

Trial Hearing
WITNESS: MLI-OTP-P-0150

(Closed Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 23 June 2021
10 (The hearing starts in closed session at 9.30 a.m.)
11 THE COURT USHER: [9:30:16] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:30:50](Interpretation) Court is in session.
15 Good morning to all.
16 Mr Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:31:02] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
19 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number
20 ICC-01/12-01/18.
21 And for the record, we are in closed session.
22 PRESIDING JUDGE MINDUA: [9:31:25](Interpretation) Thank you very much
23 Mr Courtroom Officer.
24 As every morning, we shall take the appearances.
25 Mr Prosecutor, please.

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1 MR DUTERTRE: [9:31:37](Interpretation) Good morning, Mr President. Good
2 morning, your Honours. The Office of the Prosecutor is represented today by
3 Madam Yayoi Yamaguchi, by Mr Lucio Garcia, by Mr Mousa Allafi, and by myself,
4 Gilles Dutertre. And I would like to greet, like every morning, my colleague,
5 Mr Fidel Nsita, and his -- [REDACTED] Maître Taylor, Mr Youssef, Mr Courtroom
6 Officer, the courtroom usher, the guards, the interpreters and the court reporters.
7 Thank you.

8 PRESIDING JUDGE MINDUA: [9:32:15](Interpretation) Thank you very much,
9 Mr Prosecutor.

10 I'd like to turn to the Defence now. Counsel.

11 MS TAYLOR: [9:32:20] Good morning, Mr President. Good morning, your
12 Honours. Good morning to everyone in the courtroom and around the courtroom.
13 The Defence for Mr Al Hassan is represented today by Maître Mohamed Youssef and
14 myself, Melinda Taylor. Thank you.

15 PRESIDING JUDGE MINDUA: [9:32:45](Interpretation) Thank you very much,
16 Ms Taylor.

17 I'm now turning to the Legal Representatives of Victims. Maître.

18 MR LUVENGIKA: [9:32:53](Interpretation) Good morning, Mr President. Good
19 morning, your Honours. As usual, the Legal Representatives -- well, for once, the
20 Legal Representatives are a full team. Maître Julie Goffin, Madam Claire Laplace,
21 Mademoiselle Ludivine Tixier-Dunet, and myself, Maître Fidel Nsita Luvengika.
22 And I would like to make the most of this opportunity to greet all the people present
23 in the courtroom, starting with my learned friend, Maître Taylor - we should start
24 with the ladies, should we not - and my learned friend Mr Gilles Dutertre and his
25 team, my learned friend [REDACTED] whom I'd like to greet, and all of those

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1 present here in and around the courtroom working in this case. Thank you very
2 much.

3 PRESIDING JUDGE MINDUA: [9:33:55](Interpretation) Thank you very much,
4 Maître Nsita.

5 I'd like to turn to the counsel for our witness. Maître.

6 [REDACTED] [9:34:02](Interpretation) Good morning, Mr President. Good
7 morning, your Honours. I am [REDACTED] I am the counsel
8 representing [REDACTED] the witness in this case, in accordance
9 with Rule 74 of the Rules of Procedure and Evidence. And I would like to take this
10 opportunity to greet all the people present in the courtroom, starting with the Defence
11 team and, as well, the Prosecution team and the Legal Representatives of Victims.
12 And I would like also to greet the witness, the interpreters and the court reporters.
13 Thank you very much, Mr President.

14 PRESIDING JUDGE MINDUA: [9:34:54](Interpretation) Thank you very much,
15 [REDACTED]

16 It is now time for me to address the witness.

17 Good morning, Mr Witness. How are you?

18 WITNESS: MLI-OTP-P-0150 (On former oath)

19 (The witness speaks Arabic)

20 THE WITNESS: [9:35:07](Interpretation) Good morning, Mr President. Good
21 morning, your Honours. I am very well. Thank you very much.

22 PRESIDING JUDGE MINDUA: [9:35:17](Interpretation) Thank you very much,
23 Mr Witness. I would like on the behalf of the Chamber to thank you once again for
24 your cooperation. I would also like to remind you that you are still under
25 summon -- under oath and that you should speak the truth, the whole truth and

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1 nothing but the truth.

2 So without further ado, I should hand over to the Office of the Prosecutor for the
3 continuation of the examination-in-chief and I think also the end of the
4 examination-in-chief.

5 Mr Prosecutor.

6 MR DUTERTRE: [9:35:53](Interpretation) Yes, that is the operative word in your
7 sentence, "the end".

8 PRESIDING JUDGE MINDUA: [9:35:59](Interpretation) Yes, indeed.

9 MR DUTERTRE: [9:36:03](Interpretation) We all are hungry for the end.

10 QUESTIONED BY MR DUTERTRE: (Continuing) (Interpretation)

11 Q. [9:36:09] Good morning, Mr Witness.

12 A. [9:36:12] Good morning.

13 Q. [9:36:14] As the Presiding Judge has just indicated, we shall be wrapping up the
14 examination-in-chief in this session. I shall try to go fast, with your assistance,
15 Mr Witness.

16 We shall carry on with video [REDACTED], which represented the destruction of the
17 Sidi Yahia mosque door, as you indicated. And I would remind you that we are
18 using here binder number 7, Mr President, at tab 1211, 1212, and 1213.

19 For the interpreters the translation can be found as [REDACTED] at tab 1213.

20 So I am at -- at 00:09:04:02 of the video and I'm going to be playing it for a few
21 moments.

22 (Viewing of the video excerpt)

23 MR DUTERTRE: [9:38:03](Interpretation)

24 Q. [9:38:04] What could we see in the video just now, Mr Witness?

25 A. [9:38:08] We can see a group of jihadists who opened the door of the Sidi Yahia

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1 mosque. They made a hole on the other side.

2 Q. [9:38:35] I'm now going to play an excerpt from 00:09:13:22 to 00:10:10:13. And

3 this corresponds to lines 108 to 119 in the transcript. And I'm going to wait for the

4 green light from the interpreters before I launch into it.

5 So I'm launching the video at 00:09:13:19.

6 THE INTERPRETER: [9:39:29] (Interpretation of the video excerpt)

7 Interpretation of the transcript:

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25 End of transcript. Thank you.

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1 MR DUTERTRE: [9:41:11](Interpretation) I do apologise.

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6 MR DUTERTRE: (Interpretation)

7 Q. [9:45:21] There is an inaudible passage, but I presume that the interpreters will
8 be able to reconstruct the transcript later.

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16 MR DUTERTRE: [9:46:33](Interpretation) Now, Mr President, your Honours, I
17 would like to move on to video [REDACTED]. This is in binder number 7 at tab 1214,
18 1215, and 1216. The transcript is [REDACTED] and the translation can be found at
19 [REDACTED]. I shall be playing it without the sound to start off with.

20 THE COURT OFFICER: [9:47:33] Apologies. Before counsel starts, could he kindly
21 confirm whether the redacted or non-redacted version should be used for the
22 transcript. Thank you.

23 MR DUTERTRE: [9:47:53](Interpretation) If there's a non-redacted version, I think
24 that will be the better one to use. And thank you very much for asking that question.
25 I would say that by default in eCourt I think we will always be using the

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1 non-redacted version. Thank you very much.

2 (Viewing of the video excerpt)

3 MR DUTERTRE: [9:48:44](Interpretation)

4 Q. [9:48:45] I've stopped at 00:00:42:18.

5 [REDACTED]

6 A. [9:48:56] [REDACTED]

7 [REDACTED]

8 Q. [9:49:27] Mr Witness, at 00:00:48:15, [REDACTED]

9 [REDACTED]
10 [REDACTED]

11 Q. [9:49:45] I'm now going to move on to the minute 00:00:07:50 to *00:00:08:33

12 and this is lines 36 to 46 of the transcript [REDACTED]. And I'm waiting for the

13 interpreters to make a sign to me. So I am at 00 -- 00:07:49:24.

14 [REDACTED]
15 [REDACTED]

16 Q. [9:51:12] So I'm going to be playing it with the sound and I'm told that it's all
17 good.

18 (Viewing of the video excerpt)

19 THE INTERPRETER: [9:51:27] (Interpretation of the video excerpt)

20 Transcript:

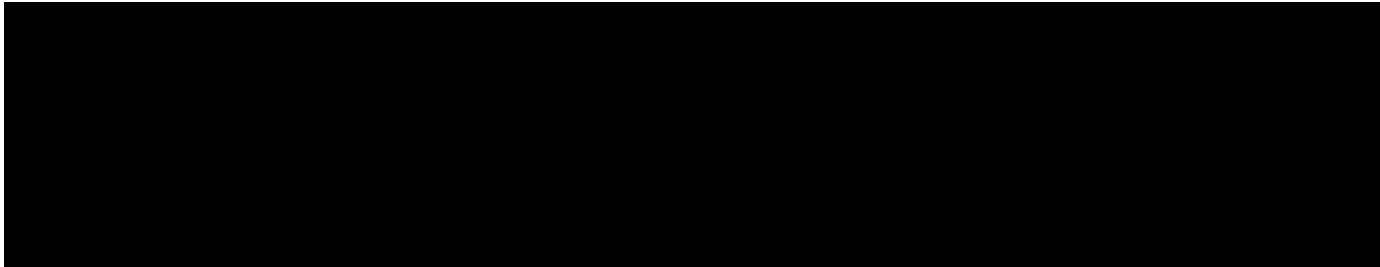
21 [REDACTED]
22 [REDACTED]
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24 [REDACTED]
25 [REDACTED]

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MR DUTERTRE: (Interpretation) I can see that the --

THE INTERPRETER: Overlapping speakers.

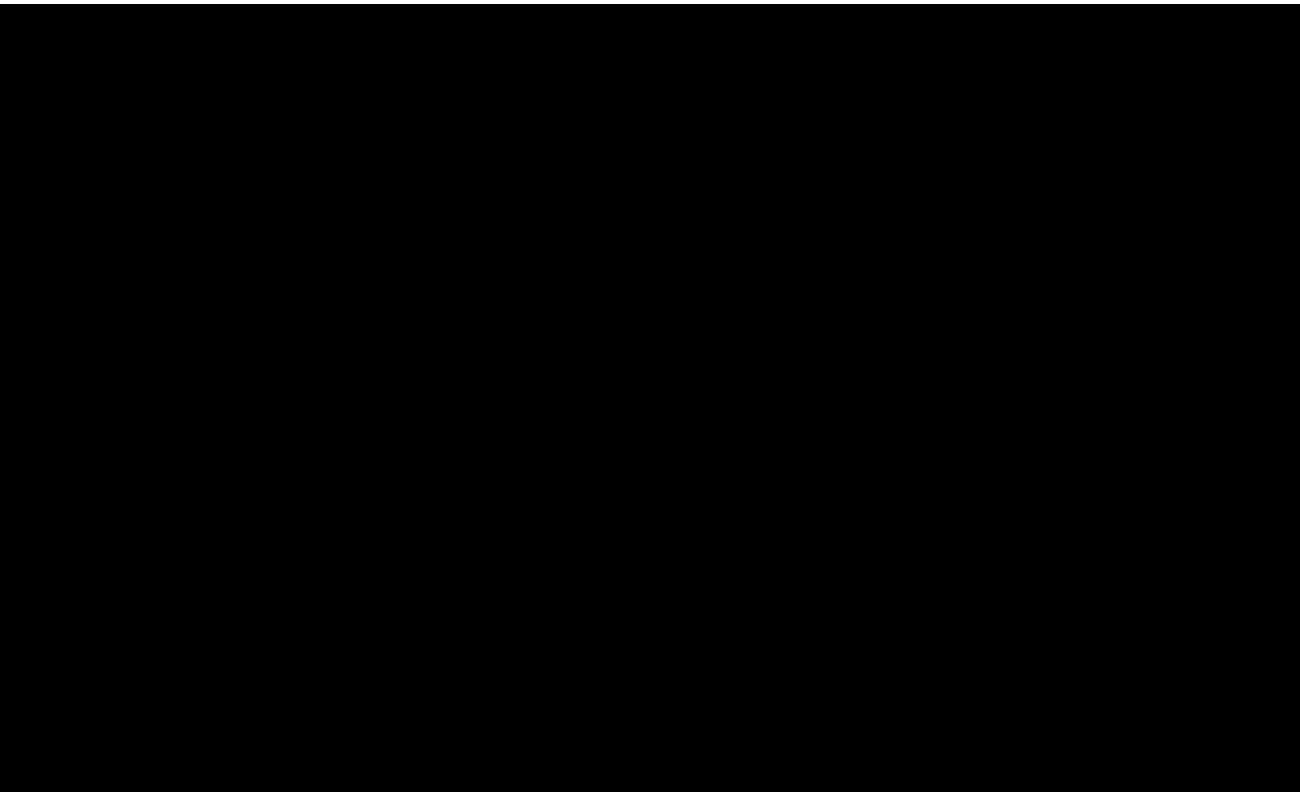
MR DUTERTRE: [9:53:16](Interpretation) There are some important words that are lacking in the French transcript as well that weren't read into the transcript at lines 41.

THE INTERPRETER: [9:53:24] Message from the English interpreter: Could the -- could it be played again?

PRESIDING JUDGE MINDUA: (Overlapping speakers)
(Viewing of the video excerpt)

THE INTERPRETER: [9:53:31] (Interpretation of the video excerpt)

Transcript:



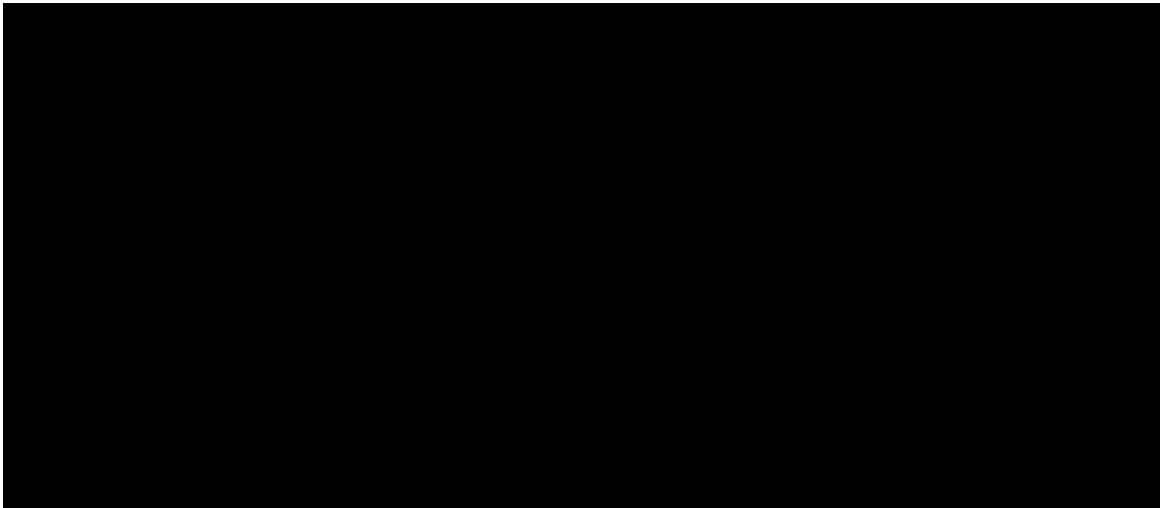
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And the transcript is no longer visible.

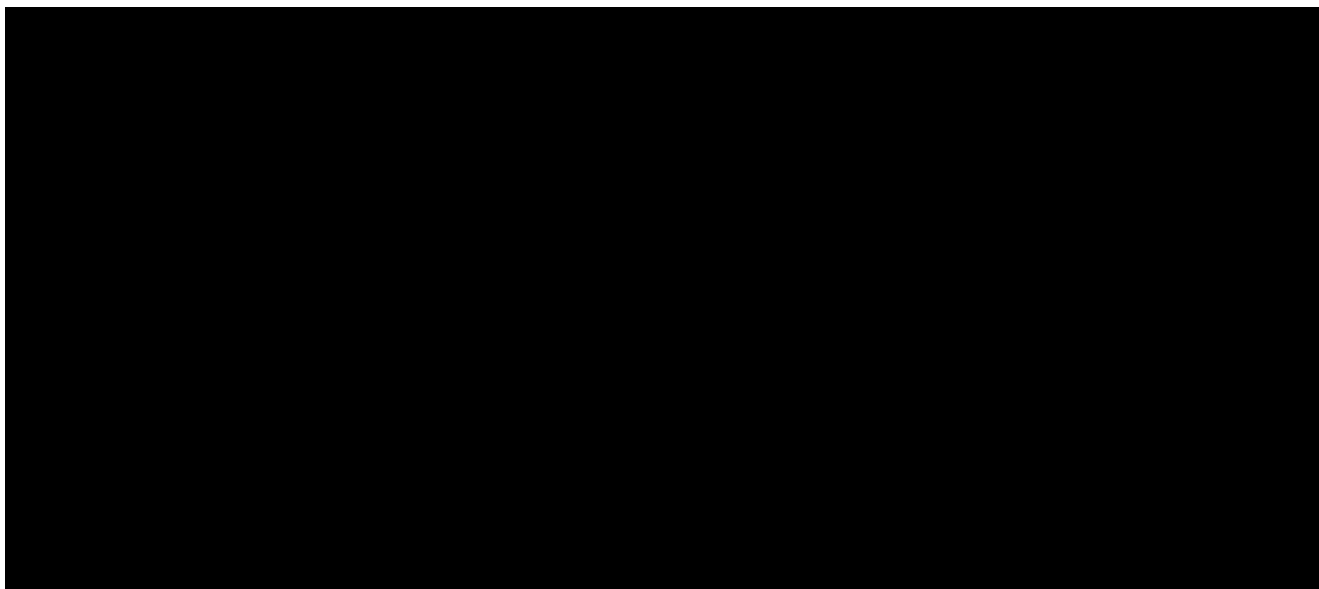
MR DUTERTRE: [9:55:13](Interpretation) *So, I actually stopped approximately at 12:08:50.

Q. Mr Witness, I have a question. Do you know the name of the individual who says that the UNESCO people are jackasses and that they think that this is heritage?

A. [9:55:52] Yes. Radwan.

Q. [9:55:55] I'm going to go on to the second excerpt of this video, and this will be the last excerpt, corresponding to lines 78 to 109, interpreters. And that is page [REDACTED], Mr Courtroom Officer. And it will go from 14:11 to 17:31.

And I'm waiting for the green line from the interpreters. Thank you.



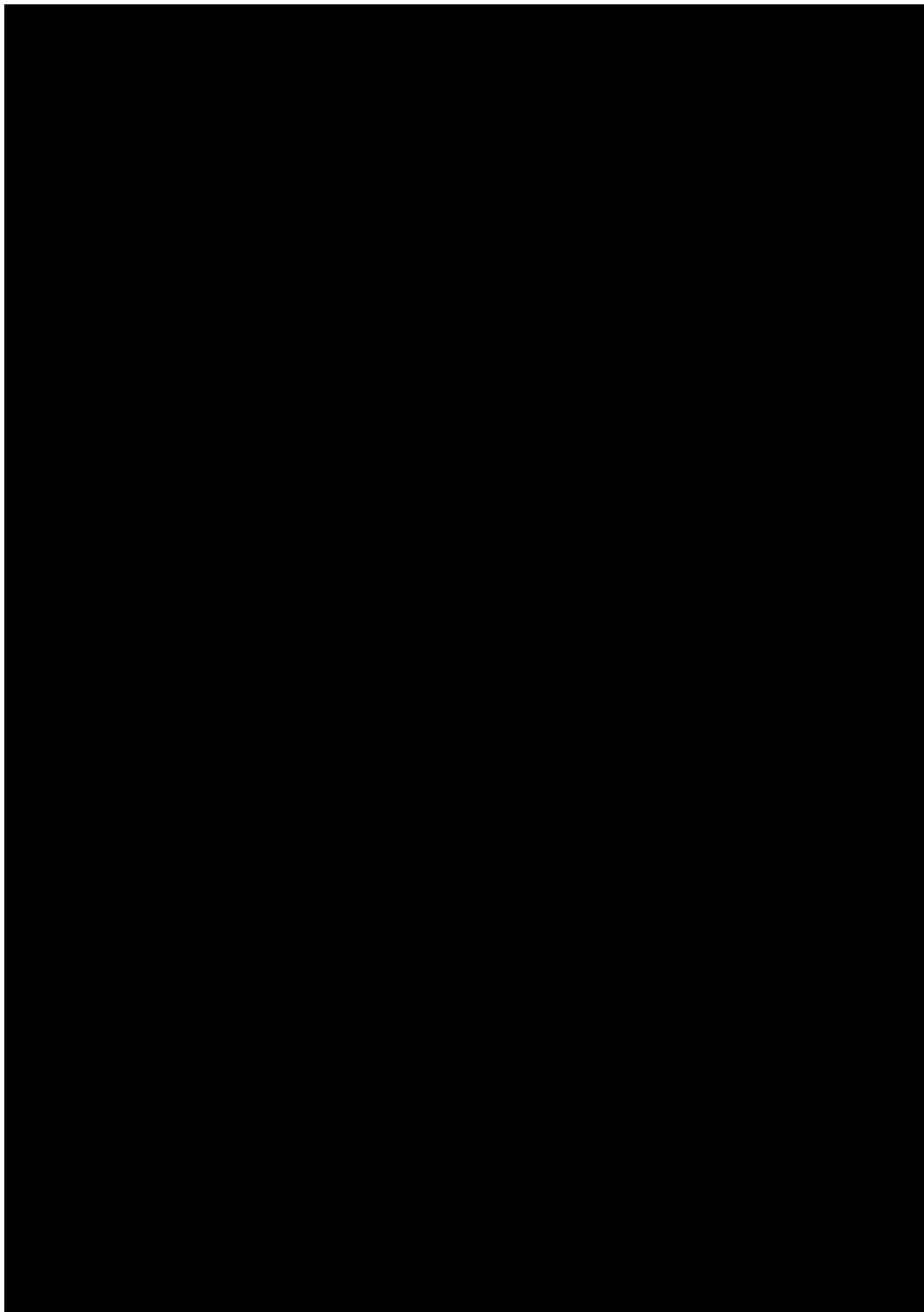
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10 MR DUTERTRE: [10:01:53](Interpretation) I thank the interpreters. It was a rather
11 long excerpt.

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10 Q. [10:05:21] I'd now like to play some video footage -- well, no, audio recording.

11 0001-6944. And the transcript is actually to be seen within the recording itself. And

12 I will provide the tab number in just a moment. 0001-6944, binder 8, tab 1158.

13 Transcript 1559, and the ERN is 0020-0582. Tab 1559, 0020-0582.

14 If the court officer could kindly play the recording because I'm having a technical

15 problem. 0001-6944.

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21 MR DUTERTRE: (Interpretation) Mr Courtroom Officer, if you could play the audio

22 recording now.

23 THE INTERPRETER: No audio.

24 THE COURT OFFICER: [10:08:31] You may proceed to play the video, but we may

25 have a problem with sound. We will find out shortly.

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1 (Playing of the audio excerpt)

2 THE INTERPRETER: [10:08:46] (Interpretation of the audio excerpt)

3 Who ordered you to do it?

4 Allah did.

5 Are you aware of the reactions worldwide?

6 You should tell them to send food and medicine to these poor souls. These are the

7 kind of answers people want to hear. If you're truly interested, if you're truly

8 human ...

9 So you're telling me that the mausoleums are 90 per cent destroyed?

10 Yes.

11 And tomorrow you will destroy what is left?

12 MR DUTERTRE: [10:09:24](Interpretation)

13 Q. [10:09:25] Did you recognise the voice of the person speaking?

14 A. [10:09:32] Yes. One of them is Sanda Ould Boumama.

15 Q. [10:09:51] Thank you for that, Mr Witness.

16 I would now like to move on to another topic and then I'll be harking back to a few

17 other issues we discussed earlier.

18 Now yesterday we talked about the issue of marriages. To your knowledge, were

19 any children born of these relationships between the jihadists and the local women?

20 A. [10:10:35] I can't remember any of that.

21 Q. [10:10:48] We also discussed transcript 100, French version, page 34 and 35, we

22 discussed the issue [REDACTED] and you testified

23 that [REDACTED] And I

24 wanted to ask you [REDACTED]

25 [REDACTED]

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1 A. [10:11:59] All what I remember [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 Q. [10:12:27] [REDACTED] does that name ring a bell?

5 A. [10:12:40] Not at all.

6 Q. [10:12:56] Mr Witness, I'd now like to show you something in one of the binders

7 that you've already identified, and I'd like to ask you to comment on this document

8 with your handwriting, tab 635, binder 3, Mr Witness. Tab 635, binder 3. 0055-0267,

9 is the transcript. And the translation, tab 363, ERN 0054-0335. Now, for the English

10 transcript, 0054-0335.

11 And if you could look to the left-hand side, please.

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

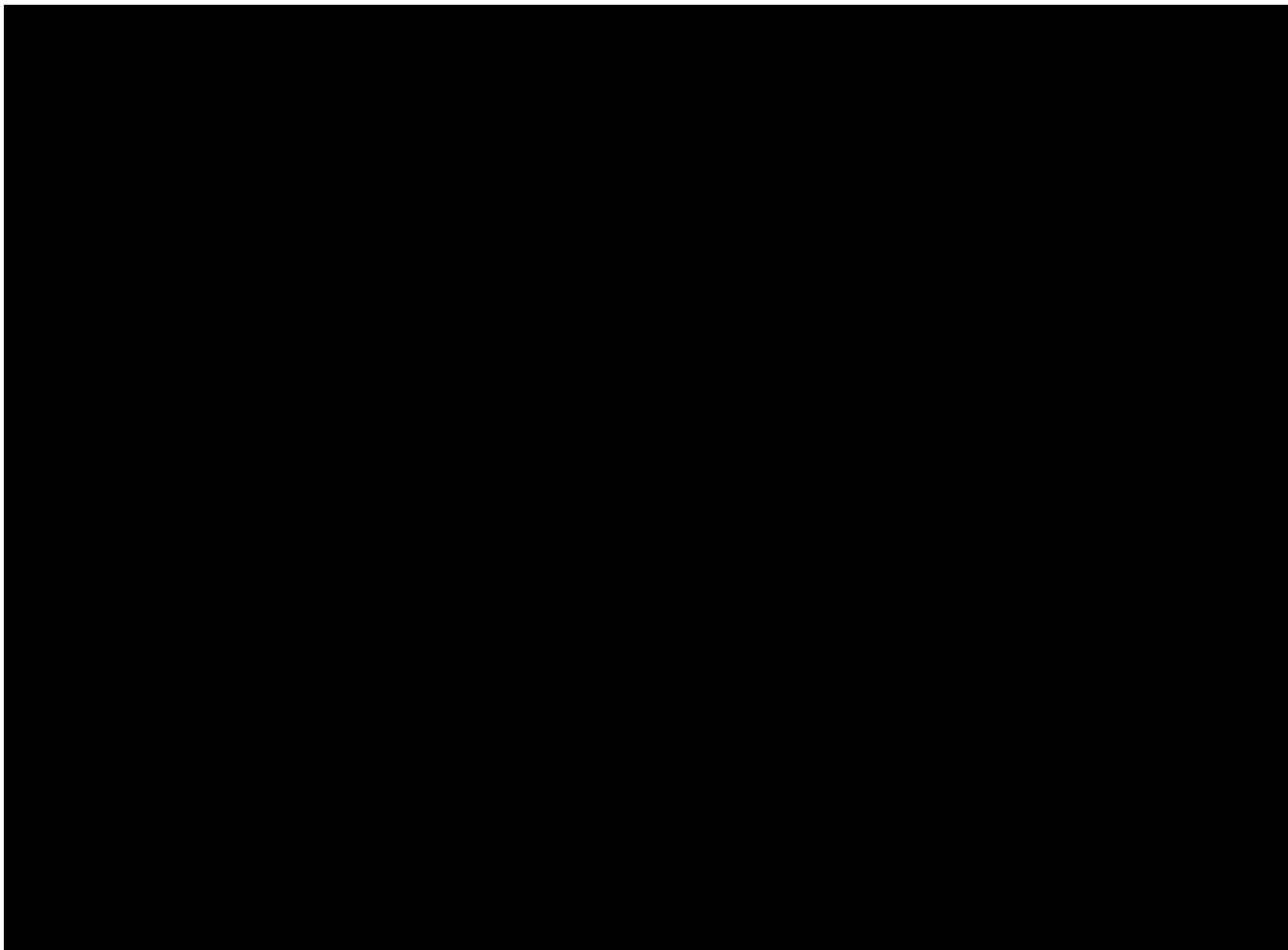
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15 (Interpretation) Could you explain that point to us.

16 PRESIDING JUDGE MINDUA: [10:21:31](Interpretation) Ms Taylor.

17 MS TAYLOR: [10:21:33] I apologise, Mr President, but it appears that there may be
18 something missing from the transcripts. I understand from page 18, line 2 of the
19 English, there's a phrase that's missing that -- I think that the witness apparently said
20 that [REDACTED] and I can't see
21 that in the transcript at all.

22 PRESIDING JUDGE MINDUA: [10:22:10](Interpretation) Prosecutor.

23 MR DUTERTRE: [10:22:10](Interpretation) I believe the French says that [REDACTED]
24 [REDACTED]

25 PRESIDING JUDGE MINDUA: [10:22:16](Interpretation) Reput the question to the

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1 witness to clear up this difficulty, please.

2 MR DUTERTRE: [10:22:29](Interpretation)

3 Q. [10:22:30] Without being leading. Mr Witness, part of a sentence has gone

4 missing in the English transcript, and apparently you said in French: [REDACTED]

5 [REDACTED]

6 [REDACTED] I believe that is the missing excerpt that Ms Taylor was referring to.

7 PRESIDING JUDGE MINDUA: [10:23:06](Interpretation) Ms Taylor.

8 MR DUTERTRE: [10:23:09](Interpretation) Because in the English I don't see where

9 the missing material would be.

10 MS TAYLOR: [10:23:16] Thank you, Mr President. No, I believe it was before that,

11 in fact. And that's the problem, that we don't see where it would be because the

12 entire phrase appears to be missing. [REDACTED]

13 [REDACTED]

14 MR DUTERTRE: [10:23:41](Interpretation)

15 [REDACTED]

16 THE INTERPRETER: Overlapping.

17 THE WITNESS: [10:23:50](Interpretation) Yes, I will reformulate to make myself

18 clearer.

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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[REDACTED]

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MR DUTERTRE: (Interpretation)

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Q. [10:25:03] Thank you for that clarification. I believe that responds to

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Ms Taylor's concern.

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[REDACTED]

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24 MR DUTERTRE: [10:28:36] (Interpretation) I now require instructions from the

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Chamber.

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2 THE INTERPRETER: [10:29:08] ERN numbers read at excessive speed.

3 MR DUTERTRE: [REDACTED]

4 [REDACTED] at tab 527, 0055-0209. [REDACTED] at tab 3 -- correction, 637. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 PRESIDING JUDGE MINDUA: [10:30:20](Interpretation) Ms Taylor, I don't see any
8 problems with that. This is the same process as yesterday. Have you something to
9 say?

10 MS TAYLOR: [10:30:30] Thank you, Mr President. I apologise. The Prosecutor
11 read out a series of ERNs very quickly, but is it my understanding that the Prosecutor
12 intends to show [REDACTED] to the witness so that the witness can actually
13 confirm that [REDACTED]? Because that seems to
14 be -- to me to be the most sensible approach rather than looking at independent
15 pages.

16 MR DUTERTRE: [10:31:00](Interpretation) That is the objective. And I shall repeat
17 the ERNs, if you like, because I'm sorry that I was fast.

18 PRESIDING JUDGE MINDUA: [10:31:09](Interpretation) Yes, because you were so
19 fast that she didn't hear the interpretation. But that's what you said.

20 MR DUTERTRE: [10:31:14](Interpretation) I shall repeat them, therefore. 0055-0209
21 [REDACTED] 0055-268, [REDACTED] tabs 527 to 637.

22 And Mr Youssef, that is in binder number 3. Maybe you've already found it. And,
23 of course, between each page you will find the translation.

24 And if the courtroom usher could please show all of these pages to the witness for
25 him to peruse them rapidly and tell us what this corresponds to.

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1 PRESIDING JUDGE MINDUA: [10:32:21](Interpretation) Madam Courtroom Usher,
2 please.

3 PRESIDING JUDGE MINDUA: [10:32:41](Interpretation) Ms Taylor.

4 MS TAYLOR: [10:32:43] I apologise, but I had understood from the Prosecutor's
5 response that the witness would be shown [REDACTED]

6 [REDACTED]

7 PRESIDING JUDGE MINDUA: [10:33:06](Interpretation) Mr Prosecutor.

8 MR DUTERTRE: [10:33:07](Interpretation) We can bring the notebook here and it's
9 in the vault. [REDACTED] You can
10 see that it's the same document unless --

11 THE INTERPRETER: [10:33:21] Overlapping speakers.

12 PRESIDING JUDGE MINDUA: [10:33:24](Interpretation) Mr Prosecutor, I entirely
13 agree with you.

14 Ms Taylor, we are professionals. We can see that [REDACTED]
15 [REDACTED] If there are any challenges, you can raise that at a
16 later stage. But for the time being, I don't see any.

17 MR DUTERTRE: [10:33:49](Interpretation)

18 Q. [10:33:49] So, Mr Witness, you need to start at tab 527 until -- or up to tabs 637.

19 [REDACTED]
20 [REDACTED]

21 (The witness reviews the documents)

22 MR DUTERTRE: [10:48:47](Interpretation)

23 Q. [10:48:48] I can see that you finished, Mr Witness. Can you tell us what this

24 [REDACTED] Mr Witness.

25 PRESIDING JUDGE MINDUA: [10:49:06](Interpretation) Microphone.

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7 MR DUTERTRE: [10:50:09](Interpretation)

8 Q. [10:50:10] Thank you, Mr Witness. I would like to show you a last document.

9 One or two questions, Mr President. Then I have a question for the witness. I think
10 we can do that in the ten remaining minutes.

11 Now, it's in binder number 7. 100, 200 -- the translation is 0027-0964 at page 0975.

12 That's the part that is of interest to me. 0964, 0027-0964, page 0975. That is the
13 translation. And the original at 1279, is the tab, 0024-2320, for Mr Youssef.

14 So we would need to bring up page 0975.

15 Could we move down a little bit to see the bottom of the page, please. There we are.

16 Mr Witness, at transcript 89 in the edited version of the English version, we were
17 speaking about [REDACTED] And at

18 page 63 up to page 65, at lines 21 to 24 at page 63, you mentioned a letter sent by the
19 emir of Al-Qaeda. Now, on the basis of your recollection, does this document
20 correspond to that letter, Mr Witness?

21 A. [10:54:35] Yes.

22 Q. [10:54:37] So I shall hand over to my colleague Mousa Allafi, who is going to
23 indicate to you precisely which page you need to go to.

24 If you don't mind, Mr President.

25 PRESIDING JUDGE MINDUA: [10:54:50](Interpretation) Please go ahead.

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1 MR ALLAFI: [10:55:01](Interpretation) Mr Witness, please go to the page -- the
2 numbers are at the top right side. Please go to page number 7. So ERN number is
3 0024-2329. At the end of this page there is a headline in red. Have you found it?

4 THE WITNESS: [10:55:34] (Interpretation) Yes.

5 MR ALLAFI: [10:55:34] (Interpretation) Can you please start reading from this point
6 until middle of the next page where there is a line starting with the second proposal.
7 Please go through these parts.

8 THE WITNESS: (No interpretation)

9 MR DUTERTRE: [10:56:06](Interpretation) Please just read it to yourself, Mr Witness,
10 and then I will put a question to you. You don't need to read it out loud.

11 Q. [10:57:39] Now, Mr Witness, with regard to the first proposal, it is indicated:
12 (Speaks English) "In internal activity, we would follow the emirate of Ansar Dine,
13 placing our emir under their emir and making our opinion subordinate to their
14 opinion. By internal activity we mean all activity connected to participating in
15 bearing the responsibilities of the liberated areas."

16 (Interpretation) Can you briefly clarify for the Chamber what should be understood
17 from "internal activity," Mr Witness, please.

18 A. [10:58:46] Internal activities are explained here, which means the management
19 of the cities internally. And that included the -- that included various activities, the
20 first of which is keeping peace and security and the establishment of Sharia, and that
21 lead to the creation of institutions such as training centres and the police and judiciary
22 and also the *Hesbah* and -- and having preachers and teachers as well. So this is what
23 is meant by internal activity where the emir of Ansar Dine becomes the senior and the
24 emir of Al-Qaeda becomes a subordinate.

25 Q. [11:00:05] And at what moment in time was this measure put in place, if you

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1 recollect?

2 PRESIDING JUDGE MINDUA: [11:00:14](Interpretation) Ms Taylor.

3 MS TAYLOR: [11:00:16] Thank you, Mr President. I believe that the Prosecutor has
4 gotten ahead of themselves in that question. And mindful of the fact that the
5 witness is present, I would ask the Prosecutor to reformulate it in that it's based on an
6 assumption.

7 PRESIDING JUDGE MINDUA: [11:00:49](Interpretation) Prosecutor.

8 MR DUTERTRE: [11:00:49](Interpretation)

9 Q. [11:00:51] Mr Witness, was this position implemented and, if so, when, on a
10 *de facto* basis?

11 A. [11:01:09] Yes, the proposal was implemented to some extent even before this
12 letter was written, as this letter was a new formulation of the project of Ansar Dine,
13 which was established already before even the arrival of the jihadists in Timbuktu.
14 And in Timbuktu, they implemented a version of what is written here, but there were
15 a lot of problems where there was dispute between -- between different positions and
16 authorities, but that was resolved after this letter. So after October 2012, this policy
17 became the implemented one.

18 Q. [11:02:19] If you could, Mr Witness, could you go to the last page of this
19 document and [REDACTED]?

20 A. [11:02:45] Yes.

21 MR DUTERTRE: [11:02:52] (Interpretation) And with the patience of the Chamber
22 one last question.

23 PRESIDING JUDGE MINDUA: [11:02:57](Interpretation) Go ahead.

24 MR DUTERTRE: [11:02:59](Interpretation)

25 Q. [11:03:00] I would like to ask the witness -- Mr Witness, could you explain to the

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1 Chamber why you agreed to be a witness in this case?

2 A. [11:03:22] I had many reasons to become a witness in this case. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Witness -- giving -- being a witness is something desirable in the religion *and

18 required by the Koran. Almighty God said:

19 "O YOU who have attained to faith! Be ever steadfast in upholding equity, bearing

20 witness to the truth for the sake of God, even though it be against your own selves or

21 your parents and kinsfolk"

22 (Chapter 4, verse 135).

23 Almighty God also said: "And do not conceal what you have witnessed -

24 for, verily, he who conceals it is sinful at heart"

25 (Chapter 2, verse 283).

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1 THE WITNESS: [11:05:52](Interpretation) So there is this motive that comes from
2 my religion, and there is also a moral motive here.

3 PRESIDING JUDGE MINDUA: [11:06:05](Interpretation) One moment. The
4 interpreter has mentioned you quoted from the Koran. Could you provide the
5 reference so that passage from the --

6 THE INTERPRETER: [11:06:22] Overlapping speakers.

7 MR DUTERTRE: [11:06:26](Interpretation) I believe we missed some of the
8 explanations while the interpreter was pointing out the lack of -- or, rather, the
9 quoting of a passage from the Koran. Perhaps the witness could repeat his earlier
10 remarks.

11 PRESIDING JUDGE MINDUA: [11:06:47](Interpretation) Go ahead, Mr Witness.

12 THE WITNESS: [11:06:53](Interpretation) I was talking about the religious motive
13 which *is the obligation to give testimony if asked, including verses from the Koran
14 from the second Chapter. I think it's towards the end of this Chapter. I don't
15 remember which number the verse is exactly, I just know the verse. In Chapter 2,
16 Almighty God said: "And do not conceal what you have witnessed - for, verily, he
17 who conceals it is sinful at heart" (Chapter 2, verse 283). Also in Chapter 4, Almighty
18 God said: "O YOU who have attained to faith! Be ever steadfast in upholding equity,
19 bearing witness to the truth for the sake of God, even though it be against your own
20 selves or your parents and kinsfolk" (Chapter 4, verse 135).

21 THE WITNESS: [11:07:45](Interpretation) This is in the chapter of women.
22 And I also spoke about the moral motive. Before joining the jihadists, I was very
23 proud as a person who wanted to get to the truth and knowledge and high level of
24 morals. I always wanted to develop myself. I didn't want to be close-minded in the
25 environment that I was born in. I wanted to see how the world is living their life.

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4 [REDACTED] I am very keen on this. And that's why, when the Office of
5 the Prosecution asked me to testify, I accepted and I made my best -- I have done my
6 best to say the truth and clarify all the information.

7 MR DUTERTRE: [11:09:39](Interpretation) [REDACTED] thank you.

8 Your Honours, this concludes my examination-in-chief and I'm in your hands, your
9 Honour.

10 PRESIDING JUDGE MINDUA: [11:09:52](Interpretation) Thank you very much,
11 Mr Prosecutor. The Chamber thanks you for your examination-in-chief, which was
12 clear and precise, and I thank you in particular because you followed the Chamber's
13 instructions regarding punctuality and you kept your word, even though we've gone
14 ten minutes past the usual time, which is not so serious.

15 Mr Witness, I thank you as well for your cooperation and your diligence.

16 I would now like to turn to the Legal Representative of Victims. Naturally, the
17 Chamber has received your request to question this witness, and you have received
18 our decision in writing. And thus, we will begin with you this afternoon at 2.15 in
19 the afternoon.

20 We will suspend the hearing and resume this afternoon.

21 The hearing is now suspended.

22 THE COURT USHER: [11:11:08] All rise.

23 (Recess taken at 11.11 a.m.)

24 (Upon resuming in closed session at 2.15 p.m.)

25 THE COURT USHER: [14:15:31] All rise.

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1 Please be seated.

2 PRESIDING JUDGE MINDUA: [14:16:00](Interpretation) The hearing shall now
3 resume.

4 Good morning, once again -- rather, good afternoon, Mr Witness. I hope you had a
5 chance to get some rest.

6 THE WITNESS: [14:16:17](Interpretation) Good afternoon, Mr President. Indeed.
7 Thank you very much.

8 PRESIDING JUDGE MINDUA: [14:16:24](Interpretation) Thank you very much,
9 Mr Witness. The Legal Representatives of Victims will now be asking you some
10 questions.

11 Please answer carefully, as you have done with the Office of the Prosecutor.

12 Without any further ado, I will now ask Mr Luvengika to proceed with his
13 examination. I believe he will be conducting the examination.

14 Counsel, please go ahead.

15 MR LUVENGIKA: [14:16:58](Interpretation) Thank you very much, your Honours,
16 for this opportunity provided to the Legal Representatives of Victims to put a number
17 of questions to this witness.

18 QUESTIONED BY MR LUVENGIKA: (Interpretation)

19 Q. [14:17:16] Good afternoon, Mr Witness.

20 A. [14:17:20] Good afternoon, sir.

21 Q. [14:17:23] I don't think I need to introduce myself after so many days together
22 here in the courtroom, and what is more we met one another during the
23 familiarisation session.

24 Without any further ado, I will now begin my examination and I would like to
25 acknowledge that the Office of the Prosecutor has put all the questions that are

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1 necessary to deal with the interests of victims. I do have some questions for you in
2 order to gain a little bit more clarity and precision for the interests of the victims
3 whom we represent here, and so I will put questions going from one theme or topic to
4 another.

5 I'd like to begin with the issue of the application of Sharia amongst the people of
6 Timbuktu.

7 Mr Witness, you stated that the purposes of Ansar Dine were liberation of the Muslim
8 people from the state authorities so that these people could regain autonomy with the
9 assistance of Sharia and also provide protection to the Muslim people. And this is to
10 be found in transcript 089, page 29, line 14.

11 With respect to the non-Muslim people of Timbuktu, you mentioned the Christian
12 people of Timbuktu.

13 My question is this: Could you tell us, to the best of your knowledge, who were
14 these people not of the Muslim faith who were living in Timbuktu at the time?

15 A. [14:20:19] Sir, what time exactly are you referring to, 2012 or prior to 2012?

16 Q. [14:20:39] I'm talking about the time before 2012 and during the time of
17 occupation?

18 A. [14:20:50] Prior to 2012, and we are among the people who live in Timbuktu, we
19 saw that the overwhelming majority of the people are Muslim. However, there is a
20 noticeable presence of Christians that are churches in Timbuktu. Also, among our
21 neighbours were Christian clergymen, neighbours and friends, and there were
22 also -- there was also noticeable Christian activity. They were training our children
23 on charitable work and on some crafts such as being a tailor, and also cooking activity
24 and homemade confectionery.

25 In addition to Christianity, there was a very small minority of Jews. And there was

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1 also a library, whose name I do not recall now, and [REDACTED]

2 [REDACTED]

3 Q. [14:22:19] Thank you, Mr Witness.

4 My following question is this: These non-Muslim people, were they subjected to the
5 same rules as the Muslim people living in Timbuktu? Did Sharia apply to all people
6 living in Timbuktu, regardless of faith, or were non-Muslims spared a number of the
7 precepts of the Muslim faith?

8 A. [14:23:01] After April 2012, in Timbuktu, it became forbidden that any faith
9 existed other than the Muslim faith. Also, it became forbidden to show any sign of
10 faith other than a sign of the Muslim faith. But there were people who the group
11 knew were Christians and they were asked indirectly to hide in their homes and to
12 show nothing, but they were not detained or monitored.
13 But what the hard-line group did was to attack all churches and to kick out the people
14 who lived in those churches and to confiscate the belongings that existed in those
15 churches. They only kept the guardians there. If there was a guardian, the
16 guardian was kept in those places.

17 Q. [14:24:16] Referring to the destruction that occurred in the city, the buildings
18 that represented other faiths, for example, the Christian faith or the Jewish faith, were
19 these buildings destroyed like other monuments or were those buildings spared?

20 A. [14:24:42] They did not destroy buildings, but they took away all manifestations
21 of religion inside those churches. The churches were kept just as buildings.

22 Q. [14:25:04] Yes, thank you very much, Mr Witness, for clearing up those matters.
23 Can I ask you about the non-Muslim people, and I am referring to women, Christian
24 women. Were they free to travel about the city dressed as Christians usually dress
25 or were they obliged to -- or were they complied to respect the dress code that had

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1 been put in place?

2 A. [14:25:56] Yes, there was a warning not to practice any sign or -- or to wear an
3 outfit that points to the Christian faith.

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. [14:27:11] Thank you. And one last question about this particular topic. Now,
12 [REDACTED] and some other notable people in Timbuktu, did the
13 jihadists make approaches towards leaders of other religious minorities, even just to
14 present -- explain why they were there and what was expected of them?

15 A. [14:27:50] I am not aware of that, but I do not completely exclude that possibility.
16 [REDACTED] but I do not exclude entirely that there
17 was another kind of reach out, for example, through Sanda, but I'm not aware of that.
18 And what I can give you in terms of information regarding this matter is that the
19 clergymen disappeared, some of them left Timbuktu, others hid in their homes and
20 did not engage in any activity. [REDACTED]

21 [REDACTED]
22 [REDACTED]

23 But I cannot inform you on whether they had communication with the jihadists or not,
24 that I do not know.

25 Q. [14:28:48] Thank you, Mr Witness. I'd like us now to move to another topic.

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1 I'll be asking you some questions about marriage. We discussed this quite a bit
2 yesterday and you answered many of our expectations, but I do want to ask you a
3 few questions just to clear up a few things.
4 Yesterday, you explained the marriages between jihadists and local women. You
5 gave detailed responses and you explained that the marriages were arranged between
6 intermediaries and you said that the jihadists married to avoid eliciting acts and
7 fornication.

8 I would like to ask you, as part of these marriages, were there organised marriages?
9 Did these difficulties -- did these marriages -- or these couples, rather, have difficult
10 moments, times of conflict?

11 A. [14:30:20] The problems, the matrimonial problems that I heard of in the families
12 of jihadists were not significantly different from regular matrimonial conflict. For
13 example, requests to visit family and relatives, or requests to increase expenses, or
14 requests to provide more household assistance and so on and so forth. There were
15 problems, but there were things that I attributed to jihadists, and these are the things
16 that resulted from the lack of communication, of -- the lack of having a close
17 relationship between the two people, the couple that is, as if they were as like
18 strangers. Also the -- the lack of congruence between their habits and their traditions.
19 So there were problems among the jihadist families and couples, indeed.

20 Q. [14:31:31] Yes, indeed, Mr Witness.

21 I would now like to ask you whether these women were able to protest. Did they
22 have the freedom to express their views to their jihadist husbands that they found
23 themselves married to? Was it possible for them to protest?

24 PRESIDING JUDGE MINDUA: [14:32:02](Interpretation) Ms Taylor.

25 MS TAYLOR: [14:32:03] Thank you, Mr President. This question strikes me as

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1 quite speculative, in that he's asking the witness to enter into the realm of individual
2 marriages and to provide evidence as to what was discussed within that marriage, so
3 I do believe it should be reformulated to be more concrete.

4 MR LUVENGIKA: [14:32:30](Interpretation) Your Honour.

5 PRESIDING JUDGE MINDUA: [14:32:32](Interpretation) Ms Taylor, I don't think so.

6 I disagree with you. [REDACTED]

7 [REDACTED]

8 [REDACTED] So I think he can answer the question.

9 Please continue, Counsel.

10 Mr Witness, did you hear Mr Luvengika's question? Answer please.

11 THE WITNESS: [14:33:10](Interpretation) Yes, Mr President.

12 Yes. I reply to that by, yes, my response is affirmative. There was pressure exerted.

13 There was no liberty.

14 But I would like to point out beforehand that the male dominance among the

15 Timbuktu community preceded the jihadists. The span of freedom that women had

16 in the social sense was a limited span and it is defined under the role of -- of the

17 obligation of obedience to man. The jihadists came forth and further consolidated

18 that and indeed the restraint on women's freedom became very strict in the jihadists'

19 households.

20 MR LUVENGIKA: [14:34:17](Interpretation)

21 Q. [14:34:18] Thank you, Mr Witness.

22 Could you tell us whether -- whether marriages had been ordered by judges. You

23 mention some examples in the case of extramarital sexual intercourse, when the man

24 had acknowledged the fact and was given the right to marry the women. Other than

25 the marriages organised by intermediaries or ordered by judges because of

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1 extramarital intercourse, fornication, did the jihadists marry the local women outside
2 of this particular legal framework?

3 A. [14:35:16] You mentioned the judge. Let me clear to you -- clarify to you and to
4 the Chamber. The judge imposes marriage because, according to Islamic
5 jurisprudence, there are provisions that could be interpreted as compelling two
6 people to get married. There are also provisions that could be understood as
7 compelling a couple to divorce as well. Many of the documents that the Prosecution
8 showed include references to a woman-initiated divorce, *khula*, and that's an instance
9 of compelling the couple to divorce.

10 And there are also instances where the woman is returned to her husband, to the
11 marriage, that is, after divorce. What happened is, they only example that happened
12 is the judge compelled two people to marry after fornication. These two were
13 inhabitants of Timbuktu, the jihadists were not involved with this.

14 As to the last part of your question, whether there were extramarital or illegitimate
15 sexual relationships between the jihadists and the locals, yes, we saw a case of one
16 jihadist raping a woman or imposing on her -- forcing her to have sex with him at
17 gunpoint and, after intimidating her, to bring her to the police office or the *Hesbah*
18 office.

19 Q. [14:37:02] If we can remain with the topic of marriage. You explained to us, to
20 the Chamber, you explained to the Chamber that when jihadists arrived in Timbuktu,
21 in order to better integrate, they opted for marriage, but they also wanted to
22 encourage the having of children within these marriages because through the children
23 there would be a new generation of jihadists that would be born. Thus, you talked
24 about marriage as being a way of expanding or disseminating jihadist ideology to
25 children and women, and I'm quoting from yesterday's transcript, transcript 103.

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1 What was the attitude towards the children who were born of these marriages
2 between jihadists and (Overlapping speakers).

3 A. [14:38:24] To answer your question, I will give you a real life example of what
4 the jihadists did when they -- when they were defeated in Algeria, as defenceless
5 individuals with no money or weapons, when the Algerian people kicked them out
6 given their extremism. They went down to a desert area, to a tribal location called
7 Al-Wasra, about 70 or a hundred kilometres northwest of Timbuktu. This tribe at
8 that time was known for being unstable and for breaking into their neighbours
9 properties, for example, they would go to the -- they would take over the cattle of
10 their -- of their neighbours and -- in Timbuktu and sell it in Mauritania. They would
11 also take over property in Mauritania -- in Timbuktu and sell it in Mauritania.
12 So the arrival of the jihadists to this tribal area coincided with the arrival of a
13 Moroccan scholar. He also had emigrated from the Maliki Morocco, because he
14 believed in Wahhabism. The jihadists believe -- met this scholar at this tribal
15 location, they were integrated with this tribe, they got married with this tribe. So
16 this tribe became entirely jihadist, its men, women, and the offspring. And this was
17 the reason Al-Qaeda started in northern Mali and the reason Al-Qaeda was strong
18 there. They wanted to copy this model everywhere else, including Timbuktu, when
19 they arrived there, because they wanted to put in place their agenda.

20 Something strange was triggered in my mind, at the question of the Prosecution, was
21 whether there were children from these marriages. And I felt bewildered at this
22 question. I looked at the sky and I tried to remember, and I did not remember any
23 children. And it was strange and I leave it to you to determine why that sounded
24 strange to me.

25 Q. [14:40:59] Yes, indeed. I think you've anticipated my next question. I would

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1 like to ask you this: After nine months of occupation and, quote, "more or less nine
2 months of marriage", what would you say after the occupation of northern Mali
3 by the jihadists? Did you not hear about children who were referred to as
4 "ICC children", namely the children born of these marriages between jihadists and
5 local women?

6 A. [14:41:57] This is roughly what -- I mean, I will respond in two parts: The first
7 part concerning the wives of jihadists in general in Timbuktu and its suburbs. It is
8 not possible for me to know what happened inside jihadists' households, let alone the
9 suburbs of Timbuktu. But talking about the marriages that I knew closely, or that I
10 followed closely, what they have in common is that there was no offspring.
11 That doesn't mean that the same thing applies to all marriages in the northern part of
12 the country. So you and I are second guessing this in the same direction, and it's
13 only a guess, nothing more. We can only guess as to why there was no offspring out
14 of these marriages in Timbuktu.

15 Q. [14:43:02] Thank you. Thank you very much, Mr Witness.
16 You stated that once the jihadists had left, the married women would get divorced
17 and marry other men. This is to be found in transcript 103 at page 17.
18 Do you know how these women could get a divorce after the men disappeared?
19 How did they manage to divorce their ex-husbands?

20 A. [14:43:39] What I mean to say in this regard is that the women, after the jihadists
21 left, they were no longer ruled by anybody. Whoever -- whomever among them
22 wanted to marry could get married. So after the jihadists left these places, they -- the
23 women married elsewhere. They became free and got married elsewhere.

24 Q. [14:44:11] Just to be clear, without a divorce being pronounced, is that what
25 you're saying?

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1 A. [14:44:25] Indeed not at all -- or, no, not at all. What I said -- what I meant is
2 that these women considered these marriages temporary, and as soon as the jihadists
3 left these marriages expired.

4 Q. [14:44:46] Thank you, Mr Witness. Can you tell us how the population of
5 Timbuktu saw these marriages? What were their -- was their perception of these
6 marriages with regard to these women being married by the jihadists.

7 A. [14:45:12] To answer this question, I will give you an example and you can take
8 that example and -- and assess accordingly.

9 One of the jihadists whom I have mentioned to the Prosecution, his name is

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4 So this image, as I have laid out for you, was predominant. I have other examples
5 that could illustrate this elsewhere in Timbuktu. This was the predominant way
6 of -- how this happened.

7 In brief, I could say, as I explained to the Prosecution, these were marriages -- this was
8 a marriage, but it was under intense pressure that it sounds almost like an imposition
9 on women which they did not like.

10 Q. [14:48:52] And to wrap up this subject of marriage, I just wanted to ask you
11 whether you are aware that these women were stigmatised by their community?

12 A. [14:49:22] The Timbuktu community does have as a characteristic having such
13 restraints in general.

14 As I said, even before the arrival of jihadists, women's voices were considered
15 prohibited to be allowed. It is not allowed for a women to be loud where other men
16 could hear her. Also they were not allowed to leave home at night.

17 And, at that time, there was a modernist trend in Timbuktu represented by high
18 school students in the government high school, so there was this generation of girls in
19 Timbuktu that wanted to showcase modernity. But the rest of women suffered
20 because they were compelled to be conservative in the traditional sense in Timbuktu.
21 When the jihadists arrived, you can imagine what came about afterwards.

22 Q. [14:50:41] Thank you, Mr Witness. And this then brings me to another topic,
23 that of demonstrations, and I wanted to home in on demonstrations on the part of the
24 population. But, more specifically, I wanted to ask you whether you were aware of a
25 specific demonstration on the part of women and what the cause of this

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1 demonstration might have been. Of course, we are talking here about the period of
2 the occupation.

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But I did not learn any details about that

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protest.

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Q. [14:52:06] Thank you, Mr Witness.

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Furthermore, during your testimony, you talked about at least one case of sexual

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assault in detention upon a woman.

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Did you here speak of any other cases of sexual assault of any kind, or assault in

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general, on women during their detention, without omitting of course the instance of

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assault that you mentioned at the beginning of your testimony, notably that of

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jihadists who raped a girl by using a weapon in order to get what he wanted?

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But the people were not able to

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make their case when faced with armed people aggressing a defenceless population.

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What could a defenceless population do in response?

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But what I meant to say when I said what I said was in reference to MNLA members

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and not to jihadists, and I said that because I know that usually the Tuareg did not

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religiously have a problem with -- with regards to communicating with women

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1 before marriage. So at that time I believed that they were from MNLA.

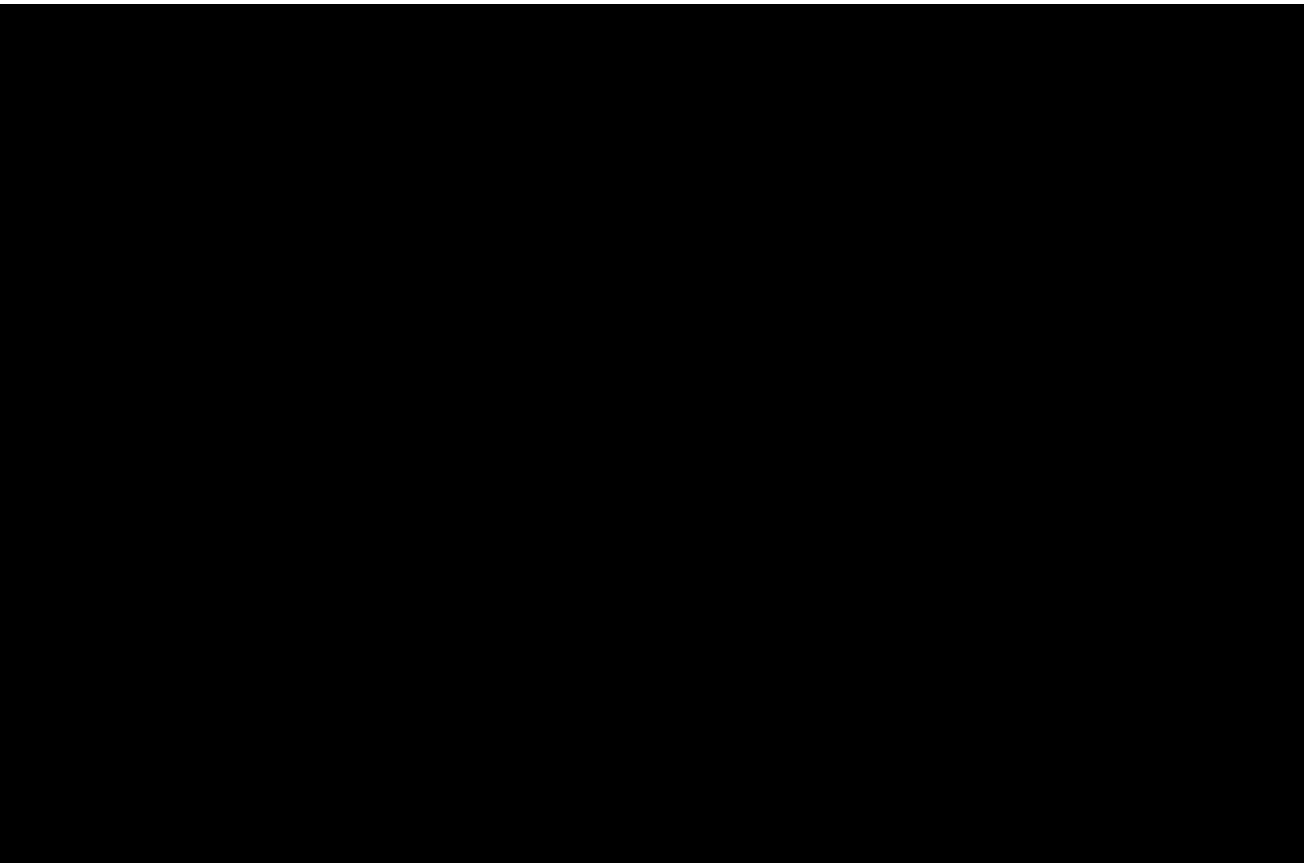
2 The complaints persisted against the occupiers afterwards, and this surfaced mostly
3 when Mohamed Moussa detained some of the women, one of whom claimed that
4 he -- sorry, that he harassed her. This is my conclusion, actually. He -- she claimed
5 that he harassed her and I concluded that he left her and went home and one member
6 of the *Hesbah* instead harassed her. This was the conclusion I drew.

7 Also, there were complaints filed by some members of the committee against jihadists
8 regarding the police and the *Hesbah*. They gave these complaints to Abou Zeid, and

9  But these complaints were general,
10 concerning all jihadists, they were not specific.

11 Q. [14:56:15] Thank you very much, Mr Witness. I'm going to move on to another
12 topic.

13 Yesterday and this morning, the destruction of monuments was addressed. 

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2 A. [14:58:24] I'm afraid this -- your last statement might have been misinterpreted.

3 Could you please repeat your question.

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13 Afterwards, many Timbuktu inhabitants believed that that conduct was going to take
14 away the respect and the augustness of the people of Timbuktu and the city of
15 Timbuktu. Unfortunately, that was a purpose of the jihadists, they did not want the
16 respect that the city had to be sourced in the shrines. And this had an emotional
17 impact. It broke the morale of the local population, that's what the demolition of the
18 shrines did.

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8 Q. [15:06:03] Thank you very much, Mr Witness.

9 At this morning's hearing at *T-104, page 5, line 9, you talked about [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED] Now, this practice of handing over money, was it habitual whenever
13 somebody complained and do you know of any other examples?

14 A. [15:06:58] Yes, the compensation system exists in Islamic Sharia, [REDACTED]

15 [REDACTED]

16 [REDACTED] But this did not take place
17 following precise criteria, it only happened at the personal mental effort of whoever
18 was doing this, it did not amount to the level of justice required. But the idea of
19 granting this at least did exist.

20 Q. [15:07:45] Was this practice sort of acknowledgment of guilt, or was it merely a
21 form of compensation subsequent to the act that had been committed?

22 A. [15:08:04] No, it is not an affirmation of guilt. It is an affirmation that the

23 matter was multifold. For example, the demolition of the doomsday gate was

24 mental in purpose. But when it comes to the physical aspect, the jihadist hard-line

25 group was ready to pay all necessary material compensations because they did not

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1 intend to the demolition of the actual door but the demolition of the -- but the
2 destruction of the idea and association with this door in people's hearts.

3 Q. [15:08:59] Thank you very much, Mr Witness.

4 You identified the peace monument or the flame of peace, and you explained why it
5 was created. I'm referring to transcript T-102, page 42. Do you know whether, in
6 addition to its symbolic value, this monument had any other function and whether
7 there were any activities developed around it?

8 A. [15:09:51] Unfortunately, I was not paying enough attention. Which particular
9 monument are you referring to when talking about monuments?

10 Q. [15:10:09] I am talking about the peace monument which you referred to in
11 transcript 102, and I quote you, "This is what we call the peace flame." And this is a
12 monument that - of course, I have the edited version here of the transcript - was put
13 up by the Malian government and by the Azawad movement when they reached an
14 agreement in 1996. I'm quoting you here in the transcript. So they reached an
15 agreement to destroy or burn a number of weapons at that location?

16 A. [15:11:21] Yes, I don't know much about the monument. I only said the -- the
17 part that I know about the monument. But maybe certain parties should be
18 mentioned in terms of their participation in this monument. But the monument in
19 itself does not have anything inside, it's just standing there as a monument, but I
20 know that the -- that its importance and its value certainly outweigh what was
21 mentioned in this statement.

22 Q. [15:12:10] Thank you very much, Mr Witness.

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] we thank you very much for your contribution and we hope that this

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1 will help for judgment to -- for justice to be rendered.

2 And I'd like to thank you very much Mr President, your Honours. I have finished
3 with my questioning.

4 PRESIDING JUDGE MINDUA: [15:12:52](Interpretation) Thank you very much,
5 Mr Nsita. Will any or either of your colleagues be speaking as well?

6 Maître Nsita, I was asking you whether there was anyone else in your team.

7 MR LUVENGIKA: [15:13:11](Interpretation) No, that's the end of what we had
8 to say.

9 PRESIDING JUDGE MINDUA: [15:13:19](Interpretation) Thank you very much.
10 So that was briefer than I thought it was going to be.

11 We shall, therefore, conclude today's hearing, unless there's anyone else who would
12 like to raise an issue.

13 I do not believe that to be the case.

14 Mr Witness, once again, the Chamber would like to thank you for your contribution,
15 for your cooperation, for having answered the questions with such goodwill, the
16 questions of the Legal Representatives of Victims this afternoon.

17 We shall rise for today and, as you will already be aware, we shall not be sitting
18 tomorrow or Friday, but we shall reconvene on Monday morning for the
19 cross-examination on the part of the Defence.

20 Is that the case, Ms Taylor?

21 MS TAYLOR: [15:14:22] Yes, Mr President.

22 PRESIDING JUDGE MINDUA: [15:14:31](Interpretation) Very well.

23 I would like to, as always, thank the parties and participants, the interpreters and the
24 court reporters, our security officers.

25 We shall rise now. Court is adjourned.

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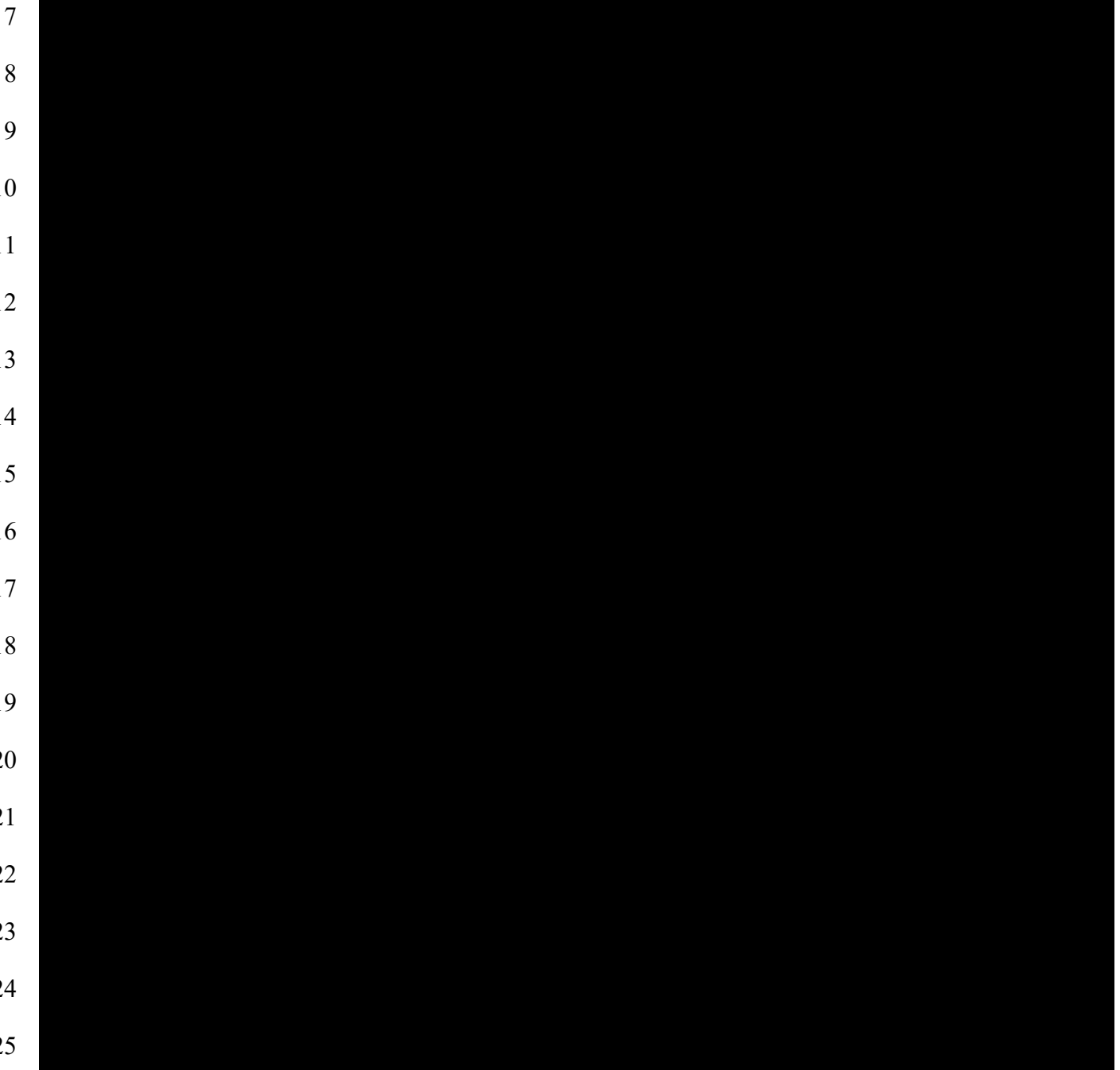
1 THE COURT USHER: [15:14:55] All rise.

2 (The hearing ends in closed session at 3.14 p.m.)

3 CORRECTIONS REPORT

4 The following corrections, marked with an asterisk and not included in the
5 audio-visual recording of the hearing, are brought into the transcript.

6 Page 24 lines 16-24



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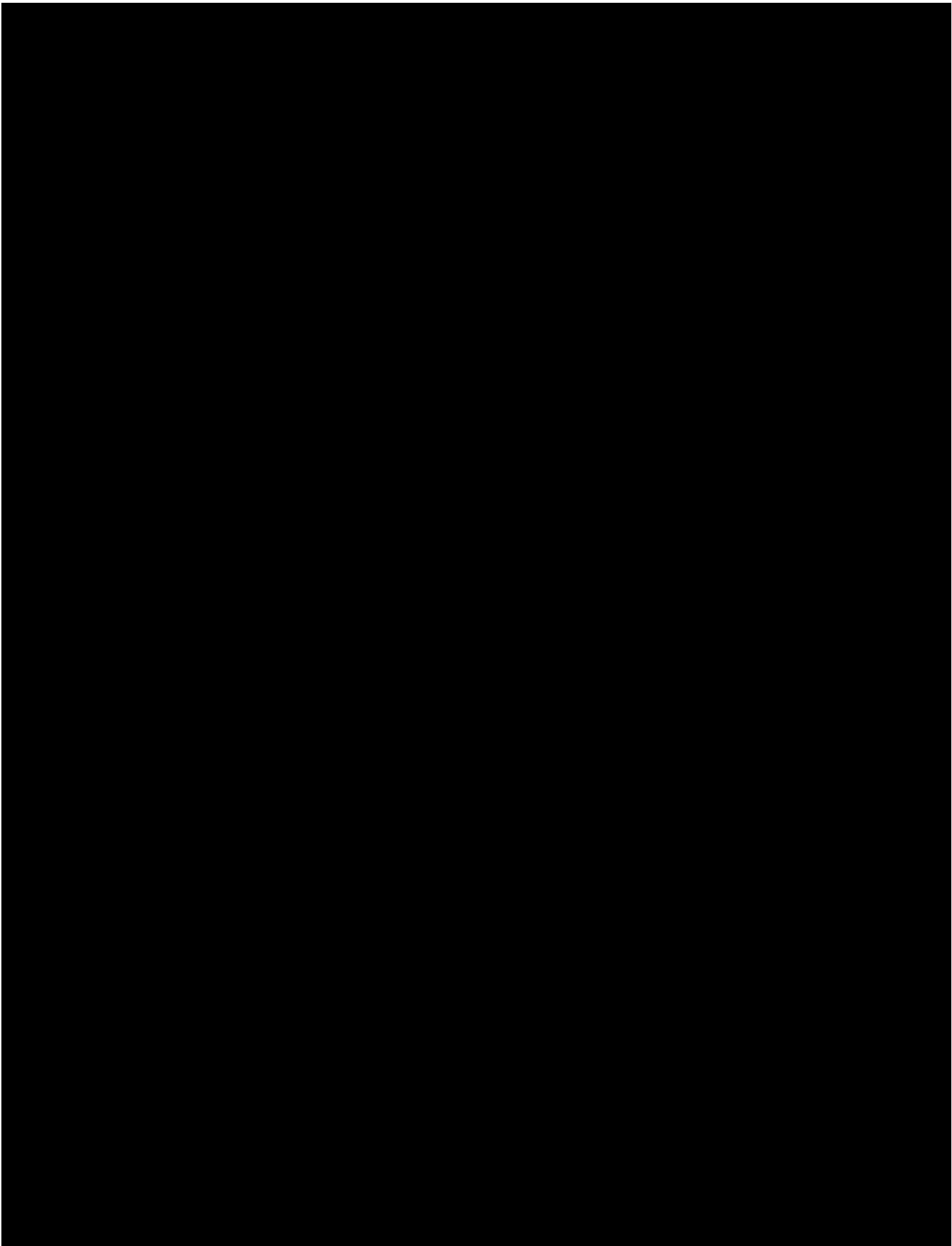
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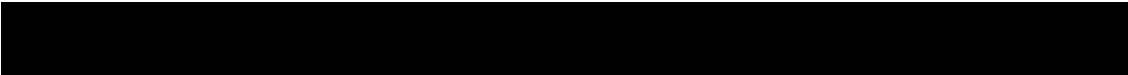
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- 1 "00:00:08:33" Is translated and added
- 2 Page 10 lines 9-10
- 3 "I stopped at 00:08:51:18" Is corrected to "So, I actually stopped approximately at
- 4 12:08:50."
- 5 Page 14 line 25
- 6 
- 7 Page 42 line 9
- 8 "T-105" Is corrected to "T-104"