

Trial Hearing
WITNESS: MLI-D28-D-0540

(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 Kesia-Mbe Mindua, Judge Tomoko Akane and Judge Kimberly Prost
7 Trial Hearing - Courtroom 3
8 Tuesday, 14 June 2022
9 (The hearing starts in open session at 9:33 a.m.)
10 THE COURT USHER: [9:33:16] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MINDUA: [9:33:45](Interpretation) The hearing shall now
14 commence.
15 Good morning, everyone.
16 Madam Court Officer, if you could call the case.
17 THE COURT OFFICER: [9:33:53] Good morning, Mr President.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we're in open session.
21 PRESIDING JUDGE MINDUA: [9:34:15](Interpretation) Thank you very much,
22 Court Officer.
23 We will now have the introductions of the various teams, beginning with the
24 Prosecution.
25 MR GARCIA: [9:34:30](Interpretation) Good morning, your Honours. Mr Garcia

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1 for the Prosecution, with Sandra Schoeters and Gilles Dutertre. Thank you.

2 PRESIDING JUDGE MINDUA: [9:34:40](Interpretation) Thank you.

3 And now the Defence.

4 MS TAYLOR: [9:34:43] Good morning, Mr President. Good morning,

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

6 The Defence for Mr Al Hassan is represented today by Maître Mohamed Youssef,

7 Ms Amina Fahmy, Mr Mohamed Al-Ansary, appearing remotely from Bamako, and

8 myself, Melinda Taylor. Thank you very much.

9 PRESIDING JUDGE MINDUA: [9:35:10](Interpretation) Thank you very much,

10 Ms Taylor.

11 I take this opportunity to greet Mr Al Hassan, and your case manager who is in the

12 remote location.

13 I now turn to the legal representatives of victims. Counsel.

14 MR KASSONGO: [9:35:32](Interpretation) Thank you, your Honours. Good

15 morning, everyone.

16 The legal representatives of victims asked me to introduce myself alone. I am

17 Mr Kassongo, and the team has asked me to greet everyone and to thank the

18 Chamber.

19 PRESIDING JUDGE MINDUA: [9:35:54](Interpretation) Very well. So we see that

20 it is an extremely small team today for the LRVs.

21 And now I turn to the witness. We will now hear the eighth Defence witness,

22 D-0540.

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

24 WITNESS: MLI-D28-P-0540

25 (The witness speaks Tamasheq)

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1 (The witness gives evidence via video link)

2 THE WITNESS: [9:36:26](Interpretation) I can hear you.

3 PRESIDING JUDGE MINDUA: [9:36:32](Interpretation) Thank you, Mr Witness.

4 On behalf of the Chamber, I would like to welcome you.

5 THE WITNESS: [9:36:51](Interpretation) Thank you.

6 PRESIDING JUDGE MINDUA: [9:36:53](Interpretation) You will be giving
7 testimony so as to help the Chamber determine the truth in the case of Mr Al Hassan.

8 THE WITNESS: [9:37:15](Interpretation) Fine.

9 PRESIDING JUDGE MINDUA: [9:37:18](Interpretation) Mr Witness, protective
10 measures have been implemented to ensure that your identity is revealed to the
11 public.

12 THE WITNESS: [9:37:40](Interpretation) Yes. That's good.

13 PRESIDING JUDGE MINDUA: [9:37:48](Interpretation) Each time you have to
14 provide details that could reveal your identity, we will go into private session.

15 THE WITNESS: [9:38:18](Interpretation) Yes. That's good.

16 PRESIDING JUDGE MINDUA: [9:38:22](Interpretation) That way, people who are
17 not here in the courtroom will not be able to hear you.

18 THE WITNESS: [9:38:39](Interpretation) Yes.

19 PRESIDING JUDGE MINDUA: [9:38:43](Interpretation) Mr Witness, I will now ask
20 you to take the solemn undertaking pursuant to the Rules of Procedure and Evidence,
21 Rule 66(1).

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE MINDUA: (Interpretation) This is the commitment or
24 undertaking that you shall give to tell the truth and the whole truth. So, please
25 repeat after me.

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- 1 THE WITNESS: [9:39:41](Interpretation) Yes.
- 2 PRESIDING JUDGE MINDUA: [9:39:44](Interpretation) I solemnly declare.
- 3 THE WITNESS: [9:39:49](Interpretation) I solemnly declare.
- 4 PRESIDING JUDGE MINDUA: [9:39:54](Interpretation) That I will tell the truth, the
- 5 whole truth and nothing but the truth.
- 6 THE WITNESS: [9:40:03](Interpretation) That I shall tell the truth, the whole truth
- 7 and nothing but the truth.
- 8 PRESIDING JUDGE MINDUA: [9:40:15](Interpretation) Thank you very much,
- 9 Mr Witness. You are now under oath.
- 10 THE WITNESS: [9:40:28](Interpretation) Yes. That's good.
- 11 PRESIDING JUDGE MINDUA: [9:40:33](Interpretation) The staff of the victims and
- 12 witnesses section, as well as the representatives of the Defence, have already
- 13 explained to you what that means.
- 14 THE WITNESS: [9:41:02](Interpretation) Yes.
- 15 PRESIDING JUDGE MINDUA: [9:41:05](Interpretation) So I have some practical
- 16 piece of advice for you now.
- 17 THE WITNESS: [9:41:18](Interpretation) Yes.
- 18 PRESIDING JUDGE MINDUA: [9:41:20](Interpretation) Please remember that
- 19 throughout your testimony, everything that's being said in this courtroom is being
- 20 translated consecutively or simultaneously into several languages.
- 21 THE WITNESS: [9:41:49](Interpretation) That's good.
- 22 PRESIDING JUDGE MINDUA: [9:41:53](Interpretation) Very well. It's important
- 23 to speak clearly and slowly.
- 24 THE WITNESS: [9:42:08](Interpretation) Yes.
- 25 PRESIDING JUDGE MINDUA: [9:42:10](Interpretation) Of course, if you would like

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1 to say something, raise your hand and I will allow you to address the Court.

2 THE WITNESS: [9:42:31](Interpretation) Yes. Fine.

3 PRESIDING JUDGE MINDUA: [9:42:35](Interpretation) So you'll be questioned by
4 the Defence, then by the OTP, and finally by the legal representatives of victims, and
5 then the Chamber may have questions for you as well.

6 THE WITNESS: [9:43:18](Interpretation) Yes.

7 PRESIDING JUDGE MINDUA: [9:43:19](Interpretation) Without any further ado,
8 I'll hand over to the Defence for the beginning of their examination-in-chief.

9 Ms Taylor, please go ahead.

10 MS TAYLOR: [9:43:33] Thank you, Mr President.

11 QUESTIONED BY MS TAYLOR:

12 Q. [9:43:37] Good morning, Mr Witness. How are you today?

13 A. [9:43:51] I'm doing well. Thanks be to God.

14 Q. [9:43:58] My name is Melinda Taylor. We spoke by video last week. And I'll
15 be putting questions to you today.

16 A. [9:44:27] That's fine.

17 Q. [9:44:31] Mr Witness, I'll just add, if I put up my hand, that's not meant to be a
18 sign of disrespect. It's just to let you know to make a pause for the interpreters.

19 A. [9:45:07] That's fine.

20 MS TAYLOR: [9:45:11] Mr President, I have some initial questions of an identifying
21 nature. If we could go into private session to ask them.

22 PRESIDING JUDGE MINDUA: [9:45:22](Interpretation) Indeed, Ms Taylor.
23 Madam Court Officer, private session, please.

24 (Private session at 9.45 a.m.)

25 THE COURT OFFICER: [9:45:42] We're in private session, Mr President.

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- 25 (Open session at 9.55 a.m.)

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- 1 THE COURT OFFICER: [9:55:37] We're back in open session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [9:55:41](Interpretation) Thank you very much,
- 3 court officer.
- 4 Ms Taylor.
- 5 MS TAYLOR: [9:55:46]
- 6 Q. [9:55:46] Mr Witness, did you go to school when you were a child?
- 7 A. [9:56:03] No, I just went to Koranic school.
- 8 Q. [9:56:10] And why did you not go to a school?
- 9 A. [9:56:27] I have no idea. I wasn't responsible for myself when I was a child.
- 10 Q. [9:56:35] Now, Mr Witness, earlier you stated that you speak Tamasheq and
- 11 Arabic. Is it correct that you were never taught to read or speak French?
- 12 A. [9:57:19] No, I don't know how to speak or write French. That's true.
- 13 Q. [9:57:27] Mr Witness, I have some questions about the 1990s. You gave your
- 14 birth date before. So, by my reckoning, you would have been a late teenager at this
- 15 time, in 1990 or 1992. Did anything happen to you or your family in this period
- 16 between 1990 and 1992?
- 17 A. [9:58:51] I haven't understood your question. What are you talking about?
- 18 Q. [9:58:56] I apologise, Mr Witness, for not being clear. I'm speaking about the
- 19 time period of 1990 to 1992, the early 1990s. Do you remember that time period?
- 20 A. [9:59:55] Yes, I remember. That was the first rebellion.
- 21 Q. [10:00:05] Mr Witness, when you say "rebellion", are you referring to the
- 22 rebellion between the Tuareg and Arab communities and the Malian army?
- 23 A. [10:01:00] Yes. Yes, I do remember the period that you're talking about. That
- 24 was the period of the rebellion.
- 25 Q. [10:01:23] Now, Mr Witness, can you explain to the Chamber whether the

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1 rebellion had an impact on you and your family at this time.

2 A. [10:02:18] Yes. At that time I was still young, so the rebellion didn't concern
3 me. It's clear that during the rebellion everybody was afraid, because once you met
4 the Malian army there was a major risk they would kill you.

5 Q. [10:02:39] Mr Witness, you said there was a major risk that the Malian army
6 would kill you. Do you know anyone that was killed by the Malian army at this
7 time?

8 A. [10:03:17] Yes. I knew people who were killed by the Malian army.

9 MS TAYLOR: [10:03:26] Mr President, may we go into private session.

10 PRESIDING JUDGE MINDUA: [10:03:32](Interpretation) Court officer, please take
11 us into private session.

12 (Private session at 10.03 a.m.)

13 THE COURT OFFICER: [10:03:48] We're in private session, Mr President.

14 (Redacted)

15 (Redacted)

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22 (Open session at 10.14 a.m.)

23 THE COURT OFFICER: [10:14:29] We're back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [10:14:34](Interpretation) Thank you very much.

25 Ms Taylor.

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1 MS TAYLOR: [10:14:38]

2 Q. [10:14:39] Now, Mr Witness, you were just describing an event where the
3 Malian army came to the area where you lived. Were you able to stay in the area
4 with your family?

5 A. [10:15:28] It was impossible for us to stay there. For those who stayed there,
6 they were in a very difficult situation at the time.

7 Q. [10:15:52] So, Mr Witness, what did you do?

8 A. [10:16:11] When? Are you speaking about during this period?

9 Q. [10:16:14] I apologise, Mr Witness. You said it was impossible to stay there.
10 So, Mr Witness, did you flee? Did you go somewhere?

11 A. [10:17:07] Yes. We went into the bush, and we went to the wells in the evening.
12 During the day, we just stayed calm.

13 Q. [10:17:27] And did you have access to food?

14 A. [10:18:12] Yes, there wasn't any food. We just drank milk. Sometimes people
15 go to Betagoungou to get foodstuffs, but travellers were often killed on the road. So
16 sometimes we just drank milk and also had the cattle.

17 Q. [10:18:41] Do you recall how long this period lasted?

18 A. [10:19:33] Yes. I think it was for one year and three months, or approximately
19 two years.

20 Q. [10:19:49] And after this period, did you go back to your village?

21 A. [10:20:22] Yes. I returned when the situation calmed down. We were always
22 moving about.

23 Q. [10:20:32] And when you returned, were you able to find work?

24 A. [10:21:03] Yes. There wasn't any work at all. There was nothing, apart from
25 pasturing. So it was impossible to go into town to get work. Or what work are you

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1 talking about?

2 Q. [10:21:21] Mr Witness, I'm going to bring up a document. It shouldn't be
3 shown to the public. So, Mr Witness, the public won't see this document.

4 It's tab 12, MLI-D28-0006-5299. It can be shown on evidence 1.

5 Mr Witness, do you recognise this document?

6 A. [10:22:29] Yes, that's my document.

7 Q. [10:22:32] Did you give this document to the Defence?

8 A. [10:22:59] Yes. They've seen it. They took a photograph of the document.

9 Q. [10:23:06] Now, Mr Witness, I'd ask you not to give any names, but there's a
10 photograph of a person. Who is this person on this document?

11 A. [10:23:39] That's me.

12 Q. [10:23:44] Mr Witness, can you explain what this document is.

13 A. [10:24:20] Yes. I would say that this document is when you go to get work in
14 Timbuktu, but I didn't manage to get work with it.

15 Q. [10:24:32] And do you know why you weren't able to get work?

16 A. [10:24:50] I have no idea. I didn't know why I couldn't get work, because I
17 didn't get -- wasn't looking for a job that meant you had to write. But I can read -- I
18 can write Arabic. But I -- I was just looking for a work as a worker.

19 Q. [10:25:35] Mr Witness, you've just said, "I was just looking for work as a
20 worker." Does this mean you were looking for any type of work that was paid?

21 A. [10:26:12] Yes, that's true.

22 THE INTERPRETER: [10:26:15] The interpreter corrects that "worker" should have
23 been "manual labourer".

24 MS TAYLOR: [10:26:21]

25 Q. [10:26:22] And just to be clear, is it correct you weren't able to find any type of

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1 paid work as a manual labourer?

2 A. [10:26:54] Yes, that's true.

3 Q. [10:26:57] Did you receive any financial assistance from the Malian state?

4 I'm just waiting for the English transcript to catch up.

5 But, Mr Witness, since you couldn't find work, what did you do? Did you stay in
6 Mali?

7 A. [10:28:12] Yes, I stayed. Yes. So I stayed there, and afterwards I went to
8 Mauritania to study.

9 Now you asked me if Mali had helped me financially. At that time no, because if I
10 had work I would have stayed where I was. So Mali didn't help me at all.

11 Q. [10:28:59] So you went to Mauritania to study. What did you study in
12 Mauritania?

13 A. [10:29:19] I studied the Koran.

14 Q. [10:29:24] And did you work in Mauritania?

15 A. [10:29:42] Yes. I used to work, and at the same time I studied.

16 Q. [10:29:48] And roughly how many years, in total, were you in Mauritania?

17 A. [10:30:15] Approximately three years. Something like that.

18 Q. [10:30:21] You said "Approximately three years." So was it after three years
19 you came back to Mali?

20 A. [10:30:39] Yes, I went back to Mali.

21 Q. [10:30:44] And why did you come back to Mali?

22 A. [10:31:08] Yes. I went back because I had left my family in Mali. Because
23 everything I earned in Mauritania, I sent back to them to support the family. So
24 that's why I went back to Mali.

25 Q. [10:31:27] So if I am to understand, you were able to save some money in

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1 Mauritania. Could you use this when you came back to Mali?

2 MS TAYLOR: [10:31:59] I apologise, Mr President. Is it possible for Mr Al Hassan
3 to be excused?

4 PRESIDING JUDGE MINDUA: [10:32:06](Interpretation) Indeed, he is excused.
5 He may leave the courtroom for a few moments.

6 (Mr Al Hassan exits the courtroom)

7 MS TAYLOR: [10:32:12]

8 Q. [10:32:13] Mr Witness, the defendant is leaving the courtroom just to go to the
9 bathroom.

10 THE WITNESS: [10:32:51](No interpretation)

11 PRESIDING JUDGE MINDUA: [10:32:55](Interpretation) No, we're talking about
12 Mr Al Hassan. He has left the courtroom for a few moments. Then he'll be coming
13 back.

14 MS TAYLOR: [10:33:04] Mr President, may I explain something in private session
15 very briefly to the witness, just to avoid confusions.

16 PRESIDING JUDGE MINDUA: [10:33:20](Interpretation) Very well. We'll do that
17 while the accused person is outside the courtroom. Is that all right with you?
18 Court officer, private session, please.

19 (Private session at 10.33 a.m.)

20 THE COURT OFFICER: [10:33:47] We're in private session, Mr President.

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22 (Redacted)

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8 (Open session at 10.35 a.m.)

9 THE COURT OFFICER: [10:35:02] We're back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [10:35:09](Interpretation) Thank you very much.

11 Now, for the record, allow me to mention that Mr Al Hassan is back in the courtroom.

12 Ms Taylor, please proceed.

13 MS TAYLOR: [10:35:22]

14 Q. [10:35:22] So, Mr Witness, you stated you were in Mauritania for about three
15 years and you came back to Mali. Do you remember approximately what year it
16 was when you came back to Mali to live?

17 A. [10:36:28] Yes. I don't remember for sure. It must have been around 2005,
18 2006 or 2007. I can't tell you the exact year.

19 Q. [10:36:44] Mr Witness, I have some questions about this time period after you
20 came back from Mauritania, around 2005 to 2007, when you were living in your
21 encampment. And my first question is: Mr Witness, do you know what a lawyer
22 is?

23 A. [10:38:00] Yes. A lawyer, I heard that often in the discussions. Yes, I heard
24 about what a lawyer was. I heard that in Arabic. That's what they called *mohani*
25 (phon).

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1 Q. [10:38:19] Mr Witness, were there any lawyers in the area where you lived?

2 A. [10:38:51] No, I have no idea. There might have been lawyers there, but I never
3 had any problem for which I would need a lawyer. They might have been there, but
4 I don't know for sure.

5 Q. [10:39:09] Mr Witness, what about *les juges*, that is, judges appointed by Malian
6 courts. Were there any of these types of *juges* in the area that you lived?

7 A. [10:39:49] Yes. In Timbuktu, there was a judge. I heard that there was a
8 judge.

9 Q. [10:39:57] And did this judge come to your area, your village at all?

10 A. [10:40:24] No. They wouldn't come. People would go see him, if necessary.

11 Q. [10:40:36] Mr Witness, in your village, if someone had a dispute with someone
12 else over land or a well, how would they resolve that dispute?

13 A. [10:41:34] Where I was in the bush, if there was a dispute, people would go see
14 the *cadi*. And the people who were in the town, they would go see the judge.

15 MS TAYLOR: [10:41:51] Mr President, if I can go briefly into private session.

16 PRESIDING JUDGE MINDUA: [10:41:59](Interpretation) Private session, please,
17 court officer.

18 (Private session at 10.42 a.m.)

19 THE COURT OFFICER: [10:42:16] We're in private session, Mr President.

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- 25 (Open session at 10.51 a.m.)

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1 THE COURT OFFICER: [10:51:13] We're back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [10:51:17](Interpretation) Thank you very much,
3 court officer.

4 Mr Witness, we are now in open session.

5 MS TAYLOR: [10:51:29]

6 Q. [10:51:29] Mr Witness, can you describe the types of disputes that people would
7 bring to Houka Houka, either at his house or at the well.

8 A. [10:52:21] Yes. Yes. These were disputes that had to do with wells, or various
9 problems that required the advice of a *cadi*.

10 Q. [10:52:42] Mr Witness, do you know the concept of *diya*?

11 A. [10:53:11] You're talking about *diyt* (phon). *Diyt* is the price you have to pay
12 when someone -- well, if someone commits a particular action and then the person
13 has to pay.

14 Q. [10:53:33] And was this concept of *diya* applied in your village or region?

15 A. [10:54:17] Yes. It existed, but it wasn't all that common. People who wanted
16 it to be applied would do so.

17 Q. [10:54:34] So in accordance with this principle of *diya*, could the *cadi* ask a
18 murderer to pay *diya* to the family of the victim?

19 A. [10:55:49] Yes. The role of the *cadi* is to hand down the judgment to give the
20 *diya*, because it's a judgment that is advocated in the Koran. So the *cadi* sets out the
21 ruling, but he doesn't force people.

22 Q. [10:56:11] Now, if people came to Houka Houka to settle a dispute and he
23 issued a ruling, would they respect his ruling?

24 MR GARCIA: [10:56:30](Interpretation) Your Honour.

25 PRESIDING JUDGE MINDUA: [10:56:32](Interpretation) Yes.

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1 MR GARCIA: [10:56:35](Interpretation) I object. Because, at first, this question calls
2 for speculation. And if we read the question and the answer, just before -- just
3 before this last question by Ms Taylor, part of the answer is already to be found there,
4 namely, whether he could force people to respect these decisions or not. But this
5 question by Madam Taylor calls for speculation. It really depends on a lot of things;
6 people before the court. Different variables.

7 PRESIDING JUDGE MINDUA: [10:57:19](Interpretation) Ms Taylor, there's some
8 speculation. And I think that the witness has already answered, because -- because
9 once the ruling was handed down, the people could respect the ruling if they wanted
10 to.

11 MS TAYLOR: [10:57:35] Mr President, I'm very aware that the Prosecutor did not
12 ask for the sound to be cut off, but I do believe there's a nuance here, which the
13 Prosecutor is obviously gliding over, and if I could just put that nuance to this
14 witness.

15 Q. [10:57:51] Mr Witness, you've said that the *cadi* didn't force people to obey his
16 rulings, but did people follow his rulings?

17 MR GARCIA: [10:58:17](Interpretation) Objection.

18 MS TAYLOR: I'm sorry, but this really --

19 PRESIDING JUDGE MINDUA: [10:58:21](Interpretation) One moment.

20 Mr Prosecutor, what is your concern?

21 MR GARCIA: [10:58:26](Interpretation) Once again, this is speculative. And I don't
22 want to tell the Defence how to put their questions, but the way that the question is
23 phrased, this is the second time we've heard this sort of thing. Are we asking the
24 witness to remember something, what he thinks about, to speculate?

25 MS TAYLOR: [10:58:49] I can rephrase my question.

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1 PRESIDING JUDGE MINDUA: [10:58:51](Interpretation) Ms Taylor, yes, rephrase.

2 That would be much better.

3 MS TAYLOR: [10:58:55] Thank you, Mr President.

4 Q. [10:58:56] Now, in accordance with sharia, what does sharia say about following
5 the findings or rulings of the *cadi*?

6 A. [10:59:44] About what the *cadi* says? So could you explain to me about that.

7 Q. [10:59:53] Mr Witness, in accordance with the principles of sharia, are people
8 expected by sharia, by the Koran or *fiqh*, to follow the rulings of the *cadi*?

9 MR GARCIA: [11:00:26](No interpretation)

10 PRESIDING JUDGE MINDUA: [11:00:27](Interpretation) Mr Prosecutor.

11 MR GARCIA: [11:00:28](Interpretation) I object. This is a very leading question,
12 and the harm has already been done because the answer is to be found in the question,
13 to some extent. I'm really wondering, because we're now moving to the whole issue
14 of sharia without -- well, without any sort of foundation as to the witness's
15 knowledge of sharia.

16 PRESIDING JUDGE MINDUA: [11:00:57](Interpretation) I think there is a
17 foundation, Mr Prosecutor, because before, Ms Taylor, I think the witness does not
18 understand.

19 Now, the Defence asked what areas that the *cadi* settled, and the witness answered.
20 Then after that, the witness added that people would follow the rulings if they
21 wanted to. And then the Defence asked, "What does the Koran say about these
22 decisions?" You don't want that?

23 MR GARCIA: [11:01:36](Interpretation) It's more than that. When you read the
24 question, the answer's already -- is to be found within it. I'm reading the English:
25 "In accordance with the principles of sharia, was it expected that people respect the

1 decisions taken by the *cadi*?" It's a leading question, once again.
2 And, secondly, the second part of my objection is that mention is made of the
3 principles of sharia, but what are you calling upon? Are you calling upon the
4 witness's knowledge of sharia? I think this is a compound question, and I really
5 don't see the foundation for the question about sharia. The answer has to be useful
6 to the Chamber. The question in of itself has already been put, so it's too late. But it
7 is leading.

8 PRESIDING JUDGE MINDUA: [11:02:35](Interpretation) It's rather vague, because
9 what does sharia law say?

10 Ms Taylor, this question is too vague, and according to the Prosecutor, it is leading.
11 So please think about that and perhaps you can rephrase once we're back.

12 MS TAYLOR: [11:02:54] Thank you, Mr President. It's 11 o'clock, so I understand
13 this will be a good time for a break.

14 PRESIDING JUDGE MINDUA: [11:03:05](Interpretation) Court officer, we're still in
15 open session, aren't we? Very well.

16 We will suspend for half an hour now and resume at 11.35, because there are always
17 problems with the Registry.

18 So 11.35. The hearing is now suspended.

19 THE COURT USHER: [11:03:31] All rise.

20 (Recess taken at 11.03 a.m.)

21 (Upon resuming in open session at 11.36 a.m.)

22 THE COURT USHER: [11:36:24] All rise.

23 Please be seated.

24 PRESIDING JUDGE MINDUA: [11:36:52](Interpretation) Court is in session.

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

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- 1 Ms Taylor.
- 2 MS TAYLOR: [11:37:03]
- 3 Q. [11:37:04] Mr Witness, how are you?
- 4 Mr Witness, can you hear me?
- 5 A. [11:37:35] Yes, I can hear you.
- 6 Q. [11:37:38] Mr Witness, are you familiar with the *surat An-Nisa*?
- 7 A. [11:38:06] Yes, the *surat An-Nisa*.
- 8 Q. [11:38:11] And did you recite the *surat An-Nisa* to the Defence when you met
- 9 them?
- 10 A. [11:38:56] I don't know. It could be the case that I recited part of it, but I didn't
- 11 recite all of it. But I know the *surat An-Nisa* very well.
- 12 Q. [11:39:12] Now, Mr Witness, I'm referring specifically to verse 59.
- 13 MR GARCIA: [11:39:26](Interpretation) Your Honour.
- 14 PRESIDING JUDGE MINDUA: [11:39:28](Interpretation) Prosecutor.
- 15 MR GARCIA: [11:39:30](Interpretation) This isn't an objection, but quite simply, for
- 16 the case record, the transcript is not clearly indicated what we are referring to, either
- 17 in French or in English, because it's about reciting "something". If it could be
- 18 indicated so that it clearly appears in the transcript what we're speaking about. In
- 19 English it is written "something". It isn't the case. It is something different. So just
- 20 the transcript just needs to reflect what's said in the courtroom.
- 21 PRESIDING JUDGE MINDUA: [11:40:04](Interpretation) Indeed, Prosecutor.
- 22 Ms Taylor, can we clarify the situation.
- 23 MS TAYLOR: [11:40:10] Yes, I can spell it out: S-U-R-A-T, and then A-N, dash,
- 24 N-I-S-A. And we're speaking about verse 59.
- 25 Q. [11:40:37] Mr Witness, are you familiar with verse 59?

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1 A. [11:41:03] No. At the moment, I don't have it in front of me. I don't have the
2 Koran *sous les yeux* in front of me. But if I do have the Koran in front of my eyes, I
3 can read it, but I can't remember it just to recite it immediately.

4 Q. [11:41:31] Certainly, Mr Witness, we can bring it up.

5 It's tab 7, MLI-D28-0005-1247 at page 1376. This will be in English, so it will have to
6 be translated in Arabic, I believe will be the easiest. And perhaps reading it all out, I
7 can read the first couple of words to see if that refreshes your memory.

8 I'm just reading out: "O you who believe!" -- and, Mr Witness, please stop me if this
9 is refreshing your memory: "Obey Allah and obey the Messenger and those of you
10 who are in authority. And if you differ in anything amongst yourselves, refer it to
11 Allah and His Messenger if you believe in Allah and in the Last Day. [This] is better
12 and more suitable for final determination."

13 Mr Witness, are you familiar with this verse?

14 A. [11:43:39] No, I don't see anything. I only see you. I only see the lady who's
15 speaking at the moment.

16 Q. [11:43:45] I understand it hasn't been translated.

17 A. [11:43:45] I see nothing new.

18 Q. [11:43:56] I would ask that it be read in Arabic, not Tamasheq. And if the
19 screen could be moved back so the witness can see it in Arabic. I think that's better,
20 since the witness ...

21 Mr Witness, can you see it on the screen?

22 A. [11:44:38] Yes, yes, I can see the *ayat*. It is this *ayat*.

23 Q. [11:45:29] I understand you said "It is this *surat*."

24 Mr Witness, does this refresh your memory?

25 A. [11:46:00] Yes, now you've shown me the Koran.

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1 Q. [11:46:07] And, Mr Witness, do you recall citing this *ayat* to the Defence?

2 A. [11:46:32] Yes, this verse, yes.

3 Q. [11:46:36] And what does this verse mean?

4 A. (No interpretation)

5 THE INTERPRETER: [11:47:55] Message from the Tamasheq booth: The witness
6 was extremely long.

7 PRESIDING JUDGE MINDUA: [11:48:03](Interpretation) Ms Taylor, the witness
8 was speaking for too long. We have to cut him off from time to time so that the
9 translation can be made.

10 MS TAYLOR: [11:48:12] Certainly. Can we have the interpretation?

11 THE INTERPRETER: [11:48:24] Your Honour, message from the Tamasheq booth:
12 could the witness be asked to cut up his message so that we can translate it.

13 PRESIDING JUDGE MINDUA: [11:48:36](Interpretation) Witness, could you give
14 your answer again, bit by bit. Thank you.

15 THE WITNESS: [11:48:57](Interpretation) Well, which answer?

16 PRESIDING JUDGE MINDUA: [11:49:02](Interpretation) Ms Taylor.

17 MS TAYLOR: [11:49:03]

18 Q. [11:49:03] Mr Witness, you just gave an answer, or you just spoke to the court,
19 and we don't have that interpreted. So can you repeat what you just said, but giving
20 pauses for the interpreters.

21 A. [11:49:53] Yes. If you could provide me with the verse again. "Those of you
22 who believe."

23 Q. [11:50:40] Mr Witness, do you have it in front of you?

24 A. [11:50:53] No, I don't see it. I'm just doing it from memory.

25 PRESIDING JUDGE MINDUA: [11:51:02](Interpretation) Court officer.

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1 THE WITNESS: [11:51:31](Interpretation) If you could show me the verse again, or
2 bring the verse to me again, then I can give my answer.

3 MS TAYLOR: [11:51:38]

4 Q. [11:51:38] Certainly, Mr Witness. But just to be clear, I'm not asking you to give
5 an interpretation into Tamasheq. So I might reformulate my question.

6 Now, Mr Witness, the first part of this states: "O you who believe! Obey Allah and
7 obey the Messenger and those of you who are in authority."

8 Do you have that in front of you?

9 A. [11:52:53] It's the Prophet, that is to say, you have to follow God and the
10 Prophet.

11 Q. [11:53:04] Now, Mr Witness, this says you have to follow Allah and obey the
12 messenger - peace be upon him - "and those of you who are in authority." In the
13 village where you lived, who were considered to be the -- those of you who are in
14 authority?

15 MR GARCIA: [11:53:30](Interpretation) Your Honour.

16 PRESIDING JUDGE MINDUA: [11:53:31](Interpretation) Yes, Prosecutor.

17 MR GARCIA: [11:53:34](Interpretation) This is a leading question. The question
18 has to be open. This could have been put in an open way quite simply. And
19 already in the question itself, it is supposed that there was somebody in a specific
20 place who was this authority. So the answer's already included in the question.

21 PRESIDING JUDGE MINDUA: [11:53:59](Interpretation) Ms Taylor, could you
22 reformulate.

23 MS TAYLOR: [11:54:03] Thank you, Mr President. But I don't believe it was being
24 overly suggestive in any way. And I do believe that, with this witness, we've been
25 asked to give simple questions.

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1 Q. [11:54:17] Now, Mr Witness, can you explain to the Chamber who would be an
2 authority. And I'm going to -- to be clear, I'll give the Arabic word: the *ulil amr*.

3 A. [11:55:09] No, I can't give that because I don't know. That's something I don't
4 know.

5 Q. [11:55:19] Would the *cadi* be considered to be an authority?

6 MR GARCIA: [11:55:24](Interpretation) Objection.

7 PRESIDING JUDGE MINDUA: [11:55:27](Interpretation) Prosecutor.

8 MR GARCIA: [11:55:30](Interpretation) This is completely inappropriate. The
9 witness has already said that he didn't know, so here is the last attempt. You can put
10 a question in a leading way. But the question is inappropriate. It's leading. And I
11 don't know what the weight can be given to such an answer given by the witness,
12 given the nature of the question and his previous response.

13 THE WITNESS: [11:56:07](Interpretation) As I told you, the *cadi* has no authority.

14 PRESIDING JUDGE MINDUA: [11:56:16](Interpretation) Ms Taylor, I think he's
15 already replied to this several times. We can move on.

16 MS TAYLOR: [11:56:23]

17 Q. [11:56:23] Now, Mr Witness, speaking of the period before 2012, what was the
18 attitude of people in your area towards people who drank alcohol in public spaces?
19 And by public spaces, I mean in the street or outside your house.

20 I'd just like to note, actually, there's been a mistake with the interpretation. My last
21 question beforehand was interpreted incorrectly. Instead of being asked whether --

22 A. (Overlapping speakers)

23 Q. [11:57:08] I just ask the witness to stop, because I think this is a matter that does
24 need -- I'm not going to ask the question again, but I do believe it needs to be
25 corrected for the record that the interpreter didn't use the word "authority" but used a

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1 different word.

2 PRESIDING JUDGE MINDUA: [11:57:34](Interpretation) What would you like by
3 way of remedy, Ms Taylor.

4 MS TAYLOR: [11:57:38] I think we'll check during the break for the correct
5 interpretation, but I do believe it was incorrectly interpreted to the witness.

6 PRESIDING JUDGE MINDUA: [11:57:52](Interpretation) Very well. During the
7 break we can resolve that. Please continue.

8 MS TAYLOR: [11:58:03]

9 Q. [11:58:04] Now, Mr Witness, speaking of the period before 2012, what was the
10 attitude of people in your area towards people who drank alcohol in the street or
11 outside their house?

12 A. [11:59:09] You couldn't do anything about them. If people who wanted to
13 drink alcohol, they could. If people -- whether they were Muslim, they could do it,
14 whether it pleased them or not.

15 Q. [11:59:24] And how would the community treat these people? How would
16 they react?

17 A. [11:59:49] They didn't do anything.

18 Q. [11:59:51] Was his conduct considered to be acceptable by the community?

19 MR GARCIA: [12:00:01](No interpretation)

20 PRESIDING JUDGE MINDUA: [12:00:01](Interpretation) Prosecutor.

21 MR GARCIA: [12:00:03](Interpretation) If we could know what community the
22 question is about, what region. The question was put in different ways, and he's
23 already answered. But I think that he's still being asked similar questions, but we
24 still don't know what community we are talking about here.

25 PRESIDING JUDGE MINDUA: [12:00:23](Interpretation) Yes, Ms Taylor, perhaps

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1 we have to clarify this matter. You stated with regards to the time period before '92,
2 but which community are we talking about?

3 MS TAYLOR: [12:00:42]

4 Q. [12:00:43] Mr Witness, to be clear, we're talking about the area in the desert, or
5 the bush, where you were living. Is that clear to you?

6 A. [12:01:13] Yes, it's clear. A person who drinks alcohol, people don't like him.
7 They hate him, but they don't do anything against him. They know full well that
8 he's doing something wrong.

9 Q. [12:01:35] And what about adultery? If a married woman committed adultery,
10 would that conduct be approved of or accepted in your community? Speaking
11 specifically of the area in the desert you lived.

12 A. [12:02:24] No, it's not accepted. Those things exist, but they exist secretly.
13 They're not accepted.

14 Q. [12:02:41] And if it was proven that a woman had committed adultery, how
15 would people in your village treat this woman?

16 A. [12:03:38] About people sleeping around, people do nothing. But if it's
17 adultery and the husband provides evidence or witnesses, the woman will then have
18 problems.

19 Q. [12:03:58] What kind of problems would she have?

20 A. [12:04:42] A woman, a married woman who has a husband who commits
21 adultery, when her husband provides the four witnesses -- if there are four witnesses
22 and each one of the four witnesses swears that, the woman will be killed. That
23 wasn't the community that would impose that. Not the community that would
24 impose that. That is something that was revealed by God.

25 Q. [12:05:30] Now I'm going to turn to the period of 2011 and 2012, and earlier

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1 today we spoke about a rebellion in the 1990s between Tuareg and Arab groups and
2 the Malian army. Was there another rebellion in 2011 or 2012?

3 A. [12:06:44] It exists.

4 Q. [12:06:48] And did this rebellion have an impact on you and your family?

5 A. [12:07:25] No. Nothing happened to us, far from it, during that period.

6 However, some things did happen to us later on.

7 Q. [12:07:40] Can you explain what happened to you later on.

8 A. [12:08:18] It was after the departure of the rebels. Once back -- once the Malian
9 army came back, that is when we were affected somewhat.

10 Q. [12:08:34] Do you remember what -- what year or time period are you talking
11 about, Mr Witness?

12 A. [12:09:24] There was the rebellion which began in 2011. And during 2012, early
13 in 2013, that is when we were affected, impacted.

14 Q. [12:09:45] Mr Witness, I'm going to go to this period of 2011-2012. Did you stay
15 in your village this entire period or did you ever move from your village?

16 A. [12:10:39] I left my area, but I went back in 2012.

17 Q. [12:10:52] So, Mr Witness, you left your area. Why did you leave your area?

18 A. [12:11:27] When the rebels first arrived we were afraid that there would be
19 fighting and that we would be affected by the fighting. That led us to fleeing. If
20 there was fighting between the Malian army and others, we might be impacted
21 during the fighting.

22 Q. [12:11:55] And why did you think you could be impacted?

23 A. [12:12:43] We thought so because we had experienced -- well, we saw what
24 happened during the rebellion in '91 and '92. We saw the deaths that occurred in
25 our area. And that's why, as soon as they arrived, we fled.

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1 Q. [12:13:05] Mr Witness, who are you referring to when you say "they"? "They
2 arrived", who arrived?

3 A. [12:13:52] I'm talking about the arrival of the rebels. If the rebels arrived in the
4 area where we were and if there was fighting between the rebels and the Malian army,
5 we were afraid that the fighting might impact us. That's what frightened us, so we
6 fled.

7 Q. [12:14:13] You said "we fled". Who was fleeing?

8 A. [12:14:36] Our entire encampment.

9 Q. [12:14:44] So your encampment fled. Were you able to take your property or
10 your animals with you?

11 A. [12:15:19] No, it wasn't possible. Our animals remained behind. We headed
12 to the great north and the encampment headed towards Mauritania.

13 THE INTERPRETER: [12:15:34] Correction, the interpreter -- the -- correction: The
14 animals went towards the great north and the encampment went towards Mauritania.

15 MS TAYLOR: [12:15:47]

16 Q. [12:15:47] And did you yourself reach Mauritania?

17 A. [12:16:20] No. I left with them at one time to a certain place. I went and then I
18 came back. I did not leave with them. And there were other people who did the
19 same thing as what I did. Along the way, they went down, and then they came
20 back.

21 Q. [12:16:45] And why did you come back?

22 A. [12:17:21] I was with an old lady who was disabled. She had health problems.
23 She couldn't manage the trip. So that's why I went down, and then I came back.

24 THE INTERPRETER: [12:17:40] Correction from the booth: She could not bear the
25 trip in a truck. So that's why we went down.

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1 MS TAYLOR: [12:17:53]

2 Q. [12:17:54] Mr Witness, you said she couldn't bear the trip in a truck. Can you
3 describe what the journey was like, what the voyage was like for you.

4 A. [12:18:29] Yes. Let me begin. In actual fact, it was the entire encampment that
5 hired a truck, and everything that could fit into the truck was put in the truck,
6 the -- the people and then the luggage.

7 Q. [12:18:58] Please continue.

8 A. [12:19:32] The people got this truck, they put all their things in it. The animals
9 were taken towards the great north. I left, along with this old lady, and at one point
10 during the trip the old lady was crying and she said she couldn't bear the trip. So I
11 went down and then I came back.

12 Q. [12:20:01] What were the weather conditions like at that time of the year? Was
13 the temper like?

14 MR GARCIA: [12:20:14](No interpretation)

15 PRESIDING JUDGE MINDUA: [12:20:14](Interpretation) Mr Prosecutor.

16 MR GARCIA: [12:20:18](Interpretation) I realise that we're in examination-in-chief
17 and relevance is quite broad, but now we're asking the witness about the temperature
18 and the weather. Could we be drifting away from the charges?

19 PRESIDING JUDGE MINDUA: [12:20:43](Interpretation) Yes, Ms Taylor. The
20 weather.

21 MS TAYLOR: [12:20:58] Mr President, if I may, I do believe that the conditions of his
22 travel are relevant to an issue that has been raised by the Defence. And I'm not
23 going to go into detail, given that we have a link to the witness. But it does bear on
24 the extent to which it was possible, or feasible, for certain people to voyage.
25 If he doesn't remember, he doesn't remember, but I can ask him if he remembers.

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1 PRESIDING JUDGE MINDUA: [12:21:32](Interpretation) Very well. Go ahead.

2 MS TAYLOR: [12:21:35]

3 Q. [12:21:36] Mr Witness, do you remember what the temperature was like at that
4 time of year during the day?

5 A. [12:22:05] Your question is -- well, you were asking whether it was a hot time or
6 a cold time?

7 Q. [12:22:15] If you remember.

8 A. [12:22:31] It was cold. It was the cold season.

9 Q. [12:22:34] Now, you went back to your village, or your encampment. At this
10 time could you travel to and from Timbuktu, when you went back?

11 A. [12:23:11] Yes. When I went back, that was possible.

12 Q. [12:23:19] And were you able to go to Timbuktu immediately when you got
13 back?

14 A. [12:23:53] I only went back once I knew that it was possible for me to go to
15 Timbuktu for my business. That is when I went back to my usual area of residence.

16 PRESIDING JUDGE MINDUA: [12:24:15](Interpretation) Mr Prosecutor.

17 MR GARCIA: [12:24:18](Interpretation) Your Honour, just so that we don't get lost
18 afterwards, I don't think there was any approximate dates in these questions about
19 when the witness could have -- could go back or not. So I think it will be difficult
20 later on. Would it be possible to clear up that point?

21 PRESIDING JUDGE MINDUA: [12:24:41](Interpretation) Ms Taylor, if you could
22 elicit some more specific information.

23 MS TAYLOR: [12:24:48] Thank you, Mr President. We have that it was in the cold
24 season. And we have a year earlier, when I was talking about end of 2011-2012.

25 And I do believe we will get to that detail.

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- 1 PRESIDING JUDGE MINDUA: [12:25:15](Interpretation) Duly noted.
- 2 MS TAYLOR: [12:25:18]
- 3 Q. [12:25:19] Now, Mr --
- 4 PRESIDING JUDGE MINDUA: [12:25:20](Interpretation) Mr Prosecutor.
- 5 MR GARCIA: [12:25:25](Interpretation) No, of course, I'll leave that to the Defence.
- 6 But I think there was mention of a particular trip, but I think we need to know what
- 7 period of time. And later on, when the time comes to present pleadings, perhaps
- 8 then that would be the time, or would be at that moment that these issues of dates
- 9 could be important.
- 10 PRESIDING JUDGE MINDUA: [12:25:56](Interpretation) I hope you'll be able to
- 11 elicit some clarifications.
- 12 MS TAYLOR: [12:26:02] Certainly, Mr President, but I do need to ask clarifications
- 13 of other things, so I do ask that we not be interrupted, because we will present this in
- 14 a clear, chronological manner if we are permitted to do so by the Prosecution.
- 15 Q. [12:26:18] Now, Mr Witness, you stated you only went back once you knew it
- 16 was possible to go to Timbuktu for your business. Why was it not possible
- 17 beforehand to go to Timbuktu?
- 18 A. [12:27:12] What kept me is -- and what made us move away was -- was the fear.
- 19 Q. [12:27:21] And what were you afraid of at this point in time?
- 20 A. [12:27:58] In fact, the fear -- the fear was of an area where death was roaming. I
- 21 told you what happened in the past.
- 22 Q. [12:28:15] Now, Mr Witness, you just said that there was fear of an area where
- 23 death was roaming. Do you know anyone who was killed at this time?
- 24 A. [12:29:17] No. No. At that time when we fled there had not been any deaths
- 25 amongst the civilians during that period of time. However, there were deaths

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1 amongst the soldiers.

2 Q. [12:29:52] Can you explain what you mean by that there were deaths among the
3 soldiers.

4 A. [12:30:47] In fact, it was light-skinned soldiers during the rebellion. There were
5 soldiers with light skin who deserted in the night from the Malian army. They were
6 afraid of the Malian army and they deserted at night. They were the Tamasheq.

7 Q. [12:31:14] And what happened to these deserters?

8 A. [12:31:54] They deserted at night. The next morning they were in a zone where
9 there were people. They approached them to get water, or something like that.
10 And these people denounced them to the authorities, and the army prosecuted them
11 and killed them.

12 Q. [12:32:24] What zone was this in?

13 A. [12:32:55] Yes. It happened in the west of Timbuktu.

14 Q. [12:33:02] Mr Witness, you've just recounted an incident concerning deserters.
15 Did this have any impact on your ability to travel at this time?

16 A. [12:33:58] Yes. It corresponds with the period when we were moving.

17 Q. [12:34:14] So this was -- when you say you were moving, was this when you
18 were trying to go to Mauritania?

19 A. [12:34:43] Yes.

20 Q. [12:34:43] And was the army searching for deserters at this time?

21 A. [12:35:08] Yes, indeed.

22 Q. [12:35:12] Were you worried about being considered or treated as a deserter?

23 A. [12:35:54] Yes. That's what people feared. That's what made them flee.
24 They would leave for Mauritania.

25 Q. [12:36:05] So just to be clear, people fled to Mauritania because they were

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- 1 worried that the army might think that they were deserters?
- 2 MR GARCIA: [12:36:15](No interpretation)
- 3 MS TAYLOR: [12:36:16] I don't have to put the question, but it's just ...
- 4 MR GARCIA: [12:36:21](Interpretation) I object.
- 5 PRESIDING JUDGE MINDUA: [12:36:24](Interpretation) Prosecutor, yes.
- 6 MR GARCIA: [12:36:27](Interpretation) The question is leading, and it calls for
- 7 conjecture on the part of the witness to speak on behalf of a large number of persons.
- 8 He can speak about himself, but he can't speak for a large number of people.
- 9 PRESIDING JUDGE MINDUA: [12:36:43](Interpretation) I think Ms Taylor
- 10 withdrew the question.
- 11 MS TAYLOR: [12:36:52] Thank you, Mr President. I put it as "people" because he
- 12 had responded by referring to people rather than referring to himself earlier. My
- 13 question concerned himself, but I can move on to a different question.
- 14 Q. [12:37:20] Now, Mr Witness, you went back to your encampment and you didn't
- 15 travel -- or you weren't -- it wasn't possible to travel to Timbuktu at that time. Did
- 16 you have access to food and supplies in your village at that time?
- 17 A. [12:38:34] Yes, it was okay for food. It was okay. But it wasn't abundant,
- 18 because there were cars that would come from Algeria and they would bring food
- 19 that people would buy.
- 20 Q. [12:38:53] Now, Mr Witness, I just want to be very clear. Are we talking about
- 21 the place you lived in the desert, and are we talking about the period when you came
- 22 back after you had tried to go to Mauritania, you were with an old woman and you
- 23 came back? Is that the period and the location you're talking about?
- 24 A. [12:40:02] We're currently speaking about the area where I was living when we
- 25 moved to flee. What are you speaking about? Please excuse me. You made me

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1 say -- tell the account again, and it could be the case that there's a lack of
2 understanding on your part as a result.

3 Q. [12:40:36] I apologise, Mr Witness. My question might not have been clear.
4 Just to situate you, I'm asking about the period after you returned with the old
5 woman and you returned to your encampment. And my question concerned what
6 the conditions were like in your encampment at that point in time?

7 A. [12:41:58] Very well. In fact, I didn't come back until it was certain that it was
8 possible to do the trip to the town.

9 Q. [12:42:14] Now, Mr Witness, I'm not asking about the town. I'm asking about
10 the encampment and what the conditions were like in the encampment at that time.

11 A. [12:42:59] Yes. Some people would go -- they would travel to the town and
12 then they would -- they would travel to the town and pay for what they needed to
13 bring back, if they had to do the trip.

14 Q. [12:43:17] I think there might be an interpretation issue, so I might just move
15 forward.

16 Or, Mr Witness, can you specify if you know what month this was.

17 A. [12:43:55] No, I don't know.

18 PRESIDING JUDGE MINDUA: [12:44:01](Interpretation) Prosecutor.

19 MR GARCIA: [12:44:02](Interpretation) Your Honour, just so it's clear in the case
20 record, it's been talk about the town on several occasions, but we don't know what
21 town or village is being spoken about here. That could be quite important.

22 PRESIDING JUDGE MINDUA: [12:44:19](Interpretation) Ms Taylor.

23 MS TAYLOR: [12:44:21] Mr President, if we're allowed to question this witness
24 without interruptions, we will get there.

25 Now we do have translation issues and we are trying to go step by step, so I do ask

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1 that we be able to put the questions without interruptions. It's our

2 examination-in-chief, not the Prosecution's.

3 PRESIDING JUDGE MINDUA: [12:44:53](Interpretation) Yes, Ms Taylor, you're

4 right, but as the concern of the Prosecutor is recurrent, perhaps it would be best firstly

5 to put the circumstantial questions as to the place and then continue with the

6 question -- put the circumstances of time and place first.

7 MS TAYLOR: [12:45:15] Thank you, Mr President. But the Prosecution had earlier

8 asked for time. I was now asking for time when I got interrupted. So I don't

9 believe you can have your cake and ate it too. I do think I should be able to ask first

10 for the time and then we get to certain questions about locations. But I think we first

11 need to situate the time we're talking about.

12 PRESIDING JUDGE MINDUA: [12:45:43](Interpretation) Very well. Please go

13 ahead.

14 MS TAYLOR: [12:45:48]

15 Q. [12:45:48] Now, Mr Witness, we're speaking of, I understand, 2012; is that

16 correct?

17 A. [12:46:19] Yes, but it could be that it's at the start of that year. When we were

18 staying there, it was that period then.

19 Q. [12:46:33] You came back from where you were fleeing to and you stayed in

20 your encampment. How long, how many weeks or days were you in your

21 encampment before you travelled to Timbuktu?

22 A. [12:47:34] I spent a month or something like that there, and then I went to

23 Timbuktu. Whatever the case, it was approximately that period, a month.

24 Q. [12:47:50] And when you arrived in Timbuktu, who was in charge of Timbuktu?

25 A. [12:48:22] At that time there were the rebels and there was also Ansar Dine.

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1 Q. [12:48:31] Do you know how long they had been there?

2 A. [12:49:00] No, I don't know that. I don't know. All I know is that when I
3 arrived in Timbuktu, I knew that there were the rebels and there was also Ansar Dine.

4 Q. [12:49:14] And why did you travel to Timbuktu?

5 A. [12:49:39] I travelled to Timbuktu because I had things to do. Sometimes I
6 would go to Timbuktu if there was somebody who would pay me to send me to go to
7 Timbuktu. I would go there for my business.

8 Q. [12:50:01] And did you have a business at this point in time?

9 A. [12:50:29] At that time I didn't have a business per se, but it was later, after this
10 period, that I opened a small business.

11 Q. [12:50:43] Now, Mr Witness, I'm just going to focus on this period of 2012, when
12 you arrived in Timbuktu and the rebels and Ansar Dine were present. And my
13 question: Why didn't you have a business at this point in time?

14 MR GARCIA: [12:51:21](Interpretation) I object, your Honour.

15 PRESIDING JUDGE MINDUA: [12:51:23](Interpretation) Yes, Prosecutor.

16 MR GARCIA: [12:51:27](Interpretation) Unless there is a problem in the transcript,
17 when I read the question that precedes this last one by the Defence, he was asked a
18 question on page 49, lines 19 onwards, as to why he travelled to Timbuktu. He said
19 he had things to do, that if somebody paid him, he would go to Timbuktu, and he
20 would go there for his business.

21 And the question put to him is why he didn't have a business at that time. And I
22 think that the witness -- that's where my confusion is. I know that he talked about
23 two different businesses, but the question has to be clear.

24 THE INTERPRETER: [12:52:12] The interpreter makes a note that he spoke about
25 *mes affaires*, in French, which can be my business, it can be my affairs as well, my

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1 dealings, so it can be either in -- in English.

2 MS TAYLOR: [12:52:27] Mr President, I believe there's been a clarification from the
3 interpreter, and I believe, page 50, line 1, he said "I didn't have a business per se." So
4 I do believe I should be entitled to clarify this with the witness.

5 PRESIDING JUDGE MINDUA: [12:52:44](Interpretation) Please go ahead, because
6 there's an issue with interpretation.

7 MR GARCIA: [12:52:48](Interpretation) If you would allow me, your Honour. I
8 didn't hear the correction of the interpreter. But if there's a correction, I'm just
9 asking a question as to the previous question where the witness affirms that he went
10 there for his business, and afterwards he confirms that he opened a small business.
11 So it would seem to be the case, according to the case that he already had a business,
12 but he opened another small business afterwards. And that is where my objection
13 comes from, because when he says he has no business is false, compared to what you
14 have in the transcript.

15 PRESIDING JUDGE MINDUA: [12:53:25](Interpretation) So, Mr Prosecutor, what I
16 would propose is that we ask the question to the witness again to clarify all of that.

17 MS TAYLOR: [12:53:36] Thank you, Mr President. I'm also getting the Tamasheq.
18 Apparently in Tamasheq, he never said he had any business before getting to
19 Timbuktu. So I do believe -- but I will put the question.

20 Q. [12:53:48] Mr Witness, at the time you first arrived at Timbuktu, did you have a
21 business at the time you first came and the groups were here -- there?

22 A. [12:54:59] I had a small business, a table, in Malian jargon. Now, even before
23 2012, when these groups arrived, when these rebel groups arrived, I had a small
24 business, and it was since I returned from Mauritania. So when I returned, my small
25 business -- well, there wasn't enough. There was just a little business that

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1 some -- that I -- there was a business that I sold and it was finished.

2 Q. [12:55:59] Mr Witness, when you said, when "I returned from Mauritania", are
3 you referring to when you returned from Mauritania in 2005-2007?

4 A. [12:56:34] Yes, yes. It is that period. It's also because you asked me the
5 question, "Did you have a small business before 2012?" And I'm answering you,
6 saying that, even before we fled, I did have a small business.

7 Q. [12:57:03] And did the rebellion have an impact on your business?

8 A. [12:57:31] Yes, it had an impact, and it was impacted by the fact that we fled.
9 So, yes, the rebellion meant that it was -- the rebellion was not favourable to my
10 business.

11 Q. [12:57:52] So were you still able to conduct your business when you came to
12 Timbuktu when Ansar Dine and the rebels were there?

13 A. [12:58:39] Yes, it's possible. But I didn't have what was necessary to have a
14 business. I sold what was remaining from it.

15 Q. [12:58:54] And why did you sell what was remaining from it?

16 A. [12:59:27] It was the -- the lack of -- there were lack of drinks from the table, that
17 I would sell from my table. When I returned, it had been stolen. It was the lack of
18 bread, lack of drinks and the instability. I didn't know at what time I would have to
19 flee, and that's what prevented me.

20 MS TAYLOR: [13:00:04] Mr President, I see it's 1 o'clock.

21 PRESIDING JUDGE MINDUA: [13:00:08](Interpretation) Indeed, you're right,
22 Ms Taylor.

23 So it's 1 o'clock. We're going to have a break for the lunch break and we will be back
24 at 2.30.

25 Court is adjourned.

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- 1 THE COURT USHER: [13:00:24] All rise.
- 2 (Recess taken at 1.00 p.m.)
- 3 (Upon resuming in open session at 2.31 p.m.)
- 4 THE COURT USHER: [14:31:44] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE MINDUA: [14:32:05](Interpretation) Court is in session.
- 7 Good afternoon to all.
- 8 I shall hand over to the Defence for the continuation.
- 9 Ms Taylor.
- 10 MS TAYLOR: [14:32:17] Thank you, Mr President.
- 11 Q. [14:32:19] Good afternoon, Mr Witness. How are you?
- 12 A. [14:32:32] I am well. Thank you.
- 13 Q. [14:32:36] Now, Mr Witness, before the break, you said you had to sell your
- 14 business because of the lack of drinks and the lack of bread. Do you remember that?
- 15 A. [14:33:07] Yes, indeed.
- 16 Q. [14:33:10] Now, Mr Witness, why was there a lack of drinks and a lack of bread?
- 17 A. [14:33:47] There was water. You talked to me about a lack of bread. Did I talk
- 18 about a lack of bread? Well, there was bread. There was just no work to be had.
- 19 Q. [14:34:00] Mr Witness, there might be an issue with the interpretation, which is
- 20 why I'm trying to clarify it.
- 21 Before the break you said there was -- you were talking about selling your business,
- 22 and you said: "It was the lack of -- there was a lack of drinks from the table that I
- 23 would sell from my table. When I returned, it had been stolen. It was a lack of
- 24 bread, the lack of drinks and the instability."
- 25 Is that correct, Mr Witness?

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1 A. [14:35:23] I did not mention water at all. I spoke about my little business, the
2 table where I would sell my goods, and my goods comprised biscuits and other such
3 goods, products.

4 Q. [14:35:53] And these products, Mr Witness, did you have access to these
5 products at the time you sold your business?

6 A. [14:36:22] What did you say? I didn't understand. I didn't hear what you said.
7 Could you please repeat what you just said.

8 Q. [14:36:34] Mr Witness, can you hear the interpretation?

9 A. [14:36:52] Yes, I can hear you.

10 Well, what I was saying is that I didn't understand your question. Could you please
11 repeat it.

12 Q. [14:37:00] Mr Witness, I'm just trying to make sure there's no problem with the
13 interpretation because you said you sold your business, and previously you cited
14 stability, the lack of stability and your lack of access to certain foodstuffs; is that
15 correct?

16 PRESIDING JUDGE MINDUA: [14:37:42](Interpretation) Madam Courtroom Officer,
17 could you please cut off the feed to the witness.

18 THE COURT OFFICER: [14:37:59] The audio connection to the witness has been
19 disconnected, Mr President.

20 PRESIDING JUDGE MINDUA: [14:38:06](Interpretation) Thank you very much,
21 Madam Courtroom Officer.

22 So, Ms Taylor, I have had the feed cut off because, for virtually half an hour, if not
23 more, you have been questioning the witness on his business. Well, the Chamber
24 does not see what the relevance is or in which direction we are going. Maybe you
25 could try to shorten your line of questioning or better explain to the Chamber. I

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1 don't want to intervene, but the Chamber is a little bit concerned.

2 MS TAYLOR: [14:38:57] Mr President, I'm happy to move on. I was just concerned
3 that I had a proper answer from the witness because he did give a few contradictory
4 responses because of the water issue. I also understand that one of the questions
5 wasn't fully interpreted. But I'll move on. It was just to make sure that it is clear
6 and that there are no ambiguities.

7 PRESIDING JUDGE MINDUA: [14:39:24](Interpretation) Very well. If you move
8 on to something else, that might be even better, but please go ahead.

9 Madam Courtroom Officer, could you reconnect the feed to the witness, please.

10 THE COURT OFFICER: [14:39:42] The audio to the witness has been reconnected,
11 Mr President.

12 PRESIDING JUDGE MINDUA: [14:39:49](Interpretation) Thank you very much,
13 Madam Courtroom Officer.
14 Ms Taylor.

15 MS TAYLOR: [14:39:55] Mr President, with your leave, I would like to go into
16 private session just to get the names of specific locations, and then we can go back
17 into private -- open session. It was just to have a clear record of certain locations that
18 were mentioned, and I believe it's easier to do so if the witness can give the names
19 without concern.

20 PRESIDING JUDGE MINDUA: [14:40:20](Interpretation) Madam Courtroom Officer,
21 private session, please.

22 (Private session at 2.40 p.m.)

23 THE COURT OFFICER: [14:40:36] We are in private session, Mr President.

24 (Redacted)

25 (Redacted).

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- 20 (Open session at 2.44 p.m.)
- 21 THE COURT OFFICER: [14:44:15] We're back in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [14:44:18](Interpretation) Thank you very much.
- 23 Ms Taylor.
- 24 MS TAYLOR: [14:44:22]
- 25 Q. [14:44:22] Now, Mr Witness, you've testified that after you came back, you went

1 into Timbuktu and you had sold your business at this point. Were you able to find
2 paid work?

3 A. [14:45:08] There was no work. There was no work. It was impossible to find
4 work. Very difficult.

5 Q. [14:45:17] Why was it so difficult?

6 A. [14:45:51] The document that you showed me previously, basing myself on that,
7 even when there was stability in the area, it was very difficult to find work, and even
8 more so when there was instability and insecurity.

9 Q. [14:46:16] So, Mr Witness, how did you support yourself at this time?

10 A. [14:47:02] I was living on what I had. I had a few goats here and there. I often
11 sold them. I would move around in order to sell them and find means of supporting
12 myself. That was how things were.

13 Q. [14:47:24] Now, you've mentioned a group called Ansar Dine. Did you have
14 any relationship to this group or any interactions with it?

15 A. [14:48:12] No, not really. When I came back to Timbuktu to look for work, they
16 saw me, (Redacted)

17 Q. [14:48:36] (Redacted)

18 A. [14:48:56] (Redacted).

19 Q. [14:48:59] Who did you understand to be the leader of Ansar Dine?

20 A. [14:49:34] The leader of Ansar Dine at the time -- well, I remembered that people
21 were saying that the leader of Ansar Dine was Iyad.

22 Q. [14:49:49] Was this a name you'd heard before?

23 A. [14:50:05] Yes, I have -- or had heard speak of him beforehand.

24 Q. [14:50:12] And what had you heard about him?

25 A. [14:50:34] As to what I heard about him, I don't quite know what you mean by

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1 that.

2 Q. [14:50:43] Was he either Tuareg?

3 A. [14:50:55] Yes, he is a Tuareg.

4 Q. [14:51:00] When you joined, did you know anything about his history, his past?

5 A. [14:51:26] No, I didn't know him. I just heard that he was their leader. I was
6 in the habit of hearing his name, but I didn't know him.

7 Q. [14:51:44] So you said earlier that the group saw you and they hired you
8 (Redacted). Why did you accept?

9 A. [14:52:24] Because there was no work, and they had offered me a job with which
10 I could provide for my family. And that's why I took it.

11 Q. [14:52:44] Do you recall roughly how much you were given?

12 A. [14:53:14] No, I do not remember precisely what I earned. I just remember that
13 they motivated me. They gave me some money and a little bit of food, but I do not
14 remember the precise sum of money.

15 Q. [14:53:41] I understand that you don't recall the precise amount of money, but
16 do you recall if it was a lot or if it was just enough? What do you recall about the
17 amount?

18 A. [14:54:26] No, I really don't remember precisely how much.

19 MS TAYLOR: [14:54:38] Mr President, I have some questions to ask in private
20 session.

21 PRESIDING JUDGE MINDUA: [14:54:47](Interpretation) Madam Courtroom Officer,
22 please.

23 (Private session at 2.55 p.m.)

24 THE COURT OFFICER: [14:55:04] We are in private session, Mr President.

25 (Redacted)

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22 (Open session at 2.59 p.m.)

23 THE COURT OFFICER: [14:59:44] We're back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [14:59:49](Interpretation) Thank you very much.

25 Ms Taylor.

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1 MS TAYLOR: [15:00:02]

2 Q. [15:00:02] Now, Mr Witness, the building in the area that we were just talking
3 about, what type of a building was it? Was it privately owned? Was it publicly
4 owned?

5 A. [15:00:39] Are you talking about the building that I lived in or (Redacted)
6 (Redacted)

7 Q. [15:00:48] Thank you, Mr Witness, for making that distinction. It wasn't clear
8 before you.

9 I believe I'll have back to go back into private session.

10 PRESIDING JUDGE MINDUA: [15:01:04](Interpretation) Madam Courtroom Officer,
11 private session, please.

12 (Private session at 3.01 p.m.)

13 THE COURT OFFICER: [15:01:22] We are in private session, Mr President.

14 (Redacted)

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2 (Redacted)

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4 (Open session at 3.08 p.m.)

5 THE COURT OFFICER: [15:08:44] We're back in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [15:08:46](Interpretation) Thank you very much.

7 Ms Taylor.

8 MS TAYLOR: [15:08:49]

9 Q. [15:08:49] Mr Witness, we were speaking about a *madrassa* in Timbuktu. Who
10 attended it? Who were the students? I don't need names. Just a general
11 description.

12 A. [15:09:53] It was just children from different tribes, Tamasheq, Sango, Arabs.

13 Q. [15:10:12] Mr Witness, the transcript and the interpretation said Sango. Did
14 you mean Sango or Songhai?

15 A. [15:10:52] Yes, indeed, it was Songhai. They're also called Songhoi.

16 Personally, I don't call them Songhoi, but I know people who call them that.

17 Q. [15:11:10] And what were the ages of the children?

18 A. [15:11:31] They were different ages. They were between seven and 15 years
19 old.

20 Q. [15:11:40] And did these children come from the local population? Were they
21 from outside Timbuktu? Were they from outside Mali? Where did they generally
22 come from?

23 A. [15:12:14] No, not at all. They were just children from Timbuktu.

24 Q. [15:12:23] And their parents, were they members of the group, or were they just
25 civilians from Timbuktu, or both?

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1 A. [15:13:12] As for most of them, I didn't know their parents. I didn't know all
2 their parents, but I know that there were some who had Arab parents. I don't know
3 if they were in groups or if they were parents who were in groups, (Redacted)
4 (Redacted), they were from Timbuktu.

5 Q. [15:13:44] And did the children's parents have to pay any money for them to
6 attend the school?

7 A. [15:14:26] As far as I know, no. I don't think they had to pay for their children.
8 (Redacted)
9 (Redacted)

10 Q. [15:14:42] (Redacted)
11 (Redacted)

12 A. [15:15:08] No. They were just boys.

13 Q. [15:15:12] And was there a similar Koranic school for girls?

14 A. [15:15:39] Yes. I heard it existed, but I didn't see it.

15 Q. [15:15:44] And the teachers, were they male or female?

16 A. [15:16:05] As far as I know, the teachers were women.

17 Q. [15:16:10] And if you don't know, that's okay, but were these female teachers
18 also paid by the group?

19 A. [15:16:55] Unfortunately, I can't clarify that subject. I don't know anything
20 about that, unfortunately.

21 Q. [15:17:01] That's perfectly okay, Mr Witness.

22 Mr President, I have some questions which I believe should be in private session.
23 Then we can go back into open session. I just have about four, five questions.

24 PRESIDING JUDGE MINDUA: [15:17:30](Interpretation) Court officer, please take
25 us into private session.

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- 1 (Private session at 3.17 p.m.)
- 2 THE COURT OFFICER: [15:17:45] We are in private session, Mr President.
- 3 (Redacted)
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- 12 (Open session at 3.24 p.m.)
- 13 THE COURT OFFICER: [15:24:45] We're back in open session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [15:24:51](Interpretation) Thank you very much.
- 15 Ms Taylor.
- 16 MS TAYLOR: [15:24:54]
- 17 Q. [15:24:54] Now, Mr Witness, you were just explaining what the word "*mazhab*"
- 18 means, and we're referring to a document which has on its cover page that it's based
- 19 on Al Akhdari's text concerning the Fiqh and the Malekite school of thought.
- 20 (Redacted) Malekite school of thought or the
- 21 thought of Imam Malik?
- 22 A. [15:26:24] I was coming to the point that you just mentioned.
- 23 Q. [15:26:34] Please explain.
- 24 A. [15:26:54] Well, I started with the first point, *mazhab*. The first point of *mazhab*
- 25 and all the other points are sources thereof, the part of the Prophet Mohamed,

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1 blessings be upon him. And his path is also called sharia. And this document that
2 you showed to me, that Al Akhdari, that is the path or the thought of Malik.

3 Q. [15:27:47] And why was the thought of Malik, the Malekite thought, why was
4 that being used?

5 A. [15:28:30] No, it's not the only school of thought that's followed. That's not the
6 only school of thought that's followed or the only doctrine followed. There are
7 several others. But whatever the case, the majority in Timbuktu followed that
8 thought, and in Mauritania and in Algeria and in Maghreb, in north Africa.

9 And I would also like to give you an explanation around *mazhab* in order to shed light
10 on that, in order to explain exactly what that means.

11 Q. [15:29:18] Certainly, Mr Witness.

12 A. [15:30:02] The thoughts are many in number, and they all gain their source from
13 one single thought and doctrine. There are scholars who make a construct of their
14 thoughts processes, subsequent to which the students then disseminate the thought
15 processes of these scholars.

16 MS TAYLOR: [15:30:39] Mr President, I believe it will be necessary to go into private
17 session to get a little bit more specificity in this, because otherwise we're going to get
18 very general answers. I do need to ask the witness about something concerning him.

19 PRESIDING JUDGE MINDUA: [15:31:06](Interpretation) Very briefly, Ms Taylor.
20 Madam Courtroom Officer, private session, please.

21 (Private session at 3.31 p.m.)

22 THE COURT OFFICER: [15:31:25] We're in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 9 (Redacted)
- 10 (Open session at 3.33 p.m.)
- 11 THE COURT USHER: [15:33:12] We're back in open session, Mr President.
- 12 PRESIDING JUDGE MINDUA: [15:33:16](Interpretation) Thank you very much.
- 13 Ms Taylor.
- 14 MS TAYLOR:
- 15 Q. [15:33:21] Now, Mr Witness, we're speaking of a specific madrasa in Timbuktu.
- 16 Why were the teachings of Imam Malik used at this --
- 17 MR GARCIA: [15:33:34] *Je m'objecte*.
- 18 PRESIDING JUDGE MINDUA: [15:33:35](Interpretation) Mr Prosecutor.
- 19 MR GARCIA: [15:33:37](Interpretation) So, Mr President, I let two questions that
- 20 were already suggested in this regard, concerning the matter broached by my
- 21 learned counsel. He's already answered, and these were suggestive questions, as to
- 22 the line of thought or the -- that was used in the madrasa.
- 23 Lines 1 to 3 in page 69: (Speaks English) (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 And then subsequently, a little lower down, once again, the same question that has
3 just been put at line 13 of page 69: "And why was the Malekite school of thought
4 used?"

5 And the answer was given by the witness saying that it was not the only thought of
6 school that was followed. And he went on to explain.

7 So we are now at number three, the third time that this question is being put and in a
8 suggestive manner. An open question could have been put to him from the get-go
9 as to the school of thought that was used in this school. So we've had two suggestive
10 questions, and this is now the third, to which I'm objecting.

11 PRESIDING JUDGE MINDUA: [15:35:13](Interpretation) Ms Taylor, what do you
12 answer to that?

13 MS TAYLOR: [15:35:20] Thank you, Mr President.

14 (Redacted)

15 (Redacted) Then we need to go into private session, which is the
16 problem I'm facing, posing these questions in open session.

17 PRESIDING JUDGE MINDUA: [15:35:41](Interpretation) Whatever the case may be,
18 I do believe that the witness has already answered, and we can move on to something
19 else.

20 MS TAYLOR: [15:35:48] Mr President, With the greatest respect, the witness has
21 stated that the Al Akhdari text was applied. He then confirmed that the Al Akhdari
22 text follows the thought of Imam Malik. I then believe that there was a confusion in
23 that the witness's answer was talking in general about the Muslim population in the
24 world following different schools of thought, which is why he's referring to
25 Mauritania and other countries in northern Africa. That's why I went into private

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1 session, to specify that I was only referring to a particular madrasa. And that is my
2 concern, that if I have to do everything in open session, I have to frame things
3 generally, which create confusion.

4 But the witness has confirmed that the Al Akhdari text was applied in this madrasa.

5 So I do believe I should be entitled to ask follow-up questions on why the Al Akhdari
6 text was used and followed at this madrasa.

7 I don't believe we need any further debate. He's recognised the document. He's
8 confirmed that it was used. On the face of the document, you can read what it says,
9 Mr President.

10 PRESIDING JUDGE MINDUA: [15:37:15](Interpretation) In that case, you will agree
11 with me that we move on to something else, because we'd already had the answer to
12 this question.

13 MS TAYLOR: [15:37:23] Mr President, I've not had the answer to the question, and I
14 have follow-up questions. This is a very important topic, and I do ask that we be
15 given the opportunity to fairly put our case to the witness.

16 PRESIDING JUDGE MINDUA: [15:37:41](Interpretation) Ms Taylor, because we do
17 need to move forward, I believe that we should move into private session, you will
18 put one open question to this witness, and then we shall tie up this chapter.

19 Madam Courtroom Officer --

20 MS TAYLOR: [15:38:02] Mr President, with the greatest respect, with the greatest
21 respect, this is a very important and complex issues. I've been facing interpretation
22 issues. My questions aren't always translated. And to say that we only have one
23 question on this, effectively deprives us of our ability to go through this with the
24 witness in a logical step-by-step way, which I'm trying to do, but I have faced
25 interpretation issues. And particularly because this witness does speak two different

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1 languages, there's sometimes necessary to use a melange of words and to confirm that
2 he knows exactly what I'm talking about.

3 PRESIDING JUDGE MINDUA: [15:38:45](Interpretation) Mr Prosecutor.

4 MR GARCIA: [15:38:48](Interpretation) Just for reference, Mr President, the
5 question was put --

6 PRESIDING JUDGE MINDUA: [15:38:53](Interpretation) Are we still in open
7 session?

8 MR GARCIA: [15:38:55](Interpretation) Yes, certainly.

9 At -- and I can see - one moment - at page 69, line 9 of the French transcript, the
10 question, the same question, indeed, that has just been put to him, was put here as
11 well. And we can see the answer from the witness who explains essentially what he
12 has to say about this question, which was suggestive. I have no objection to open
13 questions. This is a Defence witness.

14 PRESIDING JUDGE MINDUA: [15:39:33](Interpretation) Very well.

15 So, Ms Taylor, this is your witness. Put on -- put an open question, and then the
16 Chamber will be the judge of it.

17 MS TAYLOR: [15:39:50]

18 Q. [15:39:53] So, Mr Witness, at page 69, lines 10 to 12, you explained that the Al
19 Akhdari, that is, the thought of Imam Malik, was being used. Do you recall that?
20 And the reference is lines 7 to 12.

21 Mr Witness.

22 MR GARCIA: [15:40:52](Interpretation) Could we ...

23 PRESIDING JUDGE MINDUA: [15:40:53](Interpretation) Yes, Mr Prosecutor.

24 MR GARCIA: [15:40:55](Interpretation) I don't know whether it has been well
25 interpreted. I'm looking for what my learned friend is referring to, unless it's

1 different in the English language. Page 69, lines 7 to 12 -- and I do not know where it
2 comes out that it was used. Well, I do not see this in the English version, 7 to 12,
3 lines 7 to 12.

4 (Speaks English) "The first point of *mazhab* and all the other points are sources thereof.
5 The part of the Prophet Mohamed, blessings be upon him. And his path is also
6 called sharia and this document that you showed me ... that is the path or the thought
7 of Malik."

8 (Interpretation) So this is not at all what my lend friend from the Defence is claiming
9 when she says, and I quote her at page 69, lines 10 to 12: "You explained that Al
10 Akhdari was used." And the witness never stated that it was used. And it was not
11 that reference that was given by learned counsel from the Defence.

12 THE INTERPRETER: [15:42:06] Message from the English booth: Could Counsel
13 Garcia please be mindful of not mixing his languages.

14 MR GARCIA: [15:42:14](Interpretation) In fact, it's suggestive and it's coming out of
15 nowhere.

16 PRESIDING JUDGE MINDUA: [15:42:19](Interpretation) Ms Taylor.

17 MS TAYLOR: [15:42:20] Thank you very much, Mr President.

18 The witness actually used the word "Al Akhdari" earlier, before I showed the
19 document, when I was asking him what was taught at the school. And then I
20 showed the document and he recognised it.

21 Now, I can ask the obvious question, just for confirmation, because we did hear it and
22 we did get confirmation that he used that word before I showed that document. But
23 I can again ask the question.

24 I think this is wasting time, these objections. I can't see any objection to me just
25 asking the question in private session, because it will need to be in private session.

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1 PRESIDING JUDGE MINDUA: [15:43:11](Interpretation) That was the solution that
2 I had suggested a few moments ago. So we're going to go into private session for
3 one open question, and then we shall put a line under this chapter.

4 Madam Courtroom Officer, private session, please.

5 (Private session at 3.43 p.m.)

6 THE COURT OFFICER: [15:43:37] We're in private session, Mr President.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

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- 25 (Open session at 3.56 p.m.)

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1 THE COURT OFFICER: [15:56:35] We're back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [15:56:40](Interpretation) Thank you very much.

3 Ms Taylor.

4 MS TAYLOR: [15:56:45]

5 Q. [15:56:45] Now, Mr Witness, I'm still speaking about a particular madrasa in

6 Timbuktu in 2012. Did the children at this -- at this school receive sermons

7 concerning the type of clothes that should be worn?

8 A. [15:57:49] No, I don't know whether they had any instructions. Not to my

9 knowledge. These are very young children who do not understand much, you

10 know.

11 Q. [15:58:06] So were young children required to wear a type of clothing, or was it

12 more of an advice for the young children?

13 A. [15:58:50] Yes, of course, they can dress as they like. These are minors, children

14 who have not yet reached adulthood.

15 MS TAYLOR: [15:59:06] Mr President, it's 4 o'clock.

16 PRESIDING JUDGE MINDUA: [15:59:14](Interpretation) You are right, Ms Taylor.

17 Mr Witness, we have reached the end of the hearing for today. The Chamber would

18 like to thank you for answering the questions that were put to you in a very clear

19 fashion. Tomorrow your testimony shall continue. And before then, please

20 remember that you are not allowed to speak to anybody about your testimony,

21 whether it be members of your family or friends.

22 So we shall continue tomorrow morning at 9.30.

23 And before rising for today, I would like to thank, as always, the parties, the

24 participants, the court reporters, the interpreters, our public in the gallery and further

25 afield and, of course, our security guards. And I would wish you all a pleasant

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- 1 evening, and see you tomorrow.
- 2 Court is adjourned.
- 3 THE COURT USHER: [16:01:18] All rise.
- 4 (The hearing ends in open session at 4.01 p.m.)