

Trial Hearing
WITNESS: MLI-D28-P-0202

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Friday, 23 September 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:40] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:33:01](Interpretation) Court is in session.
14 Good morning to everyone. Good morning to everybody in the courtroom and in
15 the public gallery.
16 Court officer, please be so kind as to call the case.
17 THE COURT OFFICER: [9:33:35] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:54](Interpretation) Thank you very much,
22 Madam Court Officer.
23 As we do every morning, we are going to start with the appearances of the different
24 teams, starting with the Office of the Prosecutor.
25 Mr Prosecutor.

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- 1 MR GARCIA: [9:34:11](Interpretation) Thank you, your Honour, your Honours.
2 So I am Lucio Garcia for the Prosecution this morning, with Maître Dutertre next to
3 me, Karim Tounsi just behind me and I wish everybody a good day.
4 PRESIDING JUDGE MINDUA: [9:34:28](Interpretation) Thank you very much,
5 Mr Prosecutor, Lucio Garcia.
6 I now turn towards the Defence.
7 MS TAYLOR: [9:34:39] Good morning, Mr President. Good morning, your
8 Honours. Good morning to everyone inside and around the courtroom.
9 And good morning, Mr Witness.
10 I have noted that the microphone of the witness has been left on, so maybe it might
11 need to be turned off.
12 The Defence for Mr Al Hassan is represented today by - on my right, Maître
13 Mohamed Youssef; behind me, Dr Felicity Gerry, KC; and Maître Leila Abid; and
14 myself, Melinda Taylor. Thank you very much.
15 PRESIDING JUDGE MINDUA: [9:35:13](Interpretation) Thank you very much,
16 Maître Taylor.
17 Now I turn towards the Legal Representatives of the Victims.
18 MR KASSONGO: [9:35:21](Interpretation) Thank you, your Honour. Good
19 morning, your Honour, your Honours. The legal representative team is unchanged
20 this morning. Next to me, on my right, Madam Romane Tovia Vila who is assisting
21 me, and myself, and all of our team wish a good weekend to everyone.
22 PRESIDING JUDGE MINDUA: [9:35:41](Interpretation) Thank you very much,
23 Maître Kassongo.
24 And now it is the turn of the counsel, Rule 74.
25 Maître.

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- 1 MS MAKTOUF: [9:35:54](Interpretation) Good morning, your Honour, and all
2 parties and participants in the courtroom. I am there to -- as counsel support for the
3 witness, under Article 74, and I wish you a good day.
- 4 PRESIDING JUDGE MINDUA: [9:36:09](Interpretation) Thank you very much,
5 Maître Maktouf.
- 6 I'd like to take this opportunity to say for the record that the accused is present in the
7 courtroom. He has returned.
- 8 This morning we are continuing with Witness D-0202 of the Defence. I am therefore
9 turning towards the witness.
- 10 Good morning, Witness. Can you hear me?
- 11 THE WITNESS: MLI-D28-P-0202 (On former oath)
12 (The witness speaks Arabic)
- 13 THE WITNESS: [9:36:44](Interpretation) Thank you. I hear you very well.
- 14 PRESIDING JUDGE MINDUA: [9:36:55](Interpretation) Thank you very much,
15 Witness.
- 16 Witness, I would like to wish you welcome, once again on behalf of the Chamber. I
17 would like to remind you that you are still under oath and that you must tell the truth,
18 the whole truth and nothing but the truth.
- 19 THE WITNESS: [9:37:21](Interpretation) God willing.
- 20 PRESIDING JUDGE MINDUA: [9:37:32](Interpretation) I would like you also to
21 bear in mind the practical advice that I gave you yesterday. Please speak clearly and
22 at a moderate pace, even slowly, in order to facilitate the work of the interpreters.
23 Please do not forget to take pauses between the question and the answer.
- 24 THE WITNESS: [9:38:11](Interpretation) I'll try to do that, indeed.
- 25 PRESIDING JUDGE MINDUA: [9:38:15](Interpretation) This morning we are going

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1 to continue with the cross-examination of the Office of the Prosecutor.

2 Witness, the Prosecutor is therefore going to continue to put questions to you.

3 Prosecutor.

4 MR GARCIA: [9:38:38](Interpretation) Thank you, your Honour, your Honours, for
5 the floor.

6 QUESTIONED BY MR GARCIA: (Continuing)(Interpretation)

7 Q. [9:38:57] Good morning, Witness.

8 A. [9:38:59] Good morning.

9 Q. [9:39:05] Quite simply, Witness, I'm going to tell you that the same advice
10 applies as yesterday. If you have any difficulty with my questions, don't hesitate to
11 tell me and I will reformulate to facilitate your understanding. Is that okay?

12 A. [9:39:26] Thank you.

13 Q. [9:39:29] So, Witness, I would just quite simply like to start by taking up a point
14 that you mentioned during the examination-in-chief when the Defence counsel put
15 the question to you, it was about your meeting with the Office -- Office of the
16 Prosecutor, it was your first meeting with the Office of the Prosecutor. Do you
17 understand?

18 A. [9:40:00] That's clear. Please proceed.

19 Q. [9:40:04] Very well. And here, I am referring to page 82, line 27 of transcript
20 203. And you explained to the Chamber in answer to a question that you didn't have
21 the financial means to pay for a lawyer at the time, is that correct? That was in reply.
22 The Defence counsel put a question to you as to why you hadn't asked for a lawyer,
23 you answered:

24 "In Mali, I didn't have the financial means to pay for a lawyer or counsel."

25 Do you remember having said that yesterday?

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1 A. [9:40:53] Yes.

2 Q. [9:40:56] So quite simply, so that it is clear in the record, Witness, when you met
3 the Office of the Prosecutor -- and here, I'm referring to your first meeting, which is in
4 transcript 0024-2399, which states that the Office of the Prosecutor explained your
5 rights to you under the Rome Statute; is that correct?

6 A. [9:41:42] Yes. The OTP, when they came to meet me, they told me, "If you
7 cannot afford a lawyer, we can provide you a lawyer." So I replied by saying, "Based
8 on my understanding, my circumstances did not require the assistance of a lawyer."

9 Q. [9:42:09] Very well. So if I understand well, it was explained to you that if you
10 didn't have the means to have a lawyer, then the Court would pay for the lawyer. Is
11 that correct?

12 A. [9:42:29] Yes. However, if they knew that, they should have brought the
13 lawyer themselves, but they asked me. It would have been more appropriate for
14 them to bring the lawyer themselves, but not to ask me about it.

15 Q. [9:42:55] But, Witness, it was said on several occasions, every time there was an
16 interview, your rights were re-explained to you and every time you refused to have
17 a lawyer. That's correct, is it not?

18 A. [9:43:14] Yes.

19 Q. [9:43:17] It was also explained to you that your cooperation with the Office of
20 the Prosecutor was entirely voluntary, wasn't it? And here, I'm referring 2437 ...

21 A. [9:43:43] Yes.

22 Q. [9:43:49] And also an interpreter came such that you would be at ease to speak
23 in Arabic and for everything to be interpreted. That's correct, is it not?

24 A. [9:44:05] Yes. That's only in the second meeting, not in the first meeting.

25 MS TAYLOR: [9:44:12] Thank you, Mr President. I believe the witness has

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1 answered, but I think that the problem was that the Prosecution's question was itself
2 misleading but I think the witness has answered.

3 PRESIDING JUDGE MINDUA: [9:44:26](Interpretation) Very well. Continue,
4 Prosecutor.

5 MR GARCIA: [9:44:30](Interpretation)

6 Q. [9:44:31] Witness, you would agree with me that it was also -- you were also told
7 that you had the right to keep silent, to refuse to answer any questions during -- that
8 the interviews were voluntary?

9 A. [9:44:49] Yes.

10 Q. [9:44:52] And ultimately, Witness, you also said on several occasions that the
11 Office of the Prosecutor didn't act with the Malian authorities, that they were two
12 completely separate entities, were they not? The investigators explained that to you,
13 did they not?

14 A. [9:45:15] Yes. However, at the end, I realised that that was not true.

15 Q. [9:45:33] We'll come back to that, Witness.

16 So I'll just quite simply now go into the issue of the Islamic police. For the context,
17 now we spoke about it briefly yesterday, and I think even on the first day of your
18 hearing.

19 A. [9:46:01] Please proceed.

20 Q. [9:46:04] Witness, I have transcripts of your statements here that you had with
21 the Office of the Prosecutor so that it's clear. Now, when you testified
22 yesterday - and here, I'm referring to transcript 203, page 39 to 40 - a question was put
23 to you; namely, who was the head of the Islamic police.

24 Do you remember that?

25 A. [9:46:40] I do.

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1 Q. [9:46:43] And, Witness, you answered, page 40, that the BMS was -- there was
2 Adam Al Chinguetti and you explained the colour of his skin, he had dark skin; and
3 the second was a Khaled Al Sahrawi. I hope that I am pronouncing that right. Is
4 that correct?

5 A. [9:47:15] True.

6 Q. [9:47:17] And quite simply so it's clear, Witness, you said that when they moved
7 to BMS, to the headquarters of the *gouvernorat*, he became the police chief until the
8 Mujahidin left Timbuktu in 2013, and you spoke about Khaled Al Sahrawi. Is that
9 correct?

10 A. [9:47:43] Correct.

11 Q. [9:47:46] And when a question was put to you concerning Mr Al Hassan, the
12 accused present in the courtroom here, you answered -- this is page 44 of yesterday's
13 transcript:

14 "I know him, he worked in the police."

15 Lines ... page 45, line 2:

16 "He was in an office, he wrote out all the reports on the computer. He was
17 a translator or interpreter."

18 This is what you said concerning Mr Al Hassan, was it not?

19 A. [9:48:30] Correct.

20 Q. [9:48:32] Witness, the problem is that's not exactly what you said to the Office of
21 the Prosecutor concerning the functions of Mr Al Hassan in the Islamic police, was it?

22 A. [9:48:53] You may as well then remind me of what I had previously said, please.

23 Q. [9:49:04] So, Mr Witness, you said to the Office of the Prosecutor that at the time
24 of the *gouvernorat*, it was Khaled who was the president and that Mr Al Hassan was
25 vice-president of the Islamic police. And this is all in transcript 0024-2610, page 2616

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1 to 2617. So if you would be so kind such that it's clear for you, if you have forgotten,
2 because I understand that it's a certain number of years have past, but you have had
3 time to review it in your preparatory session.
4 I will read it to you. Very well, we're going to do it.
5 So on page 2616 of 0024-2610 - Witness, if you look at your screen, evidence 2, I don't
6 know if you have it - you are going to be able to see exactly what the transcript says
7 and what you said. I will read it to you. So line 184:
8 Interviewer: "Very well. To the best of your knowledge ... the POLICE were
9 constituted of how many members?"
10 Your answer: "Perhaps a president, a vice-president and the rest, they were soldiers."
11 Line 184.
12 Question, line 186: "And how many, according to you? If you know."
13 Answer: "Honestly, I don't know, but I know that ... more ... from 30 to 40."
14 Line 196 - and this is where it becomes important - you have a question that is put to
15 you:
16 "You said ... that there was a vice-president [...] and a vice-president. Who was the
17 president ..."
18 Interviewer: "... of the police?"
19 Line 201: "It was an Arab."
20 204: "An Arab, yes."
21 Interpreter: "KHALED ..."
22 Interviewer asks the question: "KHALED ...?"
23 You confirm: "KHALED ..."
24 Line 210, this is you: "And his vice- ..."
25 Then it continues, 212: "... [vice]-president, ALHASSAN ..." Interpreter: "...

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1 ALHASSAN ..."

2 So you confirm Al Hassan. And you also confirmed that he was a Tamasheq, and
3 there you gave information concerning Mr Khaled. You were asked a question
4 thereafter, and so that you are at ease with what I say, I am going through the
5 document, but you also gave information on the -- on Al Hassan who you called -- or
6 who you classified as the vice-president.

7 Does that refresh your memory, Witness?

8 A. [9:53:00] Very much so. Let me tell you the following. I am here -- when I
9 first sat here, there was a piece of paper, and on that piece of paper it is said that I'm
10 required to tell the truth. And that is why I have been telling the truth. It is it
11 well known, it is agreed upon that Khaled was the emir of the police, everyone knows
12 that.

13 As to Al Hassan, yes, he did work in the police. He was a clerk and a translator.
14 But designating him as the deputy of Khaled, that I cannot confirm. I have no
15 evidence to -- I have no proof that makes me say he was the deputy. I have no
16 document. The person never said so himself and that is my evidence in brief.

17 Q. [9:53:58] But, Witness, I'm not asking you if you have any documents or not.
18 You made this statement to the Office of the Prosecutor. Are you telling us that you
19 lied to the Office of the Prosecutor when you made this statement?

20 A. [9:54:25] You want to call me a liar? Formally? Fine. Okay, but I have made
21 an oath here. I took an oath to tell the truth. This is the truth. That is what I know
22 as the truth. Back then, there was no oath. Now there is an oath. I am under oath.

23 Q. [9:54:48] But, Witness, if I understand you well, the part concerning Khaled, it
24 was true. But the part concerning Al Hassan was not true. So at the end of the day,
25 you told the truth about Khaled but not about Al Hassan. Is that what I should

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1 understand?

2 A. [9:55:10] It -- the truth is that everyone knows who Khaled was. As to
3 Al Hassan, if you want me to tell the truth, the truth is, yes, he worked in the police,
4 he was a clerk, he was a translator, but his rank within the police is something I don't
5 know. That is the truth.

6 Q. [9:55:36] But, Witness, at the time, in 2014, two years after the events, you had
7 no motive to lie or not to tell the truth with regards to Al Hassan to the Office of the
8 Prosecutor. There's no logic in doing so, is there?

9 A. [9:55:59] Mr Prosecutor, I was asked to tell the truth. This is what I recognise
10 as the truth. I was not under duress then and I'm not under duress now. You want
11 the truth? I have told you the truth. I have nothing further to say in that regard.

12 Q. [9:56:21] Witness, you also made the same statements to the Malian authorities,
13 did you not? You also said to the Malian authorities in the month of August 2014
14 the same thing; that Khaled was president and that Al Hassan was the vice-president.
15 That is to say that if I understand you well, you told the same lies to two different
16 organs within a month.

17 A. [9:56:59] Regarding the Malian government, I don't remember. And if I said
18 such thing, I do not recall it now.

19 Q. [9:57:10] So, Witness, we are going to look at the record of the interview at tab
20 28, MLI-OTP-0020-0448. And that appears -- I'm going to enlarge it a bit. We are
21 going to carry out the same exercise to refresh your memory as to what you said.
22 And as you can see, this is a document -- on the left at the top, it says,

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED] but I have never seen this

4 document before. Also, with regards to the Malian authorities, whatever statement

5 comes from the Malian authorities is not reliable.

6 MR GARCIA: [9:58:50](Interpretation) Your Honour --

7 MS TAYLOR: [9:58:53] If I may?

8 MR GARCIA: [9:58:57](Interpretation) -- if you would allow me --

9 MS TAYLOR: [9:58:57] I'm noting we are in open session --

10 MR GARCIA: [9:58:58] *Oui* --

11 MS TAYLOR: [9:58:58] I'm just noting we're in open session and the Prosecutor has

12 given names; so I would ask that we go into private session.

13 PRESIDING JUDGE MINDUA: [9:59:13](Interpretation) Prosecutor.

14 MR GARCIA: [9:59:17](Interpretation) Yes, my colleague is right. Could we go

15 into private session. I won't be spending a long time in private session.

16 PRESIDING JUDGE MINDUA: [9:59:25](Interpretation) Indeed.

17 Court officer, please take us into private session.

18 (Private session at 9.59 a.m.)

19 THE COURT OFFICER: [9:59:37] We are in private session, Mr President.

20 PRESIDING JUDGE MINDUA: [9:59:48](Interpretation) Thank you very much,

21 Madam Court Officer.

22 Prosecutor.

23 MR GARCIA: [9:59:52](Interpretation)

24 Q. [9:59:54] [REDACTED]

■ [REDACTED]

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1 [REDACTED]
2 And for the document that I have in front of me, I haven't seen it before today.
3 And as for the Malian authorities, I do not recall saying that to them because
4 they didn't show me anything that I have read and this is something that I cannot
5 consider as a proof.
6 Q. [10:00:42] Mr Witness, do not be concerned. I have understood what you said
7 and to be fair, I am showing you the document. We are going to through it together,
8 and I will ask you questions and you will be able to reply. So please, don't concern
9 yourself, we have taken note of your concerns.

10 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

17 Q. [10:01:50] Thank you, Mr Witness. Thank you, Mr Witness, for this further
18 information. So I will now scroll down. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Administration	Percentage of respondents
Current administration	100%
Previous administration	0%

18 A. [10:05:13] Yes, this is what I said. But the first time it was said that [REDACTED]
[REDACTED] I did not do that. [REDACTED] and I was clear
20 about that. [REDACTED]

22 Q. [10:05:40] Then this is the -- one of the questions I wanted to ask, but if I've
23 understood correctly -- because yesterday you said [REDACTED]

24 To -- I want to be clear. So as far as you were concerned, you were simply [REDACTED]
[REDACTED] is that correct?

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1 [REDACTED]

2 [REDACTED]

3 Q. [10:08:55] So, so far, everything is correct. And now the question to refresh
4 your memory, you were asked:

5 "[REDACTED]

6 [REDACTED]

7 "After the judicial decisions, the -- the convicted were given to the Islamic police,
8 commanded by an Arab called Halid and his assistant Alhassane Ag Abdoul Aziz."
9 Does that refresh your memory?

10 A. [10:09:39] Yes. I said his assistant and not vice-president. [REDACTED]

11 [REDACTED] He was the translator for Khaled and he used to
12 write the reports for him. I said he was his assistant. I did not say he was his
13 vice-president.

14 Q. [10:10:05] But Mr Witness, you're talking about two people, the same two people
15 that you talked about -- Khaled and Al Hassan Ag Abdoul Aziz. So my position is
16 that the reason you mentioned these two people and their task was because it was the
17 truth. It's as simple as that, is it not?

18 A. [10:10:39] Yes, I mentioned them. Khaled was the president, and Al Hassan, I
19 knew him from the police [REDACTED], so I knew him. Therefore,
20 I always mentioned these two people. I know that Khaled is the president, and if I
21 mentioned Al Hassan, it does not mean that he was his vice-president. I know
22 Al Hassan [REDACTED] whenever I talk about the police, I mentioned
23 Khaled and I mentioned Al Hassan [REDACTED]

24 Q. [10:11:19] Mr Witness, even when you met the Office of the Prosecutor in 2020,
25 you also mentioned -- you changed things and you said that Mr Al Hassan was the

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1 emir of the police.

2 PRESIDING JUDGE MINDUA: [10:11:40](Interpretation) Ms Taylor.

3 MS TAYLOR: [10:11:41] Thank you very much, Mr President. I think it's important
4 that the Prosecutor read out that particular extract in its entirety, the last extract from
5 the 2020 interview, so the witness can give his opinion not just on that specific aspect
6 but the context in which it was said. They can't cherry-pick particular words.

7 PRESIDING JUDGE MINDUA: [10:12:20](Interpretation) Very good, Ms Taylor.

8 I understand that the witness would like to speak.

9 Mr Witness?

10 THE WITNESS: [10:12:27](Interpretation) Your Honour, I came from far and I gave
11 you my time. I gave you one month. I left my work and my job to help and to
12 assist the Court to find the truth. I am answering all the questions, and I want from
13 the Prosecutor to go straight to the point. I have answered these questions several
14 times. I said that I was saying the truth and I was telling the truth. However, the
15 same question is being put over and over again. So I need to answer the questions in
16 due form. The questions are being repeated over and over again.

17 PRESIDING JUDGE MINDUA: [10:13:25](Interpretation) Mr Witness, I hear what
18 you say.

19 Ms Taylor, your request was for the Prosecutor to read the rest of the paragraph.

20 Mr Prosecutor, perhaps you should do this.

21 MR GARCIA: [10:13:41](Interpretation) Yes, indeed, Mr President. I was just
22 asking the question and going -- and I was going to go to the transcript. We didn't
23 need the objection.

24 PRESIDING JUDGE MINDUA: [10:13:56](Interpretation) Very good. I see

25 Mr Ms Taylor is once more on her feet.

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1 Ms Taylor.

2 MS TAYLOR: [10:14:01] Thank you very much, Mr President. I think we should
3 also be listening to the witness. I am concerned that repeated questioning of the
4 same issue is a form of -- we could say badgering. The witness has answered several
5 times the same thing. Now we are repeating the same thing over and over and over
6 again. We have to -- and I think the witness, as he himself has said, he's come here
7 to speak the truth. We should be treating him with dignity and respect. He is
8 answering fully. He's answering clearly. I think it's time to move on to another
9 issue.

10 PRESIDING JUDGE MINDUA: [10:14:52](Interpretation) Very good, Ms Taylor.
11 But the Prosecutor has made an offer, he will go straight to the heart of the matter.
12 Mr Prosecutor, if you could read the paragraph.

13 MR GARCIA: [10:15:07](Interpretation) For the -- this is not the same question. I
14 was asking a clear question because of a matter of vice-president of the Islamic police.
15 The question I put on the record, which is perhaps misleading, what he said to the
16 Office of the Prosecutor is that Mr Hassan was the emir of the police, which is rather
17 different.

18 So I'm not harassing or badgering the witness. I know what badgering means. I
19 talked of the Islamic police. He can't then say, can he, to (indiscernible) -- refuse to
20 reply to a question. This is a question which is key and very important. So if we
21 come to the part of the transcript and it is transcript 0078-0591, page 624 and 625.

22 Q. [10:16:15] So Mr Witness, you were speaking -- you were being asked questions
23 about Mr Al Hassan. You -- on 1103 of page 624, you said:

24 "It is him who was with the Mujahidin in 2013."

25 Which you then corrected to 2012.

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1 And on 1108, you say:

2 "This is the truth but this truth is going to hurt him ..."

3 And the interviewer said: "OK."

4 And then you say: "... will harm him."

5 And at line 1113, you state: "He was the emir of the police. It's the truth."

6 Interviewer says: "Mm-mm."

7 And you continue at 1116: "A lot of information that is going to hurt him, that is
8 going to harm him."

9 Does that refresh your memory, Mr Witness? It was you, was it not? Is this what
10 you said to the Office of the Prosecutor?

11 A. [10:17:36] Mr Prosecutor, yes, I spoke to him. However, I am being honest, I
12 am saying the truth now. What is being said now goes against what I said in 2014.
13 I am only saying the truth here because I'm requested to say the truth. Al Hassan
14 works at the Islamic police. Yes, I said to the emir back then, and I have no proof
15 about that. The emir was known to be Khaled, and there was a former emir before
16 him.

17 This is -- this is what I'm saying now and this is the truth. Al Hassan works in the
18 police. He is a translator. He is an office clerk. However, I do not know his status.
19 I do not know his exact function.

20 MR GARCIA: [10:18:37](Interpretation) Perhaps we could return to public session.
21 Sorry, Mr President, I should have done that before.

22 PRESIDING JUDGE MINDUA: [10:18:43](Interpretation) Very good.

23 Court officer, open session, please.

24 (Open session at 10.18 a.m.)

25 THE COURT OFFICER: [10:18:53] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [10:19:02](Interpretation) Thank you very much,
2 court officer.

3 Prosecutor.

4 MR GARCIA: [10:19:05](Interpretation)

5 Q. [10:19:07] So if I understand correctly, Mr Witness, you lied once more in 2014 to
6 the members of the Office of the Prosecutor relating to the position of Mr Al Hassan;
7 is that correct?

8 A. [10:19:27] I am asked to say the truth here, and I'm doing just that. I said the
9 truth because you asked the truth. I said that Al Hassan works in the Islamic police.
10 He is an office clerk. He is a translator. That was his function. However, I don't
11 know his ranking in the Islamic police.

12 Khaled was the head of the police when they were in the BMS, and this is the truth.

13 Q. [10:20:05] Mr Witness, is it not simple -- clearer to say the truth, that Mr Al
14 Hassan at a certain point was a vice-president or assistant, the term -- whichever you
15 use, and then he was the emir of the Islamic police? Is that not why you made these
16 statements about Mr Al Hassan because it was the truth, is that not so?

17 PRESIDING JUDGE MINDUA: [10:20:32](Interpretation) Ms Taylor.

18 MS TAYLOR: [10:20:33] Thank you very much, Mr President. This is
19 argumentative. If the Prosecution wishes to make these submissions, they can do so
20 in their brief. But at this point, the Prosecution is merely arguing with the witness.
21 They have put the question several times. The witness has answered. They should
22 move on.

23 MR GARCIA: [10:20:58](No interpretation)(Overlapping speakers)

24 PRESIDING JUDGE MINDUA: [10:21:02](Interpretation) I agree with the Defence
25 now. The witness has answered this question a number of times. The Chamber

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1 will consider the matter. If not, it will descend into argumentation.

2 MR GARCIA: [10:21:21](Interpretation) Thank you, Mr President.

3 Q. [10:21:24] So we will continue, Mr Witness. We have taken note of your
4 replies.

5 Another question I wanted to ask you while we're on the subject. You called
6 Mr Al Hassan on a number of occasions from your phone, in 2012; is that not so?

7 A. [10:21:44] Yes.

8 Q. [10:21:47] And the reason you called him was because -- dealings with him,
9 because he was at the Islamic police. Is that so?

10 A. [10:22:10] Yes.

11 Q. [10:22:15] Because it was Mr Al Hassan who came to the Islamic tribunal,
12 sometimes accompanying detainees of the Islamic tribunal?

13 A. [10:22:32] Yes, but not him alone. I used to speak with him because I knew
14 how to deal with him and he knew how to deal with people. And the detainees
15 were brought by Khaled or by any other person from the police.

16 Q. [10:22:55] I would just like to sim- ... You say, yes, he brought detainees but
17 not alone. So he came with somebody else sometimes, is that what you're saying?

18 A. [10:23:16] Sometimes Khaled used to bring them. Sometimes other people
19 from the police, and sometimes he used to bring the detainees. These were the
20 functions of the whole Islamic police. Sometimes he used to bring detainees, but
21 others did too.

22 Q. [10:23:34] And he also collected the judgments, [REDACTED] the
23 judgments, one would go to the police -- the Islamic police; is that not the case?

24 A. [10:24:03] Could you please clarify the question. Whenever the judgments are
25 made, [REDACTED] and the police would send the judgments or the

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1 decisions to the tribunal.

2 Q. [10:24:17] When you say send to the Islamic police, how did that action actually
3 take place?

4 A. [10:24:38] In some cases, the people from the tribunal would call the police and
5 they -- these decisions or judgments would be sent to the tribunal.

6 Q. [10:24:59] I'm sorry, there may have been a misunderstanding. But you -- are
7 you saying when you say "send", would somebody physically come and collect the
8 decisions of the tribunal?

9 A. [10:25:29] There's no one specifically that goes and brings the decisions. There
10 are people working in the tribunal, whenever decisions are made, they are sent.
11 There is not one specific person that goes and does that. And whenever there are
12 decisions that have to be brought there, any member of the police can do that and can
13 collect and take the decisions.

14 Q. [10:26:02] So if I understand you correctly, Mr Witness, even Mr Al Hassan
15 would sometimes come and collect these decisions from the Islamic tribunal, is that
16 correct?

17 A. [10:26:18] Yes. In some cases, Al Hassan would do that, yes.

18 Q. [10:26:24] And I would just like to know when would he come? Would it be
19 immediately after the decision had been done [REDACTED] Would he be
20 called and then he would come to the Islamic tribunal to get the detainee and the
21 judgment?

22 A. [10:26:53] I would like to clarify something for you. The work of the police is
23 as follows: If they have reports on the detainees, on Monday, a policeman would
24 bring the reports or the tribunal would call the police asking them to send detainees
25 and the decisions or judgments to the tribunal. And if the detainees are brought to

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1 the tribunal and they are condemned, then the tribunal would send the decisions to
2 the police. Someone from the tribunal would go and take the decisions or someone
3 from the police would go to the tribunal and collect these decisions or judgments.
4 This is what used to happen.

5 Q. [10:27:55] So, Mr Witness, take your time. Are you okay?

6 A. [10:28:05] Every -- everything is okay. Thank you, sir.

7 Q. [10:28:10] I was asking because -- I asked the question because I saw you were
8 looking for something. If you need a moment or two, just say so.

9 So, Mr Witness, I would like to move on now to the *Hesbah*. In your testimony and
10 in your transcripts you mentioned the *Hesbah*. Okay?

11 A. [10:28:35] Yes, go ahead, sir.

12 Q. [10:29:09] So, Mr Witness, if I understand correctly, the *Hesbah* would carry out
13 patrols in Timbuktu in 2012; is that correct?

14 A. [10:29:21] Yes.

15 Q. [10:29:24] You can confirm that when the *Hesbah* arrested someone for
16 a violation of the prohibitions, this person was then taken to the Islamic police. Was
17 that the case?

18 A. [10:29:48] Yes, the *Hesbah* can detain anyone at Al *Hesbah* and it can also call
19 upon the police, and they do as they see fit.

20 Q. [10:30:08] And I put the question to you, Witness, because we spoke about an
21 incident concerning a person who smoked. But under what circumstances did the
22 *Hesbah* call the Islamic police?

23 A. [10:30:32] Please clarify your question regarding the person who smokes.

24 Q. [10:30:41] In your transcript or in your statement in the interview with the Office
25 of the Prosecutor, you talked about an incident with somebody who smoked. You

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1 saw somebody who smoked who had been arrested by the *Hesbah*, and afterwards,
2 the Islamic police came to take him away. Does that remind you of anything?

3 A. [10:31:08] Yes.

4 Q. [10:31:12] So the question that I put to you, Witness, is, under what
5 circumstances could -- would the *Hesbah* call upon the Islamic police to take away
6 somebody who had been arrested because he had flouted the prohibitions? Under
7 what circumstances would this happen? Could you help us in this regard?

8 A. [10:31:43] Mr Prosecutor, regarding these matters, I do not know anything. I
9 know that the police had their tasks. The *Hesbah* had their tasks also, respectively.
10 They can cooperate, but in truth, I cannot give you additional details on the nature of
11 any working together between them.

12 Q. [10:32:12] But I would just like to confirm with you. You yourself, you're
13 a witness of an incident. The *Hesbah* had arrested somebody for having smoked
14 because the person was smoking and the Islamic police came to take away that person,
15 is that correct?

16 A. [10:32:36] Correct. The police took the person away, but that's all I know. I
17 don't know what the police did afterwards. That's the police's job. They knew how
18 to handle such situations.

19 Q. [10:32:53] Very well. Thank you very much for this clarification, Witness. I
20 also have notes, which I have with me, notes about your preparatory interview with
21 the Defence, and, in particular, 22 pages, everything that you said to the Defence
22 when you did your preparation. And I read in these notes, you mentioned that the
23 chiefs or the leaders - you said, in English, "the leaders" - of the *Hesbah* were Abou
24 Walid and you also mentioned Mohamed Moussa Al Souki; is that correct?

25 A. [10:33:37] Yes, correct.

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1 Q. [10:33:40] Now, you also mentioned in your transcript a so-called Ahmed Al
2 Faqi, also known under the name of Abou Tourab. And you also stated that he was
3 a soldier of the *Hesbah*. Ahmed Al Faqi also known as Abou Tourab.

4 A. [10:34:25] Yes.

5 Q. [10:34:26] Now you also -- is it correct ...

6 THE INTERPRETER: [10:34:32] Mr Garcia, we did not hear your question.

7 MR GARCIA: [10:34:40](Interpretation) Apologies. I just wanted to ask the
8 question.

9 Q. [10:34:44] You said that he was a *Hesbah* soldier. Is that correct? He was
10 a *Hesbah* soldier in 2012?

11 A. [10:34:54] Yes, correct.

12 Q. [10:35:00] You also mentioned that he spoke on the radio to address people in
13 Timbuktu. Is that correct as well?

14 A. [10:35:17] Yes.

15 Q. [10:35:22] And when he spoke on radio, did he give sermons? Did he preach?
16 What did he do? What did he say on the radio?

17 A. [10:35:32] He was preaching people, he was giving sermons, reminding
18 Muslims of their faith as per his obligation. It is the obligation of every Muslim to
19 remind fellow Muslims of their duties, through sermons, for example.

20 MR GARCIA: [10:36:08](Interpretation) Your Honour, if you would allow me, I
21 need some minutes in private session.

22 PRESIDING JUDGE MINDUA: [10:36:15](Interpretation) Court officer, private
23 session, please.

24 (Private session at 10.36 a.m.)

25 THE COURT OFFICER: [10:36:21] We are in private session, Mr President.

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1 PRESIDING JUDGE MINDUA: [10:36:32](Interpretation) Thank you very much,
2 Madam Court Officer.
3 Prosecutor.

4 MR GARCIA: [10:36:35](Interpretation)

5 Q. [10:36:36] [REDACTED]
[REDACTED]

7 A. [10:36:51] Thank you. That's clear.

8 Q. [10:36:54] [REDACTED]
[REDACTED]

11 THE WITNESS: [10:37:14](Interpretation) Yeah -- [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

16 MR GARCIA: [10:37:43](Interpretation)

17 Q. [10:37:45] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

25 PRESIDING JUDGE MINDUA: [10:41:13](Interpretation) Very well.

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1 Court officer, please perform your office.

2 (Open session at 10.41 a.m.)

3 THE COURT OFFICER: [10:41:20] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [10:41:32](Interpretation) Thank you very much,

5 Madam Court Officer.

6 Prosecutor.

7 MR GARCIA: [10:41:35](Interpretation) If you would allow me.

8 (Counsel confers)

9 MR GARCIA: [10:41:43](Interpretation)

10 Q. [10:41:48] So, Witness, I just want some clarification. You spoke about

11 Mr Al Faqi, and you said on page 27, 7:

12 "From time to time, he was one of the judges in the tribunal, but he had a *statut* as
13 a scholar."

14 Is that correct?

15 A. [10:42:11] Yes.

16 Q. [10:42:15] But if I understand well, your entire testimony and the answers that
17 you gave yesterday, you're not able to tell the tribunal what he discussed with the
18 other judges, what was the nature of the discussions or what he did in the
19 Islamic tribunal, Mr Al Faqi, that is?

20 A. [10:42:38] Sometimes he would discuss things with them -- actually, no. I'm
21 not able to provide you that.

22 Q. [10:42:55] [REDACTED]

23 [REDACTED]

24 A. [10:43:11] [REDACTED]

25 Q. [10:43:33] Am I right, Witness, to say that as the Islamic court --

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1 Just a moment. I'm sorry, Witness.

2 MR GARCIA: [10:43:44](Interpretation) Mr President, could we go into private
3 session? I tried to put it in a certain way, but it's going to be difficult for me if I do it
4 in open session. Could we go into private session with the guarantee that I will ask
5 to come out as soon as possible.

6 PRESIDING JUDGE MINDUA: [10:44:01](Interpretation) Very well. We are going
7 to go into private session for a few -- instance, and that's a notification for our public
8 in the gallery.

9 So, Madam Court Officer, please take us into private session.

10 (Private session at 10.44 a.m.)

11 THE COURT OFFICER: [10:44:16] We are in private session, Mr President.

12 PRESIDING JUDGE MINDUA: [10:44:24](Interpretation) Thank you very much,
13 Madam Court Officer.

14 Prosecutor.

15 MR GARCIA: [10:44:28](Interpretation)

16 Q. [10:44:29] Indeed, given that we're on the same line of questioning, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Rank	Country	Share of GDP
1	United States	25.1%
2	China	17.8%
3	Germany	3.2%
4	France	2.9%
5	Japan	2.7%
6	United Kingdom	2.5%
7	Italy	2.3%
8	Canada	2.1%
9	Spain	1.9%
10	India	1.7%
11	South Korea	1.5%
12	Brazil	1.3%
13	Russia	1.1%
14	Mexico	0.9%
15	Australia	0.7%
16	Sweden	0.5%
17	Switzerland	0.4%
18	Belgium	0.3%
19	Netherlands	0.2%
20	Portugal	0.1%

18 Q. [10:47:44] And if I understand well, because there were questions that were put
19 to you by my Defence colleague, namely to know [REDACTED]
20 [REDACTED] [REDACTED]
[REDACTED] [REDACTED]?

22 A. [10:48:14] We all had our residences in Timbuktu, everyone had a residence in
23 Timbuktu to go home to. [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1	[REDACTED]
2	[REDACTED]
3	[REDACTED]
4	[REDACTED]
5	[REDACTED]
6	[REDACTED]
7	[REDACTED]
8	[REDACTED]
9	[REDACTED]
10	[REDACTED]
11	[REDACTED]
12	[REDACTED]
13	[REDACTED]
14	[REDACTED]
15	[REDACTED]
16	[REDACTED]
17	[REDACTED]
18	[REDACTED]
19	[REDACTED]
20	[REDACTED]
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28	[REDACTED]
29	[REDACTED]
30	[REDACTED]
31	[REDACTED]
32	[REDACTED]
33	[REDACTED]
34	[REDACTED]
35	[REDACTED]
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67	[REDACTED]
68	[REDACTED]
69	[REDACTED]
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88	[REDACTED]
89	[REDACTED]
90	[REDACTED]
91	[REDACTED]
92	[REDACTED]
93	[REDACTED]
94	[REDACTED]
95	[REDACTED]
96	[REDACTED]
97	[REDACTED]
98	[REDACTED]
99	[REDACTED]
100	[REDACTED]

23 Q. [10:51:41] Now, you would agree with me, Witness, that [REDACTED]

24 [REDACTED]

25 [REDACTED]

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- 1 A. [10:52:03] Yes.
- 2 MR GARCIA: [10:52:09](Interpretation) Could we go into open session,
- 3 your Honour.
- 4 PRESIDING JUDGE MINDUA: [10:52:24](Interpretation) Indeed.
- 5 Court officer, please take us into open session.
- 6 (Open session at 10.52 a.m.)
- 7 THE COURT OFFICER: [10:52:32] We are back in open session, Mr President.
- 8 PRESIDING JUDGE MINDUA: [10:52:41](Interpretation) Thank you very much.
- 9 Prosecutor.
- 10 MR GARCIA: [10:52:44](Interpretation)
- 11 Q. [10:52:46] Witness, I just quite simply want to go back over a point with you,
- 12 a point that you mentioned yesterday. There was a question in the transcript 203,
- 13 yesterday's hearing, you were asked a question:
- 14 Was somebody present in the room with them, speaking about the people who had
- 15 been called, or not? Or were there anybody else in the room with them? And on
- 16 line 5, you say:
- 17 Yes, sometimes there were weapons. And these weapons were not there to threaten
- 18 the speaker, it was just a question of security. It wasn't considered as a form of
- 19 threat or anything else.
- 20 And you were asked a question on line 10, where the weapons were, and you
- 21 answered:
- 22 In the courtroom, but behind the judges and they were on the wall. But it was not
- 23 about threatening the speaker. There were no threats.
- 24 This is an important point, There were no threats at all. The person who spoke -- the
- 25 people who spoke could say what they wanted to say.

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1 Do you remember having said that, Witness?

2 A. [10:54:10] Yes. And I stand by my word.

3 Q. [10:54:17] Just to refresh your memory on something that you said to the Office
4 of the Prosecutor, and this is in transcript 0024-2467, number 5 on the material
5 list -- the evidence list of the Office of the Prosecutor, and I'm going to read out an
6 excerpt therefrom, Witness, of what you said to the Office of the Prosecutor during
7 that statement.

8 Now, the interviewer 1 on the line 1 --

9 PRESIDING JUDGE MINDUA: [10:54:59](Interpretation) Ms Taylor.

10 MS TAYLOR: [10:55:00] Thank you, Mr President. Perhaps it could assist if the
11 Prosecutor could give us the page and line reference before he starts to read so we can
12 all find it, since it's not up on the screen.

13 THE INTERPRETER: [10:55:13] If it could be displayed, this would be very
14 welcomed by the interpreter.

15 PRESIDING JUDGE MINDUA: [10:55:19](Interpretation) Prosecutor, can you give
16 a reference, please.

17 MR GARCIA: [10:55:24](Interpretation) I will also show it. I'm sorry, I should have
18 given the reference. 0024-2467, page 2501, 2502. And I'm simply going to go there
19 directly.

20 Q. [10:55:45] Then, Witness, you are going to see up before you -- we'll go to
21 page 2501. We need a bit of patience. 2501, line 1151, and I'm going to enlarge it so
22 that you can see.

23 MR GARCIA: [10:56:28](Interpretation) Your Honour, I think that if I read it, if I
24 read this passage, you will understand I will need a brief private session once again,
25 given what is mentioned in lines 1151 and 1153.

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1 Q. [10:59:19] [REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] T [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

12 Q. [11:00:27] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

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■ [REDACTED]

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■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

21 MR GARCIA: [11:03:26](Interpretation) I see the time, your Honour.

22 PRESIDING JUDGE MINDUA: [11:03:30](Interpretation) Yes, indeed. We are in
23 private session. Madam Court Officer, let us now move back into open session.
24 (Open session at 11.03 a.m.)

25 THE COURT OFFICER: [11:03:42] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [11:03:57](Interpretation) Thank you very much,
2 court officer.

3 It is now 11:04. We will take our half-hour break, roughly, and we will start again at
4 11:35.

5 The hearing is suspended.

6 THE COURT USHER: [11:04:20] All rise.

7 (Recess taken at 11.04 a.m.)

8 (Upon resuming in open session at 11.40 a.m.)

9 THE COURT USHER: [11:40:24] All rise. Please be seated.

10 PRESIDING JUDGE MINDUA: [11:40:48](Interpretation) The Court is once more in
11 session.

12 Prosecution, you still have the floor for the continuation of the cross-examination.

13 MR GARCIA: [11:41:08](Interpretation) Thank you very much, Mr President, and
14 your Honours. I would just like to say that I have no further questions for this
15 witness.

16 And I would like to express my thanks, Mr Witness.

17 THE WITNESS: [11:41:25](Interpretation) Thank you.

18 PRESIDING JUDGE MINDUA: [11:41:26](Interpretation) Thank you very much,

19 Mr Prosecutor, for your cross-examination and for your efficiency and your brevity.

20 So I now turn to the Legal Representative of Victims.

21 We have received your request, Maître Kassongo. Do you wish to ask questions?

22 Do you wish to continue with your request?

23 MR KASSONGO: [11:41:53](Interpretation) Thank you very much, your Honours.

24 We had requested the opportunity to ask questions of Mr Witness to clarify a number
25 of points which we still felt were rather unclear. However, having heard the

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1 cross-examination and the examination-in-chief before that, we no longer wish to put
2 any questions to the witness.

3 However, we would like to wish him a good end of this hearing and to wish him all
4 the very best. We did not have a chance to meet previously.

5 So that is it, Mr President, your Honours.

6 PRESIDING JUDGE MINDUA: [11:42:47](Interpretation) Thank you very much,
7 Maître Kassongo.

8 So I think, as you have no further questions, the parties have no further questions for
9 the time being, the Chamber is likely to have some questions.

10 (Trial Chamber confers)

11 PRESIDING JUDGE MINDUA: [11:43:53](Interpretation) Ms Taylor, do you have
12 additional questions following the cross-examination by the Prosecution? That's my
13 first question to you.

14 MS TAYLOR: [11:44:10] No, Mr President. But obviously we would reserve our
15 right to put additional questions depending on any Judges' questions. Thank you.

16 PRESIDING JUDGE MINDUA: [11:44:27](Interpretation) Very good. And I can
17 confirm that the Judges will be asking some questions.

18 The Chamber is going to retire for a few minutes to prepare our questions and we will
19 be back in less than 10 minutes.

20 The hearing is suspended.

21 THE COURT USHER: [11:44:56] All rise.

22 (Recess taken at 11.45 a.m.)

23 (Upon resuming in open session at 12.06 p.m.)

24 THE COURT USHER: [12:06:51] All rise. Please be seated.

25 PRESIDING JUDGE MINDUA: [12:07:19](Interpretation) Court is in session.

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1 On behalf of the Chamber, I'd like to present our apologies for the slight delay. The
2 Chamber had need for a bit more time in order to check certain references. Now we
3 are ready.

4 First of all, I shall give the floor to Judge Akane for the first question.

5 Your Honour.

6 JUDGE AKANE: [12:07:57] Thank you, Presiding Judge.

7 Mr Witness, you referred in your testimony to the hotel which was very close to the
8 big mosque in Abaraz, which was the building of the Islamic court. English
9 transcript 202, page 117, lines 9 to 12.

10 The Chamber heard many witnesses who referred to various important buildings in
11 Timbuktu, such as, *gouvernorat*, the BMS, as well as the hotel you mentioned.

12 My question is, the Chamber would like to know if you heard about the term
13 "cha-cha-cha" to designate a building in Timbuktu in 2012? The word "cha-cha-cha"?

14 THE WITNESS: [12:09:18](Interpretation) No.

15 JUDGE AKANE: [12:09:20] You haven't heard any name like "cha-cha-cha"?

16 THE WITNESS: [12:09:30](Interpretation) No.

17 JUDGE AKANE: [12:09:33] Thank you, Witness.

18 Now I'd like to ask another question. Mr Witness, you confirmed, regarding the seat
19 of the Islamic court, that nobody stayed in the building overnight. English transcript,
20 202, page 121, line 23 to 24.

21 My question is, do you know if there were detention cells at the seat of the Islamic
22 court in 2012?

23 THE WITNESS: [12:10:18](Interpretation) No.

24 JUDGE AKANE: [12:10:20] Not at all?

25 THE WITNESS: [12:10:29](Interpretation) There were cells, but they were not in use.

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1 There were rooms where summoned people or detainees would stand, waiting to be
2 invited inside the courtroom one after the other.

3 JUDGE AKANE: [12:10:49] How did you know about this information?

4 THE WITNESS: [12:11:05](Interpretation) [REDACTED]
5 [REDACTED]

6 PRESIDING JUDGE MINDUA: [12:11:19](Interpretation) Ms Taylor.

7 MS TAYLOR: [12:11:20] I'm just going to suggest that we go into private session.

8 JUDGE AKANE: [12:11:24] Yes, thank you.

9 PRESIDING JUDGE MINDUA: [12:11:31](Interpretation) Very well, Ms Taylor.

10 Private session, please.

11 JUDGE AKANE: [12:11:38] Please continue. I am sorry.

12 (Private session at 12.11 p.m.)

13 THE COURT OFFICER: [12:11:49] We are in private session, Mr President, your

14 Honours.

15 PRESIDING JUDGE MINDUA: [12:11:54](Interpretation) Thank you very much,

16 Madam Court Officer.

17 JUDGE AKANE: [12:11:56] Apologies. Please continue.

18 THE WITNESS: [12:11:59](Interpretation) Yes, your Honour. [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 JUDGE AKANE: [12:12:24] [REDACTED]
24 [REDACTED]
25 [REDACTED]

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1 [REDACTED]
[REDACTED]
[REDACTED]

4 JUDGE AKANE: [12:16:11] Thank you very much.

5 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

15 JUDGE AKANE: [12:17:27] Thank you. Mr Witness, you confirmed that stubborn
16 people could be beaten. And you also added, quote:
17 "[...] but not arbitrarily, there are sharia rules. If sharia is implemented there are
18 rules, there are restrictions, not anyone would be just beaten and so forth, there are
19 certain rules and safeguards as per the sharia that had to be followed."
20 End of quote. English transcript 203, page 116, lines 12 to 16.

21 My question is, could you explain to the Chamber what were those safeguards?

22 THE WITNESS: [12:18:24](Interpretation) Yes, I may give you description of that,
23 [REDACTED] I will give you the
24 example of a fornicator. If all the safeguards are applied, the fornicator would be
25 given 100 lashes. Even regarding those 100 lashes, there are rules. You can't hit the

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1 person like this, a big hit. It has to be a measured hit. It shouldn't be someone who
2 is sturdy hitting people -- hitting the person willy-nilly, but the person needs to raise
3 his hand to a certain level only, and hit in a certain way only. And it shouldn't be
4 [...]

5 100 lashes exactly, not one lash or one hit more, as per the Koranic text.

6 JUDGE AKANE: [12:19:23] So you mean that you know, accordingly, of the sharia
7 rules? My question is, how did you know what you said now?

8 THE WITNESS: [12:19:54](Interpretation) There are texts of sharia and the things I'm
9 describing are present in the holy Koran. Like the verse quote from the Koran: "The
10 fornicator, male or female, ought to be whipped 100 lashes." Unquote.

11 This is a well-known text from the Koran. And we are Muslims and hence recognise
12 it.

13 JUDGE AKANE: [12:20:20] Thank you, Witness. My questions are over.

14 PRESIDING JUDGE MINDUA: [12:20:32](Interpretation) Thank you, Judge Akane,
15 for the questions. And I will now give the floor to Judge Prost who will continue in
16 private session.

17 You have the floor.

18 JUDGE PROST: [12:20:44] Thank you, Mr President.

19 Mr Witness, on more than one occasion during your testimony, you described the
20 tasks of Mr Al Hassan very specifically as a "clerk" and a "translator". And I refer to
21 transcript 204, English transcript, page 10, lines 17 and 18, and also page 11 of the
22 same transcript, lines 11 to 14.

23 What I'm interested in knowing -- the Chamber is interested in knowing, Mr Witness,
24 is, how did you know that those were his specific tasks?

25 THE WITNESS: [12:21:41](Interpretation) Thank you for your question. First,

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Rank	Country	Percentage
1	United States	95%
2	Canada	85%
3	United Kingdom	80%
4	France	78%
5	Germany	75%
6	Italy	70%
7	Spain	65%
8	Japan	60%
9	China	55%
10	India	50%
11	Brazil	45%
12	Russia	40%
13	South Africa	35%
14	Australia	30%
15	Argentina	25%
16	South Korea	20%
17	India	15%
18	China	10%
19	United States	5%
20	Canada	3%

25 JUDGE PROST: [REDACTED]

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1 [REDACTED]

2 THE WITNESS: [12:27:07](Interpretation) [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 JUDGE PROST: [12:27:32] Thank you, Mr Witness. Those are my questions.

7 Thank you, Mr President.

8 PRESIDING JUDGE MINDUA: [12:27:48](Interpretation) Thank you, Judge Prost,

9 for these questions.

10 We have finished with the questions of the Chamber.

11 Now I would like to turn towards the Defence.

12 Ms Taylor, do you have any additional questions?

13 MS TAYLOR: [12:28:04] Thank you, Mr President. May I briefly confer with my

14 team, very briefly? I'm just going to consult with my co-counsel and my client very

15 briefly.

16 PRESIDING JUDGE MINDUA: [12:28:17](Interpretation) Indeed. And then it will

17 also depend, because at that time, I will have to say public session or continue in

18 private session. It's depending on what you wish.

19 MS TAYLOR: [12:28:31] Thank you, Mr President. I don't think I will be longer

20 than a minute.

21 (Counsel confers)

22 MS TAYLOR: [12:29:20] Thank you, Mr President. I have no further questions.

23 PRESIDING JUDGE MINDUA: [12:29:27](Interpretation) Thank you very much,

24 Ms Taylor.

25 So I see that everybody is being as brief and efficient as possible.

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1 Court officer, please take us into open session.

2 (Open session at 12.29 p.m.)

3 THE COURT OFFICER: [12:29:46] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:29:57](Interpretation) Thank you very much,
5 Madam Court Officer.

6 The Chamber has finished putting its questions and the Defence has no additional
7 questions, and I note that there is no request for the floor. As such, we are coming to
8 the end of the testimony of this witness.

9 Witness, we are coming to the end of your testimony and also the end of our day.

10 On behalf of the Chamber, I would like once again to thank you most sincerely for
11 having aided the Chamber by answering the questions in a very clear and precise way
12 and very patiently. Your testimony has now come to an end.

13 Yes, Witness? Did you want to say something?

14 THE WITNESS: [12:31:36](Interpretation) Your Honour, I would like to thank the
15 Court in general, first and foremost, for what it has done for me in the past and what
16 it is doing for me now. If I can be allowed to say the following, if I said anything
17 that would harm the Court, then I'm -- I apologise.

18 PRESIDING JUDGE MINDUA: [12:32:12](Interpretation) Thank you very much,
19 Witness.

20 As I said, the Chamber is also -- would also like to thank you and wishes you all the
21 best for your future and, above all, a safe trip home.

22 (The witness is excused)

23 PRESIDING JUDGE MINDUA: [12:32:36](Interpretation) To the parties, I would like
24 to point out that for our next hearing, the Chamber is in contact with the Registry and
25 the parties and everybody will be informed in writing very soon as regards to our

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- 1 next hearing.
- 2 Finally, to finish before ending this session, I would like to as usual thank everyone.
- 3 Firstly, I would like to thank the parties and participants for the collaborative spirit in
- 4 which they have worked throughout this testimony. I would also like to thank the
- 5 court reporters and the interpreters for their hard work on our behalf. And I would
- 6 like to thank the security guards and, of course, our public in the gallery as well as
- 7 our public following us from afar.
- 8 I wish you all a very good day, and, until the next time, we shall now finish, the Court
- 9 is adjourned.
- 10 THE COURT USHER: [12:33:57] All rise.
- 11 (The hearing ends in open session at 12.33 p.m.)