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Trial Hearing
WITNESS: MLI-OTP-P-0065

(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 vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
- 5 Mahmoud - ICC-01/12-01/18
- 6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 1
- 9 Friday, 30 October 2020
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:26] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:31:56](Interpretation) Court is in session.
- 15 Good morning to everyone.
- 16 Madam courtroom officer, could you please call the case.
- 17 THE COURT OFFICER: [9:32:06] Thank you, Mr President.
- 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 For the record, we are in open session.
- 21 PRESIDING JUDGE MINDUA: [9:32:29](Interpretation) Thank you very much,
- 22 madam courtroom officer.
- 23 As always, we shall start with the appearances. First of all, the Office of the
- 24 Prosecutor, please.
- 25 MR DUTERTRE: [9:32:39](Interpretation) Good morning, your Honours. Good

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1 morning, Mr President. The Office of the Prosecutor is represented today by
2 Mousa Allafi; Sarah Coquillaud, just behind me; Lucio Garcia to my left; and myself,
3 Gilles Dutertre.

4 PRESIDING JUDGE MINDUA: [9:33:05](Interpretation) Thank you very much,
5 Counsel Dutertre.

6 Now I shall turn to the Defence.

7 Ms Taylor, please.

8 MS TAYLOR: [9:33:10] Good morning, Mr President, your Honours. My name is
9 Melinda Taylor and I'm appearing today on behalf of Mr Al Hassan, together with
10 Ms Kirsty Sutherland and Ms Dolly Chahla. Thank you.

11 PRESIDING JUDGE MINDUA: [9:33:28](Interpretation) Thank you very much,
12 Ms Taylor.

13 And Legal Representatives for Victims, please.

14 MR KASSONGO: [9:33:44] (Interpretation) Good morning, Mr President, your
15 Honours. It is very difficult to introduce yourself when you are all alone, as you
16 might have noticed.

17 The Legal Representatives of Victims are suffering under these confinement measures,
18 and due to the current circumstances, it means that my learned colleague, Mr Nsita,
19 who should have been with you today, cannot be present and I am bound to replace
20 him. And I believe that this situation will continue, so you might see me quite often
21 under these circumstances. And this has been notified to you by way of a request
22 quite recently.

23 So I'd like to introduce myself. My name is Mr Kassongo, representing the victims
24 and I stand alone here today before you. Thank you.

25 PRESIDING JUDGE MINDUA: [9:34:28](Interpretation) Thank you very much,

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1 Counsel.

2 The Chamber was indeed seized of this issue as to the difficulties that the Legal
3 Representatives of Victims have been encountering in order to gain access, not only to
4 the courtroom but also to The Netherlands, and the Chamber has already seized the
5 Registry and arrangements are underway. The situation will be resolved very soon.

6 Thank you very much.

7 Today, we shall be hearing the testimony of the 16th witness for the Prosecution.

8 I would like now to turn to the witness.

9 Good morning, Mr Witness. Can you hear me?

10 WITNESS: MLI-OTP-P-0065

11 (The witness speaks Arabic)

12 THE WITNESS: [9:35:23](Interpretation) Good morning, yes, I do hear you very
13 clearly.

14 PRESIDING JUDGE MINDUA: [9:35:28](Interpretation) Thank you very much.

15 I can hear you very well myself, too. Thank you.

16 Now, on behalf of the Chamber, I would like to welcome you. You shall be
17 testifying with a view to assisting the Chamber in seeking and establishing the truth
18 in the case of the Prosecutor versus Mr Al Hassan.

19 Mr Witness, protective measures have been put in place with a view to making sure
20 that your identity is not revealed to the public. Whenever you need to provide
21 details that might reveal your identity, we shall talk about this in public session -- in
22 private session.

23 So this means that nobody, with the exception of those individuals present in this
24 courtroom, will be in a position to hear what you are saying.

25 Have you understood?

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- 1 THE WITNESS: [9:36:40](Interpretation) Yes.
- 2 PRESIDING JUDGE MINDUA: [9:36:45](Interpretation) Thank you very much.
- 3 Thank you very much, Mr Witness.
- 4 Now, let us now move on to your solemn undertaking pursuant to 66(1), Rule 66(1) of
- 5 the Rules of Procedure and Evidence. Before you on your table, you certainly have a
- 6 piece of white paper. Can you see it?
- 7 THE WITNESS: [9:37:17](Interpretation) Yes, I do.
- 8 PRESIDING JUDGE MINDUA: [9:37:18](Interpretation) Very well. Now this is the
- 9 solemn undertaking by which you undertake to speak the truth and I would request,
- 10 please, that you read it out loud. Please.
- 11 THE WITNESS: [9:37:42](Interpretation) I solemnly undertake to say the truth, the
- 12 whole truth and nothing but the truth.
- 13 PRESIDING JUDGE MINDUA: [9:37:54](Interpretation) Thank you very much,
- 14 Mr Witness. You are now under oath. The VWS and the Office of the Prosecutor
- 15 have already explained to you what this means. So I have a number of practical
- 16 pieces of advice to give you. I'm mindful that the interpretation is ongoing. That's
- 17 why I observe pauses. So please bear in mind that throughout your testimony,
- 18 everything that is said in this courtroom is transcribed by court reporters and
- 19 simultaneously interpreted into a number of languages by the interpreters.
- 20 It is important, therefore, to speak clearly and slowly. Please only start to speak
- 21 when the person putting a question to you has finished doing so. Please count to
- 22 three in your head before you answer. This pause is essential for your statement to
- 23 be properly taken down. Of course, if you have a question, please raise your hand to
- 24 indicate that you would like to intervene and take the floor.
- 25 Have you understood correctly?

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- 1 THE WITNESS: [9:39:53](Interpretation) Yes.
- 2 PRESIDING JUDGE MINDUA: [9:39:58](Interpretation) Thank you very much.
- 3 We shall now hear your testimony. Questions will be put to you by the parties; first
- 4 of all, the Office of the Prosecutor and then possibly by the Legal Representatives for
- 5 Victims, after which the Defence will cross-examine you. It is also possible that
- 6 the -- that questions will be put to you by members of the Bench.
- 7 Now, let us start with the questioning, the examination-in-chief on the part of the
- 8 Prosecution.
- 9 Mr Dutertre, over to you.
- 10 MR DUTERTRE: [9:40:46](Interpretation) Thank you very much, Mr President, your
- 11 Honours. I would like the authorisation of the Chamber to go into closed session
- 12 because there is a lot of identifying material for this witness in general. We'll try and
- 13 reduce this to a minimum, but this is a necessity and I would like your authorisation
- 14 to go into closed session.
- 15 PRESIDING JUDGE MINDUA: [9:41:17](Interpretation) Now, Mr Prosecutor, I must
- 16 say that this issue of closed session is very bothersome to me. I would request that
- 17 you be as brief as possible, because we do have the public in the gallery and also
- 18 throughout the world listening to what is going on and we would like to adhere to
- 19 this publicity principle, the publicity of the proceedings. Not closed session.
- 20 How long will it take you?
- 21 MR DUTERTRE: [9:41:52](Interpretation) Now, to say for the beginning, the first
- 22 section, I have lots of questions that are identifying that touch upon the CV of the
- 23 witness, his origins and this is very revealing in terms of his identity and would really
- 24 annul the decision of the Chamber to provide him with a pseudonym.
- 25 I'm very, very aware and conscious of this need for the publicity of the proceedings.

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1 We'll try and reduce it to a bare minimum. But in view of the profile of this witness,
2 on a number of occasions I will have to go from public session to private session. I'm
3 also very aware of this need for publicity. I'm not doing this out of pleasure. Really,
4 I need to underscore this. But, you know, without doing this, his identity will be
5 revealed, unless I can use this opportunity to go from one to the other on a regular
6 basis.

7 PRESIDING JUDGE MINDUA: [9:43:01](Interpretation) Thank you very much for
8 your explanation, but you still haven't told me how many minutes you would need in
9 closed session.

10 MR DUTERTRE: [9:43:09](Interpretation) To start off with, of course, it will depend
11 on the answer, the length of the answers of the witness. But I would say I will need
12 about 20 to 25 minutes at a bare minimum to start off with.

13 PRESIDING JUDGE MINDUA: [9:43:28](Interpretation) 25 minutes? Oh, dear.
14 Please try and reduce that because we all have the file before us. We're aware of
15 what's going on. Please try and reduce it.

16 MR DUTERTRE: [9:43:40](Interpretation) Yes, thank you, Mr President. If I can
17 have please, the authorisation to move into private session please.

18 PRESIDING JUDGE MINDUA: [9:43:52](Interpretation) Madam courtroom officer,
19 could we please move into private session.

20 (Private session at 9.43 a.m.)

21 THE COURT OFFICER: [9:44:01] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [9:44:06](Interpretation) Thank you very much,
23 madam courtroom officer.

24 Mr Prosecutor, please.

25 MR DUTERTRE: [9:44:13](Interpretation) Thank you very much, your Honour.

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1 Now that we're in private session, I would like to underscore the fact that when we
2 were in public session, on the French channel, the voice of the witness was audible
3 when he was speaking Arabic at the beginning or outset of the answers he was
4 providing.

5 PRESIDING JUDGE MINDUA: [9:44:37](Interpretation) That is worrisome.
6 Madam courtroom officer.

7 THE COURT OFFICER: [9:44:40] We are aware, indeed, and we are asking our
8 colleagues from the Arabic booth, Arabic interpretation booth, if you could please
9 lower the volume of the witness channel when you are interpreting into French
10 because then, when you have it too loud, we can indeed hear the witness speaking.
11 So the voice distortion is in place, this is due to the interpretation, and the Registry
12 will redact the portion where we could hear the witness's voice.
13 Thank you.

14 PRESIDING JUDGE MINDUA: [9:45:20](Interpretation) Please go ahead,
15 Mr Prosecutor.

16 MR DUTERTRE: [9:45:22](Interpretation) Thank you, your Honour.

17 QUESTIONED BY MR DUTERTRE: (Interpretation)

18 Q. [9:45:26] Good morning, Mr Witness, how are you this morning?

19 A. [9:45:33] I'm good. Thank God.

20 Q. [9:45:44] Mr Witness, could you please provide us with your name, your first
21 name and your last name, please.

22 A. [9:45:54] My name is [REDACTED]

23 Q. [9:46:04] What is your date of birth, Mr Witness?

24 A. [9:46:17] The year [REDACTED]

25 Q. [9:46:26] And where were you born, Mr Witness?

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- 1 A. [9:46:35] In [REDACTED]
- 2 Q. [9:46:52] When you say in [REDACTED] was that in [REDACTED] itself or in the region
- 3 of [REDACTED]? Can you please provide further details for the Chamber.
- 4 A. [9:47:04] In the region of [REDACTED] We were [REDACTED] and I was born in the
- 5 [REDACTED]
- 6 Q. [9:47:19] You have just said that you were a [REDACTED]
- 7 [REDACTED] Mr Witness?
- 8 A. [9:47:38] Indeed, we were [REDACTED] when I was born and I belong to the -- to a
- 9 tribe that lives in [REDACTED] part of the [REDACTED] region and it's called the
- 10 [REDACTED] -- it's called [REDACTED]
- 11 Q. [9:48:05] I do understand that this is a [REDACTED]?
- 12 A. [9:48:18] Indeed, it is a [REDACTED]
- 13 Q. [9:48:27] And where do most of the members of your tribe hail from?
- 14 A. [9:48:42] It's a -- they have shared origins, members of my tribe. Some are from
- 15 an [REDACTED] ancestry, like my father, whose origins come from the [REDACTED]
- 16 and from [REDACTED] My mother is a descendant of the [REDACTED]
- 17 the -- namely, [REDACTED]
- 18 Q. [9:49:29] Mr Witness, could you please provide us further details. Who is [REDACTED]
- 19 [REDACTED] from whom your father descends, as you just told us?
- 20 A. [9:49:47] [REDACTED]
- 21 [REDACTED] and to whom -- or from whom you can trace the ancestry of all
- 22 [REDACTED]
- 23 Q. [9:50:12] Thank you for providing us further details. And we shall come back
- 24 to this [REDACTED] later on.
- 25 What is your mother tongue, Mr Witness?

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- 1 A. [9:50:36] The Tamasheq. [REDACTED].
- 2 Q. [9:50:50] And what other languages do you speak, if any?
- 3 A. [9:50:58] I speak Arabic fluently. I have moderate command of English and
- 4 French.
- 5 Q. [9:51:17] Thank you. I've noted that. Thank you for that.
- 6 Now, where did you grow up, Mr Witness?
- 7 A. [9:51:32] In the beginning I was born in [REDACTED] Mali, as you know. When
- 8 I was 8 or 9 years old, I do not recall exactly, we moved to [REDACTED] and there I grew up
- 9 until the year -- until the year [REDACTED] I do not recall exactly. And when I went
- 10 back to my -- and later I went back to [REDACTED] Mali. When I went to [REDACTED] and
- 11 grew up in [REDACTED] I was with my father.
- 12 Q. [9:52:23] When you say that at a later stage you went back to [REDACTED]
- 13 Mali, about what time was that, what year was that, if you're in a position to tell us?
- 14 A. [9:52:43] I think in the year [REDACTED] This is what I think. I am not one hundred
- 15 per cent sure. Between [REDACTED].
- 16 Q. [9:53:00] I have noted that. When you say that you went back to Mali, to which
- 17 region did you go back to? Which place did you go back to, specifically?
- 18 A. [9:53:15] I went back to the city of Timbuktu [REDACTED]
- 19 Q. [9:53:27] Mr Witness, what is your profession?
- 20 A. [9:53:39] I work in [REDACTED] what you can call a [REDACTED]. I
- 21 [REDACTED]
- 22 Q. [9:54:06] We'll come back to that notion at a later stage.
- 23 Now, to start off with, could you please clarify for the Chamber in what year you
- 24 became a [REDACTED]
- 25 A. [9:54:27] [REDACTED] It was not an academic field of

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1 discipline. I began, approximately, around the years [REDACTED] getting trained
2 in the field of [REDACTED]. And later, in the year [REDACTED] approximately, I
3 began professional training in [REDACTED] at an institution called [REDACTED] and at
4 another institution belonging to that institution, or a partner thereof, called [REDACTED].
5 And that's where -- that's when I began [REDACTED].

6 Q. [9:55:38] Thank you. Could you, for the Chamber, please provide details as to
7 what this training or these training courses involved that were provided to you by
8 [REDACTED] and the other institution affiliated to [REDACTED].

9 A. [9:56:05] They were all about [REDACTED]
10 [REDACTED].

11 Q. [9:56:26] Thank you very much. And could you please tell us what your
12 association with [REDACTED] is?

13 A. [9:56:49] I am a [REDACTED] -- and
14 in Sahel countries, especially [REDACTED].

15 Q. [9:57:12] And for how long have you been [REDACTED]
16 those countries, Mr Witness?

17 A. [9:57:29] Since [REDACTED]

18 Q. [9:57:36] Would it be possible for you to explain somewhat to the Chamber what
19 [REDACTED] is.

20 A. [9:57:52] [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 Q. [9:58:24] Thank you. [REDACTED]
24 [REDACTED] from 2011, where were you based, geographically speaking?

25 A. [9:58:42] Northern Mali in 2011 and 2012, that was the case.

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1 Q. [9:58:53] And was there a location where you lived most of the time or did you
2 just move around in the north?

3 A. [9:59:06] In 2012 [REDACTED] spend as much time as
4 possible in Timbuktu, in the city of Timbuktu.

5 Q. [9:59:39] Thank you. Could you, in concrete terms, tell us how the work -- how
6 things happened on a daily basis between yourself and [REDACTED]

7 A. [9:59:59] There are two types of work. [REDACTED]
8 [REDACTED] I would [REDACTED] of the
9 [REDACTED] and I can [REDACTED] it can [REDACTED]
10 [REDACTED]

11 As far as [REDACTED] If there is a
12 [REDACTED] or I would [REDACTED] and
13 let [REDACTED]
14 [REDACTED] on.

15 Q. [10:01:09] Thank you. So I understand that there was [REDACTED]
16 [REDACTED] How
17 did you then [REDACTED]
18 [REDACTED]?

19 A. [10:01:37] After [REDACTED] I choose,
20 obviously, the [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 Q. [10:02:26] Thank you.

24 MR DUTERTRE: [10:02:27](Interpretation) Mr President.

25 PRESIDING JUDGE MINDUA: [10:02:32](Interpretation) Yes, are you done?

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- 1 MR DUTERTRE: (Microphone not activated)
- 2 THE INTERPRETER: [10:02:40] No microphone. Counsel is speaking without a
- 3 microphone.
- 4 MR DUTERTRE: [10:02:42](Interpretation) I have a number of questions and I shall
- 5 soon be done.
- 6 Q. [10:02:51] Now, two follow-up questions, Mr Witness.
- 7 How much time, after [REDACTED] did it
- 8 take you [REDACTED]?
- 9 A. [10:03:14] This depends on, first, [REDACTED] and also if there is
- 10 [REDACTED] need to be
- 11 [REDACTED] later.
- 12 MR DUTERTRE: [10:03:56] (Interpretation) I have other questions that should be put
- 13 in private session, but I can put them later, at a later stage, Mr President.
- 14 PRESIDING JUDGE MINDUA: [10:04:08](Interpretation) Yes. Please go ahead.
- 15 Let's now go into open session. Is that what we're going to do?
- 16 MR DUTERTRE: [10:04:13](Interpretation) I'd just like to say that I shall put some
- 17 questions in open session and the witness should be careful not to provide any
- 18 identifying details.
- 19 PRESIDING JUDGE MINDUA: [10:04:26](Interpretation) Now, you have
- 20 understood, Mr Witness, we are going to go back into public session. If there is a
- 21 question that might reveal your identity, please be very careful in the manner in
- 22 which you respond. Have you understood?
- 23 Very well. Madam courtroom officer, open session, please.
- 24 (Open session at 10.05 a.m.)
- 25 THE COURT OFFICER: [10:05:16] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [10:05:18](Interpretation) Thank you very much,
2 madam courtroom officer.

3 Mr Dutertre, please.

4 MR DUTERTRE: [10:05:26](Interpretation) Thank you very much, Mr President,
5 your Honours.

6 Q. [10:05:30] Mr Witness, you lived in Timbuktu before the year 2012. I'd like to
7 put to you a number of questions as to the manner in which life unfolded for you in
8 Timbuktu before 2012.

9 Could you please describe to us what life was like for women in Timbuktu
10 before 2012.

11 A. [10:06:14] Life in Timbuktu before 2012 and during 2012 was very different
12 because of the difference in the city, because of the difference in the rules imposed in
13 the city, as before 2012, the Malian government was in control, but obviously after
14 2012 it was the -- the city was controlled by the armed groups. The difference was
15 very clear. I think the only thing that really changed for women is the dress code, as
16 the armed groups imposed a specific dress code, an Islamic dress code covering the
17 whole body. While before that time, women were able to dress as they wish.

18 Q. [10:07:38] Thank you. You mentioned that after 2012 it was the armed groups
19 who controlled the town. Can you please clarify immediately now for the Chamber
20 which armed groups you are talking about.

21 A. [10:08:07] At the beginning the control over the city was shared by the MNLA,
22 who are secular, and also by Ansar Dine, Al-Qaeda who had an Islamic approach.

23 Q. [10:08:55] We'll come back to the geographical extent of this, but where exactly
24 was that based in 2012?

25 A. [10:09:14] During that year, the armed groups controlled the main, the main

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1 cities, Timbuktu and Kidal and Gao.

2 Q. [10:09:44] You have said that the MNLA and Ansar Dine shared the control of
3 the town of Timbuktu. So my question was, where were they based, where was
4 MNLA based?

5 A. [10:10:23] MNLA, I wasn't actually in Timbuktu at that time, but the information
6 that I have is that when they arrived, and just a few days or a few weeks after their
7 arrival, they controlled Timbuktu via coordinating between the Arab militia that
8 worked with the Malian army and also by the MNLA. They actually entered the city
9 together.

10 But after that, maybe after a few days, the Islamist groups, which consisted of
11 Al-Qaeda and Ansar Dine, they evicted MNLA from the city and they were based in
12 Timbuktu airport and the villages adjacent to the river.

13 Q. [10:11:42] I believe I understood, Mr Witness, but the French interpretation
14 wasn't quite clear on this. It was said that Al-Qaeda and Ansar Dine evicted MNLA
15 and based themselves at the airport. That was what I heard. Who was at the
16 airport? Who was based at the airport?

17 A. [10:12:13] MNLA is the group that was based in the airport.

18 Q. [10:12:35] I'm sorry that I asked you that, but you talk the airport of which
19 town?

20 A. [10:12:50] The airport of Timbuktu.

21 Q. [10:13:06] I'll stop that and I look at the rules that apply and this way of life in
22 Timbuktu before 2012, but before going back to that, you mentioned the rules
23 imposed upon women and also the dress code. How did the groups respect this
24 dress code?

25 A. [10:13:47] There is something called Al-Hisba and they are first and foremost

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1 responsible for changing the objectionable acts, that's what they called it, and
2 everything that they considered *haram* or not permissible in Sharia law. And there is
3 also the Islamic police. And the main force of the group, they all had the same
4 approach, they all worked together.

5 Q. [10:14:45] I do apologise. I ask you one question and then another question
6 follows and you take me somewhere else. But you were saying, the main force
7 behind the group, which group in particular are you referring to?

8 A. [10:15:16] I would clarify one thing. It's an important piece of information and
9 that the control over Timbuktu was by Al-Qaeda from an executive way, but Ansar
10 Dine were existing. It is a movement, it is an Islamist movement as far as I
11 understand, that had a national approach. It was different from Al-Qaeda.
12 But because of the power of Al-Qaeda, Al-Qaeda was the one that was mainly in
13 control, and because the majority of the members of Ansar Dine were members
14 or -- of the population of the city, they were the one that usually did the actual work
15 on the ground. However, the decision and the real authority was for Al-Qaeda.

16 Q. [10:16:31] Thank you for that clarification. I'll come back to that a little later on.
17 Just to finish what I started, when the women did not respect the dress code, what
18 happened?

19 A. [10:17:00] There used to be raids and outreach towards the women. They
20 didn't impose a specific dress. They just wanted women to cover the entire of their
21 body. They didn't really put the condition of covering the face, but it all depended
22 on the responsible in the *Hesbah*. They used to put the rules.
23 Of course, the people listened to the armed groups and nobody wanted to challenge
24 them, so almost everybody abided by the rules. However, towards the end, the
25 dress code issue became very radical and, as far as I understand, it -- there was a new

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1 manager or director for the *Hesbah* who was quite an extremist.

2 Q. [10:18:30] Thank you. And what happened did not respect the dress code?

3 A. [10:18:49] I can't remember that there was a real challenge by any woman to this

4 rule - and, usually, this is dealt with via the guardian of this woman - I can't really

5 remember any cases where women were punished for that. But all what I

6 understand is that Timbuktu is a very poor city and that the armed groups imposed

7 this dress code, but they also given the people aid to buy clothes for women who

8 didn't have enough money or didn't have money to buy such type of clothes.

9 Q. [10:19:47] Thank you. You talked about a dress code for women. Was there a
10 dress code for the men as well? Was it different before 2012 and after 2012 with

11 Ansar Dine and AQMI?

12 A. [10:20:22] Ansar Dine have changed their approach regarding imposing Sharia

13 law. As for men, they were requested to shorten their trousers above the knee

14 following the sunnah, which is the practice of the prophet, and they were requested

15 also to not shave their beards. But I didn't hear about any cases where people were

16 punished for not doing so.

17 Q. [10:21:20] And what were the relationships between men and women in public
18 before 2012, before AQIM and Ansar Dine arrived in Timbuktu?

19 A. [10:21:47] Before the arrival, before 2012, mainly, the relation was just like -- is

20 all over the world. Anything that is agreed between two, the two genders is actually

21 was allowed, whether it is allowed in the Sharia law or not.

22 Q. [10:22:35] And when you say the relationships between men and women were

23 like they are everywhere in the world, could you elaborate on that? What do you

24 mean precisely?

25 A. [10:22:53] It means that men were able to have friends and also they were able to

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1 have intercourse together. They were able to meet outside together, to celebrate and
2 have parties, work together and they were allowed to do anything. They were free
3 to do anything that is not legally forbidden.

4 Q. [10:23:34] And in particular, what was the situation before Ansar Dine and
5 AQMI in 2012? What was the situation as people who had an affair outside
6 marriage? Who might have had a child, what was their sort of situation before 2012?

7 A. [10:24:04] Before 2012, it was all normal. If someone had a relationship with a
8 girlfriend and they had a child, the rules and traditions only allowed the person to
9 name that child after himself, to announce that this child is his.

10 MR DUTERTRE: [10:24:48](Interpretation) My Lord, we see that in Arab the witness
11 talked about sexual relationships, but it wasn't said in French and perhaps is wasn't
12 said in English either. But in Arabic, it's "sexual relationships".

13 PRESIDING JUDGE MINDUA: [10:25:06](Interpretation) Yes, indeed. I didn't hear
14 that either. So perhaps you could ask the witness to specify.

15 MR DUTERTRE: [10:25:14](Interpretation)

16 Q. [10:25:15] Mr Witness, there might have been a slight glitch. If somebody had a
17 relationship with a girlfriend, could you please repeat what you said?

18 A. [10:25:45] What kind of relationship are you asking about exactly?

19 Q. [10:25:53] We were talking about men/women relationships. And you
20 said -- let me see if I can find what you said exactly. You said in French, at least:
21 If someone had a relationship with a girlfriend and they had a child, well, the
22 traditions and rules said that that child would have the name ...

23 It's difficult to read, but you said "relationship".

24 What type of relationship were you talking about?

25 A. [10:26:41] Sexual relationship outside marriage. This is different, of course.

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1 From one tribe to the other, from ethnic group to the other. So some ethnic groups,
2 like Tuaregs and Arabs, for example, if a child was born outside the marriage lock,
3 this is something that is frowned upon and the people who commit this are
4 considered -- are frowned upon. However, if we're talking about the legal
5 considerations here, people were allowed to have such relationships and the child
6 would take his father's name, even if it was outside marriage.

7 Q. [10:27:46] Very well. We have five minutes. I haven't finished this topic, but
8 I'd like to ask one question and then it's up to you.

9 PRESIDING JUDGE MINDUA: [10:27:56](Interpretation) Please proceed.

10 MR DUTERTRE: [10:27:58](Interpretation)

11 Q. [10:28:00] Mr Witness - and I'm again talking about before 2012, before AQIM
12 and Ansar Dine arrived - how did people practice their religion, their traditions
13 before Ansar Dine and AQIM arrived in Timbuktu?

14 A. [10:28:22] Before 2012, there was freedom, total freedom to practice any kind of
15 religious traditions and rituals. There was no law that forbids people from
16 practicing their religion.

17 Q. [10:29:09] Do you have any examples of religious practices which people in
18 Timbuktu had before the armed groups arrived? Could you perhaps give us some
19 examples?

20 A. [10:29:30] There are many examples, really. People were able to pray, would
21 be able to celebrate and people were able to dress as they wish. Some people who
22 had some civil disputes, they *could go to either Sharia courts or civilian courts, or go
23 to their leaders to sort out their disputes. They had the freedom to do whatever they
24 wished.

25 Q. [10:30:19] Thank you for that clarification, Mr Witness.

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- 1 MR DUTERTRE: [10:30:22](Interpretation) Judge, perhaps this might be a good
- 2 moment to adjourn.
- 3 PRESIDING JUDGE MINDUA: [10:30:28](Interpretation) Absolutely, Mr Prosecutor.
- 4 Counsel, do you wish to speak?
- 5 MS SUTHERLAND: [10:30:40] I will wait until after the adjournment. Thank you.
- 6 PRESIDING JUDGE MINDUA: [10:30:49](Interpretation) Thank you very much.
- 7 Well, here we are. It's 10.30. We will adjourn and have a break as usual. We will
- 8 have a 30-minute break usually, but based on recommendations of the Court doctor,
- 9 we will have a break of 45 minutes.
- 10 So we will resume at 11.15. All rise.
- 11 THE COURT USHER: All rise.
- 12 (Recess taken at 10.31 a.m.)
- 13 (Upon resuming in open session at 11.15 a.m.)
- 14 THE COURT USHER: [11:15:47] All rise.
- 15 Please be seated.
- 16 PRESIDING JUDGE MINDUA: [11:16:14](Interpretation) Court resumes.
- 17 We shall now continue with the examination-in-chief on the part of the Prosecution,
- 18 but I do believe that Ms Sutherland would like to address the Court in the absence of
- 19 the witness.
- 20 Ms Sutherland, please.
- 21 MS SUTHERLAND: [11:16:35] Thank you very much, Mr President.
- 22 Earlier today at -- and the reference is transcript page 12 at lines 13 and 14, the witness
- 23 said that he lived in northern Mali in 2011 and 2012. Immediately before we
- 24 adjourned my learned friend the Prosecutor asked about religious practices in
- 25 Timbuktu before the arrival of the armed groups. I simply ask that the Prosecutor

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- 1 elicit the basis for the witness's knowledge on this point.
- 2 PRESIDING JUDGE MINDUA: [11:17:24](Interpretation) Thank you very much,
- 3 Ms Sutherland.
- 4 Mr Prosecutor, I'm sure you've understood what's just been said, because the
- 5 witness said that before 2012 he was in a certain location and after 2012 at another
- 6 location and you put the question to him as to before 2012. Now, I'm sure you're
- 7 going to react.
- 8 MR DUTERTRE: [11:17:45](Interpretation) Yes, these are one of the questions that I
- 9 shall be putting. I shall come back to private session later on and broach that subject.
- 10 I shall come back to private session, as I said, and then we'll move back into open
- 11 session again.
- 12 PRESIDING JUDGE MINDUA: [11:18:04](Interpretation) There we are,
- 13 Ms Sutherland.
- 14 Courtroom officer, please could you show the witness into the courtroom.
- 15 (The witness enters the courtroom)
- 16 PRESIDING JUDGE MINDUA: [11:19:15](Interpretation) Hello again, Mr Witness.
- 17 THE WITNESS: [11:19:23](Interpretation) Hello, your Honours.
- 18 PRESIDING JUDGE MINDUA: [11:19:25](Interpretation) I'm going to hand the floor
- 19 back to the Office of the Prosecutor.
- 20 MR DUTERTRE: [11:19:34](Interpretation) Thank you, Mr President.
- 21 Q. [11:19:44] Mr Witness, just before we took the break, you said at page 21, lines
- 22 20 to 23, that there was total freedom to practice any traditions or religious rights.
- 23 And this was before AQIM and Ansar Dine, the armed groups, entered Timbuktu.
- 24 Could you, to the extent of your knowledge, tell us what the religious practices were,
- 25 within the mausoleums in Timbuktu, before the armed groups arrived.

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1 A. [11:20:33] I do not know much about the shrines or how they are -- or how
2 blessings are sought from shrines because I do not belong to Sufi denominations.
3 But I know that before 2012 there were two Islamic schools of thought, one is a
4 traditional, and that is Sufism, especially the Tijani Tariqa and the Qadiriyya Tariqa as
5 well. These hold beliefs in terms of seeking blessings from certain individuals whom
6 they think can assist living beings, even when -- even when the former have died.
7 Another trend is the Wahhabi trend, which stands against the first school of thought,
8 and they find that such practices are a form of infidelity and that people going to
9 shrines are asking for things they should ask from God.

10 Q. [11:22:26] Very well. That clarifies things.
11 Now, in Timbuktu, were there any members of the population who went to the
12 mausoleums in order to be blessed by individuals within the mausoleums
13 themselves?

14 A. [11:22:48] Certainly, but I do not know what particular practices did they follow
15 or what exactly they did at the shrines, but I know that the Sufists and the followers
16 of Sufism did go to these shrines seeking blessings. Even electoral candidates would
17 go to -- would come to Timbuktu and would ask for help from the saints in these
18 shrines, asking them for helping winning the elections.

19 Q. [11:23:37] Now that I have finished with these questions of religious practices
20 that we shall go into in more depth later on, I did forget to ask you a question as to
21 extramarital relations. Once AQMI and Ansar Dine had entered Timbuktu in 2012,
22 what was AQMI and Ansar Dine's positions with regards to extramarital relations
23 within Timbuktu itself?

24 A. [11:24:17] Their stance was clear and explicit, that a relationship between a man
25 and a woman should be only within the framework of marriage, as instructed by

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1 Sharia.

2 Q. [11:24:49] And if individuals nevertheless had extramarital relations in 2012 in
3 Timbuktu whilst Ansar Dine and AQMI were in the city, what would happen to
4 them?

5 A. [11:25:14] If proven that anyone has engaged in sex outside marriage, that
6 person would be punished and that would depend on the person's social situation as
7 per Islamic Sharia.

8 Q. [11:25:44] And when you say that they were punished, what type of punishment
9 are we talking about?

10 A. [11:25:55] There are three types of punishments, and this is in accordance with
11 Islamic Sharia, the person who has previously got married or who is currently
12 married and who has engaged in sex illegitimately, that is outside marriage, this
13 person would be stoned to death.

14 A person who has not been married before and who is proven to have committed sex,
15 he would be punished by a hundred lashes. I do not have a great command of
16 Sharia matters, but that's what I think.

17 The third type is the person who is semi-proven to have committed sex, his
18 punishment is left to the discretion of the judge, who would determine the
19 appropriate punishment.

20 Q. [11:27:17] Previously, Mr Witness, at page 19, line 18 you indicated that before
21 AQMI and Ansar Dine arrived in Timbuktu in 2012 the population, I quote, "was able
22 to organise celebrations and festivities". Now, what position or place did music
23 occupy in Timbuktu before the arrival of Ansar Dine and AQMI?

24 A. [11:27:57] Music is important in Timbuktu in a social sense especially, but also in
25 an economic sense. In social terms, there are traditional parties held with music, you

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1 can take weddings as an example. And in economic terms, there is the biggest
2 festival, I believe, in Africa for nomads music held annually. This festival is
3 attended by thousands of fans and musicians from all over the world. This festival
4 was very important and it was an important source of livelihood for many families in
5 Timbuktu on an annual basis.

6 Q. [11:28:55] And did that festival take place when Ansar Dine and AQMI were in
7 Timbuktu in 2012?

8 A. [11:29:08] Not in Timbuktu.

9 Q. [11:29:14] And can you explain why?

10 A. [11:29:17] In Timbuktu music was forbidden by the groups in control. All
11 forms of music were forbidden regardless of the occasion.

12 Q. [11:29:52] On another aspect entirely, Mr Witness, what place within --

13 PRESIDING JUDGE MINDUA: [11:30:01](Interpretation) Counsel, Ms Sutherland,
14 do you have something to say?

15 MS SUTHERLAND: [11:30:05] Yes, thank you, Mr President.

16 I'm trying to avoid having to ask for the witness to leave the room, but the Prosecutor
17 understands the basis of my previous intervention and the same applies here.
18 Moreover, this last question asks the witness to speculate.

19 PRESIDING JUDGE MINDUA: [11:30:33](Interpretation) Mr Prosecutor, we'd
20 already mentioned this problem.

21 MR DUTERTRE: [11:30:37](Interpretation) Yes, well, it's not speculation whatsoever,
22 despite what my learned friend has just said. As I said, I'm go to continue with this
23 line of questioning, then I'm going to go into private session in order to elaborate and
24 answer what my learned colleague is looking for. But in order to avoid going from
25 private to public session, you know, that's what I'm trying to avoid. I've got about

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1 five or six sessions more, then I'm going to go into private session. But I can do now
2 if you want me to, your Honour.

3 PRESIDING JUDGE MINDUA: [11:31:15](Interpretation) Please continue with your
4 line of questioning. We shall be patient.

5 MR DUTERTRE: [11:31:20](Interpretation) I'm in your hands. Thank you very
6 much, Mr President.

7 Q. [11:31:24] Now, to come back to my question, Mr Witness, what was the place
8 within the public sphere occupied by pictures and sketches before the arrival of Ansar
9 Dine and AQMI in Timbuktu in 2012?

10 A. [11:31:57] With regards to saints and shrines, this is a spiritual matter of a
11 particular Islamic trend. That trend is Sufism, Sufist Tariqas and their followers.
12 People's lives in Timbuktu, despite the presence of the Sufist trend, to my knowledge
13 the Sufist trend in Timbuktu was of a -- was worship focused and did not address
14 much of the blessing asking, especially not in the community I belonged to in
15 Timbuktu. And this may pertain to a small -- the other possibility may pertain to a
16 small group among Sufists, whether they were the Tijani Sufists or the Qadiri Sufists.

17 Q. [11:33:13] I think I did not phrase my question properly. What I was trying to
18 ask you was the place, in terms of advertising and sketches and pictures, of
19 representation of faces before Ansar Dine and AQMI arrived in Timbuktu.

20 A. [11:33:46] I did not understand your question properly.

21 Q. [11:33:58] I shall repeat it. Before Ansar Dine and AQMI arrived in Timbuktu
22 in 2012, were the representation of the images of a person's head in advertising or in
23 frescos, was this authorised in Timbuktu?

24 A. [11:34:27] Yes, of course. All forms of representing faces, all forms of painting,
25 or any other representations, were permissible in Timbuktu.

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1 Q. [11:34:46] And were there any statues or monuments in Timbuktu before AQMI
2 and Ansar Dine arrived? I'm not talking about mausoleums, I'm talking about
3 monuments, statues, et cetera.

4 A. [11:35:10] I remember there was a statue at the central roundabout in the city of
5 Timbuktu. It was a man riding a horse, a flying horse. It used to be called the
6 Al Farouk -- it was called the Al Farouk statue and this was demolished in 2012 as
7 well.

8 Q. [11:35:44] Are you in a position to tell us who demolished that statue in 2012?

9 A. [11:35:55] I do not recall exactly, but I heard and I remember that it was
10 someone with the name Abou Thar, called Abou Thar.

11 Q. [11:36:14] Could you please spell the name that you've just provided us with,
12 Abou Thar, could you please provide us with the accurate spelling.

13 THE INTERPRETER: [11:36:44] The witness is giving the spelling in Arabic. The
14 letters in Arabic are, as he is saying, (Speaks Arabic).

15 THE COURT OFFICER: [11:37:03] (Interpretation) Would you like us to provide a
16 piece of paper and a pen to the witness?

17 MR DUTERTRE: [11:37:07](Interpretation) Indeed, you have been reading my mind.
18 Could that please be done. Thank you.

19 PRESIDING JUDGE MINDUA: [11:37:15](Interpretation) Yes, please.

20 *THE COURT OFFICER: [11:38:20](Interpretation) The document will be provided
21 the ERN ICC-REG-0001-0004.

22 PRESIDING JUDGE MINDUA: [11:38:31](Interpretation) Thank you very much,
23 courtroom officer.

24 MR DUTERTRE: [11:38:37](Interpretation) Of course I wasn't able to read the
25 spelling, but it's very aesthetical, as everyone knows, Arabic spelling.

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1 Q. [11:38:48] Now, Mr Witness, could you please tell us who --

2 THE INTERPRETER: [11:38:54] The interpreter did not catch the name. Could
3 counsel please repeat the question.

4 MR DUTERTRE: [11:39:13](Interpretation)

5 Q. [11:39:16] Did you have the interpretation of my question? I have the
6 impression that it's not going through, Mr Witness.

7 A. [11:39:26] Yes, I heard you. I was just waiting for the microphone to be turned
8 on. As you know, those groups act in total secrecy and make sure to hide the real
9 identity of their members, and [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] All I know is that Abou Thar belonged
14 to the Al Fula ethnicity. Sometimes I saw him with the Al-Hisba and other times
15 with the Islamic police. I do not know how exactly they used to work with each
16 other.

17 All I -- all I know is just ideas I have, sometimes [REDACTED] and sometimes
18 from things I overheard [REDACTED] I think that Abou Thar is from the
19 Al Fula ethnicity and that he worked with both the Islamic police and the Al-Hisba,
20 and I think he belonged to the Al Fourqane tribe in Al-Qaeda. Sorry, the
21 Al Fourqane battalion in Al-Qaeda.

22 Q. [11:41:37] Thank you, Mr Witness. I'll come back to that. But I have other
23 questions, in light of what my learned colleague requested.

24 Now, on the basis of what programme did the schools in Timbuktu work before
25 Ansar Dine and AQMI arrived in the city in 2012? When I say what programme, I'm

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1 talking about curricula.

2 A. [11:42:30] Before 2012, there was the official curriculum of the Malian
3 government in all schools, in the French language principally. There were also other
4 curricula in Arabic language schools, and in these schools it's flexible. There wasn't
5 a particular Arabic curriculum imposed, so it was flexible and these schools had
6 much leeway in deciding their own curricula.

7 Q. [11:43:12] Thank you. I have a follow-up question.

8 The curriculum, the Malian government curriculum that was applied in all the
9 schools as you've just said, was it secular, was it religious? Can you please enlighten
10 us on this aspect.

11 A. [11:43:33] I think it was a secular curriculum that did not focus on any aspect of
12 religion.

13 Q. [11:43:56] Now, still in 2012 before Ansar Dine and AQMI arrived in Timbuktu,
14 what was the legislation like within the school system in Timbuktu?

15 A. [11:44:14] Before 2012 alcohol was just like any other drink, there were bars
16 everywhere and people had the freedom to drink whenever they wanted and
17 wherever they wanted.

18 Q. [11:44:39] And when the armed groups were in Timbuktu in 2012, what was the
19 situation concerning alcohol?

20 THE INTERPRETER: [11:44:47] Correction from the English booth: not school
21 legislation, alcohol associated legislation.

22 THE WITNESS: [11:44:59](Interpretation) The first thing they did was to set on fire
23 all the alcohol they found in Timbuktu. They completely prohibited any alcohol
24 drinking and they imposed a penalty of 50 lashes, if my memory serves me well, for
25 anyone who is caught drinking alcohol.

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1 MR DUTERTRE: [11:45:38](Interpretation)

2 Q. [11:45:38] Two more points, then I'll go into private session.

3 What was legislation on cigarettes, Mr Witness, before Ansar Dine and AQMI arrived
4 in Timbuktu? What was the situation? The legislation before they arrived?

5 A. [11:46:03] Smoking before the advent of the groups was a matter of personal
6 freedom. People were free whether to smoke or not. It's up to every individual
7 people.

8 PRESIDING JUDGE MINDUA: [11:46:17](Interpretation) On the French channel we
9 are hearing the Arabic version. What's going on, please?

10 THE COURT OFFICER: [11:46:40] A technician will assist us on this issue,
11 Mr President. In the meantime, I'm inviting the interpreters in the booth to lower the
12 volume of the witness's voice. Thank you.

13 PRESIDING JUDGE MINDUA: [11:47:34](Interpretation) I'd like to point out that
14 things seem to be in order now.

15 Please proceed, Mr Prosecutor.

16 MR DUTERTRE: [11:47:42](Interpretation) Thank you. I would like to explain this
17 part. I haven't had my answer to the question I put. I will repeat the question.

18 * Q. [11:47:51] There was a technical problem, so we didn't get your last answer.

19 Would you be so kind as to repeat your answer to the question as to the situation
20 regarding smoking in Timbuktu prior to the arrival of Ansar Dine and AQMI in 2012?

21 A. [11:48:11] Smoking was a matter of personal choice, whoever wanted to smoke
22 had the freedom to do so. It was all up to the individual. There was no law to
23 forbid it.

24 Q. [11:48:36] And once Ansar Dine and AQMI arrived, what was the situation as
25 regards cigarettes?

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1 A. [11:48:48] It became prohibited. They decided that smoking is not permissible

2 according to Sharia.

3 Q. [11:49:05] And if this was broken, if the rule was broken, what happened then?

4 A. [11:49:13] I don't know much about this, but I saw before someone who was

5 smoking, and a member of the armed groups told him that he had to stop. I can't

6 remember exactly, but I think he gave him a deadline and told him that if he repeats it,

7 he will be punished.

8 Q. [11:49:58] My last question in open session.

9 In the case of theft, what penalty was imposed before the arrival of Ansar Dine and

10 AQMI in Timbuktu?

11 A. [11:50:12] I don't know exactly. I am not aware really of the Malian legislations

12 regarding this.

13 Q. [11:50:32] Thank you. And after the arrival of Ansar Dine and AQMI, what

14 sort of penalty was imposed?

15 A. [11:50:49] Theft was punished by cutting off the hand of the thief.

16 MR DUTERTRE: [11:51:04](Interpretation) I would like to ask for permission to go

17 into private session to explore further questions.

18 PRESIDING JUDGE MINDUA: [11:51:15](Interpretation) For how long?

19 MR DUTERTRE: [11:51:22](Interpretation) I think it will be a question of chronology,

20 so I think it will be probably less than 10 minutes.

21 PRESIDING JUDGE MINDUA: [11:51:34](Interpretation) Please, court officer, move

22 us into private session.

23 Mr Witness, you wish to speak?

24 (Private session at 11.51 a.m.)

25 THE COURT OFFICER: [11:51:54](No interpretation)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

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- 1 PRESIDING JUDGE MINDUA: [11:52:02](No interpretation)
- 2 THE WITNESS: [11:52:03](No interpretation)
- 3 PRESIDING JUDGE MINDUA: [11:52:16](Interpretation) I didn't hear the French
- 4 translation. There was a problem with the microphones, I believe. There was no
- 5 English either.
- 6 THE INTERPRETER: [11:52:25] The microphone didn't seem to operate.
- 7 PRESIDING JUDGE MINDUA: [11:52:29](Interpretation) What did you say?
- 8 Would you be so kind as to repeat what you said.
- 9 THE WITNESS: [11:52:47](Interpretation) I think there is a problem with the
- 10 microphone. Well, it's working now.
- 11 I just have a note -- I think maybe I can say it after we go into a private session.
- 12 PRESIDING JUDGE MINDUA: [11:53:17](Interpretation) We are now in private
- 13 session. Please proceed.
- 14 THE WITNESS: [11:53:23](Interpretation) I forgot, actually, I mentioned Abou Thar
- 15 and I said that [REDACTED]
- 16 [REDACTED]
- 17 might [REDACTED] I said that forgetting that we were in open
- 18 session.
- 19 PRESIDING JUDGE MINDUA: [11:54:15](Interpretation) You are correct,
- 20 Mr Witness.
- 21 Court officer, could you do the necessary to rectify.
- 22 MR DUTERTRE: [11:54:27](Interpretation) I think we've already dealt with that.
- 23 PRESIDING JUDGE MINDUA: [11:54:30](Interpretation) Please be assured,
- 24 Mr Witness, it has already been done. We have corrected. We have rectified the
- 25 situation. We have rectified and amended the public records.

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1 Please proceed, Mr Witness.

2 MR DUTERTRE: [11:54:49](Interpretation)

3 Q. [11:54:52] Abou Thar, is that a family name or what sort of name is it? A first
4 name? A family name?

5 A. [11:55:08] This is the surname or maybe it's a nickname, it's a nickname. I don't
6 think it's his real name, I don't think it's related to him in any way.

7 Q. [11:55:24] Fine. We'll go back to that and what it means later on.

8 Mr Witness, in the beginning, when I asked you general questions about your life,
9 you said that you [REDACTED] and I
10 also asked you where you were based in the northern part of Mali - it's on page 11,
11 line 22 to 28 - and your response wasn't recorded.

12 So I would like to ask you again. End of 2011, where did you actually live? I know
13 that [REDACTED] but where were you actually based?

14 A. [11:56:41] At the end of 2011 I was based in [REDACTED]
15 [REDACTED], in the region of Timbuktu.

16 Q. [11:57:08] How long were you there?

17 A. [11:57:20] [REDACTED] in 2011, I went back, well, I used to
18 live in [REDACTED] Then I went to live [REDACTED] So I was based there until
19 everybody left. Everybody fled the war. Everybody went to the refugee camps [REDACTED]

20 [REDACTED]

21 Q. [11:58:00] On the records in the French version it is stated that you said
22 [REDACTED] lived. Could you repeat the exact location [REDACTED]

23 * A. [11:58:23] It's [REDACTED]

24 Q. [11:58:39] And how far away from Timbuktu is it?

25 A. [11:58:47] Approximately [REDACTED] approximately. I'm not sure.

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1 Q. [11:58:59] And at that time, did you go and visit Timbuktu?

2 A. [11:59:15] Yes, [REDACTED]

3 yes, I went there.

4 PRESIDING JUDGE MINDUA: [11:59:28](Interpretation) French interpreter, please.

5 Court officer, is the interpretation coming through?

6 THE COURT OFFICER: [12:00:02](Interpretation)

7 Could the Arab booth please repeat what they have just said.

8 THE INTERPRETER: [12:00:33] The witness said: "Yes, I used to visit Timbuktu

9 regularly [REDACTED]."

10 MR DUTERTRE: [12:00:53](Interpretation) Thank you.

11 Q. [12:00:58] Mr Witness, you mentioned that you were based at [REDACTED] line -- page

12 37, until everyone fled, everyone fled from the war and went to refugee camps [REDACTED]

13 [REDACTED]

14 My question is, what war are you talking about?

15 A. [12:01:35] The war in 2012, between the armed groups and the Malian army.

16 Q. [12:02:02] We'll come back to that, but for clarification, when you said the war

17 between the Malian army and the armed groups, what armed groups are you

18 referring to?

19 A. [12:02:18] All the armed groups in northern Mali, including MNLA, Ansar Dine

20 and Al-Qaeda.

21 Q. [12:02:37] And let's look at the chronology. When did the war start between

22 the Malian army and the armed groups? Roughly what month was it?

23 A. [12:02:57] I have a problem really with remembering dates and names. I

24 can't -- I can't really give you a specific answer.

25 Q. [12:03:15] Very well. Am I to understand that you left [REDACTED] when

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1 you said everybody fled? Is that what I am to understand?

2 A. [12:03:34] Yes. Myself and everyone else in the village. Nobody stayed except,
3 of course, the light-skinned people. They stayed. But everybody else left. They
4 were scared of the, the army.

5 Q. [12:04:05] You also told us the MNLA, Ansar Dine shared the town of Timbuktu
6 and MNLA were based at the airport of Timbuktu. At that moment, where were
7 you precisely when the armed groups took over Timbuktu?

8 A. [12:04:49] I was in [REDACTED]

9 Q. [12:05:03] And once the town was taken over by Ansar Dine and AQMI, [REDACTED]
10 [REDACTED]?

11 A. [12:05:19] [REDACTED].

12 Q. [12:05:30] I understand the problem you have with dates, but roughly speaking,
13 can you give us an approximate idea? Do you remember when you arrived in
14 Timbuktu, the date? Or at least the month?

15 A. [12:05:54] I can -- I can't really say anything that I'm not a hundred per cent
16 sure of.

17 Q. [12:06:08] Maybe I can give you some background so that you can perhaps find
18 the date. Was it before Ramadan or after Ramadan when you arrived at Timbuktu?

19 A. [12:06:25] Before Ramadan, long before Ramadan. [REDACTED]
20 [REDACTED]

21 PRESIDING JUDGE MINDUA: [12:06:53](Interpretation) Counsel Sutherland, you
22 wish to speak?

23 MS SUTHERLAND: [12:06:58] We believe there's a problem with the translation, the
24 English translation on page 39 at lines 19 to 22. The witness states: Nobody stayed
25 except, of course, the light-skinned people. They stayed. But everyone else left.

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1 That's the English translation. But apparently that conflicts with the Arabic
2 translation, which states - and, of course I'm paraphrasing - that the light-skinned
3 people left because they were scared of the Malian army.
4 So there's obviously a significant conflict.
5 * M. DUTERTRE : [12:07:56] Which army? The Malian or German army?
6 ENGLISH-FRENCH INTERPRETER : [12:08:03] The Malian Army
7 PRESIDING JUDGE MINDUA: The Malian. Because I was also surprised at what I
8 heard. Prosecution, please ask the witness for clarification.
9 ENGLISH-FRENCH INTERPRETER: [12:08:06]: Please excuse the interpreter, "The
10 Malian Army"
11 MR DUTERTRE: [12:08:14](Interpretation) Yes, I will do that. Thank you. So that
12 we can avoid all misunderstanding.
13 Q. [12:08:22] Mr Witness, you said everyone fled from your village and no one
14 rested, except light-skinned individuals. Perhaps it might be a problem of
15 translation. Could you clarify what you meant. Are you talking about
16 light-skinned people or are we not talking about light-skinned people?
17 A. [12:08:53] All the light-skinned people [REDACTED] escaped from the town
18 and all the villages. Tens of women and children and old people - [REDACTED]
19 [REDACTED] - and some other
20 women who were ill. They all escaped on foot and they walked for a whole
21 night - and, I remember that the weather was very cold at the time - not because they
22 were scared of MNLA nor the jihadists. They were scared of the Malian army.
23 Because for those who know the background, the Malian army in the '90s, when there
24 was a war between the army and between the armed front -- and armed front, there
25 was a genocide based on the colour of the people. And that's why those people

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1 escaped, because on that day, there were clashes in the Léré town between MNLA
2 and the Malian army, and some members of the Malian army escaped from another
3 town, [REDACTED] And the people were so
4 scared that if when the Malian army comes back, that -- that they will kill all the
5 light-skinned people, and that's why only the dark-skinned people stayed in the town,
6 and also some of the traders who decided to leave the next day.

7 PRESIDING JUDGE MINDUA: [12:10:59](Interpretation) That's clear. Thank you
8 very much.

9 Prosecution.

10 MR DUTERTRE: [12:11:02](Interpretation) I was going to say precisely the same,
11 and the Defence has all its time to look into this and read it at their own leisure.

12 Q. [12:11:18] So [REDACTED] after the arrival of the armed groups -- we'll go into the
13 details of your arrival a little later on. So you are in Timbuktu, and you remained
14 there for roughly how long after you arrived?

15 A. [12:11:38] I stayed until the end actually of the occupation of the armed groups
16 to the city. [REDACTED]

17 [REDACTED]
18 [REDACTED]

19 PRESIDING JUDGE MINDUA: [12:12:10](Interpretation) We are still in closed
20 session?

21 MR DUTERTRE: [12:12:16](Interpretation) No, no, I just have a last question, but we
22 can do that in public session. So we can move to public session, if you want.

23 PRESIDING JUDGE MINDUA: [12:12:25](Interpretation) Please, court officer, could
24 you move into public session.

25 (Open session at 12.12 p.m.)

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(Private Session)

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- 1 THE COURT OFFICER: [12:12:35] We are back in open session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [12:12:42](Interpretation) Thank you, court officer.

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1 Prosecution, please proceed.

2 MR DUTERTRE: [12:12:47](Interpretation) Thank you, My Lord.

3 Q. [12:12:52] Mr Witness, you talked about the end of the occupation. For the
4 parties here and the Court, when was the end of the occupation?

5 A. [12:13:16] It, it happened after the French intervention started. I think it was
6 2013. I -- I -- as I told you before, I have problem remembering dates and numbers.

7 Q. [12:13:37] That's fine, Mr Witness. You do what you can as regards what you
8 remember.

9 I think there's one or two minutes, so perhaps that might be a good idea to adjourn
10 because I'm going to start a new chapter in an open session afterwards.

11 PRESIDING JUDGE MINDUA: [12:14:02](Interpretation) Fine, if that's your choice.

12 We will adjourn. This time we will adjourn for a little longer and we will resume at
13 1.30. 1.30 we will resume.

14 The Court is adjourned.

15 THE COURT USHER: All rise.

16 (Recess taken at 12.14 p.m.)

17 (Upon resuming in open session at 1.31 p.m.)

18 THE COURT USHER: [13:31:35] All rise.

19 Please be seated.

20 PRESIDING JUDGE MINDUA: [13:32:01](Interpretation) Court is in session once
21 again.

22 We shall continue with the examination-in-chief on the part of the Prosecution. But
23 before so doing, I would like to ask the courtroom officer to correct the number that
24 she attributed this morning to the document that was drafted by the witness.

25 Madam courtroom officer, please.

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- 1 THE COURT OFFICER: [13:32:31](Interpretation) Yes. Thank you very much,
2 Mr President. In fact, the document reference will be MLI-REG-0001-0003.
3 PRESIDING JUDGE MINDUA: [13:32:50](Interpretation) Thank you very much,
4 courtroom officer.
5 Mr Prosecutor, please, over to you.
6 MR DUTERTRE: [13:32:57](Interpretation) Thank you very much, your Honour.
7 Q. [13:33:11] Mr Witness, previously you mentioned the beginning of the war
8 between the Malian army and the armed groups in the north of Mali, and then the
9 invasion of Timbuktu and the MNLA that set up at the airport, and Ansar Dine that
10 set up in the city itself of Timbuktu.
11 And what I would like, in order to shed light on the matter for the Chamber, is for
12 you to tell us or describe to us the salient events of that war between the beginning
13 and the time at which AQMI and Ansar Dine took over Timbuktu. Could you please
14 tell us, according to your knowledge, everything that you know and then we'll go into
15 how you know these details in closed session.
16 Could you please tell us what are the main events that unfolded during that time of
17 war?
18 A. [13:34:42] The beginning of the war was -- it happened actually after the fall of
19 al-Gaddafi and his regime. There were a lot of routes open for thousands
20 of -- thousands of numbers of weapons that were available in Libya. And, of course,
21 there are various movements and different trends and everyone was in Libya,
22 including those insurgents who had a secular approach and also the fighters who had
23 an jihadist approach, and everyone was in Libya and everyone was bringing weapons
24 back.
25 When they arrived, of course the force was huge and the numbers were really big,

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1 and they were in a position that allowed them to fight Mali. Of course, there wasn't
2 a lot of agreement between these groups who had a secular way of thinking and those
3 who had an Islamist or jihadist way of thinking, they were contradicting and
4 disagreeing. But there was this strategy of an enemy, an enemy which is a friend.
5 So of course there were secret agreements between MNLA and Ansar Dine, that was
6 obviously founded by Iyad, during the same period which was a cover. We can say
7 it was an -- there was an alliance between them and Al-Qaeda.
8 So the war started and it seems that there were other forces, external forces that
9 helped the start of this war because, in fact, the Malian army was not defeated in real
10 terms or from military terms.

11 THE INTERPRETER: [13:37:14] Microphone, please. Microphone.

12 PRESIDING JUDGE MINDUA: [13:37:19](Interpretation) I can hear the
13 interpretation. No microphone, Counsel. I have channel 2 in French.
14 Madam courtroom officer, please.

15 MR DUTERTRE: [13:37:32](Interpretation) I'm very sorry for this technical event.
16 It's working again.

17 Q. [13:37:40] I do apologise, Mr Witness. Please carry on.

18 A. [13:37:49] So the environment was really ready and the force was huge. There
19 was obviously attempts of reconciliation by the Malian president, but unfortunately it
20 all failed. But also there was some kind of cooperation between the Islamist groups.
21 The Islamist groups played a very important role in showing this kind of force that
22 they had, especially in the battles of Tessalit and Aguelhok where tens of soldiers
23 were killed and a huge number of weapons were seized. All of that had a very
24 negative effect on the Malian army and it also affected the groups from another
25 perspective.

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1 There was of course this secret cooperation between the different -- between the
2 different armed groups. The MNLA announced that they have control over
3 Aguelhok, but after revealing this massacre that happened in Aguelhok by the armed
4 groups, MNLA took back this kind of announcement, they retracted it.
5 There are many examples that this war was not really a military war as such, it was
6 more of a psychological war and a strategic war, because of the effect that was
7 planned for it even in Bamako. And that's why taking over Timbuktu was not a
8 military one, because MNLA was already putting a blockade around the city. They
9 didn't know that they have the power to control the city at the time, but the Arab
10 militia that was working with the Malian army were exactly in the same position.
11 But overnight Gao fell and the Malian army withdrew from it and the military system
12 collapsed completely, and suddenly there was a complete absence of the state in the
13 north.
14 It seems that the control over Bamako and Timbuktu was not a military, they shot few,
15 few bullets here and there, but it seems that what happened is that the Malian army
16 just withdrew. There was a complete collapse of the state and complete collapse of
17 the military institution.
18 And during the control of the armed groups I think that was the main obstacle,
19 because MNLA wanted to have this project of a secular democratic state independent
20 from Mali, and of course the MNLA had their own partners who was supporting this
21 kind of approach, while the ideology of the armed groups, the jihadist groups was
22 completely contradictory to this. They say, we were fighting the Malian state
23 because of the secularism, and that's where the disagreement came.
24 I don't know how the sovereignty was distributed over the different cities, but I know
25 that the MNLA was evicted from Gao in a manner that showed that there is some

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1 kind of an external force that wanted MNLA to be out of Gao.
2 As for -- or, according to my knowledge, the MNLA was superior when it comes to
3 military power. And Al Mokhtar left the Al-Qaeda and, as far as I understand, he
4 didn't have a lot of -- they accept a little of -- a small number of vehicles, but MNLA
5 was evicted completely from Gao.
6 In Timbuktu, I arrived one day and I saw that there was a protest march. I asked
7 what's going on and I was told that the people are protesting because they are
8 requesting or demanding Ansar Dine not to leave the city because the people prefer
9 the rule of Ansar Dine rather than the rule of MNLA.
10 At the beginning, it seemed that the disagreement was very clear between MNLA and
11 the rest of the jihadist or the other jihadist groups. It was very clear that there was
12 some kind of disagreement between the jihadist groups themselves. There were
13 three movements or three trends, or maybe four, we can say four if we considered
14 Ansar Dine as a group that had two separate approaches. So, for example, for
15 example, there was MUJAO that was founded in Gao.

16 Q. [13:44:32] I have questions that follow on from this, but my first question is how
17 did you get all this information, all these details which you've just shared with us?

18 A. [13:44:59] I was there since the beginning of taking over the city, and before that,
19 actually, until the end of the occupation. I was in Timbuktu. I was in Gao. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 MR DUTERTRE: [13:45:37](Interpretation) Mr President, could we please go very
23 briefly into private session. This will just be for a minute for a follow-up question
24 with regard to what the witness just said, and I think it should be redacted, in fact.

25 PRESIDING JUDGE MINDUA: [13:45:54](Interpretation) Private session, please,

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1 madam courtroom officer.

2 (Private session at 1.46 p.m.)

3 THE COURT OFFICER: [13:46:07] We're in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [13:46:12](Interpretation) Thank you very much.

5 Mr Prosecutor, please continue.

6 MR DUTERTRE: [13:46:15](Interpretation) Thank you, Mr President.

7 Q. [13:46:17] Now, Mr Witness, you said [REDACTED]

8 [REDACTED]

9 Could you please tell us [REDACTED]

10 and we are in private session.

11 A. [13:46:48] I can say that [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 Q. [13:47:36] You say [REDACTED] Can you, because

17 we are in private session, please [REDACTED]

18 [REDACTED]

19 A. [13:48:01] There are many of them. Many. MNLA and all the other groups,

20 they used the strategy of regions. Most of those who belonged to it in Timbuktu

21 were from the Timbuktu region, although some of them came from abroad, but many

22 of them were from Timbuktu. So you can say that there are more than maybe

23 30 per cent of the population are from Tuareg and they all joined them.

24 Q. [13:48:50] [REDACTED]

25 [REDACTED]

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1 [REDACTED] ?

2 A. [13:49:17] From which group again?

3 Q. [13:49:29] The MNLA.

4 A. [13:49:39] [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 And there is [REDACTED] *Colonel Mohamed Najim. [REDACTED]

12 [REDACTED] he -- Mohamed Najim was the one responsible for the military or

13 the forces in MNLA.

14 Q. [13:50:54] You mentioned the names of a number of individuals, of whom

15 [REDACTED] Do you know the complete name of the gentleman whose name

16 is [REDACTED] ?

17 A. [13:51:15] [REDACTED]

18 MR DUTERTRE: [13:51:32](Interpretation) Maybe, madam courtroom officer, the

19 witness could be given a piece of paper and a pen for him to write the name down,

20 were the Presiding Judge to authorise that.

21 PRESIDING JUDGE MINDUA: [13:51:46](Interpretation) Please, madam courtroom

22 officer, yes, could you provide it to him.

23 THE COURT OFFICER: [13:51:54](Interpretation) He always has a piece of paper

24 and pen in front of him.

25 PRESIDING JUDGE MINDUA: [13:52:00](Interpretation) You have a piece of paper

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1 and a pen. Could you please write down the names.

2 THE COURT OFFICER: [13:52:19] For your information, I will try to put the paper
3 on the video projector next to the witness and the document will be displayed on the
4 evidence 2 channel.

5 PRESIDING JUDGE MINDUA: [13:52:37](Interpretation) Thank you very much,
6 courtroom officer.

7 MR DUTERTRE: [13:52:45](Interpretation)

8 Q. [13:52:47] And, Mr Witness, as we are in this context, you spoke of [REDACTED]

9 which is a nickname. Do you know the true name of [REDACTED]

10 A. [13:53:07] [REDACTED] is his name. This is the name, the family name, everybody
11 knows him as [REDACTED]

12 Q. [13:53:20] Very well. I had misunderstood. I had understood that it was a
13 nickname. I do apologise.

14 [REDACTED]
15 please.

16 A. [13:53:58] [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 [REDACTED]
20 [REDACTED]

21 Q. [13:54:36] Could you please also write their names on a piece of paper to -- well,
22 for the purposes of the record, Mr Witness.

23 Thank you, Mr Witness.

24 And could you also tell the Chamber, please, where those three individuals whom
25 you just mentioned, that is to say, [REDACTED] the second individual, and [REDACTED]

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1 [REDACTED] where they were during the occupation of Timbuktu by AQMI and
2 Ansar Dine.

3 A. [13:56:11] Most of the time they were in [REDACTED] city.

4 PRESIDING JUDGE MINDUA: [13:56:28](Interpretation) Madam courtroom officer,
5 are you going to give reference numbers to these two items.

6 THE COURT OFFICER: [13:56:34](Interpretation) Yes, indeed, Mr President. The
7 first document will bear the reference MLI-OTP -- REG-0001-0004. The second
8 document will bear MLI-REG-0001-0005.

9 PRESIDING JUDGE MINDUA: [13:57:05](Interpretation) Thank you very much,
10 courtroom officer.

11 Mr Prosecutor, please.

12 MR DUTERTRE: [13:57:10](Interpretation) I can see that in the French transcript the
13 location where those three individuals were to be found most often has not been
14 transcribed in a comprehensible manner.

15 Q. [13:57:25] Mr Witness, could you please tell us where they were located in
16 Timbuktu in 2012?

17 A. [13:57:44] [REDACTED]

18 Q. [13:57:49] Could you please tell us how far [REDACTED] from Timbuktu.

19 A. [13:58:05] Around [REDACTED] I'm not a hundred per cent sure.

20 MR DUTERTRE: [13:58:12](Interpretation) Mr President, we can go back into open
21 session.

22 PRESIDING JUDGE MINDUA: [13:58:18](Interpretation) Courtroom officer, could
23 we go back into open session, please.

24 (Open session at 1.58 p.m.)

25 THE COURT OFFICER: [13:58:33](Interpretation) We are in open session,

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1 Mr President.

2 PRESIDING JUDGE MINDUA: [13:58:37](Interpretation) Thank you very much.

3 Over to you, Mr Prosecutor.

4 MR DUTERTRE: [13:58:41](Interpretation) Thank you, Mr President.

5 Q. [13:58:43] Mr Witness, I shall be harking back to the information that you have
6 already provided us with because there has been a great deal.

7 You mentioned Aguelhok. Could you please explain in further detail which group
8 took over the town of Aguelhok.

9 A. [13:59:20] In my knowledge, I know that it was taken over by Ansar Dine and
10 Al-Qaeda together.

11 Q. [13:59:31] Thank you. And according to the information in your possession,
12 you talked about a massacre. Could you provide us a bit further -- further details on
13 this point, please.

14 A. [14:00:01] When it was announced that they took over the Aguelhok camp,
15 information and -- were spread that everybody that was in the camp was killed.
16 And some people who were taken as prisoners were slaughtered later. According to
17 my information that I gathered, but I can't obviously be sure of totally, my
18 understanding is that the two groups attacked Aguelhok separately. They came
19 from two different directions. Of course this happened after the officer responsible
20 for the camp refused to give in. Ansar Dine came from one direction and Al-Qaeda
21 came from another direction.

22 According to the information that were available, the entire camp was destroyed and
23 some soldiers were taken prisoners from both sides.

24 Ansar Dine, according to the information, they have handed over those soldiers, they
25 released them, and they have already broadcast a video of releasing about 500

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1 soldiers from Aguelhok.

2 As for Al-Qaeda, that was led at the time by Nabil Abou Alqama, they slaughtered
3 the prisoners outside the camp. [REDACTED]

4 [REDACTED]

5 Q. [14:02:14] In a private session we'll go back to the source of your information.

6 But you talked about the impact on the MNLA of this massacre. What was the
7 impact on the Malian army of this massacre in Aguelhok?

8 A. [14:02:39] When information was received regarding Aguelhok and the
9 massacre that took place there, when such information was received in Bamako and,
10 more precisely, when the information was received by the Malian army's biggest
11 barracks in Kati, a military location close to Bamako, when the information reached
12 the families of army service members, the families of army service members, they
13 did -- they carried out sort of an uprising and protests that were violent. These
14 protests targeted anyone who was light skinned. They set on fire a pharmacy that
15 belonged to a pharmacist with the name Al Mahdi, as far as I remember.

16 I also received information that they killed a Moroccan person, thinking he was a
17 Tuareg. So there was this violence and these protests propagating among army
18 service members and in this -- in these barracks quite at the core of the Malian army.

19 Q. [14:04:22] So what was the impact on the barracks in the northern part of Mali?

20 A. [14:04:43] As far as what I have heard, [REDACTED]
21 [REDACTED] Iyad Ag Ghaly, when they took over the Aguelhok facility and killed the
22 soldiers there, it was allowed for a Malian general with the name Nago (phon), he
23 was allowed in the barracks and was allowed to take photos. And these photos were
24 published and the information was published. And that this piece of information,
25 along with the threats of killing, damaged the morale among the Malian army, so

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1 much so -- or, this was intensified with the uprising that families of Malian service
2 members did.

3 There was also information shared among -- or, there was information circulating
4 among the service members that the northern part of Mali can be now referred to as
5 the slaughterhouse. Or in French, *abattoir*.

6 Q. [14:06:16] Thank you, Mr Witness.

7 A further clarification. You said that the -- they were allowed to go to the barracks
8 and to take the photos. Are you referring to what, photos of what?

9 PRESIDING JUDGE MINDUA: [14:06:36](Overlapping speakers)

10 MS SUTHERLAND: [14:06:40] Forgive me for the interruption, it's another issue
11 with the translation.

12 The English transcript at page 56, line 8 says, "I also received information that they
13 killed a Moroccan person." And I understand that the Arabic says something else, so
14 I was hoping that that could be clarified by the witness, please.

15 It says in addition, Moroccan and Tuareg -- sorry, in addition. A reason for the
16 killing being that he was Tuareg, apparently, so there's obviously a confusion.

17 PRESIDING JUDGE MINDUA: [14:07:38](Interpretation) That's what I also
18 understood, but perhaps the witness could clarify the position. Have you
19 understood the question? Could you specify in greater detail.

20 THE WITNESS: [14:08:01](Interpretation) When the information received -- was
21 received regarding Aguelhok, there were protests by families of military service
22 members. These protests were violent, as I said, and they set on fire a pharmacy,
23 also a medical practice. Their purpose was to target the Tuareg by killing them or by
24 whatever. They were bent on retaliating against any Tuareg in retaliation for what
25 the groups committed against the army. And according to this information, these

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1 families were carried out by -- these protests were carried out by the families of the
2 army service members. But my understanding also is that actual service members
3 did take part in these protests. [REDACTED]

4 [REDACTED] these protests ran into a Moroccan person whom they thought was a
5 Tuareg because of his light skin and so they killed him.

6 PRESIDING JUDGE MINDUA: [14:09:30](Interpretation) Thank you. That's
7 clearer.

8 Mr Prosecutor, please continue.

9 MR DUTERTRE: [14:09:38](Interpretation) That's what I understood the first time in
10 French, but perhaps the English didn't reflect that.

11 If you don't mind, I'd like to go into closed session to verify the knowledge of the
12 person.

13 PRESIDING JUDGE MINDUA: [14:09:56](Interpretation) Yes, please proceed, court
14 officer, to go into private session.

15 (Private session at 2.10 p.m.)

16 THE COURT OFFICER: [14:10:09](Interpretation) We are now in private session.

17 PRESIDING JUDGE MINDUA: [14:10:14](Interpretation) Thank you.

18 Prosecution, please proceed.

19 MR DUTERTRE: [14:10:18](Interpretation)

20 Q. [14:10:19] Mr Witness, who precisely told you what happened in Aguelhok?

21 A. [14:10:33] With regards to Aguelhok, [REDACTED]

22 [REDACTED] that they have taken control of Aguelhok, and [REDACTED]

23 [REDACTED] And on that same day [REDACTED]

24 [REDACTED]

25 [REDACTED] they have

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1 taken control of Aguelhok.

2 Q. [14:11:28] Could you tell us, Mr Witness, whether [REDACTED]

3 [REDACTED]?

4 A. [14:11:40] [REDACTED]

5 [REDACTED] I cannot mention the year exactly,

6 [REDACTED] that's where I met him, and we remained in

7 contact ever since. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] I waited for a week or two weeks, then he came and told me

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] And so I went back to Mali. This was in 2011.

14 Q. [14:13:22] So, to go back to my question, [REDACTED]

15 [REDACTED]?

16 A. [14:13:34] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 Q. [14:13:59] You said the person on the person (sic) said [REDACTED].

20 How do you know, how [REDACTED]?

21 A. [14:14:18] I can't say for sure, but I can say that [REDACTED] There

22 was another [REDACTED]. Then they

23 [REDACTED] and I did not [REDACTED].

24 Q. [14:14:49] So there were [REDACTED] when the events of

25 Aguelhok took place, is that correct?

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- 1 A. [14:14:59] No. [REDACTED] before the Aguelhok events. [REDACTED]
2 [REDACTED]
3 [REDACTED]. [REDACTED]
4 [REDACTED] Aguelhok.
5 Q. [14:15:33] Fine. Now it's clearer to me. And this [REDACTED] took place where,
6 the [REDACTED]?
7 A. [14:15:45] I do not recall exactly where. I'm sorry for that.
8 Q. [14:15:58] But according to your understanding, was it in Aguelhok? Was it far
9 away? If you can, do you have any idea where it took place?
10 A. [14:16:13] I would say it's within the triangle between Kidal, Tessalit and
11 Aguelhok, but where exactly, I don't recall.
12 Q. [14:16:34] Okay. Could you tell us how much time you spent with your [REDACTED]
13 [REDACTED]?
14 A. [14:16:49] I cannot be precise in that regard, but I can say that it was not a long
15 conversation. It was just [REDACTED] -- did so and
16 so and that was it.
17 Q. [14:17:09] Fine. [REDACTED]
18 [REDACTED]?
19 A. [14:17:23] [REDACTED]
20 Q. [14:17:35] [REDACTED]
21 [REDACTED]?
22 A. [14:17:43] I do not recall the details [REDACTED]
23 [REDACTED]. The -- and naturally [REDACTED]
24 [REDACTED].
25 Q. [14:18:18] Thank you. And [REDACTED] do you have any idea

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1 roughly [REDACTED]?

2 A. [14:18:32] [REDACTED], I recall this very well

3 and I remember that I was [REDACTED] He

4 said that [REDACTED]

5 [REDACTED] and I remember -- and my understanding was that

6 [REDACTED] but there was no follow-up to that.

7 Q. [14:19:16] [REDACTED]

8 [REDACTED]?

9 A. [14:19:24] [REDACTED]

10 [REDACTED]

11 Q. [14:19:41] [REDACTED]?

12 A. [14:19:55] [REDACTED]

13 [REDACTED]

14 Q. [14:20:11] Do you remember anything else of your conversation [REDACTED]

15 [REDACTED]?

16 A. [14:20:22] I don't remember the details of the conversation. I only remember

17 about what the conversation was.

18 MR DUTERTRE: [14:20:40] (Interpretation) My Lords, your Honours, I would like to

19 look at 0020-0111, which is in tab 6 of your file, and the translation is 0032-0301, which

20 is in tab 7.

21 Q. [14:21:11] And Mr Witness, you have two files before you and I would like you

22 to turn to tab 6.

23 I'll be very brief and then we can move back into public session.

24 A. [14:21:44] I have binder 1 and binder 2. Which one?

25 Q. [14:21:54] 1, tab 6, please.

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- 1 PRESIDING JUDGE MINDUA: [14:22:18](Interpretation) Ms Taylor.
- 2 MS TAYLOR: [14:22:19] (Overlapping speakers) I apologise for interrupting,
- 3 Mr President, but in tab 7, I have MLI-OTP-0031-0574 and I don't know if that's the
- 4 case with anyone else's binders. Tab 6 is the -- I have the original language, but the
- 5 translation, I understood, would be in tab 7 and in tab 7, it appears to be a completely
- 6 different document for me, at least.
- 7 PRESIDING JUDGE MINDUA: [14:23:04](Interpretation) Prosecutor.
- 8 MR DUTERTRE: [14:23:09](Interpretation) My binder is correct, but sometimes with
- 9 all the things we've printed, perhaps things have been misfolded. So maybe we'll
- 10 just have to check this.
- 11 The representative of the victims has been so kind as to exchange binders, so that we
- 12 can proceed.
- 13 PRESIDING JUDGE MINDUA: [14:23:43](Interpretation) That is very kind indeed.
- 14 Thank you, Counsel Kassongo, for your wonderful cooperation.
- 15 MR DUTERTRE: [14:24:00](Interpretation)
- 16 Q. [14:24:02] Do you see the document in tab 6?
- 17 A. [14:24:11] Yes.
- 18 Q. [14:24:14] Do you recognise this document, Mr Witness?
- 19 A. [14:24:22] Yes, this is [REDACTED]
- 20 [REDACTED].
- 21 Q. [14:24:44] On the right, there's -- you have all the [REDACTED] and
- 22 others. And below that, there's a date. Could you tell us the date, please.
- 23 A. [14:25:05] The date is Thursday, January 19, 2012. [REDACTED]
- 24 Q. [14:25:30] Mr Witness, you said that [REDACTED]
- 25 [REDACTED]?

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- 1 A. [14:25:47] No. I did not have any doubts about [REDACTED]
2 I was totally sure because I knew that [REDACTED].
3 Q. [14:26:20] Does this [REDACTED] this document 0020-0111, [REDACTED]
4 [REDACTED]?
5 A. [14:26:40] Indeed. [REDACTED] Nothing missing.
6 Q. [14:26:59] Said in this paragraph that [REDACTED] wanted, and that was his
7 main objectives, [REDACTED] the Malian
8 constitution.
9 And that's the end of the citation.
10 Do you remember [REDACTED]
11 A. [14:27:33] Yes, [REDACTED] I
12 remember [REDACTED] and I remember [REDACTED]
13 [REDACTED]
14 Q. [14:28:00] Thank you. And at the end, it says the [REDACTED] that this
15 was only a beginning. [REDACTED]
16 Could you perhaps explain to the Court [REDACTED] that?
17 A. [14:28:26] What is -- what can be seen clearly here is that it was the beginning of
18 the war and beginning of the takeover.
19 MR DUTERTRE: [14:28:56](Interpretation) My Lord, I would like to turn now very
20 briefly -- the record isn't complete.
21 PRESIDING JUDGE MINDUA: [14:29:09](Interpretation) Yes. We are still in
22 closed session.
23 MR DUTERTRE: [14:29:27](Interpretation) Yes, for this binder, I asked the witness at
24 14 hours 22 if he recognised the --
25 Do you recognise this document? And I can't see it reflected in the records.

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1 I have another document, which I would like to refer to, and then I will have finished
2 for today.

3 PRESIDING JUDGE MINDUA: [14:29:52](Interpretation) Please proceed.

4 MR DUTERTRE: [14:29:56](Interpretation) Thank you. 0020-0108, tab 4, with the
5 translation 0038-226 at tab 5.

6 Q. [14:30:33] Do you have this document before you at tab 4, Mr Witness?

7 A. [14:30:51] Yes.

8 Q. [14:30:55] Do you recognise this document, Mr Witness?

9 A. [14:30:59] Yes.

10 Q. [14:31:07] And can you briefly describe what it is all about, what it is.

11 A. [14:31:22] [REDACTED]
12 [REDACTED] --

13 THE INTERPRETER: [14:31:32] Sorry.

14 THE WITNESS: [14:31:33](Interpretation) -- and the [REDACTED] is not

15 [REDACTED]
16 [REDACTED] And so, [REDACTED] and

17 [REDACTED]
18 [REDACTED] But it was not. [REDACTED]

19 MR DUTERTRE: (Interpretation)

20 Q. [14:32:10] Thank you very much for that clarification, which is very useful.

21 Mr Witness, on the right-hand side, next to the [REDACTED] next to
22 [REDACTED], what is the date written there?

23 A. [14:32:31] It's Friday, January 20, 2012, [REDACTED]

24 Q. [14:32:47] (Overlapping speakers)

25 THE INTERPRETER: [14:33:03] The English interpreter did not have the channel.

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1 The English interpreter did not have the channel.

2 THE WITNESS: [14:33:22](Interpretation) I do not recall the [REDACTED]

3 such [REDACTED] I remember that -- I remember that [REDACTED]

4 regarding northern Mali [REDACTED]

5 [REDACTED]

6 MR DUTERTRE: [14:33:50](Interpretation)

7 Q. [14:33:52] My last question in closed session.

8 Does this [REDACTED] ?

9 A. [14:34:07] Certainly.

10 MR DUTERTRE: [14:34:13](Interpretation) We can go back into public session. I do

11 apologise. We're going to go over our time allotted a little bit, but I shall then be

12 wrapping up.

13 PRESIDING JUDGE MINDUA: [14:34:26](Interpretation) Could we move into

14 public session, please, madam courtroom officer.

15 (Open session at 2.34 p.m.)

16 THE COURT OFFICER: [14:34:38] (Interpretation) We are in public session,

17 Mr President.

18 PRESIDING JUDGE MINDUA: [14:34:44] (Interpretation) There we are.

19 Mr Prosecutor, I can see that we need to adjourn here now for today.

20 Mr Witness, the Chamber would like to thank you for having answered the questions

21 put to you today. On Monday, 2 November, you shall continue with your

22 testimony.

23 Is that correct, Mr Prosecutor?

24 MR DUTERTRE: [14:35:20] (Interpretation) Absolutely, Mr President.

25 PRESIDING JUDGE MINDUA: [14:35:23] (Interpretation) There we go.

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1 So from now until Monday, please do not forget that you are not allowed to speak
2 about your testimony to whom whatsoever -- or to whomsoever. Neither to any
3 members of your family, neither to any of your friends were you to come into contact
4 with them during the weekend.

5 Do you understand?

6 THE WITNESS: [14:35:54] (Interpretation) Yes, very clearly, sir.

7 PRESIDING JUDGE MINDUA: [14:36:00](Interpretation) Very well. So please rest
8 well over the weekend and we shall see you again on Monday.

9 Now, before we conclude our session today, I would like as always to thank all the
10 parties and participants. I would like to thank the court reporters and the
11 interpreters and I would also like to express my gratitude, my great gratitude to the
12 security officers and the members of the public in the public gallery and further
13 afield.

14 I would like to wish all of you a very good weekend. And take good care. We shall
15 see you again on Monday.

16 Court is adjourned.

17 THE COURT USHER: [14:36:57] All rise.

18 (The hearing ends in open session at 2.37 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 18 line 22 "chose to go to regulated courts" Is corrected to "could go to either
23 Sharia courts or civilian courts"

24 Page 31 lines 14-15 "[REDACTED] (phon) and lieutenant Mohamed Najim" Is
25 corrected to "[REDACTED] (phon) and Colonel Mohamed Najim".

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1 Page 42 line 11 "At the end of 2011, I was based in [REDACTED] in
2 Timbuktu" Is corrected to "At the end of 2011, I was based in [REDACTED]
3 [REDACTED] in the region of Timbuktu"

4 SECOND CORRECTIONS REPORT

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

7 Page 25 lines 20-21:

8 "THE COURT OFFICER: [11:38:20](Interpretation) The document will be provided
9 the ERN ICC -- 0001-0004."

10 Is corrected to

11 "THE COURT OFFICER: [11:38:20](Interpretation) The document will be provided
12 the ERN ICC-REG-0001-0004."

13 Page 28 lines 18-20:

14 "Q. It was a technical question, so we didn't get your last answer. Would you be
15 so kind as to repeat your question (sic)? What was the situation as regards cigarettes
16 before the armed groups arrived? "

17 Is corrected to

18 "Q. [11:47:51 There was a technical problem, so we didn't get your last answer.
19 Would you be so kind as to repeat your answer to the question as to the situation
20 regarding smoking in Timbuktu prior to the arrival of Ansar Dine and AQMI in
21 2012?"

22 Page 31 lines 23-24:

23 «A. [11:58:23] It's [REDACTED] (sic). »

24 Is corrected to

25 « A. [11:58:23] It's [REDACTED] »

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- 1 Page 34 lines 5-10:
- 2 "MR DUTERTRE: [12:07:55](Interpretation) Which army? The Malian army? The
- 3 Malian. Because I was also surprised with what I heard.
- 4 PRESIDING JUDGE MINDUA: [12:08:08](Interpretation) Prosecution, please ask the
- 5 witness for clarification."
- 6 Is corrected to
- 7 "M. DUTERTRE : [12:07:56] Which army? The Malian or German army?
- 8 ENGLISH-FRENCH INTERPRETER : [12:08:03] The Malian Army
- 9 PRESIDING JUDGE MINDUA: The Malian. Because I was also surprised at what I
- 10 heard. Prosecution, please ask the witness for clarification.
- 11 ENGLISH-FRENCH INTERPRETER: [12:08:06]: Please excuse the interpreter, "The
- 12 Malian Army""