

Trial Hearing
WITNESS: MLI-D28-P-0213

(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 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 7 September 2022
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: [9:34:31] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:35:09](Interpretation) Court is in session.
14 Good morning to one and all.
15 Court officer, would you mind calling the case, please.
16 THE COURT OFFICER: [9:35:25] Good morning, Mr President, your Honours.
17 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
18 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
19 And for the record, we are in open session.
20 PRESIDING JUDGE MINDUA: [9:35:41](Interpretation) My thanks, court officer.
21 All right. As custom dictates, we will now turn to the appearances, and let's start
22 with the Prosecution, please.
23 The Prosecutor.
24 MS YAMAGUCHI: [9:36:02] Good morning, Mr President, your Honours. The
25 Prosecution is represented today by Lucio Garcia to my back, Gilles Dutertre on my

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1 left, and myself, Yayoi Yamaguchi. And I take the opportunity to greet everyone in
2 and around the courtroom. Thank you.

3 PRESIDING JUDGE MINDUA: [9:36:32](Interpretation) I'm grateful. Thanks very
4 much, Madam Yamaguchi.

5 I turn to the Defence.

6 Counsel.

7 MS GERRY: [9:36:38] Good morning, Mr President, your Honours. I've
8 remembered to turn the microphone on this morning. I'll try and keep to that every
9 day.

10 The Defence today are represented by myself, Felicity Gerry; by Cécile Lecolle, who
11 sits to my right; and by Mr Maauloud Al Ansary, who sits behind me nearest to
12 Mr Al Hassan, who is here. And I also take the opportunity to greet everyone in
13 court. Thank you.

14 PRESIDING JUDGE MINDUA: [9:37:08](Interpretation) Thank you very much,
15 Mrs Gerry. And I see that the accused is in attendance.

16 I turn to the LRVs.

17 Counsel.

18 MR KASSONGO: [9:37:25] (Interpretation) Thank you very much, honourable
19 members of the Bench. Good morning to one and all. The LRVs this morning is
20 staffed by Mrs Romane Tovia Vila, to my right, myself, Mr Kassongo. The entire
21 team wishes us a good and profitable work today. Thanks very much, your Honour.

22 PRESIDING JUDGE MINDUA: [9:37:48](Interpretation) Thank you very much,
23 Counsel Kassongo.

24 I now turn to the witness.

25 Good morning, Witness. Can you hear me properly?

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2 (The witness speaks Tamasheq)

3 (The witness gives evidence via video link)

4 THE WITNESS: [9:38:08](Interpretation) Yes, I can.

5 PRESIDING JUDGE MINDUA: [09:38:10](Interpretation) My thanks, Mr Witness.

6 On behalf of the Chamber, I wish you a warm welcome among us this morning.

7 THE WITNESS: [9:38:23](Interpretation) I can hear you.

8 PRESIDING JUDGE MINDUA: [9:38:29](Interpretation) You are going to be offering

9 evidence to help the Chamber shed -- come to a determination of truth in the case

10 regarding Mr Al Hassan.

11 THE WITNESS: [9:38:57](Interpretation) God willing.

12 PRESIDING JUDGE MINDUA: [9:39:03](Interpretation) Protective measures have

13 been implemented to ensure that your identity is not disclosed to the public.

14 THE WITNESS: [9:39:27](Interpretation) I have heard what you've said,

15 your Honour.

16 PRESIDING JUDGE MINDUA: [9:39:31](Interpretation) Whenever you have to

17 provide details that may reveal your identity, we will move into private session to

18 address those points.

19 THE WITNESS: [9:39:55](Interpretation) God willing.

20 PRESIDING JUDGE MINDUA: [9:39:58](Interpretation) Consequently, nobody

21 beyond those sitting in this courtroom will be able to hear you.

22 THE WITNESS: [9:40:15](Interpretation) God willing.

23 PRESIDING JUDGE MINDUA: [9:40:18](Interpretation) Let me now move to your

24 solemn undertaking under Rule 66 of the Rules of Procedure and Evidence,

25 paragraph 1. This is the solemn undertaking by virtue of which you must swear to

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1 tell the truth, the whole truth.

2 So, Witness, repeat after me what I will be saying in just a moment: I solemnly
3 swear that I will tell the truth.

4 THE WITNESS: [9:41:27](Interpretation) I will tell the truth. I solemnly declare to
5 tell the truth.

6 PRESIDING JUDGE MINDUA: [9:41:37](Interpretation) The whole truth and
7 nothing but the truth.

8 THE WITNESS: [9:41:45](Interpretation) The whole truth and nothing but the truth.

9 PRESIDING JUDGE MINDUA: [9:41:53](Interpretation) Mr Witness, you are now
10 under oath. The VWU as well as the Defence counsel have already told you what
11 that entails.

12 THE WITNESS: [9:42:28](Interpretation) I've understood.

13 PRESIDING JUDGE MINDUA: [9:42:31](Interpretation) Very well. I have one or
14 two practical points for you. You need to bear in mind throughout the entirety of
15 your oral evidence that everything that is said in this courtroom is transcribed by
16 court reporters and interpreted in a number of languages by interpreters.

17 Consequently, it's important that you enunciate clearly and you speak slowly.

18 Please only begin speaking when the question has -- that is being put to you has
19 finished.

20 THE WITNESS: [9:43:54](Interpretation) God willing.

21 PRESIDING JUDGE MINDUA: [9:43:56](Interpretation) Very well. So without
22 further ado, I will now be handing over to the Defence.

23 The Defence will embark upon its examination-in-chief, subsequent to which we will
24 be hearing from the Prosecution and, in all likelihood, from the Legal Representatives
25 for the Victims.

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1 So I turn to the Defence.

2 Counsel Gerry, over to you.

3 MS GERRY: [9:44:22] Thank you, Mr President. I'm going to start with issues of
4 identification, so may we go into private session, please.

5 PRESIDING JUDGE MINDUA: [9:44:33](Interpretation) Very well. So for the
6 public, how long will this take exactly?

7 MS GERRY: [9:44:42] Two minutes. Maybe two minutes.

8 PRESIDING JUDGE MINDUA: [9:44:47](Interpretation) Very well. Thank you
9 very much, Counsel Gerry.

10 Court officer, can we into private session, please.

11 *(Private session at 9.45 a.m.) (Reclassified partially in public)

12 THE COURT OFFICER: [9:45:02] We are in private session, Mr President.

13 PRESIDING JUDGE MINDUA: [9:45:13](Interpretation) Thank you very much,
14 court officer.

15 Over to you, counsel.

16 MS GERRY: [9:45:17] Thank you, Mr President.

17 QUESTIONED BY MS GERRY:

18 Q. [9:45:19] Mr Witness, can you give us your full name, please.

19 A. [9:45:38] My name is (Redacted).

20 Q. [9:45:45] Thank you. Can you tell us your date of birth, please?

21 A. [9:46:05] I was born in Timbuktu in (Redacted).

22 Q. [9:46:16] Do you know the exact date?

23 A. [9:46:34] No. Because I wasn't born in a hospital.

24 Q. [9:46:40] Are you a member of a tribe?

25 A. [9:46:57] Yes. I am a member of a tribe.

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- 1 Q. [9:47:01] Can you tell us which tribe, please.
- 2 A. [9:47:06] (Redacted), that's my tribe.
- 3 Q. [9:47:28] Can you tell us the names of your parents, please.
- 4 A. [9:47:46] My mother is (Redacted), my father, (Redacted). Those are their names.
- 5 Q. [9:47:58] Can you tell us your occupation, please.
- 6 A. [9:48:05] I'm (Redacted).
- 7 Q. [9:48:20] And have you always been a driver?
- 8 A. [9:48:37] Yes. I only know how to do that job.
- 9 Q. [9:48:46] You told us you were born in Timbuktu. Did you live in a particular
10 area or district or neighbourhood?
- 11 A. [9:49:10] Yes. I live in (Redacted) in Timbuktu.
- 12 Q. [9:49:17] When we go back into public session, I will simply refer to that as
13 "your neighbourhood", I won't give the name of the neighbourhood. Do you
14 understand?
- 15 A. [9:49:44] Yes, I have taken due note. I've understood.
- 16 Q. [9:49:54] And it would be good if you do the same. If you need to mention
17 your neighbourhood, just say "my neighbourhood".
- 18 A. [9:50:14] I've understood.
- 19 Q. [9:50:15] Thank you.
- 20 MS GERRY: [09:50:16] Mr President, may we go back into public session now,
21 please.
- 22 PRESIDING JUDGE MINDUA: [9:50:22](Interpretation) Court officer, open session,
23 please.
- 24 (Open session at 9.50 a.m.)
- 25 THE COURT OFFICER: [9:50:28] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [9:50:47](Interpretation) Thank you very much,
2 court officer.
3 Counsel Gerry.

4 MS GERRY: [9:50:52] Thank you, Mr President.

5 Q. [9:50:54] Mr Witness, the first topic I want to ask you about is about life in
6 Timbuktu. The particular time that we are interested in is the year 2012, when
7 a group called Ansar Dine were in Timbuktu.

8 Can you tell us what life was like in Timbuktu in 2012, in terms of security?

9 A. [9:52:38] Now, in terms of safety, I would say it was better during that period
10 than it is today. Because today, there are kidnappings, there are shootings, which
11 wasn't the case in that particular period.

12 Q. [9:52:59] Are you able to compare the period 2012, when Ansar Dine were in
13 Timbuktu, with how it was before Ansar Dine were in Timbuktu in terms of security,
14 please.

15 A. [9:54:01] Now, about that situation, I can say that in terms of safety when
16 Ansar Dine was there, there weren't any problems. The blacks didn't have any
17 problem with the light-skinned people. The light-skinned people didn't have any
18 problem with the blacks; whereas today, all those who have power and influence,
19 they can fire upon their neighbour if they see fit.

20 Q. [9:54:49] Thank you. You've helped us with a comparison between the time
21 when Ansar Dine were present in Timbuktu and today. Are you able to help us with
22 a comparison between the time when Ansar Dine were present and before that time?

23 A. [9:56:10] Before Ansar Dine's arrival, there weren't any problems at all. And
24 when Ansar Dine arrived, problems began, but Ansar Dine ensured that those
25 problems were appeased. And during Ansar Dine's presence, there weren't any

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1 problems at all. But once they left, the problems crept back in.

2 Q. [9:56:37] And just so that we are clear, when you say the "problems crept back
3 in," what type of problems are you talking about?

4 A. [9:57:44] What I -- what I mean by the problems returned, is that today, after
5 their departure, all the way through to today, the blacks -- or the problems flared up
6 again between light-skinned people and the blacks and vice versa.

7 So the blacks were no longer entitled to move around in a vehicle or a luxury vehicle.

8 Q. [9:58:24] You mentioned kidnappings and shootings today. Are you able to
9 give us any brief examples?

10 A. [9:59:09] Yes, I'm aware of certain things and I know other things, and I can't
11 remember the names of -- of those who were targeted by those actions. I also know
12 that there were people who were in their home because -- that were killed in their
13 own home. Killed because of a telephone or a vehicle or a good that they were
14 owners of.

15 THE INTERPRETER: [10:00:05] Clarifies the interpreter.

16 MS GERRY: [10:00:09]

17 Q. [10:00:11] Thank you. The topic that I was asking you about was life in
18 Timbuktu when Ansar Dine were in Timbuktu in 2012. Can you help us to
19 understand what life was like in 2012 when Ansar Dine were present in terms of
20 essential services, please.

21 A. [10:01:52] When Ansar Dine was present, we didn't pay for water or electricity.
22 And they distributed goods that arrived in the shops to the neighbourhood.

23 Q. [10:02:12] Are you able to help us as to what type of goods were distributed to
24 the neighbourhood, please.

25 A. [10:03:02] Oil, rice, and medication, so we didn't have to pay for anything -- any

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1 of these. And if we needed to go to hospital, we didn't have to pay for that either.

2 Q. [10:03:28] Thank you. Are you able to help us with a comparison with what it
3 was like for essential services before Ansar Dine were present?

4 A. [10:04:34] That's what I was saying earlier. When Ansar Dine was there, we
5 were safe, we had a safe life and we could move and spend the night -- spend the
6 night elsewhere. We can't do that today.

7 Q. [10:04:59] Thank you for the comparison to today. Are you able to help us as
8 to a comparison when Ansar Dine was present and the time before Ansar Dine were
9 present?

10 A. [10:06:20] The difference that I can make between the period and the period
11 when Ansar Dine came was that we went back to the -- our previous life. The
12 security that we had before, everything that we had before. When they arrived,
13 there were some problems and then they calmed these problems and brought us back
14 to the way of life we'd had before.

15 Q. [10:06:53] Thank you. I just want to check one issue of translation. When you
16 were telling us about the distribution of goods to the neighbourhood, the translation
17 to me, in English, was: "Oil, rice, and medication". I'm told that in your language,
18 the translation was: Oil, rice and millet and medication.
19 Could you help me as to which is correct, please.

20 A. [10:08:21] What I said was the products were rice --

21 THE INTERPRETER: [10:08:24] And the word that is being used in French is
22 *mill* -- which is -- sorry, a correction from the Tamasheq-French booth, "millet".

23 MS GERRY: [10:08:47]

24 Q. [10:08:47] Thank you. The next topic I want to ask you about is religion, please.
25 Can you tell us your religion.

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1 A. [10:09:21] I am Muslim.

2 Q. [10:09:22] Thank you. And as a Muslim, do you have knowledge of sharia
3 law?

4 A. [10:10:01] No, I don't know sharia, but there are those amongst us who teach us
5 the rules of sharia and there are some rules that we also learn at home from a very
6 young age.

7 Q. [10:10:22] Are you able to help us to understand what sharia law means to you
8 as a Muslim, please?

9 A. [10:11:03] For me, as a Muslim, sharia doesn't give any problems, it exists, and
10 we notice that only when it is not there. And it is what God has ordained.

11 Q. [10:11:33] Do you agree with or are you opposed to sharia law?

12 A. [10:12:11] I can't be opposed to sharia law, but I cannot apply it myself either.

13 Q. [10:12:22] Can you help us to understand what you mean when you say you
14 "can't be opposed to sharia law". Help to explain it to us who may not be Muslims,
15 please.

16 A. [10:13:31] Yes, I can say that -- I can help you to understand because I have
17 always been a Muslim.

18 Q. [10:13:46] I'm told that you may not have understood my question and I'm sorry
19 about that. I'm going to try to rephrase it.

20 The translation of your answer to me was that you cannot be opposed to sharia law,
21 but you also cannot apply it. I'm trying to break that down into two parts; firstly, for
22 you to explain why you cannot be opposed to sharia law; later, I will ask you about
23 how it -- how you cannot apply it.

24 So my question is, can you help us to understand why you cannot be opposed to
25 sharia law?

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1 A. [10:16:21] To explain this part, let me give you a recent example. In our
2 country, a few days ago -- or some time ago, the government decided to prohibit
3 shisha. We were no longer allowed to smoke shisha and anybody who decided to
4 smoke it was committing an offence against the law. And it's the same for
5 when they were -- as when they were there, but -- so anyone who contravenes a law
6 that has been imposed is committing an offence.

7 Q. [10:17:11] So the second question I have on this topic is, can you explain to us
8 why you cannot apply sharia law, please.

9 A. [10:18:14] I don't have any powers to apply sharia law.

10 Q. [10:18:27] Thank you. Can you help us to understand who does have the
11 power to apply sharia law, please.

12 A. [10:19:05] I can't help you with this question.

13 Q. [10:19:13] Were you aware of the use of sharia law in Timbuktu when
14 Ansar Dine were present in 2012?

15 A. [10:20:03] Yes, I'm aware of that and I was even present at that time.

16 Q. [10:20:11] And were you aware of the use of sharia law after Ansar Dine were
17 present, after they'd gone from Timbuktu?

18 A. [10:20:49] I didn't understand your question.

19 MR DUTERTRE: [10:20:56](Interpretation) Your Honour?

20 PRESIDING JUDGE MINDUA: [10:20:59](Interpretation) Prosecutor.

21 MR DUTERTRE: [10:21:02] Maybe my -- I will speak in English because then it
22 doesn't need to be translated to the witness, if you allow so, sir.

23 These are very general questions. Sharia law can be subject to many interpretations,
24 many schools, so we don't actually know what we are talking about.

25 And also in terms of time frame, when we say "after" -- "after they left", was it

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1 immediately after? Is it one year after? Is it in 2023 -- 2017? So it is very, very
2 broad.

3 Third, we can see that the witness has difficulties with answering questions put by
4 my dear colleague and he does -- he says he doesn't know about sharia, and he simply
5 doesn't understand and pick up on certain questions. So I'm not sure that so general
6 questions can help him understand and will eventually help the Chamber to decide
7 on something that will be relevant to the case against Mr Al Hassan. Thank you.

8 PRESIDING JUDGE MINDUA: [10:22:15](Interpretation) Thank you, Mr Prosecutor.

9 MS GERRY: [10:22:19] I accept the objection. I'm going to -- I accept the objection.

10 I shall continue in hopefully a way that makes the evidence clearer.

11 PRESIDING JUDGE MINDUA: [10:22:31](Interpretation) Thank you very much.

12 Ms Gerry, please continue.

13 MS GERRY: [10:22:36]

14 Q. [10:22:36] Mr Witness, I think this might be my last question on this topic. Just
15 trying to understand who had the knowledge of sharia law in Timbuktu. Is there
16 a label for the people who used sharia law in Timbuktu, the people who have the
17 knowledge?

18 A. [10:23:43] Yes. Yes, people were aware of sharia. Everybody was aware of
19 this and of the rules that were in place. So every time anyone contravened one of
20 these rules, then people were aware that they were committing an offence.

21 Q. [10:24:23] Thank you. You told us before that someone decided, someone
22 made decisions, that was in your answer before, anyone who decided. Can you help
23 us as to who made decisions about sharia law, please.

24 PRESIDING JUDGE MINDUA: [10:24:57](Interpretation) Madam Prosecutor.

25 MS YAMAGUCHI: [10:25:00] Thank you, Mr President. Could the Defence please

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1 give us the reference where the witness allegedly referred to someone making
2 decisions, please.

3 PRESIDING JUDGE MINDUA: [10:25:19](Interpretation) Ms Gerry.

4 MS GERRY: [10:25:21] Thank you. I was going from my handwritten notes. I will
5 just have to check back in the transcript. It may take me a few minutes. It may be
6 more helpful for me to ask the question in a different way; that would probably be
7 quicker than me going through the transcript. I wonder if I might simply ask, Does
8 he know who made decisions about sharia law in 2012.

9 PRESIDING JUDGE MINDUA: [10:25:53](Interpretation) Yes, in that case, please
10 rephrase.

11 MS GERRY: [10:25:56]

12 Q. [10:25:56] Mr Witness, can you help us as to who made decisions about sharia
13 law in Timbuktu in 2012, please, when Ansar Dine were present.

14 A. [10:26:42] Could you please explain very clearly what you mean by this question?
15 What is the subject of your question?

16 Q. [10:26:54] I'm very sorry, Mr Witness, that my questions are not clear. I will try
17 it one more time and then if this doesn't work, I will move on to a new topic.

18 PRESIDING JUDGE MINDUA: [10:27:10](Interpretation) Yes, please go ahead,
19 Ms Gerry.

20 MS GERRY: [10:27:13]

21 Q. [10:27:14] In Timbuktu, in 2012, if a decision had to be made about how sharia
22 law was applied, who would make those decisions, please?

23 A. [10:28:13] This is a question which relates to authority and I don't have any
24 knowledge of that and -- because there was an authority -- they were like the
25 authority in Timbuktu.

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1 Q. [10:28:43] I'm going to move on.

2 PRESIDING JUDGE MINDUA: [10:28:49] (No interpretation)

3 MS GERRY: [10:28:52]

4 Q. [10:28:52] The next topic I want to ask you about, Mr Witness, is Ramadan, in
5 2012, when Ansar Dine were present. That's the next topic that I want to ask you
6 about. Do you remember Ramadan in 2012, when Ansar Dine were present?

7 A. [10:30:53] Yes. Yes, I was aware of the Ramadan period in 2012, when
8 Ansar Dine was on site. And one day I left the fields, it was around 4 p.m. or 3 p.m.,
9 and (Redacted) I saw that everything was -- everybody was up in
10 arms. And I asked my neighbour what was going on and she said that the Islamic
11 police had turned up and were striking people, particularly women, because their
12 head wasn't covered. And immediately I called Sanda to tell him what was going on
13 and I asked him why is it -- why is this happening? (Redacted)
14 (Redacted).

15 Q. [10:32:05] Just to be clear --

16 MR DUTERTRE: [10:32:12](Interpretation) [10:32:13] Your Honour?

17 PRESIDING JUDGE MINDUA: [10:32:14](Interpretation) Mr Prosecutor.

18 MR DUTERTRE: [10:32:16](Interpretation) Just a point of clarification in respect of
19 the interpretation offered. In French, page 16, line 24 -- I can't see anything in actual
20 fact, but in English, we see on page 16, line 12:

21 It was "everybody was up in arms". And I just wonder whether there's not
22 a translation problem.

23 What did the witness say in actual fact?

24 Maybe my learned friend can clarify that with the witness.

25 PRESIDING JUDGE MINDUA: [10:32:47](Interpretation) Would you mind

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1 clarifying that point with the witness, counsel.

2 MS GERRY: [10:32:52] Yes. I will take it in turn, if I may. I will come to that point
3 probably second. It certainly is my note that's consistent with the English translation
4 but I will clarify, of course.

5 Q. [10:33:04] Mr Witness, my first question for you is, did you see the Islamic police
6 striking women?

7 A. [10:33:37] I just saw it once. It was on a particular day when they were striking
8 a man that had raped a woman.

9 Q. [10:33:52] I want you to focus on the events around Ramadan that you were
10 telling us about. Can we focus on those events, first, please. You told us that you
11 left the fields between 3 and 4 p.m. and you arrived in your neighbourhood.
12 That's the event that I want to ask you about, please.

13 A. [10:35:06] Yes. Yes, that's right.

14 Q. [10:36:13] Sorry, Mr Witness, I'm just putting my hand up so that we can have
15 your answer translated, please.

16 A. [10:36:34] Yes, I understand what you're driving at. In actual fact, I was just
17 going over my account and then I remembered that you'd told me beforehand not to
18 be overly lengthy. So that's why I stopped to allow the interpretation to be effected.
19 Anyway, when I arrived my big -- I asked my big sister what happened and she told
20 me that the police had arrived, that they were striking people. And immediately I
21 called Sanda to come with some leaders. And when they arrived, these leaders
22 asked me what had happened and I told them that the police were there, that there
23 were currently striking people. And he told me that he wasn't aware at all that that
24 was happening. And then he used the opportunity to tell everybody that any
25 individual are equal - whether they're handicapped, disabled, blind or

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1 whatever - everybody was on the same footing. And they gave a telephone number
2 where if anything were to happen, a problem, for example, then that needs to be
3 immediately reported, reported to the police.

4 Q. [10:38:08] Thank you, Mr Witness.

5 When you arrived in your neighbourhood, can you tell us exactly what you saw and
6 heard when you first arrived, please.

7 PRESIDING JUDGE MINDUA: [10:38:41](Interpretation) I think the witness has just
8 answered that question; isn't that right?

9 MS GERRY: [10:38:45] I can certainly ask the question in another way. I was just
10 trying to deal with the objection. I'll ask it in a different way.

11 PRESIDING JUDGE MINDUA: [10:38:59](Interpretation) Please go ahead.

12 MS GERRY: [10:39:01]

13 Q. [10:39:01] Mr Witness, in the translation to me, in English, it was translated that
14 you said, when you arrived, everyone was up in arms. Is that what you said to me
15 in your evidence?

16 A. [10:40:12] No. I was just explaining that when I arrived, my big sister told me
17 what had happened, the situation at hand. And myself, with my own eyes, I could
18 see that the old people were there and they were sitting down. And I called Sanda,
19 and Sanda told the leaders, and they arrived.

20 Q. [10:40:39] Thank you. Why did you call Sanda?

21 A. [10:41:08] Because I know that that happened in my neighbourhood and Sanda
22 was my friend and I was very shocked. I was shocked by what had happened
23 and -- and what my big sister had told me. So I called him to tell him what was
24 going on.

25 Q. [10:41:53] You told us that leaders came. Can you help us as to the names of

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1 those leaders?

2 A. [10:42:46] No, I couldn't distinguish them. What I can tell you, though, is that
3 all the leaders came, and one of them came up to me to speak to me and he told me
4 what I should then say to the population. And after that, after that, no -- none of
5 their patrols came into our neighbourhood until they ultimately left.

6 Q. [10:43:24] Did Sanda come to your neighbourhood together with those leaders
7 or not?

8 A. [10:43:56] By God, yes, he came with them.

9 Q. [10:44:04] And what did you understand Sanda's role to be at that time?

10 A. [10:44:39] I don't know what Sanda does or his role. What I can tell you is that
11 he's a friend and he was with them, so whenever I was a bit frustrated or saw
12 a problem arise, I called him to tell him about it.

13 Q. [10:45:03] You told us that a leader used the opportunity to tell everyone that
14 they were equal and to give a telephone number to report problems. Are you able to
15 help us as to who that person was who -- who used the opportunity to tell everyone?

16 A. [10:46:21] I don't know the names of those leaders. I can't remember their
17 names, but they were senior leaders. And there was also an old man.

18 Q. [10:46:37] You mentioned the Islamic police. At that time, in Timbuktu, in 2012,
19 were you aware of the structure or departments of the Islamic police at all?

20 A. [10:47:36] Yes, everybody knew that because the police had a uniform, a specific
21 uniform that was different to others -- what others were wearing. They -- the others
22 wore jackets.

23 Q. [10:48:07] And when the leaders came to your neighbourhood, were they
24 wearing uniform or jackets?

25 A. [10:48:57] No, none of them were wearing that uniform. They were just

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1 dressed as the local population when they arrived, but I understood that they were
2 leaders because Sanda only -- only works in conjunction with the leaders.

3 THE INTERPRETER: [10:49:30] Correction from the Tamasheq interpreter: They
4 weren't wearing the uniform of the Mujahidin.

5 MS GERRY: [10:49:40]

6 Q. [10:49:52] In 2012, when Ansar Dine were in Timbuktu, are you able to name
7 who was in charge of the police?

8 A. [10:50:33] Yes, that's right, but I can't remember his -- his name. But it was
9 a Bambara, a black-skinned Bambara who was the leader in those days.

10 MS GERRY: [10:50:54] Mr President, may we briefly go into private session, please.

11 PRESIDING JUDGE MINDUA: [10:51:00](Interpretation) Exactly. Private session,
12 please, court officer.

13 *(Private session at 10.51 a.m.) (Reclassified partially in public)

14 THE COURT OFFICER: [10:51:07] We are in private session, Mr President.

15 PRESIDING JUDGE MINDUA: [10:51:20](Interpretation) Thank you very much.
16 Counsel.

17 MS GERRY: [10:51:23]

18 Q. [10:51:25] Mr Witness, can you just help us as to how you know Sanda, please?

19 A. [10:52:12] Sanda is a childhood friend. I used to play football with him since I
20 was tiny. And then we were separated because he went off to study and I went off
21 to work. And then later on, we met up again. He opened a shop and I bought a car.
22 So we were able to sustain our childhood friendship.

23 Q. [10:52:45] You have mentioned that he was your friend in public session, but not
24 that he was your childhood friend. Are you comfortable to still refer to him as your
25 friend in public session? I just want to be clear on your position.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [10:55:25] I didn't understand your question.

8 Q. [10:55:27] All right.

9 MS GERRY: [10:55:30] Just to be cautious, Mr President, I will ask the question in
10 this way, if I may.

11 Q. [10:55:37] Mr Witness, can you tell us about your interactions with Sanda in
12 Timbuktu in 2012, when Ansar Dine were present?

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 MS GERRY: [10:57:23] Mr President, may we go back into public session, please.

20 PRESIDING JUDGE MINDUA: [10:57:28](Interpretation) Very well. Court officer,
21 open session, please.

22 (Open session at 10.57 a.m.)

23 THE COURT OFFICER: [10:57:34] We are back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [10:57:49](Interpretation) Thank you very much.

25 Counsel.

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1 MS GERRY: [10:57:54] Thank you, Mr President.

2 Q. [10:57:56] Mr Witness, were you able to observe Sanda's interaction with the
3 people of Timbuktu in 2012 when Ansar Dine were present?

4 A. [10:58:50] By God, he didn't create -- he didn't create a problem at all for the
5 local population. He did everything in his power to help.

6 Q. [10:59:09] You told us that he was someone you would phone if there were
7 problems -- English transcript, page 20, lines 7 to 10. Why was he someone that you
8 would phone if there were problems at that time when Ansar Dine were present in
9 Timbuktu?

10 A. [11:00:36] It was the phone number for the police, the police who were on site.
11 It was their telephone number that was given.

12 Q. [11:00:48] And --

13 PRESIDING JUDGE MINDUA: [11:00:52](Interpretation) Court officer, the main
14 screen has turned off. I think you only have to touch it to bring it back online, isn't
15 that right?

16 Well, in any event, it is 11 o'clock. And while the court officer is dealing with the
17 screen, we shall rise.

18 Court officer, we are in open session.

19 Very well.

20 So it is 11 o'clock. We are going to rise for half an hour and we will resume at half
21 past the hour.

22 Court has risen.

23 THE COURT OFFICER: [11:01:32] All rise.

24 (Recess taken at 11.01 a.m.)

25 (Upon resuming in open session at 11.35 a.m.)

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1 THE COURT USHER: [11:35:11] All rise. Please be seated.

2 PRESIDING JUDGE MINDUA: [11:35:35](Interpretation) The hearing may
3 recommence, and the Defence may now continue with the examination-in-chief.
4 Ms Gerry.

5 MS GERRY: [11:35:51] Thank you, Mr President.

6 Q. [11:35:54] Mr Witness, I'm going to start with the last question I asked you
7 before the break. You told us that Sanda was someone who would -- who you
8 would phone if there were problems. Why was he someone you would phone if
9 there were problems when Ansar Dine were present in Timbuktu?

10 A. [11:37:10] Yes, Sanda is a friend and I know that when there is a problem, he can
11 do something. Furthermore, he's also from the city.

12 Q. [11:37:28] Thank you.

13 You told us about a Bambara who was in charge of the Islamic police. Did you
14 know anyone who worked for the Islamic police?

15 A. [11:38:17] I know someone else whose name is Mohamed Moussa, and him,
16 those were -- those two were the leaders.

17 Q. [11:38:33] Did you know the defendant in this case, Mr Al Hassan?

18 A. [11:39:04] No. I know him from afar, from -- from over there, if you will.

19 Q. [11:39:13] Have you ever seen Mr Al Hassan?

20 A. [11:39:46] Yes, I saw him at the BMS. When I came back from a journey, I went
21 to the BMS with a ticket that I had to present from the journey at the BMS.

22 Q. [11:40:08] Firstly, you mention the BMS. What does the BMS have to do with
23 the police?

24 PRESIDING JUDGE MINDUA: [11:40:37](Interpretation) Madam Prosecutor.

25 MS YAMAGUCHI: [11:40:39] If we could briefly cut the sound to the witness,

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1 please.

2 PRESIDING JUDGE MINDUA: [11:40:45](Interpretation) Very well. Court officer,
3 please, if you could cut the sound. Thank you.

4 THE COURT OFFICER: [11:40:57] The sound to the witness has been disconnected,
5 Mr President.

6 PRESIDING JUDGE MINDUA: [11:41:10](Interpretation) Thank you very much.
7 Madam Prosecutor.

8 MS YAMAGUCHI: [11:41:16] Thank you, Mr President. When the Defence asked
9 him who among the Islamic police he knew, he only mentioned one Bambara person
10 and Mohamed Moussa. He has not mentioned the accused, Al Hassan, in
11 connection with the police thus far.

12 We request that the Defence does -- reformulates their question.

13 MS GERRY: [11:41:49] Oh, I see what -- I understand the objection. I see the point.

14 PRESIDING JUDGE MINDUA: [11:41:52] Yes, Maître -- Maître Gerry.

15 MS GERRY: [11:41:55] Yes, I will reformulate. Yes, I apologise.

16 May we re-establish the connection with the witness, please.

17 PRESIDING JUDGE MINDUA: [11:42:05](Interpretation) Court officer, please.

18 THE COURT OFFICER: [11:42:09] The sound to the witness has been re-established,
19 Mr President.

20 PRESIDING JUDGE MINDUA: [11:42:22](Interpretation) Thank you very much.
21 Ms Gerry.

22 MS GERRY: [11:42:24]

23 Q. [11:42:25] Mr Witness, you told us that you saw Mr Al Hassan from afar.

24 Where was Mr Al Hassan when you saw him?

25 A. [11:42:58] He was in the BMS, at the police.

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1 Q. [11:43:13] What did you understand the function of the BMS to be?

2 A. [11:43:56] The BMS was the place where the Islamic police was. That's where
3 people went when they had a problem. When they had a -- somebody had
4 a problem with somebody, when a vehicle had to go out or -- people would go to the
5 BMS, to the Islamic police, for that sort of thing.

6 Q. [11:44:24] Thank you.

7 To your knowledge, did the police have one building or more than one building?

8 A. [11:45:00] I only know one building, the BMS, and the BMS that is next to the
9 market.

10 Q. [11:45:10] You told us that you saw Mr Al Hassan at the BMS. Did you ever
11 speak to Mr Al Hassan?

12 A. [11:45:59] No, I never spoke to him. I was -- I had returned from Niafunké and
13 I had the exit paper that I was presenting to the person in charge at that point and I
14 passed in front of him. He was seated at the door. And once I had presented my
15 ticket, I left the building and went away.

16 Q. [11:46:27] When you tell us he was seated at the door, are you able to describe
17 whereabouts he was in relation to the door?

18 A. [11:47:08] He was seated on the south side of the door.

19 Q. [11:47:14] Was that inside or outside of the building?

20 A. [11:47:41] It was -- it was this -- like this, if you go into the building, as soon as
21 you look towards the south, you would see him sitting on a chair in a corridor.

22 Q. [11:48:01] Thank you.

23 You told us something about a ticket or an "exit paper" after a journey. Can you
24 explain the ticket and exit paper process so that we can understand it, please.

25 A. [11:49:14] This paper is a sort of indication of confidence for -- for them. You

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1 get this when you leave and when you return, you have to present it on your return
2 to demonstrate that you have returned.

3 Q. [11:49:39] And did you -- you told us that you saw Mr Al Hassan when you
4 were at the BMS in relation to a ticket after a journey. Did you use this exit-paper
5 system?

6 A. [11:50:41] Every time I leave, I go, I get a ticket, and then when I return, I go
7 back there and present my ticket.

8 Q. [11:50:54] Focusing on 2012, when Ansar Dine were in Timbuktu, how many
9 times do you think you went there to collect or return a ticket?

10 A. [11:51:55] Well, even with the help of God, I couldn't tell you the number. It
11 depended on the number of trips. Every time I went, got a ticket, and then I came
12 back, I would give the ticket to them during the whole period they were there. So I
13 really have no idea of how many times that would have been.

14 Q. [11:52:21] Thank you. And do you remember who you collected a ticket from
15 or gave a ticket back to?

16 A. [11:53:03] They changed, they changed all the time. It was never the same
17 person handing out the tickets or to whom we had to present the tickets on our return.
18 They were changing constantly.

19 Q. [11:53:22] (Microphone not activated) I'm sorry, Mr Witness, I forgot to turn my
20 microphone on. I was doing so well.

21 Mr Witness, you told us before that the Islamic police would wear a uniform. Were
22 the people who gave you a ticket or collected your ticket for your journeys wearing
23 a police uniform or not?

24 A. [11:54:53] In fact, some of them wore uniforms and some did not. But those
25 who did the patrols in the neighbourhoods had uniforms or *gilets*. On those, it said

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1 "Islamic police".

2 Q. [11:55:17] The next topic I want to ask you about is police investigations. Did
3 you become aware of any specific cases dealt with by the Islamic police in Timbuktu
4 in 2012?

5 A. [11:56:44] Well, at that time, after the problems (Redacted), there was
6 a team which was going into families to -- to see whether they had suffered any
7 wrongs or not.

8 Q. [11:57:23] And to your knowledge, had there been any suffering of any wrongs?

9 A. [11:58:12] I don't know about that. It was from the time that there were
10 problems in my neighbourhood that they set up the team that could go and check
11 whether there had been problems for people, because they understood that there
12 were things happening which they were not aware of -- which the leaders were not
13 aware of.

14 Q. [11:58:47] Earlier in your testimony today - and I refer to the English transcript,
15 page 17, line 22 to 25 - Mr Witness, you mentioned rape. What can you tell us about
16 rape in 2012?

17 PRESIDING JUDGE MINDUA: [12:01:05](Interpretation) Mr Witness, please could
18 you wait for the interpreted version.

19 THE WITNESS: [12:01:18](Interpretation) There was somebody (Redacted)
20 (Redacted) who told me on the phone that there was a problem. "What is the problem?" I
21 asked. He said that there were girls who'd been raped by the Mujahidin. And then
22 we went to the girl -- sorry, to the girl and when we were there, I immediately called
23 Sanda and said that there was a girl who had been raped by the Mujahidin, and he
24 told me to call the police. I went with them to the girl who had been raped.

25 THE INTERPRETER: [12:01:53] Message from the Tamasheq booth: Please, could we

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1 ask the witness to continue his words.

2 PRESIDING JUDGE MINDUA: [12:02:03](Interpretation) Mr Witness, please
3 continue.

4 THE INTERPRETER: [12:02:39] Correction from the Tamasheq booth: They took the
5 girl to the hospital.

6 The interpretation continues.

7 THE WITNESS: [12:02:48](Interpretation) They took the girl to the police, and then
8 the police asked them to remove their turbans. And it so happened that she'd been
9 raped by somebody called Boccar. This is somebody who, beforehand, worked in
10 the construction industry. He was among those who worked in the building of the
11 Gaddafi hotel.

12 PRESIDING JUDGE MINDUA: [12:03:31](Interpretation) Counsel?

13 MS GERRY: [12:03:32] Yes.

14 Q. [12:03:32] Mr Witness, you told us that you received a telephone call from
15 someone called (Redacted) who told you a girl had been raped. Can I just understand,
16 was it one girl or more than one girl?

17 A. [12:04:40] It was one girl, in fact, in her home, with her family.

18 Q. [12:04:59] You told us that you called Sanda. Why did you call Sanda?

19 A. [12:05:40] I told you that Sanda was a friend. Whenever there was a problem
20 in my neighbourhood, I would call him to tell him and then he would relay the
21 information to the Islamic -- or the Mujahidin, rather.

22 Q. [12:05:59] Did you ever see the girl?

23 A. [12:06:25] I saw the girl on the very day when the act was committed. I myself
24 left to go to her home because I preferred to hear it from her own mouth rather than
25 hearing it from anybody else.

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1 Q. [12:06:46] And did you hear it from her own mouth?

2 A. [12:07:16] Yes. She -- she told me herself. I heard it from her own lips. And
3 also she took me to the place where the man had raped her.

4 Q. [12:07:31] What did she tell you?

5 A. [12:08:19] She told me that she was in front of their door and then a chap turned
6 up on his motorbike. She was about to call her mum, but the man made a gesture to
7 say, "Shush, be quiet". And she tried to move in front of him and he took her to the
8 project and ordered her to go in front of him to the project, and then he did what
9 he -- he did. And then she came back and he gave her 3,000 -- 2,000 francs and she
10 said she didn't want the money. And then he just went off.

11 THE INTERPRETER: [12:09:14] Tamasheq interpretation correction: In front of the
12 door, he pointed his gun at her and said, "Shh, don't say a word."

13 MS GERRY: [12:09:24]

14 Q. [12:09:26] Can you help us understand what is "the project", or where is "the
15 project"?

16 A. [12:10:14] It's at the exit of the city. It's in -- it's where the fields are, and we call
17 it "project, "the project".

18 MS GERRY: [12:10:31] Mr President, may we briefly go into private session, please.

19 PRESIDING JUDGE MINDUA: [12:10:37](Interpretation) Yes.

20 Court officer.

21 *(Private session at 12.10 p.m.) (Reclassified partially in public)

22 THE COURT OFFICER: [12:10:43] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:10:57](Interpretation) Thank you very much.

24 Counsel.

25 MS GERRY: [12:11:00] Thank you.

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1 (Redacted)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 MS GERRY: [12:13:57] Mr President, may we go back into public session, please.

18 PRESIDING JUDGE MINDUA: [12:14:03](Interpretation) Court officer, open session,

19 please.

20 (Open session at 12.14 p.m.)

21 THE COURT OFFICER: [12:14:13] We are back in open session, Mr President.

22 PRESIDING JUDGE MINDUA: [12:14:22](Interpretation) Thank you very much.

23 Counsel Gerry.

24 MS GERRY: [12:14:27]

25 Q. [12:14:29] Mr Witness, you told us that you went to the girl and she told you

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1 what happened. Did you phone Sanda before you spoke to the girl or after you
2 spoke to the girl?

3 A. [12:15:26] I was at the girl's house and she told me what had happened to her.
4 She confirmed it from her own lips and then I called Sanda.

5 Q. [12:15:41] Can you remember what you said to Sanda on the phone?

6 A. [12:16:31] Yes, I remember. I told him that there was a girl who had been
7 raped by one of the Mujahidin in the night. He said, "It's not possible." And I said,
8 "Yes." And he said, "Where?" And I said ... And he said, "I'm coming." And he
9 came and then -- in a car, and then he took the girl away with him.

10 Q. [12:17:12] You told us that Sanda told you to call the police. Did you call the
11 police?

12 A. [12:17:34] It was Sanda who called the police. I didn't call them.

13 Q. [12:17:39] I just want to check a translation issue. I'm told that you said that the
14 Mujahidin who arrived were on night watch. Is that correct or not correct?

15 A. [12:18:22] Yes. It was the police that patrolled at night.

16 Q. [12:18:28] Who took the girl to the hospital?

17 A. [12:18:41] It was the Mujahidin themselves who came and then they took her in
18 their ambulance and they carried her to the hospital.

19 Q. [12:19:02] You told us that they also took the girl to the police. Where were the
20 police? Where did they take her to that relates to the police?

21 A. [12:19:44] The woman, when they took her from her family home, took her to
22 the hop- -- took her to the hospital and the BMS, where the police are located. From
23 the hospital to the BMS.

24 Q. [12:20:08] You told us that you were at her home when you spoke to her.

25 Where did you go to after that?

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1 A. [12:20:53] I walked (Redacted) and that's when I called him. And he
2 said to stay there and that he was going to send me some men, Sanda.

3 Q. [12:21:14] After the girl had gone in the ambulance to the hospital, where did
4 you go?

5 A. [12:21:58] They told me to go to the BMS where I should provide assistance.
6 Particularly, it was because I had reported the problem initially. So they took me
7 to -- they took her to the BMS. They asked her whether she was married and she
8 said no. Had she already been married and she answered no. Did she know the
9 man and she said yes.

10 Q. [12:22:28] You told us -- were you present at the BMS when she was saying
11 these things or not?

12 A. [12:23:10] No. It was when -- when she was still in her family home.
13 And -- and then she was taken to the hospital and from the hospital, they took her to
14 the BMS to identify the gentleman who had raped her.

15 Q. [12:23:30] So when they asked her if she was married and if she knew the man
16 and she replied yes, did you hear that at her home when you were there?

17 A. [12:24:19] Yes, I was there. I was there. Particularly, it's because I called them
18 and I guided them to the location. In fact, they didn't know where the girl lived.

19 Q. [12:24:34] I think earlier you told us that she took you to "the project". Have I
20 understood you correctly, that she had taken you to where it happened?

21 A. [12:25:25] Yes, she took me right to the place where the act was committed.
22 And when they came, I took them to the same place where it occurred, and then we
23 went back to the woman's home.

24 Q. [12:25:47] Thank you.

25 You told us that they, the police, told you to go to the BMS to assist because you had

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1 reported the matter. Did you go to the BMS?

2 A. [12:26:57] Yes, I went to the BMS. That was also where they lined up the men
3 and the police asked them to remove their turbans. And it was after that, that they
4 brought in the girl to ask -- and look at the men. She was put into a room and she
5 was told to look at the men and to identify the man who had raped her. And -- so
6 she looked at all the men. At a given point in time she pointed at a black among
7 them called Boccar.

8 Q. [12:27:41] And did you see all of that happen?

9 A. [12:28:14] Yes. I was there, just as I'm here today.

10 Q. [12:28:23] And when the men lined up, where were the men from?

11 A. [12:28:56] I don't know where they came from. But when we arrived, they had
12 been brought there at the -- at the police station.

13 Q. [12:29:17] Did you know the occupation of any of the men? What they did for
14 work?

15 A. [12:29:53] They were all from the Islamic police, those who patrol in the
16 neighbourhoods. You could see it on their uniforms. It was mentioned there.

17 Q. [12:30:07] You told us that she pointed at a black man in the line-up and you
18 said that before, he worked in the construction of the Hotel Gaddafi. What was his
19 work at the time of the line-up?

20 A. [12:31:24] When the Mujahidin arrived, construction stopped. So he stopped
21 with this activity and he joined the Mujahideen and took a rifle.

22 Q. [12:31:43] You told us that all the people in the line-up were from the Islamic
23 police, they were those who would patrol and you could see the uniform. Was that
24 true of the black man or not?

25 A. [12:32:36] Yes, he was part of the police who carry out the night patrols. He

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1 was one of them.

2 Q. [12:32:45] You told us earlier in your testimony that there was a Bambara in
3 charge of the Islamic police. Is there any connection between the black man that you
4 are talking about now and the Bambara man that you talked about before?

5 A. [12:34:02] Well, the Bambara - who was head of the Islamic police - spoke to him
6 in Bambara, saying, "The woman is here, she has come. There were a lot of men, but
7 she has indicated you. So she's identified you, so it's you and don't try and get out of
8 it."

9 Q. [12:34:39] What colour was the Bambara who was the chief of the police, what
10 colour person was he?

11 A. [12:34:52] He's black, but not black-black. He's sort of reddish-black. His skin
12 is very similar to the Peulh people, a bit white, but he has black skin.

13 Q. [12:35:47] Are you able to help us on who organised the line-up of the police
14 officers?

15 A. [12:36:32] Well, I really cannot tell you who organised this. It was the police,
16 the police amongst themselves or their leader. I really don't know who organised
17 that.

18 Q. [12:36:44] When you were at the BMS and you saw the line-up and the woman
19 pointing at the black man, are you able to name any of the police officers who were
20 present?

21 A. [12:37:47] No, I don't know them. There were a lot of them.

22 Q. [12:37:57] If we focus on the police officers who were not in the line-up but who
23 were involved in the prep- -- what was going on that day, can you identify any of the
24 police officers who were not in the line-up but who were present?

25 PRESIDING JUDGE MINDUA: [12:38:30](Interpretation) Mr Prosecutor.

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1 MR DUTERTRE: [12:38:34](Interpretation) The question has been asked and the
2 witness has replied on page 39, 17 to 19:
3 (Speaks English) "When you were at the BMS and you saw the line-up and the
4 woman pointing at the black man, are you able to name any of the police officers who
5 were present?"

6 *Réponse:* "No, I don't know them. There were a lot of them."
7 (Interpretation) So I don't want the question asked a second time. I'm sure my
8 learned colleague will explain that it is a clarification, but the question has been
9 asked.

10 PRESIDING JUDGE MINDUA: [12:39:12](Interpretation) Counsel Gerry, I agree
11 with the Prosecutor.

12 MS GERRY: [12:39:16] I agree. I agree. What I was trying to achieve this time was
13 just to make it clear whether -- I thought my original question was unclear and I
14 should have separated the line-up from the people organising. That's all I'm trying
15 to do now, is just to make sure that I haven't confused the witness.

16 May I still ask the question separating those two sets of roles, please?

17 PRESIDING JUDGE MINDUA: [12:39:48](Interpretation) Well, you are going to
18 have to put it differently, not the same question again.

19 MS GERRY: [12:39:58] Certainly.

20 Q. [12:40:03] Mr Witness, perhaps it's easier if I just ask you. You've told us that
21 there were officers telling -- the police asked them to remove their turbans. Are you
22 able to help us as to who the police officer or officers were that were asking them to
23 remove their turbans?

24 A. [12:41:11] It was the Bambara, who was their leader, who asked.

25 Q. [12:41:17] You told us that the black man that the girl pointed at was called

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1 Boccar. How did you come to know he was called Boccar, please?

2 A. [12:42:01] Before, he used to work in the construction of the hotel. Everybody
3 knew him in the town. Everybody knew him.

4 Q. [12:42:11] And when you were at the BMS, when this -- the girl was there, and
5 the line-up happened, and then she pointed at the man, did you speak to any police
6 officers?

7 A. [12:43:09] No. We'd stopped there, and I observed that the person was arrested.
8 They asked me to leave and I left.

9 Q. [12:43:26] After the person was arrested, do you know what happened in
10 relation to him?

11 A. [12:44:25] Well, he was locked up. Where, I don't know, but I did hear from
12 people that he escaped. And when I heard that, I called Sanda and I told him that,
13 "People are saying that you took one of yours, who committed a crime, but you have
14 allowed him to -- to go free."

15 And at that time, they broadcast on the radio a message seeking this man.

16 Q. [12:45:15] Can you remember what the broadcast on the radio said?

17 A. [12:46:02] Yes. I said that I explained to Sanda that one of the Mujahidin had
18 committed a crime and then people -- the Mujahidin had allowed him to escape.
19 And then they broadcast the message saying that if anybody saw him or recognised
20 him, they should call the number which they gave in the message and that there
21 would be a reward of a certain amount. And then a fisherman who saw him called
22 the number that was given out on the radio, a Songhai fisherman.

23 Q. [12:46:55] Thank you. When you called Sanda and told him that people were
24 saying that the man had been allowed to go free, what did Sanda say to you?

25 A. [12:47:51] He told me that we should tell everybody that anybody who caught

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1 him -- or told us where he would be, would have a reward of ... I can't remember
2 how much that was, but it was a significant amount.

3 Q. [12:48:18] And was the man caught?

4 A. [12:48:36] The one who committed the offence was called Boccar.

5 Q. [12:48:45] I'm sorry, Mr Witness, I think my question may have been

6 (Overlapping speakers)

7 A. [12:48:53] Yes, he was arrested. And then he was judged and sharia law was
8 applied.

9 Q. [12:49:06] Do you remember who he was judged by?

10 A. [12:49:45] Yes, there were a lot of people. I don't know who applied sharia law,
11 but it was the Dune Thuri. There was a lot of people there. There was -- he was
12 flogged. The flogs as befits somebody who commits this crime, and then he was -- it
13 was requested that he -- he was requested to leave the town.

14 Q. [12:50:18] Thank you.

15 The next topic I want to ask you about is marriages.

16 Focusing on 2012, when Ansar Dine was in Timbuktu, do you recall any specific
17 marriages?

18 A. [12:51:39] Yes, I remember a lot -- several marriages that took place at this time.

19 There was the marriage of Adam and one of the Mujahidin and also of another whom
20 we call (Redacted).

21 Q. [12:52:02] Starting with the marriage of Adam, how do you know Adam?

22 A. [12:52:43] Adam was one of the police leaders. He was very good, and he
23 walks among the people. Everybody was very fond of him. Everybody knew him
24 as well.

25 Q. [12:52:57] Had you ever seen Adam at work -- at his work?

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1 A. [12:53:26] No. Adam, well, I only met him as he passed in his car, or

2 sometimes he would be there and -- and chat.

3 MS GERRY: [12:53:53] Mr President, may we briefly go into private session, please.

4 PRESIDING JUDGE MINDUA: [12:54:00](Interpretation) Court officer, please.

5 *(Private session at 12.54 p.m.) (Reclassified partially in public)

6 THE COURT OFFICER: [12:54:04] We are in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [12:54:20](Interpretation) Thank you very much.

8 Ms Gerry.

9 MS GERRY: [12:54:28] Thank you, Mr President.

10 Q. [12:54:30] Mr Witness, who did Adam marry?

11 A. [12:54:45] A girl named (Redacted).

12 Q. [12:54:53] Did you know (Redacted)?

13 A. [12:55:05] Yes, very well.

14 Q. [12:55:09] Where did she live?

15 A. [12:55:21] She lived in (Redacted).

16 Q. [12:55:26] And are you able to say whether she lived close to you or far away

17 from you within (Redacted)?

18 (Redacted)

19 (Redacted)

20 Q. [12:56:07] Thank you.

21 MS GERRY: [12:56:10] May we go back into public session, please.

22 PRESIDING JUDGE MINDUA: [12:56:15](Interpretation) Court officer, public

23 session, please.

24 (Open session at 12.56 p.m.)

25 THE COURT OFFICER: [12:56:23] We are back in open session, Mr President.

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- 1 PRESIDING JUDGE MINDUA: [12:56:39](Interpretation) Thank you very much.
- 2 Ms Gerry.
- 3 MS GERRY: [12:56:46] Thank you, Mr President.
- 4 Q. [12:56:46] Mr Witness, I'm going to call the woman who married Adam "Ms X"
- 5 when we are in public session, so I would like you to call her "Ms X" as well, please.
- 6 A. [12:57:33] Yes, I will.
- 7 Q. [12:57:35] Thank you.
- 8 Can you tell us what you remember about the marriage between Adam and Ms X,
- 9 please.
- 10 A. [12:58:39] Yes, with all due respect to you, Ms X was (Redacted)
- 11 (Redacted) but I saw one evening that a vehicle had stopped in front of her house. I
- 12 called her, I said, "I hope there are no problems. Why is there a car at your house?"
- 13 And she told me, "It's Adama who's come with his friend to ask me to marry him."
- 14 MS GERRY: [12:59:30] Mr President, I see the time. I will need to go into that line
- 15 of questioning in a little more detail.
- 16 May I do that after lunch?
- 17 PRESIDING JUDGE MINDUA: [12:59:46](Interpretation) You are quite right, it is
- 18 one minute to 1, and this would be a good time to stop.
- 19 Court officer, are we in open session?
- 20 Yes, we are.
- 21 So we will now adjourn for our lunch break and we will recommence at 2.30.
- 22 The hearing is adjourned.
- 23 THE COURT USHER: [13:00:13] All rise.
- 24 (Recess taken at 1.00 p.m.)
- 25 (Upon resuming in open session at 2.32 p.m.)

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1 THE COURT USHER: [14:32:47] All rise. Please be seated.

2 PRESIDING JUDGE MINDUA: [14:33:14](Interpretation) Court is in session.

3 Good afternoon to one and all.

4 Prior to commencing our hearing, a quick reminder to Counsel Gerry.

5 Counsel, you have been very efficient thus far. You turn on your microphone before
6 you take the floor, which is very good, but sometimes you omit to turn it off.

7 Anyway, so it could be a problem for the interpreters, but also there's the risk there
8 could be an overlapping of voices and therefore the witness, unfortunately, despite

9 his protective measures, can be siphoned into your microphone. So please

10 endeavour to be observant to that.

11 I hand over to you for the furtherance of your examination-in-chief, counsel.

12 MS GERRY: [14:34:20] Thank you, Mr President. And once again, my apologies. I
13 will do my very best not to fail on the microphone again.

14 Q. [14:34:30] Mr Witness, before the break, you were telling us about the marriage

15 between Adam and Ms X. To remind you, you told us that she told you that

16 Adam -- Adam's car was at her house and he had come and asked her to marry him.

17 Can you take it from there and tell us what else you know about that marriage,

18 please.

19 A. [14:36:40] Right. A short while after calling Adam, when I saw his car and his

20 friend parked in front of her house, his telephone was turned off just after. So I

21 called his friend, who was called (Redacted) to ask what had happened to X's telephone.

22 So she told me that they were there and they were putting -- they were organising

23 Madam X's wedding.

24 And since then, all the way till today, I no longer have any contact with them.

25 PRESIDING JUDGE MINDUA: [14:37:45](Interpretation) Yes, Madam Prosecutor.

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1 MS GERRY: [14:37:49] It's just -- I was just thinking of the question -- the next
2 question, sorry.

3 MS YAMAGUCHI: [14:37:52] I believe there are quite a lot of problems in -- when
4 you compare the English and French transcript regarding exactly who he called, who
5 said what.
6 If the Defence counsel could please try to clarify.

7 MS GERRY: [14:38:10] It's precisely why I paused before I asked the question. I
8 will of course take the witness through what he has just said.
9 May I proceed?

10 PRESIDING JUDGE MINDUA: [14:38:30](Interpretation) Yes, you may, but in every
11 case, you have to wait for the interpretation to come to an end. Anyway, please
12 proceed.

13 MS GERRY: [14:38:40] Thank you, Mr President.

14 Q. [14:38:44] Mr Witness, the translation to me was:

15 "A short while after calling Adam, when I saw his car ... in front of her house ..."

16 Can you help us as to who called who on that day?

17 A. [14:40:28] I called Mrs X. I called her on the telephone when I saw Adam's car
18 and his friend, and I asked what was the car doing there, has she got a problem?
19 And she said no, there was no problem and he had come to ask her to be his wife.
20 And then I hung up. And, a little later on, I called again and when I did so, the call
21 went straight to the answering machine. And then I asked (Redacted) what happened
22 to -- what happened to Mrs X's telephone? And she told me that they were there
23 and that they were looking at Madam X's wedding and even the marabout was there.

24 Q. [14:41:35](Microphone not activated)

25 THE COURT OFFICER: [14:41:58] Could counsel please turn on the microphone.

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1 MS GERRY: [14:42:01]

2 Q. [14:42:01] Mr Witness, you told us that you called Ms X on the phone and she
3 said, No problem, Adam had come to ask her to be his wife. Is that everything that
4 was said on the phone by her or was there more? Can you help us as to exactly what
5 was said on the phone?

6 PRESIDING JUDGE MINDUA: [14:43:06](Interpretation) Yes, Mr Witness, did you
7 want to say something?

8 THE WITNESS: [14:43:27](Interpretation) Yes, I asked -- when I saw the car parked
9 in front of her house, I asked her, "What's the car doing there?" And she told me that
10 it was Adam's -- his friend's car.

11 MS GERRY: [14:43:54]

12 Q. [14:43:54] Mr Witness, the translation to me when you answered my question
13 was, "She said, 'No problem', and he had come to ask her to be his wife."
14 Was that translation correct or not correct?

15 A. [14:44:40] That's exactly it.

16 Q. [14:44:43] And in that call with you and Ms X, were you able to assess how she
17 felt about that offer of marriage by Adam?

18 MR DUTERTRE: [14:45:08](Interpretation) Mr President.

19 PRESIDING JUDGE MINDUA: [14:45:11](Interpretation) Yes, Mr Prosecutor.

20 MR DUTERTRE: [14:45:14](Interpretation) I object. This is all speculative. That's
21 my foundation. We have a telephone conversation, the person is not even here and
22 we are asking the witness to conjecture about what was going through the
23 mind -- that person's mind during the telephone conversation.

24 It's pure conjecture, your Honour.

25 PRESIDING JUDGE MINDUA: [14:45:33](Interpretation) Mr Prosecutor, the

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1 Defence can rephrase its question to avoid eliciting a speculative answer.

2 Counsel Gerry, instead of asking the witness what the witness thought, you can see

3 whether he or she had picked up on any concerns in the voice of the female

4 interlocutor. Something like that.

5 MS GERRY: [14:46:07] I think there may have been a translation problem. I did not

6 ask what she thought. I asked how she felt, which is exactly the point that your

7 Honour is making. It's normal human interaction to understand how someone feels.

8 If he could assess how she feels, in my submission, is something that people are

9 commonly perfectly able to do and it is a perfectly sensible question.

10 I did not ask him to say how she thought or what she was thinking. So it was not

11 a speculative question. In fact, it falls very much into what your Honour was

12 phrasing. So in my submission, I'm perfectly entitled to [answer] the question:

13 Was he able to assess how she felt about that offer of marriage?

14 PRESIDING JUDGE MINDUA: [14:46:57](Interpretation) I can see the Prosecutor on

15 his feet.

16 MR DUTERTRE: [14:47:02](Interpretation) Yes, I think it still boils down to asking

17 the witness to speculate, going to this telephone conversation, without having the

18 person in the courtroom. And, with all due respect, I think the phrasing as knowing

19 whether there were any concerns, that would be leading, as is.

20 PRESIDING JUDGE MINDUA: [14:47:31](Interpretation) Counsel Gerry, I leave it to

21 you to rephrase the question, please.

22 MS GERRY: [14:47:38] Thank you.

23 Q. [14:47:39] Mr Witness, in that call between you and Ms X, were you able to

24 assess her reaction to Adam's offer of marriage?

25 A. [14:48:39] In respect of that, I think this is something that she wanted because

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1 when I rang her, at a given point of time, she hung up on me. And afterwards, I
2 tried to call her back, I couldn't get hold of her. So I called her friend who said that
3 they were still there to celebrate the wedding.

4 Q. [14:49:14] Thank you.

5 MS GERRY: [14:49:15] Mr President, may we briefly go into private session, please.

6 PRESIDING JUDGE MINDUA: [14:49:22](Interpretation) Court officer, private
7 session, please.

8 *(Private session at 2.49 p.m.) (Reclassified partially in public)

9 THE COURT OFFICER: [14:49:29] We are in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [14:49:44](Interpretation) Thank you very much.
11 Counsel Gerry.

12 MS GERRY: [14:49:48] Thank you, Mr President.

13 Q. [14:49:50] Mr Witness, we are now in private session, are you able to name the
14 friend -- her friend that you called?

15 A. [14:50:25] (Redacted)

16 Q. [14:50:27] A woman called (Redacted). Have I got that correct?

17 A. [14:50:54] Yes, that -- that's her name, a lady called (Redacted). And they are
18 (Redacted).

19 Q. [14:51:09] Thank you.

20 MS GERRY: [14:51:11] Mr President, may we go back into public session, please.

21 PRESIDING JUDGE MINDUA: [14:51:16](Interpretation) Absolutely. Open
22 session, please, court officer.

23 (Open session at 2.51 p.m.)

24 THE COURT OFFICER: [14:51:27] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [14:51:37](Interpretation) Thank you very much.

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1 Counsel.

2 MS GERRY: [14:51:43] Thank you, Mr President.

3 Q. [14:51:44] Mr Witness, you told us that you telephoned Ms X's friend. I'm not
4 going to use the name of the friend in public session, but can you tell us the
5 conversation that you had when you phoned Ms X's friend, please.

6 A. [14:52:53] I just asked her what had happened to Ms X's telephone, because her
7 telephone was off and I couldn't reach her. And then she replied to me that her
8 telephone was off because they were celebrating the wedding as early as that, and so
9 that's why I couldn't reach her.

10 Q. [14:53:25] Did you come to know any details about the wedding celebration?

11 A. [14:54:08] No. I couldn't tell you about that. What I do know is that when I
12 rang her, she told me that the men were already on site to celebrate the wedding.

13 Q. [14:54:26] Mr Witness, did you see or hear any more detail about that marriage
14 between Adam and Ms X that you can tell us about today, please?

15 PRESIDING JUDGE MINDUA: [14:54:44](Interpretation) Madam Prosecutor.

16 MS YAMAGUCHI: [14:54:52] The question has already been asked and answered, in
17 my submission, Mr President. The Defence counsel has already asked, and I quote,
18 in French, at transcript -- French transcript page 52, line 26:

19 (Interpretation) "Have you learnt any details of the celebration of the wedding?"

20 PRESIDING JUDGE MINDUA: [14:55:24](Interpretation) Absolutely. So the last
21 question resembles the first; is that right, Prosecutor?

22 MS YAMAGUCHI: [14:55:33] It is essentially the same question just posed or
23 phrased slightly differently.

24 PRESIDING JUDGE MINDUA: [14:55:49](Interpretation) Because I'm trying to
25 locate it in my transcript.

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1 Counsel Gerry, you would have heard the objection. What do you answer?

2 MS GERRY: [14:55:58] My answer is that I asked, Was there anything else he could
3 tell us about the marriage -- that is, he was asked to give detail. He's given some
4 details. I'm just asking if there's any more that he knows. They're two different
5 questions.

6 PRESIDING JUDGE MINDUA: [14:56:19](Interpretation) Mrs Prosecutor, perhaps
7 we can listen to the answer. I think this is probably a follow-up question.

8 THE WITNESS: [14:57:27](Interpretation) No, that's all I learned, what I've already
9 told you. After that, in fact, the very same evening, when the wedding took place,
10 he -- he took her back home and then two or three weeks later, he brought her -- her
11 back with all her belongings, in addition to some food.

12 MS GERRY: [14:58:01]

13 Q. [14:58:03] Mr Witness, in the two-to-three weeks that they were together, did
14 you hear anything -- see or hear anything about that marriage?

15 A. [14:58:58] When he brought her back, they -- she changed neighbourhood. She
16 went to his house in Hammabangou. And -- and then we tried -- we got some
17 information up until the day when she actually returned.

18 MS GERRY: [14:59:28] Mr President, would you just give me a moment, I just need
19 to listen to some information. Excuse me.

20 PRESIDING JUDGE MINDUA: [14:59:38](Interpretation) Go ahead.

21 MS GERRY: [14:59:53] Thank you, Mr President.

22 Q. [14:59:56] Mr Witness, do you know why Adam brought her back two-to-three
23 weeks later?

24 A. [15:00:21] No, I don't know that.

25 Q. [15:00:27] I don't know if there has been a translation problem, Mr Witness, so

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1 I'm just going to ask you this question: When he brought her back, do you know if
2 they were still married or not married?

3 PRESIDING JUDGE MINDUA: [15:01:12](Interpretation) Ms Gerry, but the witness
4 replied, he said he didn't know. So your final question I think has no point to it.

5 MS GERRY: [15:01:28] We think there may have been an interpretation problem,
6 which is why I asked the question.

7 MR DUTERTRE: [15:01:35](Interpretation) Mr President?

8 PRESIDING JUDGE MINDUA: [15:01:40](Interpretation) Mr Prosecutor.

9 MR DUTERTRE: [15:01:43](Interpretation) You can't always blame the interpreters
10 for everything. The question was quite clear, everybody heard it. And the question
11 again was completely clear and everybody heard it.

12 PRESIDING JUDGE MINDUA: [15:02:01](Interpretation) I think we can move on,
13 Ms Gerry. I think now we have had the response from the witness that he did not
14 know.

15 MS GERRY: [15:02:11] Thank you, Mr President.

16 Q. [15:02:12] Mr Witness, can you help us to understand why Adam brought her
17 back with belongings and food, please?

18 A. [15:03:00] I really do not know. All I know is that I was told that Ms X was
19 back, she was divorced, and that she'd come back with her belongings and some
20 spaghetti and all her personal belongings. I don't know why she was married; and
21 secondly, I don't know why she was then divorced.

22 Q. [15:03:30] Thank you. You mentioned another marriage to us earlier on.

23 MS GERRY: [15:03:38] Mr President, may we go into private session so I can deal
24 with any identification issues on that next marriage that I'm going to ask questions
25 about, please.

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1 PRESIDING JUDGE MINDUA: [15:03:54](Interpretation) Yes, of course.

2 Court officer, private session, please.

3 *(Private session at 3.04 p.m.) (Reclassified partially in public)

4 THE COURT OFFICER: [15:04:06] We are in private session, Mr President.

5 PRESIDING JUDGE MINDUA: [15:04:17](Interpretation) Thank you very much,
6 court officer.

7 Ms Gerry.

8 MS GERRY: [15:04:25] Thank you, Mr President.

9 Q. [15:04:27] Mr Witness, you mentioned another marriage involving someone
10 called "(Redacted)". Do you know (Redacted) full name, please?

11 A. [15:05:08] His full name must be ...

12 Q. [15:05:35] Mr Witness, could you give us the names of the other marriage that
13 you remember, the man and the woman that were married that you remember?

14 A. [15:06:16] The man is called "(Redacted)". Some people call him "(Redacted)". And
15 although I know the woman, I can't at the moment recall her name.

16 Q. [15:06:35](Microphone not activated)

17 THE INTERPRETER: [15:07:21] Your microphone was not on, Ms Gerry.

18 MS GERRY: [15:07:23] I do apologise.

19 Q. [15:07:27] Mr Witness, do you remember where the woman lived, please?

20 A. [15:07:54] I -- really, I'm not sure. (Redacted)
21 (Redacted).

22 Q. [15:08:15] Thank you. Was this all in the (Redacted) area or some other area?

23 A. [15:08:25] Yes, it was (Redacted). And the woman's name is "(Redacted)".

24 Q. [15:08:56] Thank you, Mr Witness.

25 MS GERRY: [15:09:00] Mr President, may we go back into public session, please.

Trial Hearing

(Private Session)

ICC-01/12-01/18

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1 PRESIDING JUDGE MINDUA: [15:09:09](Interpretation) Open session, please, court
2 officer.

3 (Open session at 3.09 p.m.)

4 THE COURT OFFICER: [15:09:14] We are back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [15:09:29](Interpretation) Thank you very much.
6 Ms Gerry.

7 MS GERRY: [15:09:37] Thank you, Mr President.

8 Q. [15:09:38] Mr Witness, you have given us two names in private session. I'm not
9 going to say those names in public session. I will refer to "Mr A" and "Ms B".
10 Okay?

11 A. [15:10:27] I -- I have no schooling, so I'm afraid that is something I'm not able to
12 understand.

13 MS GERRY: [15:10:41] Mr President, may we just pop back into private session
14 briefly and I will explain it more easily for this witness to follow, please.

15 PRESIDING JUDGE MINDUA: [15:10:55](Interpretation) Court officer, private
16 session, please.

17 *(Private session at 3.10 p.m.) (Reclassified partially in public)

18 THE COURT OFFICER: [15:11:00] We are in private session, Mr President.

19 PRESIDING JUDGE MINDUA: [15:11:12](Interpretation) Thank you very much.
20 Ms Gerry.

21 MS GERRY: [15:11:16]

22 Q. [15:11:17] Mr Witness, we are back in private session. You told us about a man called
23 "(Redacted)" who married a woman called "(Redacted)". Have I got that correct?

24 A. [15:12:10] (Redacted) is the wife of (Redacted) who we call "(Redacted)". I
25 think it's -- on his documents is (Redacted) and (Redacted) is his wife.

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(Private Session)

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- 1 MS GERRY: [15:12:26](Microphone not activated)
- 2 THE INTERPRETER: [15:12:40] Your microphone is not on again.
- 3 MS GERRY: [15:12:45]
- 4 Q. [15:12:46] Thank you, Mr Witness. When we go back into public session, I
5 want you to use the words "Mr A" for (Redacted) and "Ms B" for (Redacted)
6 (phon) I think you said her name was.
7 Can you manage to say "Mr A" and "Ms B"?
- 8 A. [15:13:14] I don't know -- I really don't know. To be frank with you, all this A,
9 B, C, these letters, it's really not something I'm able to retain. I -- I don't want to lie to
10 you about this.
- 11 Q. [15:14:06] I understand, Mr Witness. So maybe if we just say "the man" and
12 "the woman" for that marriage, would that be acceptable to you?
- 13 A. [15:14:38] Yes, yes, that is doable.
- 14 Q. [15:14:42] Thank you.
- 15 MS GERRY: [15:14:44] Mr President, may we go back into public session, please.
- 16 PRESIDING JUDGE MINDUA: [15:14:51](Interpretation) Court officer, open session,
17 please.
18 (Open session at 3.14 p.m.)
- 19 THE COURT OFFICER: [15:14:56] We are back in open session, Mr President.
- 20 PRESIDING JUDGE MINDUA: [15:15:08] *Merci beaucoup.*
21 (Interpretation) Ms Gerry.
- 22 MS GERRY: [15:15:18] Thank you, Mr President.
- 23 Q. [15:15:19] Mr Witness, can you tell us what you remember about the marriage
24 between the man and the woman, please?
- 25 A. [15:16:11] With regard ...

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1 THE INTERPRETER: [15:16:26] Message from the Tamasheq booth: Please, could
2 the witness be asked to allow the Tamasheq booth to do their interpreting before
3 continuing.

4 PRESIDING JUDGE MINDUA: [15:16:33](Interpretation) We are now awaiting for
5 the interpretation now.

6 THE WITNESS: [15:16:41](Interpretation) So on the subject of this marriage between
7 this man and this woman, what I know is that before -- he -- he knew the woman
8 before the arrival of the Mujahidin. And it's not the man who said it or my -- or his
9 mother who told me. I just heard that in the street. And then he asked her to marry
10 him.

11 PRESIDING JUDGE MINDUA: [15:17:26](Interpretation) Ms Gerry.

12 MS GERRY: [15:17:28] Thank you.

13 Q. [15:17:29] Mr Witness, do you -- are you able to describe the circumstances in
14 which they came to be married?

15 A. [15:18:27] Yes, I will explain this to you. The man said to Adama - because he
16 loved the woman, they had a child together outside marriage - he wanted to marry
17 her. But neither his mother nor the woman's mother wanted this marriage. So it
18 was said, "I'll give you an appointment, a place where you can meet the girl, and then
19 sharia law can be applied and you can be married."

20 Q. [15:19:21] Thank you, Mr Witness.

21 Can you help us as to whether you saw these marriage arrangements or you heard
22 about these marriage arrangements?

23 A. [15:20:25] Yes, in answer to this question, I have already said what I know, what
24 I heard, in fact. But after sharia was applied, I spoke to the man himself and he told
25 me that Adam helped him with 20,000 francs and an amount of millet, which -- 5 kilos

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1 of millet.

2 Q. [15:21:05] You told us that Adam said he would give an appointment to meet
3 the girl and sharia law would be applied. Did that happen? Did that appointment
4 happen or not?

5 A. [15:22:04] It was the man who had the appointment with Adam, he said, "We
6 will be at a certain place. I, together with the woman."

7 Q. [15:22:24] And to your knowledge, Mr Witness, did the man and the woman go
8 to that certain place?

9 A. [15:23:01] Yes. They went to the appointment and I think it was then that the
10 man called Adam -- Adam found them there and called them into the vehicles.

11 THE INTERPRETER: [15:23:22] Apologies from the English booth, but that was not
12 clear to me.

13 MS GERRY: [15:23:29]

14 Q. [15:23:30] Thank you, Mr Witness. We got up to Adam met the man and the
15 woman there. Can you tell us what else you know about what happened, please?

16 A. [15:24:13] After that, I just heard that they applied sharia and their marriage was
17 celebrated -- their marriage was thus arranged for them.

18 Q. [15:24:31] Can you help us as to how the marriage was celebrated, please.

19 A. [15:25:15] That I don't know. All that I know is that (Redacted) told me that Adam
20 gave him 20,000 francs as a contribution and 5 kilos of millet, and that his wedding
21 had taken place the previous evening.

22 Q. [15:25:44] You told us that the man said to Adam that he loved the woman.
23 Were you -- did you have any opportunity to assess the woman's reaction to this
24 marriage?

25 PRESIDING JUDGE MINDUA: [15:26:15](Interpretation) Mr Prosecutor.

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1 MR DUTERTRE: [15:26:18](Interpretation) Could we please cut the sound for
2 a moment.

3 PRESIDING JUDGE MINDUA: [15:26:23](Interpretation) Court officer, please could
4 you cut the sound to the witness.

5 THE COURT OFFICER: [15:26:29] The sound to the witness has been disconnected,
6 Mr President.

7 PRESIDING JUDGE MINDUA: [15:26:38](Interpretation) Thank you very much.
8 Mr Prosecutor, you have the floor.

9 MR DUTERTRE: [15:26:47](Interpretation) Thank you very much, Mr President. I
10 have got a number of comments.

11 Firstly, for some time now we've been in hearsay, he said, she said. It's all hearsay.

12 Secondly, it's a bit suggestive, the way this question was put by my learned friend,
13 bringing together the fact that the man loved the woman and so on.

14 Thirdly, we don't exactly see how the witness can answer a question, Did you have
15 the opportunity to assess the response or the reaction of the woman to this marriage?

16 Evaluate the response, the reaction? I'm not entirely sure what is meant by that.

17 And would that have been before they were flogged or after they were flogged?

18 This is something that's actually not come up.

19 So I think there is no way that the witness can respond to this question and it's purely
20 speculation.

21 PRESIDING JUDGE MINDUA: [15:28:22](Interpretation) Mr Prosecutor, I think we
22 need to sort of get things on track here. It's true, well, in principle, this hearsay is not
23 acceptable, but as you know, in some cases it can be admitted. So I think we are at
24 the limit of what is acceptable, so we could hear what the witness has to say.

25 With regard to your objection on evaluation, I think one should be a bit measured

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1 here too, because witnesses to a marriage can see, observe whether the fiancée is
2 happy to being married or not. I think that is possible. But what is concerning is
3 that the witness was not present, so how could he evaluate.

4 I think we could perhaps give him the possibility to express his idea.

5 You talked about flogging. This has not come up. He said sharia was applied.

6 Perhaps he's going to mention flogging. Let us wait and see.

7 Ms Gerry, I think we can leave it up to the witness to reply, so we will re-establish the
8 connection.

9 Court officer, please could you re-establish -- just one moment.

10 Ms Gerry.

11 MS GERRY: [15:30:06] Before you do, Mr President, our understanding is there was
12 a reply in Tamasheq and the word was "positive". But I'm content to ask the
13 question again, was he able to assess the reaction of the woman to this marriage. But
14 as we understand it, he said the word "positive."

15 Just to be helpful, I wish to -- I'll simply ask the question again and if we get
16 a different answer, I'll see where we go. I just want you to know that that's our
17 understanding of the translation.

18 PRESIDING JUDGE MINDUA: [15:30:38](Interpretation) Absolutely. So, court
19 officer, can you reconnect the sound to the witness, please.

20 THE COURT OFFICER: [15:30:49] The sound to the witness has been re-established,
21 Mr President.

22 PRESIDING JUDGE MINDUA: [15:31:00](Interpretation) Thank you very much,
23 court officer.

24 So, Mr Witness, you will have heard the question from Defence counsel, or would
25 you like her to put the question to you once again?

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1 THE WITNESS: [15:31:27](Interpretation) Yes, I would like her to put the question
2 again.

3 PRESIDING JUDGE MINDUA: [15:31:32](Interpretation) Counsel Gerry.

4 MS GERRY: [15:31:33] Thank you, Mr President.

5 Q. [15:31:34] Mr Witness, you told us that the man said to Adam that he loved the
6 woman. Did you have any opportunity to assess the reaction of the woman to this
7 marriage?

8 A. [15:32:31] The man had had a girl with that woman before Adam arrived, they
9 had already had a child together.

10 Q. [15:32:45] You told us that Adam -- that there was an appointment to meet the
11 girl and sharia law would be applied. Was sharia law, in fact, applied?

12 A. [15:33:28] Yes. Sharia was indeed applied. They received strokes of a whip.
13 They allegedly received a flogging because they weren't married.

14 Q. [15:33:59] You told us that neither mother wanted the marriage. Can you help
15 us to understand why this appointment was made for the marriage to take place?

16 A. [15:35:17] Yes. I've already told you that the man had had a girl with that
17 woman out of wedlock and that's why the girl's mother didn't want that man -- didn't
18 like the man. But when all this happened, sharia was to be applied therefore.

19 People went to the mum and said, "Look, this is what -- how the situation stands.

20 Let -- let those children marry." Especially because they'd already had a child out of
21 wedlock.

22 Q. [15:36:06] Thank you. And to your knowledge, did the marriage between that
23 man and that woman continue or was she brought back? Or did it finish -- sorry, it's
24 a bad question.

25 Did that marriage continue or did it finish?

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1 A. [15:37:01] No, there was no divorce. Even today they're still married. They
2 live harmoniously together. They have their children. They communicate by
3 WhatsApp. They do what they like.

4 Q. [15:37:21] Thank you. Moving on to a different topic now, Mr Witness. I
5 want to ask you to look at an image, please.

6 MS GERRY: [15:37:34] Mr President, I'm just arranging for that to be on the screen.

7 PRESIDING JUDGE MINDUA: [15:37:49](Interpretation) Can this image be
8 displayed publicly, counsel?

9 MS GERRY: [15:37:55] I'm told it can't be, so may I ask to go into private session,
10 and then I'll read out the MLI number.

11 PRESIDING JUDGE MINDUA: [15:38:14](Interpretation) Counsel Gerry, we don't
12 need to go into private session. We can simply show the image in the courtroom. It
13 won't be displayed outside of these walls. Unless you have any questions that may
14 identify.

15 MS GERRY: [15:38:31] You're quite right. You're quite right. May I simply ask
16 that it does not go on the public screen. That's my error. I'm sorry if I'm not getting
17 the process quite right. The document -- the image that I asked to go on screen is
18 MLI-OTP-0022-0471, please.

19 Q. [15:40:08] Mr Witness, can you see an image on your screen?

20 A. [15:40:21] Yes, I can see that. That's the head of the BMS.

21 Q. [15:40:42] You told us earlier on today that the chief of the BMS was a Bambara
22 and you did not remember his name. Is that who you are talking about when you
23 talk about this picture or someone else?

24 A. [15:41:44] Yes, it's him. That's the person I see before me who arrested the man,
25 the Bambara who raped the woman. That's the person on the photo that I see before

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1 me.

2 Q. [15:42:11] Mr Witness, you told us that there was a chief of police who was
3 a Bambara. Is that the person in this image or not?

4 A. [15:43:03] It's that man. That was whom I spoke of, the chief of the BMS. It's
5 the man in the photo. The other -- the other man was the rapist of the young girl.
6 That was just a policeman. But this, on the photo, this person on the photo is the
7 chief.

8 Q. [15:43:31] Thank you. And perhaps my last question. When you told us
9 about the police line-up and you said that a Bambara was telling the police to line up,
10 is that the person in this image or not?

11 A. [15:44:25] Yes. It's that very person who had the policemen line up, and it's
12 also the very person who spoke to the Bambara who -- to the Bambara that raped the
13 girl. They spoke in Bambara. He told that person who raped the girl that, "Among
14 all those here lined up, you're the person that has been picked out by the girl, so you
15 are the person who committed the act."

16 Q. [15:45:02] Thank you. Have you ever directly spoken to the man that we can
17 see in the image on screen?

18 A. [15:45:19] No. No, never. No, never. Apart from the fact that when they
19 asked the policemen to line up and when they arrested the man, apart from those two
20 instances, I never spoke to him. And the exchange that we had, he came up to me
21 and said, "We have arrested the man who raped the woman." And that's it.

22 MS GERRY: [15:46:53] Thank you. We can remove the image now. I just want to
23 check one more matter, if I may.

24 Q. [15:46:57] Mr Witness, you told us earlier on today that you would go to BMS to
25 have a paper stamped when you were going on a journey. Did you ever have any

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1 other reason to personally yourself go to the BMS?

2 A. [15:48:03] No. Except the time when I travelled, I went through the BMS, or
3 on -- the time when I went to the BMS for the case of this woman, or once I went to
4 the BMS for a debt that -- some money that I owed to a man.

5 Q. [15:48:55] Mr Witness, you tell us you owed a debt to a man. Did you pay that
6 debt or not?

7 A. [15:49:29] Yes. Yes, I did reimburse the -- the money that I owed to the man
8 and that happened at the BMS. (Redacted). He -- had 150,000
9 francs of -- of debt and that took me to the BMS. Apart from the time when I went
10 regarding the girl or sometimes when I was going on a trip, I went to the BMS.

11 Q. [15:50:09] Thank you, Mr Witness. That completes my questions for you today
12 completely. Thank you.

13 PRESIDING JUDGE MINDUA: [15:50:22](Interpretation) Thank you very much,
14 Counsel Gerry.

15 I'd like to pay tribute to your efficiency.

16 Quite naturally, now I turn to the Prosecution bench. We have 10 minutes
17 remaining still. No doubt that we can use them to the full. Ms Prosecutor?

18 MS YAMAGUCHI: [15:50:49] Yes, Mr President. If you could just allow me to set
19 up for a few moments.

20 PRESIDING JUDGE MINDUA: [15:51:00](Interpretation) Absolutely. Take your
21 time, counsel for the Prosecution.

22 Over to you, counsel for the Prosecution.

23 MS YAMAGUCHI: [15:51:56] Thank you, Mr President.

24 QUESTIONED BY MS YAMAGUCHI:

25 Q. [15:51:59] Mr Witness, can you hear me?

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1 PRESIDING JUDGE MINDUA: [15:52:07](Interpretation) Just a moment, please,
2 counsel for the Prosecution.

3 (Pause in proceedings)

4 PRESIDING JUDGE MINDUA: [15:52:33](Interpretation) All right. For the record,
5 and for the Prosecutor, I point out that the witness has stepped off the stand for one
6 or two moments. So you can resume your seat.

7 (Witness exited the video-link room)

8 (Witness re-enters the video-link room)

9 PRESIDING JUDGE MINDUA: [15:54:26](Interpretation) I see that the witness is
10 with us again.

11 Madam Prosecutor, you have the floor.

12 MS YAMAGUCHI: [15:54:34] Thank you, Mr President.

13 Q. [15:54:37] Mr Witness, can you hear me?

14 A. [15:54:48] Yes, I can hear you.

15 Q. [15:54:50] My name is Yayoi Yamaguchi. We met yesterday briefly for
16 a courtesy meeting. But for the record, I will be asking you questions on behalf of
17 the Prosecution.

18 PRESIDING JUDGE MINDUA: [15:55:32](Interpretation) Over to you, Madam
19 Prosecutor.

20 MS YAMAGUCHI: [15:55:34] Yes, Mr President, I would like to go into private
21 session for approximately five minutes to cover some issues that may identify the
22 witness. I believe that would already take us to the end of today's session.

23 PRESIDING JUDGE MINDUA: [15:55:51](Interpretation) Absolutely. Madam
24 Prosecutor, you are absolutely right.

25 Court officer, private session, please.

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1 *(Private session at 3.56 p.m.) (Reclassified partially in public)

2 THE COURT OFFICER: [15:56:03] We are in private session, Mr President.

3 PRESIDING JUDGE MINDUA: [15:56:12](Interpretation) Thank you very much.

4 Madam Prosecutor.

5 MS YAMAGUCHI: [15:56:20]

6 Q. [15:56:21] Mr Witness, I first would like to clarify a few issues related to your
7 personal background. You testified that your full name is (Redacted); is that
8 right?

9 A. [15:56:49] Yes, that's right.

10 Q. [15:56:57] According to the information received from the Defence, you were
11 also called (Redacted); is that correct as well?

12 A. [15:57:29] Yes, (Redacted).

13 Q. [15:57:35] And you also go by the name of (Redacted); is that correct?

14 A. [15:57:45] I can only see here what's written on my card, (Redacted)
15 (Redacted)

16 Q. [15:58:15] But sometimes people might call you (Redacted), would that be
17 correct?

18 A. [15:58:46] Yes, people have a number of designations. (Redacted)
19 that features on my card, (Redacted). Now, regarding the Arabs, they call me
20 (Redacted). In Songhai, they called me (Redacted).

21 Q. [15:59:10] Could you tell us your ethnicity?

22 A. [15:59:31] (Redacted). That's my tribe.

23 Q. [15:59:36] Is that Tuareg or Bambara, Songhai? Do you have -- is that tribe
24 associated with a specific ethnicity?

25 A. [16:00:09] (Redacted)

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1 (Redacted)

2 MS YAMAGUCHI: [16:00:29] Mr President, I see the time. This might be an
3 opportune time to adjourn.

4 PRESIDING JUDGE MINDUA: [16:00:39](Interpretation) Madam Prosecutor, thank
5 you very much for keeping so scrupulously to time.

6 So we will now move into open session, please, if you wouldn't mind, court officer.

7 (Open session at 4.00 p.m.)

8 THE COURT OFFICER: [16:00:55] We are back in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [16:01:05](Interpretation) Thank you very much,
10 court officer.

11 I look to the witness. Mr Witness, we have now reached the end of our day's work.

12 As you will have noticed, your oral evidence is not yet concluded. You will be
13 continuing tomorrow morning from 9.30.

14 So on behalf of the Chamber, I would like to thank you very fully for having replied
15 very clearly to the questions that have been put to you. So between now and
16 tomorrow morning, please do not forget that it is forbidden for you to talk of your
17 evidence to anybody, be it your family or friends.

18 So before we rise, as custom dictates, I would like to thank the parties and the
19 participants. I would like to thank the court reporters and the interpreters, our
20 security officers and, lastly, the greater public.

21 To all and one, have a lovely evening, and we meet up tomorrow morning at half past
22 nine.

23 Court is adjourned.

24 (The hearing ends in open session at 4.03 p.m.)