

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 1
9 Friday, 6 November 2020
10 (The hearing starts in open session at 9.30 a.m.)
11 THE COURT USHER: [9:30:30] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:30:56](Interpretation) Court is in session.
15 Good morning to all.
16 Madam courtroom officer, could you please call the case.
17 THE COURT OFFICER: [9:31:07] Thank you, Mr President.
18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
20 ICC-01/12-01/18.
21 For the record, we are in open session.
22 PRESIDING JUDGE MINDUA: [9:31:30](Interpretation) Thank you very
23 much, courtroom officer.
24 As always, we shall start with the appearances, starting with the Office of the
25 Prosecutor.

1 Mr Dutertre, please.

2 MR DUTERTRE: [9:31:40](Interpretation) Good morning, Mr President,
3 your Honours.

4 The Prosecution is still composed with Mousa Allafi at the back,
5 Sarah Coquillaud just behind and Lucio Garcia to my left, and, myself,
6 Mr Dutertre.

7 PRESIDING JUDGE MINDUA: [9:31:59](Interpretation) Thank you very
8 much, Dutertre.

9 Now I'm turning to the Defence.

10 Ms Taylor.

11 MS TAYLOR: [9:32:04] Good morning, Mr President, good morning,
12 your Honours, good morning, everyone in the courtroom. The Defence for
13 Mr Al Hassan is represented today by Kirsty Sutherland, Dolly Chahla and,
14 myself, Melinda Taylor. Thank you.

15 PRESIDING JUDGE MINDUA: [9:32:21](Interpretation) Thank you very
16 much, Ms Taylor.

17 I'd like to welcome Ms Sutherland.

18 Now I'm turning to the Legal Representatives for Victims. Mr Kassongo.

19 MR KASSONGO: [9:32:31](Interpretation) Thank you very much,
20 Mr President, your Honours. The Legal Representatives for Victims' team
21 comprises today, still Madam Claire Laplace who's assisting me and, myself,
22 Mr Kassongo. And we thank you.

23 PRESIDING JUDGE MINDUA: [9:32:47](Interpretation) Thank you,
24 Mr Kassongo.

25 We shall continue today with the examination of the 16th witness for

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 the Prosecution, Witness P-0065.
- 2 Mr Witness, good morning.
- 3 WITNESS: MLI-OTP-P-0065 (On former oath)
- 4 (The witness speaks Arabic)
- 5 THE WITNESS: [9:33:13](Interpretation) Good morning.
- 6 PRESIDING JUDGE MINDUA: [9:33:18](Interpretation) I'd like to remind
- 7 you that you are still under oath and that you must speak the truth, the whole
- 8 truth and nothing but the truth.
- 9 I would also remind you that of -- I would also remind you of my practical
- 10 advice as to when you take the floor.
- 11 And without further ado, I shall pass the microphone to the Office of the
- 12 Prosecutor.
- 13 MR DUTERTRE: [9:33:47](Interpretation) Thank you, Mr President,
- 14 your Honours.
- 15 QUESTIONED BY MR DUTERTRE: (Interpretation)(Continuing)
- 16 Q. [9:33:53] Good morning, Mr Witness.
- 17 A. [9:33:55] Good morning.
- 18 Q. [9:33:57] How are you this morning, Mr Witness, at this end of the week?
- 19 A. [9:34:03] I'm doing very well. Thank God.
- 20 MR DUTERTRE: [9:34:14](Interpretation) Mr President, I would like to go
- 21 into private session for a few moments.
- 22 PRESIDING JUDGE MINDUA: [9:34:25](Interpretation) Private session,
- 23 please, madam courtroom officer.
- 24 (Private session at 9.34 a.m.)
- 25 THE COURT OFFICER: [9:34:37] We are in private session, Mr President.

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8 (Open session at 9.38 a.m.)

9 THE COURT OFFICER: [9:38:43] We're in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [9:38:46](Interpretation) Thank you very
11 much.

12 Mr Prosecutor.

13 MR DUTERTRE: [9:38:49](Interpretation) Thank you, Mr President.

14 Q. [9:38:50] Mr Witness, could you tell us who is the individual at the centre
15 of the image, with a black jumper and a horizontal green strip through
16 the centre of the jumper?

17 A. [9:39:12] This person was brought to the square to be whipped, I think for
18 adultery.

19 Q. [9:39:27] I am at 00:06:23. And do you remember his name, by any
20 chance?

21 A. [9:39:41] No.

22 Q. [9:39:49] Can you tell us who is the individual to the far left of the image,
23 with a black turban and a sort of light-coloured jacket?

24 A. [9:40:05] That's Khalid. He is another Mauritanian. He is the head of
25 the Islamic police in Timbuktu.

1 Q. [9:40:23] And what is the individual behind doing with a loudspeaker?

2 A. [9:40:37] This person is announcing the case on which the punishment
3 will be executed and the details thereof to the audience present in the square.

4 Q. [9:40:56] And do you know which organ the white vehicle behind him
5 belongs to?

6 A. [9:41:06] I think it's an Islamic police vehicle.

7 Q. [9:41:18] I'd like to thank you.

8 I'd like to go back into private session, please.

9 PRESIDING JUDGE MINDUA: [9:41:25](Interpretation) Private session,
10 please, courtroom officer.

11 (Private session at 9.41 a.m.)

12 THE COURT OFFICER: [9:41:35] We are in private session, Mr President.

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- 18 (Open session at 9.47 a.m.)
- 19 THE COURT OFFICER: [9:47:47] We are in open session, Mr President.
- 20 PRESIDING JUDGE MINDUA: [9:47:54](Interpretation) Thank you very
21 much, madam courtroom officer.
- 22 MR DUTERTRE: [9:48:01](Interpretation) Thank you, Mr President.
- 23 Q. [9:48:03] Mr Witness, I am at 00:00:33:09. Could you tell us what this
24 poster is on the right-hand rear window of the minibus that we see on
25 the screen?

1 A. [9:48:34] That's the logo and banner of the Islamist groups, including
2 Al-Qaeda and Ansar Dine. It's a black banner on which is written, "There is
3 no God but God".

4 Q. [9:48:58] Do you know who was using that vehicle, generally speaking?

5 A. [9:49:07] I think this is one of the Islamic police cars.

6 Q. [9:49:19] And which vehicle -- which person used to use this vehicle
7 the most often, if you are aware?

8 A. [9:49:32] I cannot remember exactly who drove that car, but it was always
9 a team of -- of the Islamic police members who would use the car. And it's
10 usually the car used to bring someone to execute a punishment on in a public
11 square.

12 Q. [9:50:07] We can see the face of the person with the loudspeaker a little
13 better here, Mr Witness. I'm still at 00:00:33:09. By any chance, do you recall
14 his name? I know it's a long time ago now.

15 A. [9:50:30] I don't remember him.

16 Q. [9:50:52] Mr Witness, I am at 00:00:10:00. Do you know who
17 the individual to the extreme left of the image is? Whom I am pointing out
18 with the cursor?

19 A. [9:51:14] That's Mr Al Hassan.

20 Q. [9:51:27] Do you remember who was in charge of this punishment on that
21 day?

22 A. [9:51:39] I remember that this punishment was a punishment for adultery
23 or a *tazir* punishment for adultery, but I do not remember who was in charge of
24 executing this. But as I can see here, the head of the Islamic police, Khalid,
25 was present; so it's likely that it was him in charge of execution in this square.

1 Q. [9:52:18] Thank you.

2 MR DUTERTRE: [9:52:20](Interpretation) We can now go into private session
3 with your authorisation, Mr President.

4 PRESIDING JUDGE MINDUA: [9:52:27](Interpretation) Private session,
5 please.

6 (Private session at 9.52 a.m.)

7 THE COURT OFFICER: [9:52:39] We're in private session, Mr President.

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7 (Open session at 9.55 a.m.)

8 THE COURT OFFICER: [9:55:07] We're in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [9:55:15](Interpretation) Thank you very
10 much.

11 Prosecutor, please.

12 MR DUTERTRE: [9:55:18](Interpretation) Thank you, Mr President.

13 Q. [9:55:20] Mr Witness, at 00:00:17:07, I'm going to be putting a compound
14 question, it's simple, however. The person to the left of the image on
15 the left-hand side, that is to say, with a black turban and a light-coloured jacket,
16 what is he holding in his right hand?

17 A. [9:55:47] That's Khalid, the emir of the Islamic police -- the last emir of the
18 Islamic police, and he's holding a whip to begin whipping the person who is
19 being whipped for adultery.

20 Q. [9:56:10] Thank you.

21 I'd like to go into private session, your Honours.

22 PRESIDING JUDGE MINDUA: [9:56:16](Interpretation) Private session,
23 please, madam courtroom officer.

24 (Private session at 9.56 a.m.)

25 THE COURT OFFICER: [9:56:30] We're in private session, Mr President.

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1 (Open session at 9.59 a.m.)

2 THE COURT OFFICER: [9:59:48] We are in open session.

3 PRESIDING JUDGE MINDUA: [9:59:54](Interpretation) Thank you very
4 much.

5 Prosecutor, please.

6 MR DUTERTRE: [9:59:57](Interpretation) Thank you, Mr President.

7 Q. [9:59:59] Mr Witness, a very brief question. Can you indicate what is
8 going on at that moment in time?

9 A. [10:00:09] Here, this person is being whipped for adultery in a public
10 square at the Timbuktu market.

11 MR DUTERTRE: [10:00:35](Interpretation) I'd like to go back into private
12 session, please, Mr President.

13 PRESIDING JUDGE MINDUA: [10:00:38](Interpretation) Private session,
14 please.

15 (Private session at 10.00 a.m.)

16 THE COURT OFFICER: [10:00:50] We are in private session.

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13 (Open session at 10.03 a.m.)

14 THE COURT OFFICER: [10:03:49] We are in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [10:03:57](Interpretation) Thank you,

16 court officer.

17 Prosecutor.

18 MR DUTERTRE: [10:04:01](Interpretation) Thank you, your Honour.

19 Q. I stopped at 00:00:01:05. Can you please tell us what we see? The red
20 colour on the white T-shirt being worn by the individual?

21 A. [10:04:23] I cannot confirm. It could be blood or it could be the trace of
22 painting. I cannot be sure on that.

23 Q. [10:04:45] As far as you can recall from that time, when this person took
24 his jumper off, were there any traces before the whipping started?

25 A. [10:05:06] I don't remember that.

- 1 Q. [10:05:08] Thank you.
- 2 PRESIDING JUDGE MINDUA: [10:05:19](Interpretation) Prosecutor, what
3 does that mean, this reply, "I don't remember that"?
- 4 THE WITNESS: [10:05:35](Interpretation) As far as I remember,
5 the person -- this person, when he took off his jumper, I was in front of him and
6 this trace was on his back.
- 7 PRESIDING JUDGE MINDUA: [10:06:04](Interpretation) Thank you very
8 much.
- 9 THE ARABIC INTERPRETER: [10:06:09] Message from the interpreters:
10 the statement in Arabic was not clear.
11 Thank you.
- 12 MR DUTERTRE: [10:06:26](Interpretation)
- 13 Q. [10:06:26] Mr Witness, at 00:00:13:06, do you know the person on the left,
14 with the light-coloured turban?
- 15 A. [10:06:47] This is a member of the Islamic police.
- 16 MR DUTERTRE: [10:07:03](Interpretation) Your Honour,
17 the English -- message from the English interpreters, that the statement in
18 Arabic was not clear in the English transcript.
- 19 PRESIDING JUDGE MINDUA: [10:07:19](Interpretation) That's a reply to
20 which question?
- 21 MR DUTERTRE: [10:07:23](Interpretation) That followed your question,
22 your Honour, when you said: What does "I don't remember that" actually
23 mean.
- 24 PRESIDING JUDGE MINDUA: [10:07:38](Interpretation) Could you please
25 ask the witness to make this clear.

1 MR DUTERTRE: [10:07:47](Interpretation)

2 Q. [10:07:49] Mr Witness, what does your reply mean with regard to
3 the traces on the person's back? That was not quite clearly understood by
4 the interpreter. Could you please repeat your reply. It was your statement
5 when you said, "I don't recall that."

6 A. [10:08:19] I remember very well that I was facing the person being
7 whipped. I was directly in front of him, facing him from the front. And I
8 remember very well having seen that trace at the last stage of the whipping,
9 when I went behind -- when I stood behind the person being whipped, and not
10 at the beginning.

11 PRESIDING JUDGE MINDUA: [10:09:00](Interpretation) I've understood.

12 MR DUTERTRE: [10:09:03](Interpretation) Thank you.

13 Q. [10:09:06] Mr Witness, I've finished now with this event.

14 I think we are now in public session. I would like to move into private
15 session.

16 PRESIDING JUDGE MINDUA: [10:09:17](Interpretation) Private session,
17 please, court officer.

18 (Private session at 10.09 a.m.)

19 THE COURT OFFICER: [10:09:26] we are in private session, Mr President.

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21 (Open session at 10.20 a.m.)

22 THE COURT OFFICER: [10:21:03] We are in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [10:21:10](Interpretation) (Overlapping
24 speakers) court officer.

25 Prosecutor.

- 1 MR DUTERTRE: [10:21:13](Interpretation) Thank you, your Honour.
- 2 Q. [10:21:31] Mr Witness, I am at 00:00:01:07. Who is the person covered in
3 a blue and green boubou who is getting out of the white vehicle?
- 4 A. [10:21:55] This is a lady sentenced to whipping, to 80 lashes as a *tazir*
5 punishment for adultery.
- 6 Q. [10:22:22] Did you know her name?
- 7 A. [10:22:26] I think her name is Sallaka Bent Al-Khair, maybe, I'm not sure,
8 but I think her name is Sallaka.
- 9 Q. [10:22:47] Would you be able to spell this name or perhaps to write it
10 down for us.
- 11 PRESIDING JUDGE MINDUA: [10:22:59](Interpretation) Court officer, please
12 could you ensure that the witness has some paper to write this on.
13 Mr Witness, please could you write the name of the person on the paper.
- 14 THE COURT OFFICER: [10:23:36] The document will then be placed on the
15 retro projector and be visible on the evidence 1 channel.
- 16 PRESIDING JUDGE MINDUA: [10:24:36](Interpretation) There, we now have
17 the document on the screen.
18 So, court officer, please, could you register it and give it a number.
- 19 THE COURT OFFICER: [10:24:45] (Overlapping speakers) the document will
20 bear the number MLI-REG-0001-0011.
- 21 PRESIDING JUDGE MINDUA: [10:24:53](Interpretation) Thank you.
- 22 MR DUTERTRE: [10:25:00](Interpretation) Thank you, your Honour.
- 23 Q. [10:25:02] Mr Witness, still at 00:00:01:07, who is the person on the left
24 with a black turban who is facing the screen?
- 25 A. [10:25:25] This is Khalid, the head of the Islamic police. He is taking

1 the lady off the car to be whipped, following the whipping of the young man
2 earlier.

3 Q. [10:25:55] I've now moved to 00:00:05:19. Who is the person getting into
4 the vehicle wearing a white T-shirt with a mark on the back?

5 A. [10:26:19] It's the same young man whipped at the beginning. So there
6 are two people here. He was whipped first. *And after he was whipped,
7 the lady was brought *out of the car and he got *in the car, for her to be
8 whipped.

9 Q. [10:26:52](Interpretation) Thank you for this clarification.

10 I would like to go into private session, please.

11 PRESIDING JUDGE MINDUA: [10:26:58](Interpretation) Private session,
12 please, court officer.

13 (Private session at 10.27 a.m.)

14 THE COURT OFFICER: [10:27:10] We're in private session, Mr President.

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23 (Open session at 10.31 a.m.)

24 THE COURT OFFICER: [10:31:38] We are in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:31:46](Interpretation) Thank you,

1 court officer.

2 I was saying, it was now 10.30. We will now take a 45-minute break and we'll
3 recommence at 11.15.

4 The hearing is suspended.

5 THE COURT USHER: [10:32:02] All rise.

6 (Recess taken at 10.32 a.m.)

7 (Upon resuming in open session at 11.16 a.m.)

8 THE COURT USHER: [11:16:40] All rise.

9 Please be seated.

10 PRESIDING JUDGE MINDUA: [11:17:05](Interpretation) Court is in session
11 once again.

12 Mr Prosecutor, over to you for the continuation of your examination-in-chief.

13 MR DUTERTRE: [11:17:21](Interpretation) Thank you, Mr President. And I
14 would like to immediately go into private session, with your leave.

15 PRESIDING JUDGE MINDUA: [11:17:28](Interpretation) Private session,
16 please, madam courtroom officer.

17 (Private session at 11.17 a.m.)

18 THE COURT OFFICER: [11:17:40] We're in private session, Mr President.

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20 (Open session at 11.43 a.m.)

21 THE COURT OFFICER: [11:43:54] We are in open session, Mr President.

22 PRESIDING JUDGE MINDUA: [11:43:59](Interpretation) Thank you very
23 much.

24 Mr Prosecutor.

25 MR DUTERTRE: [11:44:02](Interpretation) Thank you, Mr President.

1 Q. [11:44:05] Mr Witness, we previously mentioned - I'm moving on to
2 another subject - the judge, Houka Houka. Where did Judge Houka Houka
3 carry out his duties during the occupation of Ansar Dine and AQMI in
4 Timbuktu?

5 A. [11:44:47] At the offices of the Islamic tribunal in Timbuktu.

6 Q. [11:45:03] Where was the Islamic tribunal located in Timbuktu,
7 Mr Witness?

8 A. [11:45:15] It was located in the northern-eastern part of the city.

9 MR DUTERTRE: [11:45:29](Interpretation) Mr President, I have a satellite
10 map with figures annotated upon it, and were the Defence to see this as not
11 inconvenient, I'm going to be using it with a view to locating the tribunal on
12 the map.

13 PRESIDING JUDGE MINDUA: [11:45:52](Interpretation) We're going to see
14 the map. I don't know what kind of figures we're talking about here because
15 we did say that there shouldn't be any annotations. But let's have a look at the
16 map.

17 MR DUTERTRE: [11:46:03](Interpretation) So it's 0040-0407, there are at least
18 two figures, at tab 19 of the first binder.

19 PRESIDING JUDGE MINDUA: [11:46:25](Interpretation) Ms Sutherland,
20 you're on your feet, what's going on?

21 MS SUTHERLAND: [11:46:30] Only to ask that the -- as we look at the image
22 right now, it's not shown on the witness's screen. I don't believe it is being
23 shown, but just to reiterate. Thank you.

24 PRESIDING JUDGE MINDUA: [11:46:43](Interpretation) Not yet.
25 Mr Prosecutor, this is map at tab 18, is it?

1 MR DUTERTRE: [11:47:07](Interpretation) Nineteen, unless I'm mistaken,
2 Mr President. And it's coming up on the screen as we speak.

3 PRESIDING JUDGE MINDUA: [11:47:12](Interpretation) I can see the figures
4 here, but they're not very serious, they're just figures, Ms Sutherland. That
5 doesn't indicate anything whatsoever.

6 MS SUTHERLAND: [11:47:26] Well, your Honour, these are previous
7 indications that the witness has given and there should be no problem with
8 him making any identification that he needs to on a clean version.

9 PRESIDING JUDGE MINDUA: [11:47:55](Interpretation) Mr Prosecutor, do
10 you have another copy?

11 MR DUTERTRE: [11:48:00](Interpretation) Not now, but I just wanted to gain
12 time and let's not -- in order not to be leading, I'm just going to ask him what it
13 corresponds to.

14 PRESIDING JUDGE MINDUA: [11:48:12](Interpretation) I think we can use
15 this one with the annotations, the figures on them, Ms Sutherland. I don't
16 think it's very serious.

17 MS SUTHERLAND: [11:48:19] Your Honour, it is important that the witness
18 testify from memory.

19 PRESIDING JUDGE MINDUA: [11:48:37](Interpretation) Mr Prosecutor, can
20 we move on to another question, then we'll solve this later on.

21 MR DUTERTRE: [11:48:42](Interpretation) Well, we can solve it now. If
22 madam courtroom officer would bring up 0019-0290.

23 PRESIDING JUDGE MINDUA: [11:48:53](Interpretation) Very well.
24 Madam courtroom officer, please.

25 THE COURT OFFICER: [11:48:57] The document will be displayed on

1 the evidence 1 channel.

2 (Pause in proceedings)

3 MR DUTERTRE: [11:49:55](Interpretation) 0018-282 (sic).

4 THE COURT OFFICER: [11:50:04] (Overlapping speakers) Apparently you
5 mentioned 0019 on the first place.

6 MR DUTERTRE: [11:50:13](Interpretation) But I then -- sorry, 1902-290 (sic).

7 THE COURT OFFICER: [11:50:29] (Overlapping speakers) Just for
8 confirmation, which one would you like to have displayed?

9 MR DUTERTRE: [11:50:35](Interpretation) 0019-0290.

10 If we could zoom in a little and then a little more. And go up a bit maybe.

11 Go down a bit more. Bit more. More. Thank you.

12 Q. On this map are you able to use the pen to indicate where the Islamic
13 court was?

14 A. [11:52:11] I will try to zoom in.

15 MR DUTERTRE: [11:52:35] If you go down a bit.

16 PRESIDING JUDGE MINDUA: [11:52:43](Interpretation) Prosecutor, I take
17 this opportunity to tell you that the French transcript is now back up and
18 running.

19 MR DUTERTRE: [11:53:38](Interpretation) Thank you.

20 Q. We're in your hands, Mr Witness.

21 A. [11:53:44] The map is very small and I want to enlarge this particular area.
22 Very small for me to make a selection.

23 Q. [11:54:06] Need to enlarge the bottom bit, I think.

24 Is that now a suitable size, Mr Witness?

25 A. [11:55:06] Up, please.

1 Can I have the option of zooming in what I like to zoom in to select the area I
2 wish to select?

3 Now it's fine, I can control this.

4 MR DUTERTRE: [11:56:03](No interpretation)

5 THE WITNESS: [11:56:32](Interpretation) It's difficult to select the area here,
6 but I think I put a mark on the location where I think the court was situated.

7 But I cannot be -- it's very difficult for me to directly point to the location on
8 this map.

9 MR DUTERTRE: [11:57:02](Interpretation)

10 Q. [11:57:03] Thank you. Thank you.

11 Maybe we can give this a number and register it, please.

12 PRESIDING JUDGE MINDUA: [11:57:13](Interpretation) Court officer.

13 THE COURT OFFICER: [11:57:13] (Overlapping speakers) the document will
14 bear the number MIL-REG-0001-0012.

15 PRESIDING JUDGE MINDUA: [11:57:25](Interpretation) Thank you.

16 Prosecutor.

17 MR DUTERTRE: [11:57:27](Interpretation) Thank you, your Honour.

18 Q. [11:57:29] And on this map, Mr Witness, which town did you see?

19 A. [11:57:33] This is the city of Timbuktu, unquestionably.

20 Q. [11:57:41] Thank you.

21 MR DUTERTRE: I'd now like to move into private session, your Honours.

22 PRESIDING JUDGE MINDUA: [11:57:49](Interpretation) Court officer,
23 private session, please.

24 (Private session at 11.58 a.m.)

25 THE COURT OFFICER: [11:58:06] We are in private session.

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6 (Open session at 12.01 p.m.)

7 THE COURT OFFICER: [12:01:59] We are back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [12:02:10](Interpretation) Thank you,
9 court officer.

10 Prosecutor.

11 MR DUTERTRE: [12:02:11](Interpretation) Thank you, your Honour.

12 Q. [12:02:13] Mr Witness, at the Islamic court, was Houka Houka sitting
13 at -- does Houka Houka sit alone or were there other people with him?

14 A. [12:02:30] No, there was a group, a bench, a judicial bench who would
15 consult among each other, review the cases together, and would reach
16 a judgment as per Sharia, they would reach such a judgment together.

17 Q. [12:03:04] And can you give the names of the other people who were part
18 of the college of judges?

19 A. [12:03:16] There were many, but I don't recall their names. But I
20 remember that at -- in the beginning there were two from Al-Qaeda and it
21 seems they were the ones who had the executive authority, and they were
22 the Mauritanian Koutaïba and Radwan.

23 Q. [12:03:51] Previously you mentioned Al Faqi as being a judge's assistant.
24 Could you please clarify this for us?

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- 9 PRESIDING JUDGE MINDUA: [12:05:15](Interpretation) Private session,
- 10 please, court officer.
- 11 MR DUTERTRE: And there will need to be a redaction request.
- 12 (Private session at 12.05 p.m.)
- 13 THE COURT OFFICER: [12:05:32] We are in private session, Mr President.
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- 15 (Open session at 12.08 p.m.)
- 16 THE COURT OFFICER: [12:08:53] We are back in open session.
- 17 PRESIDING JUDGE MINDUA: [12:08:58](Interpretation) Thank you.
- 18 Prosecutor.
- 19 MR DUTERTRE: [12:09:03](Interpretation) Thank you, your Honour.
- 20 Q. [12:09:04] Mr Witness, which tribe did Houka Houka belong to, if you
- 21 know?
- 22 A. [12:09:16] I am not sure about that. I know he is from the Tuareg. I'm
- 23 not sure. He might be from Kel Ansar, but I'm not sure.
- 24 Q. [12:09:39] And during the period of occupation by the armed groups in
- 25 2012, how long did he exercise the functions of a judge at the Islamic tribunal?

1 A. [12:09:58] I think throughout the time of the occupation of Timbuktu he
2 was the judge.

3 Q. [12:10:17] Thank you.

4 MR DUTERTRE: I would now like to move into private session, please,
5 your Honour.

6 PRESIDING JUDGE MINDUA: [12:10:29](Interpretation) Court officer,
7 private session, please.

8 (Private session at 12.10 p.m.)

9 THE COURT OFFICER: [12:10:40] We're in private session, Mr President.

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24 (Open session at 12.17 p.m.)

25 THE COURT OFFICER: [12:17:52] We are in open session.

1 PRESIDING JUDGE MINDUA: [12:17:59](Interpretation) Thank you very
2 much, courtroom officer.
3 We shall now suspend the hearing and we shall reconvene at 1.30.
4 Court is suspended.
5 THE COURT USHER: [12:18:15] All rise.
6 (Recess taken at 12.18 p.m.)
7 (Upon resuming in open session at 1.30 p.m.)
8 THE COURT USHER: [13:30:59] All rise.
9 Please be seated.
10 PRESIDING JUDGE MINDUA: [13:31:24](Interpretation) Court is in session
11 once again.
12 We shall continue with the examination-in-chief on the part of the Prosecutor.
13 Mr Duterte, please.
14 MR DUTERTRE: [13:31:37](Interpretation) Thank you, Mr President,
15 your Honours.
16 Q. [13:31:45] Thank you, Mr Witness.
17 Mr Witness, I would need to go to -- into private session, actually, because this
18 is the continuation of what we were talking about.
19 PRESIDING JUDGE MINDUA: [13:31:58](Interpretation) Private session,
20 please, courtroom officer.
21 (Private session at 1.32 p.m.)
22 THE COURT OFFICER: [13:32:18] We're in private session, Mr President.
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22 (Open session at 1.44 p.m.)

23 THE COURT OFFICER: [13:44:57] We are back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [13:45:05](Interpretation) Thank you very
25 much.

1 Mr Prosecutor.

2 MR DUTERTRE: [13:45:09](Interpretation) Thank you.

3 Q. [13:45:11] At 00:00:08:07, who is the individual that we can see wearing
4 a white boubou and a brown turban?

5 A. [13:45:27] This is Judge Houka Houka.

6 Q. [13:45:40] I am at 00:00:11:00. Who is the individual in black, in a corner
7 of the room, to the left-hand side of the image?

8 A. [13:46:01] That's Radwan Abou Al-Achbal.

9 Q. [13:46:17] Is it the same individual as the "Radwan" whom you always
10 mentioned previously? Because at the time, you didn't remember the full
11 name. That's why I'm putting the question to you.

12 A. [13:46:34] It's the same person. This is just a nom de guerre. This is not
13 a full family name, Radwan Abou Al-Achbal is his full nom de guerre.

14 Q. [13:47:00] Could you please write it down in its entirety on a piece of
15 paper, please, Mr Witness?

16 THE COURT OFFICER: [13:47:29] The document will be displayed on
17 the evidence 1 channel.

18 PRESIDING JUDGE MINDUA: [13:47:35](Interpretation) There we are.
19 Madam courtroom officer, could you please register it under a number.

20 THE COURT OFFICER: [13:47:45] MLI-REG-0001-0013.

21 PRESIDING JUDGE MINDUA: [13:47:53](Interpretation) Thank you very
22 much.

23 Mr Prosecutor, please continue.

24 MR DUTERTRE: [13:47:59](Interpretation) Thank you.

25 PRESIDING JUDGE MINDUA: [13:48:00](Interpretation)

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4 A. [13:48:20] Are -- weren't we in a public session now?

5 THE COURT OFFICER: [13:48:26] We --

6 MR DUTERTRE: [13:48:28](Interpretation) (Overlapping speakers)

7 PRESIDING JUDGE MINDUA: [13:48:28](Interpretation) (Overlapping
8 speakers)

9 MR DUTERTRE: [13:48:31](Interpretation) I do apologise. We need to
10 redact that and we need to go into private session.

11 PRESIDING JUDGE MINDUA: [13:48:38](Interpretation) Private session,
12 please, courtroom officer.

13 (Private session at 1.48 p.m.)

14 THE COURT OFFICER: [13:48:54] We're in private session, Mr President.

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7 (Open session at 2.00 p.m.)

8 THE COURT OFFICER: [14:00:19] We're in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [14:00:22](Interpretation) Thank you very
10 much.

11 Prosecutor.

12 MR DUTERTRE: [14:00:25](Interpretation) Thank you, Mr President.

13 Q. [14:00:28] Mr Witness, at 00:00:23:14, who is the individual seated,
14 wearing white, to the left of the screen?

15 A. [14:00:48] Are you asking about the person dressed in blue or white?

16 I don't know who that is, but I know that he was one of the local imams.

17 Q. [14:01:11] I said "white" and that -- I'm talking about the person on
18 the extreme left; perhaps you heard "blue".

19 In the centre of the picture, the person wearing a brown turban. Who is that?

20 A. [14:01:30] That's Judge Houka Houka.

21 Q. [14:01:45] At 00:00:04:17, can you name the two people that we see here?

22 The one on the left and the one on the right?

23 A. [14:02:04] The person dressed in black and has a computer in front of him
24 is Radwan Abou Al-Achbal. The second person dressed in brown with
25 a green turban is Koutaïba Al Chinguetti.

1 Q. [14:02:33] And what do they have on these -- on their knees in this
2 sequence from the court?

3 A. [14:02:45] Every one of them has a Kalashnikov rifle on his lap.

4 Q. [14:03:09] Can you describe what's on the floor in front of them?

5 A. [14:03:23] That's a red carpet.

6 MR DUTERTRE: [14:03:39](Interpretation) I'd like to move into private
7 session, please, your Honour.

8 PRESIDING JUDGE MINDUA: [14:03:43](Interpretation) Private session,
9 please, court officer.

10 (Private session at 2.03 p.m.)

11 THE COURT OFFICER: [14:03:57] We are in private session, Mr President.

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3 (Open session at 2.21 p.m.)

4 THE COURT OFFICER: [14:21:46] We're in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [14:21:57](Interpretation) (Overlapping
6 speakers) court officer.

7 Prosecutor.

8 MR DUTERTRE: [14:22:00](Interpretation) Thank you, your Honour.

9 Q. [14:22:02] Mr Witness, at 00:09:43:13, who is the person on the left of the
10 picture?

11 A. [14:22:15] That's al -- that's Judge Houka Houka.

12 Q. [14:22:25] Just on his right, if you look at the picture, there is a vertical
13 object leaning against the wall, what is that, Mr Witness?

14 A. [14:22:38] That's a Kalashnikov rifle.

15 Q. [14:22:47] In the right-hand corner of the picture, with a cream or
16 light-coloured turban that one can see -- one can see the whole person, who is
17 that?

18 A. [14:23:04] That's Mr Al Faqi.

19 Q. [14:23:12] And on the extreme right, the person in white, who's that,
20 Mr Witness?

21 A. [14:23:21] That's one of the Timbuktu imams. He is a member of the
22 judicial bench, but I don't know his name.

23 Q. [14:24:01] And at 00:10:23:15, do you know the person who is on the left
24 of this picture, Mr Witness?

25 A. [14:24:14] No, but I know he's a member of the judicial bench, but I don't

1 know his name.

2 Q. [14:24:45] And at 00:11:11:04, who is this, Mr Witness?

3 A. [14:24:53] This is Judge Houka Houka.

4 Q. [14:25:11] And now at 00:11:18:15, there's a door on the left and a door on
5 the right with two people going through the door, where does that door lead
6 to?

7 A. [14:25:34] This door is the door of the room used as a judicial room where
8 judgments are reached.

9 Q. [14:26:08] And at 00:11:16:09, to which organ does the person on the left
10 of this picture belong?

11 A. [14:26:25] The Islamic police.

12 Q. [14:26:45] And finally, it may be quite evident, 00:09:56:02, there is a logo
13 on the right to the top and underneath that there's a sort of shape here, it's
14 brown with buttons, do you know what that is, Mr Witness?

15 A. [14:27:20] No.

16 Q. [14:27:24] Very well. Thank you.

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE MINDUA: [14:27:53](Interpretation) Yes. Before we do
20 that, one question to the witness relating to these images from the video.

21 Mr Witness, we saw earlier you said to us that there were two imams from
22 Timbuktu who were part of the college of judges, so my question is whether, as
23 part of this college, one could find judges who were both members of the
24 Islamic police and security services, in other words, judges who had other
25 functions as well?

1 THE WITNESS: [14:28:43](Interpretation) Yes. For example, there were
2 judges -- with regards to the local judges, I don't know any -- I don't know any
3 local imam who had another function.

4 PRESIDING JUDGE MINDUA: [14:29:11](Interpretation) I'm talking about
5 the judges who were sitting in the room we saw. Were any of these judges
6 also holders of other functions other than judge? For example, they work for
7 the Islamic police or the security services, whether they were battalion
8 commander or -- for example?

9 THE WITNESS: [14:29:35](Interpretation) Yes. There was Ahmad Abou Al
10 Faqi known with his *nom de guerre* as Abou Tourab. He was a member of the
11 judicial bench and also he was the head of the *Hesbah*.

12 PRESIDING JUDGE MINDUA: [14:29:59](Interpretation) Thank you very
13 much, Mr Witness.
14 Prosecutor.

15 MR DUTERTRE: [14:30:04](Interpretation) I'd like to pick that up.

16 Q. [14:30:07] Do you have any other examples, other than Ahmad Al Faqi?

17 A. [14:30:21] In addition to Ahmad Abou Al Faqi, the judges present in
18 the courtroom, there was Koutaïba, Radwan Abou Achbal, these had also other
19 functions within other structures that belonged to either Ansar Dine or
20 Al-Qaeda.

21 Q. [14:30:53] And in the case of Radwan, what was his function?

22 A. [14:31:04] Radwan, we see him in many activities. For example, we see
23 him sometimes preaching for jihad, doing so in some squares, and sometimes
24 we see him overseeing the execution of whipping sentences, and so on and so
25 forth. We would also see him in the media office as a media officer for

1 Ansar Dine.

2 Q. [14:31:42] And in the case of Koutaïba?

3 A. [14:31:53] Koutaïba was among the most important religious sheikhs in
4 Al-Qaeda. He was also a fighter and participates in battles sometimes. Also
5 he had other organisational functions. But he is considered among the leaders
6 and he, I think, belonged to the Al-Fourqane battalion.

7 Q. [14:32:36] And when you said he had other functions, could you tell us
8 what these were, if you know?

9 A. [14:32:48] We saw him also overseeing the execution of sentences. We
10 would also see him circulating within the city, along with other leaders,
11 overseeing activities or other leadership-related actions. And these things I
12 cannot explain in detail. And I may give an example in a private session.

13 MR DUTERTRE: [14:33:29](Interpretation) Your Honour, I know that we're
14 overrunning slightly, but if that's okay.

15 PRESIDING JUDGE MINDUA: [14:33:35](Interpretation) Yes, that's a final
16 question and then we will end. Please go ahead.

17 MR DUTERTRE: [14:33:42](Interpretation) It's a follow on from your
18 questioning, so I'm not counting.

19 Q. Could you give the example.

20 PRESIDING JUDGE MINDUA: [14:33:50](Interpretation) He asked for
21 private session.

22 So, court officer, please, private session.

23 (Private session at 2.34 p.m.)

24 THE COURT OFFICER: [14:34:15] We're in private session, Mr President.

25 (Redacted)

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5 (Open session at 2.39 p.m.)

6 THE COURT OFFICER: [14:39:42] We're in open session, Mr President, and I
7 take this opportunity to inform the parties and participants that
8 the Prosecution has used so far 16 hours and 16 minutes of questioning time.

9 PRESIDING JUDGE MINDUA: [14:40:08](Interpretation) Thank you very
10 much for your vigilance, madam courtroom officer.

11 Mr Witness, we are reaching the end of your testimony for today. The judges
12 of this Chamber would like to thank you very much indeed for your patience
13 and your cooperation. Unfortunately, Mr Witness, it is not yet over and you
14 might have -- you will be staying with us for a little bit longer. You'll be
15 coming back on Monday at 9.30. Have you understood?

16 THE WITNESS: [14:40:48] (Overlapping speakers)

17 PRESIDING JUDGE MINDUA: [14:40:50](Interpretation) Thank you very
18 much.

19 Now, to the parties and participants, I would like to point out that
20 the Chamber is consulting the Registry to see if there is any way to modify
21 the sequence of our sessions, because for the time being we have three sessions
22 of one hour in duration each, with a 45-minute break between the first and
23 the second session, and an hour and a quarter between the second and
24 the third. Maybe we might be able to reach another agreement with
25 the Registry, but you will be informed in due course.

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

2 Ms Taylor.

3 MS TAYLOR: [14:41:33] Yes, Mr President. Just briefly. Before this witness
4 started we raised the principle that there should be equality of conditions
5 between examination-in-chief and cross-examination, and that was in fact
6 adopted by this Chamber in ruling that they would not use video link for
7 the first two days of the session. So it would be unfair and a violation of
8 equality of arms to apply a different hearing schedule to cross-examination
9 than that which applied to examination-in-chief for the same witness.

10 Thank you.

11 PRESIDING JUDGE MINDUA: [14:42:20](Interpretation) Thank you very
12 much, Ms Taylor, that element will be taken into account, of course.

13 But I would like to point out that previously we were working at
14 one-and-a-half-hour sessions and then we moved to one-hour sessions. So,
15 you know, we can modify things a little bit in the future.

16 Your intervention will be taken into account, whatever the case may be.

17 So, the Prosecutor is on his foot again.

18 MR DUTERTRE: [14:42:49](Interpretation) Very briefly. We were supposed
19 to be giving in our calendar on Monday, the 9th, but of course this will depend
20 on the duration of the sessions. Could we have a little bit of time to play with
21 once we get the information so that we can calculate? That means we have to
22 go back to the witnesses. You know, it's an entire process.

23 PRESIDING JUDGE MINDUA: [14:43:09](Interpretation) Yes, you're right in
24 so saying. You will be informed in due course before we retire for
25 the weekend.

- 1 So it is now time for me to thank everyone who has taken part in this hearing,
- 2 the parties, participants, the court reporters, the interpreters, our security
- 3 guards, and of course we would like to thank our public for its patience.
- 4 We shall reconvene on Monday and, until then, I would like to wish you a very
- 5 nice weekend and please take good care of yourselves.
- 6 We shall rise. Court is adjourned.
- 7 THE COURT USHER: [14:44:00] All rise.
- 8 (The hearing ends in open session at 2.44 p.m.)