11 suffered physical and mental anguish as a result of them.

12 The evidence of the Prosecution will demonstrate that, as the armed groups arrive,
13 civilians fled to Bamako or other southern cities, as well as to neighbouring countries
14 such as Mauritania or Burkina Faso. They had to leave everything behind. They
15 had to leave their lives behind. Many left to escape the violence.

16 But others remained, for one reason or another. Some stayed behind because they
17 simply did not have the means to flee; others, because they had elderly parents to
18 take care of; and others still, because they felt attached and responsible for their city
19 or could not resign themselves to abandoning their beloved Timbuktu, especially
20 during one of the worst moments of its history. Those who remained were subjected
21 to a constant climate of fear and oppression.

22 The members of Ansar Dine and AQIM made sure of that, continually strutting about
23 with their weapons. In videos - they are publicly available - one can readily see the
24 Islamic police weapons, one can see the judges' weapons next to them during sessions
25 of the tribunal. One would indeed see weapons everywhere, all the time, and that

1 includes heavy weapons mounted on pickup trucks driving around the city. The
2 reign of terror was in place and its tools of enforcement on full display.
3 In this state of occupation and coercion, the Ansar Dine and AQIM's members,
4 severely restricted, they monitored and controlled everything. A Timbuktu local
5 stated at the time, and I quote: "In Timbuktu [...] everything has [become ...], elicit
6 and forbidden." And another one pointed out that "everything was under the
7 control" of the armed groups.
8 All aspects of life had indeed fallen under Ansar Dine's and AQIM's self-proclaimed
9 rules and prohibitions. Drastic restrictions were imposed on private life, public life,
10 leisure activities, cultural and religious practices, the manner of praying. This
11 affected absolutely everything, even the way inhabitants could or could not dress.
12 Not only were these rules new, but they were also quite alien to the residents of
13 Timbuktu. These imposed rules also denied many customs, traditions and social
14 practices of the inhabitants, which had characterised the lives of locals in Timbuktu,
15 sometimes for generations. They constituted severe and serious violations of their
16 fundamental rights, such as the right to religion, to private life or to education.
17 And here I would like to present a brief overview of these rules to demonstrate their
18 breadth and scope:
19 Banning religious practices at the tombs and mausoleums of Muslim saints;
20 prohibiting celebrations, such as the celebration of Malououd; banning amulets and
21 talismans, prohibiting statements, masks and pictorial representations; complete
22 control over the media, including radio; banning public gatherings; closing public
23 schools; banning music and dancing, segregating the sexes, including at school;
24 imposing a new dress code on men and particularly on women. Men needed to
25 shorten their trousers and women were required to cover their bodies head to toe,

1 a normal veil was not enough; and in that same vein, banning women from wearing
2 jewellery and make-up, even their traditional clothing was denied to them.
3 The list is long and I could go on. The control and domination was total. It was
4 a complete change in the way of life of the inhabitants, as many witnesses will testify.
5 Worst still, any disobedience would result in severe and cruel punishment.
6 In the event of a breach of the new rules, corporal punishment would be applied on
7 the spot by the Islamic police, generally in the form of lashes by a whip. You will see
8 some examples of such measures during the Prosecution's presentation of the case.
9 Punishments, including floggings up to 100 lashes, amputation, and imprisonment
10 were also executed following decisions by the irregularly constituted Islamic tribunal.
11 Al Hassan himself pointed out during his interview with our investigators, and I
12 quote:
13 "[The residents] were not familiar with this punishment. It was the first time that [...]
14 they had seen that. They were scared out of their minds. They couldn't do
15 anything. Everyone was afraid and feared the words 'jihadist' and 'terrorist'. They
16 were scared of this punishment." Al Hassan said this.
17 Clearly, Mr President, Al Hassan was well aware and indeed involved, as the
18 evidence will show, in this cruel and brutal repression. A witness will testify that it
19 is the Islamic police that was often in charge of organising executions of sentences,
20 and that he often saw Al Hassan in charge of them.
21 And this witness will further testify that there was not a single event of execution of
22 sentence in Timbuktu that he attended where Al Hassan was not present.
23 As a result, Mr President, it is no surprise if a thousand kilometres to the south, in
24 Bamako, a witness heard about Al Hassan. And this witness stated, "lots of people
25 who fled to Bamako spoke about Al Hassan and the Islamic police ..."

1 Mr President, your Honours, the Prosecutor's evidence will demonstrate that the
2 multiple acts perpetrated against the inhabitants of Timbuktu and its region
3 constituted a real attack against the civilian population: sentences handed down by an
4 irregularly constituted tribunal, sentences without prior judicial proceedings, torture,
5 cruel treatment, other inhumane acts, outrages upon personal dignity, sexual slavery,
6 acts of rape, attack against historic monuments and buildings dedicated to religion,
7 amongst other offences.

8 And these are all grave acts and crimes under the Rome Statute which, when taken in
9 their totality, fit the characterisation of the crime of persecution, which is also
10 specifically addressed in the Rome Statute.

11 There was religious persecution in Timbuktu: all the rules and prohibitions imposed
12 on the residents stemmed from the ideological and purported religious vision of
13 Ansar Dine and AQIM.

14 My Office has pledged to systematically fight impunity for gender-based crimes
15 where the evidence supports such heinous crimes.

16 In the present case, gender-based persecution was yet another manifestation of this
17 rule by force and terror. Indeed, it was the woman and girls of Timbuktu and the
18 region who were targeted and suffered the most. Our evidence will show that
19 women had become the primary targets.

20 Women and girls were pursued into their very homes. They were abused, punished,
21 beaten, imprisoned, and subjected to corporal punishment, for a variety of so-called
22 breaches from failure to wear the prescribed clothing, giving water to a man, not
23 having gloves at the market to pay and receive money, amongst others.

24 And with your indulgence, I would like to briefly touch upon the prison conditions,
25 which added to the suffering inflicted on women. The evidence will show that

1 women were kept in inhumane conditions in a room, a small room at the *Banque*
2 *Malienne de Solidarité*, which residents dubbed "the women's nightmare cell". It was
3 a two square metre room housing the ATM. And we will show you this infamous
4 cell so that you can see for yourself what these women endured. Women were
5 locked up in a makeshift cell and treated shamefully. At times, not one, but several
6 women were kept in confinement in that limited space. And all this took place in
7 oppressive heat. Some had no option but to relieve themselves in that cell.
8 Our evidence will show, will also show the extreme degree of violence experienced
9 by the women who were subjected to floggings. Al Hassan knows what I am taking
10 about. He himself was personally involved in organising the infliction of corporal
11 punishment in public on women accused of adultery. He has -- he can be seen on
12 video or photographic material.

13 Some of the details are unbearable and particularly horrid. I am thinking, for
14 instance, of a women who fell to the ground under the sheer violence and force of the
15 blows. Another woman, punished with a hundred lashes, stated, and I quote:
16 (Interpretation) "I felt a lot of physical pain ... I couldn't lie on my back ... I had marks
17 on my body, there were red marks and the blood had coagulated on my skin."
18 (Speaks English) Mr Al Hassan was present when this flogging was handed down
19 and executed.

20 But there was an additional level to the horror. I am referring to all the sexual
21 violence the women and girls, sometimes very young, were subjected to.
22 As our evidence will show, a system of marriage was put in place, mainly intended to
23 enable the members of the armed group to satisfy their sexual desires and needs at
24 the expense of the women and girls. Many were hence forced into marriage,
25 confined against their will, and repeatedly raped by one or more members of these

1 armed groups. "All that was left of me was a corpse," this is how one victim
2 recounted her ordeal.

3 It should be noted that these women and girls and their families had no choice.
4 Evidence will show that some of the leaders of Ansar Dine and AQIM, including
5 Al Hassan, assisted members of the Islamic police to enter into these so-called
6 marriages, or participated in marriage negotiations, *de facto* exerting pressure on
7 families and women through their presence and influence.

8 Overall, the targeting and persecution of women was such that it became emblematic
9 of the physical and moral violence inflicted on all residents of Timbuktu.

10 Mr President, your Honours, the victimisation of the population, women and men,
11 was significant and the case before you against Mr Al Hassan is extremely serious.

12 The Prosecution has gathered a wealth of evidence, and this evidence will show that
13 the reign of terror imposed on the inhabitants of Timbuktu during the period of
14 occupation by Ansar Dine and AQIM groups was without precedent in the modern
15 history of Mali and of the people of Timbuktu.

16 The residents of Timbuktu, men and women alike, were relentlessly tyrannised, on
17 a daily basis, over a period of 10 months.

18 The evidence will also show that Al Hassan, who perfectly knew the Timbuktu region
19 and the local languages, was a key figure within the armed groups and played a key
20 role in the system put in place to control the city and the region. The unassailable
21 facts in this case point to his guilt and responsibility for all the crimes charged.

22 Al Hassan was engaging in such conduct unreservedly and with determination. In
23 the evidence that the Prosecution will present at this trial, you will see Al Hassan
24 giving interviews approving and supporting the policy of the armed groups. You
25 will see him parading with his Kalashnikov and then take a victim to the place where

1 he was executed.

2 Al Hassan was clearly acting out of his free will.

3 And all of this is corroborated by Al Hassan's own statements during the interview
4 conducted by representatives of my Office, in the presence of a lawyer who assisted
5 him and an Article 56 counsel appointed by a judge of this Court.

6 Mr President, your Honours, back in 2016, Mr Al Mahdi was convicted for attacks
7 against religious and historic monuments in Timbuktu.

8 Today, the case against Mr Al Hassan is before you with a wider spectrum of crimes.
9 This case represents the continued efforts by my Office to bring justice to the people
10 of Timbuktu and Mali more broadly who fell victim to those heinous crimes. The
11 suffering endured by Timbuktu and its inhabitants is emblematic of what happened
12 in Mali, and the conflict that continues to create misery and suffering in that country.
13 The importance of this trial to the victims of Mali in general cannot be
14 overemphasised. Serious crimes under international law cannot go unpunished. It
15 sends a clear message to all the parties to the conflict operating on the ground in Mali
16 that those responsible for serious violations will be held accountable.

17 Mali deserves justice. The victims of the accused's crimes deserve justice. And this
18 Court has the opportunity to make an important and tangible contribution to that
19 need and yearning.

20 This trial does not operate in a vacuum. As we embark on this trial, Mr President,
21 the situation in the centre of Mali but also the rising tensions and related instability
22 and violent incidents in Bamako remain a great concern to my Office.

23 All the parties involved must refrain from resorting to violence.

24 The specific and general deterrence of this case is to be appreciated in this larger
25 context.

1 Mali and Malians have suffered immensely. They deserve to have this Court on
2 their side. They deserve to have justice done and see that it is done.

3 The ICC stands as a last beacon of hope to those looking to it for justice for the world's
4 gravest crimes and we must deliver on that promise and indeed that obligation.

5 Mr President, your Honours, I thank you for your attention and I will now hand the
6 floor over to my learned colleague, the senior trial lawyer in this case,

7 Mr Gilles Dutertre, who will present the context in which the crimes in question were
8 allegedly committed with a more detailed outline of the evidence supporting the
9 charges.

10 Mr President, your Honours, I thank you.

11 PRESIDING JUDGE MINDUA: [14:01:38](Interpretation) My thanks, Madam

12 Prosecutor, specifically so because you made some of your submissions in French and
13 the remainder of your submissions in English.

14 I think we are meeting with a small logistical problem, one of house management, if
15 I can put it that way, because unless I am mistaken we began at quarter to 1. Now
16 we have to do an hour and a half as a block session, so we now need to go on to an
17 adjournment of 45 minutes.

18 Is that right, Madam court officer?

19 She nods her head in agreement.

20 So this is what we are going to do. Before asking Mr Dutertre to rise, we shall have
21 an adjournment of 45 minutes before resuming.

22 The hearing is adjourned.

23 (Recess taken at 2.02 p.m.)

24 (Upon resuming in open at 2.54 p.m.)

25 THE COURT USHER: [14:54:22] All rise.

- 1 JUDGE MINDUA: [14:54:48](Interpretation) The hearing is in session.
- 2 Good afternoon to one and all.
- 3 Once again, I'd like to have confirmation that there's no change in the staffing of the
- 4 parties and participants.
- 5 MR DUTERTRE: [14:55:16](Interpretation) We have an unchanged team.
- 6 JUDGE MINDUA: [14:55:22](Interpretation) No change. I see, because the
- 7 Prosecutor is sitting at -- on one of the back benches.
- 8 Ms Taylor.
- 9 MS TAYLOR: [14:55:31] Ms Chahla is not here for this session. Thank you.
- 10 JUDGE MINDUA: [14:55:39](Interpretation) That's right. So that should feature on
- 11 the transcript.
- 12 Mr Duterte, over to you, sir, to resume the opening of the Prosecution. Over to you,
- 13 sir.
- 14 MR DUTERTRE: [14:55:58](Interpretation) My thanks, your Honour, honourable
- 15 members of the Bench.
- 16 A small point, I'll be using five slides from a PowerPoint presentation, so in due
- 17 course I'll be asking of the court officer to give me leave to switch on to evidence 2 in
- 18 all likelihood to disseminate this public material.
- 19 THE COURT OFFICER: [14:56:30](Interpretation) Evidence 2 has indeed been
- 20 allocated to you, counsel.
- 21 JUDGE MINDUA: [14:56:35](Interpretation) Please continue, counsel.
- 22 MR DUTERTRE: [14:56:38](Interpretation) My thanks, your Honour.
- 23 Your Honour, honourable members of the Bench, Al Hassan is before you today for
- 24 one single reason.
- 25 His was a pivotal role in the oppression to which the Timbuktu population was made

1 victim from the entire period from April 2012 through to January 2013. He was key
2 to the repressive system established by Ansar Dine and AQMI in and around the city.
3 He actively participated in the commission of war crimes and crimes against
4 humanity inflicted on its inhabitants. And by crimes I notably refer to torture,
5 inhumane acts, as well as persecution on religious grounds and persecution directed
6 against women and young girls.

7 The hard reality is that Al Hassan was the commissioner of the Islamic police. That
8 very Islamic police was itself one of the principal organs of the system of control
9 established by Ansar Dine and AQMI to bring the Timbuktu men, women, girls and
10 boys under their power. That police was in the vanguard to control and monitor,
11 repress, sanction and arrest the inhabitants and have them submit to both their
12 dictates and prohibitions through violent and brutal physical punishment.

13 Al Hassan was the driving force within the Islamic police during the occupation.
14 True, there wasn't an emir appointed to the Islamic police, Adama, followed by
15 Khaled Abou Souleymane. But Al Hassan held a vital role in the assignments and
16 operations of said police. It was he who ran the police on a daily basis. It was he
17 who played a major role in the police's interactions with the other organs of the
18 repressive apparatus, particularly with regard to the irregularly constituted Islamic
19 court. First and foremost it must be said, within this ambit Al Hassan was a direct
20 perpetrator and contributed to the commission of other crimes he is charged with.

21 I shall soon address you on that matter, your Honours, honourable members of the
22 Bench, but to better understand the backdrop against which Al Hassan committed
23 these crimes, allow me first to return you to those few weeks and months prior to
24 Timbuktu's fall into the hands of the armed groups Ansar Dine and AQMI.

25 It is 2011. The world watches as Colonel Gaddafi falls. Many armed groups in the

1 subregion use this opportunity to better equip their military arsenal, thanks to the
2 looting of Libyan arms dumps and the weapons trafficking that it triggered. One
3 such group was AQMI, a very well-known terrorist group. Another was Ansar Dine,
4 a Malian armed group formed at the end of 2011 to defend, as they claimed, religion.
5 In this context, 17 January 2012, the National Movement for the Liberation of Azawad
6 launched an attack on the Ménaka military camp in northeast Mali. This sparked an
7 armed conflict of a non-international nature on Mali's soil. Clashes began to
8 multiply, particularly in Aguelhok and Tessalit. Within three months, the northeast
9 of Mali, making up two thirds of its national territory, passed under the total control
10 of the armed groups and especially that of Ansar Dine/AQMI and the Movement for
11 Unification and Jihad in West Africa, otherwise known as MUJAO.
12 Kidal fell on 30 March 2012 to Ansar Dine. Gao fell on 31 March 2012 under the
13 control of the MNLA, quickly evinced by MUJAO. The following day, 1 April 2012,
14 Timbuktu, a major city in West Africa, falls into the hands of Ansar Dine and AQMI.
15 Everyone will recall pictures of pickups bristling with black flags and heavy weapons
16 rising from nowhere out of the desert and parading in triumph in the streets of
17 Timbuktu. An easy victory, it must be said, since the Malian army, traumatised and
18 terrorised by the bloody massacre of prisoners of war at Aguelhok, had abandoned
19 the city. The reign of Ansar Dine and AQMI would hold sway until January 2013
20 when they were ultimately dislodged, particularly by members of Operation Serval.
21 With your leave, your Honours, at this juncture of my submissions, I would like to
22 refer you to screenshots.
23 There you have it, a first screenshot, which shows us the armed groups in Timbuktu.
24 Behind, we can see the Djingareyber grand mosque, you pick that out in the
25 background, your Honours.

1 And on the subsequent screenshot, what do we see? We see the type of military
2 equipment that these groups could use in Timbuktu. This is what the inhabitants of
3 Timbuktu were up against. This gives you an inkling into what we're dealing with
4 here, honourable members of the Bench.

5 Ansar Dine and AQMI, your Honours, made no secret whatsoever of their intentions
6 and objectives once they had entered the city of Timbuktu. As soon as the city fell,
7 Iyad Ag Ghaly, founder and leader of Ansar Dine - I have already mentioned
8 that - immediately announced that he was now the city's new master. He stated that
9 his organisation henceforth represented the public authority and the law.

10 Iyad Ag Ghaly made clear, above all, that any conduct infringing their rules would
11 be punished and that the offenders would have, I quote, "problems with him and his
12 group ..." End of quote.

13 This comes through the witness P-0125, your Honours.

14 In parallel the words of Sanda Ould Boumana, Ansar Dine spokesman, are
15 unambiguous regarding what Iyad Ag Ghaly understood by "problems", inverted
16 commas. Sanda says in Timbuktu, and here I quote, "I know we shall be cutting off
17 hands ... we shall also be cutting off heads if the Sharia stipulates so ... we have no
18 qualms about that" end of quote.

19 The members of Ansar Dine and AQMI in Timbuktu are therefore clearly guided by a
20 common plan, a common objective. Their objective is to cement their power and
21 control of the city, its environs and the civilian population and to impose their
22 personal ideological and religious views on said civilian population. And this by all
23 means possible, your Honours, including conduct, acts and measures in which in the
24 normal course resulted in serious breaches of the fundamental rights of the
25 inhabitants and in the commission of acts of violence and crimes charged in the

1 instant case.

2 To fulfil their ends, Ansar Dine and AQMI swiftly established in Timbuktu organs for
3 decision making, control and repression.

4 At the top of the hierarchy we have the emirate or the presidency. It comprised
5 three individuals: About Zeid, Yahia Abou Al Hammam and Abdallah
6 Al Chinguetti.

7 Abou Zeid, an Algerian, he was a very longstanding member of AQMI and battalion
8 commander Tarek Ibn Ziyad. Iyad Ag Ghaly introduced him as the new governor of
9 Timbuktu.

10 Yahia Abou Al Hammam also an Algerian, head of AQMI's Al-Fourqane battalion, he
11 would later become AQMI's emir for the Sahel as a whole.

12 And lastly, Abdallah Al Chinguetti from Mauritania. He was a spiritual leader,
13 member of AQMI's Al-Fourqane battalion and he would eventually become its
14 commander.

15 These three individuals, your Honours, are all now deceased, but in 2012 they
16 comprised the presidency. The presidency ran the city on a daily basis while
17 Iyad Ag Ghaly, often from his base in Kidal, retained control over what was
18 happening in Timbuktu, particularly through his regular visits on site.

19 Below the presidency, your Honours, we find various organs, including the Islamic
20 court, the *Hesbah*, or so-called vice squad, the security battalions, the media office, the
21 religious committee, the training centres, and above all, for our purposes, the Islamic
22 police, first housed in the Mali solidarity bank called BMS, and then the governor's
23 office.

24 The Court will hear evidence giving you detailed insight into all these institutions
25 that we referred to as organs in our pretrial brief. Taken together with the armed

1 groups Ansar Dine and AQMI in Timbuktu, we have what can be described as the
2 organisation.

3 New institutions therefore, your Honours, in a word, responsible for imposing by
4 force the public authority's power and the religious ideology of Ansar Dine and
5 AQMI, but with the essential assistance from local people.

6 Indeed, Ansar Dine and AQMI, largely made up of foreigners and nonnatives of
7 Timbuktu, take care in appointing to these organs the few members in their ranks
8 who are indeed native to that region. They needed them. Their goal was to lend
9 local colour to their work. Their goal was also to be fully operational through people
10 who had sound knowledge of the place, the region, their inhabitants and their
11 languages.

12 Hence, Houka Houka as de facto president of the Islamic court. Hence, Al Mahdi
13 and Mohamed Moussa as, each in turn, leaders of the *Hesbah*. Hence, Abou Talha,
14 who leads the security battalion. Hence, Sanda Ould Boumana acted as spokesman
15 for the groups. Hence, also Al Hassan who becomes -- or became, rather, the Islamic
16 police commissioner.

17 All of these people are native to Timbuktu and its region. Most are, for that matter,
18 from the very same tribe as the accused. All these people, including Al Hassan, are
19 members of the common plan and adhere to the common goal of these groups.

20 Within this context, your Honours, it's crucial to understand three things.

21 First, these organs work in close conjunction, particularly the Islamic court, the
22 Islamic police and the *Hesbah*. These were demonstratively the three most active
23 organs in the persecution of the local population.

24 Second, I reiterate, the Islamic police was itself the most heavily deployed organ on
25 the ground and the most involved in the repressive apparatus.

1 Third, Al Hassan as commissioner held a pivotal role.
2 I move to illustrate, using examples, how these organs coordinated amongst each
3 other.
4 This coordination was sought by so-called governor Abou Zeid. He gave
5 instructions on 15 August 2012 regarding how to react in cases of infringement by the
6 local population of the new rules and prohibitions. He addressed these instructions
7 to all, to the Islamic police officers, to the members of the *Hesbah*, and more broadly to
8 all the members of the armed groups. The message was clear. It was a collective
9 enterprise. Everyone was involved to make sure that these dictates and prohibitions
10 were properly abided by.
11 This coordination was translated into practice on the ground through various ways.
12 The accused, for example, stated that the police assisted the *Hesbah* in patrols and that
13 sometimes they patrolled in unison. It was notably during these patrols that local
14 people were arrested. Indeed, once arrested, the person was, in the vast majority of
15 cases, questioned by the police, who then drew up a report and referred the case as
16 appropriate to the Islamic court. This latter entered a conviction on the basis of said
17 report. Punishment was therefore meted out particularly by the police.
18 In point of fact, Al Hassan lay at the heart of this apparatus. My learned friends,
19 Dianne Luping and Mousa Allafi, will expand on that point further, your Honours.
20 For it perfectly illustrate the linkage between the Islamic police, on the one hand, and
21 the Islamic court on the other, as well as the substantial contribution of Al Hassan in
22 this regard.
23 A brief parentheses, your Honours, which echoes what the Prosecutor mentioned this
24 morning. This court goes by the name the "Islamic court", inverted commas. This
25 name was in fact given by the armed groups themselves. Here I make no criticism of

1 Islamic courts that may exist elsewhere. What is here being prosecuted in the instant
2 case, your Honours, is in the manner in which these armed groups, Ansar Dine and
3 AQMI, established that court and the manner in which it operated on the ground.
4 That tribunal provided no guarantee of impartiality whatsoever, your Honours.
5 Abdallah Al Chinguetti, a member of the presidency - I've already made mention of
6 him - in other words, the executive branch, if you will, sat on that court and wielded
7 very considerable influence. That tribunal in no way, in no shape or form complied
8 with the most basic procedural guarantees. It approved, for example, the use of the
9 torture as a method of questioning. It is, put simply, an irregularly constituted
10 tribunal. No more, no less.

11 I end my parenthesis, your Honours. And I return to the cooperation between the
12 organs.

13 Within this tight collaboration, the evidence will show that the Islamic police had a
14 prominent role, held a privileged position. This must be recognised. This reading
15 flows from numerous non-exhaustive aspects.

16 The Islamic police was the first organ to be established.

17 After being housed on the BMS's premises, the police moved to the governor's office
18 building. This move is very telling. It is symbolically significant. Compare with
19 the Islamic court which operated at a hotel or in a private house.

20 The police had more staff than the *Hesbah*. Witness 0111 specifies that it was more
21 than 30 members strong, whilst the *Hesbah* only had 10 members, according to
22 another witness.

23 The police was also heavily equipped with weapons, unlike the *Hesbah*, whose
24 members went mostly unarmed, hence the joint patrols. This information comes
25 directly to us from the accused himself, your Honours.

1 The police also had vehicles and motorbikes. And here again, we know that the
2 *Hesbah* was less well-equipped. This comes from the statements of an insider.
3 The police was omnipresent. It effected patrols everywhere in Timbuktu and its
4 environs, armed with Kalashnikovs and whips with which to beat civilians. This
5 you will see in video material as the trial unfolds. They even travelled as far as
6 Kabara, Léré and Goundam, hundreds of kilometres away from Timbuktu. The
7 police officers were basically everywhere: In the street, in the market, in the schools
8 and even in inhabitants' private dwellings. And this night and day.
9 It was also the police which was, as a point of principle, responsible for making
10 arrests. Mr al Hassan specifies that if the *Hesbah* encountered anyone violating the
11 rules, the Hezbollah were rule-bound to call the police, who would then go to the
12 place in question, make the arrest and take the offender into custody. It was the
13 police who questioned and drew up reports. The proof is in the pudding. We
14 found more than 70 police reports and only two drafted, authored by the *Hesbah*, your
15 Honours.
16 The police also responsible for meting out punishments and managing the prison.
17 A non-exhaustive list, your Honours, of the preeminence of that organ.
18 I spoke of weapons and ammunition, but images and pictures are sometimes more
19 eloquent than words, so I refer you to these police patrols and what they looked like
20 through three screenshots, your Honours.
21 If the computer wishes to play ball.
22 On this first screenshot we see two members of the police force patrolling with their
23 vehicles following with the police officer on his motorbike. Here you can see they
24 are armed with weapons of war. We can see a Kalashnikov, which is just poking up
25 above the left shoulder of the police officer to the left of your convenient, your

1 Honour. We also see there a blue vest where we see "Islamic police" written on it.
2 And on another screenshot, your Honours, what we see is that the ammunition that
3 they carried with them are war weapon ammunition. This is what applied law in
4 Timbuktu upon the inhabitants in the day, your Honours. This is what was
5 travelling around the Timbuktu roads and streets.
6 Within this ambit, your Honours, Mr Al Hassan himself played a major role within
7 the Islamic police. We know that the accused did indeed join the ranks of Ansar
8 Dine. The evidence will bear this out. He even confirmed it himself, your Honours.
9 However, he joined much earlier than he in fact claims. Madam Prosecutor has
10 raised this point. My learned friend Dianne Luping will revisit this point in detail.
11 Very quickly, Al Hassan became the linchpin within the Islamic police. At the time
12 in Timbuktu, the inhabitants knew that he was the commissioner. The members of
13 the armed groups saw him as such. He also acts as such, your Honours. And,
14 years after the material time, he confirmed to Witness P-0605 that he was the
15 commissioner.
16 So he became Islamic police commissioner. A police force set up by AQMI and
17 Ansar Dine. He became so because he espoused to these groups' views, your
18 Honours. And these are terrorist groups. Such groups don't hand out willy-nilly
19 such a position of responsibility such as police commissioner of an entire city under
20 their total control. To be so appointed they must know you and trust you implicitly.
21 Additionally, the evidence that you shall hear throughout the trial will leave no doubt
22 whatsoever that Mr Al Hassan agreed to the common plan and the common goal
23 which clearly existed as soon as the city fell to their control.
24 This emerges, as you will see, through his acts and conduct during the material times.
25 This emerges from what he said in Timbuktu in 2012 and we have recordings of what

1 he said. This emerges, for example, from the quantum of telephone calls between
2 Al Hassan and the other members of the common plan. You will hear experts
3 address you on this matter, P-0587 and P-0617, who will be addressing this matter in
4 their expert evidence, your Honour.

5 Not only did Mr Al Hassan join the common plan and goal, he was among the core
6 members who on a daily basis sustained it. He wasn't the governor of Timbuktu.
7 He wasn't the emir of AQMI for the Sahel. But in the city and even beyond its walls,
8 he belonged to those essential people in a position of responsibility, your Honours,
9 who sustained day in, day out the common plan, who sustained the common goal
10 throughout the 10 months' occupation of Timbuktu. And you'll see on a video, for
11 example, you'll see him doing his work, giving instructions to patrolling police
12 officers at Léré, very far away from Timbuktu.

13 I move now to acts of violence and abuses, your Honours.

14 They were often -- well they are -- they were held in public. This was a typical
15 feature of the *modus operandi* and the objectives of the organisation at Timbuktu.

16 An example, the first flogging, it took place on 20 June 2012 on the main central
17 Sankoré square. A couple was whipped for what the group saw as an instance of
18 adultery. The entire population was marshalled onto the square. It was an
19 opportunity for Ansar Dine and AQMI to flex their muscles, to offer their first
20 example of public punishment, to imprint it on people's minds to intimidate and
21 more broadly to terrorise. Everything was put on film.

22 We see clearly on these videos that the inhabitants do not rejoice at this cruel spectacle.
23 Consequently, its violence was twofold, it was physical and psychological for its two
24 unfortunate victims who suffered pain and everlasting shame. It was also
25 psychological for the entire population who were subjected to this pitiful sight which

1 flew in the face of their values and way of life.

2 When you see your wife, when you see your daughter, when you see your mother
3 beaten and you can do absolutely nothing to stop it, you are yourself humiliated,
4 belittled, diminished. The entire population, made powerless, was collectively
5 humiliated, trodden underfoot in the face of heavily armed tormentors against whom
6 they could try nothing, attempt nothing, do nothing, your Honours.

7 On 20 June 2012 the message was abundantly clear. Any violation of the rules
8 would unleash a merciless response. The inhabitants lived, therefore, for several
9 long months with a nagging fear that they themselves may become physical victims.

10 From June 20, 2012 public punishment and acts of violence grew in number. The
11 local population didn't feel that Ansar Dine and AQMI sought to make them better
12 people, not at all. The population, essentially Muslim, had seen that their
13 fundamental rights were being trampled underfoot and seriously prejudiced. They
14 saw themselves as targeted, attacked, persecuted, victims of a systematic widespread
15 attack. This is what makes this case so very serious.

16 Madam Prosecutor has given you one or two examples of violence, but the police
17 could stop you in the street and punish you on the spot. Women were brutalised on
18 the spot, forced marriage, even rapes, and children suffered rapes. They were called
19 children of the ICC for want of an identifiable father.

20 The list of criminal acts committed during this reign of tyranny is long.

21 In a YouTube video an inhabitant from Timbuktu, this dates back to 30 June 2012, I
22 quote:

23 "Timbuktu is on the brink of losing its soul, Timbuktu is under peril of outrage and
24 ruin, Timbuktu sees held against his throat the razor edged blade of cold-blooded
25 murder." End of quote.

1 Timbuktu went through a terrible period. This is the things that they had to face,
2 your Honours.

3 Your Honours, Al Hassan must be held responsible for the alleged crimes. The
4 Prosecution shall prove his responsibility beyond reasonable doubt for either his
5 personal and direct commission of the crimes where he appears, for example, on film
6 flogging poor victims in public and inflicting on them intense pain, or that he
7 contributed to the commission of said crimes by, for example, suppling the irregularly
8 constituted Islamic Court with reports on the basis of which punishment was ordered.
9 More generally, the evidence will show that Al Hassan contributed in manifold ways
10 to the commission of crimes by the group involved in the common plan and should
11 be held criminally responsible, your Honours.

12 The Prosecution has a vast body of evidence:

13 We have videos depicting Al Hassan in action. We have police reports written and
14 signed by the accused. We have judgments returned by the Islamic Court signed by
15 Houka Houka. We have witness statements, your Honours. We have victim
16 statements. We have insider statements. And reams and reams of medical
17 expertise, ballistic experts' reports, experts addressing authenticity of documents,
18 experts on handwriting and signatures, expertise on voice identification, an expert's
19 report on facial identification, an expert in telephone data or on satellite imagery.

20 This entire body of evidence will be placed before you as the trial unfolds, your
21 Honours. Of course, we shall have to factor in the COVID pandemic. The
22 Prosecution cannot call witnesses in the order we would have liked in order to
23 present the evidence in a coherent and organised fashion. We had to prioritise travel
24 requirements and ability to travel. But all in all, your Honours, the Prosecution will
25 ultimately prove beyond a reasonable doubt the crimes committed and the criminal

1 responsibility of the accused in their commission.

2 Your Honour, honourable members of the Bench, the inhabitants of Timbuktu thirst
3 for justice. They seek to drink to -- the warm and soothing milk of truth. They
4 have -- they are pinning every hope on the judgment that you will be rendering at the
5 close of this trial, your Honours.

6 I now give way to Dianne Luping, my learned friend, who will enter into the finer
7 detail of the abuses and conducts of Mr Al Hassan within the Islamic police.

8 I thank you, your Honour.

9 JUDGE MINDUA: [15:29:13](Interpretation) Thank you very much, Mr Prosecutor
10 Dutertre.

11 I now hand over to Ms Luping. You have the floor, counsel.

12 MS LUPING: [15:29:30] Good afternoon, Mr President your Honours. I will be
13 addressing the topic of Mr Al Hassan's role and functions within the organisation.
14 Just a technical point for information of the court officer, all of the slides that I'll be
15 presenting may be broadcast publicly, and I would ask if I could please be given the
16 floor to present the slides already.

17 THE COURT OFFICER: [15:29:57] You have the floor, Ms Luping.

18 MS LUPING: [15:30:01] Thank you, court officer.

19 Your Honours, as the *de facto commissaire* of the Islamic police, Al Hassan was a key
20 player, a key implementer and enforcer of the organisation's power and its rules.

21 What was his role? Well, he was responsible for the daily management, organisation
22 and work of the police, as well as for the investigations and prosecutions of numerous
23 cases against civilians for violations of the organisation's imposed new rules.

24 And what was his impact? All of his acts and conduct had an impact on nearly
25 every aspect of the local population's lives and contributed to the crimes committed

1 against them. His work supported the coercive and persecutory environment in
2 Timbuktu.

3 Your Honours, I will address three key points: First, Al Hassan's impact as the key
4 face and interface of the police with the local population. Secondly, the intentional
5 voluntary nature of the work that he did and the timing of when he carried out that
6 work. And third, his core functions.

7 First, in terms of Al Hassan's impact on the local population, they had no choice but
8 to engage with him. In his role and exercise of his functions, he was the key face, the
9 key interface of the police with the local population. In particular, Al Hassan
10 actively imposed the rules on the local population during his patrols, at the police
11 headquarters, during his investigations of the many cases of violations of their rules,
12 and in civilian disputes. During his arrests, summons, detention, and interrogations
13 of individuals, who were subjected to violence, torture, and severe sanctions. In the
14 cases that he referred to the Islamic tribunal. When he brought suspects to the
15 tribunal, when he executed punishments against them.

16 He was the leader writing and signing police investigation reports concerning the
17 people, and he could sign permits issued to them affecting different aspects of their
18 daily lives. His reports on cases involving the population had an impact on the
19 tribunal judgments, as the judges relied on his reports.

20 Al Hassan was the person that the local population consistently saw in their
21 mediations and disputes. The groups chose Al Hassan to be a spokesman during
22 interviews, to spread their propaganda supporting the organisation and imposing
23 their own rules, their punishment against the local population.

24 Al Hassan also acted on behalf of his men in their personal interactions with the local
25 population, in so-called marriage negotiations and in questioning dowries on their

1 behalf.

2 And it was Al Hassan's personal phone number displayed on the Islamic police

3 headquarters sign for people to call.

4 Sorry, your Honours, just one moment please. I have to ask for court officer's

5 assistance as there seems to be a technical problem with the slides.

6 It seems to be working now, your Honours.

7 So if we just turn to the first slide we have the facade of the Islamic police, and in the

8 red box, you will be able to see the accused's phone number. It's the very first

9 number on the sign.

10 And you will hear evidence, you will see call data records - and there is also the

11 evidence from the accused himself - confirming that this was the accused's number

12 and that this sign hung from the police headquarters from April 2012.

13 Al Hassan was at the very heart of this repressive system and he was involved at

14 different stages of its functioning. Al Hassan's role and his functions as the *de facto*

15 *commissaire* and key interface with the population was common knowledge in

16 Timbuktu. You will hear witnesses confirm this, including those who knew him

17 well. You'll hear from victims and eyewitnesses, journalists and insiders alike.

18 And Al Hassan introduced himself as the *commissaire* or the person responsible for the

19 police to individuals, such as witnesses P-113, P-984, P-605 and journalist 623. One

20 witness, a former member of the Islamic police and one of Al Hassan's subordinates

21 explained, and I quote, and this is in French: (Interpretation)

22 "The police, there, the person in charge is the commissioner, everything that's done at

23 the police, the person in charge is the commissioner."

24 (Speaks English) Al Hassan explained, and I quote again in French: (Interpretation)

25 "My role is the role of the police."

1 (Speaks English) End quote.

2 Al Hassan was a logical choice for the groups. He was the right man at the right
3 place at the right time. He came from Timbuktu so he was well known to the local
4 population. He spoke their local languages as well as French and Arabic. He was
5 an educated man. He was a Tuareg and a member of the influential Kel-Ansar tribe.
6 He was trusted by the other leaders as he shared their ideological, religious and
7 political views. He had regular access to the senior leadership and he was in
8 constant communication with them, and they entrusted responsibilities to him.
9 The organisation's target was the civilian population of Timbuktu region, and the
10 many victims of this case whom Al Hassan's contributions have impacted upon
11 included, for example, women and girls arrested for their dress code violations who
12 were then detained in harsh and inhumane conditions, many of whom were subjected
13 to sexual violence. Dédéou Maiga, whom you heard Al Hassan himself arrested,
14 whose hand was then publicly amputated following a judgment of the tribunal.
15 You'll hear evidence from P-580, also arrested by Mr Al Hassan, who was severely
16 beaten, tortured and illegally detained, and victims whom the accused flogged for
17 drinking alcohol.

18 Al Hassan was a willing perpetrator and member of this organisation from the very
19 outset, who believed in their vision, their shared ideology, religious and political
20 vision of the organisation, which they invoked to impose their power and their rules.
21 He fully embraced his role and functions within the police in enforcing these new
22 rules on the population and to impose their power from the early days of the
23 occupation until his departure from Timbuktu in January 2013.

24 When did Al Hassan join?

25 He was a permanent key pillar of the police. Al Hassan was a member of the

1 organisation and the groups at all times relevant to the charges in this case. In
2 particular, he was a member of Ansar Dine. He joined and he worked at the police
3 as soon as it was put in place from April 2012. Unlike the police emir, Adama and
4 Khaled, he kept his same role as the *commissaire* within the police from when he first
5 started in that role, from at least 7 May 2012 at the latest, and continued with that role
6 throughout the occupation. It was Al Hassan who provided continuity for the
7 police.

8 You will hear evidence from Witness 150, who describes two stages of the work of the
9 police covering the whole period of the charges. He describes a first stage, when the
10 policing was being done in the streets, and a second stage with a more formal
11 structure with a headquarters. And P-150 confirms that, and I quote, "in each stage,
12 Hassan was there." End of quote.

13 Witness 150 also confirmed that Al Hassan was already doing duties and tasks such
14 as sending patrols, and I quote, "at an early stage when the groups arrived in
15 Timbuktu." End of quote.

16 You will hear evidence from insider Witness P-99, who stated, and I quote in French:
17 (Interpretation)

18 "And the second in charge of the Islamic police was still that Tuareg ... he didn't
19 change."

20 (Speaks English) You will see documentary evidence, for example, an Islamic tribunal
21 judgment and corresponding report that confirms that the accused was carrying out
22 his functions as *de facto commissaire* from at least 7 May 2012.

23 You will hear eyewitnesses who saw Al Hassan at the *Banque Malienne de Solidarité*, or
24 the BMS, which became the headquarters of the police in the first days of the
25 occupation in April 2012. He had his office there. And again later at the

1 *Gouvernorat* when the police moved. You will see videos that show him in his office
2 at the BMS and later again in his office at the *Gouvernorat*.
3 There is an article dated 28 April 2012 which refers to the fact that the Islamic police
4 headquarters was formally set up and already had a sign at that headquarters the day
5 before on 27 April. I've shown you that photograph that had the accused's personal
6 phone number already on it. And you will hear evidence that this was a number
7 that Al Hassan had for years before the occupation and that he continued to use
8 during and after the occupation.
9 From the very start, Al Hassan voluntarily signed up to the organisation's goals and
10 what it did.
11 In this next slide your Honours will see a screenshot from a video interview
12 conducted with the accused in November 2012. And this is a shot from when he
13 responded to a question about the salaries of the Islamic police that they received for
14 their work. And he responded, and I quote, "It is for the sake of Allah's cause."
15 End of quote.
16 And in this very same video interview, when he was asked about the work of the
17 police, he explained that it, and I quote, it "involves patrols within the town and
18 correcting objectionable acts: any type of reprehensible act which has been forbidden
19 [...] - we correct, such as drinking alcohol, smoking, and a woman adorning herself,
20 and other such acts [...]" End of quote.
21 Again in the same interview Al Hassan explains that the groups were applying
22 punishments, such as cutting off the hand of a thief, executing a murderer and
23 flogging of others. And he said that after imposing these punishments, and I quote,
24 "alcohol-related cases have stopped: we don't have any at all. And the same goes for
25 theft [...] too." End of quote.

1 The evidence will show that Mr Al Hassan, like other senior leaders, was willing to be
2 hands on to get the job done. They led by example.

3 You will hear from Witness P-65 how the execution of a sentence was considered holy
4 and taking part in punishments made members of the groups feel proud, so that the
5 leaders would also do that. For instance, Al Hassan and other leaders such as the
6 Islamic tribunal members Radwan and Koutaiba would personally flog victims. The
7 top spiritual guide Al Chinguetti helped to destroy the Sidi Yahya door. Talha, the
8 head of the security battalions, Al Mahdi, the head of *Hesbah*, Al Baraa, a preacher,
9 they all also helped in destroying the mausoleums.

10 As you have already heard, Al Hassan knew full well that these punishments were
11 being imposed on the inhabitants and they weren't previously known to them. He
12 explicitly said it was the first time that they were seeing these punishments and there
13 was nothing that they could do about it. That they were all scared of these
14 punishments. He said they feared the word jihadists and terrorists.

15 Similarly, in a message dated 20 July 2012, Droukdel, who was a senior AQMI leader
16 based outside of Mali, sent a message to fellow AQMI and Ansar Dine leaders in Mali
17 cautioning them, saying to them, don't be too hasty in applying these laws. He
18 stated that it was, and I quote, "an environment that is ignorant of religion, and a
19 people which has not applied Sharia in centuries ..."

20 He went further:

21 "It is worth noting that at this stage, just because a small class of people have accepted
22 our understanding of applying Sharia does not mean that all sections of the people
23 have accepted it." End of quote.

24 Your Honours, I now turn to Al Hassan's core functions, and these were to organise
25 the work of the police and his work in investigations, prosecutions and the

1 punishment of Timbuktu's inhabitants.

2 First, the evidence will show that Al Hassan ensured the daily management and
3 organisation of the work of the police. As Al Hassan himself explained, and I quote,
4 (Interpretation) "he organised the work of the police."
5 (Speaks English) As you've heard from my colleague Mr Dutertre, the Islamic police
6 was a key organ at the centre of the organisation's repressive apparatus and the police
7 was visible and active everywhere within Timbuktu city and other localities in the
8 region such as Léré, Ber, and Goundam. And you've heard they were everywhere,
9 including at checkpoints, streets, markets, and even in people's homes.

10 The police were monitoring the population and they forced them to follow their rules,
11 their prohibitions in every part of their lives. You've heard that this included a dress
12 code that forced women to cover themselves up. Rules that stopped men and
13 women mingling with one another, that stopped men and women choosing, if they
14 wanted to, to have sex outside of marriage. That stopped people practising their
15 own religion. Stopped them from listening to what music they wanted to hear, to
16 smoke, to drink alcohol. It was the police who pursued, stopped, arrested, detained
17 and beat people that they found violating their rules. And it was Al Hassan who
18 was the leader right from the start, dispatching the police there and assigning and
19 tasking them to do this. And he worked closely with other leaders, both within the
20 police and other organs, to coordinate all of this persecutory work.

21 Al Hassan started sending out patrols from an early stage when the groups first
22 arrived in Timbuktu. He chose members of the police to send on patrol. He gave
23 his subordinates instructions and orders, for example, to send them out on patrols,
24 which he also participated in. And he gave them other tasks such as what positions
25 to take during the women's demonstration. You'll hear evidence of this

1 demonstration. This was when women of Timbuktu rose up to demonstrate against
2 their ill-treatment.

3 Your Honours, in this next slide, again you can see Mr Al Hassan and he's using a
4 walkie-talkie and mobile phone to communicate and give instructions about thieves
5 that had been arrested in Ber.

6 Mr Al Hassan could also punish and discipline his investigations.

7 I now turn to the second core function of Mr Al Hassan, and that was in the
8 enforcement and implementation of the enforced rules by his handling of multiple
9 cases of the violations of the rules and his mediation of civil disputes.

10 Al Hassan played a pivotal role in police investigations of the civilians who violated
11 the organisation's imposed rules. It was Al Hassan who was involved in every stage
12 of the cases that resulted in punishments. He was involved at the arrests, summons,
13 detention, investigations, interrogations, judgments and the execution of sanctions.

14 Al Hassan could summons and arrest suspects. And, your Honours, in this next
15 slide you will see an example of a summons that has been signed by Al Hassan, and
16 in the area with the red box you will see his signature.

17 Al Hassan conducted interrogations as part of these investigations. He could even
18 question other leaders during these investigations. This included Adama, the emir
19 of the police; Abdou Talha, the leader of the security battalions.

20 And during these interrogations Al Hassan used methods that included threats of
21 violence, violence, and torture. You will hear witnesses, including victims and other
22 eyewitnesses who will testify to this. You will also see documentary evidence that
23 shows that the police used torture.

24 Al Hassan also confirmed that torture took place during police interrogations of
25 suspects. He wrote investigation reports following his investigations, a number of

1 which were referred to the Islamic tribunal. And I show one example in the next
2 slide. For instance, in this report dated 16 July 2012, Al Hassan mentioned that the
3 suspect, and I quote, "was interrogated and tortured, but to no avail."
4 And you can also see his signature on this report, along with a stamp of the Islamic
5 police.
6 Tellingly, the Islamic police investigation reports in the possession of the Prosecution
7 that were found at the BMS and the *Hotel la Maison* where the tribunal was based,
8 were written and they were submitted by Al Hassan. These reports are in his
9 handwriting and many bear his signature. And the fact that this is his handwriting
10 and his signature will be supported by evidence that you will hear, including from
11 handwriting experts P-657 and P-620; insiders P-150 and P-626, and this was also
12 confirmed by the accused himself.
13 Al Hassan's signatures on these reports was sufficient for police matters.
14 Your Honours, I now turn to another example of a police investigation report that
15 was signed by the accused. It's dated 23 May 2012 and at the very bottom he signs
16 as investigator.
17 This is a closeup of the designation investigator and of his signature.
18 The evidence will also show that Al Hassan had the power and authority to
19 investigate cases outside of Timbuktu city, as shown by examples of cases in Léré,
20 Goundam, Niafunké, Gourma-Rharous and other localities in Timbuktu region.
21 And he could order that suspects be brought from these other cities to the police
22 headquarters in Timbuktu. Al Hassan himself also says this.
23 The evidence will show that Al Hassan interrogated suspects and he prepared the
24 reports submitted to the tribunal. The evidence will also show that these reports had
25 a significant impact on the judgments issued by the tribunal. His reports set out his

1 summary of the facts, his classification of the cases into different categories, and the
2 result of his investigations. And these reports were decisive factors in the tribunal's
3 decisions.

4 The evidence will show that the accused's reports were relied upon by the tribunals,
5 who used them for their summary judgments. The tribunal needed these reports to
6 decide their cases. The short duration of their so-called hearings and the result of the
7 decisions themselves show how the tribunal relied on the results of Al Hassan's
8 investigation reports.

9 For instance, in one case when Al Hassan's report indicated that a person confessed to
10 adultery, this confession was the main reason to find the person guilty and that
11 person was sentenced to 100 lashes. Whilst without a confession, victims could
12 receive and usually did receive less than a hundred lashes.

13 And my colleague tomorrow, Mr Mousa Allafi, will provide examples to your
14 Honours to show this close connection between the reports written by the accused,
15 the tribunal decisions and the sanctions and punishments that followed.

16 Al Hassan referred many cases to the tribunal, knowing full well they would result in
17 acts underpinning the charges, including floggings and other corporal punishments,
18 and detention, for cases including adultery, theft, use and sale of alcohol and
19 cigarettes.

20 Al Hassan was also critically involved in the tribunal proceedings and the sanctions
21 they imposed. He and other police members were actively involved in organising
22 and executing the sanctions meted out by the police or decided by the tribunal.

23 As you've heard, he personally flogged victims who violated their rules. One
24 witness, P-65, stated, and I quote:

25 "the Islamic police was often in charge of organising executions of sentences, and I

1 often saw Al Hassan in charge of them."
2 The same witness goes on to say:
3 "there was not a single event of execution of sentence in Tombouctou that I attended
4 where Al Hassan was not present." End of quote.
5 Al Hassan and his subordinates transferred suspects to the tribunal's hearings and to
6 the places where the sanctions were publicly executed.
7 In the next slide, your Honours, this is screenshots of a video, and you can see
8 Al Hassan in the first image, with whip in hand in the first, and in the second image
9 you see him actually whipping one of the victims. You will see this video footage
10 again, your Honours, a clearer image, as my colleague Ms Coquillaud will show you
11 these locations and the video footage, actual footage of this event.
12 In the next slide, it's a screenshot of another -- it's a screenshot from a photograph.
13 This is of a flogging for adultery. Here you can see the accused standing very close
14 to a female victim who was about to be flogged for adultery. There are actually six
15 victims who were flogged that same day and the evidence will show that actually
16 several of the men involved seen in this and other images from this event, were
17 members of the police. And there are other examples and you will see them in the
18 course of the trial.
19 And Al Hassan also had a key role to play in complaints and disputes. The
20 inhabitants had to deal with him in the numerous civil cases that he decided.
21 Witnesses will testify that they were directed to the accused or summoned by him.
22 And insiders will confirm that he handled numerous disputes.
23 In this next screenshot from a video you see - and you will hear evidence - that the
24 accused is resolving a debt dispute concerning the purchase of weapons, and you see
25 weapons on the table before them.

1 The accused also personally intervened in very personal aspects of the inhabitants'
2 lives such as marital disputes. For instance, you will hear evidence, including from
3 insider Witness 150, that Al Hassan was known to pressure women to return to
4 husbands whom they had either left or wanted to divorce.

5 In this next slide, this is a report, again written by the accused, about a man wanting
6 his wife to be returned to him. And you see his signature again on this report.

7 There were other ways that the accused had an impact on people's lives. He had a
8 say, for example, whether they could dig a well or whether a journalist could do their
9 work and how they could do their work. And the fact that he had this power to
10 issue permits and such authorisations also shows how important he was and his
11 influence on the daily life of Timbuktu's inhabitants.

12 In this next slide, your Honour, you see an authorisation for digging a well signed by
13 the accused, with the Islamic police stamp at the bottom of it. He signed in this case
14 in the name of the emir of the police, again with a stamp of the Islamic police.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 In conclusion, your Honours, all of the accused's work, all of his acts, his conduct, in
21 the police work that he organised and coordinated, in the investigations and the
22 disputes that he dealt with, the people he arrested, that he detained and he punished,
23 and the so-called marriages that he negotiated and he supported, in all of this he
24 bolstered the oppressive persecutory environment and made contributions to the
25 crimes perpetrated.

- 1 Thank you, your Honours. The Prosecution will end for today but will continue
2 with its final presentations tomorrow. You will hear from my colleagues
3 Ms Sarah Coquillaud and Mr Mousa Allafi then.
4 Thank you.
- 5 JUDGE MINDUA: [16:03:53](Interpretation) Thank you very much, Ms Luping, for
6 your statement.
- 7 We have reached the end of the first day of the hearing. We shall adjourn for today
8 and we shall resume tomorrow morning at 10 o'clock with the rest of the opening
9 statements on the part of the Office of the Prosecutor.
- 10 The hearing is adjourned.
- 11 (The hearing ends in open session at 4.04 p.m.)