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Trial Hearing
MLI-OTP-P-0004

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Tuesday, 7 December 2021
10 (The hearing starts in open session at 10.01 a.m.)
11 THE COURT USHER: [10:01:12] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA [10:01:33](Interpretation) Court is in session
15 Good morning to everyone.
16 Court officer, please, could you be so kind as to call the case.
17 THE COURT OFFICER: [10:01:47] Good morning, your Honour, your Honours.
18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And we are in open session.
21 PRESIDING JUDGE MINDUA: [10:01:51](Interpretation) Thank you very much,
22 courtroom officer.
23 We are going to start with the appearances. First of all, with the Office of the
24 Prosecutor
25 Prosecutor.

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1 MR DUTERTRE: [10:02:05](Interpretation) Good morning, your Honour. Good
2 morning, your Honours.

3 The Office of the Prosecutor this morning is represented, as yesterday, by Maître
4 Marie-Jeanne Sardachti, Maître Lucio Garcia, and myself. And I'd like to greet
5 everybody within the courtroom.

6 PRESIDING JUDGE MINDUA: [10:02:23](Interpretation) Thank you very much,
7 Mr Prosecutor.

8 I now turn towards the Defence.
9 Maître.

10 MS TAYLOR [10:02:30] Good morning, Mr President. Good morning,
11 your Honours. Good morning to everyone in and around the courtroom. And
12 good morning, Mr Witness
13 The Defence for Mr Al Hassan is represented today by Maître Mohamed Youssef and
14 myself, Melinda Taylor

15 I would like to just note for the record that the Defence team tested
16 positive -- negative. Not positive We're very grateful for that, and that's why
17 we're appearing in person. Thank you very much for your accommodation
18 yesterday.

19 PRESIDING JUDGE MINDUA: [10:02:59](Interpretation) Thank you very much,
20 Ms Taylor. For all of us, this is very good news that the Defence team has had a
21 negative result.

22 I now turn towards the Legal Representatives of Victims.
23 Maître.

24 MR LUVENGIKA [10:03:19](Interpretation) Good morning, your Honour,
25 your Honours.

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- 1 The victims are represented this morning by Madam Kermiche, Anouk, and myself,
2 Fidel Nsita Luvengika. Thank you.
- 3 PRESIDING JUDGE MINDUA: [10:03:37](Interpretation) Thank you very much,
4 Maître Nsita.
- 5 So this morning, we are now continuing with hearing the Prosecution Witness P-0004.
6 I now turn towards the witness.
- 7 Good morning, Witness. How are you?
- 8 WITNESS: MLI-OTP-P-0004 (On former oath)
9 (The witness speaks French)
10 (The witness gives evidence via video link)
- 11 THE WITNESS: [10:03:54](Interpretation) Good morning. I'm very well.
- 12 PRESIDING JUDGE MINDUA [10:04:00](Interpretation) I would like to once again
13 welcome you, and I would like to remind you of course that you are still under oath.
14 You must therefore say the truth, the whole truth and nothing but the truth
- 15 THE WITNESS: [10:04:21](Interpretation) Understood.
- 16 PRESIDING JUDGE MINDUA [10:04:23](Interpretation) I'll remind you
17 furthermore that we all have to speak slowly and clearly, whilst observing pauses.
18 This morning, we are going to start with the cross-examination of the Defence. And
19 I know that you are going to answer the questions clearly and well as you have done
20 thus far with the Office of the Prosecutor.
- 21 Without any further ado, I pass the floor over to Ms Taylor.
- 22 Ms Taylor, you have the floor.
- 23 QUESTIONED BY MS TAYLOR:
- 24 Q. [10:05:22] Good morning, Witness. How are you today?
- 25 A. [10:05:27] Good morning. I'm well.

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1 Q. [10:05:29] I'm very glad to hear that.

2 I'm going to start with some questions in open session, and I would just like to
3 remind you of that fact, that we are in open session, so not to give any identifying
4 details concerning yourself.

5 And when we need to go into private session, I will let you know. But if you feel
6 like you have to answer a question in private session in order to answer it fully,
7 please, just raise your hand.

8 Is that clear, Mr Witness?

9 A. [10:05:59] Yes. That's clear.

10 Q. [10:06:00] Wonderful.

11 Now, I'm going to start with the time period before 2012 and the events leading up to
12 2012

13 Now, Mr Witness, is it correct that within the local population of Timbuktu, there
14 were groups that were advocating for measures to be taken to safeguard the values
15 and morals of the people of Timbuktu?

16 A. [10:06:39] Indeed, during this period, there was a group which went in that
17 direction.

18 Q. [10:06:51] And did this group include yourself?

19 A. [10:06:57] Yes. I was one of the members of the group, indeed.

20 Q. [10:07:12] And did it include notables of Timbuktu?

21 A. [10:07:17] Yes. Notables of Timbuktu were part of the group.

22 Q. [10:07:33] And did this group make proposals to establish a committee *des*
23 *mœurs*, a morals brigade, a morals committee in each neighborhood?

24 A. [10:08:13] This group did not go through with its logic completely. There were
25 proposals made to the assembly in all the neighbourhoods. There was a general

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1 assembly. Proposals were put forward in the town hall and to the regional high
2 council, and they take the measures for this morality committee, but it didn't end up
3 being realised.

4 Q. [10:08:37] And I just want to explore these proposals.

5 Did these proposals include establishing a committee *des mœurs* in each
6 neighbourhood?

7 A. [10:08:57] With regards to the proposals, the morality committee in the
8 neighbourhoods said that it wasn't within their competence. But when it came to the
9 implementation, there was a follow-up committee in each neighbourhood that would
10 be responsible.

11 Q. [10:09:18] Did this follow-up committee have a - a name or a title?

12 A. [10:09:31] Well, as it was informal, it was just called *Commission pour la correction*
13 *des mœurs* or morality correction commission.

14 Q. [10:09:49] Now, were there proposals for measures to be taken during Friday
15 prayer to restrict circulation in the city during this time?

16 A. [10:10:01] Indeed, there were proposals made in that vein.

17 Q. [10:10:19] And for Ramadan to be strictly observed?

18 A. [10:10:23] On the subject of Ramadan, just so that some behaviour is regulated
19 and it's not obliged, if - well, the idea was that certain behaviour should be respected
20 during the month of Ramadan.

21 Q. [10:10:55] What type of behaviour?

22 A. [10:11:03] When you had people eating in front of others right in the month of
23 Ramadan or when they were making profane manifestations during Ramadan.
24 Ramadan is meant to be a sacred month.

25 At a certain time, they banned any type of demonstrations, and that came from the

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1 committee. They didn't want anything like that.

2 Q. [10:11:47] And did this committee also propose for measures to be taken to
3 restrict bars in Timbuktu from selling alcohol?

4 A. [10:12:09] Indeed, the committee made proposals in this vein such that the rules
5 be respected. You can't prohibit the sales of alcohol, but you can regulate it. It can't
6 be next to a mosque. It can't be next to a school. These are the measures that were
7 taken. They can't be sold to minors.

8 Q. [10:12:34] So is it correct that even before 2012, it was forbidden to sell alcohol in
9 the medina, that is, the old town where the mosques are?

10 A. [10:12:50] No. There was no prohibition on the sale of alcohol anywhere.

11 Q. [10:13:02] So, Mr Witness, it's correct that there are no bars in Timbuktu in the
12 medina, that is, the old town where the mosques are?

13 A. [10:13:16] Formally it can't be said because there are places which are not bars
14 but where you can still buy alcohol.

15 Q. [10:13:38] And it's correct that those places are not in the medina?

16 A. [10:14:03] You -- you can't say that. What you can say is that -- you can't say
17 that within the medina there are no bars. What you can say is that outside the
18 medina, there are more bars.

19 Q. [10:14:13] Are you able to name any bars in the medina? That is, I'm using here
20 the term specifically ... mean, the old town where the mosques are.

21 A. [10:14:41] I don't know the names of any bars within the medina.

22 Q. [10:14:50] Now, earlier you mentioned I think an assembly.

23 Is it correct that there was an assembly, "*pour la correction des mœurs*", that took place
24 in June 2010?

25 A. [10:15:11] It's true that this assembly took place on 12 June 2010.

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1 Q. [10:15:31] [REDACTED]?

2 A. [10:15:36] [REDACTED]

3 MS TAYLOR: [10:15:49] Mr President, may we go into private session?

4 PRESIDING JUDGE MINDUA: [10:15:52](Interpretation) Certainly.

5 Court officer, please take us into private session.

6 (Private session at 10.15 a.m.)

7 THE COURT OFFICER: [10:16:01](Interpretation) We're in private session, your

8 Honour.

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

11 Ms Taylor.

12 MS TAYLOR: [10:16:14] If we can bring up Defence tab 1. It's [REDACTED]

13 Q. [10:16:47] Mr Witness, can you see this in front of you?

14 A. [10:16:59] Yes I can see it in front of me.

15 Q. [10:17:02] Now, Mr Witness, we have a [REDACTED]

16 [REDACTED]

17 A. [10:17:25] This is, indeed [REDACTED]

18 Q. [10:17:27] Now, [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 A. [10:17:51] [REDACTED]

23 Q. [10:17:53] [REDACTED]?

24 [REDACTED]

25 A. [10:18:25] [REDACTED]

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1 Q. [10:18:28] [REDACTED]

2 [REDACTED]?

3 A. [10:18:45] [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. [10:19:15] And it's correct that [REDACTED]?

9 A. [10:19:19] Yes, he did.

10 MS TAYLOR [10:19:36] If we could bring up Defence tab 2

11 And, Mr President [REDACTED] and I believe - I'll try to do some in open
12 session, but I believe that, because they're of an identifying nature, I'll have to stay in
13 private session.

14 So this is [REDACTED]

15 Q. [10:20:28] [REDACTED]?

16 A. [10:20:30] [REDACTED]

17 Q. [10:20:32] [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [10:20:45] [REDACTED]

21 Q. [10:20:49] [REDACTED]

22 A. [10:20:52] I'm sorry?

23 Q. [10:20:57] [REDACTED]

24 A. [10:21:00] [REDACTED]

25 [REDACTED]

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1

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Q. [10:21:25]

3

?

4

A. [10:21:32] I don't remember. I just remember that

5

6

Q. [10:21:51] And is it correct that

7

?

8

A. [10:21:58] Indeed.

9

Q. [10:22:15] And is it correct that

10

mosque - that's Imam Essayouti - handed over the resolutions to the mayor of the city,

11

the mayor of Timbuktu?

12

A. [10:22:33] Indeed, the organisation gave him the charge of the resolutions on the

13

part of the mayor of Timbuktu. The organisation made the imam of the grand

14

mosque officially make the resolution - or provide the resolutions to the mayor of the

15

town of Timbuktu.

16

Q. [10:23:10]

17

18

A. [10:23:29] I can

19

Q. [10:23:35] Thank you, Mr Witness. Please do.

20

A. [10:23:50] I -- I can

21

22

23

24

25

Q. [10:24:35]

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1 [REDACTED]?

2 A. [10:24:41] These notables were indeed in support of these resolutions, and it was
3 even on their behalf that the imam provided them to the -- it was even on their behalf
4 that the imam provided to the town, the commune - urban commune of Timbuktu,
5 because these resolutions, in fact, are a summary of the assemblies that there are in all
6 of the neighbourhoods of the town, after the assemblies within all neighbourhoods,
7 including Kabara, which is 9 kilometres away.

8 So there was a general assembly where they - they had collected in all the different
9 neighbourhoods, and they had turned it into this resolution. And it was read
10 everywhere by people who were present

11 Q. [10:25:48] Now, just to clarify, the mayor of Timbuktu, was that Hallé Ousman?

12 A. [10:26:14] Yes Hallé Ousman.

13 Q. [10:26:17] Thank you. I apologise for my mispronunciation.

14 Now, if we could bring up Defence tab 3. It's [REDACTED]

15 Mr Witness, do you have this in front of you?

16 A. [10:26:49] Yes I've got it in front of me.

17 Q. [10:26:52] Same questions.

18 [REDACTED]

19 A. [10:27:00] [REDACTED]

20 Q. [10:27:03] And did you write what was written here?

21 A. [10:27:07] I did indeed write what is written there.

22 Q. [10:27:17] And do you know [REDACTED]?

23 A. [10:27:21] I don't know. [REDACTED]

24 [REDACTED]

25 [REDACTED]

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- 1 Q. [10:27:46] Was it the [REDACTED]
- 2 A. [10:27:53] [REDACTED]
- 3 Q. [10:28:10] Now, if we can scroll up to the writing, so the witness can see the
- 4 writing. It says [REDACTED]
- 5 [REDACTED]
- 6 Can you see the writing, Mr Witness?
- 7 A. [10:28:27] Yes. I can see it.
- 8 Q. [10:28:29] Now, can you see at the bottom? It says: (Interpretation) [REDACTED]
- 9 [REDACTED]?
- 10 A. [10:28:43] Yes
- 11 Q. [10:28:44] Were you expressing concern that not enough had been done in these
- 12 eight years to achieve these resolutions
- 13 A. [10:29:07] Quite simply, I was noting that nothing had moved forward despite
- 14 the commitments on the part of everyone I noted that things had not moved at all
- 15 Q. [10:29:21] If we could bring up Defence tab 4. [REDACTED]
- 16 Same questions, Mr Witness. [REDACTED]
- 17 A. [10:29:59] [REDACTED]
- 18 Q. [10:30:02] [REDACTED]
- 19 [REDACTED]
- 20 A. [10:30:15] [REDACTED]
- 21 Q. [10:30:42] And [REDACTED] Sorry.
- 22 A. [10:30:55] Yes. [REDACTED]
- 23 Q. [10:30:59] Now, at the top [REDACTED] it refers to an individual
- 24 called Mahamane Askia. And it says tha [REDACTED] in relation to the
- 25 degradation of morals or values in Timbuktu.

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1

2 A. [10:31:32] Yes.

3 Q. [10:31:33] And is it correct that [REDACTED] Mahamane Askia

4 expressed concern regarding the degradation of virtues or values in Timbuktu.

5 A. [10:31:59] In fact, Mahamane Askia is the director of a radio station, and it was

6 over his radio that he organised a series of programmes that did go in that direction.

7 That was [REDACTED]

8 Q. [10:32:20] Now, Mr Witness, just to be clear, when you say "that did go in that
9 direction," did this - these programmes express concerns regarding the degradation
10 of values or virtues in Timbuktu?

11 A. [10:32:39] I'm sorry?

12 Q. [10:32:40] (Overlapping speakers) I apologise, Mr Witness. I'll be clearer.

13 What did you mean that the programmes went in that direction?

14 A. [10:32:51] In fact, it was a series of programmes, because Mahamane Askia,
15 whom you're talking about here, on a weekly basis, he would organise a programme
16 for which the theme was the degradation of morals. That's what I'm talking about

17 Q. [10:33:18] Now, if we could bring up Defence tab 6. [REDACTED]

18 Now, Mr Witness, if this could be scrolled through slowly so you have time to read it.

19 A. [10:36:00] Yes. [REDACTED]

20 Q. [10:36:05] [REDACTED]

21 [REDACTED]

22 A. [10:36:14] [REDACTED]

23 Q. [10:36:21] Now, Mr Witness, if you can recall - and we can scroll down to the
24 bottom - it says at the bottom: (Interpretation) [REDACTED]

25 [REDACTED].

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1 A. [10:36:36] Yes.

2 Q. [10:36:38] So is it correct that these are the resolutions that were adopted by the
3 general assembly?

4 A. [10:36:51] These are precisely the resolutions that were adopted at this assembly
5 on 12 June 2010

6 Q. [10:37:03] So would it be correct, Mr Witness, that there was broad support
7 among the notables of Timbuktu for the content of these resolutions?

8 A. [10:37:22] There really was the support of the notables for these resolutions
9 because they were all represented, hailing from all neighbourhoods.

10 MS TAYLOR [10:37:34] If we could bring up Defence tab 71 It's

11 [REDACTED]

12 Q. [10:38:05] Mr Witness, is this [REDACTED]

13 A. [10:38:27] Yes. I can see.

14 Q. [10:38:44] [REDACTED]

15 A. [10:38:49] Yes. [REDACTED]

16 Q. [10:38:59] [REDACTED]

17 A. [10:39:04] [REDACTED]

18 Q. [10:39:17] I just have one more question. Then we can go into open session
19 Just a point of clarification. [REDACTED]

20 [REDACTED]

21 A. [10:39:38] Yes. [REDACTED]

22 MS TAYLOR: [10:39:45] I believe I can ask some questions in open session,

23 Mr President.

24 PRESIDING JUDGE MINDUA: [10:40:07](Interpretation) Madam Courtroom Officer,
25 open session, please.

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1 (Open session at 10.40 a.m.)

2 THE COURT OFFICER: [10:40:13](Interpretation) We are back in open session, Mr
3 President.

4 PRESIDING JUDGE MINDUA: [10:40:17](Interpretation) Thank you very much,
5 Madam Courtroom Officer.

6 Ms Taylor.

7 MS TAYLOR: [10:40:22]

8 Q. [10:40:23] Now, Mr. Witness, we were just discussing a document in private
9 session, and I believe that you're familiar with the contents of this document.

10 Was this document criticising the sale of alcohol sachets in Timbuktu?

11 A. [10:40:43] Yes.

12 Q. [10:40:44] Now, Mr Witness, can you - this won't be shown to the public, but
13 can we scroll down to the last paragraph on this page.

14 Are you able to read that paragraph, Mr Witness?

15 A. [10:41:10] The last one? *Oui*. (Overlapping speakers)

16 Q. [10:41:20] I apologise I apologise, Mr Witness. I'm not asking for you to read
17 it aloud. I apologise. It was just for you to read it.

18 A. [10:41:30] Oh, all right. Okay. Okay. I've understood.

19 MS TAYLOR: [10:41:42] Mr President, I can read it into the record, but it's because
20 we're in open session, I don't believe it's necessary to do so.

21 Q. [10:41:57] Now, Mr Witness, is it correct that this document, this last paragraph,
22 is calling for Islamic associations to enforce measures to moralise "... *moraliser la vie*
23 *publique* ..." to promote virtue?

24 A. [10:42:21] That is correct.

25 MS TAYLOR: [10:42:27] Mr President, may I ask one question in private session?

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1 PRESIDING JUDGE MINDUA: [10:42:35](Interpretation) Yes, indeed

2 Madam Courtroom Officer, private session, please.

3 (Private session at 10.42 a.m.)

4 THE COURT OFFICER: [10:42:49](Interpretation) We are in private session,

5 Mr President.

6 PRESIDING JUDGE MINDUA: [10:42:55](Interpretation) Thank you very much.

7 Ms Taylor.

8 MS TAYLOR:

9 Q. [10:42:58] Now, Mr Witness, this [REDACTED] mentions: [REDACTED]

10 [REDACTED]

11 (Overlapping speakers)

12 Do you know who wrote this - this document or these arguments

13 A. [10:43:14] [REDACTED]

14 [REDACTED]

15 Q. [10:43:27] Thank you for that clarification.

16 If we can go into open session.

17 PRESIDING JUDGE MINDUA: [10:43:34](Interpretation) Madam Courtroom Officer,

18 public session, please.

19 (Open session at 10.43 a.m.)

20 THE COURT OFFICER: [10:43:46](Interpretation) We are back in open session,

21 Mr President.

22 PRESIDING JUDGE MINDUA: [10:43:49](Interpretation) Thank you very much,

23 Madam Courtroom Officer.

24 Ms Taylor.

25 MS TAYLOR: [10:43:55]

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1 Q. [10:43:56] Mr Witness, do you recall incidents in 2017 when local youth groups
2 destroyed bars and places that sold alcohol in Timbuktu?

3 A. [10:44:10] Yes, I do recall.

4 Q. [10:44:20] And is it correct that at the time, Imam Dicko expressed his support
5 for the actions of these local youth groups?

6 A. [10:44:42] Yes. That is true. He did express that.

7 Q. [10:44:45] And were other notables in Timbuktu in support of this?

8 A. [10:45:07] Many of them were indeed in support of this action.

9 Q. [10:45:11] Now, speaking of Islamic values - and we're in open session, but
10 please raise your hand if you need to answer in private session - is it correct that you
11 yourself have specific knowledge and expertise as concerns the role of the cadi in
12 applying such values

13 A. [10:45:44] In fact, according to my understanding, I wasn't really going in that
14 direction. In terms of values, these are quite simply society -- societal values

15 MS TAYLOR: [10:46:06] Mr President, if we can go into private session, I believe I
16 can be clearer.

17 PRESIDING JUDGE MINDUA: [10:46:12](Interpretation) Madam Courtroom Officer,
18 private session, please

19 (Private session at 10.46 a.m.)

20 THE COURT OFFICER: [10:46:20](Interpretation) We are in private session,
21 Mr President.

22 PRESIDING JUDGE MINDUA: [10:46:28](Interpretation) Thank you very much,
23 Madam Courtroom Officer.

24 Ms Taylor.

25 MS TAYLOR: [10:46:31]

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1 Q. [10:46:32] Now, Mr Witness, it's correct, isn't it, tha [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 A. [10:46:46] That is correct.

5 Q. [10:46:55] And it's correct, isn't it, that in [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 A. [10:47:12] Yes. That is correct.

9 Q. [10:47:18] [REDACTED]

10 [REDACTED]

11 A. [10:47:33] Yes, I did.

12 MS. TAYLOR [10:47:34] I'd like to play a video It's Defence tab 14. It's

13 [REDACTED] Let's play it without sound first, and we'll have to play this

14 in private session on video 2.

15 PRESIDING JUDGE MINDUA: [10:48:09](Interpretation) Ms Taylor, would you like
16 private session?

17 MS TAYLOR: [10:48:12] Yes, exactly.

18 PRESIDING JUDGE MINDUA [10:48:18](Interpretation) Madam Courtroom Officer,
19 please.

20 THE COURT OFFICER: [10:48:26](Interpretation) We still are in private session, and
21 the video will be played on evidence 2 of your console.

22 PRESIDING JUDGE MINDUA: [10:48:32](Interpretation)(Overlapping speakers) ...

23 well, thank you very much, indeed, Madam Courtroom Officer.

24 Ms Taylor.

25 MS TAYLOR: [10:48:39] If we can just play the first four or five seconds.

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1 (Pause in proceedings)

2 MS TAYLOR: [10:49:01] It's audio. We'll have to play the sound.

3 (Playing of the audio excerpt)

4 MS TAYLOR: [10:49:35]

5 Q. [10:49:36] [REDACTED]

6 A. [10:49:41] [REDACTED]

7 Q. [10:49:44] [REDACTED]

8 A. [10:49:52] [REDACTED]

9 Q. [10:50:01] So we're going to play it with sound. The transcript is Defence tab 15,
10 [REDACTED] We'll play it from the beginning to the end. It's not long

11 THE INTERPRETER: [10:50:15] Message from the English booth: Could counsel be
12 mindful that it will take a lot longer to sight translate than the actual audio excerpt.

13 MS TAYLOR: [10:50:27] And if we could perhaps put the transcript up for the
14 interpreters, and if they could give me the green light as to when they're ready.

15 THE INTERPRETER: [10:50:38] We are ready, if counsel could bear in mind what I
16 just said. Thank you.

17 MS TAYLOR: [10:50:43] Certainly. Thank you very much.

18 We can play now.

19 (Playing of the audio excerpt)

20 THE INTERPRETER: [10:50:47] [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 PRESIDING JUDGE MINDUA: [10:51:13](No interpretation) (Overlapping speakers)
24 *Monsieur le Procureur.*

25 MR DUTERTRE: [10:50:58](Interpretation) It might be a technical issue. Ms Taylor

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1 said that there is a video, but there's no image whatsoever on the screen. Maybe if
2 she could check what's going on technically speaking.

3 PRESIDING JUDGE MINDUA: [10:51:13](Interpretation) She talked about a video.
4 Then she talked about an audio.

5 Ms Taylor, what are we talking about here

6 MS TAYLOR: [10:51:21] Exactly. I clarified that it's an audio. That's why we
7 played the sound for the witness [REDACTED] and we're
8 now playing the audio.

9 If we could commence again or start from where we were.

10 PRESIDING JUDGE MINDUA [10:51:42](Interpretation) We'll start off where we
11 stopped.

12 MS TAYLOR: [10:51:45] Thank you very much
13 (Playing of the audio excerpt)

14 THE INTERPRETER: [10:51:51] [REDACTED]

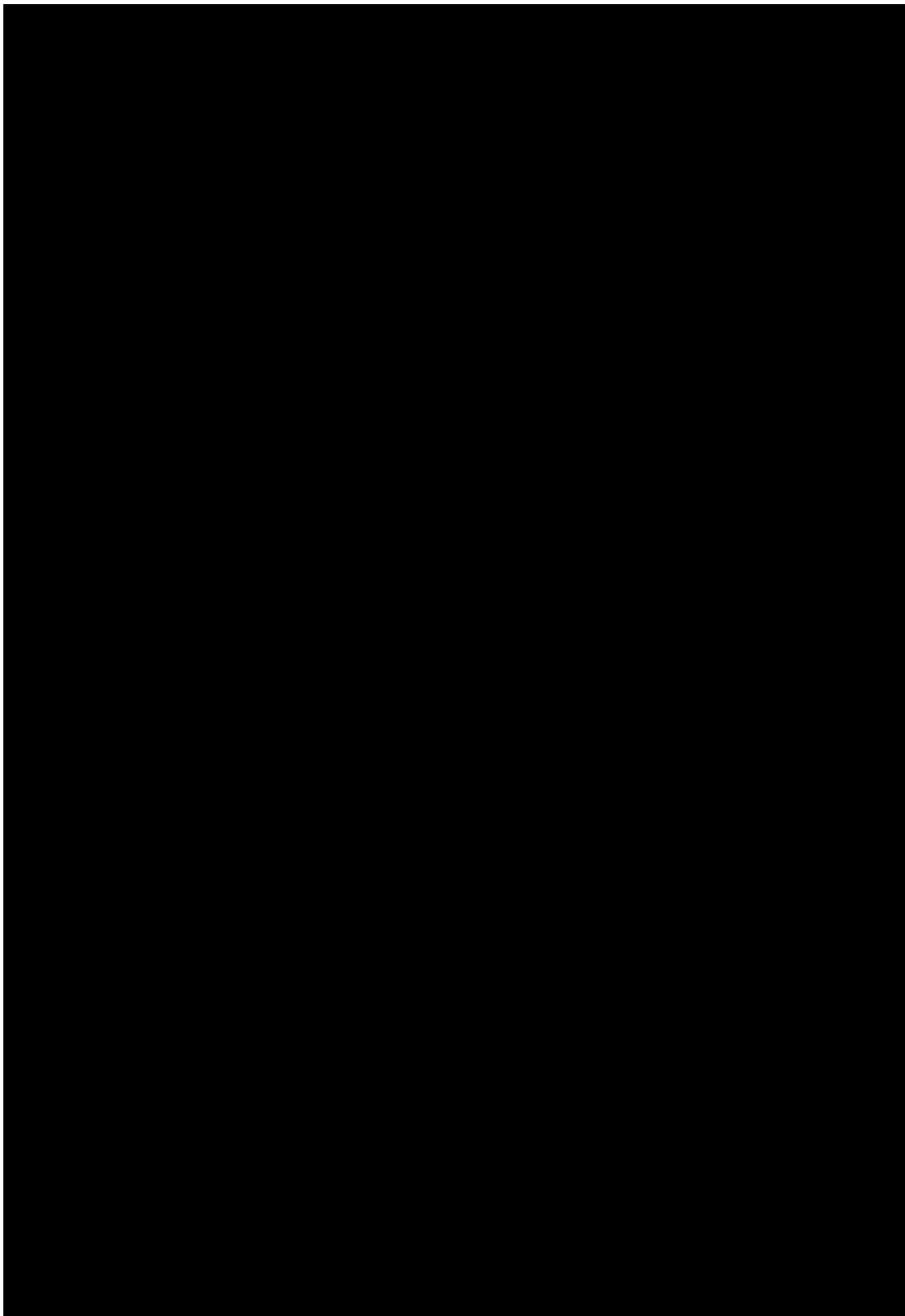
15 [REDACTED]
16 [REDACTED]
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23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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3 End of sight translation.

4 MS TAYLOR: [10:56:08] Thank you very much to the interpreters. I believe the

5 Arabic is still going though. Thank you very much.

6 Q. [10:56:32] Now, Mr Witness, is it correct that the *cadi* is a type of religious

7 judge?

8 A. [10:56:40] What? He is a religious judge. He is the religious judge.

9 Q. [10:57:03] And it's correct that in order to be a *cadi*, it's not necessary to be a

10 lawyer

11 A. [10:57:21] A *cadi* must know the Muslim law.

12 Q. [10:57:33] But it's correct, isn't it, that lawyers don't play a role in the judicial

13 system concerning the *cadi*?

14 A. [10:57:51] I really didn't understand that

15 Q. [10:57:54] Now, it's correct, isn't it, that the people appearing before a *cadi* aren't

16 represented by lawyers?

17 A. [10:58:22] To my knowledge, no.

18 Q. [10:58:23] And is it correct that the *cadi* plays a role in promoting social values

19 and cohesion?

20 A. [10:58:37] That is correct.

21 Q. [10:58:39] (Overlapping speakers) And equilibrium in society?

22 A. [10:59:00] Yes. That is it.

23 Q. [10:59:05] And are they - is it a more accessible system because it's free to use

24 this system?

25 A. [10:59:21] In fact, that is part of it. But there is also a capital of reliability that is

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1 present.

2 Q. [10:59:30] Can you explain what you mean by a "capital of reliability.

3 A. [10:59:39] By that I mean that people increasingly hark back to that trust that is
4 being lost in modern justice. There are often disappointments with lengthy trials,
5 and some are reticent to then place their trust in - to then place their trust. And then
6 they - they then place their trust once again in the *cadi*.

7 Q. [11:00:26] And [REDACTED] is it correct that the
8 *cadis* are viewed as being less corrupt than formal judges in the north?

9 A. [11:00:58] I do believe that. I think that is general opinion.

10 Q. [11:01:03] And, again [REDACTED] is it correct that
11 people used them because they believe that they don't discriminate?

12 MR DUTERTRE: [11:01:18](Interpretation) Your Honour.

13 PRESIDING JUDGE MINDUA: [11:01:20](Interpretation) Yes, Prosecutor.

14 MR DUTERTRE: [11:01:22](Interpretation) For quite a while now, I've been
15 wondering the relevance of the questions being put by the Defence. Perhaps we
16 could do this without the presence of the witness.

17 PRESIDING JUDGE MINDUA: [11:01:32](Interpretation) Indeed.

18 Court officer, please cut the link to the witness.

19 THE COURT OFFICER: [11:01:38](Interpretation) The sound has been cut, your
20 Honour.

21 PRESIDING JUDGE MINDUA: [11:01:42](Interpretation) Thank you.
22 Prosecutor

23 MR DUTERTRE: [11:01:45](Interpretation) There's quite a lot to be said, but I'll try
24 and be as short as possible. But I don't see where the Defence is going with all of this,
25 the fact that there was a *cadi* before in the role. Furthermore, that we have just heard

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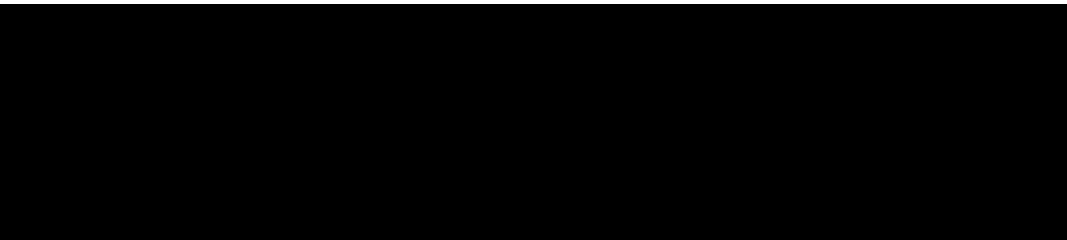
1 when it's about family issues, divorce et cetera. Not at all criminal law. It's not a
2 system which is imposed by the law. People have the choice.
3 What is the influence? What is the relevance with regards to the charges before the
4 Chamber? What is the relevance with regards to what happened in 2017, by a group
5 of people who do not necessarily represent the majority of people in Timbuktu in
6 terms of morality?
7 If we look at the situation, it is indicated as being worse well, worse for the majority
8 of the population, if that's the case. But that's not going in the sense of what this
9 group is saying. So I really don't see where we're going with this.
10 And, furthermore, on this issue, it's very general in the north, for example
11 And what [REDACTED] are we talking about? Is the witness [REDACTED] the
12 cad in Kidal? What - this is all very general It's confusing, and I'm not sure that
13 is it useful for the manifestation of the truth. We don't see the relevance. And with
14 regards to the manner in which the way the question's being put is problematic
15 This is also not an expert witness.
16 Now, the -- I think that we can focus on useful questions when it comes to
17 determining the truth, your Honour.
18 PRESIDING JUDGE MINDUA [11:03:14](Interpretation) Ms Taylor
19 MS TAYLOR: [11:03:16] Thank you very much, Mr President.
20 Now, it seems to me that the Prosecution's -- I wouldn't characterise as an "objection
21 because it appeared to be more submissions that are more suitable for a final
22 argument.
23 Now, [REDACTED]
24 [REDACTED] the Defence has submitted into evidence or used in
25 connection with expert witnesses.

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5 Secondly, as the Prosecution is well aware, these charges are not limited to criminal
6 trials before the Sharia courts, but include a wide range of cases, including divorce
7 and family cases. We just heard this last week.

8 Now, of course, we should be entitled to put to a witness - who is in a position to
9 testify to these issues - what he knows about the role of religious judges before and
10 after 2012, because it informs what happened in 2012. It informs the legitimacy of
11 that structure.

12 Now, the Prosecutor might disagree with it, but that's not a legitimate basis for an
13 objection.

14



15 and I can direct the witness to questions concerning the type of cases dealt with by the
16 *cadi*. But this is certainly a legitimate field of questioning. We should be able to
17 put this to this witness, particularly since I'm not asking him for his opinion. I'm
18 asking him in relation to the information he received.

19 And I do believe that the Prosecution has been given very wide latitude to ask similar
20 questions to their witnesses.

21 PRESIDING JUDGE MINDUA: [11:05:22](Interpretation) Very well. During the
22 examination-in-chief of the Office of the Prosecutor, and not just for this witness, but
23 for a number of witnesses, there was questions put about *cadis*. It can be said that
24 certain questions put by the Defence are not relevant with regards to the charges.
25 However, this is the Defence's line of questioning -- Ms Taylor's line of questioning,

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1 and furthermore, she says that she wants to put questions on the type of cases. So I
2 think that she can put these questions concerning the *cadi*.
3 Now, I have another point of concern, because it's now 11.05. We have the
4 possibility of stopping now - which means that the next session, we would have lost
5 30 minutes of and have a break with the second session starting, as usual, at 11.30,
6 and the last session will be two hours - I think that the Registry would complain if we
7 had a two-hour session. I would, therefore, like us to continue to 11.30. We shall
8 have a 30-minute break at 11.30. Then we will start again at 12, with one hour 30
9 minutes, and stopping at 1.30. And then we will have lunch. And then we'll be
10 back at 2.30, to finish at 4 o'clock, with another one and a half hours. That way we'll
11 have no problem with the Registry.
12 Ms Taylor, you have the floor
13 First of all, we have to re-establish the sound, if you'd be so kind.
14 MS TAYLOR: [11:07:19] Mr President, just before we do so - it can be done in
15 open session - but would it be possible, since we're sitting over the 1 o'clock session,
16 for Mr Al Hassan to absent himself to pray at 1 o'clock. It'll be for the next session.
17 PRESIDING JUDGE MINDUA: [11:07:42](Interpretation) Indeed, Ms Taylor.
18 Court officer.
19 THE COURT OFFICER: [11:07:52](Interpretation) The witness can hear us now,
20 your Honour.
21 PRESIDING JUDGE MINDUA: [11:08:04](Interpretation) Thank you very much.
22 And we are still in private session, are we not?
23 THE COURT OFFICER: [11:08:08](Interpretation) Indeed we are.
24 PRESIDING JUDGE MINDUA: [11:08:09](Interpretation) We are in private session,
25 and the witness can hear us.

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1 You have the floor, Ms Taylor.

2 MS TAYLOR: [11:08:14] Thank you very much.

3 Q. [11:08:15] Now, Mr Witness, just a point of clarification.

4 [REDACTED]?

5 A. [11:08:31] [REDACTED]

6 Q. [11:08:33] [REDACTED]?

7 A. [11:08:37] [REDACTED]

8 Q. [11:08:47] Now, I just want to ask some questions about the type of cases that
9 are dealt with by a cadí.

10 Is it correct that they typically regulate issues concerning marriage and divorce?

11 A. [11:09:09] Yes. They deal with family matters, divorce.

12 Q. [11:09:11] And do they also deal with financial complaints

13 A. [11:09:16] Yes. They deal with everything which with which there would be
14 disputes between people about It could be loans. It could be financial matters. It
15 could be land disputes.

16 Q. [11:09:40] And have there also been instances where there have been - where
17 they have dealt with cases of theft?

18 A. [11:10:04] There have been where they've dealt with cases of theft and even
19 murder.

20 Q. [11:10:09] Now, it's correct, isn't it, that the cadí traditionally tries to promote
21 conciliation between the parties?

22 A. [11:10:27] Yes. Indeed it does.

23 Q. [11:10:30] And is this particularly true in divorce cases, that they try to promote
24 conciliation first?

25 A. [11:10:49] That is correct. Indeed they do.

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1 Q. [11:10:51] Now, based on your research, is it correct that the *cadi* is
2 even more entrenched in nomadic populations?

3 A. [11:11:24] Where it concerns the nomadic populations, but also with sedentary
4 populations.

5 Q. [11:11:33] Thank you for that clarification.

6 Now, I believe we can ask some questions in open session before going into private
7 session.

8 PRESIDING JUDGE MINDUA: [11:11:49](Interpretation) Court officer, please take
9 us into open session.

10 (Open session at 11.11 a.m.)

11 THE COURT OFFICER: [11:11:54](Interpretation) We are in open session, your
12 Honour

13 PRESIDING JUDGE MINDUA: [11:12:07](Interpretation) Thank you very much,
14 court officer.

15 Ms Taylor.

16 MS TAYLOR:

17 Q. [11:12:11] Now, speaking of the period before 2012, is it correct that there were
18 significant disparities or inequalities between the north and south of Mali?

19 A. [11:12:43] That's indeed correct.

20 MS TAYLOR: [11:12:44] I'd like to play a video, but I believe we'll have to play this
21 in private session.

22 PRESIDING JUDGE MINDUA: [11:12:51](Interpretation) Court officer, private
23 session, please.

24 (Private session at 11.12 a.m.)

25 THE COURT OFFICER: [11:12:54](Interpretation) We're in private session, your

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1 Honour.

2 PRESIDING JUDGE MINDUA: [11:13:00](Interpretation) Thank you very much.

3 Ms Taylor.

4 MS TAYLOR: [11:13:03] This is Defence tab 48. It's [REDACTED] And if
5 we could play just a couple of seconds without sound on evidence 2.

6 (Viewing of the video excerpt)

7 MS TAYLOR: [11:13:43] I think we can stop.

8 Q. [11:13:45] Mr Witness, do you recognise this individual?

9 A. [11:13:51] Yes. I recognise him.

10 Q. [11:13:52] And for the record, can you say who it is

11 A. [11:14:02] [REDACTED]

12 Q. [11:14:04] [REDACTED] ?

13 A. [11:14:08] [REDACTED]

14 Q. [11:14:27] So [REDACTED] 2012.

15 Does that refresh your memory? [REDACTED]
16 [REDACTED] 2012

17 A. [11:14:41] I don't remember that at all.

18 Q. [11:14:50] Now, we're going to play it with sound. That might refresh your
19 memory. We're going to play it from the minute - the transcript's Defence tab 49.

20 [REDACTED] And we're going to be playing it with sound from 2.49
21 minute until 6.30. And it will be from pages [REDACTED] lines 23, until page [REDACTED] line 52.

22 And if the interpreters could kindly indicate if they're ready. And if it's a long chunk
23 of text, it's also possible perhaps for the -- it to be inserted into the transcript
24 afterwards, if that would be easier for the interpreters or the transcribers.

25 THE INTERPRETER: [11:16:14] Could we just clarify. We have page [REDACTED] but no

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1 page [REDACTED]

2 MS TAYLOR: [11:16:23] It should be starting with page [REDACTED] line 23.

3 THE INTERPRETER: [11:16:37] Thank you.

4 MS TAYLOR: [11:16:39] Are the interpreters ready or ...

5 THE INTERPRETER: [11:16:41] Yes.

6 (Viewing of the video excerpt)

7 THE INTERPRETER: [11:16:58] (Interpretation of the video excerpt)

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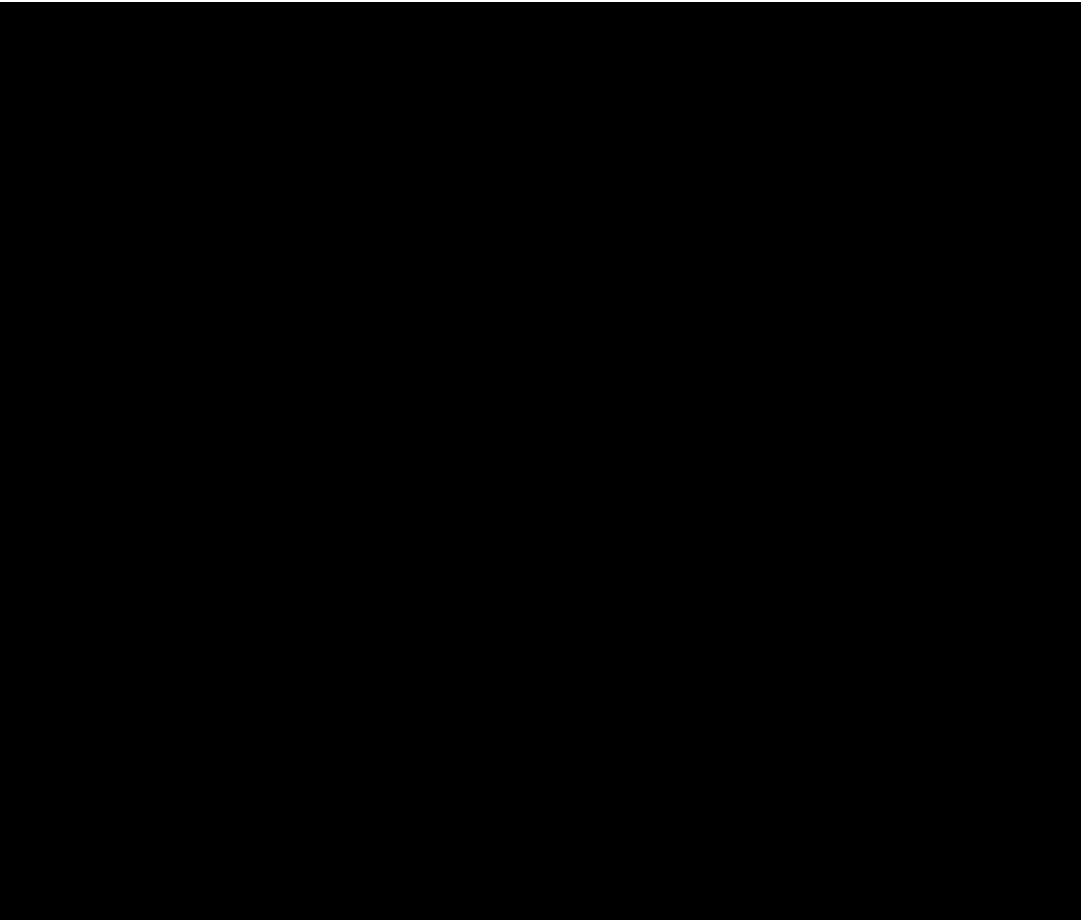
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16 MS TAYLOR: [11:21:20]

17 Q. [11:21:21] Now, Mr Witness, do you recall this [REDACTED]

18 A. [11:21:26] I remember it, but I don't know in which period it was.

19 Q. [11:21:41] Now, [REDACTED]

20 Was this [REDACTED] in 2009?

21 A. [11:21:55] In fact, this [REDACTED] in 1980 - 1999.

22 It was when there was - the [REDACTED] was being prepared, and that had

23 been prepared since 1999. And it was in 1999 that this [REDACTED] So it was

24 [REDACTED] 2002 that was being prepared.

25 Q. [11:22:34] So, Mr Witness [REDACTED] in 1999, is it correct that [REDACTED]

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1 sounded the alarm about the problems in the north and in Timbuktu a long time
2 before 2012?

3 A. [11:22:59] That is true [REDACTED] for a very long time.

4 Q. [11:23:02] Now, at page [REDACTED] lines 47 to 48, [REDACTED]

5 (Interpretation) [REDACTED]

6 [REDACTED]

7 (Speaks English) Is it correct that [REDACTED] Timbuktu in the north as a form of

8 [REDACTED] or [REDACTED] both before and after 2012?

9 A. [11:23:48] That's indeed correct.

10 PRESIDING JUDGE MINDUA [11:23:50](Interpretation) Ms Taylor, where it
11 concerns this video, it was played, and it was stopped at 6 minutes and 13 seconds.

12 You didn't mention that in the transcript We need the reference of where it was
13 stopped, 6 minutes, 50 seconds, 13. That's something that you didn't mention for the
14 transcript, but we need the reference.

15 MS TAYLOR: [11:24:18] Thank you very much for that, Mr President.

16 Q. [11:24:22] Now, Mr Witness, [REDACTED] this description because of the
17 disequilibrium as concerns justice inequality between the north and the south?

18 A. [11:24:55] That is correct. Exactly. There is an imbalance at every level.

19 Q. [11:24:58] Now, is it correct that in the years before 2012, crime and banditry
20 were problems in and around Timbuktu?

21 A. [11:25:23] Indeed. In the previous years, they were marked by
22 bandit - banditry and crime, both within and outside the town of Timbuktu.

23 Q. [11:25:45] And the north had already been classified as a dangerous red zone by
24 foreign states in 2009; is that correct?

25 A. [11:25:55] Yes, indeed.

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- 1 Q. [11:26:03] And is it correct that [REDACTED]
- 2 [REDACTED] the state officials took no steps to deal with these problems?
- 3 A. [11:26:17] Indeed. The authorities took no measures of any kind.
- 4 PRESIDING JUDGE MINDUA: [11:26:26](No interpretation)(Overlapping speakers)
- 5 *Monsieur le Procureur.*
- 6 MR DUTERTRE: [11:26:28](Interpretation) Your Honour, if we could briefly cut the
- 7 sound.
- 8 PRESIDING JUDGE MINDUA: [11:26:32](Interpretation) Court officer, please cut
- 9 the sound to the witness, please.
- 10 THE COURT OFFICER: [11:26:37](Interpretation) The sound is now cut, your
- 11 Honour.
- 12 PRESIDING JUDGE MINDUA [11:26:41](Interpretation) Thank you very much,
- 13 court officer.
- 14 Prosecutor
- 15 MR DUTERTRE: [11:26:46](Interpretation) Yes, your Honour, your Honours. I've
- 16 allowed a certain number of questions to pass, but I'm concerned about some.
- 17 Ms Taylor says herself that the video is from 2012, and she's asking if it describes the
- 18 situation after 2012. That is a bit misleading.
- 19 The second example is that they speak about the north, which is dis-advised by
- 20 certain foreign states We don't know what the basis is, but there's a link made with
- 21 crime and banditry where there's a question whether it's about jihadists groups, and
- 22 that's the reason.
- 23 So if things are going to be done, they have to be done in a clear and precise way and
- 24 without missing certain steps. That would be much better.
- 25 Thank you.

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1 PRESIDING JUDGE MINDUA: [11:27:38](Interpretation) Ms Taylor, I think that the
2 Prosecutor is right because the document - the witness has said it dates from 1989
3 (sic) - I don't know. Before 2012. But then - it dates from 1999, but then you are
4 making quite sweeping statements.

5 What -- how - what do you say in this regard?

6 MS TAYLOR: [11:28:06] Thank you very much, Mr President.

7 Now, the [REDACTED] 2012. And in that [REDACTED] was
8 describing factors that gave rise to the events in 2012. [REDACTED]

9 [REDACTED] about events in 1999 as being relevant to the - the vacuum in the
10 north

11 Now, my last couple of questions actually arise from his witness statement with the
12 Prosecution, specifically paragraph 48 And the Prosecution is ahead of himself
13 because I do have questions to put to this witness regarding the presence of AQIM in
14 that area before 2012, and I'm going there. I hope to go there without interruptions.
15 But these are directly relevant. Indeed, they arise directly from the evidence of the
16 Prosecution themselves took from this witness during their interviews, which
17 specifically in that statement he refers to other states - the ministry of foreign affairs
18 from France classifying Mali as a red zone.

19 PRESIDING JUDGE MINDUA: [11:29:20](Interpretation) Prosecutor, do you want
20 to answer that?

21 MR DUTERTRE: [11:29:24](Interpretation) Very briefly, because I think that the
22 English transcript and French is not very precise, unfortunately. But with regards to
23 the point, if states -- foreign states classify Mali as a dangerous area, perhaps there are
24 questions of banditry, but perhaps that's also due to jihadists groups.
25 And, furthermore, when it comes to the way in which Ms Taylor puts the question,

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1 there is a link that is made with regards to banditry and crime because - but this
2 hasn't been clearly elicited in order to understand why foreign states listed Mali as
3 not being recommended. And, therefore, this is an example of a fastball, of a link
4 that is made very quickly. And it doesn't make it possible to correspond it to the
5 reality of things. And this isn't the only example since this morning.
6 PRESIDING JUDGE MINDUA: [11:30:28](Interpretation) We, therefore, have a
7 problem about reformulation of questions because there are links that are being made
8 which are not necessarily clear.
9 Now, it is 11.30. I will let you reflect on your question, and then we will come back
10 within 30 minutes. We will, therefore, be back at 12
11 Court is suspended.
12 THE COURT USHER: [11:31:02] All rise.
13 (Recess taken at 11.31 a.m.)
14 (Upon resuming in public session at 12.00 p.m.)
15 THE COURT USHER: [12:00:53] All rise.
16 Please be seated.
17 PRESIDING JUDGE MINDUA: [12:01:28](Interpretation) Court is in session, once
18 again. We are in open session.
19 And I will hand over to Ms Taylor for the continuation of the cross-examination.
20 MS TAYLOR: [12:01:47] Thank you very much, Mr President. If we can very
21 briefly go back into private session just so I can situate the date of the interview.
22 PRESIDING JUDGE MINDUA: [12:01:56](Interpretation) Indeed. Madam
23 Courtroom Officer, private session, please.
24 (Private session at 12.02 p.m.)
25 THE COURT OFFICER: [12:02:08](Interpretation) We are in private session,

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1 your Honours.

2 PRESIDING JUDGE MINDUA: [12:02:12](Interpretation) Thank you very much,
3 Madam Courtroom Officer.

4 Ms Taylor.

5 MS TAYLOR: [12:02:16] Thank you very much.

6 If we could bring up Defence tab 30. It's [REDACTED] If it could be shown
7 on evidence 1. If it could be zoomed in.

8 Q. [12:02:51] Now, Mr Witness, this is a [REDACTED] by an
9 individual concerned - called [REDACTED] And I don't know if you can
10 see his face clearly And he's posting a link to an interview he conducted in
11 Timbuktu.

12 [REDACTED]
13 [REDACTED] He might have been coming from [REDACTED]

14 A. [12:03:34] I do not remember

15 Q. [12:03:40] Understood.

16 Now, Mr Witness, I'm going to go into open session. [REDACTED]

17 [REDACTED]
18 [REDACTED]

19 A. [12:04:04] Yes. No problem.

20 Q. [12:04:05] [REDACTED]
21 [REDACTED]

22 MS TAYLOR: [12:04:14] I think we can go into open session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:04:38](Interpretation) Madam Courtroom Officer,
24 open session, please.

25 (Open session at 12.04 p.m.)

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(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [12:04:42](Interpretation) We are back in open session,
2 Mr President, your Honours.

3 PRESIDING JUDGE MINDUA: [12:04:46](Interpretation) Thank you very much,
4 indeed, Madam Courtroom Officer.
5 Ms Taylor.

6 MS TAYLOR: [12:04:49] If we could bring up Defence tab 70. It's
7 MLI-D28-0005-8343. And it should not be shown to the public.

8 Q. [12:05:20] Mr Witness, can you see this document?

9 A. [12:05:33] Yes, I can.

10 Q. [12:05:34] Was it posted by Mr X

11 A. [12:05:38] It is indeed Mr X who posted this.

12 Q. [12:05:47] And is it correct that Mr X is referring to Timbuktu as an [REDACTED]
13 [REDACTED] in 2019?

14 A. [12:05:55] Yes, indeed.

15 Q. [12:06:09] If we could turn to Defence tab 65, MLI-D28-0005-8328. This is an
16 article ...

17 If this could be brought up on to the screen for the witness. It's tab 65.

18 THE COURT OFFICER: [12:06:51] It's tab 66, for the record.

19 MS TAYLOR: [12:06:54] I apologise. Thank you for that correction.

20 No. That's not the - the right document. It's MLI-D28-0005-8328. Oh, sorry.

21 If I can just have a moment.

22 It's tab 65, and it's 8324.

23 Q. [12:07:48] Now, this is an AFP article concerning the situation in Timbuktu in
24 December 2018. But I want to turn specifically to page 8325, which refers to an
25 individual we've been discussing.

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1 So if we could bring up page 8325, and if we could scroll in to the - the bottom
2 paragraph.

3 Mr Witness, can you see that last paragraph underneath the title "Justice parallèle"?

4 A. [12:08:40] Yes, I can see it.

5 MS TAYLOR: [12:08:43] With the permission of the bench, may my colleague,
6 Maître Youssef, read out that paragraph?

7 PRESIDING JUDGE MINDUA: [12:08:51](Interpretation) Yes, indeed. Please go
8 ahead, Counsel.

9 MR YOUSSEF: [12:09:05](Interpretation)
10 "Paralegal justice

11 On the next day, the boat draws alongside in Timbuktu, in the northwest, an area that
12 experienced in 2012 the struggle of the jihadists groups linked to Al-Qaeda, until the
13 international military intervention launched by France in January 2013. Today the
14 city is an 'open-air prison,' says Diadié Hamadoun Maïga, member of the '*Comité des*
15 *sages*' in charge of managing Timbuktu under the jihadist control.

16 'People are complaining of insecurity, but we have the impression that this period
17 was better than today,' he says, in denouncing the Malian army
18 barracked - barracked up and the international forces who are out and about

19 MS TAYLOR: [12:10:12]

20 Q. [12:10:13] Now, Mr Witness, this refers to an individual called "Diadié
21 Hamadoun Maïga". Is that the person you have referred to as being the
22 vice-president of the crisis committee in 2012?

23 A. [12:10:31] Yes. This is one and the same individual.

24 Q. [12:10:36] Now, do you recall testifying about a letter that was sent to COREN in
25 2012 by the crisis committee?

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1 If I can jog your memory. It was a letter that had the phrase "open-air prison.

2 A. [12:11:21] I remember a letter, but I don't know which letter it was.

3 Q. [12:11:26] I can always come back to that after the break to show it to you.

4 But is it correct that Diadié Hamadoun was familiar with the contents of any letters
5 sent by the crisis committee to outsiders, such as COREN?

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

7 MR DUTERTRE: [12:11:59](Interpretation) Mr President, if I may. It is not a quiz.
8 If the Defence has something to submit to the witness, then let them show him the
9 letter, and then we can move forward. We're not going to put the question to him
10 and then come back to this after the pause. We need to remain fair to the witness
11 and put him in a position to be able to answer the question.

12 Thank you

13 PRESIDING JUDGE MINDUA: [12:12:20](Interpretation) Ms Taylor, I am in
14 agreement with the Prosecution.

15 MS TAYLOR: [12:12:23] Thank you, Mr President. But I do believe my question
16 was actually of a more general nature, as to whether that person was familiar with the
17 contents of correspondence by virtue of his position.

18 I can come to the specific contents of a particular letter, but I do believe
19 it's - this - this person should be in a position to answer whether Diadié Hamadoun
20 was familiar with the contents of letters that were sent by the crisis committee.

21 PRESIDING JUDGE MINDUA: [12:12:58](Interpretation) Well, in that case, the
22 witness has already answered. I do believe we can move forward.

23 MS TAYLOR: [12:13:06] I don't believe we got an answer from the witness because
24 Mr Dutertre objected.

25 PRESIDING JUDGE MINDUA: [12:13:16](Interpretation) Well, then let's listen to

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1 what the witness has to say in his response, Ms Taylor, and then let's move forward,
2 because we've been turning around this spot for quite some time now.

3 MS TAYLOR: [12:13:36]

4 Q. [12:13:37] Mr Witness, was Diadié Hamadoun familiar with the contents of
5 correspondence that were sent by the crisis committee?

6 A. [12:13:45] Well, I have to know what letter was sent, sent by the crisis cell,
7 because, to my mind, this crisis cell sent many a letter.

8 PRESIDING JUDGE MINDUA: [12:14:12](Interpretation) We do have the answer
9 now, Ms Taylor, so let's -- let's move on.

10 MS TAYLOR [12:14:16]

11 Q. [12:14:17] Mr Witness, are you familiar with an individual called Houka
12 Alfousseyni?

13 A. [12:14:32] Yes.

14 Q. [12:14:35] If we could turn to page 8326 of this article And if, with the judge's
15 permission, my colleague, Maître Youssef, could read out the first paragraphs.

16 PRESIDING JUDGE MINDUA [12:15:01](Interpretation) Please go ahead,
17 Maître Youssef.

18 THE INTERPRETER: [12:15:08] Sight translation:

19 MR YOUSSEF: [12:15:09](Interpretation)

20 "Some have been locally turning towards personalities of that time, such as the former
21 Judge Houka Ag Alfousseyni, whose release in 2014 after a number of months in
22 detention had given -- had caused indignation amongst human rights organisation[s]
23 who said that he had headed up in Timbuktu an Islamic tribunal that had ordered
24 inter alia amputations, stonings, floggings and arbitrary arrests.
25 'It was the population that has called upon his services with such things as land

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1 disputes, as robberies of motorbikes, or livestock,' indicated to the AFP, the governor
2 of the region Koïna Ag Ahmadou.
3 'I sent him to the prosecutor, who does not see - have any issue with what he is doing.
4 That is why he has continued. But we have told him that there are limits,' added the
5 representative of the state.
6 End of quote.
7 MS TAYLOR: [12:16:30]
8 Q. [12:16:31] Now, Mr Witness, to your knowledge, is it correct that Houka
9 Alfousseyni has continued to act as a cadi after 2012?
10 A [12:16:51] Yes I have heard that, without verifying it personally
11 Q. [12:17:01] And have you also heard that the local prosecutor and the local
12 prosecuting authorities are aware of these activities
13 PRESIDING JUDGE MINDUA: [12:17:09](Interpretation) Mr Prosecutor.
14 MR DUTERTRE: [12:17:11](Interpretation) Yes, Mr President Maybe for the
15 information of the Chamber, the question by Ms Taylor, being very general in nature,
16 we might ascertain where Houka Houka was active
17 Now, as for the last question, it's very speculative, because this is not what the
18 witness said himself, and we can't ask him to comment on what somebody else said
19 on the occasion of an interview or a contact during which he was not present.
20 PRESIDING JUDGE MINDUA: [12:17:46](Interpretation) Ms Taylor.
21 MS TAYLOR: [12:17:47] Thank you very much, Mr President.
22 Now, firstly, that should have been cut to the witness. Secondly, I believe that all
23 day Friday and all day Monday, that's exactly what the Prosecution was doing, asking
24 this witness to comment on the words of other witnesses or other persons at events
25 where he was not present. And they were permitted to do so.

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1 Thirdly, I'm asking this witness to testify on the basis of what he himself knows.
2 Now, this ties back to questioning that I undertook in private session, as you may be
3 aware, of particular research tasks that were undertaken by this witness.
4 So I've asked him to testify on the basis of his knowledge, and I do believe he's
5 capable of indicating whether he has knowledge on this point.
6 I'm not asking him to comment on the words of other people, unlike the Prosecution.
7 I'm asking him to apprise the bench of what he himself knows, which he is doing,
8 before being interrupted.
9 PRESIDING JUDGE MINDUA: [12:19:09](Interpretation) Yes, Ms Taylor, you are
10 right about the last question The witness didn't hear the entire question because an
11 objection was raised.
12 But the first question and the first subject or object, if you like, of the objection put by
13 the Prosecution is still valid because a question was put with regard to the work of
14 Judge Houka Houka after 2012. And the Prosecutor picked up on the fact that, even
15 if you are basing yourself on the knowledge of the witness, the scope of action of the
16 judge was not enlightened. It was not defined, if you like That's the first objection.
17 I think that the Prosecution is right with this regard -- in this regard.
18 But as to the second question, well, the witness didn't hear it.
19 But I can see that the Prosecution is once again on his feet. Would you like to add
20 something, Mr Dutertre?
21 MR DUTERTRE: [12:20:09](Interpretation) Mr President, very briefly. My
22 objection is standard. The fact that the sound was not cut off doesn't have much of
23 an influence.
24 Now, secondly, when we put questions on Friday and Monday, we established a
25 foundation, the knowledge of the witness. This is not the case here.

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1 Thirdly, Ms Taylor is referring to research. But research does not enable him to
2 comment on the words of somebody a posteriori.

3 Thank you.

4 PRESIDING JUDGE MINDUA: [12:20:42](Interpretation) Ms Taylor, I believe that
5 the remedy here would be rephrasing. Reformulate your question, and we'll move
6 on.

7 MS TAYLOR: [12:21:02] Thank you, Mr President.

8 Now, if I may just scroll back to what the witness himself said, because I believe that
9 he had given an answer that he had heard this.

10 Q. [12:21:23] So at page 45, line 18, you testified, Mr Witness, that you heard that
11 Houka Alfousseyni had continued to act as a cadì.

12 Now, did you also hear that the prosecuting authorities in or around Timbuktu were
13 aware of his activities?

14 A. [12:21:56] In fact, hearing that he continued to play the role of cadì, but no
15 longer in Timbuktu. He was in Goundam.

16 Q. [12:22:14] You state that he's in Goundam. Do you mean Goundam or around
17 Ario?

18 A. [12:22:32] I beg your pardon?

19 Q. [12:22:34] It's correct, isn't it, that Houka Houka is from a region called Ario?

20 A. [12:22:43] I do not know.

21 Q. [12:22:45] If I could bring up Defence tab 19. It's MLI-D28-0005-8217. Is that
22 on your ...

23 Now, Mr Witness, bearing in mind we're in open session, has this been posted by
24 Mr X?

25 A. [12:23:37] Yes. This was posted by Mr X.

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1 Q. [12:23:39] Now, it's an article entitled "TIMBUKTU, QUELLES PERSPECTIVES".

2 It's written by an individual called Abdel Kader Haïdara.

3 Is it correct that this was published in 2012 originally?

4 A. [12:24:09] Yes. It was published in 2012, after the fall of Timbuktu.

5 Q. [12:24:15] If I could bring up Defence tab 10, MLI-D28-0005-7228 And if we

6 could turn to 7230 for the title.

7 Is this the same article, Mr Witness?

8 We can scroll through it, if that would assist.

9 Perhaps we can just scroll through it quickly so the witness can see the contents.

10 A [12:25:54] Yes

11 Q. [12:25:55] Mr Witness, do you confirm it's the same article?

12 A. [12:26:05] Yes It's the same article in a newspaper.

13 Q. [12:26:08] And are you familiar with the contents of this article?

14 A. [12:26:12] Yes I do know the contents of this article.

15 Q. [12:26:32] And are you familiar with the events that are described in the article?

16 A. [12:26:36] I do have knowledge of the events in this article.

17 PRESIDING JUDGE MINDUA: [12:26:45](Interpretation) Mr Prosecutor.

18 MR DUTERTRE: [12:26:48](Interpretation) It would be nice to know if he knows the

19 author, if he's already read the article. The events - well, this is four or five pages.

20 So which events are we talking about? First, second paragraph, or the second one

21 mentioned in the last line of the second paragraph? What are we doing here? We

22 can accept anything, all and everything, if we go forward in such a manner.

23 PRESIDING JUDGE MINDUA: [12:27:07](Interpretation) Ms Taylor, there's a

24 problem of fairness towards the witness here. So ...

25 MS TAYLOR: [12:27:13] Mr President, I was going to go to specific events, but I was

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1 laying a foundation to do so. I am going to -- go to very specific events that are
2 described in this article, some of which have already been the subject of the
3 testimony.

4 PRESIDING JUDGE MINDUA: [12:27:33](Interpretation) Very well. Now, let's
5 establish a foundation, and then we'll talk about the events before putting a question
6 to the witness.

7 MS TAYLOR: [12:27:41] Mr President, the witness has already stated that he's
8 familiar with this. It's a document that was posted by Mr X. It's the same
9 document.

10 I can go into private session if that would be easier

11 PRESIDING JUDGE MINDUA: [12:28:06](Interpretation) Maybe. Yes.

12 Madam Courtroom Officer, private session, please

13 (Private session at 12.28 p.m.)

14 THE COURT OFFICER: [12:28:13](Interpretation) We are in private session,
15 Mr President.

16 PRESIDING JUDGE MINDUA [12:28:21](Interpretation) Thank you very much,
17 Madam Courtroom Officer.

18 Mr Prosecutor, as to the foundation, the witness has already stated the extent of his
19 knowledge of the article and the author.

20 Are you not in agreement?

21 MR DUTERTRE: [12:28:41](Interpretation) As to the author, we are in ... As to the
22 author, I do not recall, but we could ascertain [REDACTED] whether he read it?

23 There are all sorts of questions that could be put before we continue putting questions,
24 generally speaking. But we scrolled at such a speed that even I was not able to see
25 *what paragraph corresponded to another between Defence tabs 10 and 19. So you

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1 have to be quite fair to the witness, and you have to take your time, unfortunately,
2 when you show an exhibit... you have to give it time.

3 PRESIDING JUDGE MINDUA: [12:29:31](Interpretation) So, Ms Taylor, we shall
4 proceed according to our guidelines for the time being. Please go ahead.

5 MS TAYLOR: [12:29:39] Thank you, Mr President.

6 In fact, the Prosecution was very perspicuous because that was going to be one of my
7 questions to the witness.

8 Q. [12:29:49] [REDACTED]

9 [REDACTED]

10 A [12:30:12] [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [12:30:39] [REDACTED]

15 [REDACTED]

16 Do you know the author, Abdel Kader Haïdara?

17 A. [12:30:57] Yes. I know the author of this article.

18 Q. [12:31:00] Who is he?

19 A. [12:31:03] He's a native of Timbuktu. [REDACTED]

20 Q. [12:31:23] Now, if we could turn to page 8219 of the article. There's a section titled:

21 (Interpretation) "BAD CENTRAL GOVERNMENTS".

22 (Speaks English) Is that on the screen?

23 A. [12:31:58] No.

24 THE COURT OFFICER: [12:32:47] The document is being displayed to the witness.

25 THE WITNESS: [12:32:57](Interpretation) Yes.

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1 MS TAYLOR: [12:33:45]

2 Q. [12:33:46] Mr Witness, can we go to page 7236.

3 That's okay. We'll start -- stay here.

4 Now, Mr Witness, are you familiar - this discusses protests that occurred in

5 June/July 2011 demanding the departure of the *procureur de la République du parquet*.

6 (Speaks English) Are you familiar with these protests?

7 (Interpretation) Departure of the public prosecutor.

8 A. [12:34:47] I'm informed or I was informed of this demonstration.

9 Q. [12:34:50] And what was the reason for this demonstration?

10 A. [12:34:54] There'd been a certain number of acts carried out which the

11 population considered to be insulting.

12 Q. [12:35:22] Can you explain what type of acts

13 A. [12:35:36] Where it concerned the prosecutor. I don't know for what particular

14 act it was, but he ordered that an imam be locked up from the town of Timbuktu.

15 The population saw this as a humiliation.

16 Q. [12:36:02] If we could turn to page 7236. And if we could show the top part

17 Mr Witness, this refers to a committee "pour la correction des mœurs et la

18 réhabilitation des valeurs culturelles". (Interpretation) "Committee for the correction

19 of morality and rehabilitation of cultural values.

20 (Speaks English) Is this the same committee that we were discussing earlier this

21 morning?

22 A. [12:37:10] Yes. The committee that organised the general assembly was indeed

23 this committee.

24 Q. [12:37:18] Now, this states that it organised general assemblies in different

25 neighbourhoods to explain its objectives and receive *témoignages*. It also refers to a

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1 real tribunal where the mothers of families on the verge of a crisis denounced the
2 comportment of their children.

3 Are you familiar with this

4 A. [12:38:04] Indeed. Indeed, I am, because, with regards to the general
5 assemblies at neighbourhood level, they were an opportunity for the mothers and
6 fathers to publicly say what they observed on a daily basis, which was undignified,
7 not worthy of dignity for everybody, but which had to be said.

8 Q. [12:38:40] Now, if we could go to the last page and the last paragraph,
9 7237 - 7236 - 7237.

10 And with the permission of the Chamber, if my colleague, Maître Youssef, can read
11 out the last paragraph.

12 PRESIDING JUDGE MINDUA [12:39:15](Interpretation) Please go ahead, Maître

13 MR YOUSSEF: [12:39:19](Interpretation) "The Salafists must not make people afraid
14 in Timbuktu. Sharia is made for the believers Is there more than us? The
15 vocation of Sharia is to dissuade. Nobody doubts that, when it is established that the
16 sanction against financial misappropriation, the consumption of alcohol, and outrages
17 against morality will be the amputation of a hand or public flogging, society will once
18 again recover moral and its civic sense. If we become - if we despair of never
19 arriving there, then we are playing the act of hypocrisy. We are no longer members
20 of the community of Prophet Mohamed
21 End of quote.

22 MS TAYLOR: [12:40:31]

23 Q. [12:40:32] Now, Mr Witness, is it correct that in May 2012, there were notables in
24 Timbuktu who believed that the application of Sharia law could help establish
25 security and civic order in Timbuktu?

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1 A. [12:41:02] I don't think so.

2 In Timbuktu, when people speak about Sharia, it's not in the way that other people
3 think. Because, as they say, a Muslim person doesn't refuse Sharia, but what you
4 understand by Sharia.

5 Q. [12:41:28] Mr Witness, sorry. This person is speaking about sanctions against
6 financial embezzlement, the consumption of alcohol, and insult to morals.

7 A. [12:41:43] I'm sorry?

8 Q. [12:41:45] This person writes

9 PRESIDING JUDGE MINDUA: [12:41:55](Interpretation) Prosecutor.

10 MR DUTERTRE: [12:41:56](Interpretation) Yes, your Honour

11 I think we're going to start being argumentative with the witness. He answered.

12 The question was put, and he gave a clear answer thereto

13 PRESIDING JUDGE MINDUA: [12:42:10](Interpretation) Ms Taylor, I agree with the
14 Prosecutor, because you put the question, the witness has answered, and, here, we're
15 at the limit of pleadings here, making submissions, of arguing.

16 So, please, could you move on.

17 MS TAYLOR: [12:42:29] If I can move to Defence tab 55. It's MLI-OTP-0080-4448.

18 If that could be brought up on evidence 1. I believe we're still in private session. So

19 I can ask some questions to him in private session.

20 Q. [12:43:17] [REDACTED] ?

21 A. [12:43:20] [REDACTED]

22 Q. [12:43:24] [REDACTED]

23 [REDACTED]
24 [REDACTED]

25 A. [12:44:02] Yes [REDACTED]

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4 Q. [12:44:23]

5 Now, if we can scroll down because we - and then go to the next page.

6 And if we can - we can see on the next page:

7 A. [12:45:21] Yes.

8 Q. [12:45:22] Does that correspond to what is underneath,

9 something here for people to read it, something

10 from Ben Cherif Adel Mahmoud

11 A. [12:45:43] In fact, this reference this is an expression

12 a journal But the slogan is to

13

14 Q. And what's below

15 ?

16 A. [12:46:28] In fact, this this was written by

17 because it goes within the

18 same direction -- it goes in the same direction.

19 Q. [12:46:40] So when you say "it goes in the same direction,

20 ?

21 A. [12:47:04] Well, I have to explain that the person who authored the article about

22 Timbuktu the one who wrote this article, Abdel

23 Kader, and So when you take into account the

24 content, that's something else. But quite simply, I would say that it was within the

25 same dynamic

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1 Q. [12:47:41] Just to be clear, Mr Witness, if we could go to page 449 - sorry. Not
2 page 449. Page 4450, so you can see the author that we're speaking about.

3 Was this individual the *Cadi Coutumier et Mufti d'Araouane*? Araouane, that's
4 A-R-A-O-U-A-N-E.

5 PRESIDING JUDGE MINDUA: [12:49:28](Interpretation) Ms Taylor, are we still in
6 private session?

7 MS TAYLOR: [12:49:31] I believe we can go into open session.

8 PRESIDING JUDGE MINDUA: [12:49:39](Interpretation) Madam Court Officer.
9 (Open session at 12.49 p.m.)

10 THE COURT OFFICER: [12:49:48](Interpretation) We're in open session, your
11 Honour.

12 PRESIDING JUDGE MINDUA [12:49:56](Interpretation) Thank you very much,
13 Madam Court Officer.
14 Ms Taylor.

15 MS TAYLOR: [12:50:00] Perhaps it might assist if I read out two paragraphs that
16 explain who this person is, because he gives a description. With the leave of the
17 Chamber, if Maître Youssef could read out two paragraphs on page 0-4449, which
18 gives the title of this person.

19 PRESIDING JUDGE MINDUA: [12:50:22](Interpretation) Please go ahead,
20 Mr Youssef

21 MR YOUSSEF: [12:50:32](Interpretation)
22 "Speaking of Islam in Azawad, we are Sunnite Malekite Muslims, and have been for
23 centuries. And we can -- fiercely condemn atheism, fetishism, fornication,
24 alcoholism, lies, betrayals, trickery, and we fight against all the paths that lead to
25 debauchery and the AIDS epidemic, because we work for the edification of a healthy

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1 society, and we preach justice, rights, the love of people close to you, piety, good
2 neighbourliness, sincerity, good conduct, and good morality. We accept all the ways
3 and paths to arrive there
4 We do think that it is in the same case as the movement "Ansar Eddine" whose task is
5 to closely collaborate with the MNLA, as such in my capacity as Customary Cadi and
6 Mufti of Araouane and on behalf of the Cadi of Timbuktu, of that of Chirfikalo of Gao
7 and of Kidal, because each of us is joined to the other in accordance with the project
8 for the council of cadis of the north proposed by the cadi of Timbuktu, we wish to
9 welcome to this saintly town, while drawing a red line before any terrorist or
10 extremist action of any kind
11 End of quote.

12 MS TAYLOR: [12:52:48]

13 Q. [12:52:49] Now, in that section, various references were made to cadis: "de Cadi
14 Coutumier et Mufti d'Araouane", the "Cadi of Timbuktu", the "Chirfikalo de Gao and
15 that of Kidal", and also a council of cadis of the north.

16 Are you familiar with any of these individuals or groups?

17 A. [12:53:29] Well, I know the one who's presented as the Mufti d'Araouane, the
18 Mufti d'Araouane.

19 Q. [12:53:40] And what is the name of that individual, if you're in a position to say?

20 A. [12:53:52] Adel Mahmoud, A-D-E-L, M-A-H-M-O-U-D.

21 Q. [12:54:03] And just to be clear, that's the person who wrote this, Ben Cherif Adel
22 Mahmoud Is that correct?

23 A. [12:54:22] Yes, indeed.

24 Q. [12:54:23] And do you know the name of the cadi of Timbuktu?

25 A. [12:54:27] The cadi of Timbuktu? Baba Sidi Baba, I think was his name.

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1 Ahmed (sic) Baba dit Sidi Baba.

2 Q. [12:54:54] And are you aware of this project of a council of cadis of the north?

3 A. [12:55:01] I'm not aware of that

4 Q. [12:55:16] [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 A. [12:55:55] [REDACTED]

8 Q. [12:55:57] [REDACTED]

9 A. [12:56:01] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 Q. [12:56:26] [REDACTED]

13 [REDACTED]

14 A. [12:56:36] [REDACTED]

15 [REDACTED]

16 Q. [12:56:52] Thank you for that clarification.

17 I believe we can go into open session.

18 PRESIDING JUDGE MINDUA [12:57:04](Interpretation) Court officer, please take

19 us into open session.

20 THE COURT OFFICER: [12:57:09](Interpretation) We're already in open session,

21 your Honour.

22 PRESIDING JUDGE MINDUA: [12:57:10](Interpretation) Very well.

23 Ms Taylor, please continue.

24 MS TAYLOR: [12:57:14]

25 Q. [12:57:15] Now, Mr Witness, at transcript 164, page 31, you referred to an

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1 increase in Dawa preachers in Timbuktu in the years before 2012.

2 Is it correct that the Malian authorities were aware of their activities?

3 A. [12:57:55] Indeed. You can't say that it was hidden. It was something that
4 happened in all mosques. These preachers would even spend the night there.

5 Q. [12:58:05] And is it correct that the Malian authorities took no steps against
6 them?

7 A. [12:58:11] Indeed. No measures were taken against them. Or before that,
8 what was seen as a proliferation of mosques.

9 MS TAYLOR: [12:58:36] Mr President, I'm seeing it's 1 - sorry. 12.59. I have
10 obviously more questions, but I do believe - oh, we're still sitting until 1.30 Then
11 may I ask for Mr Al Hassan to be excused so that he may pray, with your leave.

12 PRESIDING JUDGE MINDUA [12:58:58](Interpretation) Certainly. Mr Al Hassan
13 is excused for prayer.

14 (Mr Al Hassan exits the courtroom)

15 MS TAYLOR: [12:59:13] Thank you very much, Mr President.

16 Q. [12:59:17] Now, Mr Witness, is it correct as well that the Malian army knew that
17 Al-Qaeda, also known as AQIM, was present in the north in the years before 2012?

18 A. [12:59:46] That's what we heard. Some even report that soldiers from the army
19 told them that they often met Al-Qaeda men.

20 Q. [13:00:03] Now, you've just testified that you heard that some soldiers said that
21 they often met soldiers from Al-Qaeda.

22 Did you also hear that there was a kind of tacit alliance in the sense that the state let
23 them be in exchange for fuel?

24 A. [13:00:25] I heard that said as well.

25 Q. [13:00:38] Can you - based on what you saw and heard at the time, can you

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1 describe the relationship of the Malian army to the civilian population in Timbuktu
2 during 2012.

3 A. [13:01:06] During the year 2012, the army was only present until the month of
4 April. So it was no longer there. So if we're talking about the first quarter of 2012,
5 there weren't any particular relations. Merely that the population deemed it was in
6 an insecure position, and, to their mind, the army was not doing its job to provide
7 them with security and protection.

8 Q. [13:01:51] Did you hear any instances when the Malian army searched people
9 who were travelling to and from Timbuktu, for example, if they tried to go to Mopti
10 or Bamako

11 PRESIDING JUDGE MINDUA: [13:02:19](Interpretation) Mr Prosecutor.

12 MR DUTERTRE [13:02:21](Interpretation) When are we talking about? 2000 2012?
13 2019? Could my learned friend please specify for the answer to be of use and for the
14 witness to know what he's being what's being talked of. He needs to know which
15 year, which period.

16 PRESIDING JUDGE MINDUA [13:02:39](Interpretation) Ms Taylor

17 MS TAYLOR: [13:02:40] I was speaking of 2012, but I'll make - I'll repeat 2012. I
18 had said specifically in my first question that I was speaking of 2012.

19 Q. [13:02:50] So, Mr Witness, speaking of the time period of 2012, including after
20 the arrival of the groups, did you hear of any instances where people travelling to and
21 from Timbuktu were searched by the Malian army?

22 A. [13:03:25] Indeed. I did hear that, and I even experienced it. Not only were
23 there searches, but there were threats, because in their mind, all those who had
24 remained in Timbuktu - who had not moved away or left - were possibly against
25 them.

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1 Q. [13:03:54] Now, Mr Witness, you've just said that you yourself experienced this.

2 Can you explain what happened to you and what you heard at the time.

3 A. [13:04:14] I remember that when travelling, because I travelled more than once,

4 it was coming into Mopti that we came up against problems. People were - well,

5 the baggages were being systematically searched. And if products such as milk or

6 other products were found - well, you know, you should know that there were

7 different groups. There was the gendarmerie, there was the army, and there was

8 also the customs men. And I remember one thing that was said -- I can't forget this.

9 They said, "They've started cutting off peoples' hands, and we'll come and finish you
10 off And I remember hearing that said And this was not something that was told
11 to me. I heard it.

12 Q. [13:05:19] And were - the people speaking, were they from the Malian
13 authorities?

14 A. [13:05:24] I believe so because they were soldiers. They were Malian soldiers.

15 Q. [13:05:43] And when they were searching you, did they find pretext to make
16 you pay money?

17 A. [13:05:50] They got people to pay, because if you did not have your ID card on
18 you, the police would make you cough up. But the soldiers, generally speaking,
19 didn't find anything compromising. It was the customs officials who would make
20 you pay, and they would make you pay customs duties for milk, for example.

21 Q. [13:06:33] Now, you've referred to the police, the soldiers, and the customs
22 authorities.

23 Are you -- are these all associated with the Malian authorities?

24 A. [13:06:45] I beg your pardon?

25 Q. [13:06:50] You mentioned the police, the soldiers, and the custom authorities.

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1 These three groups that you just mentioned, were they related to the Malian
2 authorities? That is, these were the Malian police, the Malian army, and the Malian
3 custom officers.

4 A. [13:07:14] Yes, indeed. Because when arriving in the area of Mopti, there are
5 various checkpoints for the police, the gendarmerie, and the customs

6 Q. [13:07:30] Now, it's correct, isn't it, that there was a coup d'etat in Bamako in
7 March 2012?

8 A. [13:07:51] Yes, indeed. There was a coup d'etat.

9 Q. [13:07:55] And when this occurred, would it be fair to say that the authorities in
10 the south were very much concerned with what was happening in Bamako rather
11 than what was happening in the north?

12 A. [13:08:07] In fact, when it occurred, the - the perpetrators put forward as a
13 pretext that the situation in the north was badly managed by the authorities, and this
14 was the reason why they made this incursion

15 Q. [13:08:42] And what was the impact of that incursion on the north?

16 A. [13:08:49] Well, this incursion precipitated the fall of the main cities of the north.
17 It was after the coup d'etat. On 31 March, Gao fell, and 1 April, Timbuktu fell into
18 the hands of the armed -- into the hands of the armed individuals.

19 Q. [13:09:34] Now, at transcript 164, page 30, lines 22 to 23, you testified that the
20 Arab militia

21 PRESIDING JUDGE MINDUA: [13:09:49](Interpretation) Mr Prosecutor.

22 MR DUTERTRE: [13:09:51](Interpretation) Could my learned friend specify whether
23 it's English or French. This is a request she herself voiced in the
24 examination-in-chief.

25 PRESIDING JUDGE MINDUA: [13:10:00](Interpretation) Yes, Ms Taylor.

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1 MS TAYLOR: [13:10:01] English. Thank you very much.

2 Q. [13:10:06] Transcript 164, page 30, lines 22 to 23, you testified that the Arab
3 militia was set up by the president, Amadou Touré.

4 Were there protests from the local population in relation to this development, this role
5 that was given to the Arab militia?

6 A. [13:10:50] I haven't understood the question.

7 Q. [13:10:52] Were there concerns among the local population in relation to the fact
8 that the state was arming one particular ethnic group, that is, the Arab militia?

9 A. [13:11:09] Of course this was a subject of concern.

10 PRESIDING JUDGE MINDUA [13:11:16](Interpretation) Ms Taylor, I'm just seeking
11 clarification. In the French transcript, at page 61, line 25 ... talking about the Malian
12 army that was set up by President Amadou Touré; whereas, in the English transcript,
13 it was the Arab militia: I remember that it was the Arab militia and not the Malian
14 army.

15 Please check in these two transcripts.

16 MS TAYLOR: [13:11:52] Certainly, Mr President. It should have been the Arab
17 militia. So I believe that's just an error in the French transcript.

18 Q. [13:12:02] Mr Witness, did you understand that I was asking about the Arab
19 militia and concerns by the local population about the fact that the government was
20 supporting the Arab militia?

21 A. [13:12:16] I hadn't understood that. Now I do.

22 Q. [13:12:26] So, Mr Witness, now that that's clear, is it correct that there were
23 concerns among the local population about the fact that the Arab militia had been
24 given this role of protecting the population?

25 A. [13:12:58] Yes, indeed. The population did voice its concerns, especially the

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1 youth, the black youth, who asked also to be provided with weapons. It is not
2 normal to arm an ethnic group, but the population was not taken into consideration.

3 Q. [13:13:26] Now, speaking specifically of the Arab militia, is it correct that some
4 of them wore turbans?

5 A. [13:13:37] Indeed, one should say that everyone did, because the climate of the
6 north obliged everyone to wear turbans.

7 Q. [13:13:59] You've anticipated my next question, Mr Witness, which you've just
8 confirmed, which was that, it's correct, isn't it, that the different groups in Timbuktu
9 wear turbans?

10 A [13:14:12] Indeed

11 MR DUTERTRE: [13:14:20](Interpretation) Mr President, what "different groups" are
12 we talking about? It's a general question and an answer that doesn't enable us to
13 understand. Who are we talking about and when?

14 PRESIDING JUDGE MINDUA [13:14:36](Interpretation) Yes, indeed
15 Ms Taylor, please be specific.

16 MS TAYLOR: [13:14:39] Mr President, I do believe the witness had said that
17 everyone wore turbans.

18 PRESIDING JUDGE MINDUA [13:14:57](Interpretation) Yes Yes.

19 MS TAYLOR: [13:15:00] That necessarily encompasses the different groups. Sorry.

20 Q. [13:15:04] Now

21 PRESIDING JUDGE MINDUA: [13:15:09](Interpretation) No. Please have the
22 witness specify which groups, which period. It's important.

23 MS TAYLOR: [13:15:17]

24 Q. [13:15:18] Now, Mr Witness, it's correct, isn't it, that turbans are worn by all the
25 different ethnic groups in Timbuktu?

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1 A. [13:15:30] Yes, indeed. It's imposed by the climate.

2 (Mr Al Hassan enters the courtroom)

3 PRESIDING JUDGE MINDUA: [13:15:45](Interpretation) I'm going to make the
4 most of this pause to have it noted on the record that Mr Al Hassan has returned to
5 the courtroom.

6 Ms Taylor.

7 MS TAYLOR: [13:15:55]

8 Q. [13:15:56] Now, turning to the last days of March, it's correct, isn't it, that
9 Timbuktu was, at this point in time, circled by rebels from the MNLA?

10 A. [13:16:12] That's what we were told. We received this information

11 MS TAYLOR: [13:16:32] If we could bring up Defence tab 43. It's

12 MLI-D28-0005-8295. If we scroll to 8297 to get the title It's an article titled

13 (Interpretation): "Timbuktu Surrounded by the MNLA.

14 (Speaks English) It's dated 31 March 2012.

15 And if we could scroll down.

16 Q. [13:17:49] Mr Witness, can you see this last paragraph, starting with "Par
17 ailleurs ..."?

18 A. [13:18:00] Yes.

19 Q. [13:18:00] And it refers to a meeting between Timbuktu notables and the MNLA
20 during which the MNLA expressed their intention to come into Timbuktu

21 A. [13:18:32] To my knowledge, there was no meeting between the MNLA and the
22 notables of Timbuktu. Rather, it was between the notables and the elements of the
23 Arab militia, who were supposed to be protecting the city.

24 Q. [13:18:58] Do you know an individual called Mohamed Ag Najim?

25 A. [13:19:06] Mohamed?

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1 Q. [13:19:09] I apologise Mohamed Ag Najim.

2 A. [13:19:30] I heard speak of Mohamed "Ould" Najim rather than "Ag.

3 Q. Was this person called Mohamed Ould Najim a leader of the MNLA?

4 A. [13:19:56] Yes. People spoke to me about Mohamed Ould Najim who was one
5 of the ideologists of the MNLA.

6 Q. [13:20:16] Do you know if he was involved in negotiations on 31 March when
7 the MNLA was surrounding Timbuktu?

8 A. [13:20:29] No, I do not know.

9 Q. [13:20:32] Now, Mr Witness, another Prosecution witness - it's P-65 - testified,
10 transcript 45, pages 40 to 50, lines 25 to 5 He's describing the role played by the
11 Arab militia on 1 April and its links to the Malian army and the MNLA. And he
12 stated the following:

13 "The city was in total chaos. And since the Arab groups were with the Malian army
14 and they even oversaw the departure of the Malian army from the city, because there
15 was coordination with MNLA outside and there was coordination with the Malian
16 army and this double role was supported, so they were the first to reap the fruit of
17 that departure and they were the first to make their way to the barracks of the Malian
18 army.

19 Now, this individual, P-65, describes the Arab militia playing a double role,
20 coordinating with both the Malian army and the MNLA.

21 Is that inconsistent with what you yourself heard or saw?

22 A. [13:22:04] Indeed. Because as I said, it was this Arab militia that informed the
23 population that the city was surrounded, without saying by whom. Just said that it
24 was surrounded by armed individuals and that they were requiring the departure of
25 the Malian army from Timbuktu, a condition that would mean that they could enter

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1 without harming anybody.

2 Q. [13:22:34] Now, turning to the arrival of the MNLA, is it correct that after they
3 entered, they entered and took property from public or private buildings?

4 A. [13:22:48] Indeed. When they entered, they started to loot the public buildings
5 and private businesses

6 Q. [13:23:15] And did they take furniture and computers from public buildings?

7 A. [13:23:24] Yes, indeed.

8 One should specify that they carried on, because it was the Arab militia that started
9 looting at the military camp and some banks.

10 Q. [13:23:45] And do you know or did you hear about the MNLA or locals taking
11 solar panels or batteries?

12 A. [13:23:56] Yes, I did hear that

13 Q. [13:24:07] And did this affect the electricity supply?

14 A. [13:24:13] In fact, the lighting system - well, solar energy is not used for that.
15 It's motors, generators. So it didn't have any impact upon the production of
16 electricity.

17 Q. [13:24:48] Were any generators stolen?

18 A. [13:24:52] Were any?

19 Q. [13:25:01] Were any generators stolen during this period of looting?

20 A. [13:25:08] In fact, there were private generators that were taken away, but the
21 electricity centre that was supplying the city - well, there was the intention of
22 burning it down, just the intention. But this was put a stop to by Ansar Dine.

23 Q. [13:25:51] Is it the case when the MNLA entered Timbuktu there was no reaction
24 from the state?

25 A. [13:25:59] There was no reaction on the part of the state because the army was

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1 not there, and the various states or the various services of the state did not dare come
2 out. And in the following weeks, most of them left the city.

3 Q. [13:26:32] Mr Witness, you said that Ansar Dine put a stop to it.

4 Is it correct that Ansar Dine took steps to reduce this looting and the crime that
5 happened in the first couple of days?

6 A. [13:26:49] Yes, indeed.

7 Q. [13:27:00] And did this include setting up a green number that locals could use
8 to report crimes or make complaints?

9 A. [13:27:09] Yes, indeed.

10 Q. [13:27:18] And if someone called this number, they would be given prompt
11 assistance from Ansar Dine?

12 A. [13:27:27] Yes, indeed. Whenever there was this type of call, the reaction was
13 prompt.

14 Q. [13:27:51] Is this something you yourself saw with your own eyes

15 A. [13:27:56] I saw it on more than one occasion, because when we're talking about
16 looting or cars or vehicles being taken away, if it's a private vehicle, the Ansar Dine
17 elements would intervene to say that it is a private vehicle, and if so, they should not
18 be taken.

19 But if it's for the state, then there were full powers.

20 And even those vehicles that were taken away, they well, all those vehicles that
21 were taken away, if they could establish that it was for them, then Ansar Dine would
22 retrieve them in order to give them back.

23 I was a witness to that.

24 Q. [13:28:52] So is it correct, Mr Witness, that this green number included assisting
25 people to get property back, including property that had been stolen by the MNLA or

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1 other locals

2 A. [13:29:09] Yes. Indeed, they passed the information on. And all those people
3 whose private property was taken and they can justify, then they would be assisted in
4 retrieving them.

5 Q. [13:29:39] So you've referred to the people justifying.

6 Is it correct that part of this role included working out what belonged to whom?

7 A. [13:29:49] Indeed. Because when we're talking about a vehicle, they asked for
8 the vehicle's papers to be brought along. And if it's a private vehicle, then, of course,
9 the papers will be in the name of the - of the interested party, and it is a form of
10 justification.

11 MS TAYLOR: [13:30:25] Mr President, I see that it's now 1.30. I believe that this
12 might be a - a good opportunity to break.

13 PRESIDING JUDGE MINDUA: [13:30:36](Interpretation) You are right, Ms Taylor.

14 We shall rise for an hour for the lunch break - it's a shorter lunch break today - and
15 we shall reconvene at 2.30 this afternoon.

16 The Court - the hearing is suspended

17 THE COURT USHER: [13:30:55] All rise.

18 (Recess taken at 1.30 p.m.)

19 (Upon resuming in open session at 2.31 p.m.)

20 THE COURT USHER: [14:31:59] All rise.

21 Please be seated.

22 PRESIDING JUDGE MINDUA: [14:32:05](Interpretation) The hearing shall now
23 resume. We continue with cross-examination by the Defence.

24 Ms Taylor, please proceed.

25 MS TAYLOR: [14:32:23] Thank you very much, Mr President.

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1 Q. [14:32:27] How are you, Mr Witness, this afternoon?

2 A. [14:32:33] I'm well.

3 Q. [14:32:37] I'm glad.

4 Now, Mr Witness, is the commune of Essakane considered to be in a general area of
5 Timbuktu?

6 MS TAYLOR: [14:32:55] Perhaps if my colleague, Maître Youssef, can say it instead
7 of me. I don't know if I'm pronouncing it properly. With your leave, Mr President.

8 PRESIDING JUDGE MINDUA: [14:33:07](Interpretation) Yes. Certainly.

9 MR YOUSSEF: [14:33:12](Interpretation) Essakane commune.

10 THE WITNESS [14:33:19](Interpretation) Yes. It is indeed part of the Timbuktu
11 region.

12 MS TAYLOR: [14:33:22] And with your leave, Mr President, if my colleague, Maître
13 Youssef, could now say the name of a town that's in Essakane.

14 PRESIDING JUDGE MINDUA [14:33:38](Interpretation) Yes. Certainly.

15 Mr Youssef.

16 MR YOUSSEF: [14:33:45](Interpretation) Aryao

17 MS TAYLOR: [14:33:49]

18 Q. [14:33:50] Mr Witness, did you hear the name of that town?

19 A. [14:33:55] Yes, but I don't know that name. Is it - I believe it's part of
20 Goundam Circle, not Timbuktu.

21 Q. [14:34:09] So, Mr Witness, you're not aware that Aryao is in the Essakane
22 commune. Is that what you're saying?

23 A. [14:34:21] I don't know.

24 Q. [14:34:24] Now, Mr Witness, before the break, we were discussing the
25 verification process at the beginning of the arrival of the groups or just after their

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1 arrival.

2 Now, when Ansar Dine was carrying out this verification process, were they
3 sometimes given false information?

4 A. [14:35:05] To my knowledge, I didn't hear anything about that.

5 Q. [14:35:11] Do you recall writing that you'd been told by Mr Al Hassan that he
6 had been given false information about a car before it was returned to the rightful
7 owner and that was the reason for the mistake?

8 A. [14:35:51] Yes. I do have knowledge of that.

9 Q. [14:35:53] Now, at transcript 165
10 So with the leave of the Presiding Judge, I believe it'd be better to go into private
11 session for the following questions.

12 PRESIDING JUDGE MINDUA [14:36:06](Interpretation) Certainly, Ms Taylor.
13 Court officer, private session, please.

14 (Private session at 2.36 p.m.)

15 THE COURT OFFICER: [14:36:31](Interpretation) We are in private session.

16 PRESIDING JUDGE MINDUA [14:36:32](Interpretation) Thank you.

17 Ms Taylor.

18 MS TAYLOR:

19 Q. [14:36:34] Now, at transcript 165, English, page 83, you mentioned a car
20 belonging to an individual named [REDACTED] and you mentioned going to a garage and
21 no one was there after it had been taken.

22 Is it correct, Mr Witness, that you didn't see the people who took the car?

23 A. [14:37:01] I didn't see them. I heard that they had taken it.

24 Q. [14:37:07] Is it correct that you don't know the particular individuals that took
25 it?

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- 1 A. [14:37:14] No. I don't know them.
- 2 Q. [14:37:28] Now, after you discovered it'd been taken, it's correct, isn't it, that you
- 3 had first went to complain to Adama?
- 4 A. [14:37:42] Yes. That is correct.
- 5 Q. [14:37:46] And that was because he was the commissioner at the time. That's
- 6 correct?
- 7 A. [14:37:55] Exactly.
- 8 Q. [14:37:58] And it's correct, isn't it, that the Islamic police would receive
- 9 complaints from the local population?
- 10 A. [14:38:07] Yes. That's correct
- 11 Q. [14:38:20] Now [REDACTED] it's right, isn't it, that
- 12 he wasn't in Timbuktu in 2012 when Ansar Dine was there?
- 13 A. [14:38:38] He wasn't in Timbuktu in 2012.
- 14 Q. [14:38:41] Was he in [REDACTED]
- 15 A. [14:38:45] Yes. He was [REDACTED] to be specific.
- 16 Q. [14:38:57] Now, did you give [REDACTED] the green number that we referred to
- 17 previously or a number where you thought he could reach Adama?
- 18 A. [14:39:09] Actual - the number that I gave to him was the number that Hassan
- 19 himself gave and it was for the number of [REDACTED] He asked me to give him
- 20 [REDACTED]'s number.
- 21 Q. [14:39:46] Do you know an individual called [REDACTED] (phon)?
- 22 A. [14:40:05] Yes. I know that person.
- 23 Q. [14:40:06] Was he also involved in this issue?
- 24 A. [14:40:21] Yes. He was a [REDACTED] member.
- 25 Q. [14:40:28] Are you in a position to know whether he gave [REDACTED] the number

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1 of Adama or a number to contact Adama?

2 A. [14:40:39] I don't know.

3 Q. [14:40:50] What languages did [REDACTED] speak?

4 A. [14:40:54] He speaks Arabic [REDACTED] and a little bit of French. He's [REDACTED]

5 [REDACTED] I suppose.

6 Q. [14:41:17] Well, that's three more than me.

7 Now, to your knowledge, did Adama use Al Hassan as an interpreter when he
8 couldn't communicate fully with people?

9 A. [14:41:31] I think so, because Al Hassan understood French perfectly and
10 Songhai.

11 Q. [14:42:00] Now, is it correct that you gave [REDACTED] s number to the Prosecution?

12 A. [14:42:10] To whom?

13 Q. [14:42:15] The ICC Prosecution.

14 A. [14:42:20] Yes The number that I was given I gave to them

15 Q. [14:42:29] Now, is it correct that these interactions concerning [REDACTED] and
16 Hassan and Adama, that they occurred on 11 July 2012

17 A. [14:42:42] I don't remember the exact date.

18 Q. [14:42:56] Understandable

19 If we could bring up OTP tab 2. That's MLI-OTP-0003-0062, at 0135, and the
20 transcribed version is OTP tab 3. That's MLI-OTP-0064-0608, at 0682.

21 Mr Witness, do you have these in front of you? I believe you should have the
22 Prosecution binder. So I believe we have the transcribed version on the screen.

23 And it says:

24 "Mercredi - saying [REDACTED]

25 Does that refresh your memory as concerns the date?

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1 A. [14:44:34] Yes

2 MS TAYLOR: [14:44:36] If we could bring up Defence tab 73 on evidence 2. It's

3 MLI-OTP-0031-1197.

4 Q. [14:45:16] Mr Witness, it might need to be scrolled in for you, but this is call

5 records from [REDACTED] And at row [REDACTED] we have a number [REDACTED] It's

6 receiving a call from a number which is [REDACTED] a [REDACTED] for a duration of [REDACTED]

7 [REDACTED] And then in the row below, we see the same [REDACTED] number calling a local

8 number for a duration of [REDACTED]

9 Now, Mr Witness [REDACTED] fo [REDACTED]

10 Do you recognise this number

11 A. [14:46:46] Yes.

12 Q. [14:46:47] Is that the number of [REDACTED]

13 A. [14:46:48] I can't make it out. It's kind of blurry, and I don't have the number

14 right off the top of my head.

15 Now I can see it.

16 Q. [14:47:07] Does that seem to be familiar It may be that we need to ask the

17 Prosecution to lift the redaction on a document which has the number that you gave

18 to the Prosecution.

19 But does this appear to be familiar to you?

20 A. [14:47:23] Which number?

21 Q. [14:47:39] The number [REDACTED]

22 A. [14:47:47] I don't recognise it I -- I don't remember it

23 Q. [14:47:50] Understood. It might be that we, therefore, have to ask the

24 Prosecution to lift the redaction to the document at Defence tab 51 which has the

25 number of [REDACTED] in it.

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1 Now, if we can then go to

2 Do you recognise the other number ending with [REDACTED]?

3 A. [14:48:17] No.

4 MS TAYLOR: [14:48:20] Okay. If we can bring up Defence tab 72. It's

5 MLI-OTP-0031-0818.

6 Q. [14:48:40] And at row [REDACTED] we have the sam [REDACTED] number, that's

7 [REDACTED] calling a number [REDACTED] And they're calling them at [REDACTED] So

8 that's an hour and a half later. And there is a call of a longer duration.

9 Do you recognise any of these numbers?

10 A [14:49:19] No

11 Q. [14:49:31] Now, Mr Witness, did [REDACTED] tell you that he had tried to speak to

12 Adama and had difficulties communicating with him?

13 A. [14:49:45] No.

14 Q. [14:49:47] So is it the case, Mr Witness, you're not in a position to say whether

15 [REDACTED] spoke to Adama before speaking to Hassan?

16 MR DUTERTRE: [14:50:02](Interpretation) Your Honour.

17 PRESIDING JUDGE MINDUA: [14:50:04](Interpretation) Prosecutor.

18 MR DUTERTRE: [14:50:07](Interpretation) The witness was just saying, "No, I'm not

19 in a position to. But the question is repetitive.

20 As for the number, if my learned friend could look at page 37 and that is in the

21 logbook for the numbers "numbers" in the plural.

22 PRESIDING JUDGE MINDUA: [14:50:28](Interpretation) Yes, Ms Taylor, the

23 witness has already answered several times.

24 MS TAYLOR: [14:50:41] Thank you, Mr President.

25 Q. [14:50:43] Now, apart from issues of crime and insecurity

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1 I believe we can actually go into open session, Mr President.

2 PRESIDING JUDGE MINDUA: [14:50:58](Interpretation) Court officer, if you could.

3 (Open session at 2.51 p.m.)

4 THE COURT OFFICER: [14:51:10](Interpretation) We are in open session.

5 PRESIDING JUDGE MINDUA: [14:51:18](Interpretation) Thank you.

6 Ms Taylor.

7 MS TAYLOR: [14:51:22]

8 Q. [14:51:23] Now, Mr Witness, apart from issues of crime and insecurity, is it
9 correct that Timbuktu was already on the verge of a humanitarian catastrophe in
10 March 2012?

11 A. [14:51:45] Perhaps not a catastrophe, but there were problems with supplies.

12 Q. [14:52:06] Had there been droughts earlier in the year?

13 A. [14:52:10] Not a drought, but the rains were not good. The rainfall was not
14 good

15 Q. [14:52:20] And is it correct that the withdrawal of state authorities from
16 Timbuktu affected the subsidisation of agriculture activities?

17 A. [14:52:51] Of course it would have had an impact on those activities for the three
18 main plains in Timbuktu.

19 Q. [14:53:06] And is it correct that theft from bandits or locals impacted on food
20 distribution insecurity?

21 A. [14:53:17] Yes. There were some cases reported.

22 Q. [14:53:33] Now, it's right, isn't it, that Ansar Dine took measures to ensure that
23 essential services weren't affected by theft or banditry?

24 A. [14:53:51] That is correct.

25 MS TAYLOR: [14:54:05] I'd like to bring up a document. It's MLI-OTP-0080-4451.

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1 And I'll just get the tab number. It's tab 56, Defence binder.

2 I believe we'll need to go into private session briefly, but then I can ask follow-up
3 questions in open session.

4 PRESIDING JUDGE MINDUA: [14:55:05](Interpretation) Court officer, if you could.
5 (Private session at 2.55 p.m.)

6 THE COURT OFFICER: [14:55:13](Interpretation) We are in private session.

7 PRESIDING JUDGE MINDUA: [14:55:23](Interpretation) Thank you.

8 Ms Taylor.

9 MS TAYLOR: [14:55:27] Thank you.

10 Q. [14:55:30] Now, is that in front of you, Mr Witness Can you see [REDACTED]

11 A. [14:55:39] Yes, I can.

12 Q. [14:55:40] [REDACTED]

13 A. [14:55:44] [REDACTED]

14 Q. [14:55:52] And I'll give you time to have a look through it. [REDACTED]

15 [REDACTED]

16 A. [14:56:01] * I can't read it. I no longer have it right in front of me.

17 MS TAYLOR: [14:56:14] If we can scroll down so the witness can see.

18 Q. [14:57:24] Does this jog your memory, Mr Witness? Does it ...

19 A. [14:57:29] Yes.

20 MS TAYLOR: [14:57:31] Mr President, with your leave, if my colleague,

21 Maître Youssef, can read out a paragraph. And then I can ask following questions in
22 open session.

23 PRESIDING JUDGE MINDUA: [14:57:43](Interpretation) Very well. Go ahead,
24 Mr Youssef.

25 THE INTERPRETER: [14:57:46] Sight translation:

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1 MR YOUSSEF: [14:57:47](Interpretation)

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7 End of quote.

8 THE INTERPRETER: [14:58:51] End of sight translation.

9 PRESIDING JUDGE MINDUA: [14:58:52](Interpretation)

10

11 MS TAYLOR: [14:58:58] Thank you very much, Mr President.

12 Q. [14:59:00] Mr Witness,

13 A. [14:59:13] Yes. Exactly.

14 Q. [14:59:13] So is it correct that Ansar Dine provided a form of security

15 PRESIDING JUDGE MINDUA: [14:59:23](Interpretation) Madam Court Officer,

16 open session, please

17 (Open session at 2.59 p.m.)

18 THE COURT OFFICER: [14:59:36](Interpretation) We are back in open session.

19 PRESIDING JUDGE MINDUA: [14:59:39](Interpretation) Thank you.

20 Ms Taylor.

21 MS TAYLOR: [14:59:42] Thank you, Mr President.

22 Q. [14:59:43] Now, we're now in open session.

23 that we just referred to that was written by Mr X refers to Ansar Dine

24 providing a form of security to the hospital, the EDM, the markets, and for strategic

25 services.

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1 Is that consistent with what you yourself saw and heard at this time?

2 A. [15:00:20] Yes, it does correspond to that.

3 Q. [15:00:26] And at the time, was this considered to be a positive contribution to
4 the well-being of the local population?

5 A. [15:00:41] To a certain extent, yes, because when one is shipwrecked, one grabs
6 whatever one can get hold of.

7 Q. [15:00:59] Now, the post by Mr X made a distinction between independence and
8 a Mali indivisible.

9 Is it correct that there was support for Ansar Dine because it was not attempting to
10 have the north separate as compared to the MNLA?

11 A. [15:01:23] Indeed, because that is the difference of the ideology between the
12 MNLA and the Ansar Dine. The MNLA is independent in the sense that it wanted
13 to free Azawad; whereas, Ansar Dine could see that it wanted to have Sharia
14 throughout the entire territory, and it could see Mali in its - as a united entity but
15 with Sharia throughout its entire territory.

16 Q. [15:02:18] Now, Mr Witness, speaking of the first couple of months - this is like
17 April, May, June - during this period, did the MNLA steal food from the Total
18 station?

19 A. [15:02:39] Indeed. When the MNLA was driven out of the city of Timbuktu, it
20 occupied the airport and both ports, Kabara and Koriomé. And the Total stocks of
21 fuel were in Kabara, and they seized this or these stocks.

22 Q. [15:03:10] So you just mentioned them seizing the fuel stocks at Kabara.
23 Did that lead to electricity shortages in Timbuktu?

24 A. [15:03:27] Indeed, it did have an effect on electricity supplies. And the - that
25 serving as an interface, that is to say, the crisis committee had to approach them in

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1 order to get fuel and had to, therefore, go to see Ansar Dine in order to get fuel.

2 Q. [15:03:53] I apologise for interrupting, Mr Witness.

3 If I may just respectfully ask the Presiding Judge if Mr Al Hassan can be allowed to
4 leave the courtroom to pray, with your leave, since it's 3 o'clock.

5 PRESIDING JUDGE MINDUA: [15:04:13](Interpretation) Yes, indeed. Mr Al
6 Hassan, you are excused in order to go and pray.

7 (Mr Al Hassan exits the courtroom)

8 Ms Taylor.

9 MS TAYLOR: [15:04:35]

10 Q. [15:04:36] Now, Mr Witness, you were mentioning the crisis committee acting as
11 an interface to get fuel.

12 Is it correct that they met with Colonel Bouna from the MNLA to discuss this issue

13 A. [15:04:59] Yes.

14 Q. [15:04:59] And those discussions weren't successful, were they? They - they
15 didn't bear fruit.

16 A. [15:05:14] Well, on each occasion that one intervened in such a case, one did
17 obtain satisfaction.

18 Q. [15:05:23] But it's correct, isn't it, that [REDACTED]n't able to solve the issue of fuel
19 with the MNLA?

20 A. [15:05:38] One should say that on every time that one called upon them,
21 they - they - they did find - they did supply fuel for [REDACTED] the generators, for the
22 motors.

23 Q. [15:05:58] Now, when you called on them [REDACTED]travelled to the airport, is
24 it correct that you had to travel through MNLA checkpoints?

25 A. [15:06:08] Yes, of course. We did have to go through checkpoints before

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1 getting to ...

2 THE INTERPRETER: [15:06:31] Inaudible. The witness is mumbling.

3 MS TAYLOR: [15:06:36] We have a response in the French.

4 Q. [15:06:44] Now, just to be clear, Mr Witness, it's correct that these checkpoints
5 were MNLA checkpoints staffed by MNLA members?

6 A. [15:06:58] I beg your pardon?

7 Q. [15:07:01] These checkpoints that we were just discussing, they were staffed - or
8 "manned", not the first word, by MNLA members or officers or soldiers?

9 A. [15:07:29] Yes. It was the elements of the MNLA who were carrying out the
10 checks, and they would note down our telephone numbers and check that we were
11 not carrying weapons.

12 Q. [15:07:48] And would they also search you?

13 A. [15:07:52] I'm sorry?

14 Q. [15:07:56] And during these checks, would they also search you?

15 A. [15:08:07] Yes. In a way, yes.

16 Q. [15:08:14] Now, it's correct, isn't it, that Ansar Dine set up a committee for the
17 distribution of aid?

18 A. [15:08:34] Yes. They did indeed set up a committee where they had some
19 representatives.

20 Q. [15:08:44] And it's also correct that this committee for distribution included
21 members of the crisis committee?

22 A. [15:08:51] Yes. There were representatives from the crisis committee within
23 said committee.

24 Q. [15:09:04] And it's right, isn't it, that Abou Zeid recommended that the
25 committee make regular reports concerning the distribution of aid?

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1 A. [15:09:14] It is correct, and he even requested that there be a report drafted after
2 each distribution.

3 Q. [15:09:31] Now, isn't it true that the purpose of this recommendation was to
4 ensure transparency concerning how the aid was distributed?

5 A. [15:09:41] Yes. It was in fact that. Yes.

6 Q. [15:09:55] And it's correct that this was to prevent theft or unfair distribution.

7 A. [15:10:05] That was the aim.

8 Q. [15:10:12] Now, is it correct that when Ansar Dine took control of the fuel
9 supply at Kabara, they used it to help get the electricity working better?

10 A. [15:10:26] Well, in fact, Ansar Dine did not take over control of the fuel part It
11 was - it remained within the hands of the MNLA who used it until their departure.
12 What Ansar Dine did, when we organised contribution on the part of the population,
13 each family would give money. And we had a certain sum of money that would fill
14 the gaps for -- in order for us to be able to buy fuel

15 Q. [15:11:22] I think it might help if I'm clearer about the time period I'm speaking
16 of. I'm speaking of the time period of August and onwards.

17 Is it correct that Ansar Dine assisted the EDM?

18 A. [15:11:56] As I explained, it was the crisis committee that looked into this,
19 collecting money from the population. And Ansar Dine would provide its
20 contribution to make up the shortfall for us to be able to have the necessary fuel.

21 MS TAYLOR: [15:12:10] If I can play a video. It's Defence tab 37. It's
22 MLI-OTP-0012-1562. It's a video dated 23 August 2012, and I'll play the first couple
23 of seconds without sound. I'll play it on evidence 2.

24 (Viewing of the video excerpt)

25 MS TAYLOR: [15:12:57] We're stopping at 5:15.

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- 1 Q. [15:13:01] Now, Mr Witness, do you recognise any of the individuals on the
2 screen?
- 3 A. [15:13:10] I do recognise them.
- 4 Q. [15:13:14] And who do you see?
- 5 A. [15:13:17] I'm sorry?
- 6 Q. [15:13:21] What are their names?
- 7 A. [15:13:24] One of them is Sanda Ould Boumama, the one wearing a turban with
8 the beard. And the one to the left of the screen is the man who played the role of the
9 director of the EDM in Timbuktu.
- 10 Q. [15:13:53] And what is his name?
- 11 A. [15:14:02] His name is Lamine Bocar Alainchar.
- 12 Q. [15:14:09] And can you explain to the Chamber what the EDM is.
- 13 A. [15:14:15] EDM is the acronym for Énergie du Mali, Energy of Mali, for the
14 supply of electricity.
- 15 In each region, there is no regional power plant, and this was the Timbuktu EDM
16 power plant, the Énergie du Mali power plant.
- 17 Q. [15:14:41] I'm going to play the video with sound, and the transcript is tab 38.
18 It's MLI-D28-0005-8210.
- 19 If the interpreters could kindly indicate when they're ready.
- 20 THE COURT OFFICER: [15:15:08] Could the Defence kindly indicate whether the
21 video should be played in public session or private session. Thank you.
- 22 MS TAYLOR: [15:15:15] I believe that will be for the Prosecution to indicate. Do
23 they have any objection to it being played in open session?
- 24 We can, out of an abundance of caution, play it in private session.
- 25 PRESIDING JUDGE MINDUA: [15:15:44](Interpretation) Mr Prosecutor.

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- 1 MR DUTERTRE: [15:15:47](Interpretation) I believe that we can play it in open
2 session. We can see this gentleman who doesn't have a turban with Mr Ould
3 Boumama who is indeed wearing a turban.
- 4 THE INTERPRETER: [15:16:13] Message from the English booth: Could we please
5 be told exactly where we want to proceed from in the transcript
- 6 PRESIDING JUDGE MINDUA: [15:16:14](Interpretation) Very well. We remain in
7 open session.
- 8 Madam Courtroom Officer, are we?
- 9 THE COURT OFFICER: [15:16:18](Interpretation) We are already in open session.
- 10 PRESIDING JUDGE MINDUA [15:16:19](Interpretation) Ms Taylor, please
11 continue.
- 12 MS TAYLOR: [15:16:21] We're going to start from the beginning and play until the
13 end.
- 14 (Viewing of the video excerpt)
- 15 THE INTERPRETER: [15:16:37] "We are happy to have received
16 The interpreter could not find the section in the transcript. Apologies. Could we
17 stop, please.
- 18 MS TAYLOR: [15:16:47] I believe there's a problem with the interpreters not being
19 able to find it. It's in the very beginning of the transcript.
- 20 THE INTERPRETER: [15:16:53] Is it MLI-D28-0005-8264?
- 21 MS TAYLOR: [15:17:02] It's 8210.
- 22 THE INTERPRETER: [15:17:03] Oh. Could you please repeat the name of the tab,
23 please.
- 24 THE COURT OFFICER: [15:17:06] The transcript is on evidence 1 for the
25 interpreters.

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1 THE INTERPRETER: [15:17:09] Many thanks, indeed. Thank you, Madam
2 Courtroom Officer.
3 Thank you. I'm ready.
4 MS TAYLOR: [15:17:15] I believe I'll go back to the beginning.
5 THE INTERPRETER: [15:17:17] Apologies
6 MS TAYLOR: [15:17:18] It's my fault. Sorry about that.
7 (Viewing of the video excerpt)
8 THE INTERPRETER: [15:17:29] (Interpretation of the video excerpt)
9 "Speaker number 1: We are happy we've just received ten barrels of fuel from
10 Mr Djibril Bari, he is from the Union of Sahel A generous donator whom we would
11 like to thank infinitely ... we really would like to thank him. And we hope that the
12 national opinion will be able to thank him on our behalf. We're very grateful to him
13 for the effort that he has furnished. It will enable us to - whatever the effort
14 provided in this half day, it is going to be able - it's going to enable us to function.
15 We thank him, and we thank God.
16 Third speaker: And what message would you like to address to the goodwill of
17 those who would also like to follow suit and do the same as Djibril?
18 First speaker: Really, we would like this goodwill that would be able to, time to time,
19 help us in such a situation. Because up to date, we have had little issues, and we
20 have had great problems because we have no fuel And even as fuel is becoming
21 more and more rare and difficult to come by, even in the streets of Timbuktu, if we
22 have people who are - who are of goodwill and who can bring us fuel, if we are in
23 need, of a minimum of 4,000 litres per day. And in the situation that we are in, if we
24 don't have a stock of more than 20,000 litres and (inaudible) we have - we have
25 approximately five ...

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1 Unintelligible.

2 "If we have people of goodwill who can help us, we can always thank them. And oil,
3 of course, because we have forgotten about oil which we need for maintenance.

4 There are also generators that have oil issues that can consume up to 416 litres, and
5 they will need to have a change of filter. And that amounts to two barrels. And if
6 we can have goodwill from people who can help us, that will also be of great service
7 to us, because when oil runs out, we have to, of course - and that everyone knows,
8 we need to change filters, and this -- and this happens at a certain time. We need to
9 change a filter, and here, we are very thankful. We really are very happy. Thank
10 you very much.

11 End of sight translation.

12 PRESIDING JUDGE MINDUA [15:20:22](Interpretation) There we are.

13 (Mr Al Hassan enters the courtroom)

14 PRESIDING JUDGE MINDUA [15:20:24](Interpretation) I was waiting for the end
15 of the interpretation in order to have note taken on the record that Mr Al Hassan has
16 returned to the courtroom

17 Ms Taylor.

18 MS TAYLOR: [15:20:48]

19 Q. [15:20:49] Mr Witness, the person speaking, the director of the EDM, was
20 referring to great problems that they had previously because of a lack of fuel.

21 Is it correct that he's referring to the problems that happened when the MNLA stole
22 fuel from the Total station?

23 PRESIDING JUDGE MINDUA: [15:21:16](Interpretation) Mr Prosecutor.

24 MR DUTERTRE: [15:21:18](Interpretation) Mr President, my learned friend has not
25 established the date of this video. And what is more, she is calling upon the witness

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- 1 to speculate entirely as to what this non-turbaned individual is referring to.
- 2 PRESIDING JUDGE MINDUA: [15:21:31](Interpretation) Indeed, I am in agreement
- 3 with these two concerns brought to the fore by the Prosecution.
- 4 Ms Taylor.
- 5 MS TAYLOR: [15:21:40] I'll rephrase my question and invite the Prosecution to
- 6 desist from commentary.
- 7 Q. [15:21:47] Now, Mr Witness, is it correct that the theft of fuel that you
- 8 mentioned impacted on the electricity supply in Timbuktu?
- 9 A. [15:22:03] Of course it had an impact on the supply of electricity in Timbuktu.
- 10 Q. [15:22:19] Now, this is a video dated 23 August 2012
- 11 Were you aware of efforts that were taken to obtain gas oil from Monsieur Djibril Bari
- 12 from the Sahel union
- 13 Djibril Bari, D-J-I-B-R-I-L, B-A-R-I, from the Sahel union.
- 14 A. [15:23:11] I'm sorry?
- 15 Q. [15:23:23] Were you aware that the EDM received a donation of gas oil from a
- 16 Monsieur Djibril Bari? That's D-J-I-B-R-I-L, B-A-R-I.
- 17 A. [15:23:56] I was not aware of that, because what I was aware of was the action
- 18 taken by the crisis committee to obtain fuel and other basic necessities.
- 19 MS TAYLOR: [15:24:13] Mr President, if I may, with your leave, ask a question in
- 20 private session.
- 21 PRESIDING JUDGE MINDUA: [15:24:31](Interpretation) Yes, indeed.
- 22 Madam Courtroom Officer, private session, please.
- 23 (Private session at 3.24 p.m.)
- 24 THE COURT OFFICER: [15:24:37](Interpretation) We are in private session,
- 25 Mr President.

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1 PRESIDING JUDGE MINDUA: [15:24:39](Interpretation) Thank you very much,
2 Madam Courtroom Officer.

3 Ms Taylor.

4 MS TAYLOR: [15:24:46]

5 Q. [15:24:47] Now, Mr Witness, [REDACTED]

6 [REDACTED] Is it correct that [REDACTED]

7 [REDACTED] fuel and electricity?

8 A. [15:25:02] Indeed, because [REDACTED]

9 [REDACTED]
10 donations et cetera, et cetera

11 MS TAYLOR: [15:25:36] If we can go back into open session.

12 PRESIDING JUDGE MINDUA [15:25:39](Interpretation) Madam Courtroom Officer,
13 open session, please.

14 (Open session at 3.25 p.m.)

15 THE COURT OFFICER: [15:25:44](Interpretation) We're back in open session,
16 Mr President, your Honours.

17 PRESIDING JUDGE MINDUA: [15:25:48](Interpretation) Thank you very much.
18 Ms Taylor.

19 MS TAYLOR: [15:25:51]

20 Q. [15:25:52] Now, speaking of the time period of 2012, April onwards, is it correct
21 that there was a hospital in Timbuktu?

22 A. [15:26:15] Of course. There was the regional hospital of Timbuktu.

23 Q. [15:26:19] And is this hospital based or was it based at the time in the Sarakeïna
24 neighbourhood?

25 A. [15:26:42] The hospital is indeed located in the Sarakeïna neighbourhood.

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1 Q. [15:26:46] And during this time period, was there a doctor called Dr Ibrahim
2 Maiga who was working there?

3 A. [15:27:06] Indeed, there was a Dr Maiga, Ibrahim. But, rather, he was working
4 at the - the reference health centre, the *santé de référence*.

5 Q. [15:27:28] Now, Mr Witness, it's correct, isn't it, that during this time period it
6 was possible to go to the hospital and see a doctor?

7 A. [15:27:36] It was possible. But even before the occupation, there was
8 no qualified -- there was not enough qualified staff.

9 MS TAYLOR: [15:27:56] If I could bring up Defence tab 45. It's MLI-OTP-0028-0916.
10 This is a -- it could be shown on evidence 1 I apologise

11 Q. [15:28:48] Now, on the screen, there's a report of information concerning the
12 region of Timbuktu between the period of 14 and 19 May 2012. Now, I'd like to turn
13 to page 0918.

14 At the top, it refers to a reception ceremony taking place at the hospital, and at the
15 bottom, the "QUELQUES ACTIVITES", we can see this report, which is signed by Dr
16 Ibrahim Maiga, refers to "medical consultations" ... (Interpretation) "surgical
17 consultations, paediatric consultations, gynaecology/obstetrics consultations.

18 MS TAYLOR: [15:30:30] ECG.

19 THE INTERPRETER: [15:30:32] Thank you. ECG. Getting tired.

20 MS TAYLOR: [15:30:36] And cesareans.

21 Q. [15:30:39] Mr Witness, are you in a position, do you yourself know whether it
22 was possible to have these consultations?

23 PRESIDING JUDGE MINDUA: [15:30:52](Interpretation) Mr Prosecutor?

24 MR DUTERTRE: [15:30:54](Interpretation) Yes, your Honour. I must admit I am
25 lost. The witness has nothing to do with this document. Why are we talking about

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1 echograms and -- I mean, you can have a witness say anything and everything, talk
2 about the theft of fuel. But we're talking about August 2012, and fuel was already
3 controlled by Ansar Dine at that time.

4 I -- I hate to say it, but we're all over the map here, and I really don't see what
5 is what this is all about.

6 PRESIDING JUDGE MINDUA: [15:31:37](Interpretation) Ms Taylor, it is true that
7 this witness was living in the city, but most likely, he can't really comment on all
8 matters, on all documents. I agree with the Prosecutor.

9 MS TAYLOR: [15:32:04] Thank you, Mr President.

10 Firstly, we're in a little bit of a bind given that the Prosecution has not called certain
11 witnesses, and they know exactly who I'm referring to. So we, obviously, as the
12 Defence

13 I don't think it's necessary to stand up for the sake of standing up.

14 The Defence does have a duty and a right to try and put its case where it can due to
15 this fact. And the Prosecution is aware it's not calling P-147. So if we have
16 someone who could possibly testify on similar issues, we try to do so to eliminate any
17 prejudice.

18 PRESIDING JUDGE MINDUA [15:32:41](Interpretation) Mr Prosecutor, you heard
19 the Defence's response?

20 MR DUTERTRE: [15:32:55](Interpretation) Yes. And my response is as follows:

21 The witness is being asked to talk about a technical report, a medical report, from a
22 third party. And he said that this is - was at a health centre, not at the hospital.

23 We are completely out of the witness's area of expertise. We are well within the
24 realm of speculation. Ms Taylor can call the witnesses she wants and adduce any
25 evidence she wants when the time comes.

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1 PRESIDING JUDGE MINDUA: [15:33:40](Interpretation) I agree with the
2 Prosecution. This witness really does not have the expertise. And just because he
3 was there, that doesn't mean he can comment on every aspect of life in the city. You
4 do have recourse. You can always call your own witness.

5 MS TAYLOR: [15:34:03] Thank you, Mr President.

6 Your position is noted on that point.

7 Q. [15:34:07] Now, Mr Witness, yesterday the Prosecution discussed with you a
8 document that you prepared on [REDACTED] And at transcript 165
9 And in an abundance of caution, I believe we should probably go into private session,
10 if we're not already in private session.

11 THE COURT OFFICER: [15:34:34](Interpretation) We are in open session.

12 PRESIDING JUDGE MINDUA [15:34:37](Interpretation) Court officer, private
13 session.

14 (Private session at 3.34 p.m.)

15 THE COURT OFFICER: [15:34:44](Interpretation) We are in private session.

16 PRESIDING JUDGE MINDUA [15:34:54](Interpretation) Thank you.

17 Ms Taylor.

18 MS TAYLOR:

19 Q. [15:34:57] [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 A. [15:35:21] Who are you talking about, please?

25 Q. [15:35:28] [REDACTED] a document

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1 [REDACTED] in Timbuktu.

2 A. [15:35:46] [REDACTED]

3 [REDACTED]

4 Q. [15:36:01] [REDACTED]

5 A. [15:36:05] [REDACTED].

6 Q. [15:36:23] [REDACTED]

7 [REDACTED] took steps to verify the information [REDACTED]?

8 A. [15:36:37] I don't know.

9 Q. [15:36:39] [REDACTED]

10 I'm not sure if my question was translated.

11 [REDACTED]?

12 A. [15:37:13] No

13 MS TAYLOR: [15:37:19] I'd like to bring up Defence tab 36. And I believe my
14 following questions could be asked in open session.

15 PRESIDING JUDGE MINDUA: [15:37:34](Interpretation) Court officer, if you could.
16 (Open session at 3.37 p.m.)

17 THE COURT OFFICER: [15:37:38](Interpretation) We are back in open session.

18 PRESIDING JUDGE MINDUA [15:37:48](Interpretation) Thank you.

19 Ms Taylor.

20 MS TAYLOR: [15:37:50] This is Defence tab 36, MLI-OTP-0001-2393. And it's an

21 Amnesty International report dated September 2012. And if we could turn to page
22 2399. This sets out a section on sexual violence.

23 And at paragraph 4, it says:

24 "These acts of sexual violence continue and the Amnesty International delegation was
25 able to collect evidence regarding two recent cases.

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1 We then have two paragraphs which concern victims of sexual violence and rape in
2 Gossi.
3 And then, in the last two paragraphs - I'll read it out since it's in English
4 "A few days later, after the end of Ramadan (after August 20, 2012) a girl of fourteen
5 was raped by a member of the 'police' force put in place by AQIM (Al-Qaeda in the
6 Islamic Maghreb) in Timbuktu. A resident of the village told Amnesty International:
7 'This man, a Burkinabe, was arrested and sentenced to 100 blows with a stick. The
8 man was also ordered to marry the young girl, to be excluded from the police force,
9 and to be exiled from Timbuktu for one year. He received 11 blows with a stick, but
10 he did not marry his victim, nor was he exiled from Timbuktu and he is also still a
11 member of the AQIM police force.

12 Q. [15:40:13] [REDACTED]

13 [REDACTED]

14 A. [15:40:45] No

15 Q. [15:40:46] If we can turn to tab 8 of the Prosecution binder.

16 Have you got that in front of you And if we could turn specifically to page 0196

17 A. [15:41:47] Yes.

18 Q. [15:41:48] And if we can go to the bottom.

19 Can you see the sentence referring to 20 August 2012 in the Abaradjou quarter where
20 a girl of 14 years was raped under menace of arms by an Islamic police officer and the
21 case was reported to the police and the police officer

22 A. [15:42:18] Yes.

23 Q. [15:42:20] - was imprisoned and judged.

24 It's the same date, is it not, Mr Witness?

25 A. [15:42:35] Yes. It's the same date, [REDACTED]

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4 Q. [15:43:11]

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7 A. [15:43:27]

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9 PRESIDING JUDGE MINDUA: [15:43:37](Interpretation) Prosecution?

10 MR DUTERTRE: [15:43:41](Interpretation) The witness has responded to the

11 substance of the question. I don't think he's really in a position to answer. He's

12 responded.

13 PRESIDING JUDGE MINDUA: [15:43:50](Interpretation) Ms Taylor.

14 MS TAYLOR: [15:43:52] Yes, he has.

15 If we could now turn to page 2400.

16 PRESIDING JUDGE MINDUA [15:44:08](Interpretation) Very well. Away we go.

17 MS TAYLOR: [15:44:23] We're going back - sorry - to Defence tab 36. I apologise to

18 the Registry And it was page 2400 And this is a section concerning the

19 monitoring of moral standards. And in the second paragraph, it states that:

20 "Though during the first two months of their takeover, Islamist armed groups only

21 used verbal threats and intimidation, the repression of behaviors considered

22 un-Islamic against civilians intensified as of June 2012.

23 Q. [15:45:30] Now, Mr Witness, is it correct that during the first two months, the

24 group in Timbuktu - or the groups only used verbal threats?

25 A. [15:45:45] That is correct. Especially, above all, they preached. They preached

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1 intensively

2 Q. [15:46:06] I'd like to turn to something in your notes. It's tab 2. It's

3 MLI-OTP-0003-0062 at 0111. And the transcribed version is tab 3. It's

4 MLI-OTP-0064 at 0608 at 0658.

5 And with the permission of the Presiding Judge, if my colleague, Maître Youssef, can

6 read out on the relevant paragraph.

7 PRESIDING JUDGE MINDUA: [15:47:08](Interpretation) Go ahead, Mr Youssef.

8 THE INTERPRETER: [15:47:13] Sight translation.

9 MR YOUSSEF: [15:47:14](Interpretation)

10 "20 June 2012, a young - a young person from Abara - from Abaradjou who had

11 been part of the Islamic police complained that a young woman that he wanted to

12 marry and his (sic) parents were in - opposed

13 - Did she love him

14 - I had a child with her.

15 - This is serious, in that case you must be purified.

16 The entire city was summoned to the square, Sankoré square, and in presence of the

17 imam, Sanda and Abou Zayd, 100 lashes were administered to the couple and they

18 were given one year's - a sentence of one year imprisonment. The event was

19 covered widely by the media.

20 MS TAYLOR: [15:48:39]

21 Q. [15:48:40] [REDACTED]

22 A. [15:48:41] [REDACTED]

23 Q. [15:48:43] [REDACTED] ?

24 A. [15:48:49] Not only heard but seen, because I saw the punishment administered

25 at Sankoré square.

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1 Q. [15:49:09] And it's correct, isn't it, that the young man went to the police to
2 complain about the fact that the parents were opposed?

3 A. [15:49:18] Yes. But, in actual fact, I heard that the young man was a friend of
4 Adama, and he suggested that he go there and - to make this matter public and to
5 find a solution.

6 Q. [15:49:46] And how did you hear that?

7 A. [15:49:50] (Overlapping speakers) ... who is from Abaradjou, from that
8 neighbourhood, and he knew the young man in question, he told me about it.

9 Q. [15:50:11] Now, it's correct that after they were punished, they were given a
10 dowry

11 A. [15:50:24] Yes. Yes. They were given a dowry and some gifts.

12 Q. [15:50:35] And they were able to marry.

13 A. [15:50:38] Yes.

14 Q. [15:50:40] Now, is it correct that in 2012, and afterwards, you thought or
15 understood that Mohamed Moussa directed the Islamic police?

16 A. [15:50:52] Yes. More specifically, there was the Islamic police, and then there
17 was the morality police for the promotion of virtue and the prohibition of vice.

18 Q. [15:51:24] And it's correct, isn't it, that you

19 PRESIDING JUDGE MINDUA: [15:51:29](Interpretation) Mr Prosecutor.

20 MR DUTERTRE: [15:51:31](Interpretation) I think we should cut the audio feed.

21 PRESIDING JUDGE MINDUA: [15:51:36](Interpretation) Please cut the feed to the
22 witness.

23 THE COURT OFFICER: [15:51:40](Interpretation) The feed has been cut.

24 PRESIDING JUDGE MINDUA: [15:51:45](Interpretation) Thank you.

25 Mr Prosecutor.

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1 MR DUTERTRE: [15:51:48](Interpretation) Yes, your Honour. Ms Taylor did not
2 give the reference. But off the top of my head, I believe the witness mentioned the
3 morality police in relation to Mohamed Moussa. And I think that was also to be seen
4 in the minutes of the crisis committee. And I think this is somewhat confusing, and I
5 think the witness himself is trying to clear up this matter by distinguishing between
6 the Islamic police and the morality police. So I think this really - this question is
7 causing confusion.

8 The witness said that specifically there was the morality police for the promotion of
9 virtue and the prohibition of vice. So if we really want to shed light on the truth, I
10 think we need to be clearer with the witness, rather than to remain with something so
11 confusing.

12 PRESIDING JUDGE MINDUA [15:52:55](Interpretation) Well, there you have it,
13 Ms Taylor.

14 MS TAYLOR: [15:52:59] Thank you, Mr President. If I may be heard. Perhaps my
15 colleague doesn't understand the point of cross-examination. We're not bound by
16 what comes out in examination-in-chief.

17 I have a clear foundation for what I'm putting to this witness, which I will get to, if
18 I'm allowed to ask my questions. I have a foundation. I'm putting to this witness
19 that he has used the Islamic police in connection with Mohamed Moussa.

20 Now, if I may be permitted to go to that and to actually cross-examine the witness.
21 I'm not bound by the examination-in-chief testimony; so we should actually be
22 allowed to confront the witness as is our right.

23 PRESIDING JUDGE MINDUA: [15:53:37](Interpretation) Yes. You are ...
24 Mr Prosecutor.

25 MR DUTERTRE: [15:53:43](Interpretation) Yes, your Honour.

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- 1 I am a modest lawyer from the civil law tradition, but I do understand
2 cross-examination. But cross-examination is not some kind of blank cheque to
3 spread - to spread confusion, and there is this distinction made between the Islamic
4 police and the morality police.
5 Of course Ms Taylor may explore areas, but this context is such that her - really, this
6 question put to the witness is leading to confusion.
7 PRESIDING JUDGE MINDUA: [15:54:26](Interpretation) We all agree that you have
8 the right to cross-examine the witness. But, of course, you mustn't create confusion
9 in the witness's mind. So rephrase and move forward.
10 MS TAYLOR [15:54:41] Thank you, Mr President I have no intention of creating
11 confusion. And, in fact, my next question would have addressed that point.
12 If I may -- if the sound may be connected.
13 PRESIDING JUDGE MINDUA: [15:55:03](Interpretation) Audio feed, please,
14 Madam Courtroom Officer
15 THE COURT OFFICER: [15:55:10](Interpretation) The witness can now hear us.
16 PRESIDING JUDGE MINDUA [15:55:12](Interpretation) Thank you.
17 Ms Taylor.
18 MS TAYLOR: [15:55:15] Thank you.
19 Q. [15:55:15] Now, Mr Witness, it's correct, isn't it, that you've used the phrase
20 "police *Islamique*" to refer to the police *des mœurs* or in connection with Mohamed
21 Moussa?
22 A. [15:55:29] Yes.
23 MS TAYLOR: [15:55:44] If I can bring up Defence tab 22. It should not be shown to
24 the public. It's MLI-D21(sic)-0005-8230.
25 Q. [15:56:09] And we're in open session. But do you recognise the person who

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1 wrote this post?

2 A. [15:56:15] Yes.

3 Q. [15:56:17] Is it Mr X?

4 A. [15:56:20] Indeed.

5 Q. [15:56:28] Now, if we can scroll down a little bit - or scroll up. The other way.

6 Sorry. So we see the words "Mohamed Mossa. We can stop where we see

7 "Mohamed Mossa. If we can go up a little bit. Yeah, there we go. Where we can

8 see the words "Mohamed Mossa," and, in particular, we can see the phrase:

9 (Interpretation) "There was no Islamic police led by a certain Mohamed Mossa.

10 (Speaks English) So it's

11 MR DUTERTRE: [15:57:07](Interpretation) Your Honour.

12 PRESIDING JUDGE MINDUA [15:57:09](Interpretation) Prosecutor.

13 MR DUTERTRE: [15:57:11](Interpretation) Could we give the witness a moment to
14 read the whole paragraph to gain some context rather than immediately going to part
15 of a sentence right in the middle, so we can be fair to the witness. This is a document
16 that goes back to 2015, and he may not necessarily remember it right off the top of his
17 head.

18 PRESIDING JUDGE MINDUA [15:57:39](Interpretation) We will try to make
19 progress. If the witness remembers the text, very well. But if not, give him some
20 time, please.

21 MS TAYLOR: [15:57:50] Thank you, Mr President.

22 I didn't have any intention to ask detailed questions on this text. I think it's a pretty
23 evident point that the witness is referring to the police Islamic directed by a certain
24 "Mohamed Mossa".

25 Q. [15:58:06] So it's correct, isn't it, Mr Witness, that you used

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- 1 MR DUTERTRE: [15:58:11](Interpretation) No. I'm sorry to
- 2 MS TAYLOR: [15:58:16] I didn't even finish my sentence before you started speaking,
- 3 Mr Dutertre.
- 4 PRESIDING JUDGE MINDUA: [15:58:20](Interpretation) Mr Prosecutor, wait.
- 5 MR DUTERTRE: [15:58:22](Interpretation) But that is not so.
- 6 PRESIDING JUDGE MINDUA: [15:58:25](Interpretation) The Defence has the floor.
- 7 MR DUTERTRE: [15:58:27](Interpretation) But what Ms Taylor just said is false.
- 8 The sentence says the opposite. There was no
- 9 PRESIDING JUDGE MINDUA: [15:58:38](Interpretation) It doesn't matter. Let her
- 10 speak
- 11 Ms Taylor, I didn't quite follow what was said.
- 12 Ms Taylor?
- 13 MS TAYLOR: [15:58:50] Perhaps if the witness can read the paragraph in full. He's
- 14 referring to a situation as if nothing had happened. That's why he's using negative
- 15 terms. I can go to another document where we have exactly the same phrase as well.
- 16 If the witness could read the paragraph, and then if I can put a question to him on the
- 17 basis of that paragraph.
- 18 PRESIDING JUDGE MINDUA [15:59:26](Interpretation) I - the Prosecutor said
- 19 something, you said something. And perhaps the witness should read this
- 20 paragraph, and we can determine - well, perhaps Mr Youssef could read the
- 21 paragraph.
- 22 MS TAYLOR: [15:59:48] Mr President, I don't believe it's necessary to read it out
- 23 aloud, particularly because we're in open session and that might be identifying,
- 24 because you can then do a search.
- 25 PRESIDING JUDGE MINDUA: [16:00:02](Interpretation) Very well. Good. Give

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1 the witness some time to read the paragraph and put your question, and then
2 everyone will be calm.

3 MS TAYLOR: [16:00:43]

4 Q. [16:00:44] Please take your time to read it, Mr Witness.

5 A. [16:01:21] I've read it.

6 PRESIDING JUDGE MINDUA: [16:01:23](Interpretation) Ms Taylor, and what was
7 your question about "Mohamed Mossa"?

8 MS TAYLOR: [16:01:26]

9 Q. [16:01:27] Now, Mr Witness, is it correct that in this paragraph, you're setting
10 out a scenario where things that happened didn't happen? So you're saying,
11 "Imagine a Timbuktu where all the things that happened in 2012 didn't happen.

12 A. [16:01:49] Yes

13 Q. [16:01:53] And in this paragraph, you're referring to a
14 (Interpretation) "an Islamic police headed up by a certain Mohamed Mossa
15 (Speaks English) Now, are you referring to what you understood to be the section
16 directed by Mohamed Mossa in 2012, or what it was commonly referred to as

17 A. [16:02:26] Yes. I believe that it is one and the same thing. But what one should
18 understand from this text is that Mr X is using the negative form to say precisely what
19 happened in the sense that it didn't happen. That's how I understood it.

20 PRESIDING JUDGE MINDUA: [16:03:00](Interpretation) Now I'm turning to the
21 Prosecution so we're all square here. The problem has been sorted out.

22 MR DUTERTRE: [16:03:10](Interpretation) We have the testimony of the witness,
23 Mr President. *The rest is for pleadings. There's a negative form. As it wasn't read on
24 the transcript, I'm not sure that our English-speaking colleagues will have seen all the
25 nuances, but we'll let it go.

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- 1 THE INTERPRETER: [16:03:27] Overlapping speakers
- 2 MS TAYLOR: [16:03:29] Mr President, I know it's late. But given this, can I just
- 3 show one more very short document which is not phrased in negative terms. And
- 4 then we can
- 5 PRESIDING JUDGE MINDUA: [16:03:41](Interpretation) Yes Go ahead with this
- 6 very short document.
- 7 MS TAYLOR: [16:03:46] If we can bring up Defence tab 23. It's MLI-D28-0005-8233.
- 8 Q. [16:04:16] Now, Mr Witness, we're in open session. But is this a post you
- 9 recognise?
- 10 A. [16:04:22] Yes, I do recognise this post
- 11 Q. [16:04:32] Was it posted by Mr X?
- 12 A. [16:04:36] Yes
- 13 Q. [16:04:45] And concerning what you yourself understand, is it correct that you
- 14 understood that "Mohamed Mossa was with the police *Islamique* in this building?
- 15 Or is that what is intended to be conveyed?
- 16 A. [16:05:08] That was indeed the headquarters of the Islamic police
- 17 Q. [16:05:21] And by saying:
- 18 "[...] avec le tristement célèbre Mohamed Mossa." is that understood to mean that
- 19 "Mohamed Mossa" was there with the Islamic police?
- 20 A. [16:05:34] What should be understood is that, initially, the Islamic police was
- 21 there. It was the headquarters. But at a given moment in time, we were told that it
- 22 was the morality police, and the Islamic police went to the *gouvernorat*. So when we
- 23 say "Islamic police," we think of this and that. Police ... police.
- 24 THE INTERPRETER: [16:06:14] The witness is unclear.
- 25 PRESIDING JUDGE MINDUA: [16:06:17](Interpretation) There we are, Ms Taylor.

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1 The witness has answered.

2 This is six minutes past 4. I believe that we should stop.

3 Madam Court Officer, we're still in open session, are we

4 THE COURT OFFICER: [16:06:30](Interpretation) Indeed, Mr President.

5 PRESIDING JUDGE MINDUA: [16:06:32](Interpretation) Mr Witness, I am now

6 turning to you. We have reached the end of today's hearing. Once again, I would

7 like to sincerely thank you for having answered the questions put to you in a very

8 clear manner and with a great deal of goodwill. Unfortunately, as you will have

9 noted, your testimony is not yet over. So you shall continue tomorrow, tomorrow at

10 9.30, as usual. In the meantime, of course, you are not allowed to speak to anybody

11 about your testimony.

12 Before we rise for today, I would like to express my gratitude to all the people present

13 in and around this courtroom who have contributed to today's work. I'm thinking,

14 of course, of the parties and the participants, of the court reporters, the interpreters,

15 our security guards, and our public. I would like to wish you all a very nice evening,

16 and I say until tomorrow, Court is adjourned.

17 THE COURT USHER: [16:08:05] All rise.

18 (The hearing ends in open session at 4.08 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 44 line 28 to Page 45 line 2

23 'what paragraph was corresponding to tabs 10 and 19 of the .. So we need to take

24 time when showing an exhibit. We need to give time time." Is corrected to "what

25 paragraph corresponded to another between Defence tabs 10 and 19. So you have to

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1 be quite fair to the witness, and you have to take your time, unfortunately, when you
2 show an exhibit... you have to give it time.
3 Page 95 lines 23-25
4 "The rest is for proceedings -- for pleadings. There is a negativity -- a
5 negative matter here. I don't know (Overlapping speakers)" Is corrected to "The
6 rest is for pleadings. There's a negative form. As it wasn't read on the transcript, I'm
not sure that our English-speaking colleagues will have seen all the nuances, but we'll
8 let it go.