

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 vs 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 Thursday, 1 July 2021
10 (The hearing starts in closed session at 9.33 a.m.)
11 THE COURT USHER: [9:33:07] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:38](Interpretation) The hearing shall now
15 begin.
16 Good morning, everyone.
17 Courtroom officer, kindly call the case.
18 THE COURT OFFICER: [9:33:49] Good morning, Mr President, your Honours.
19 This is the situation in the Republic of Mali, in the case of the Prosecutor versus Al
20 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
21 And for the record, we are in closed session.
22 PRESIDING JUDGE MINDUA: [9:34:15](Interpretation) Thank you very much,
23 courtroom officer. We will now proceed with introductions, as we do every
24 morning, beginning with the OTP.
25 Mr Prosecutor.

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1 MR DUTERTRE: [9:34:24](Interpretation) Good morning, your Honours.

2 The OTP is represented today by Mousa Allafi, behind me; Lucio Garcia; myself,

3 Gilles Dutertre. And I greet, as I do every morning, Mr Fidel Nsita, the witness,

4 Maître [REDACTED] Ms Taylor and her team, the courtroom officer, the court reporters, the
5 interpreters and the security guards.

6 PRESIDING JUDGE MINDUA: [9:34:59](Interpretation) Thank you.

7 Counsel for the Defence.

8 MS TAYLOR: [9:35:02] Good morning, Mr President. Good morning, your

9 Honours. Good morning to everyone in the courtroom and around the courtroom.

10 And I'd like to take this opportunity to wish everyone a happy 19th anniversary of the

11 Rome Statute coming into force. The Defence for Mr Al Hassan is represented today

12 by Ms Sarah Marinier-Doucet, Ms Dolly Chahla, and myself, Melinda Taylor.

13 Thank you.

14 PRESIDING JUDGE MINDUA: [9:35:29](Interpretation) Thank you very much,

15 Ms Taylor.

16 And now the Legal Representatives of Victims.

17 Counsel.

18 MR LUVENGIKA: [9:35:37](Interpretation) Good morning, your Honours. The

19 victims are represented at today's hearing by Ludivine Tixier-Dunet, and myself,

20 Fidel Nsita Luvengika. And I take this opportunity to greet everyone here in the

21 courtroom and everyone playing their respective roles here at the Court.

22 PRESIDING JUDGE MINDUA: [9:36:07](Interpretation) Thank you very much.

23 And now the duty counsel.

24 [REDACTED]: [9:36:12](Interpretation) I am [REDACTED], lawyer representing

25 today's witness, and I would like to take this opportunity to greet everyone here in

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1 the courtroom. Thank you, Mr President.

2 PRESIDING JUDGE MINDUA: [9:36:37](Interpretation) Thank you, Counsel.

3 I now turn to the witness.

4 Good morning, Mr Witness. How are you?

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

6 (The witness speaks Arabic)

7 THE WITNESS: [9:36:54](Interpretation) Good morning, your Honour. Good

8 morning, your Honours. Yes, I'm very well. Thank you very much.

9 PRESIDING JUDGE MINDUA: [9:37:07](Interpretation) Thank you, Mr Witness.

10 Once again, the Chamber thanks you for your cooperation, and at the same time I

11 remind you that you are still under oath and you must tell the truth, the whole truth

12 and nothing but the truth.

13 We will continue with the hearing and the cross-examination by the Defence, but the

14 Chamber does have a number of clarifications and instructions to provide.

15 Ms Taylor, during the afternoon session yesterday the witness suggested more than

16 once that he would like to give more specific information regarding his reply to make

17 it more fulsome. However, you did not follow up on his request or his comment,

18 you went on directly to the following question.

19 Although the Chamber respects the strategy adopted by Defence counsel, it is

20 important for the Chamber to hear what the witness has to say with a view to

21 determining the truth, particularly when the witness clearly indicates that he wishes

22 to provide additional information. It is a matter of fairness. The witness must have

23 an opportunity to provide complete answers.

24 Consequently, Ms Taylor, and before you proceed with your cross-examination, the

25 Chamber will follow up on this point itself with a few questions to the witness.

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1 I now address the witness.

2 Mr Witness, yesterday afternoon Defence counsel showed you some video footage in
3 which we saw a man that the Defence then designated as Mr Al Hassan behind a desk
4 listening, and I quote, "to two local people of Arab origin". End of quote.

5 Ms Taylor then suggested that the video footage was dated 11 June 2012 and that the
6 footage was shot when Adam was the commissioner of the Islamic police. And I'm
7 referring to transcript 107, real-time version, T-107, timestamp 15:07:51.

8 And your reply, and I quote, was: "That was not strange to me."

9 Now, Witness, could you explain to the Chamber why that was not strange or
10 unfamiliar to you? Why were you not surprised, Mr Witness?

11 THE WITNESS: [9:41:45](Interpretation) Yes, Mr President. I had understood from
12 Ms Taylor's question that during the time when Adam was the commissioner,
13 Al Hassan was not supposed to be the one sitting in the chair or the office at the
14 police station. It was the commissioner of police who, in principle, sits in that chair
15 or occupies that office. I have prior knowledge of that, and actually I indicated to the
16 OTP earlier that Al Hassan during the entire period under the control of Adam and
17 Khaled, and during the last period when Al Hassan took Khaled's position, it was
18 Al Hassan who occupied the office in the police station. Namely, he was the one
19 who received documents and carried out investigations in that office. That is why I
20 said it wasn't a surprise to me that Al Hassan was in that office when Adam was in
21 charge.

22 PRESIDING JUDGE MINDUA: [9:43:11](Interpretation) Thank you very much for
23 that clarification, Mr Witness.

24 Now I'd like to move to a second question. The second item of information that the
25 Chamber would like to elicit also has to do with yesterday's hearing. When Defence

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1 counsel put a question -- or, rather, questions to you about the festival of the desert,
2 the Defence referred to allegations from other witnesses in this case and, according to
3 these allegations, Mr Al Hassan apparently sold tickets for this event.

4 When Defence counsel asked you whether your testimony to the effect that

5 [REDACTED], if

6 your testimony is correct, you answered, and I quote: "No, not at all. My memory
7 has not failed me when it comes to Al Hassan, but my memory might fail me when it
8 comes to the dates."

9 And you added: "And I would like to tell you that I finally understood what

10 you -- and finally understand what you mean by festival of the desert. [REDACTED]

11 [REDACTED]
12 [REDACTED]
13 You mentioned the selling of tickets, and I would like to tell you and I reiterate,
14 Salafist doctrine would not be against -- would not be in keeping and would not
15 allow the sale by anyone whatsoever of tickets to concerts. And thus, you ask
16 questions that I need to provide additional information for and questions that I can't
17 answer just with a yes or a no."

18 So this is transcript T-107, real-time version, T-107, timestamp 16:02:46, 16:02:46.

19 Mr Witness, could you please explain to the Chamber what you mean -- what you
20 meant yesterday afternoon, just to flesh out your previous reply.

21 THE WITNESS: [9:47:09](Interpretation) Yes, Mr President. Yesterday a series of
22 questions were put and these questions had to do with what I understood by the
23 Arabic interpretation. They had to do with the "festival of the desert," quote, so to
24 speak.

25 First of all, I told the lawyer that I didn't know what she meant by the festival of the

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1 desert and she went on to another question before I realised what she was talking
2 about, the festival of the desert, and after another question I realised that it was a
3 music festival. So I began to give an answer starting with the Salafist doctrine on
4 music and singing, and that doctrine is incompatible -- well, that festival is
5 incompatible with Salafist doctrine. Then I realised that she was talking about
6 the -- the Tamakannit festival, the festival of the Sahara. I am very familiar with that
7 festival, which has been around for a very long time.

8 So that cancels out all the previous answers I gave because the fest -- a festival is
9 not -- that festival is not the same thing as a concert. That festival includes various
10 activities. Most of them are constructive and useful for the people of Mali from a
11 social and cultural point of view and an economic point of view.

12 All the same, part of the programme or part of this festival, rather, has to do with
13 musical concerts and these musical concerts led to a debate or a controversy even
14 within the area. [REDACTED]

15 [REDACTED] So I was opposed to these concerts.

16 And it was explained to me that wrongdoers took advantage of the opportunity to
17 spread their culture within Azawad society and that men and women were mixing
18 together, and of course it wouldn't be fair on my part and it wouldn't be fair to [REDACTED]

19 [REDACTED] to ignore that. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 When I learned that the questions put by the lawyer had to do with the Tamakannit
23 festival my answers were different. This other festival, well, you can't prohibit the
24 selling of tickets because of the doctrine that prohibits the selling of tickets.
25 Furthermore, the selling of tickets -- well, in actual fact, this question is the subject of a

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1 legal opinion that is not understood by most people. When we talk about the
2 prohibition or the elicit nature of something, it is difficult to confirm this because
3 people who are influenced by the Salafist movement cannot sell a ticket -- no, that's
4 not so, because selling tickets comes under a Sharia rule that requires interpretation
5 so that the person in question can understand that under Salafist thought it is allowed
6 or not.

7 So that is what I wanted to provide to you.

8 I have finished when came to this point, your Honour, but yesterday there was
9 another question and I asked the lawyer to allow me to give more information, but
10 she moved on to something else.

11 I had said to the OTP that there was no storage place for weapons and I was
12 reminded of those words and I wanted -- I wanted to specify why I told the OTP what
13 I did. I wanted to tell the OTP that the storage place was not at the police station

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 And I do know that those weapons were not at the police station. But the lawyer's
18 remarks give the impression that I said that there was no place to store weapons and
19 that's not what I meant. What I meant was that at the police station there were
20 various rooms and it is possible that weapons could be stored there, but what I meant
21 was [REDACTED]

22 [REDACTED] That was where -- rather, they were there.

23 PRESIDING JUDGE MINDUA: [9:53:23](Interpretation) Thank you very much,

24 Mr Witness, for all those clarifications.

25 Ms Taylor, please proceed. However, I do wish to remind you, as I have done on

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1 several occasions, I would like to remind you that it is necessary to put clear questions,
2 not vague questions.

3 On this point, I do note that at some points during your cross-examination yesterday
4 you made reference to documents, or to passages from transcripts or from video
5 footage, without specifying the purpose of these references, nor did you show their
6 relevance to the questions that followed.

7 Such a practice is not fair to the witness, nor is it useful to the Chamber, and I would
8 like to ask you to avoid such an approach when you are conducting your
9 cross-examination.

10 Finally, for questions in the future, if the witness wishes to provide explanations, let
11 him do so. This is a question of being completely fair to the witness, and what is
12 more, it allows us to determine the truth.

13 So this is also beneficial to the Chamber. So there you have it.

14 Now, the witness is all yours now for continuation of your cross-examination.

15 MS TAYLOR: [9:55:32] Thank you, Mr President.

16 QUESTIONED BY MS TAYLOR: (Continuing)

17 Q. [9:55:36] Good morning, Mr Witness. How are you this morning?

18 A. [9:55:44] Good morning, Counsel. I'm very well. Thank you.

19 Q. [9:55:49] And, as you know, my name is Melinda Taylor and I'm the counsel for
20 Mr Al Hassan, and I'm here to put questions to you today to ascertain the truth.

21 A. [9:56:09] Yes. I'm sorry if I referred to you as the lawyer when I was speaking
22 about you a few moments ago.

23 Q. [9:56:20] Thank you, Mr Witness.

24 Mr Witness, could Adam use a computer?

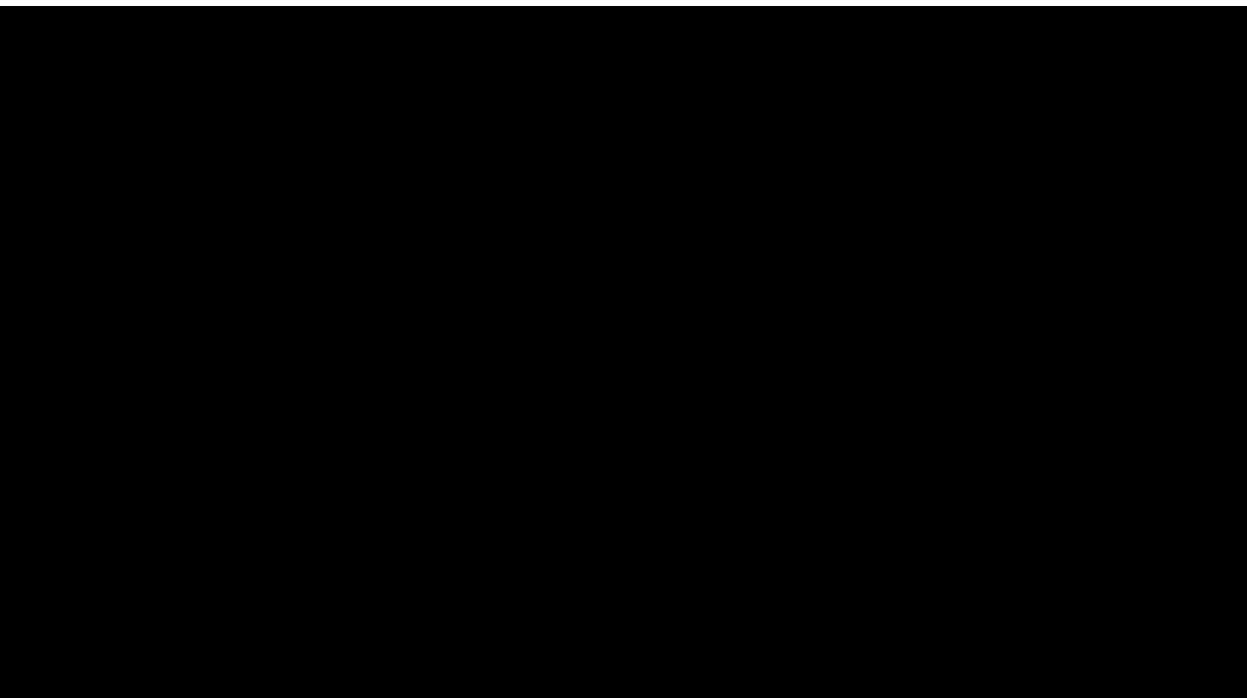
25 A. [9:56:37] I have no idea.

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11 Q. [9:58:20] Now, in yesterday's transcript, 107, page 97, lines 10 to 13 you said,

12 "Yes, if you went to the [REDACTED], it was for that reason. [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 What is the name of [REDACTED]?

16 A. [9:58:57] I no longer remember the name.

17 Q. [9:59:02] What was their position?

18 A. [9:59:13] He was [REDACTED]

19 Q. [9:59:20] [REDACTED]

20 A. [9:59:28] [REDACTED] One of the

21 people -- some of -- someone close to him was also close to me and the person who

22 was close to him was in [REDACTED] so I had to stay in

23 touch with him to [REDACTED]

24 Q. [10:00:02] When you went to the [REDACTED], did you dance?

25 A. [10:00:15] No. My role was just to go in front of the -- where the records

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1 were -- well, the counter. I was on the other side of the counter. But, you know,
2 when you -- when someone sees me going into a place like that, which is well known
3 for debauchery, one tries to avoid such a situation.

4 Q. [10:00:52] When you went to the festival - and I don't have the exact title, but the
5 festival you were referring to this morning - did you dance?

6 A. [10:01:14] I didn't dance because I don't know how to dance, and my position
7 with regard to dancing is known and music is known. I don't think that music
8 should be banned, [REDACTED] I don't have a problem with
9 regards to mixing between men and women on the condition that they are not alone.

10 [REDACTED]
11 [REDACTED]

12 There's no place which was -- I would not go to. I went wherever I wanted to do,
13 but I didn't drink alcohol.

14 Q. [10:02:07] If I could just clarify, Mr Witness, you said, "my position with regard
15 to dancing is known".

16 What is your position with regard to dancing?

17 A. [10:02:25] What I said in my position with regard to music is known. I don't
18 think that music is something that should be banned. All the doctrine which I
19 subscribe to means that I do not follow all others in all of their opinions because I
20 have enough knowledge *to distance myself from that. [REDACTED]

21 [REDACTED] I agree on certain points, but I'm against other points and
22 they know very well the points on which I am not in agreement with others.

23 For example, not shaving your beard. I don't see any reason not to shave your beard,
24 and I gave evidence with regards to the *ulema* from Mecca on that. And furthermore,
25 [REDACTED] and I also gave evidence in that regard. And if it's banned to

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1 listen to music, that's not a prohibition which is absolute, but it is banning everything
2 which could accompany it. And I also gave evidence in Sharia to support that.

3 [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]

7 THE INTERPRETER: [REDACTED]

8 [REDACTED]

9 MS TAYLOR: [10:04:29]

10 Q. [10:04:31] Mr Witness, I believe there's a confusion from the interpreter as to
11 whether you said [REDACTED].

12 Could you clarify that?

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Q. [10:05:11] Now, you've mentioned [REDACTED], so I'd like to turn to your 2013
17 activities [REDACTED]. [REDACTED]

18 [REDACTED]

19 A. [10:05:38] [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. [10:06:30] Is it correct that [REDACTED]?

25 A. [10:06:44] Yes. As I told you, [REDACTED]

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1 [REDACTED]

2 Q. [10:06:58] And is it correct that [REDACTED]

3 [REDACTED]?

4 A. [10:07:14] Yes, that's true as well, but I don't have any precise information about
5 that.

6 Q. [10:07:23] [REDACTED] do

7 you have any information as to [REDACTED]

8 [REDACTED]?

9 PRESIDING JUDGE MINDUA: [10:07:50](Interpretation) Prosecutor.

10 MR DUTERTRE: [10:07:51](Interpretation) *As such, the question does not bother

11 me, but I don't see at all the relevance of this question to the charges in this case. [REDACTED]

12 [REDACTED] I think that we are very, very far
13 away from the situation in Timbuktu.

14 PRESIDING JUDGE MINDUA: [10:08:08](Interpretation) I also don't see the
15 relevance of this question with regards to the charges.

16 MS TAYLOR: [10:08:13] Mr President, I do believe this is an answer I would have to
17 respond to outside the presence of the witness. These are objections that should be
18 made outside the presence of the witness. We should be given or afforded an
19 opportunity to explain and we cannot do so in the presence of the witness.

20 PRESIDING JUDGE MINDUA: [10:08:45](Interpretation) Court officer, please, could
21 you escort out the witness for a few moments. Thank you.

22 (The witness exits the courtroom)

23 PRESIDING JUDGE MINDUA: [10:09:33](Interpretation) Ms Taylor, the witness is
24 outside the courtroom. So what is the relevance of this question?

25 MS TAYLOR: [10:09:38] Thank you, Mr President. There's two aspects here.

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1 First, this line of questioning arises directly from examination-in-chief. The
2 Prosecution opened this door when they put a series of questions to this witness
3 about his activities in 2013. [REDACTED]
4 [REDACTED] as a basis for establishing various
5 interactions that occurred in 2013 and 2014.

6 Given that the Prosecutor has opened the scope of testimony to events in 2013, we
7 must be allowed to pose follow-up questions.

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 The decision on the conduct of the proceedings does allow the Defence to pose
13 questions to a witness that go to their credibility.

14 Now, this is a witness whose given various testimony about his views [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Otherwise, we would respectfully submit that any of his evidence concerning 2013
19 would need to be excluded if we are not given a fair opportunity to pose questions to
20 him about his activities in 2013 and 2014.

21 PRESIDING JUDGE MINDUA: [10:11:56](Interpretation) Thank you very much,
22 Ms Taylor.

23 Prosecutor, so there are two points. *She's following up on your own questions
24 concerning the activities of the witness in 2013, and she would like to examine the
25 credibility of the witness, in particular with regards to his opinions, and above all,

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1 with regards to [REDACTED] How do you respond to that?

2 MR DUTERTRE: [10:12:26](Interpretation) Yes, your Honour, your Honours.

3 All the questions asked during the cross-examination, as supposedly coming from
4 what the Prosecution did during the examination-in-chief, should be relevant. What
5 the Prosecution did for their examination-in-chief was to provide the background for
6 the witness [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Furthermore, the question that Ms Taylor is asking right now is not linked to these
12 events and it goes without -- outside the framework of the charges.

13 Furthermore, the cross-exam -- the examination was long. I don't have the memory
14 of an elephant, [REDACTED] But I'm
15 wrong. Perhaps Ms Taylor has the quote. [REDACTED]

16 [REDACTED]

17 [REDACTED] So I would like Ms Taylor to provide us with the exact
18 reference if this is the case. And whatever the case, it does not fall within the
19 framework of the chronological time frame which is linked to Ansar Dine.

20 Thank you.

21 PRESIDING JUDGE MINDUA: [10:14:19](Interpretation) Thank you, Prosecutor.

22 I'm going to give the floor very briefly to Ms Taylor and then the Chamber will
23 deliberate, because this does appear to be very important to me.

24 Ms Taylor.

25 MS TAYLOR: [10:14:32] Thank you, Mr President.

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1 Now, the Prosecutor did put questions that went beyond the laptop issue. They
2 asked him specifically. And this is in the transcripts, if they find it, that they asked
3 him questions [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED] that is an issue that goes to the
7 credibility of the witness.

8 It's an issue that speaks to the question [REDACTED]

9 [REDACTED], given his -- Mr Dutertre, I don't believe it's
10 appropriate for Mr Dutertre to stand up while I'm still in the mid-sentence.

11 Mr President, may I conclude or at least continue my sentence without having the
12 Prosecutor interrupt?

13 PRESIDING JUDGE MINDUA: [10:15:43](Interpretation) I didn't give him the floor,
14 Ms Taylor. Please continue and finish your intervention.

15 MS TAYLOR: [10:15:49] Thank you, Mr President.

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 Now, any fetter on our ability to cross-examine the witness must necessarily impact
20 on the weight that you might attribute to this witness. We must be given a fair
21 opportunity to examine this witness under the same conditions under which he was
22 examined by the Prosecutor. The Prosecutor put questions to this witness on a range
23 of issues concerning 2013, 2014. We have the right to test whether this witness is
24 providing accurate testimony and his credibility in terms of any incentive he might
25 have to give a different account as concerns his whereabouts and activities in 2013

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1 and 2014.

2 Now, if we're prevented from doing that, then it would be completely unfair to rely
3 on any testimony he provides concerning 2013, 2014.

4 If we're going to open the scope to that time period, we must be afforded a fair
5 opportunity to question him about what he was doing in that time period, what his
6 objectives were in that time period, who he was associated with in that time period,
7 and how that might impact upon the evidence he is giving in Court.

8 PRESIDING JUDGE MINDUA: [10:17:38](Interpretation) I don't like these games of
9 ping-pong, question, answer, question, answer.

10 Prosecutor, this is an important question and I'm going to hear you on it.

11 MR DUTERTRE: [10:17:51](Interpretation) Thank you, your Honour. I got up so
12 that I could -- I didn't want to interrupt Ms Taylor, but I wanted to mark my presence.

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 That seems to be information which is now in the past. [REDACTED]

17 [REDACTED]
18 [REDACTED]

19 Ms Taylor didn't explain to the Chamber what it is which concerns the credibility and,
20 above all, it's a fishing expedition, in the case in point.

21 She can ask other questions, but the question as put is not relevant and it's not
22 justified with regards to the nature of the contact between the witness and [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 PRESIDING JUDGE MINDUA: [10:19:07](Interpretation) Thank you. The

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1 Chamber is going to briefly deliberate.

2 MS TAYLOR: [10:19:12] Thank you, Mr President. But if I may --

3 PRESIDING JUDGE MINDUA: (Interpretation) Ms Taylor.

4 MS TAYLOR: [10:19:14] -- give the transcript reference, because the Prosecutor
5 requested it. It was transcript 91, page 35 to page 37 where the Prosecutor went into
6 these issues.

7 Now, because the Prosecutor has said that we haven't said what our line of
8 questioning is, we shouldn't have to go into that much detail, but clearly I was asking
9 the witness whether [REDACTED] [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 PRESIDING JUDGE MINDUA: [10:20:11](Interpretation) Thank you very much,
14 Ms Taylor.

15 (Trial Chamber confers)

16 PRESIDING JUDGE MINDUA: [10:22:15](Interpretation) The Chamber has
17 deliberated, as you will have seen.

18 Ms Taylor, the concern is to be fair to the witness, to prove the relevance of the
19 question and to shed light for the Chamber.

20 Now, the Prosecutor has talked about activities of the witness of 2013, [REDACTED]

21 [REDACTED]
22 [REDACTED]

23 So you have the right, the perfect right to explore any issue regarding the activities of
24 the witness in 2013 [REDACTED]

25 [REDACTED]

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1 That's the decision of the Chamber. So I'm now going to leave this question.

2 Court officer, please bring in the witness.

3 (The witness enters the courtroom)

4 PRESIDING JUDGE MINDUA: [10:24:15](Interpretation) The witness is in the
5 courtroom once again.

6 Thank you, Witness.

7 So I'm now turning towards Ms Taylor. You have the floor, Ms Taylor.

8 MS TAYLOR: [10:24:26] Thank you, Mr President.

9 Q. [10:24:29] On transcript 98, page 45, you referred to [REDACTED]

10 [REDACTED] in 2013. Who did you meet with in [REDACTED]?

11 A. [10:25:01] [REDACTED]

12 Q. [10:25:13] Who were those people?

13 A. [10:25:23] Our meeting with [REDACTED]

14 were -- or this -- these meetings went over three days, but I've forgotten the name of
15 these persons [REDACTED]

16 Q. [10:25:41] Now, do you know [REDACTED]

17 at this point?

18 A. [10:25:55] Well, the first one I know his name. I didn't meet him, but at
19 that -- but I've forgotten his name.

20 Q. [10:26:14] Can you remember the names of anyone [REDACTED]

21 [REDACTED]?

22 A. [10:26:35] Absolutely not. Even the person [REDACTED]

23 [REDACTED], I've forgotten -- completely

24 forgotten her name. I only have the surname, [REDACTED] And that

25 shows how it is difficult for me to remember names.

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1 Q. [10:27:02] Can you spell that name for the record, please, Mr Witness, to make it
2 easier?

3 A. [10:27:15] Her surname is [REDACTED]

4 Q. [10:27:33] Are you aware of [REDACTED]
5 [REDACTED]?

6 PRESIDING JUDGE MINDUA: [10:27:51] (Overlapping speakers)

7 THE WITNESS: [10:27:53](Interpretation) [REDACTED]

8 MR DUTERTRE: [10:27:55](Interpretation) Yes, your Honour. There's also an issue
9 of relevance. I don't see the link with the facts which the -- I don't see the link to the
10 facts that the Chamber's dealing with.

11 PRESIDING JUDGE MINDUA: [10:28:05](Interpretation) Ms Taylor, you don't need
12 to put this question. Please pass on to something else.

13 MS TAYLOR: [10:28:13]

14 Q. [10:28:13] What month were you in [REDACTED]?

15 A. [10:28:35] The period in which [REDACTED], I would say it was
16 the month of [REDACTED] 2013, but it doesn't mean that I precisely remember the dates.

17 Q. [10:28:58] When you say the period during which [REDACTED]
18 [REDACTED], is that referring to [REDACTED]?

19 A. [10:29:19] [REDACTED]
20 [REDACTED]

21 Q. [10:29:36] So is it correct then that [REDACTED] in
22 [REDACTED] 2013?

23 A. [10:29:50] Yes.

24 Q. [10:29:52] And you went there with [REDACTED]?

25 A. [10:30:06] Yes.

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1 Q. [10:30:11] Now, Mr Witness, you've mentioned [REDACTED]
2 [REDACTED], and on day 15, transcript 102, this is page 5, line 15, the Prosecution showed
3 you a permit issued to [REDACTED], and this was dated [REDACTED]. And you
4 said at page 7, lines 18 to 23, that he was [REDACTED]
5 [REDACTED]

6 I'd like to bring up Defence tab 105, that's MLI-OTP-0012-2028, and if it could be
7 displayed on evidence 1. And if we could scroll to the bottom of the page.
8 What name do you see here?

9 A. [10:32:02] [REDACTED]

10 Q. [10:32:15] Now, Mr Witness, is it correct that you wouldn't be able to read this
11 article? I would need to read it out to you?

12 A. [10:32:32] (No interpretation)

13 MS TAYLOR: [10:32:39] With the permission of the Chamber, may I have my
14 colleague, perhaps, Dolly Chahla read it out in French, so that the witness is aware
15 what the article concerns, before I put questions to him.

16 PRESIDING JUDGE MINDUA: [10:32:58](Interpretation) Please go ahead counsel.

17 MS CHAHLA: [10:33:03](Interpretation) [REDACTED]

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17 [REDACTED] " End of sight translation.

18 MS TAYLOR: [10:36:48]

19 Q. [10:36:50] Mr Witness, are you familiar with the events this journalist is describing?

20 PRESIDING JUDGE MINDUA: [10:37:10](No interpretation)

21 THE INTERPRETER: [10:37:11] Overlapping.

22 MR DUTERTRE: [10:37:12](Interpretation) I believe the Arabic interpretation has not
23 yet finished.

24 PRESIDING JUDGE MINDUA: [10:37:17](Interpretation) Well, let us wait.

25 THE WITNESS: [10:37:36](Interpretation) Yes.

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1 MS TAYLOR: [10:37:38]

2 Q. [10:37:38] Mr Witness, did you hear my question?

3 PRESIDING JUDGE MINDUA: [10:38:35](Interpretation) Ms Taylor, please go
4 ahead.

5 MS TAYLOR: [10:38:37]

6 Q. [10:38:37] Mr Witness, are you familiar with the events being described in this
7 article?

8 A. [10:38:52] Yes.

9 Q. [10:38:56] Which time period approximately was it in 2012?

10 A. [10:39:12] I'm not sure.

11 Q. [10:39:15] If I were to put to you that it was about August or the end of August,
12 would that refresh your memory?

13 A. [10:39:34] As far as I am concerned, if I were to estimate, weak estimates,
14 I would say it was before Ramadan, just before Ramadan.

15 Q. [10:39:50] Now this article refers -- this public article refers to suffering by the
16 population. So is it correct that [REDACTED] was allowed to publicly express
17 views that were critical of the jihadists?

18 A. [10:40:27] I haven't understood your question. Are you quoting from what was
19 read out? You mention the suffering of the people. That's a very broad question.
20 And most of the jihadists are in agreement on that point because the jihadists realised
21 that the people were suffering, from an economic point of view. And suffering, well,
22 there was no disagreement between the jihadists and the others when it came to this
23 point.

24 But if your question is an absolute one, that is to say can someone be opposed to the
25 ideas of the jihadists, well, the jihadists never imposed any specific limits on speech or

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1 people's ideas. They had specific policies that they wanted to implement and people
2 who were opposed to the policies were pushed to the side.

3 THE INTERPRETER: [10:41:46] Message from the interpreter: He did not quite
4 hear the last part of the witness's reply.

5 MS TAYLOR: [10:41:53]

6 Q. [10:41:56] Mr Witness, the interpreter has said that they didn't hear the last part
7 of your response. The transcript ends with, "They had specific policies that they
8 wanted to implement and people who were opposed to the policies were pushed to
9 the side." Did you say something after that?

10 A. [10:42:26] The people who were opposed to their policies were perceived as
11 people blocking their path. And the people who did not oppose them, well, the
12 group did not do anything about anyone who was not opposed to the application of
13 these rules.

14 PRESIDING JUDGE MINDUA: [10:43:06](Interpretation) Ms Taylor, it's because the
15 English transcript appears to be complete. It's the French transcript that is missing a
16 few words. But I believe the witness has corrected the point, so that's fine.

17 (Overlapping speakers)

18 MR DUTERTRE: [10:43:25](Interpretation) Not an objection, but a clarification from
19 Ms Taylor, who indicated on the basis of this article: Is it correct that [REDACTED]
20 was allowed to express his views publicly? Could Ms Taylor provide the source that
21 allows her to state that this article was indeed published.

22 PRESIDING JUDGE MINDUA: [10:43:57](Interpretation) Ms Taylor.

23 MS TAYLOR: [10:43:58] I believe I can put the question to the witness and he's in a
24 position to answer.

25 Q. [10:44:05] Mr Witness, is it correct that [REDACTED] was allowed to publicly

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1 present views that described complaints from the population?

2 A. [10:44:31] Yes. [REDACTED] had to ask for permission from the jihadists before
3 publishing what he published. And the article published was the subject of
4 discussions between [REDACTED] and the jihadists.

5 As to the nature of what he wanted to publish, the article has to do with an event and
6 the jihadists wanted the remarks to be published. But if this is an article -- but if it
7 was a controversial article, that would be a different kettle of fish. But the article in
8 its entirety, the jihadists agreed with the nature of the article and it actually was in
9 their interest for the article to be published.

10 Q. [10:45:26] [REDACTED] knew the members of the crisis committee; that's
11 correct?

12 A. [10:45:37] Yes, that's normal. [REDACTED]
13 [REDACTED]

14 Q. [10:45:51] So would it be fair to say that [REDACTED]
15 [REDACTED]
16 [REDACTED]?

17 A. [10:46:26] Yes. I would say so, yes.

18 MS TAYLOR: [10:46:31] If we can bring up Defence tab 173. It's an article, it's

19 MLI-OTP-0059-0348. It's an article dated [REDACTED] and if we could put the page
20 0349 on the page -- on evidence 1.

21 If we could go to the bottom of the page.

22 I apologise, it's 0350.

23 PRESIDING JUDGE MINDUA: [10:47:56](Interpretation) Prosecutor.

24 MR DUTERTRE: [10:47:57](Interpretation) Yes, your Honour. Before we move to a
25 specific point, perhaps the witness should have an opportunity to see the whole

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1 article so that he can get some context.

2 MS TAYLOR: [10:48:10] Mr President, if I may, I was just about to show the witness

3 the author of the article to provide that context, because it's not on the first page.

4 Again, it's a premature interjection.

5 PRESIDING JUDGE MINDUA: [10:48:29](Interpretation) Yes.

6 Mr Prosecutor, you spoke too soon.

7 Counsel.

8 MS TAYLOR: [10:48:35]

9 Q. [10:48:35] Mr Witness, can you see the name of the author of this article?

10 A. [10:48:51] Yes. [REDACTED]

11 Q. [10:48:59] And if we can go to the first page for the title. That's 0 -- title is:

12 (Interpretation) [REDACTED]

13 [REDACTED]

14 (Speaks English) And if we can turn to page 0349.

15 For the interpreters, it's the bottom paragraph. And if they could indicate when

16 they're ready.

17 Are the interpreters ready?

18 PRESIDING JUDGE MINDUA: [10:50:27](Interpretation) Yes, counsel. Go ahead.

19 MS TAYLOR: [10:50:29] The writer states: (Interpretation)

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. [10:51:16] Mr Witness, do you know [REDACTED]

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1 [REDACTED]?

2 A. [10:51:42] Yes, I think I do know what is meant here. Because the state -- the
3 press releases had to go through the police and the security, that was quite normal.
4 It was normal for him to go -- turn to Al Hassan for that. So the statement made by
5 the media committee goes through the police and also the security as well.

6 Q. [10:52:12] Mr Witness, the witness isn't -- Mr Witness, the person isn't speaking
7 about press releases. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 A. [10:52:56] As I told you, if his work was part of general journalism the
11 established practice, no matter what the event might be, the practice was that the
12 media committee make a statement after getting the okay from Abou Zeid. But there
13 had to be an authorisation by the police and the security.

14 Q. [10:53:29] Now, Mr Witness, [REDACTED]
15 describes Mr Al Hassan as shy, peaceful and welcoming for those who knew him in
16 2012. Is it correct, therefore, that Al Hassan interacted with locals in a positive
17 manner?

18 PRESIDING JUDGE MINDUA: [10:54:05](Interpretation) Prosecution.

19 MR DUTERTRE: [10:54:07](Interpretation) This is a speculative question. The
20 witness is being asked to speculate on remarks made by another person and
21 Ms Taylor referred to this other person as a witness, which is not the case, and thus
22 misleads the witness -- rather, it leads the witness in the courtroom to speculate.
23 But this is not the way to go about things. Ms Taylor should rephrase her question.

24 PRESIDING JUDGE MINDUA: [10:54:44](Interpretation) I disagree, Counsel.

25 We have this article written by [REDACTED] and Mr Al Hassan is described. The

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1 witness has confirmed several times that he knows Mr Al Hassan. So he can give his
2 opinion about the behaviour of Mr Al Hassan. I think so.

3 Ms Taylor, please continue.

4 MS TAYLOR: [10:55:12]

5 Q. [10:55:13] Mr Witness, can you answer my question?

6 A. [10:55:23] Yes. Your question was put after I heard some remarks from another
7 witness, and you changed topic and then you asked me about Al Hassan's
8 interactions with the local people. And I've already said how Al Hassan behaved
9 and I mentioned the positive and negative aspects of that.

10 Allow me to point out, Counsel, that I never concerned myself with comparisons
11 between my remarks and those of another witness. That is the role of the judges of
12 this Chamber.

13 It is the judges of this Chamber who will assess the remarks of everyone and
14 determine who speaks true. Al Hassan was very active. He behaved in a positive
15 way with the people and he had a number of qualities that allowed him to remain in
16 his position in the police. Namely, his good behaviour with the local people and his
17 ability to approach local people.

18 He himself told me that he knew how to make positive use of -- well, for example, the
19 children in the street, he was able to make use of them. This is a quality that he had.
20 He was close to the people and he knew how to -- he knew how to behave with the
21 local people and the jihadists took advantage of this strength of his.

22 Q. [10:57:15] Mr Witness, was he known for being honest?

23 A. [10:57:31] When you talk about reputation, I do not comment on people's
24 reputations. But if you ask me what my personal opinion is, I would say the
25 integrity or the -- the integrity. When it comes to money and the like, Al Hassan is

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1 someone honest, as far as I'm concerned. But I can't tell you whether he is reliable or
2 not. For example, I can't tell you if he has ever touched money or if he's entirely one
3 hundred per cent lawful. *So I cannot talk about his integrity in general terms.

4 Q. [10:58:15] Well, Mr Witness, you say you can't comment on his reputation, but if
5 I could refer you to Prosecution tab 1375, if we could bring that on to evidence 1. It's
6 an interview from [REDACTED], and the reference is [REDACTED]
7 page 3207, lines 714 to 716.

8 And I'll wait for it to come on to evidence 1.

9 And if the interpreters could indicate if they're ready, I'll read it out:

10 "His position ... in terms of his position in the beginning, he was just a member of the
11 police. And his opinion was always heard. He was honest and experienced. He
12 was a straightforward man and he was beloved by the people."

13 Mr Witness, is the translation correct?

14 A. [11:00:22] Yes, entirely. And what I said earlier about his integrity was just to
15 specify things because I'm under oath and everything I said at that time is true and I
16 stick by it. He was -- he is someone straightforward. But when you use an
17 adjective or a descriptive word or you say -- you talk about honesty, I would say he's
18 a good person, he had integrity. But honesty can include various aspects, including
19 honesty when it comes to finances, morality, ethics. So I don't want to make any
20 comments about those specific aspects.

21 MS TAYLOR: [11:01:11] It's 11 o'clock, Mr President.

22 PRESIDING JUDGE MINDUA: [11:01:15](Interpretation) Quite so. It is 11 o'clock.
23 I will now suspend the hearing and we shall resume at 11.30.

24 The hearing is now suspended.

25 THE COURT USHER: [11:01:31] All rise.

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- 1 (Recess taken at 11.01 a.m.)
- 2 (Upon resuming in closed session at 11.32 a.m.)
- 3 THE COURT USHER: [11:32:18] All rise.
- 4 Please be seated.
- 5 PRESIDING JUDGE MINDUA: [11:32:43](Interpretation) Court is in session.
- 6 Ms Taylor, you have the floor to follow up your cross-examination.
- 7 MS TAYLOR: [11:32:54]
- 8 Q. [11:33:01] Good morning, Mr Witness. I hope you had a restful break.
- 9 A. [11:33:12] Yes. Thank you.
- 10 Q. [11:33:18] Now, for the purposes of the record, I'm referring to an extract that
- 11 should not be displayed to the witness. It's transcript 50, page 18, line 2, to page 19,
- 12 line 7.
- 13 If it can be displayed, I think, on evidence 1 for the interpreters without being
- 14 displayed to the witness.
- 15 Is that possible, Mr Registrar?
- 16 THE COURT OFFICER: [11:33:53] As it's a transcript, we do not have it available on
- 17 evidence 1, but I believe the interpreters have a copy of it.
- 18 MS TAYLOR: [11:34:02] If the interpreters could kindly tell me if they're ready to
- 19 interpret.
- 20 THE INTERPRETER: [11:34:29] We can't see the documents on evidence 1 yet.
- 21 MS TAYLOR: [11:34:33] It's not being put on evidence 1. If we send it to the
- 22 interpreters now, would they be able to access it?
- 23 THE INTERPRETER: [11:34:52] Yes.
- 24 PRESIDING JUDGE MINDUA: [11:34:58](Interpretation) Very well. Ms Taylor,
- 25 please send the document to the interpreters, please.

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WITNESS: MLI-OTP-P-0150

1 MS TAYLOR: [11:35:03] Yes, Mr President.

2 If the interpreters could kindly confirm if they have received? I see one thumbs up.

3 THE INTERPRETER: [11:36:30] Just opening the document.

4 We have the documents.

5 Could you just give us the numbers again?

6 MS TAYLOR: [11:36:47] Yes, certainly. It's transcript 50, page 18, line 2.

7 THE INTERPRETER: [11:37:11] I'm sorry. The file we've just been sent contains

8 five documents; three Defence documents, two Prosecution documents.

9 PRESIDING JUDGE MINDUA: [11:37:20](Interpretation) Prosecutor.

10 MR DUTERTRE: [11:37:21](Interpretation) This isn't an objection, but I know that

11 Ms Taylor will pay attention that we don't read page 18, 8. There is a word -- the

12 sixth word shouldn't be read, of course.

13 MS TAYLOR: [11:37:40] Yes, I've redacted it.

14 PRESIDING JUDGE MINDUA: [11:37:46](Interpretation) Very well. Thank you

15 very much.

16 MS TAYLOR: [11:37:51] It's one of the attachments, transcript 50.

17 THE INTERPRETER: [11:38:05] We have it now. We just need to find the page and

18 line number.

19 MS TAYLOR: [11:38:11] To assist, it's page 18, line 2.

20 For the reference this is P-65, Prosecution witness who states:

21 "As for the importance given, and I'd like to address this and I'd like to talk about

22 who pays or gives most importance. And allow me in this regard to speak about the

23 Tuaregs following the [procedures] of the trial. And also, to do everyone justice, I

24 will talk about what I know on Mr Al Hassan very briefly.

25 This will rest my conscience so that I haven't hidden anything I know, and this is for

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1 the sake of justice. Whenever any trial is held, all Tuaregs pay a great deal of
2 attention, and ... I have not seen them giving greater attention to anything more than
3 the Al Hassan trial. There have been significant campaigns on all social media used
4 by the Tuareg -- or by the Tuareg.
5 I have met Al Hassan several times. There have been times when I could talk to
6 him. ... And I can tell that I can judge a person from the first things he utters. I can
7 determine whether a person is a nationalist or a terrorist or an extremist. And
8 according to the conversations I had with Mr Al Hassan, I conclude that this is my
9 impression, he didn't confer me -- affirm this to me, nor did I know how he joined
10 these groups. He was a young person. The groups, when they reached the cities,
11 Al-Qaeda was in control and the tribal leaders asked the young people to join the
12 non-Al-Qaeda section of Ansar Dine to protect themselves, to protect the community
13 and to develop a control of the organisation from the inside.
14 So I felt that Al Hassan was among these. He was pushed by his tribe and he was
15 pushed by his ambition to be a non-extremist stakeholder. And I know this by my
16 presence [here], and I've heard people saying this over and over. People were
17 talking about how positive Al Hassan has been within the Islamic police and how
18 helpful he has been to people within the organ.
19 Whenever a court hearing is held, this idea is brought up and it dominates social
20 media in all Tuareg social media groups. They all keep saying that Al Hassan was
21 just a regular person, like everyone who was in [the] MNLA and later joined the
22 Azawad Islamist movement, and later on the supreme council for the unity of
23 Azawad, who are known to everyone to have no terrorist or extremist ideologies.
24 This is for the sake of fairness and to rest my conscience. I know that if I don't say
25 this, I will not feel at rest."

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1 PRESIDING JUDGE MINDUA: [11:42:44](Interpretation) Prosecutor.

2 MR DUTERTRE: [11:42:45](Interpretation) I don't have an objection yet, but I would
3 say that I was told that the translation to Arabic isn't complete. It's finished, but not
4 everything was clearly interpreted.

5 PRESIDING JUDGE MINDUA: [11:43:04](Interpretation) We're not going to repeat
6 it. We're not going to re-read it all.

7 MS TAYLOR: [11:43:15] Mr President, I hadn't actually put a question yet, so I was
8 still waiting for the Arabic interpreter. Perhaps the Arabic interpreter can herself
9 confirm whether it's complete.

10 PRESIDING JUDGE MINDUA: [11:43:37](Interpretation) No. Prosecutor, he didn't
11 make an objection. He's trying to help you, because he said that the interpretation
12 into Arabic wasn't complete, it wasn't correct, that there were parts missing. So I
13 don't know. It's up to you to see with your colleague.

14 MS TAYLOR: [11:43:57] Thank you, Mr President. I'm trying to address it with the
15 Arabic interpreter.

16 Is the interpretation complete?

17 THE ARABIC INTERPRETER: [11:44:09] I have completed the interpretation as far
18 as I can, given the fast pace, but I have completed the translation.

19 MS TAYLOR: [11:44:21]

20 Q. [11:44:21] Mr Witness, did you hear what I said?

21 A. [11:44:36] Yes.

22 Q. [11:44:37] Did you understand what I said?

23 A. [11:44:49] There were certain problems with certain terms, perhaps because of
24 the translation. For example, you said, or it was said, that he joined the supreme
25 council for the Tuaregs. I think there the translation wasn't precise. It wasn't

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1 correct.

2 Q. [11:45:19] I can read that sentence out again then.

3 This was for the interpreters. The next page, lines 1 to 7 of page 19. And if they
4 could give me an indication if they're ready.

5 "Whenever a court hearing is held, this idea is brought up and it dominates social
6 media in all Tuareg social media groups. They all keep saying that Al Hassan was
7 just a regular person, like everyone who was in the MNLA and later joined the
8 Azawad Islamist movement, and later on the supreme council for the unity of
9 Azawad, who are known to everyone to have no terrorist or extremist ideologies.

10 This is for the sake of fairness and to rest my conscience. I know that if I don't say
11 this, I will not feel at rest."

12 Mr Witness, did you receive that interpretation in full?

13 A. [11:47:33] Yes.

14 Q. [11:47:37] Now, Mr Witness, would you accept that Mr Al Hassan was just a
15 regular person?

16 A. [11:47:49] That is exactly the term that called to my attention, when you said it.
17 Saying "a regular person", well, I don't know what that term means. Does that mean
18 that he wasn't one of the great emirs that -- who took decisions, a decision maker? If
19 that is the case, yes, he wasn't one of the emirs. But was he an ordinary person or
20 was he a prominent person within the police? That is not true. It can't be said that
21 he is a regular person.

22 Q. [11:48:34] Is it correct that Mr Al Hassan was someone who helped people?

23 A. [11:48:45] Yes, it's true.

24 Q. [11:48:50] And he was someone who wanted to protect his community?

25 A. [11:48:59] Yes, that's also true.

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WITNESS: MLI-OTP-P-0150

1 Q. [11:49:05] Now, Mr Witness, this supreme council for the unity of Azawad, are
2 you familiar with what that is?

3 A. [11:49:23] No.

4 Q. [11:49:27] Now, I'm going to show a still from a video. It's the one we saw
5 yesterday. It's OTP tab 1225, MLI-OTP-0041-0605. It will be played on evidence 2.
6 Mr Witness, can you see that image clearly on your screen?

7 A. [11:50:22] Yes.

8 Q. [11:50:25] Is it correct that Mr Al Hassan is not wearing a watch on his right
9 arm?

10 A. [11:50:42] In the photograph, yes.

11 Q. [11:50:48] Now, I'm going to show a still from a video. It's OTP tab 1013,
12 MLI-OTP-0009-1749, [REDACTED] And it will be
13 played on evidence 2.

14 (Viewing of the video excerpt)

15 MS TAYLOR: [11:52:33] [REDACTED]

16 Q. [11:52:39] Mr Witness, are you familiar with these images?

17 A. [11:52:50] Yes, [REDACTED]

18 Q. [11:52:56] And who filmed these images?

19 A. [11:53:08] [REDACTED]
20 [REDACTED]

21 A. [11:53:22] Yes.

22 Q. [11:53:26] If I could bring up Defence tab 122 and 123, the Arabic is - for the
23 witness - is MLI-OTP-0018-1450, and the translation is MLI-D28-0004-3479.

24 Mr Witness, do you have the Arabic document with you? Is this a description of a
25 film?

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1 A. [11:55:04] Yes.

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 PRESIDING JUDGE MINDUA: [11:55:31](Interpretation) Prosecutor.

6 MR DUTERTRE: [11:55:31](Interpretation) Your Honour, perhaps we have to ask
7 the witness if he's already seen this document before, if he knows it, and afterwards
8 we can continue with these questions. I don't have the objections in principle, but
9 there's a well-known procedure that needs to be followed.

10 PRESIDING JUDGE MINDUA: [11:55:53](Interpretation) Ms Taylor, the
11 Prosecutor's just recalling the procedure in the matter.

12 MS TAYLOR: [11:55:59]

13 Q. [11:56:01] Mr Witness, at the top, I believe we have, [REDACTED]

14 Was that [REDACTED]?

15 A. [11:56:27] Yes, [REDACTED]

16 Q. [11:56:35] I'm going to -- the production date is 2012, and given that the
17 Prosecutor's asked for more context, I'll read out a few paragraphs.

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

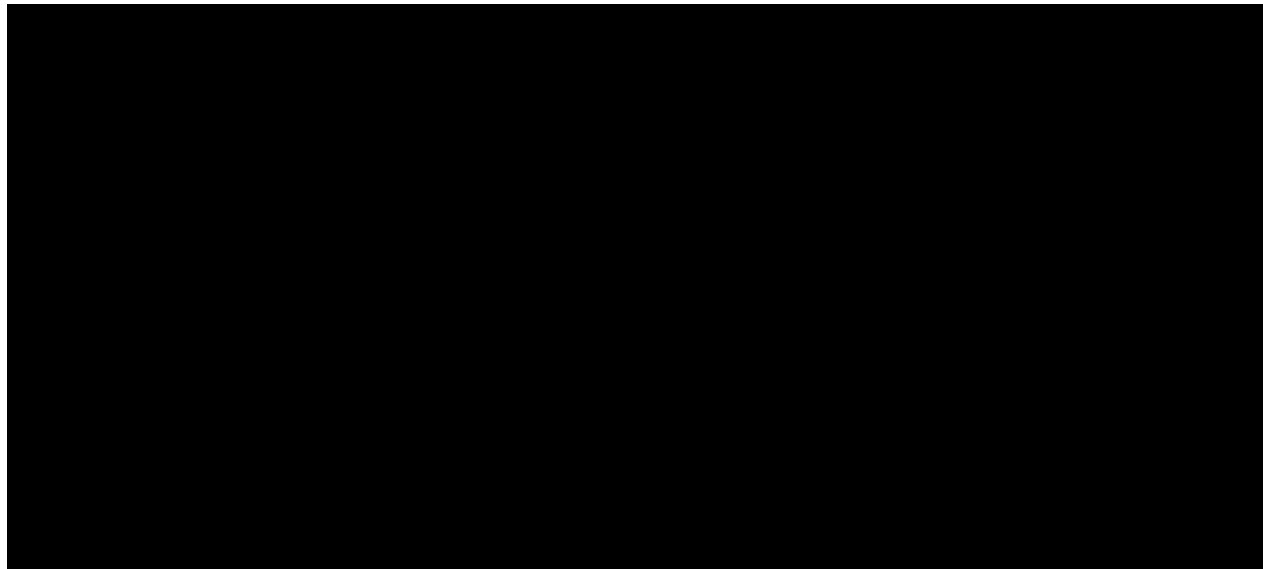
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9 Q. [11:58:44] Now, at transcript 99, page 48, line 15, you described [REDACTED]

10 [REDACTED]

11 And on day 15, that's transcript 102, page 11, line 4, the Prosecution played video

12 [REDACTED] And if we could play it again to refresh your memory, perhaps.

13 For the interpreters, I'll give the references to the transcript and the translation before

14 we start. The transcript is OTP tab 1151, that's [REDACTED]. And the

15 translation is OTP -- I'm not quite sure why Mr Dutertre is standing up.

16 MR DUTERTRE: [12:00:37](Interpretation) To help you, Ms Taylor, because

17 (Overlapping speakers)

18 PRESIDING JUDGE MINDUA: [12:00:42](Interpretation) I have to give you the floor,

19 Prosecutor. Please go ahead.

20 MR DUTERTRE: [12:00:46](Interpretation) Apologies, your Honour.

21 I just wanted to help Ms Taylor. It's not the video that I played which was

22 concerned by the answer of the witness.

23 Page 48, *line 15, it was video [REDACTED] as can be seen (Overlapping speakers)

24 MS TAYLOR: [12:01:12] Mr Dutertre should not be saying this in the presence of the

25 witness, and I will explain why. He's actually mischaracterising what I said. And I

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1 don't believe it's appropriate to go into this in the presence of the witness.

2 MR DUTERTRE: [12:01:41](Interpretation) I must say that I'm at a loss because

3 (Overlapping speakers)

4 PRESIDING JUDGE MINDUA: [12:01:46](Interpretation) Very well.

5 Ms Taylor, continue, please.

6 MS TAYLOR: [12:01:54] Thank you very much.

7 I do believe I was in the midst of giving a transcript number when I was interrupted.

8 So I will give it again. It's OTP tab 1152, this is the translation of a video shown to

9 you on day 15. It's [REDACTED] is the transcript. The translation is OTP tab

10 1153, that's [REDACTED]. And if we could play the first couple of seconds of

11 the video going up to lines 4 or 5 of the transcript. With sound.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: [12:03:14](Interpretation of the video excerpt) Sight

14 translation:

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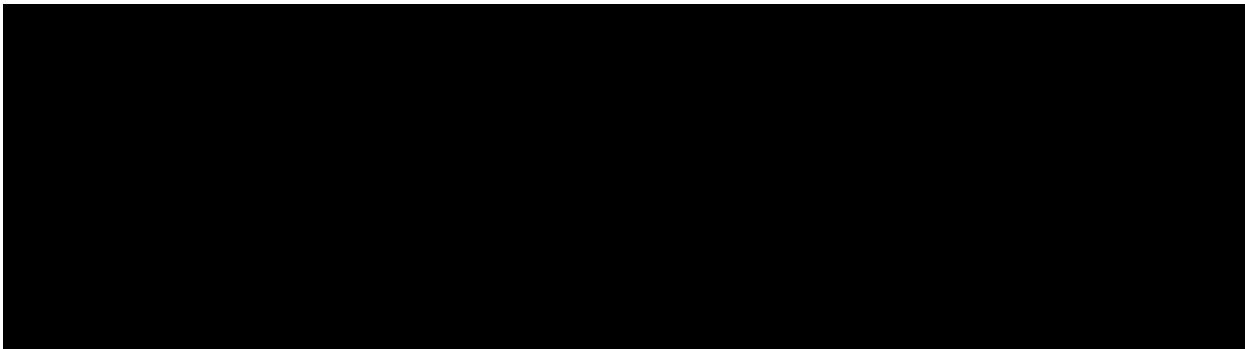
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6 A. [12:05:32] That line is incorrect from the very source itself.

7 Q. [12:05:45] If I can show a video. It's OTP tab 1036. It's MLI-OTP-0018-0091.

8 The transcript is OTP tab 1037, that's MLI-OTP-0052-0053. The translation is OTP tab
9 1038, that's MLI-OTP-0052-0055. If we can play it with sound.

10 (Viewing of the video excerpt)

11 THE INTERPRETER: [12:07:15](Interpretation of the video excerpt)

12 "Hassan Abdelaziz el-Ansari (HAA): The Prime Minister of the Transitional
13 Government to known for his antagonism towards the people of ... the people of
14 Azawad in the North and has been incessantly instigating aggression against our
15 people, which are not in the least guilty. We believe that removing hostile ... hostile
16 people from positions of power in Bamako represents a positive step ... represents a
17 positive step ... erm ... represents a positive step that we are taking in the right
18 direction. Although it might be an indication of good faith, we think that this step is
19 insufficient and must be boldly followed by several others to break ... to break the ice.
20 These include in particular: 1) cessation of the hostilities that are relentlessly
21 committed against the people ... the unarmed people of Azawad; 2) addressing in
22 earnest the subject of ongoing negotiations in such a manner that restores the violated
23 rights of the people of Azawad while guaranteeing that they live under ... in
24 freedom ... under the umbrella of the Islamic Sharia; working ... 3) working towards
25 neutralising all the voices calling for barbaric intervention in the land of Azawad and

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1 ensuring that reason and wisdom prevail, which will eventually be to the advantage
2 of all concerned."

3 MS TAYLOR: [12:09:02]

4 Q. [12:09:05] When did you first watch this video?

5 A. [12:09:20] I don't remember exactly when. I don't remember the exact date.

6 [REDACTED]
7 [REDACTED]

8 Q. [12:09:44] If I can bring up OTP tab 1398. It can be shown on evidence 1. It's

9 [REDACTED] at 9084. This is a transcript of your interview with the

10 Prosecution on [REDACTED]. We're going from lines 94 to 95.

11 Now, Mr Witness, after the Prosecution played this video for you with sound, you
12 stated:

13 "It's not correct what I mentioned earlier. I said he was talking on behalf of the
14 police; this is not correct. In this video, he's talking on behalf of the Azawadi in
15 general."

16 And at lines 98 to 99 you state:

17 "And he made this speech when the Burkina Faso government interceded and tried to
18 act as a mediator between Ansar Dine and the Malian government."

19 And at lines 103 to 106 you stated:

20 "OK ... and in this ... in his speech, he is saying that the fact that Ansar Dine took the
21 northern part of the country under its control is the right of the Azawadi people in
22 addition to other rights is for the aggressions against Azawadi people to be stopped
23 especially in the south because during that period there were attacks against Azawadi
24 in Diabaly area."

25 Mr Witness, you have the Arabic in front of you. Is the translation correct?

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1 A. [12:13:06] Yes, it is correct.

2 Q. [12:13:09] Did you tell the Prosecution the truth?

3 A. [12:13:18] Yes. Everything that you have read is the truth.

4 Q. [12:13:25] If we turn to page 9085, lines 131 to 132.

5 This says: "I even think that he has a document in front of him. He's reading out
6 from the document because he is not able to improvise in Arabic."

7 Is the translation correct?

8 A. [12:14:45] Yes.

9 Q. [12:14:48] And did it appear to you that he was reading out a document?

10 A. [12:14:58] Yes. Judging by the way he was reading, I had the impression he
11 was reading. For example, he repeated a sentence because he wasn't so sure of his
12 reading, so he reread a sentence to possibly correct it.

13 Q. [12:15:16] If I can refer to Defence tab 216, this is [REDACTED] at
14 2526. These are the notes of your preparation session with the Prosecutor on
15 [REDACTED]. And referring specifically to page 2526 to 2527.

16 And it's the bottom section, and the reference here, it's [REDACTED], page 9084,
17 refers back to your [REDACTED] interview where they showed you this video. And
18 when shown the transcript of what you said concerning this video, you said:

19 "The witness said that these lines in the transcript relate to what Al Hassan said in a
20 videotape segment. The investigators asked him to summarise what Al Hassan was
21 talking about. The witness clarifies that when Al Hassan was talking, he was not
22 talking as the head of the police, but as the dignitary of the area, or the person visible
23 in the community. Al Hassan wanted to give the impression that he can effect and
24 promote the Azawad issue forward. This video was not about his work in the police.
25 The witness confirmed that Al Hassan is a dignitary in the community. When asked

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1 to clarify what he means by the community, the witness stated that he is referring to
2 the community of Timbuktu and its suburbs."

3 Is this an accurate reflection of what you said to the Prosecutor?

4 A. [12:18:32] Yes. It's a perfect reflection of what I said.

5 Q. [12:18:38] And is it correct that Al Hassan was speaking on the Azawad issue as
6 a local dignitary and not as a member of the police?

7 A. [12:18:55] Yes, that is correct.

8 Q. [12:19:01] Now, the speech referred to nonaggression. Was the context the
9 reconciliation efforts?

10 A. [12:19:26] Yes.

11 Q. [12:19:31] Is it correct that there was an Ansar Dine delegation in Burkina Faso
12 at this time that were attempting to negotiate with the Malian authorities?

13 A. [12:19:46] Even if I don't remember the exact dates, I can tell you that I do know
14 that, judging by this video, he's talking about what you mentioned exactly, the
15 negotiations about the presence of Ansar Dine in Burkina Faso.

16 Q. [12:20:12] If I could bring up Defence tab 67, this is MLI-D28-0005-3445. It's a
17 France 24 article dated 20 -- sorry, dated 14 November 2012, titled "Ansar Dine: 'We
18 are determined to have peace'."

19 The subtext under the title is:

20 "With a plan for military intervention in northern Mali already mapped out, a
21 delegation from militant Islamist group Ansar Dine (currently occupying the region)
22 met with a UN official in Burkina Faso."

23 Does this -- is this the same time period as the Burkina Faso negotiations we were just
24 discussing?

25 A. [12:21:49] Other than the period -- specific period, this is about the negotiations

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1 in Burkina Faso, and this article is talking about the same thing.

2 Q. [12:22:05] If I could turn to page 3446, it states in the second paragraph:

3 "Since arriving in Ouagadougou, the capital of Burkina Faso, Ansar Dine has been
4 trying to improve its image, declaring an end to terrorist tactics and stating its
5 willingness to negotiate directly with Malian authorities in order to find a peaceful
6 solution to the crisis. 'We are calling Malians to the negotiating table,' Mohamed Ag
7 Aharib, Ansar Dine's spokesperson, told a France 24 reporter in Ouagadougou.
8 'Both Malians and [militant Islamist] groups will have an opportunity to make their
9 demands heard, but for the moment, the most important thing is to proceed toward
10 dialogue."

11 Is it correct, Mr Witness, that there were some factions in Ansar Dine at this time that
12 wanted dialogue and reconciliation?

13 A. [12:24:08] Yes, that's correct.

14 Q. [12:24:11] Now, at paragraph 4 the article states:

15 "But that is precisely the sticking point with Malian authorities, who, along with the
16 rest of the international community, condemn Sharia law and the practices that go
17 with it. On Wednesday, Ansar Dine seemed to strike a more conciliatory tone on the
18 matter, acknowledging that Sharia law would perhaps not be enforced everywhere in
19 Mali. 'We will not pursue the application of Sharia on all of Malian territory, only in
20 our region of Kidal,' Hamada Ag Bibi, one of the members of the delegation, told
21 Agence France-Presse."

22 Is it correct that some factions of Ansar Dine would have supported limiting the
23 application of Sharia to Kidal, where Iyad Ag Ghaly was based?

24 A. [12:26:11] The fact is that Ansar Dine did not support the application of *hadd*
25 sentences completely. But Iyad Ag Ghaly, the head of Ansar Dine, had espoused all

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1 the ideas and tactics of Al-Qaeda in the north. There was a negotiation going on, so
2 to speak, within Ansar Dine itself to restrict or to ask Iyad to reflect the application of
3 *hadd* to just the region under his control. Of course, he refused. He rejected that
4 proposal.

5 I beg your pardon. I made a mistake. Under his control. *I said "under his control",
6 but I meant the region where his tribe was or his village. Otherwise, Iyad had control
7 over the entire north.

8 Q. [12:27:17] Is it correct that most of the local members of Ansar Dine, such as
9 Houka Houka [REDACTED] were in favour of reconciliation at this point?

10 A. [12:27:36] Yes [REDACTED] like other members of the Azawad who had joined Ansar
11 Dine to preserve national interests and civil interests.

12 Q. [12:27:58] And was it foreign who were opposed to negotiation and diplomacy?

13 A. [12:28:12] Yes. That is why the reconciliation did not occur when the Algerians
14 and the Tunisians and the Libyans joined the group. They went away from one of
15 the battalions and -- from the unveiled battalion and they joined Abou Zeid in
16 Timbuktu and they asked to declare war to occupy the rest, the south of Mali.
17 And when this -- when they tried to convince Iyad who as the head of Ansar Dine,
18 there were other local symbols. So once convinced, the others would be convinced.
19 And in actual fact, the idea that was decided upon was to attack even before the
20 hopes of reconciliation completely dwindled away.

21 Q. [12:29:28] Just turning back to [REDACTED], do you know if [REDACTED]
22 [REDACTED]?

23 A. [12:29:53] Yes. I heard talk about [REDACTED] but I don't know what -- exactly
24 what dealings he had with [REDACTED]

25 Q. [12:30:08] Were you present in Timbuktu when [REDACTED] in 2012?

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1 THE INTERPRETER: [12:30:21] Message from the French interpreter: [REDACTED]

2 [REDACTED]

3 THE WITNESS: [12:30:31](Interpretation) I'm not sure. I had no interest in making
4 distinction between [REDACTED] I believe that there were

5 [REDACTED]

6 [REDACTED] for example. I didn't take part in anything, none of the events.

7 I believe that [REDACTED] during the period of time when I was not present.

8 [REDACTED] But generally speaking, I don't remember exactly [REDACTED]

9 [REDACTED] even though I was present.

10 MS TAYLOR: [12:31:33]

11 Q. [12:31:35] So would it be fair to say that you're not familiar with the system that
12 they used for [REDACTED]?

13 A. [12:31:51] Absolutely not. [REDACTED]

14 [REDACTED]

15 Q. [12:32:05] Now, at transcript 105, page 67, lines 9 to 15, I put a question to you:
16 "And under Sharia principles, is it a crime to execute the orders of the religious
17 authorities?"

18 And your response was, "No. Unless that is known that it's not in accordance with
19 the Sharia. In such an eventuality, then that person cannot apply what he is ordered
20 to do."

21 And at line 14 my question was: "Who makes that determination?" At line 15 you
22 said: "The *al-ulema*." And I'll spell that because I'm sure I'm mispronouncing it.

23 A-L, dash, U-L-E-M-A.

24 From May 2012 until January 2013, who were the *al-ulema* in Timbuktu?

25 A. [12:33:26] There were *al-ulema* in Timbuktu. The *al-ulema* of the group -- of the

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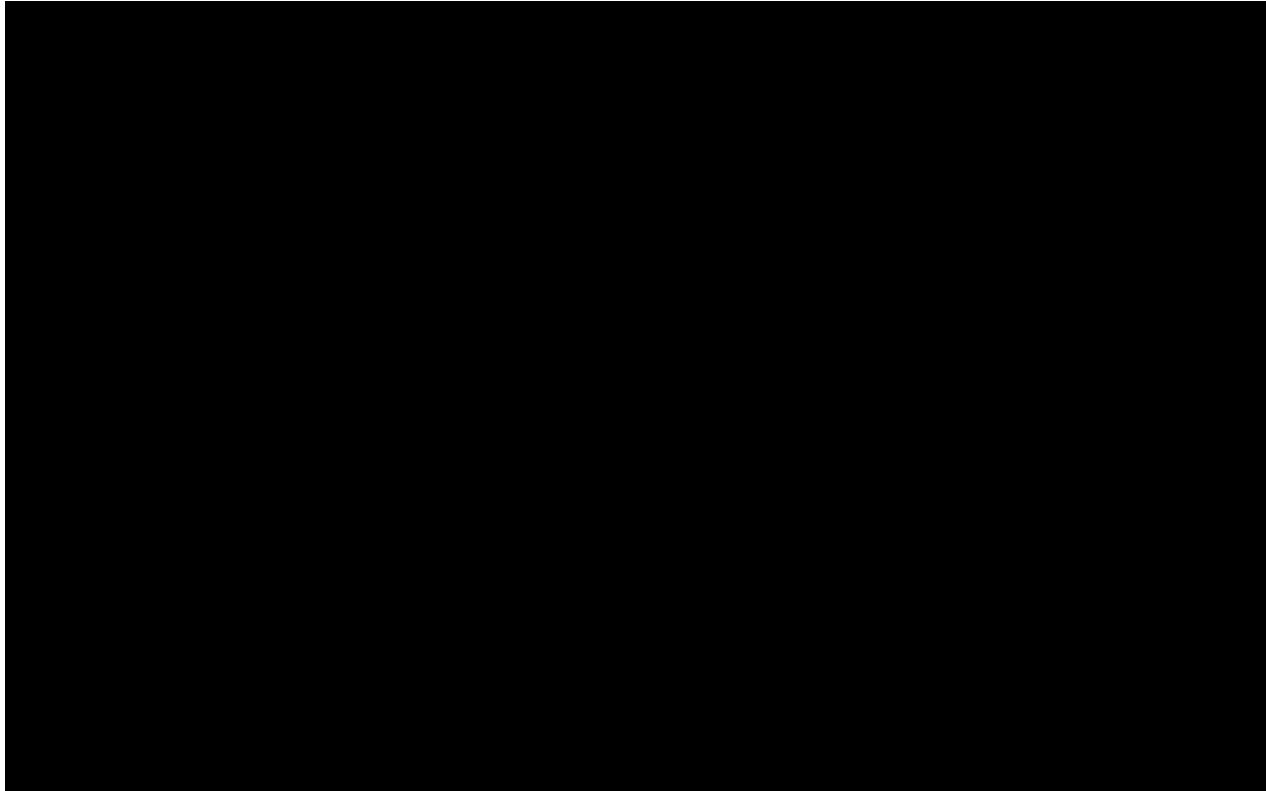
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1 groups and the *al-ulema* of Timbuktu.

2 Now, concerning your question. You stated who decided or who determined Sharia
3 which had to be applied in Timbuktu, and the answer is the *ulema* of the organisation
4 or the groups and not the *ulema* of Timbuktu.



16 PRESIDING JUDGE MINDUA: [12:35:25](Interpretation) Prosecutor.

17 MR DUTERTRE: [12:35:26](Interpretation) It's just a point by way of clarification for
18 the transcript. The reference by -- given by Ms Taylor is to the real-time transcript
19 and not to edited such that it could pose a problem hereafter. That's something
20 already mentioned at the start of the cross-examination.

21 PRESIDING JUDGE MINDUA: [12:35:47](Interpretation) That's very important
22 indeed.

23 MS TAYLOR: [12:35:52] Thank you, Mr President. It's a quote from Monday, so,
24 unfortunately, we don't have all the time to update our cross-examination plans.

25 PRESIDING JUDGE MINDUA: [12:36:03](Interpretation) Prosecutor.

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1 MR DUTERTRE: [12:36:03](Interpretation) If that exists, that's why I took the time to
2 find it. I didn't find it in the edited transcript and I said that it should be the
3 real-time one indeed.

4 PRESIDING JUDGE MINDUA: [12:36:14](Interpretation) That's it.

5 MS TAYLOR: [12:36:17]

6 [REDACTED]
7 [REDACTED]

8 A. [12:36:44] Yes.

9 Q. [12:36:46] Now, if we could turn to Prosecution tab 1349, and that can be put on
10 evidence 1 for the interpreters. It's [REDACTED] and we'll be looking at
11 page 1111. And this is a transcript of an interview with you dated [REDACTED].
12 And we'll be looking at lines 429 to 437.

13 And if the interpreters could kindly let me know if they're ready to interpret.

14 Now, this transcript states: "In Quran, only the adultery crime is specified where the
15 punishment be in public but I think all the scholars agreed that this public ... this
16 punishment in public is good to set a good example for the others."

17 Question: "OK. And do you ... is it your ... what's your understanding about the
18 implementation of this specific types of crimes and punishments in Timbuktu and
19 how it was done?"

20 Answer: "I think it was the correct thing to do and it is in line with the rules of the
21 Sharia and jurisprudence.

22 And ...

23 Except some minor details."

24 Is this an accurate translation, Mr Witness?

25 A. [12:39:47] (No interpretation)

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1 Q. [12:39:52] And were you telling the Prosecution the truth as to what you
2 believed at that point in time?

3 A. [12:40:06] Yes. And from the point of view of the jurisprudence because the
4 collectivity has to apply it. And here I make a distinction between what the groups
5 do. They would do it on the basis of evidence in the books, in the writings, but here
6 I don't judge the correct nature of their acts. I don't describe the acts, I don't judge
7 them, but I say that they are in accordance with the text. They refer to the text in
8 order to apply these acts.

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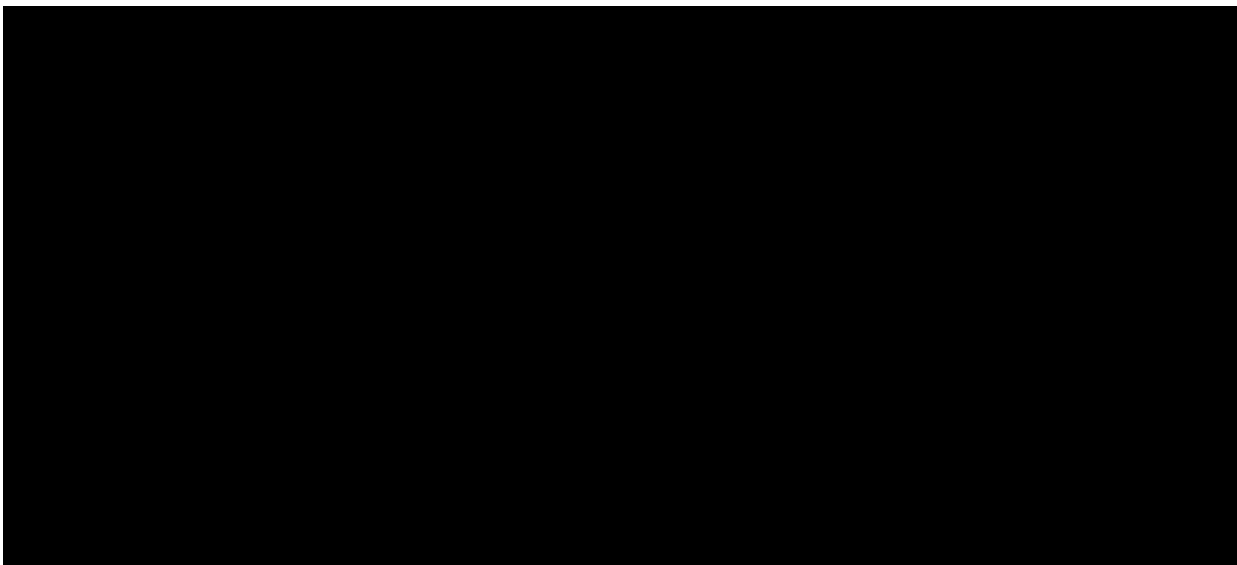
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9 Q. [12:44:44] If I could turn to tab 1349. That can be displayed on evidence 1. It's
10 Prosecution tab 1349, [REDACTED] at 1111, looking at lines 441 to 459.

11 Now, this is the extract from an interview dated [REDACTED]

12 And if the interpreters could kindly indicate if they're ready to interpret.

13 PRESIDING JUDGE MINDUA: [12:46:02](Interpretation) Very well, Ms Taylor.

14 You can go ahead.

15 MS TAYLOR: [12:46:06]

16 Q. [12:46:10] Question: "OK. Can you explain to us when ... when a judge has
17 given a sentence in one of these ... these crimes, how was it arranged? How was
18 the ... the sentence, the passing of the sentence? How was it arranged? Who was in
19 charge of the...?"

20 Response: "First, the police has to implement *hadd* punishment because humans do
21 not have the right or do not have any say in these punishments so as soon as the
22 judge pronounces the sentence, the police should execute it."

23 Question: "But let's be very precise. Let's talk about what happened in Timbuktu
24 not what should happen."

25 Answer: "Yes, this is what should happen and this is what happened."

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1 Interviewer: "Yeah."

2 Response: "There is no difference between the general rules in ... the general rules
3 and what took place."

4 Is this a correct interpretation, Mr Witness?

5 A. [12:48:11] Yes, but there's something missing here. I also added at the end of
6 the sentence, unless in exceptional or rare cases.

7 Q. [12:48:29] Which sentence is that in?

8 A. [12:48:38] Line 457 in English, that ends "what took place". And what took
9 place, and I said there was no difference between the two, but only rarely.

10 Q. [12:49:01] And what did you mean by that?

11 A. [12:49:06] I wanted to say that what I had described was the situation where
12 what happens in general and that it's inspired from jurisprudence and from the
13 writings. But sometimes, some applications or some measures were taken without
14 referring to Sharia or jurisprudence.

15 Q. [12:49:38] And these were rare?

16 A. [12:49:49] Yes.

17 Q. [12:49:55] [REDACTED]

18 [REDACTED]

19 A. [12:50:13] Yes.

20 Q. [12:50:17] Is it correct that if someone from *Hesbah* or the Islamic police were not
21 present, someone else would take their place?

22 A. [12:50:41] Yes, it's possible. For example, if the chief wasn't present, then his
23 deputy or another person, one of the other group members would. [REDACTED]

24 [REDACTED]

25 [REDACTED]

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6 Q. [12:51:46] Is it correct that in accordance with Sharia principles, the purpose of
7 flogging someone is not to cause pain but to teach a lesson?

8 A. [12:52:11] This is a question which is disputed, [REDACTED]
9 [REDACTED] quoted a verse

10 Almighty God said in the *surat*, the thief and the female thief must have their hand
11 amputated as a punishment for what they have stolen, but also as a reproach from
12 God who inflicts this suffering or torture upon them.

13 So the jihadists think that even the *ulema* in the history of Islam think that the sanction
14 or the punishment should have the aim of causing pain, and that is done on the basis
15 of these verses. [REDACTED]

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24 So I'm coming back to your question to say that when the *hadd* is applied for adultery,

25 [REDACTED] but it was said that -- or for all punishments, for all

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1 sanctions it has to hurt. It has to cause pain, to inflict pain. But this contradicts the
2 explanations of a lot of *ulemas*.

3 Now, myself, I think that pain should not be an objective or the primary objective of
4 punishment or the execution of a sanction.

5 Q. [12:55:39] Now, when flogging, is it correct that the arm position requires the
6 flogger not to lift their elbow higher than the shoulder, but to hold the whip as if the
7 Koran was under their armpit?

8 A. [12:56:06] Yes, it's true to the extent that this is very important advice in the
9 jurisprudence and in Islamic justice. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. [12:56:43] Now, on day 8, that's transcript 95, page 51, lines 1 to 3, [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 My question is, [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 PRESIDING JUDGE MINDUA: [12:58:08](Interpretation) Prosecutor.

21 MR DUTERTRE: [12:58:09](Interpretation) Your Honour, I have to say, the question
22 is very complicated and I don't see how the witness can answer such a question.

23 PRESIDING JUDGE MINDUA: [12:58:20](Interpretation) Ms Taylor, please try to
24 reformulate the question.

25 MS TAYLOR: [12:58:27] [REDACTED]

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1 [REDACTED]

2 Q. [12:58:35] Mr Witness, did you understand the question, or do you want me to
3 repeat it in parts?

4 PRESIDING JUDGE MINDUA: [12:58:45](Interpretation) Ms Taylor, I've asked you
5 to reformulate the question.

6 MS TAYLOR: [12:58:49]

7 Q. [12:58:50] Mr Witness, is it correct that [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 PRESIDING JUDGE MINDUA: [12:59:58](Interpretation) Ms Taylor, please put a
12 simple question, because this has various parts to it.

13 MS TAYLOR: [13:00:05] Mr President, with respect, all the parts have to be in the
14 question for the witness to give an answer.

15 PRESIDING JUDGE MINDUA: [13:00:24](Interpretation) Please ask it in the most
16 simple way possible.

17 MS TAYLOR: [13:00:28]

18 Q. [13:00:29] [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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23 PRESIDING JUDGE MINDUA: [13:04:34](Interpretation) Ms Taylor, it is five
24 minutes after 1, we will leave it at that and you may continue after the lunch break.
25 I would now like to remind everyone that this afternoon the schedule is somewhat

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1 different for the Chamber. We will resume at 15 minutes after 2, 1415, and we will
2 conclude at 1530.

3 The hearing is now suspended.

4 THE COURT USHER: [13:05:08] All rise.

5 (Recess taken at 1.05 p.m.)

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

7 THE COURT USHER: [14:15:27] All rise.

8 Please be seated.

9 PRESIDING JUDGE MINDUA: [14:16:03](Interpretation) Court is in session.

10 Are there any problems? No, it's been solved.

11 I can see that there's been a change in the Prosecution's team. Perhaps that needs to
12 be put on the record.

13 MR GARCIA: [14:16:32](Interpretation) Good afternoon, your Honour, your

14 Honours. Lucio Garcia for the Prosecution, and I'm taking the place of Mr Dutertre

15 exceptionally for this session. And Yayoi Yamaguchi is also with us. And

16 Mousa Allafi is still with us for this session. Thank you.

17 PRESIDING JUDGE MINDUA: [14:16:54](Interpretation) Thank you very much,

18 Prosecutor.

19 So the Defence has the floor for the follow-up of the cross-examination.

20 Ms Taylor.

21 MS TAYLOR: [14:17:05]

22 Q. [14:17:07] Good afternoon, Witness. How are you?

23 A. [14:17:16] Good afternoon. I'm very well. Thank you.

24 Q. [14:17:22] Now, Mr Witness, during examination-in-chief the Prosecutor played

25 videos showing the flogging of a woman or a couple at Place Sankore. This

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1 concerned a judgment of *zina*. Do you recall that?

2 A. [14:17:55] Yes.

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

12 Q. [14:19:21] If I could turn to Prosecution tab 1314. This is

13 [REDACTED] at page 0653, looking at lines 610 to 0620. If it can be shown
14 on evidence 1.

15 And if the interpreters could kindly let me know if they're ready to interpret.

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 Mr Witness, is the translation on this page correct?

22 A. [14:21:24] Yes.

23 Q. [14:21:26] Does this appear to be referring to the *zina* incident?

24 A. [14:21:44] The incident that happened in the Sankore square, yes.

25 [REDACTED]

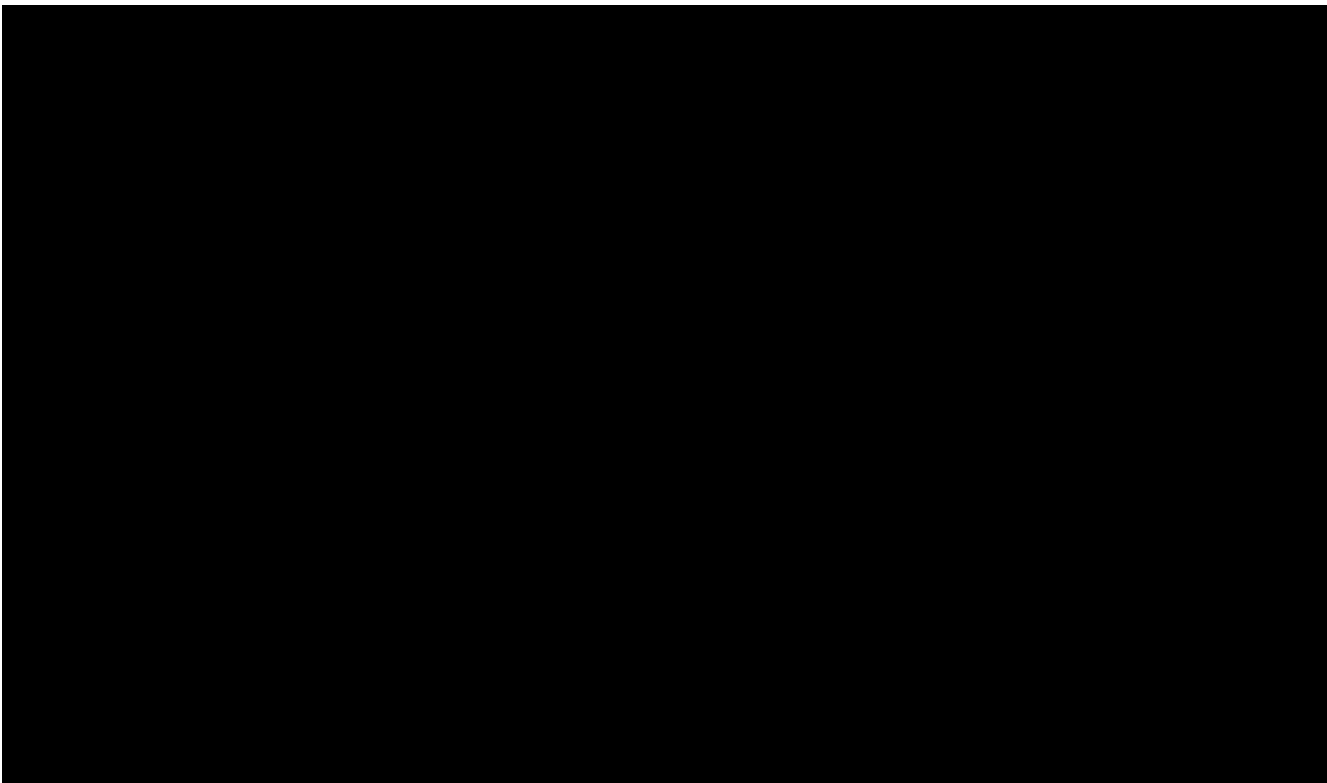
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12 Q. [14:23:38] If I could bring up Defence tab 134, this is the Arabic, it's
13 MLI-OTP-0024-3077. The French is Defence tab 135, that's MLI-OTP-0049-0036. It
14 could be shown on evidence 1.

15 Mr Witness, do you have the Arabic with you, tab 134?

16 A. [14:25:07] Yes, I have the Arabic version of it.

17 Q. [14:25:11] Now, this is an article dated 23 June 2012. It's by Othman Ag
18 Mohamed Othman, and it's titled (Interpretation) "Sahara Media observes the climate
19 surrounding the application of the *hudud* in Timbuktu".

20 And if we could turn to page 0038 of the French, I believe that's 3077 of the Arabic.

21 We have, (Interpretation) "100 whips ... and conclusion of a marriage".

22 (Speaks English) Does this appear to refer to the incident at Place Sankore?

23 Now, in the second last paragraph in French, it says: (Interpretation) "The young
24 woman appeared not to feel the beatings until a young man grabbed the rope
25 and pushed him-- which had pushed her to exteriorise her suffering."

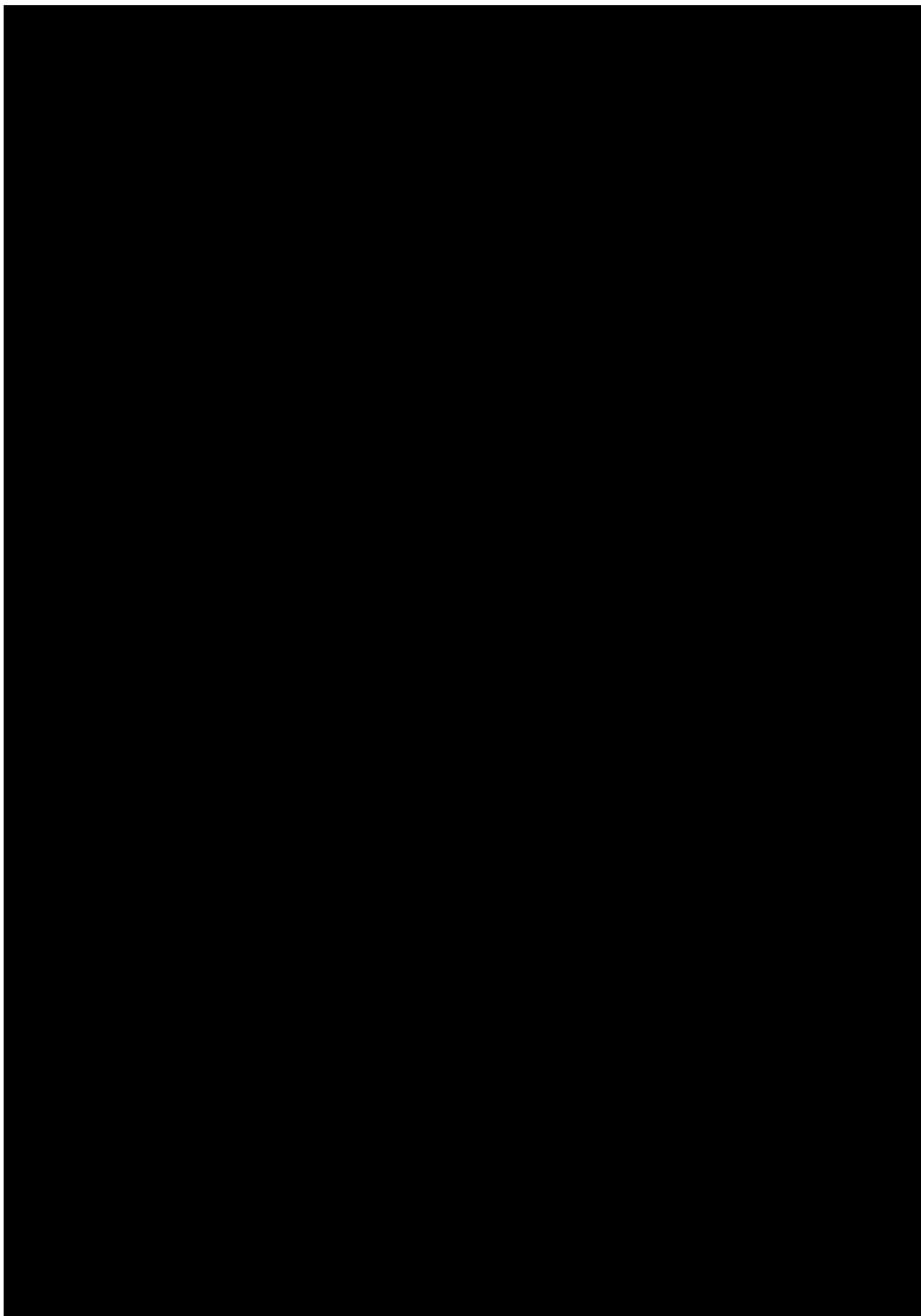
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3 The aim at the time was not necessarily to apply the rules. There was a little bit of
4 chaos going on. I wouldn't say that the Sharia rules were applied in a theoretical
5 manner at the time.

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16 MS TAYLOR: [14:33:22] If I could play Prosecution tab 1133, that's

17 [REDACTED]. We can play it on evidence 2 without sound.

18 (Viewing of the video excerpt)

19 And if we can now play Defence tab 107, that's [REDACTED] and we're going
20 to play until 4:35.

21 (Viewing of the video excerpt)

22 MS TAYLOR: [14:35:42] For the record, we started at 4:16 and we're stopping now at
23 4:36:18.

24 Q. [14:35:53] Mr Witness, who was the last person who was hitting the man?

25 A. [14:36:02] Could you please play the sequence again. I didn't really follow it

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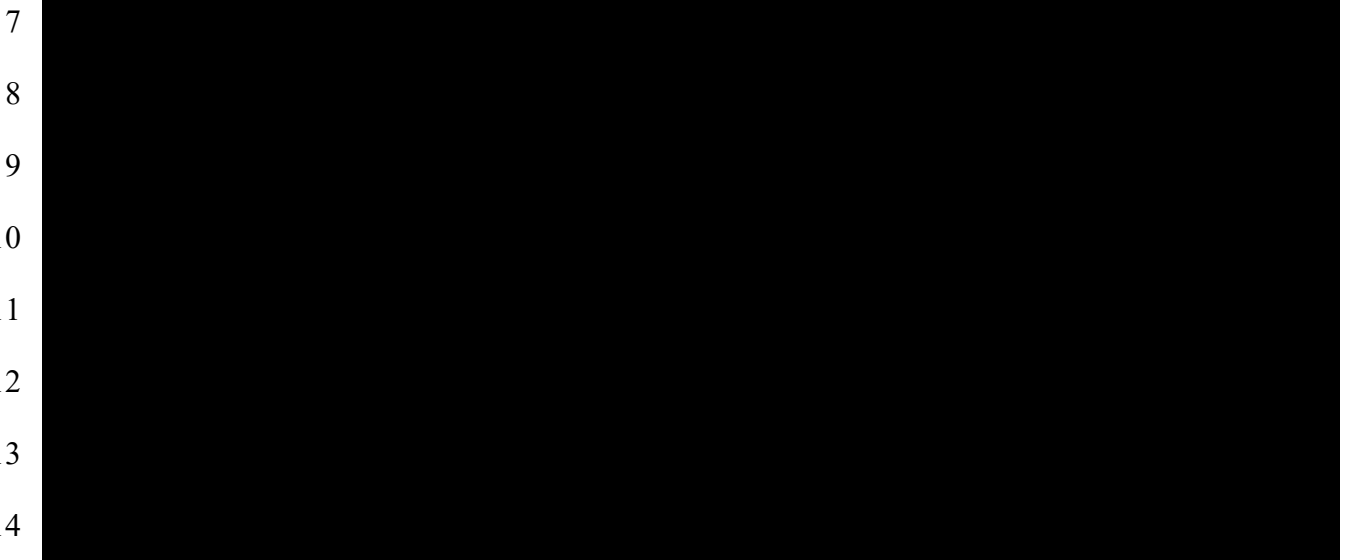
1 properly.

2 Q. [14:36:10] Certainly. We'll play from 4:15 to 4:36 without sound.

3 (Viewing of the video excerpt)

4 MS TAYLOR: [14:36:45]

5 Q. [14:36:46] Now, Mr Witness, this is a public news report, so it could be edited,
6 but that last person who was flogging the man, who was that?



15 PRESIDING JUDGE MINDUA: [14:38:06](Interpretation) Mr Prosecutor.

16 MR GARCIA: [14:38:08](Interpretation) Mr President, I do not see the use of the last
17 question. The witness has just answered that he does not recall this event at all. So
18 I do not see how he could answer this last question.

19 PRESIDING JUDGE MINDUA: [14:38:23](Interpretation) Yes, counsel, as he does
20 not remember it at all there's no point in putting this question.

21 MS TAYLOR: [14:38:33] Thank you, Mr President.

22 Q. [14:38:35] Since, Mr Witness, you've said previously that watching videos
23 triggers your memory, would it assist for us to play it again?

24 PRESIDING JUDGE MINDUA: [14:38:50](Interpretation) Mr Prosecutor.

25 MR GARCIA: [14:38:52](Interpretation) Just the same objection again, Mr President.

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1 The witness has been clear in his response and now counsel for Defence would like to
2 have the sequence played again and I do not see the use of this. The witness has
3 already said under oath that he has no recollection of this event and whether we play
4 it three, four or five times it will change nothing to his answer.

5 PRESIDING JUDGE MINDUA: [14:39:17](Interpretation) Ms Taylor, the witness has
6 already answered that after having seen the video two or three times during this
7 session, so there's no point in belabouring this.

8 MS TAYLOR: [14:39:30] Thank you, Mr President. If I may have a right to be
9 heard?

10 PRESIDING JUDGE MINDUA: [14:39:41](Interpretation) As to the decision that I
11 have just handed down? No. If you have any further questions to put but not with
12 regard to this video and asking him questions. He says he can't remember.

13 MS TAYLOR: [14:39:55] Thank you, Mr President.

14 Q. [14:39:56] Now, is it correct, Mr Witness, that the Prosecution never showed you
15 this video?

16 A. [14:40:18] That is correct, yes.

17 Q. [14:40:21] So you were unaware of this public report?

18 A. [14:40:44] This video must have been used before it landed in the hands of the

19 OTP

20 I just answered the Prosecutor's
21 questions and what came to mind I told them.

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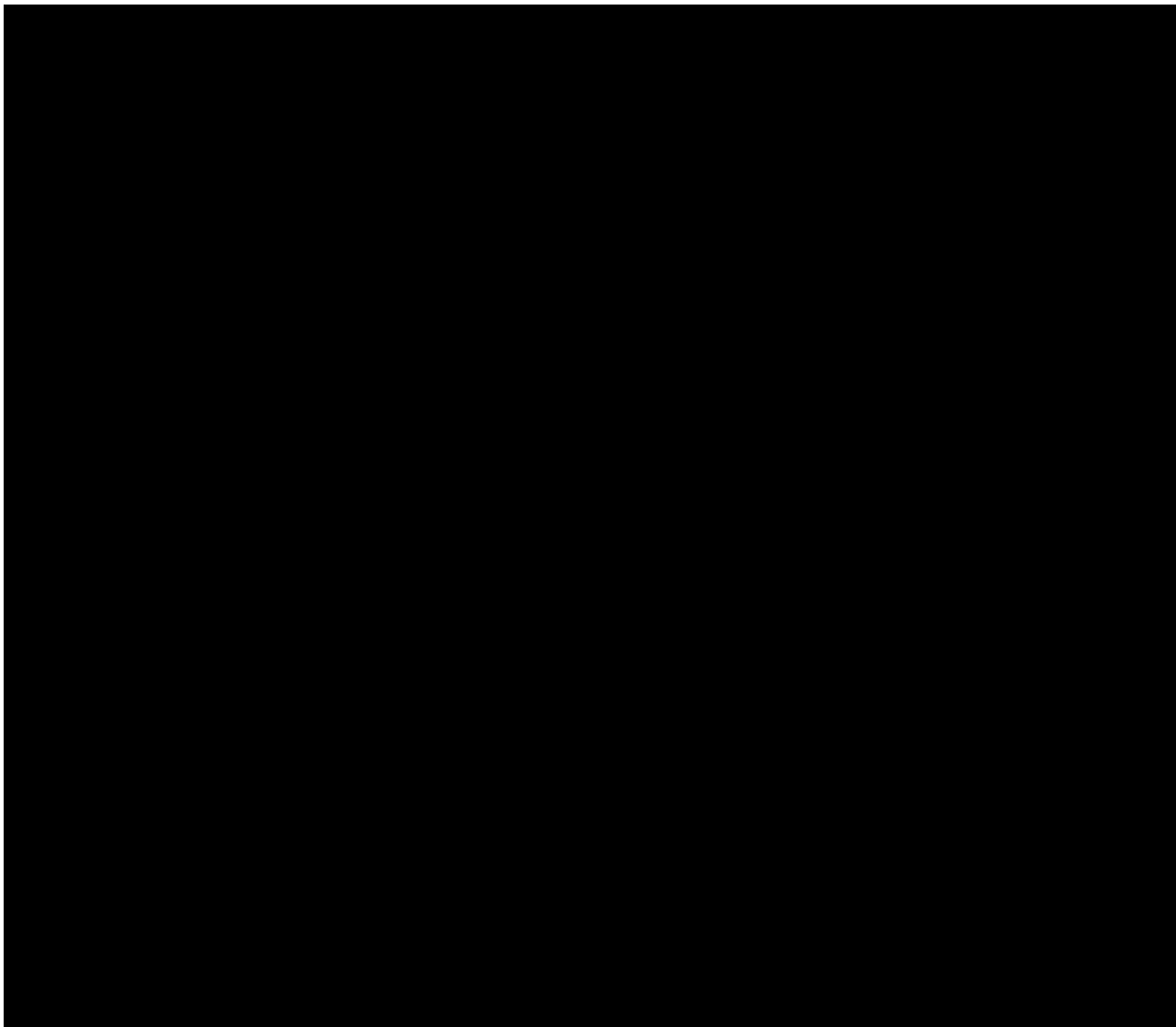
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17 Q. [14:44:02] Is it correct that at this incident Koutaiba was present to count the
18 number of flogs?

19 A. [14:44:19] Yes.

20 Q. [14:44:23] And was it the responsibility of Koutaiba to tell the floggers when to
21 stop?

22 A. [14:44:40] If he was mistaken, yes. But as a *cadi* or a judge, well, he is the true
23 judge within the group and if he is of the opinion -- well, he needs to make sure that
24 the 100 lashes are not 99 or 101. They have to be 100 lashes.

25 Q. [14:45:07] Now after the flogging, did the group give the two individuals a

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1 dowry to help them get married?

2 A. [14:45:23] Yes. They gave them treatment before that and everything was done
3 by the judge.

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22 MS TAYLOR: [14:48:09] I'm going to bring up Defence tab 190, but it should not be
23 shown on the evidence channel to the witness. It's [REDACTED] at
24 paragraph 1 -- at page 0168, para 142. That's the French. And the Arabic is Defence
25 tab 191, [REDACTED] at 7150, paragraph 142.

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1 Mr President, may my colleague Ms Chahla read this paragraph?

2 PRESIDING JUDGE MINDUA: [14:49:25](Interpretation) Yes, absolutely, Ms Taylor.

3 Please go ahead, Counsel.

4 MS CHAHLA: [14:49:35](Interpretation)

5 "I heard -- I heard it said that it was the young man himself who had gone to the

6 police because the family did not want to give their daughter in marriage. He

7 believed that the Islamists would allow the marriage. Whatever the case, the

8 Islamists arrested both of them and beat them well at the Place Sankore before taking

9 them to the hospital".

10 End of transcript.

11 MS TAYLOR: [14:50:16]

12 Q. [14:50:18] Does this appear to be referring to the flogging of the man and the

13 woman at Place Sankore that we've just been discussing?

14 A. [14:50:37] I really don't know, because I haven't entirely understood because this

15 paragraph seems to be taken out of context. But as you're talking about this -- these

16 lashings in Sankore, I do not recall. There were a number of sentences *or hudud

17 carried out. I don't know whether we're talking about the same incident here.

18 Q. [14:51:09] Did you yourself in 2012 hear any information about whether

19 someone filed a complaint about the couple?

20 A. [14:51:28] Not at all.

21 Q. [14:51:34] Now, on day 12, transcript 99, page 5, line 9 onwards, the Prosecution

22 showed you OTP tab 1042, that's video MLI-OTP-0018-0147. And I'll play it without

23 sound for 13 seconds to refresh your memory.

24 (Viewing of the video excerpt)

25 MS TAYLOR: [14:53:01] It stopped at 0:17.

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1 Q. [14:53:08] Mr Witness, do you recall watching this video?

2 A. [14:53:18] Yes.

3 Q. [14:53:20] Now you testified at transcript 98, page 62, lines 14, 15 that [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. [14:55:32] If I could bring up Prosecution tab 1145, that's MLI-OTP-0018-2594.

16 If it could be shown on evidence 1.

17 Is it correct that the Prosecution showed this photo to you in witness preparation?

18 A. [14:56:38] Yes.

19 Q. [14:56:43] And did you say that you thought it was either a *ta'zir* or a *hudud*
20 punishment?

21 MR GARCIA: [14:56:58](Interpretation) With your leave.

22 PRESIDING JUDGE MINDUA: [14:57:00](Interpretation) Please go ahead,

23 Mr Prosecutor.

24 MR GARCIA: [14:57:03](Interpretation) I don't want to intervene, but if we are

25 referring to a particular location, then could we please mention it on the record so that

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1 we can find ourselves at a later stage.

2 PRESIDING JUDGE MINDUA: [14:57:16](Interpretation) Ms Taylor.

3 MS TAYLOR: [14:57:17] I don't believe it's necessary to mention the location.

4 Mr President, I'm asking a question, a follow-up question that will be clear.

5 PRESIDING JUDGE MINDUA: [14:57:38](No interpretation)

6 MS TAYLOR: [14:57:40]

7 Q. [14:57:41] Now, Mr Witness, is it correct that you weren't present at the event
8 that's being depicted in this photograph?

9 A. [14:57:54] I did not say that I was not in attendance. Did I say that?

10 Q. [14:58:01] Were you in attendance?

11 A. [14:58:07] Difficult to say whether I was in attendance or not. [REDACTED]

12 [REDACTED]

13 [REDACTED] I do not remember. I cannot deny or confirm the fact.

14 Q. [14:58:35] So is it correct you have no memory of what's being shown in this
15 photograph?

16 A. [14:58:48] Memory can be divided up, so there are certain things that I can be
17 aware of as to whether it is a *ta'zir* or a *hudud* or a *hadd* in Arabic.

18 Q. [14:59:22] Mr Witness, is the name Ismail Diallo familiar to you?

19 A. [14:59:35] Ismail Jalo is not -- is not unfamiliar to me, but I don't remember
20 much about this individual, Ismail Jalo.

21 THE INTERPRETER: [14:59:51] Message from the English booth: Could the
22 witness please pause before answering. Thank you.

23 MS TAYLOR: [14:59:57]

24 [REDACTED]
25 [REDACTED]

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1 Q. [15:00:15] [REDACTED]

2 [REDACTED]

3 PRESIDING JUDGE MINDUA: [15:00:36](Interpretation) Mr Prosecutor.

4 MR GARCIA: [15:00:38](Interpretation) Once again, for the record, Mr President, I
5 have noted that there is a name about which we have been putting a question to the
6 witness that is not spelled. Could we please spell it so that subsequently we know
7 who we're talking about on record.

8 PRESIDING JUDGE MINDUA: [15:00:56](Interpretation) Yes, indeed. Ms Taylor,
9 could you please ask the witness to spell the name.

10 MS TAYLOR: [15:01:01]

11 Q. [15:01:01] Mr Witness, can you please spell the name?

12 A. [15:01:07] Yes. Ismail, I-S-M-A-I-L; and the family name Jalo, J-A-L-O. And
13 on occasion, one puts three dots above the O between Ja and Ja.

14 THE INTERPRETER: [15:01:39] And note from the interpreter: This is a literal
15 transcription into the French language.

16 MS TAYLOR: [15:01:46]

17 Q. [15:01:46] Just to make sure we're speaking of the same person, can it also -- the
18 last name also be spelled D-I-A-L-L-O?

19 A. [15:02:12] No, that is not correct. This transcription or transliteration came to
20 me in Arabic. When we -- when we say it in Arabic, the pronunciation becomes Jalo,
21 but it's not Diallo.

22 Q. [15:02:39] Now, Mr Witness, did you hear my question before or shall I repeat it?
23 In cases of homicide and bodily harm, is it correct that the complaint is brought by the

24 [REDACTED]

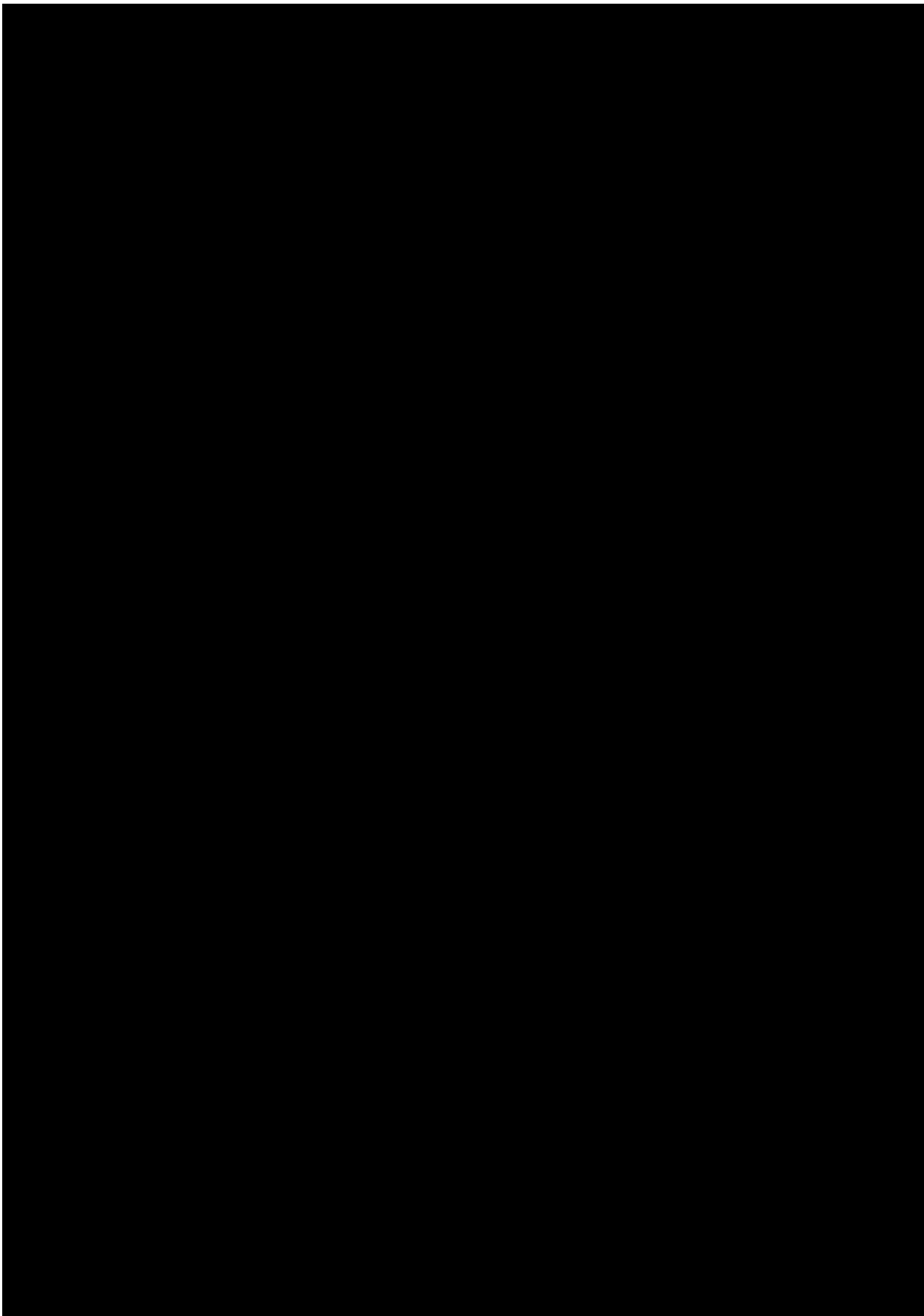
25 A. [15:03:12] [REDACTED]

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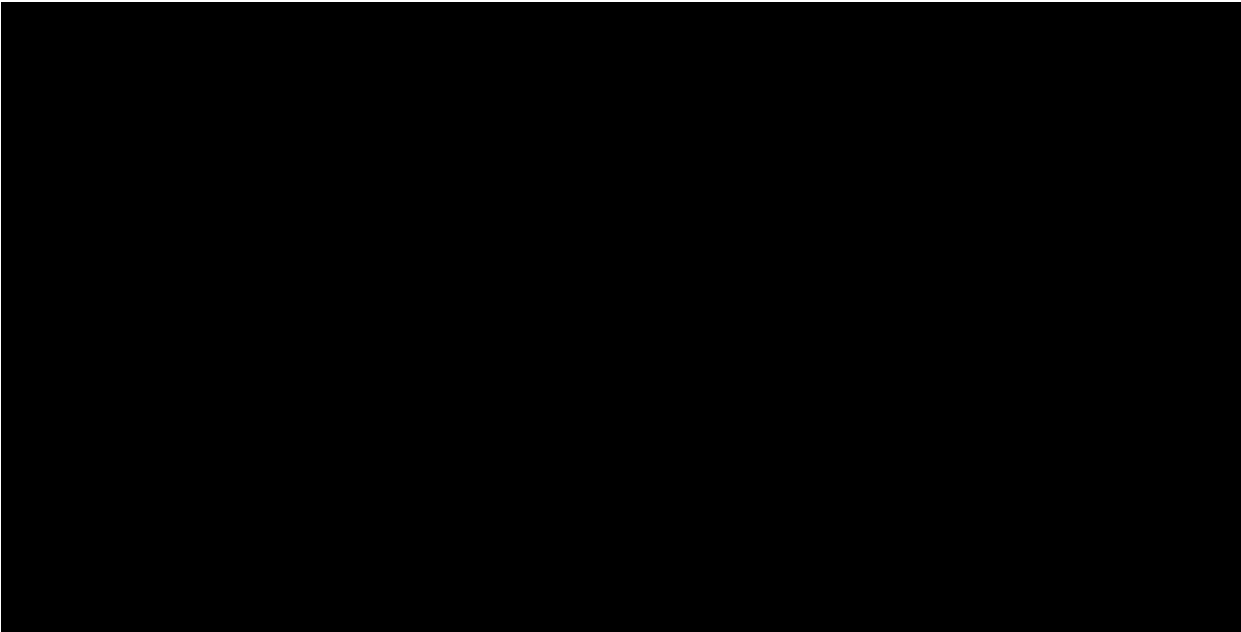
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10 Q. [15:08:53] Now, the term *qisas*, does this concern retribution for murder?

11 A. [15:09:04] Yes. In order to establish the truth, if a person, for example, cuts the
12 hand of another person, then the criminal can have the hand amputated. And if the
13 victim is killed, then the criminal or the perpetrator of the crime also has to be killed.
14 Or if a tooth is lost by the victim, then the perpetrator also has to lose a tooth.

15 Q. [15:09:48] Now, the term *diyya*, is *diyya* a form of blood money or financial
16 reparations that is given in exchange for a pardon for murder?

17 A. [15:10:15] Yes.

18 PRESIDING JUDGE MINDUA: [15:10:21](Interpretation) Prosecutor.

19 MR GARCIA: [15:10:22](Interpretation) Please be assured, I'm not going to interrupt
20 each time, but if the Defence counsel -- every time we introduce a term which isn't
21 already in the case file, if it could be spelled out, because *qisas*, that isn't in the
22 transcript in English or in the transcript in French.

23 PRESIDING JUDGE MINDUA: [15:10:45](Interpretation) You are right, Prosecutor.
24 Even the term *diyya*, we have it in the transcript in English, but in the French transcript
25 we do not have it.

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1 So, Ms Taylor, please try to spell the word, if you'd be so kind, or have the word
2 spelled.

3 MS TAYLOR: [15:11:02] Thank you, Mr President. I apologise. I did think that
4 these had come out already in examination-in-chief and earlier.

5 Now, *diya*, is it -- I believe there's alternative spellings, but is it D-I-Y-Y-A or D-I-Y-A?

6 A. [15:11:33] Yes, that's correct.

7 Q. [15:11:37] And *qisas*, is it Q-I-S-A, and then plural with an S? Q-I-S-A-S?

8 A. [15:12:09] No. *Qisas* is a singular word. There isn't a plural, thereof. The
9 origin is *qisas*, Q-I-S-A-S.

10 THE INTERPRETER: [15:12:27] And the interpreter notes that it's a literal
11 transcription of Arabic.

12 MS TAYLOR: [15:12:33]

13 Q. [15:12:33] Now, Mr Witness, is it correct that the purpose of *qisas* is to ensure
14 deterrence as concerns possible commission of murder?

15 A. [15:12:56] Yes. It's a fundamental principle because it's explicitly cited in the
16 Koran.

17 Q. [15:13:05] And once a murder has been committed, is the purpose of *diya* to
18 preserve the sanctity of life where possible?

19 A. [15:13:29] A pardon is a better choice than reprisals of the law of *talion*, but a
20 pardon is a choice which is better.

21 With regard to a *diya* or financial compensation, then this is to incite a pardon and it's
22 much better to have that option than *qisas* or reprisals.

23 Q. [15:14:00] Now, according to the testimony of a Prosecution witness, this is T-46,
24 the English transcript, page 66, lines 21 to 22, this witness said: "Close to me was the
25 mother of the victim and the family. They brought the man to her. Radwan asked

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1 her if she would give him her pardon. She refused."

2 Is it correct, Mr Witness, that members of the group asked the victim's family to
3 pardon the defendant?

4 A. [15:15:05] Yes.

5 MS TAYLOR: [15:15:08] I'm mindful of the time, Mr President. Are we finishing
6 now, is it?

7 PRESIDING JUDGE MINDUA: [15:15:16](Interpretation) No, no, Ms Taylor. We're
8 going to continue until 3.30. We've got another 15 minutes.

9 MS TAYLOR: [15:15:25] Perfect.

10 Q. [15:15:26] I'll read out another extract from that transcript. It's transcript 46,
11 page 67, lines 9 to 13:

12 "Mr Witness, based on what you saw and heard on that day, would it be correct that
13 members of the Islamic police had hoped that she [being the mother] would pardon
14 him?"

15 Answer: "What I remember is that there were efforts made by everybody for the
16 victim to pardon him, but she didn't."

17 A. [15:16:19] Yes. This case is supported by other information that we have -- we
18 referred to on several times. But to sum up, I would say that this woman believed
19 that it was a simple parody and didn't believe at all that the members of Ansar Dine
20 were going to kill somebody who had white skin for the simple fact that they had
21 killed somebody else whose skin was black.

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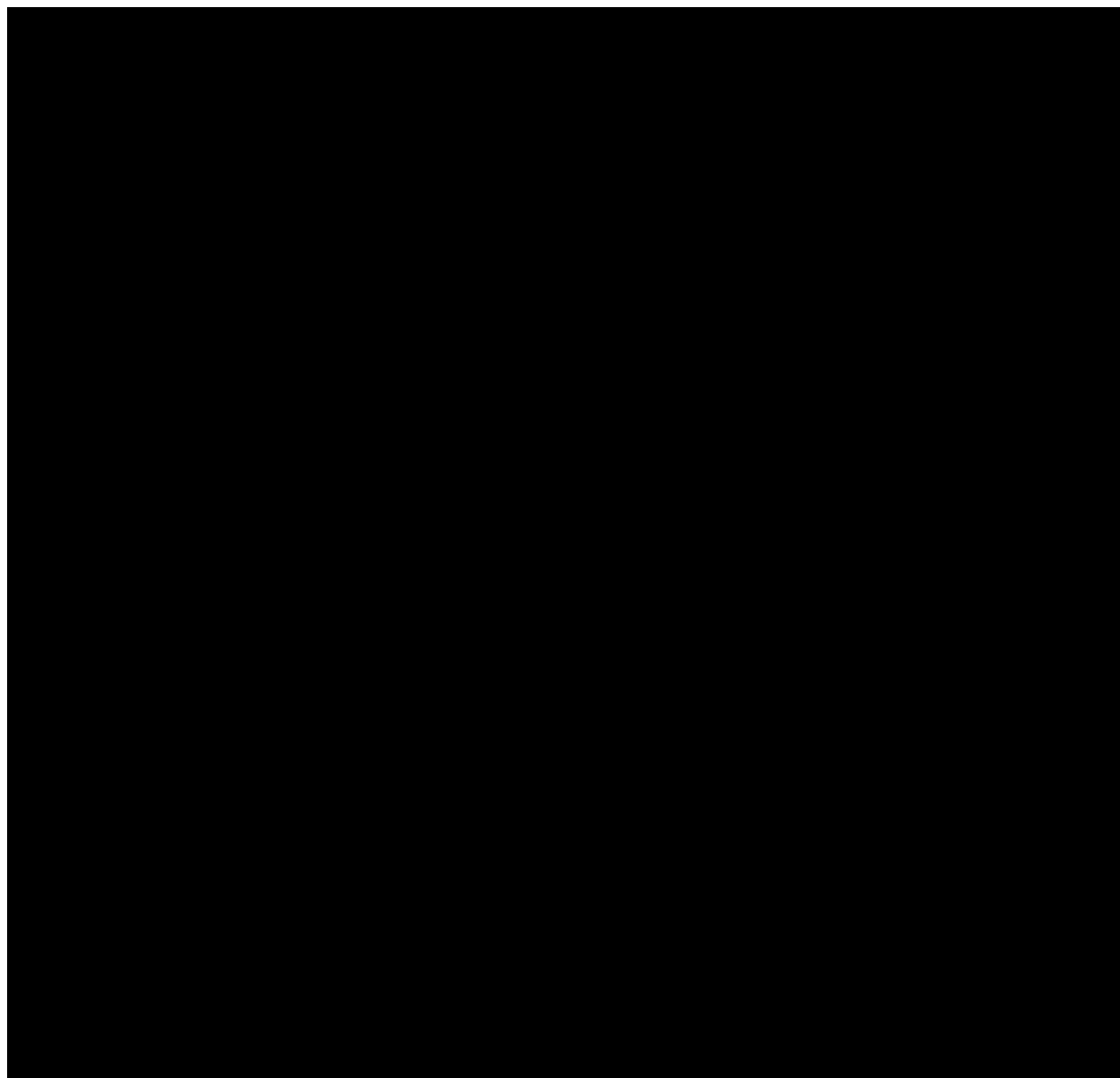
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18 Q. [15:19:43] Mr Witness, at page 88, line 17, I believe there's, in English, a word
19 missing. [REDACTED] -- and there's a
20 missing word. Who were you referring to?

21 A. [15:20:18] [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED]

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1 [REDACTED]

2 Q. [15:21:03] [REDACTED]

3 A. [15:21:09] [REDACTED]

4 [REDACTED]

5 Q. [15:21:25] [REDACTED]

6 A. [15:21:35] [REDACTED]

7 Q. [15:21:35] Now, Mr Witness, you testified on day 10, that's transcript 97, edited

8 page 54, lines 2 to 10, that [REDACTED]

9 Now, if I could just show a video. [REDACTED]. Play it without sound from

10 the 3 second mark until the end.

11 Play it on evidence 2.

12 (Viewing of the video excerpt)

13 MS TAYLOR: [15:22:46] I'll play it one more time.

14 (Viewing of the video excerpt)

15 MS TAYLOR: [15:23:09]

16 Q. [15:23:09] Mr Witness, could you see a car with flashing lights?

17 A. [15:23:31] No. I didn't pay attention to that. Could you show the video again,
18 please.

19 Q. [15:23:37] Yes, and then perhaps we can stop at, I think, 7.5.

20 (Viewing of the video excerpt)

21 MS TAYLOR: [15:24:11] So, for the record, we're stopping at 7.15.

22 Q. [15:24:17] Mr Witness, can you see the car in the back with flashing lights?

23 A. [15:24:26] Yes.

24 Q. [15:24:28] Does that appear to be the car of Mohamed Moussa?

25 A. [15:24:38] I'm not sure. But Mohamed Moussa had a red car. If the vehicle

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1 was a bit closer, I'd be able to recognise it.

2 Q. [15:24:54] Now, Mr Witness, you stated that [REDACTED]

3 [REDACTED]?

4 A. [15:25:23] [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 Q. [15:26:35] Now, Mr Witness, is the purpose of public punishments to ensure
14 deterrence?

15 A. [15:26:55] Yes. There are other reasons for that, according to the verses of the
16 Koran, but these are the considerations that are obvious.

17 Q. [15:27:11] And in terms of other reasons, would one of them be to ensure that
18 people are aware of what type of conduct can be punished, [REDACTED]

19 [REDACTED]?

20 A. [15:27:34] Yes, that is correct. And the group also wanted to get the people
21 used to tolerating this type of situation and not being influenced or affected by this
22 punishment. And for that, they refer to the start of the *Surat An-Nur*, the light,
23 where it is said -- where it concerns adultery or fornication do not be taken with pity
24 where it concerns the religion of God, if you believe in God and you believe in the last
25 judgment. And in these verses, they call upon the Muslims not to be influenced by

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1 such a situation because this is a weakness of faith on the part of the Muslims.

2 And so even if this explanation and interpretation is not very firm, there are a lot of
3 people who do subscribe to it.

4 MS TAYLOR: [15:28:44] Mr President, I'm looking at the time. I have something to
5 read out, but by the time I read it out, it will be 3.30.

6 PRESIDING JUDGE MINDUA: [15:28:55](Interpretation) Indeed, Ms Taylor.

7 We've just got one and a half minutes left. I don't think you've got the time.

8 Witness, we are coming to the end of our hearing for today. Obviously, your

9 testimony is not finished and you are therefore going to come back tomorrow

10 morning at 9.30.

11 The Chamber would like to thank you for your cooperation and, obviously, you know

12 what you must not do during this evening, so we will see you tomorrow morning.

13 I would just like to thank enormously the parties and participants in these

14 proceedings, the court reporters and the interpreters, as well as the security guards.

15 I wish you all a very good evening and until tomorrow morning. The session is

16 adjourned.

17 THE COURT USHER: [15:29:54] All rise.

18 (The hearing ends in closed session at 3.29 p.m.)

19 CORRECTIONS REPORT

20 The following corrections, marked with an asterisk and not included in the

21 audio-visual recording of the hearing, are brought into the transcript.

22 Page 6 lines 14-15

23

24

25

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1

2 Page 9 lines 12, 13, 15 and 24

3 "Amnar" Is corrected to "Amanar"

4 Page 10 lines 20-22

5 "to make a -- put a distance between myself and those opinions and I agree on certain
6 points, but I'm against other points and they know very well the points on which I am
7 not in agreement with others." Is corrected to "to distance myself from that. [REDACTED]

8 [REDACTED] I agree on certain points, but I'm against
9 other points and they know very well the points on which I am not in agreement with
10 others."

11 Page 11 lines 20-21

12 "[REDACTED]" Is
13 corrected to "[REDACTED]
14 [REDACTED]"

15 Page 11 lines 22-23

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Page 12 lines 10-13

21 "I don't see the relevance of this question with the charges, which are the subject of
22 this case, the attack in 2012. I think that here we're getting very far from where
23 we -- where the focus is." Is corrected to "As such, the question does not bother me,
24 but I don't see at all the relevance of this question to the charges in this case. [REDACTED]

25 [REDACTED] I think that we are very, very far

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1 away from the situation in Timbuktu.”

2 Page 13 line 23 to Page 14 line 1

3 “She's followed up your questions concerning the activities of Witness P-13 and she
4 wanted to examine the credibility of the witness, in particular with regards to the
5 opinions and the -- with regards to Ansar al-Sharia.” Is corrected to “She's following
6 up on your own questions concerning the activities of the witness in 2013, and she
7 would like to examine the credibility of the witness, in particular with regards to his
8 opinions, and above all, with regards to [REDACTED].”

9 Page 14 line 7-9

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14 Page 21 lines 6-8

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19 Page 21 lines 9-11

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1

[REDACTED]

2

Page 21 lines 13-14

3

[REDACTED]

4

5

6

Page 21 lines 16-17

7

[REDACTED]

8

Page 28 line 3

9

"But I can talk" Is corrected to "So I cannot talk"

10

Page 36 lines 6-8

11

[REDACTED]

12

13

14

15

Page 36 lines 23

16

"lines 15, it was video 009-1749" Is corrected to "line 15, it was video 0009-1749,"

17

Page 43 lines 5-7

18

"I meant to say -- I said under his control, but I meant to say the region where his

19

tribe was, his village was. Otherwise ..." Is corrected to "I said "under his control", but

20

I meant the region where his tribe was or his village. Otherwise, Iyad had control over

21

the entire north."

22

Page 45 lines 9-11

23

[REDACTED]

24

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4 Page 45 lines 12-13

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9 Page 61 lines 14-15

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11 Page 63 line 16

12 "or hudud" Is translated and added

13 Page 67 lines 7-11

14

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16

17 Is corrected to

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21

22 Page 67 lines 19-22

23

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25

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1

[REDACTED]

2

3 Page 68 lines 8-9

4

[REDACTED]

5

6

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8 Page 71 lines 10-14

9

[REDACTED]

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