

~~---ICC-01/12-01/18-T-040-CONF-ENG-ET-04-11-2020-1/61-NB-T-----~~

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 v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
- 5 Mahmoud - ICC-01/12-01/18
- 6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
- 7 Judge Kimberly Prost
- 8 Trial Hearing - Courtroom 1
- 9 Wednesday, 4 November 2020
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:50] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:32:18](Interpretation) Court is in session.
- 15 Good morning to everybody.
- 16 Madam courtroom officer, could you please call the case.
- 17 THE COURT OFFICER: [9:32:31] 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 And for the record, we are in open session.
- 21 PRESIDING JUDGE MINDUA: [9:32:53](Interpretation) Thank you very much,
- 22 courtroom officer.
- 23 We are now going to move forward to the appearances. We will start obviously
- 24 with, as always, with the Office of the Prosecutor.
- 25 Mr Dutertre, please.

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- 1 MR DUTERTRE: [9:33:06](Interpretation) Good morning, Mr President. Good
- 2 morning, your Honours.
- 3 The OTP team remains unchanged, with Mr Mousa Allafi at the back,
- 4 Sarah Coquillaud just at the bench behind me, Lucio Garcia, and myself,
- 5 Mr Gilles Dutertre. And I thank you.
- 6 PRESIDING JUDGE MINDUA: [9:33:23](Interpretation) Thank you very much,
- 7 Mr Prosecutor.
- 8 Now I am going to turn to the Defence.
- 9 Ms Taylor.
- 10 MS TAYLOR: [9:33:29] Good morning, Mr President, your Honours. Good
- 11 morning, everyone in the courtroom.
- 12 The Defence for Mr Al Hassan is represented today by Kirsty Sutherland,
- 13 Dolly Chahla and myself, Melinda Taylor. Thank you.
- 14 PRESIDING JUDGE MINDUA: [9:33:46](Interpretation) Thank you very much,
- 15 Ms Taylor.
- 16 Now, Legal Representatives for Victims, please, Mr Kassongo.
- 17 MR KASSONGO: [9:33:52](Interpretation) Thank you, Mr President, your Honours.
- 18 Good morning. The Legal Representative for Victims team is represented today by
- 19 Madam Claire Laplace, who is assisting me, and myself, Mr Kassongo. Thank you.
- 20 PRESIDING JUDGE MINDUA: [9:34:08](Interpretation) Thank you very much,
- 21 Mr Kassongo.
- 22 Now let me turn to the witness.
- 23 Good morning, Mr Witness, can you hear me?
- 24 WITNESS: MLI-OTP-P-0065 (On former oath)
- 25 (The witness speaks Arabic)

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1 THE WITNESS: [9:34:20](Interpretation) Yes, very clearly.

2 PRESIDING JUDGE MINDUA: [9:34:26](Interpretation) Thank you very much.

3 Now I would like to welcome you once again and I would like to remind you that

4 you are still under oath and that you should speak the truth, the whole truth and

5 nothing but the truth.

6 I would like to remind you also of the practical considerations that I mentioned to you

7 with regard to when you take the floor.

8 Now, madam courtroom officer, we shall now move into private session for two or

9 three minutes for me to be able to hand down an oral decision.

10 Private session, please.

11 (Private session at 9.35 a.m.)

12 THE COURT OFFICER: [9:35:22] We're in private session, Mr President.

13 PRESIDING JUDGE MINDUA: [9:35:30](Interpretation) Thank you very much,

14 madam courtroom officer.

15 Oral decision.

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 So, having consulted the VWS of the Registry and with a view to ensuring a good

20 balance between the principle of publicity of proceedings and the protection of

21 the witnesses, the Chamber suggests that we proceed as follows:

22 [REDACTED]

23 the public in the context of his testimony.

24 Compliant with practice that has already been put in place, the Prosecutor will be able

25 to put relevant questions [REDACTED]

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1 [REDACTED]  
2 However, the witness shall provide his comments [REDACTED] in  
3 public session or open session, [REDACTED]  
4 [REDACTED].  
5 Would you like me to repeat?  
6 So, it is up to the Prosecution, and *a fortiori* to the Defence, to clearly distinguish those  
7 questions that go to the merits of the case and which should be, as much as possible,  
8 put in a public session from those questions that could be revealing of the identity of  
9 the witness.  
10 Lastly, the [REDACTED]  
11 [REDACTED] could be reclassified as public in due course, probably at the end or  
12 towards the end of the proceedings on the merit -- in English, hearings on the merit.  
13 So, now that this has been clarified, we can proceed.  
14 Madam courtroom officer, could we move into open session, please.  
15 (Open session at 9.39 a.m.)  
16 THE COURT OFFICER: [9:39:30] We are back in open session, Mr President.  
17 PRESIDING JUDGE MINDUA: [9:39:38](Interpretation) Thank you very much,  
18 Madam courtroom officer.  
19 Now, Mr Witness, you are in the Prosecutor's hands for the rest of his  
20 examination-in-chief.  
21 And I would like to remind you for the record, that this is Witness P-0065, that is,  
22 the 16th Prosecution witness.  
23 Mr Prosecutor, over to you.  
24 MR DUTERTRE: [9:40:01](Interpretation) I thank you, Mr President and  
25 your Honours, and I have indeed taken note of the instructions that we shall

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1 implement.

2 I would like to now briefly continue in open session in order to clarify some points on  
3 some individuals, and then I will continue with the events that we were looking into  
4 at the end of the last session.

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

6 Q. [9:40:39] Good morning, Mr Witness. Are you well this morning?

7 A. [9:40:44] Good morning, I am doing well. Thank God.

8 Q. [9:40:49] Mr Witness, yesterday we spoke about Nabil, who was the emir of the  
9 desert region, and we had received the indication that he was deceased. You also  
10 said that he was replaced by Yahya Abou Hammam as the emir of the desert region.  
11 Do you know whether Yahya Abou Hammam is still alive, as we speak today?

12 A. [9:41:20] No, Yahya Abou Hammam was killed by the French forces deployed  
13 there.

14 Q. [9:41:37] Do you know in approximately what year? Is it recent or is it further  
15 back in time?

16 A. [9:41:46] Approximately last year, a year ago, that is.

17 Q. [9:41:58] And you indicated that Abdallah Al Chinguetti replaced Yahya Abou  
18 Al Hammam at the head of the Al-Fourqane battalion. Do you know whether  
19 Abdallah Al Chinguetti is still alive today?

20 A. [9:42:19] Abdallah Al Chinguetti died also in an air strike or a skirmish between  
21 the French forces and Al-Qaeda in the Tighargharine mountains in early 2013.

22 Q. [9:42:45] Mr Witness, you spoke about a mountain. Could you please specify  
23 the name of the mountain or of the hill that you're talking about?

24 A. [9:42:56] The Tighargharine mountain chain northern of Kidal. And that's the  
25 core of the decisive conflict between the international forces and Al-Qaeda in 2013.

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1 Q. [9:43:16] It's still not clear in the transcript, but I think I heard the "Tegharghar"  
2 mountains. I do apologise for my accent.

3 A. [9:43:30] Tighargharine.

4 Q. [9:43:40] Thank you. And we also spoke about Abou Zeid, who was the emir  
5 of the Tariq Ibn Ziyad battalion of Al-Qaeda. Could you please tell us whether he's  
6 still alive today?

7 A. [9:44:00] He died in the same location and in the same battle with Abdallah  
8 Al Chinguetti.

9 Q. [9:44:15] We also mentioned Adama, who was, according to what you said,  
10 the president of the Islamic police in Timbuktu in the year 2012. Do you know  
11 whether he is alive today?

12 A. [9:44:37] [REDACTED]  
13 [REDACTED], he died in an air strike, a French air strike  
14 in the northern-western part of Timbuktu in 2013.

15 Q. [9:45:04] We'll come back to that. And the individual by the name of Radwan,  
16 whom we mentioned yesterday - and I shan't say what he did in open session - but do  
17 you know whether he is alive or dead today?

18 A. [9:45:25] According to the information, he, he was with the same person, not  
19 Khalid, Adam, in the same air strike in the northern-western part of Timbuktu and  
20 they died together.

21 MR DUTERTRE: [9:45:54] Could we please go into closed session, your Honour.

22 PRESIDING JUDGE MINDUA: [9:46:02](Interpretation) For how long  
23 approximately?

24 MR DUTERTRE: [9:46:04](Interpretation) Just a follow-up question on this, and then  
25 I shall come back to elements that should be covered in private session, and I will

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1 apply the instructions of the Chamber.

2 PRESIDING JUDGE MINDUA: [9:46:12](Interpretation) Yes, of course, just so that  
3 we know for our public.

4 THE INTERPRETER: [9:46:16] Overlapping speakers.

5 MR DUTERTRE: [9:46:17](Interpretation) Well, I would say that we would need five  
6 minutes at tops.

7 PRESIDING JUDGE MINDUA: [9:46:30](Interpretation) Please go ahead.

8 You did ask for a private session, did you not?

9 Madam courtroom officer, please.

10 (Private session at 9.46 a.m.)

11 THE COURT OFFICER: [9:46:56] We're in private session, Mr President.

12 PRESIDING JUDGE MINDUA: [9:46:59](Interpretation) Thank you very much.  
13 Over to you, Mr Prosecutor.

14 MR DUTERTRE: [9:47:04](Interpretation) Thank you, Mr President.

15 Q. [9:47:05] Mr Witness, could you please explain to the Chamber [REDACTED]

16 [REDACTED]?

17 A. [9:47:17] [REDACTED]

18 [REDACTED] in Timbuktu, but continued

19 in 2013 as well. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED] without knowing their names. [REDACTED]

24 [REDACTED]

25 and I cannot recall who exactly or when exactly that was, [REDACTED]

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- 1 [REDACTED]
- 2 Q. [9:48:20] And did you ever hear speak of Adama and Radwan subsequently?
- 3 A. [9:48:30] No. No, I never heard about them afterwards, especially Radwan.
- 4 After they left the city, [REDACTED]
- 5 [REDACTED] after the announcement of the death, I never
- 6 heard anything about, about him anymore -- or them, anymore.
- 7 Q. [9:49:04] Thank you. A last question on this issue. When you say after he fled,
- 8 what are you talking about exactly? What flight?
- 9 A. [9:49:17] I meant their -- them leaving Timbuktu and their -- and fleeing
- 10 the French forces there.
- 11 Q. [9:49:36] Thank you. I would now like to come back to the events that we were
- 12 looking at yesterday in a video and I shall be playing a series of videos again, [REDACTED]
- 13 [REDACTED]
- 14 Going to go, 0018-0252, which is to be found at tab 43, and which lasts 17 seconds.
- 15 And I shall be playing it in its entirety without the sound because I am only interested
- 16 in the images.
- 17 I am sorry, but my computer seems to have run out of battery. Just one moment,
- 18 please.
- 19 (Pause in proceedings)
- 20 (Viewing of the video excerpt)
- 21 MR DUTERTRE: [9:51:31](Interpretation)
- 22 Q. [9:51:31] Can you see the image on the screen, Mr Witness?
- 23 A. [9:51:37] Yes.
- 24 Q. [9:51:39] I'm playing it now.
- 25 (Viewing of the video excerpt)



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- 1 MR DUTERTRE: [9:52:07](Interpretation)
- 2 Q. [9:52:08] [REDACTED] ?
- 3 A. [9:52:12] [REDACTED]
- 4 Q. [9:52:17] [REDACTED]
- 5 A. [9:52:25] [REDACTED]
- 6 Q. [9:52:32] [REDACTED]
- 7 A. [9:52:41] This was in Timbuktu, behind the mosque where there is a square
- 8 where the first adultery punishment was executed, which was the lashes executed on
- 9 a young lady and a young man publicly.
- 10 Q. [9:53:09] And with regards to the video of yesterday, is it one and the same
- 11 event?
- 12 A. [9:53:22] Yes.
- 13 MR DUTERTRE: [9:53:32] Could we please move back into open session,
- 14 your Honours, without of course broadcasting the video.
- 15 PRESIDING JUDGE MINDUA: [9:53:41](Interpretation) Madam courtroom officer,
- 16 public session, please.
- 17 (Open session at 9.53 a.m.)
- 18 THE COURT OFFICER: [9:53:54] We are in open session, Mr President.
- 19 PRESIDING JUDGE MINDUA: [9:54:05](Interpretation) Thank you very much.
- 20 Mr Prosecutor, please.
- 21 MR DUTERTRE: [9:54:11](Interpretation) Thank you very much, Mr President.
- 22 Q. [9:54:12] Mr Witness, do you know the name of the individual to the far left of
- 23 the screen with a white-coloured -- well, a light-coloured boubou and a light-coloured
- 24 turban? And I am here at timestamp 00:00:02:10.
- 25 A. [9:54:36] Yes, that is Ahmad Abul Faqi (phon).

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- 1 Q. [9:54:50] And what is he doing?
- 2 A. [9:54:56] He works as part of the Islamic tribunal and the *Hesbah*, as well.
- 3 Q. [9:55:17] Very well. And at that moment in time specifically what is he doing?
- 4 A. [9:55:25] In this scene he is announcing the whipping for adultery.
- 5 Q. [9:55:45] And to the extent of your knowledge, do you know who the individual
- 6 is immediately to his right with a dark-coloured boubou and a white skullcap?
- 7 A. [9:56:06] No, I don't know who that is, but I know that he was interpreting what
- 8 he was saying from Arabic to Songhai, which most of the attending spectators spoke
- 9 there.
- 10 Q. [9:56:38] Do you know what this -- no, I'll come back to that at a later stage.
- 11 Mr Witness, the person to the far right at timestamp 00:00:06:15, what organ does he
- 12 belong to?
- 13 A. [9:57:10] To the Islamic police, as can be clearly told from the vest he has on.
- 14 Q. [9:57:28] And what is he wearing around his back?
- 15 A. [9:57:34] He is carrying a Kalashnikov rifle.
- 16 Q. [9:57:56] I am now at timestamp 00:00:08:06. Could you please indicate to us
- 17 who is the individual seated to the right wearing a jacket bearing the words "*Police*
- 18 *Islamique*" and also sporting some kind of striped clothing and a white skullcap.
- 19 THE INTERPRETER: [9:58:38] Overlapping speakers.
- 20 THE WITNESS: [9:58:40](Interpretation) That's -- that's Al Hassan.
- 21 MR DUTERTRE: [9:58:42](Interpretation)
- 22 Q. [9:58:43] We can see him from behind. How do you know it's Al Hassan?
- 23 A. [9:58:52] It is very clear. [REDACTED]
- 24 MR DUTERTRE: [9:59:09](Interpretation) [REDACTED]
- 25 [REDACTED]

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- 1 PRESIDING JUDGE MINDUA: [9:59:15](Interpretation) Yes, please, madam  
2 courtroom officer.  
3 MR DUTERTRE: [9:59:20](Interpretation)  
4 Q. [9:59:20] And could you please tell us who the individual seated to the left of  
5 Mr Al Hassan is?  
6 A. [9:59:30] That's Adam, head of the Islamic police.  
7 Q. [9:59:43] And this white vehicle against which he is leaning, what organ does  
8 that vehicle belong to, if you know?  
9 A. [9:59:58] Most likely that would be seen with the Islamic police. I think it  
10 belongs to the Islamic police.  
11 Q. [10:00:18] I'm going to move forward in the video.  
12 I am now at timestamp 00:00:14:07.  
13 Mr Witness, could you please tell us who the individual in black is, the rather tall  
14 person in the centre of the image?  
15 A. [10:01:03] The taller person is Radwan. The one of a shorter height is Koutaïba.  
16 Q. [10:01:24] Thank you. Could you now please explain to us who is Koutaïba?  
17 A. [10:01:37] These are from Al-Qaeda, as far as I think, and they oversaw directly  
18 the execution of the punishments and the number of lashes and how the executors of  
19 the lashes rotated.  
20 Q. [10:02:13] And Koutaïba, what does he have on his shoulder, what is that object?  
21 A. [10:02:23] A Kalashnikov rifle.  
22 Q. [10:02:36] One final question. Do you know what that white van at the back of  
23 the picture is?  
24 A. [10:02:51] Yes, that was the ambulance that carried the executed -- the ones that  
25 the punishments were executed against, the ones that were whipped for the crime of

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1 adultery. They were -- after the whipping, immediately were -- they were carried to  
2 the hospital.

3 MR DUTERTRE: [10:03:29](Interpretation) One moment, if I may.

4 I see that there have been -- that there have been gaps in the French transcript,  
5 your Honours. So I need to come back to one of these pictures. I'm sorry about  
6 that.

7 Okay.

8 We can now move on to another item of evidence and -- your Honours, and I would  
9 like to do this in private session, if I may.

10 PRESIDING JUDGE MINDUA: [10:04:46](Interpretation) Court officer, if you  
11 please.

12 (Private session at 10.04 a.m.)

13 THE COURT OFFICER: [10:04:57] We are in private session, Mr President.

14 PRESIDING JUDGE MINDUA: [10:05:05](Interpretation) Thank you very much,  
15 court officer.

16 Prosecution, you may continue.

17 MR DUTERTRE: [10:05:16](Interpretation) Thank you, your Honour.

18 This is now video [REDACTED] I'm going to show 17  
19 seconds. It is tab 34, with a transcript at 35. And the transcript is 0028-0839. So

20 [REDACTED] It's not correct on the transcript, the French transcript, but that will be  
21 corrected. It's correct in English.

22 So I am going to go from [REDACTED]

23 [REDACTED] It's correct in the English.

24 (Viewing of the video excerpt)

25 MR DUTERTRE: [10:08:17](Interpretation) I have stopped at [REDACTED]

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1 Q. [10:08:23] [REDACTED]?

2 A. [10:08:25] [REDACTED]

3 Q. [10:08:32] [REDACTED]

4 A. [10:08:38] [REDACTED]

5 Q. [10:08:45] [REDACTED]

6 A. [10:08:54] Yes.

7 MR DUTERTRE: [10:09:04](Interpretation) I am now going to show it with sound,  
8 and I would ask the interpreters, please, to make use of the transcript supplied.

9 (Viewing of the video excerpt)

10 MR DUTERTRE: [10:09:33](Interpretation) I will start at 05:26 (sic).

11 THE INTERPRETER: [10:09:47] Excuse me, the interpreter does not seem to have  
12 the correct transcript.

13 (Viewing of the video excerpt)

14 MR DUTERTRE: [10:10:04](No interpretation)

15 PRESIDING JUDGE MINDUA: [10:10:04](Interpretation) That's right, there is no  
16 sound.

17 THE COURT OFFICER: [10:10:27] You can proceed with the sound.

18 MR DUTERTRE: [10:10:37](Interpretation) Thank you. I will play it again then.

19 THE INTERPRETER: [10:10:44](Interpretation of the video excerpt)

20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]

23 MR DUTERTRE: [10:11:17](Interpretation) We can now move into public session.

24 PRESIDING JUDGE MINDUA: [10:11:20](Interpretation) Court officer, please.

25 (Open session at 10.11 a.m.)

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- 1 THE COURT OFFICER: [10:11:42] We are back in open session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [10:11:47](Interpretation) Thank you very much,
- 3 court officer.
- 4 Prosecution.
- 5 MR DUTERTRE: [10:11:53](Interpretation) Thank you, your Honour.
- 6 Q. [10:11:54] Mr Witness, at [REDACTED] who is this person, please, on the screen
- 7 with a light turban and a light-coloured boubou?
- 8 A. [10:12:16] That is Mr Al Faqi.
- 9 Q. [10:12:28] And what does he have on his right shoulder?
- 10 A. [10:12:34] He carries a Kalashnikov rifle.
- 11 Q. [10:12:40] And what is he doing at that point?
- 12 A. [10:12:52] Here he is announcing the execution of the punishment for adultery.
- 13 MR DUTERTRE: [10:13:20](Interpretation) Your Honour, I would now like to move
- 14 again into private session for another item of evidence.
- 15 PRESIDING JUDGE MINDUA: [10:13:37](Interpretation) Private session, please,
- 16 court officer.
- 17 (Private session at 10.13 a.m.)
- 18 THE COURT OFFICER: [10:13:47] We are in private session, Mr President.
- 19 PRESIDING JUDGE MINDUA: [10:13:51](Interpretation) Thank you very much.
- 20 Prosecution, you may continue.
- 21 MR DUTERTRE: [10:13:56](Interpretation) Thank you, your Honour.
- 22 Q. [10:13:57] I would like to show 00:18:02:51, which is seven seconds, it's at tab 184.
- 23 The transcript is 0078-1425 at 185, and the translation is 0078-1427 and is at tab 186.
- 24 I will first show this without sound.
- 25 (Viewing of the video excerpt)

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- 1 MR DUTERTRE: [10:15:30](Interpretation)
- 2 Q. [10:15:32] [REDACTED]?
- 3 A. [10:15:37] [REDACTED]
- 4 Q. [10:15:44] [REDACTED]
- 5 [REDACTED]
- 6 [REDACTED]
- 7 A. [10:15:58] [REDACTED]
- 8 Q. [10:16:12] And is this the same event we saw earlier, the punishment for
- 9 adultery?
- 10 A. [10:16:21] Yes.
- 11 MR DUTERTRE: [10:16:29](Interpretation) I will show it with sound and then we
- 12 can move back to public session, your Honour.
- 13 And if the interpreters could please translate what they can hear.
- 14 (Viewing of the video excerpt)
- 15 THE INTERPRETER: [10:16:59](Interpretation of the video excerpt)
- 16 Quote: "... are they ..."
- 17 (Viewing of the video excerpt)
- 18 THE INTERPRETER: [10:17:12](Interpretation of the video excerpt)
- 19 Quote: "'... are they who walk upon the earth modestly ...' to His words - glorified
- 20 and exalted be He: '... nor commit extra-marital sexual intercourse - and who so
- 21 doeth shall pay the penalty.'"
- 22 MR DUTERTRE: [10:17:48](Overlapping speakers)
- 23 PRESIDING JUDGE MINDUA: [10:17:51](Interpretation) Public session, please,
- 24 court officer.
- 25 (Open session at 10.18 a.m.)

~~ICC-01/12-01/18-T-040-CONF-ENG ET 04-11-2020 16/61 NB-T-----~~

Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 THE COURT OFFICER: [10:18:10] We are in open session.
- 2 PRESIDING JUDGE MINDUA: [10:18:12](Interpretation) Thank you very much.
- 3 Prosecution, you may continue.
- 4 MR DUTERTRE: [10:18:17](Interpretation)
- 5 Q. [10:18:17] Mr Witness, at 00:00:00:02, who is the person on the left with a white
- 6 boubou and a dark brown turban?
- 7 A. [10:18:39] That is the judge, Houka Houka.
- 8 Q. [10:18:52] You used a word I heard in Arabic, *al qadi*, Mr Witness. What does
- 9 *al qadi* mean, exactly?
- 10 A. [10:19:08] The judge, is in French, *juge*.
- 11 Q. [10:19:20](No interpretation)
- 12 The person on the right with a blue boubou and a white turban.
- 13 A. [10:19:49] That is the imam of the Djinguereber mosque.
- 14 Q. [10:20:04] It was some time ago, do you perhaps remember his name?
- 15 A. [10:20:19] No.
- 16 Q. [10:20:24] Thank you. I would now like to -- well, could you perhaps
- 17 say -- could you perhaps tell us what Judge Houka Houka has there between his legs.
- 18 A. [10:20:45] A Kalashnikov rifle.
- 19 MR DUTERTRE: [10:20:55](Interpretation) I would now like to move into private
- 20 session, your Honour.
- 21 PRESIDING JUDGE MINDUA: [10:21:03](Interpretation) Private session, please,
- 22 court officer.
- 23 (Private session at 10.21 a.m.)
- 24 THE COURT OFFICER: [10:21:11] We are in private session.
- 25 PRESIDING JUDGE MINDUA: [10:21:20](Interpretation) Thank you very much.



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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Prosecution.

2 MR DUTERTRE: [10:21:23](Interpretation) Thank you, your Honour.

3 I'd like to show another video. 0018-0291, which is at tab 42, but I'm just interested  
4 in the sound for the moment and that is 17 seconds long.

5 (Viewing of the video excerpt)

6 MR DUTERTRE: [10:22:12](Interpretation)

7 Q. [10:22:12] [REDACTED]?

8 A. [10:22:20] [REDACTED]

9 Q. [10:22:28] And were these images from the same events, the punishment for  
10 adultery?

11 A. [10:22:40] Yes.

12 MR DUTERTRE: [10:22:49](Interpretation) We can move back into public session for  
13 the following questions.

14 PRESIDING JUDGE MINDUA: [10:22:56](Interpretation) Public session, please,  
15 court officer.

16 (Open session at 10.23 a.m.)

17 THE COURT OFFICER: [10:23:08] We are in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [10:23:17](Interpretation) Thank you very much.

19 Prosecution.

20 MR DUTERTRE: [10:23:19](Interpretation) Thank you, your Honour.

21 Q. Mr Witness, at 00:00:06:06, to whom does the vehicle in the background belong,  
22 which is sort of patterned with dark stripes?

23 A. [10:23:53] It belonged to Al-Qaeda and it seems that it was confiscated from  
24 the Malian army -- it was seized from the Malian army.

25 Q. [10:24:11] [REDACTED]?

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 A. [10:24:24] [REDACTED].
- 2 Q. [10:24:36] And could you please tell me who is the person on the left moving
- 3 from left to right and who is dressed in a green robe and a green turban.
- 4 A. [10:24:56] Sanda Ould Boumama.
- 5 Q. [10:25:06] I have now moved to 00:00:14:03.
- 6 Who is this person in green sitting on the ground and leaning against the vehicle?
- 7 A. [10:25:26] Sanda Ould Boumama.
- 8 MR DUTERTRE: [10:25:38](Interpretation) The English transcript is correct, but not
- 9 the French one, there is an error in the timestamp. It was at 14:03.
- 10 If I could now once again ask for private session.
- 11 PRESIDING JUDGE MINDUA: [10:26:01](Interpretation) Private session, please,
- 12 court officer.
- 13 (Private session at 10.26 a.m.)
- 14 THE COURT OFFICER: [10:26:17] We are in private session, Mr President.
- 15 PRESIDING JUDGE MINDUA: [10:26:24](Interpretation) Thank you very much.
- 16 Prosecution.
- 17 MR DUTERTRE: [10:26:31](Interpretation) Thank you, your Honour. I would like
- 18 to return to [REDACTED], that video which is at 34, with the transcript at 35, 0028-0839.
- 19 And I would like to show approximately 11 seconds of this video from [REDACTED]
- 20 [REDACTED]-- (Overlapping speakers)
- 21 THE COURT OFFICER: Mr Prosecutor, would you like to play the video with or
- 22 without the sound?
- 23 MR DUTERTRE: [10:27:41](Interpretation) Without initially, please,
- 24 court officer. 19:23.
- 25 (Viewing of the video excerpt)

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 MR DUTERTRE: [10:28:16](Interpretation) And I have finished at 31:01.
- 2 Q. [10:28:21] [REDACTED]?
- 3 A. [10:28:27] [REDACTED]
- 4 Q. [10:28:32] [REDACTED]
- 5 A. [10:28:35] [REDACTED]
- 6 Q. [10:28:37] And what is happening here?
- 7 A. [10:28:44] It's the same punishment for adultery.
- 8 MR DUTERTRE: [10:29:05](Interpretation) I am sorry, if we could now go back into
- 9 public session, I've got two or three minutes. I know that will take me past the time
- 10 slot, but (Overlapping speakers)
- 11 PRESIDING JUDGE MINDUA: [10:29:26](Interpretation) Public session, please,
- 12 court officer.
- 13 (Open session at 10.29 a.m.)
- 14 THE COURT OFFICER: [10:29:38] We are now in open session.
- 15 PRESIDING JUDGE MINDUA: [10:29:42](Interpretation) Thank you very much.
- 16 Prosecutor.
- 17 MR DUTERTRE: [10:29:46](Interpretation) Thank you, your Honour.
- 18 Q. [10:30:00] Mr Witness, do you know who is the person on the ground in front of
- 19 the vehicle at [REDACTED]?
- 20 A. [10:30:16] It's the girl that is being whipped for -- as a punishment for adultery.
- 21 Q. [10:30:35] And more specifically, the person just to the right who is flogging this
- 22 lady, who is it, wearing a white -- well, a light-coloured boubou and a white turban?
- 23 A. [10:31:02] It's Mr Al Faqi.
- 24 Q. [10:31:09] To the far left of the image, the individual wearing black, who is that,
- 25 Mr Witness?

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 A. [10:31:22] It's Radwan.
- 2 Q. [10:31:32] And right at the back of the image, to the rear of the image, what
- 3 organ does that vehicle come from, Mr Witness, if you know?
- 4 A. [10:31:44] I think it belongs to the Islamic police.
- 5 Q. [10:31:54] I'm going to move forward a bit and stop at [REDACTED]
- 6 THE INTERPRETER: [10:32:12] Correction: [REDACTED]
- 7 MR DUTERTRE: [10:32:16](Interpretation)
- 8 Q. [10:32:16] Mr Witness, I am at [REDACTED] Do you know the individual who is
- 9 to the right-hand side wearing a brown boubou and a black turban?
- 10 A. [10:32:38] I don't recall him.
- 11 Q. [10:32:46] Very well.
- 12 (Viewing of the video excerpt)
- 13 MR DUTERTRE: [10:33:08](Interpretation)
- 14 Q. [10:33:09] I am now at [REDACTED]
- 15 Mr Witness, the individual to the right of the screen, whose face we can see, with a,
- 16 with a beige boubou and a white turban, who is that?
- 17 A. [10:34:01] The screen here I have is not firmly fixed but -- now it is. Now
- 18 I -- now if you could replay this segment so I -- so that I could recognise who
- 19 the person you are asking about is.
- 20 MR DUTERTRE: [10:34:28](Interpretation) Mr President, could we move back into
- 21 private session, please.
- 22 PRESIDING JUDGE MINDUA: [10:34:31](Interpretation) I'm just looking at the time.
- 23 Don't you want to come back to this after the break?
- 24 MR DUTERTRE: [10:34:40](Interpretation) Well, after this, I have two other
- 25 questions as to people on this image and then we have finished.

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [10:34:47](Interpretation) Madam courtroom officer,  
2 private session, please.  
3 (Private session at 10.34 a.m.)  
4 THE COURT OFFICER: [10:34:59] We're in private session, Mr President.  
5 PRESIDING JUDGE MINDUA: [10:35:06](Interpretation) Thank you very much.  
6 Mr Prosecutor, please go ahead.  
7 MR DUTERTRE: [10:35:10](Interpretation) Thank you for your indulgence,  
8 Mr President.  
9 I'm going to move on from [REDACTED]  
10 (Viewing of the video excerpt)  
11 MR DUTERTRE: [10:35:35](Interpretation) And I have now stopped at [REDACTED]  
12 Q. [10:35:44] Were you able to see things better, Mr Witness, as to who that  
13 individual to the right of the screen is in a sand or beige-coloured boubou and  
14 a light-coloured turban?  
15 A. [10:36:03] The one wearing a turban, that is Al Faqi.  
16 Q. [10:36:13] And the person with their back to us in black, who is that, if you  
17 recall?  
18 A. [10:36:23] Radwan.  
19 Q. [10:36:29] Thank you. And between Radwan and Al Faqi, in the background,  
20 the individual between the two of them, who is that person who is facing us?  
21 A. [10:36:43] I think Al Hassan.  
22 Q. [10:36:52] And what is he wearing on the top half?  
23 A. [10:37:04] The image is in very poor quality, but I recall these were regular  
24 clothes, an Islamic police vest and a white hat. The image is of very poor quality.  
25 Q. [10:37:33] Thank you, Mr Witness. We have finished with this excerpt. Thank

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 you so much.

2 PRESIDING JUDGE MINDUA: [10:37:41](Interpretation) Shall we go back into open  
3 session?

4 MR DUTERTRE: [10:37:43](Interpretation) Yes, maybe I should put the question to  
5 him again in open session if you want me to.

6 PRESIDING JUDGE MINDUA: [10:37:48](Interpretation) Yes.  
7 Madam courtroom officer, open session, please.

8 (Open session at 10.37 a.m.)

9 THE COURT OFFICER: [10:38:00] We're in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [10:38:07](Interpretation) Thank you very much.  
11 Mr Prosecutor, please go ahead.

12 MR DUTERTRE: [10:38:12](Interpretation) Thank you, Mr President.

13 I shall move forward somewhat to see whether the quality has changed. I'm now at

14 

15 THE INTERPRETER: [10:38:23] The interpreter did not catch it.

16 MR DUTERTRE: [10:38:26](Interpretation)

17 Q. [10:38:26] And with your indulgence, Mr Witness, I'm going to repeat  
18 the question to you in public.

19 Between Mr Al Faqi and Radwan, who is the individual standing in the background?

20 A. [10:38:43] That's Al Hassan.

21 Q. [10:38:48] Thank you, Mr Witness.

22 Thank you, Mr President. I would like to thank you very much for having allowed  
23 me to exceed the time limit here and everyone, including the interpreters in  
24 the courtroom.

25 PRESIDING JUDGE MINDUA: [10:39:03](Interpretation) Very well.

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 It is 10.40, approximately, and we're going to take the break for 45 minutes, and we
- 2 shall resume at 11.25.
- 3 Court is suspended.
- 4 THE COURT USHER: [10:39:26] All rise.
- 5 (Recess taken at 10.39 a.m.)
- 6 (Upon resuming in open session at 11.26 a.m.)
- 7 THE COURT USHER: [11:26:07] All rise.
- 8 Please be seated.
- 9 PRESIDING JUDGE MINDUA: [11:26:33](Interpretation) Court is in session once
- 10 again.
- 11 We shall continue with the examination-in-chief on the part of the Prosecutor.
- 12 Mr Prosecutor, please.
- 13 MR DUTERTRE: [11:26:51](Interpretation) Thank you very much, Mr President.
- 14 I would now like to move on to another item of evidence, Mr President, and I would
- 15 like to move into private session.
- 16 PRESIDING JUDGE MINDUA: [11:27:08](Interpretation) Private session, please,
- 17 courtroom officer.
- 18 (Private session at 11.27 a.m.)
- 19 THE COURT OFFICER: [11:27:28] We are in private session, Mr President.
- 20 PRESIDING JUDGE MINDUA: [11:27:33](Interpretation) Thank you very much.
- 21 Mr Prosecutor, over to you.
- 22 MR DUTERTRE: [11:27:37](Interpretation) Thank you, Mr President.
- 23 Q. [11:27:39] So, we are looking at a video with the ERN 0018-0284. It is 19
- 24 seconds in duration, to be found at tab 44 of the first binder. The transcript bears
- 25 the ERN 0069-1864, to be found at tab 45, and the translation bears the

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 ERN 0078-1880, 1880, at tab 46. And I shall be showing this video without the sound.

2 (Viewing of the video excerpt)

3 MR DUTERTRE: [11:29:13](Interpretation)

4 Q. [REDACTED]?

5 A. [11:29:24] [REDACTED]

6 Q. [11:29:29] [REDACTED]?

7 A. [11:29:37] [REDACTED]

8 Q. [11:29:44] Is this the carry on from the same event that we saw earlier on?

9 A. [11:29:55] Yes.

10 Q. [11:30:00] Thank you very much.

11 We can now go back into open session, your Honour.

12 PRESIDING JUDGE MINDUA: [11:30:04](Interpretation) Open session, please.

13 MR DUTERTRE: [11:30:07](Interpretation) I'm sorry, I'm going to play it with

14 the sound. I did forget.

15 PRESIDING JUDGE MINDUA: [11:30:12](Interpretation) Please go ahead. We're

16 still in private session.

17 MR DUTERTRE: [11:30:15](Interpretation) And if there's anything whatsoever,

18 the interpreters can read the transcript.

19 (Viewing of the video excerpt)

20 MR DUTERTRE: [11:30:40](Interpretation) There's no sound. I don't know if it's

21 a technical issue.

22 (Counsel confer)

23 MR DUTERTRE: [11:31:09](Interpretation) Thank you, Ms Coquillaud, for having

24 told me that.

25 So I'm going to play it again.



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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 (Viewing of the video excerpt)
- 2 THE INTERPRETER: [11:31:20](Interpretation of the video excerpt)
- 3 18, 19, 20, 21, 22, 23, 24, 25. That's it, that's it, that's it.
- 4 MR DUTERTRE: [11:31:43](Interpretation) We can move back into open session,
- 5 please.
- 6 PRESIDING JUDGE MINDUA: [11:31:46](Interpretation) Please, madam courtroom
- 7 officer, can we return to open session.
- 8 (Open session at 11.31 a.m.)
- 9 THE COURT OFFICER: [11:31:58] We are in open session, Mr President.
- 10 PRESIDING JUDGE MINDUA: [11:32:05](Interpretation) Thank you very much.
- 11 Mr Prosecutor, please.
- 12 MR DUTERTRE: [11:32:08](Interpretation) Thank you, Mr President.
- 13 Q. [11:32:11] Mr Witness, I am at timestamp 00:00:00:00. To the left-hand side of
- 14 the image, we can see at the very -- in the very -- in the background of the image, we
- 15 can see a pole. Can you see it, Mr Witness?
- 16 A. [11:32:37] Yes.
- 17 Q. [11:32:42] And in the axis of this pole there is an individual standing up with
- 18 a white mark on their chest and striped clothing and a little hat. I believe it's called
- 19 a *shanna* (phon) in Arabic. Do you know who that is?
- 20 A. [11:33:16] Yes, it's Al Hassan.
- 21 PRESIDING JUDGE MINDUA: [11:33:21](Interpretation) Ms Sutherland, please.
- 22 MS SUTHERLAND: [11:33:25] Your Honour, the Prosecutor has asked a question in
- 23 which he describes the clothing of an individual. We ask that he ask open, neutral
- 24 questions rather than leading in this way.
- 25 PRESIDING JUDGE MINDUA: [11:33:58](Interpretation) It is true, Mr Prosecutor,

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 that to see the image in the way we are looking at it I found your question a little bit  
2 bothersome. So please rephrase.

3 MR DUTERTRE: [11:34:12](Interpretation) It was with a view to better identifying  
4 the individual on the -- or in the image, but I can rephrase.

5 Q. [11:34:21] Now, in the axis of the pole, Mr Witness, who is the individual  
6 standing in the axis of the electricity pole to the left-hand side of the image?

7 A. [11:34:40] It's Al Hassan.

8 Q. [11:35:00] And do you know what he is doing at that moment in time?

9 A. [11:35:11] Yes, here he is watching over the execution -- he's watching  
10 the execution of the punishment for adultery.

11 Q. [11:35:41] And at timestamp 00:00:12:09, who is the individual in black to  
12 the right-hand of the screen?

13 A. [11:35:57] Radwan.

14 MR DUTERTRE: [11:36:07](Interpretation) Mr President, I would like to go back into  
15 private session, if possible.

16 PRESIDING JUDGE MINDUA: [11:36:12](Interpretation) Madam courtroom officer,  
17 private session, please.

18 (Private session at 11.36 a.m.)

19 THE COURT OFFICER: [11:36:22] We are in private session, Mr President.

20 PRESIDING JUDGE MINDUA: [11:36:29](Interpretation) Thank you very much,  
21 madam courtroom officer.

22 Mr Prosecutor, please.

23 MR DUTERTRE: [11:36:35](Interpretation) Thank you, Mr President.

24 So I'm going to now play a video 0018-0285 of a duration of 15 seconds to be found at  
25 tab 314. And I'm not interested in the sound at all in this video.

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Trial Hearing  
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1 (Viewing of the video excerpt)

2 MR DUTERTRE: [11:37:23](Interpretation)

3 Q. [11:37:24] [REDACTED] ?

4 A. [11:37:29] [REDACTED]

5 Q. [11:37:37] [REDACTED] ?

6 A. [11:37:46] [REDACTED]

7 Q. [11:37:55] And what does this correspond to when we compare it to  
8 the previous video we viewed?

9 A. [11:38:07] The same event.

10 MR DUTERTRE: [11:38:20](Interpretation) We can move back into open session,  
11 please, Mr President.

12 PRESIDING JUDGE MINDUA: [11:38:24](Interpretation) Open session please,  
13 courtroom officer.

14 (Open session at 11.38 a.m.)

15 THE COURT OFFICER: [11:38:36] We are back in open session, Mr President.

16 PRESIDING JUDGE MINDUA: [11:38:41](Interpretation) Thank very much.  
17 Mr Prosecutor, please.

18 MR DUTERTRE: [11:38:48](Interpretation) Thank you, Mr President.

19 Q. [11:38:49] At 00:00:04:14, Mr Witness, who is the individual upright with a sort  
20 of yellow jumper draped over their head?

21 A. [11:39:22] It's the young man being whipped for adultery.

22 Q. [11:39:44] I'm going to continue and stop very soon.

23 (Viewing of the video excerpt)

24 MR DUTERTRE: [11:39:53](Interpretation)

25 Q. [11:39:54] Mr Witness, I am now at timestamp 00:00:05:08. Who is

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 the individual in the background standing next to the vehicle, whom we can see to  
2 the right of the individual standing in the foreground in black? Who is that person  
3 next to the vehicle?

4 A. [11:40:33] It's Al Hassan.

5 Q. [11:40:49] I'm going to move forward a little bit and play from 00:00:07:16  
6 without the sound.

7 (Viewing of the video excerpt)

8 MR DUTERTRE: [11:41:05](Interpretation)

9 Q. [11:41:05] I have stopped at 00:00:12:06. What's going on at that moment in  
10 time, Mr Witness?

11 A. [11:41:23] The young man is being whipped.

12 MR DUTERTRE: [11:41:38](Interpretation) Mr President, I would now like to go  
13 once again into private session, please.

14 PRESIDING JUDGE MINDUA: [11:41:46](Interpretation) Private session please,  
15 courtroom officer.

16 (Private session at 11.41 a.m.)

17 THE COURT OFFICER: [11:41:57] We are in private session, Mr President.

18 PRESIDING JUDGE MINDUA: [11:42:06](Interpretation) Thank you very much.

19 Please go ahead, Mr Prosecutor.

20 MR DUTERTRE: [11:42:11](Interpretation) Thank you, Mr President.

21 I shall be playing a video of 17 seconds in duration, for which the ERN is 0018-0286,  
22 at tab 47 of the first binder. The transcript bears the ERN 0069-1399 at tab 48, and  
23 the translation bears the ERN 0078-1883, tab 49. I shall be playing it initially without  
24 the sound.

25 (Viewing of the video excerpt)

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

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- 1 MR DUTERTRE: [11:43:35](Interpretation)
- 2 Q. [11:43:36] [REDACTED]?
- 3 A. [11:43:44] [REDACTED]
- 4 Q. [11:43:46] [REDACTED]
- 5 A. [11:43:52] [REDACTED]
- 6 Q. [11:43:58] Is it the same incident that we saw previously in all the other videos?
- 7 A. [11:44:05] Yes.
- 8 MR DUTERTRE: [11:44:11](Interpretation) We can move back into open session,
- 9 your Honours.
- 10 PRESIDING JUDGE MINDUA: [11:44:16](Interpretation) Open session, please,
- 11 courtroom officer.
- 12 (Open session at 11.44 a.m.)
- 13 THE COURT OFFICER: [11:44:28] We are back in open session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [11:44:37](Interpretation) Thank you so much.
- 15 Mr Prosecutor, please.
- 16 MR DUTERTRE: [11:44:40](Interpretation) Thank you, Mr President.
- 17 Q. [11:44:42] Now, Mr Witness, a question of location. The building of
- 18 a pyramid -- of pyramid form in the background, can you tell us what it is?
- 19 A. [11:45:01] It's a mosque where there is a -- there is a square in this mosque where
- 20 the punishment for adultery was executed.
- 21 Q. [11:45:27] And as we are on the subject, could you explain to the Chamber why
- 22 those punishments were carried out in public, according to what you were able to
- 23 observe and your knowledge at the time?
- 24 A. [11:45:50] First of all, there is -- as required by Sharia, I believe there is a Koranic
- 25 text that instructs the obligation of executing such punishment in public, which

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1 means that is being seen by the public as a deterrence for people, to deter them from  
2 adultery.

3 Q. [11:46:24] I'm going to move forward somewhat.

4 Of course, this is still confidential.

5 I am at 00:00:04:00.

6 Who is, if you know, the individual to the left of the image who is flogging this  
7 gentleman?

8 A. [11:47:03] It's Abou Thar.

9 Q. [11:47:26] I'm going to play a few seconds back and I'm going to ask you to say  
10 what he has on his right wrist, if you can. It does go fast.

11 (Viewing of the video excerpt)

12 MR DUTERTRE: [11:47:49]

13 Q. [11:47:55](No interpretation)

14 PRESIDING JUDGE MINDUA: [11:48:13](No interpretation) (Overlapping  
15 speakers)

16 THE WITNESS: [11:48:22](Interpretation) It's a plastic cord used for whipping.

17 MR DUTERTRE: [11:48:37](Interpretation)

18 Q. [11:48:37] Thank you very much for that clarification. I was going to come to  
19 that. You anticipated. What I asked you was, what he has around his right wrist?

20 Not in his hand but around his right wrist. I can play it back for you.

21 (Viewing of the video excerpt)

22 THE WITNESS: [11:49:07](Interpretation) It's a watch.

23 MR DUTERTRE: [11:49:21](Interpretation)

24 Q. [11:49:22] I am now going to go to 00:00:11:08 and I'm going to play a few  
25 seconds of it.

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- 1 At 00:00:17:09, who is the individual who is flogging this man, Mr Witness?
- 2 A. [11:50:00] It's Radwan.
- 3 MR DUTERTRE: [11:50:15] I would like to rapidly come back to private session,
- 4 please, Mr President.
- 5 PRESIDING JUDGE MINDUA: [11:50:20](Interpretation) Private session, please,
- 6 courtroom officer.
- 7 (Private session at 11.50 a.m.)
- 8 THE COURT OFFICER: [11:50:33] We're in private session, Mr President.
- 9 PRESIDING JUDGE MINDUA: [11:50:42](Interpretation) Thank you very much.
- 10 Mr Prosecutor, please continue.
- 11 MR DUTERTRE: [11:50:48](Interpretation) Thank you, Mr President.
- 12 I'm coming back to video [REDACTED] and there is an excerpt that I played earlier on
- 13 that I would like to now home in on, and it's a few seconds from [REDACTED]
- 14 [REDACTED]
- 15 (Viewing of the video excerpt)
- 16 MR DUTERTRE: [11:51:38](Interpretation) I'm stopping at [REDACTED] and we can
- 17 move back into open session, Mr President.
- 18 PRESIDING JUDGE MINDUA: [11:51:51](Interpretation) Open session, please,
- 19 courtroom officer.
- 20 (Open session at 11.52 a.m.)
- 21 THE COURT OFFICER: [11:52:05] We are in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [11:52:11](Interpretation) Thank you very much.
- 23 Mr Prosecutor, please continue.
- 24 MR DUTERTRE: [11:52:15](Interpretation) Thank you, Mr President.
- 25 Q. [11:52:16] Mr Witness, at -- or in the image, are you able to say whether this is an

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1 adult or a child?

2 A. [11:52:33] It's a child watching the execution of punishment for adultery.

3 Q. [11:52:49] And so there was no division between children and adults. Even  
4 children could come and see what was going on.

5 A. [11:53:05] Yes.

6 Q. [11:53:12] According to your experience and your observations at the time, what  
7 was the impact for an individual of being flogged in public before the crowds in  
8 Timbuktu?

9 A. [11:53:39] It's an unmatched scandal and people are afraid of that scandal more  
10 than their fear of the actual whipping or the pain that results from the whipping.

11 PRESIDING JUDGE MINDUA: [11:54:03](Interpretation) Ms Sutherland, I can see  
12 you're on your feet, what's going on?

13 MS SUTHERLAND: [11:54:09] Thank you, your Honour. This question clearly  
14 asks the witness to speak beyond his personal competence and we thus object on  
15 the grounds that it calls for speculation.

16 PRESIDING JUDGE MINDUA: [11:54:32](Interpretation) No, Ms Sutherland,  
17 because we have said that this is a factual witness who was present, and what  
18 the population was feeling he felt as well, because he was in their midst.

19 So, Mr Prosecutor, please carry on.

20 MR DUTERTRE: [11:54:54](Interpretation) Thank you, Mr President.

21 Q. [11:54:57] Mr Witness, to the extent of your knowledge, what is the meaning for  
22 somebody to apply punishment to individuals, for the Ansar Dine and AQMI present  
23 in Timbuktu at the time, what did it mean for them to deliver punishments?

24 A. [11:55:31] The execution of punishments in essence aims at preventing  
25 the -- these actions or acts from being committed again. And public flogging would



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1 make the person think a hundred times before ever engaging in an -- in a relationship  
2 outside the scope of marriage for fear of scandal.

3 Q. [11:56:08] And according to your knowledge, for an individual from an armed  
4 group such as Ansar Dine and AQMI, what did it mean to take part in  
5 the administration of a punishment?

6 A. [11:56:31] These punishments are called an enforcement of Islamic Sharia on the  
7 ground and these groups have as a role to ensure that the law is Sharia law and not  
8 a man-made law and it is a holy duty to take part in this and to participate in this.

9 Q. [11:57:04] Very well.

10 MR DUTERTRE: (Interpretation) I would like to go back into private session, please,  
11 Mr President.

12 PRESIDING JUDGE MINDUA: [11:57:09](Interpretation) Private session, please,  
13 courtroom officer.

14 (Private session at 11.57 a.m.)

15 THE COURT OFFICER: [11:57:21] We are in private session, Mr President.

16 PRESIDING JUDGE MINDUA: [11:57:28](Interpretation) Thank you very much.  
17 Mr Prosecutor, please proceed.

18 MR DUTERTRE: [11:57:36](Interpretation)

19 Q. [11:57:36] [REDACTED] ?

20 A. [11:57:50] [REDACTED]  
21 [REDACTED]

22 Q. [11:58:18] I would like to show a document, 0018-1171-R01, which is to be found  
23 at tab 330 and for which the translation is ERN 0078-2364-R01 at tab 331.

24 Mr Witness, could you please take the second binder and go to tab 330.

25 Maybe the courtroom officer could help the witness, because I can see that his binder

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- 1 is a little bit?
- 2 A. [12:00:09] I found it.
- 3 Q. [12:00:17] Do you recognise this document, Mr Witness?
- 4 A. [12:00:20] Yes.
- 5 Q. [12:00:23] [REDACTED]?
- 6 A. [12:00:31] [REDACTED]
- 7 Q. [12:00:37] [REDACTED]?
- 8 A. [12:00:43] [REDACTED]
- 9 [REDACTED]
- 10 Q. [12:01:03] How much time after the flogging for adultery of the two individuals
- 11 [REDACTED] Mr Witness?
- 12 A. [12:01:16] I don't recall, [REDACTED]
- 13 [REDACTED]
- 14 Q. [12:01:38] Can you please read the date that's on the right [REDACTED].
- 15 A. [12:01:46] June 21, 2012.
- 16 Q. [12:02:06] And, Mr Witness, it says that the people were sentenced to a hundred
- 17 lashes to be done at Sankoré square, and that afterwards they married. [REDACTED]
- 18 [REDACTED] they were married after that?
- 19 A. [12:02:39] [REDACTED]
- 20 [REDACTED] they took the two young people to somewhere and they got them married
- 21 and provided them with some money and some gifts.
- 22 Q. [12:03:11] Thank you. I would now like to move to document 0018-1166-R01,
- 23 which is at tab 324, and the translation at 0018-2356-R01 at tab 325.
- 24 Have you found the document, Mr Witness?
- 25 A. [12:04:24] If you could provide me with the reference number again, please. If

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1 you could do so in Arabic, please.

2 Q. [12:04:42] I will repeat it with translation into Arabic, 324 for you and 325 for  
3 the translated version.

4 His binder seems to be rather full. Perhaps it would be helpful if somebody could  
5 assist the witness.

6 A. [12:05:21] I found it.

7 Q. [12:06:02] Mr Witness, do you recognise this document?

8 A. [12:06:07] Yes.

9 Q. [12:06:08] [REDACTED] ?

10 A. [12:06:13] [REDACTED]

11 Q. [12:06:14] [REDACTED] ?

12 A. [12:06:20] [REDACTED]  
13 [REDACTED]

14 Q. [12:06:45] What is the date [REDACTED] ?

15 A. [12:06:52] June 21, 2012.

16 Q. [12:07:05] Mr Witness, we can see some shots on 1166 and 67, we can see

17 [REDACTED] What are these [REDACTED] ?

18 A. [12:07:32] This photo is [REDACTED] the Islamic court and from the -- and also  
19 a photo of [REDACTED] the Islamic court.

20 Q. [12:07:50] While we're at it I will go into detail, but could you please first turn to  
21 the next page, which is, for you, 0018-1167. So the same [REDACTED] but the other side of  
22 the page, the next page.

23 A. [12:08:23] Yes.

24 Q. [12:08:25] [REDACTED] on 0018-1167. What are these  
25 [REDACTED] ?

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- 1 A. [12:08:35] These are the same photos [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] about  
5 punishments or religious punishments.  
6 Q. [12:09:19] So I understand, these are screenshots of the punishment for adultery  
7 on page 67. But if you come back to the previous page, 0018-1166, what is the link  
8 between the two photos on that page of the court and the event showed in  
9 the screenshots on the following page?  
10 A. [12:10:03] The photos tell or show this story [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 Q. [12:10:36] [REDACTED]  
14 [REDACTED] Is that what you're saying?  
15 A. [12:10:54] Yes, the case was deliberated in court and the judge decided that they  
16 ought to be whipped.  
17 Q. [12:11:13] Thank you, that's clearer. [REDACTED]  
18 [REDACTED]?  
19 A. [12:11:26] [REDACTED]  
20 Q. [12:11:33] Thank you, Mr Witness.  
21 We can now return to open session, your Honour.  
22 PRESIDING JUDGE MINDUA: [12:11:45](Interpretation) May we return to open  
23 session, please, court officer.  
24 (Open session at 12.11 p.m.)  
25 THE COURT OFFICER: [12:11:56] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [12:12:05](Interpretation) Thank you very much,  
2 court officer.

3 Prosecution.

4 MR DUTERTRE: [12:12:11](Interpretation)

5 Q. [12:12:13] Mr Witness, just a question, do you think, if you were showed a  
6 satellite image, you would be able to locate the square where the punishment for  
7 adultery took place?

8 A. [12:12:37] I may try to do that, but I'm not sure if I will be able to.

9 MR DUTERTRE: [12:12:50](Interpretation) Mr President, I would suggest that I offer  
10 the witness my own copy, which can be shown to the other participants, which is  
11 0040-0408, and the witness could make a mark where he believes it would be.

12 PRESIDING JUDGE MINDUA: [12:13:11](Overlapping speakers)

13 THE COURT OFFICER: [12:13:17](Overlapping speakers) been made aware earlier  
14 this morning that the smart board is fixed. So we could also publish the document  
15 on the smart board so that the witness can annotate it.

16 It's up to you.

17 MR DUTERTRE: [12:13:40](Interpretation) That would be wonderful. But, as there  
18 is something written at the bottom, you would need to zoom in before you actually  
19 publish it. So it's 0040-0408, confidential. But when zoomed in upon, it would then  
20 be available for public viewing.

21 THE COURT OFFICER: [12:14:15] The document will be displayed on the evidence  
22 1 channel.

23 MR DUTERTRE: [12:14:27](Interpretation) I don't know whether the witness has  
24 a writing implement in order to do this or whether it's already been done.

25 We can zoom in in order to hide the bit at the bottom.

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- 1 No, I don't want to see it. I want it to be zoomed in precisely so we don't see the bit
- 2 at the bottom, while keeping, of course, a visible image.
- 3 Excellent. Thank you. And that can be shown in public now.
- 4 Q. [12:15:52] Mr Witness, if you are able to locate on this map the location of
- 5 the square where the punishment took place -- well, it's in your hands. If you can do
- 6 so, then you could draw a large red cross to indicate the location. It doesn't matter
- 7 what colour this cross is, but if you could just draw a cross to indicate the location.
- 8 A. [12:16:29](No interpretation)
- 9 PRESIDING JUDGE MINDUA: [12:16:34](No interpretation)
- 10 (Pause in proceedings)
- 11 THE INTERPRETER: [12:18:23] Can you hear me? It's working now. Thank you.
- 12 PRESIDING JUDGE MINDUA: [12:18:33](Interpretation) It would seem that
- 13 the problem has been resolved.
- 14 Please continue, Prosecution.
- 15 MR DUTERTRE: [12:18:41](Interpretation)
- 16 Q. [12:18:42] Perhaps Mr Witness could repeat what he just said.
- 17 A. [12:18:51] I am not sure, but I think it's the same square that I put a mark
- 18 on -- that I put a dot on and a circle on, on the map.
- 19 MR DUTERTRE: [12:19:25](Interpretation) Can we save the image, please,
- 20 court officer, and register it, please.
- 21 PRESIDING JUDGE MINDUA: [12:19:41](Interpretation) So, please, court officer,
- 22 would you register it and give it a number.
- 23 THE COURT OFFICER: [12:19:47](Overlapping speakers) The document will bear
- 24 the number MLI-REG-0001-0008.
- 25 PRESIDING JUDGE MINDUA: [12:19:58](Interpretation) Thank you very much.

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- 1 MR DUTERTRE: [12:20:02](Interpretation) I would like to continue, but time is  
2 passing.
- 3 PRESIDING JUDGE MINDUA: [12:20:09](Interpretation) No, we still have five  
4 minutes. We're still in private session. We -- no, we're in public session.
- 5 MR DUTERTRE: [12:20:20](Interpretation) I would like to move to private session.  
6 (Private session at 12.20 p.m.)
- 7 THE COURT OFFICER: [12:20:37] We are in private session, Mr President.
- 8 PRESIDING JUDGE MINDUA: [12:20:46](Interpretation) Thank you very much.  
9 Prosecution.
- 10 MR DUTERTRE: [12:20:50](Interpretation) I would now like to move on to  
11 something different and I'd like to show video 0018-693, which is five minutes long so  
12 we will have to continue after the break, but that's not a real problem.
- 13 It's at tab 203, 0069-1464, for the transcript. So at 204, there is the translation,  
14 0069-1464, and the document is 0018-1304 up to 05.
- 15 And I am not going to show the whole five minutes, that was just to give you an  
16 indication, but I'm going to show elements of it.
- 17 (Viewing of the video excerpt)
- 18 MR DUTERTRE: [12:24:32](Interpretation)
- 19 Q. [12:24:33] [REDACTED] ?
- 20 A. [12:24:40] [REDACTED]
- 21 Q. [12:24:42] [REDACTED] ?
- 22 A. [12:24:47] [REDACTED]
- 23 Q. [12:24:55] [REDACTED] ?
- 24 A. [12:25:01] That was in the square in the middle of the market next to the Islamic  
25 police's first station.

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- 1 Q. [12:25:19] And I'm sorry to ask you the question, but which town are we talking  
2 about, just for completeness?
- 3 A. [12:25:31] Timbuktu.
- 4 Q. [12:25:35] Do you recall roughly when this took place? Even if you can only  
5 say it was before or after Ramadan.
- 6 A. [12:25:49] I cannot recall that now.
- 7 MR DUTERTRE: [12:25:59](Interpretation) Mr President, shall I show it now with  
8 sound and we'll stop, or shall we stop now?
- 9 PRESIDING JUDGE MINDUA: [12:26:10](Interpretation) We will stop now in order  
10 to keep within our time limits.
- 11 We will return --
- 12 Ms Sutherland, you're on your feet.
- 13 MS SUTHERLAND: [12:26:21](Overlapping speakers) Thank you, Mr President.  
14 We just have a small but significant matter of housekeeping. It can wait until after  
15 the adjournment. It would be ideally done in public session.
- 16 PRESIDING JUDGE MINDUA: [12:26:42](Interpretation) Very well.  
17 Court officer, public session, please.
- 18 (Open session at 12.26 p.m.)
- 19 THE COURT OFFICER: [12:26:59] We are in open session, Mr President.
- 20 PRESIDING JUDGE MINDUA: [12:27:05](Interpretation) Thank you very much,  
21 court officer.
- 22 Ms Sutherland, you have the floor.
- 23 MS SUTHERLAND: [12:27:13] Thank you, your Honour. It's a translation issue at  
24 transcript 40, page 32, lines 1 and 2, the English reads:  
25 "Yes, here he is watching over the execution -- he is watching the execution of the



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- 1 punishment for adultery."
- 2 In the Arabic it says only "watching", not "watching over". Obviously, the distinction
- 3 in English is prejudicial, so we ask this be remedied in the English transcript to
- 4 accurately reflect the Arabic by removing the phrase "watching over".
- 5 PRESIDING JUDGE MINDUA: [12:28:19](Interpretation) The witness spoke Arabic,
- 6 was that in private session or public session? Because I hesitate to ask that question
- 7 if it took place in private session.
- 8 MR DUTERTRE: [12:28:38](Interpretation) If I followed the Court's request, we
- 9 should have been in public session and we need to check that, but perhaps the court
- 10 reporters could re-listen and make the correction.
- 11 PRESIDING JUDGE MINDUA: [12:28:43](Overlapping speakers)
- 12 MS SUTHERLAND: [12:28:49] I have checked, we were in public session, I assure
- 13 you.
- 14 PRESIDING JUDGE MINDUA: [12:28:58](Interpretation) What do you want us to
- 15 do? Do you want us to ask the witness the question again?
- 16 MS SUTHERLAND: [12:29:03] No, your Honour, simply check the record.
- 17 PRESIDING JUDGE MINDUA: [12:29:10](Interpretation) Very well. That is a more
- 18 practical solution and it will be done.
- 19 Thank you very much.
- 20 So it is now 12.30. Normally speaking, we would have an hour and a quarter for
- 21 lunch break, so in order not to change this we will start again at 13.45.
- 22 We will now suspend the hearing. The hearing is suspended.
- 23 THE COURT USHER: [12:29:45] All rise.
- 24 (Recess taken at 12.29 p.m.)
- 25 (Upon resuming in open session at 1.46 p.m.)

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- 1 THE COURT USHER: [13:46:06] All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE MINDUA: [13:46:30](Interpretation) Court is in session once
- 4 again.
- 5 We shall continue with the examination-in-chief on the part of the Prosecution.
- 6 Mr Dutertre.
- 7 Oh, I can see that Ms Sutherland is on her feet.
- 8 MS SUTHERLAND: [13:46:46] Thank you, your Honour.
- 9 We would ask that the Prosecution use clean exhibits, i.e. not marked exhibits, when
- 10 they present them to the witness for his comment.
- 11 PRESIDING JUDGE MINDUA: [13:47:12](Interpretation) But of course. It would
- 12 seem surprising that those pages could be annotated beforehand.
- 13 Have we had any cases like that? I don't believe so.
- 14 Mr Prosecutor.
- 15 MR DUTERTRE: [13:47:27](Interpretation) If the Defence can clarify what they mean
- 16 by that. I don't really know what they're driving at.
- 17 PRESIDING JUDGE MINDUA: (Interpretation) Ms Sutherland.
- 18 MS SUTHERLAND: [13:47:34] The exhibits presented to the witness yesterday were
- 19 already marked with numbers and today the exhibit had, I understand, a cross
- 20 already marked on it. Referring to the satellite maps, images.
- 21 PRESIDING JUDGE MINDUA: [13:47:57](Interpretation) Very well. As to
- 22 the satellite image, I understood that it was the witness who had annotated it. I can
- 23 see my colleagues nodding, and so is the Prosecutor. So we have understood,
- 24 the document or the documents shall be presented with any -- any markups
- 25 beforehand.

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ICC-01/12-01/18

- 1 Please, Mr Prosecutor, proceed.
- 2 MR DUTERTRE: [13:48:22](Interpretation) Thank you, Mr President.
- 3 Q. [13:48:26] Mr Witness, at an -- well, I'd like to go into private session, please,
- 4 Mr President.
- 5 PRESIDING JUDGE MINDUA: [13:48:38](Interpretation) Shall we go into private
- 6 session?
- 7 Madam courtroom officer, please.
- 8 (Private session at 1.48 p.m.)
- 9 THE COURT OFFICER: [13:48:46] We are in private session, Mr President.
- 10 PRESIDING JUDGE MINDUA: [13:48:54](Interpretation) Thank you very much.
- 11 Please, Prosecutor, go ahead.
- 12 MR DUTERTRE: [13:48:59](Interpretation) Thank you, Mr President.
- 13 Q. [13:49:00] Mr Witness, just a clarification geographically speaking. Before we
- 14 took the break, I presented a video [REDACTED] at
- 15 the -- on the square at the centre of the market next door to the first Islamic police
- 16 station.
- 17 Do you by any chance recall whether that market bore a name?
- 18 A. [13:49:38] Certainly it does have a name, but I don't recall it now. To be more
- 19 precise, it's actually the square next to the handicrafts building.
- 20 Q. [13:50:12] We might come back to -- thank you. We might come back to a map
- 21 later.
- 22 Mr Witness, could you please explain to the Chamber how it is that you came to
- 23 know that there was something [REDACTED] on that day?
- 24 A. [13:50:29] I don't recall why exactly I became aware of that, or who told me of
- 25 anything. [REDACTED].

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- 1 Q. [13:51:01] We'll see this later in open session. But these images [REDACTED]  
2 what exactly did it involve?  
3 A. [13:51:13] These are the images of the execution of a punishment, and I think it's  
4 four young men who drank alcohol and so they are being punished for that.  
5 Q. [13:51:39] How did you come to learn of these details that, namely, it was two  
6 young men being punished for having drunk alcohol?  
7 A. [13:51:57] [REDACTED]  
8 [REDACTED] Now, so that's what happened. [REDACTED]  
9 [REDACTED]  
10 there is nothing actually hidden, it's being carried out in a public square and  
11 the information is available to everyone. And usually everything is published and  
12 people are told using a loudspeaker so that everyone realises what is going on  
13 [REDACTED]  
14 Q. [13:52:43] Mr Witness, you have just said that the population was informed over  
15 loudspeakers. Could you please explain to us how all of this worked, this business  
16 of loudspeakers?  
17 A. [13:53:01] The -- usually in all punishments, whenever there is a -- it always  
18 starts with a person explaining to everybody what was going on, that they are there to  
19 execute a particular punishment on these people.  
20 MR DUTERTRE: [13:53:33](Interpretation) Very well.  
21 Mr President, your Honours, I'm going to play it with the sound. It lasts for about  
22 5 minutes. We're going to remain in private session. I'd like to remind you that  
23 the transcript can be found at tab 204 and the translation at tab 205.  
24 I'm going to play it.  
25 (Viewing of the video excerpt)

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 MR DUTERTRE: [13:55:37](Interpretation) It would seem there's no more sound.
- 2 PRESIDING JUDGE MINDUA: [13:55:44](Interpretation) The image is coming and
- 3 going.
- 4 MR DUTERTRE: [13:55:49](Interpretation) I don't know when it began to jump
- 5 around. Ten seconds ago.
- 6 Well I'll start with 00:00:01 --
- 7 THE INTERPRETER: [13:56:09] The interpreter missed the last figure.
- 8 MR DUTERTRE: [13:57:03](Interpretation) Thank you, madam courtroom officer.
- 9 Can I start again?
- 10 PRESIDING JUDGE MINDUA: [13:57:12](Interpretation) Well, it comes and goes.
- 11 THE COURT OFFICER: [13:57:17] Mr Prosecutor, if you confirm that you wish to
- 12 play the whole video, we will play it from our bench.
- 13 MR DUTERTRE: [13:57:32](Overlapping speakers)
- 14 THE COURT OFFICER: [13:57:34] The video will be then displayed on the evidence
- 15 1 channel.
- 16 MR DUTERTRE: [13:57:43](Interpretation) Thank you.
- 17 (Viewing of the video excerpt)
- 18 PRESIDING JUDGE MINDUA: [13:58:37](Interpretation) I think we now have it on
- 19 evidence 1.
- 20 (Viewing of the video excerpt)
- 21 THE INTERPRETER: [14:02:49](Interpretation of the video excerpt)
- 22 Beginning of the video.
- 23 "The wine, the wine.
- 24 They said that they drank wine.
- 25 And get up.

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Trial Hearing  
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(Private Session)

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- 1 Forty.
- 2 Hit them well.
- 3 Stop. Forty.
- 4 Glory to Allah ...
- 5 Allah Akbar ... Allah Akbar ... Allah Akbar."
- 6 (Viewing of the video excerpt)
- 7 MR DUTERTRE: [14:03:48](Interpretation) Mr President, your Honours, I will have
- 8 to go back and forth on the video. This isn't something that I can ask the Registry to
- 9 do, so I'm going to try on my side, otherwise a technician will have to come,
- 10 otherwise I won't be able to do my job properly.
- 11 THE COURT OFFICER: [14:04:08] The technician has been informed indeed and he
- 12 is on his way.
- 13 MR DUTERTRE: [14:04:17](Interpretation) While we are waiting, I don't need to
- 14 play the video.
- 15 Q. [14:04:21] Now, Mr Witness, do you remember in this scene whether somebody
- 16 had read or read out over the loudspeakers what was going on?
- 17 A. [14:04:34] No, I don't recall that.
- 18 Q. [14:04:41] Was there a radio station in Timbuktu at the time during
- 19 the occupation of Ansar Dine and AQMI?
- 20 A. [14:04:54] Yes, I think they were using the radio that belonged to
- 21 the municipality, which was an FM radio.
- 22 Q. [14:05:11] And what did this radio used to broadcast, Mr Witness?
- 23 A. [14:05:19] In truth I did not listen to that radio. I don't know precisely, but I
- 24 know that it was sermons and programmes on Islamic culture and Koranic culture.
- 25 Q. [14:05:41] And who were those people who were in charge of the radio station?

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Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Private Session)

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- 1 A. [14:05:50] I don't know. [REDACTED]
- 2 [REDACTED] I
- 3 did not listen to that radio and I don't know.
- 4 MR DUTERTRE: [14:06:22](Interpretation) I think you wanted to take the floor,
- 5 your Honour?
- 6 PRESIDING JUDGE MINDUA: [14:06:26](Interpretation) No, no. It was just
- 7 because the technicians were taking their time coming, I thought we might move into
- 8 open session. But it's as you like.
- 9 MR DUTERTRE: [14:06:36](Interpretation) I'm just going to stay in private session
- 10 for now [REDACTED]
- 11 [REDACTED] and then we can move into open
- 12 session.
- 13 PRESIDING JUDGE MINDUA: [14:06:50](Interpretation) Very well.
- 14 MR DUTERTRE: [14:06:53](Interpretation) I'm going to try to go to --
- 15 THE INTERPRETER: [14:06:55] Overlapping speakers. The interpreter could not
- 16 catch the figures.
- 17 MR DUTERTRE: [14:07:08](Interpretation)
- 18 Q. [14:07:08] Can you see the images, 00:02:18:12?
- 19 The witness doesn't seem to be able to see anything.
- 20 He might have to be on evidence 2.
- 21 Please press evidence 2.
- 22 A. [14:07:44] I have it now.
- 23 Q. [14:07:55] Can you see an individual in blue and an individual with a striped
- 24 shirt, black, white -- black, grey, white and blue, in the centre of the image?
- 25 A. [14:08:13] Yes.

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(Private Session)

ICC-01/12-01/18

1 Q. [14:08:16] Do you know who the individual is in the white turban in between  
2 the person in blue and the person with the striped shirt, black, white and grey?

3 A. [14:08:34] Yes, that is Abou Thar.

4 Q. [14:08:40] [REDACTED]  
5 [REDACTED]?

6 A. [14:08:51] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. [14:09:21] Thank you.

11 MR DUTERTRE: We can move back into open session, Mr President.

12 PRESIDING JUDGE MINDUA: [14:09:26](Interpretation) Open session, please,  
13 courtroom officer.

14 (Open session at 2.09 p.m.)

15 THE COURT OFFICER: [14:09:39] We're in open session, Mr President.

16 PRESIDING JUDGE MINDUA: [14:09:49](Interpretation) Thank you very much.

17 Prosecutor, please proceed.

18 MR DUTERTRE: [14:09:55](Interpretation) Thank you very much, Mr President,  
19 your Honours.

20 I have -- I am going to play a number of sequences from now and I'm going to remove  
21 the sound. I'm at 00:01:30:17.

22 (Viewing of the video excerpt)

23 MR DUTERTRE: (Interpretation) I'm going to stop -- or I have stopped at  
24 00:01:35:04.

25 Q. [14:10:38] Mr Witness, who are the two individuals at the centre of the image,



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1 the person in blue and the person with a striped shirt, white, black and grey in  
2 colour?

3 A. [14:11:02] These two individuals were being taken by the Islamic police to  
4 execute a sentence on them, one of the punishments.

5 Q. [14:11:25] Can you tell us why they were being punished?

6 A. [14:11:39] As far as I think, for drinking alcohol.

7 Q. [14:11:53] Can you tell us what they are wearing around their wrists here?

8 A. [14:12:13] They were handcuffed.

9 Q. [14:12:27] I'm going to play it forward a little bit, fast forward.

10 Mr Witness, I am at 00:02:09:11. When we look at the image, we can see a gentleman  
11 dressed in blue. And still looking at the image, there is an individual to the left of  
12 the man in blue. Can you tell us who it is?

13 A. [14:13:17] Can you please ask your question again.

14 Q. [14:13:25] Absolutely. Can you see the gentleman in blue on the image?  
15 I can see, for the record, that the witness is nodding.

16 Now, if you look at the image, just to the left, there is an individual who is facing the,  
17 the screen wearing a boubou and a turban that are both sand coloured. Just to  
18 the left of the man in blue, do you know who it is?

19 A. [14:14:05] Yes.

20 THE INTERPRETER: [14:14:07] Overlapping speakers.

21 MR DUTERTRE: [14:14:12](Interpretation)

22 Q. [14:14:12] Could you please give his name?

23 A. [14:14:14] Al Hassan.

24 Q. [14:14:34] Mr Witness, can you tell us what he's holding in his right hand?

25 A. [14:14:44] He's holding a whip.

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(Open Session)

ICC-01/12-01/18

1 Q. [14:14:53] Just for location purposes, can you -- or do you know what that large  
2 building is in the background?

3 A. [14:15:04] Yes, that's the *artisanat* or handicrafts building, [REDACTED]  
4 [REDACTED]

5 Q. [14:15:32] [REDACTED]  
6 [REDACTED]?

7 A. [14:15:46] [REDACTED]  
8 [REDACTED]

9 Q. [14:16:01] Thank you. That's clear. I'm going to fast forward.  
10 I am at 00:02:18:06.

11 Mr Witness, who is the individual with a white turban between the man in blue and  
12 the man with the striped shirt, black, white and grey in colour?

13 A. [14:16:36] Abou Thar.

14 Q. [14:16:48] As I am on this image, how many people were there, approximately?  
15 Well, the people that we can see wearing the jackets, which organ did they come from,  
16 those dark blue jackets that they're wearing?

17 A. [14:17:08] Everyone wearing a blue vest is from the Islamic police.

18 Q. [14:17:23] By any chance would you know the identity of the individual to  
19 the far right of the screen?

20 A. [14:17:37] Yes, I know him as one of the members of the Islamic police, but  
21 I don't know his name.

22 Q. [14:17:51] Very well. I'm going to come back a little bit.

23 (No interpretation)

24 I am stopping at 00:02:20:21.

25 Mr Witness, I can replay this if you want to, but in this sequence we can see

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(Open Session)

ICC-01/12-01/18

1 Mr Al Hassan who is giving something to Abou Thar, do you know what he was  
2 giving him?

3 A. [14:18:48] It is very clear that he gave -- that was the key to unlock the handcuffs,  
4 the handcuffs chaining the two individuals so that the punishment can be executed.

5 Q. [14:19:24] I will continue.

6 Stopped at 00:02:27:17 and then I'm going to move it back just a little bit so that you  
7 can see.

8 Can you tell me to whom -- towards whom the man in blue was turning at, at this  
9 point, 02 -- 00:02:25:06 (sic)?

10 A. [14:20:21] Here he is not turning, he is just looking down. Can you please  
11 make -- bring it closer.

12 Q. I'll try and run it through again.

13 PRESIDING JUDGE MINDUA: [14:20:49](Overlapping speakers)

14 MS SUTHERLAND: [14:20:51] Forgive my interruption, I understand that  
15 the Arabic cannot be heard by either my colleague or our client.

16 PRESIDING JUDGE MINDUA: [14:21:13](Interpretation) Madam court officer, can  
17 you tell me what's happening.

18 MS SUTHERLAND: [14:21:16] Forgive me, it's only the witness who cannot be  
19 heard, apparently the translators can.

20 THE ARABIC INTERPRETER: [14:21:28] Message from the interpreters: This was  
21 a little technical issue. It is resolved and it should not happen again. Thank you.

22 THE COURT OFFICER: [14:21:51] I guess we have the same problem as yesterday  
23 with the Arabic booth. I have my colleague, technician colleague to go and have  
24 a look. Thank you.

25 PRESIDING JUDGE MINDUA: [14:22:18](Interpretation) Court officer, it seems that

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Trial Hearing  
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- 1 the problem has been resolved.
- 2 THE COURT OFFICER: [14:22:23] Mr Witness, could you please talk in
- 3 the microphone, just to run a test.
- 4 THE WITNESS: [14:22:33](Interpretation) One, two, three.
- 5 THE COURT OFFICER: [14:22:36](Overlapping speakers) booth, Arabic booth,
- 6 could you please run a test?
- 7 Hopefully the problem is solved indeed, Mr President.
- 8 PRESIDING JUDGE MINDUA: [14:22:55](Interpretation) Well done. Very good.
- 9 Very good. So we may carry on.
- 10 MR DUTERTRE: [14:23:04](Interpretation) Thank you.
- 11 Q. [14:23:05] I'll come back to this. I've now moved to 00:02:47:21.
- 12 (Viewing of the video excerpt)
- 13 MR DUTERTRE: (Interpretation) And I've stopped at 00:02:51:09.
- 14 Q. Mr Witness, who is whipping the man in blue?
- 15 A. [14:23:38] Abou Thar.
- 16 Q. [14:23:44] I will continue.
- 17 (Viewing of the video excerpt)
- 18 MR DUTERTRE: (Interpretation)
- 19 Q. Who can you see on the extreme left of the screen at 00:02:53:02?
- 20 A. [14:24:12] It's Al Hassan.
- 21 (Viewing of the video excerpt)
- 22 MR DUTERTRE: [14:24:51](Interpretation)
- 23 Q. [14:24:52] I've now stopped at 00:03:21:06.
- 24 Who is whipping the man in blue, the person on the left?
- 25 A. [14:25:07] It's Al Hassan.

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Trial Hearing  
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(Open Session)

ICC-01/12-01/18

1 Q. [14:25:23] I move now to 00:03:45:04.

2 (Viewing of the video excerpt)

3 MR DUTERTRE: (Interpretation) And I stop at 00:03:55:15.

4 Q. Who is the person in a white turban whipping the man with the grey, white and  
5 black striped shirt?

6 A. [14:26:13] That's also Abou Thar.

7 Q. [14:26:44] I've now jumped to 00:04:15:19 and have moved forward to  
8 00:04:27:17.

9 Mr Witness, who is the person on the left whipping the man in the white, black and  
10 grey striped shirt?

11 A. [14:27:24] It's Al Hassan.

12 Q. [14:27:49] And I've now gone to 00:04:56:21.

13 Mr Witness, can you read what is on the back of the person in the centre of the image,  
14 the man with the brown jacket and the light-coloured turban?

15 A. [14:28:24] Yes, the soldiers of the Ansar Dine, and that's the army uniform.

16 Q. [14:28:43] When you say "army", what do you mean exactly, Mr Witness?

17 A. [14:28:53] The reference is to the soldiers who belong to Ansar Dine.

18 Q. [14:29:12] And now I am at 00:05:08:02.

19 Mr Witness, can you read what is written in Arabic on this sign board?

20 A. [14:29:41] "Timbuktu is a city built on Islam and will be governed only by  
21 the Islamic legislation or Islamic Sharia."

22 Q. [14:30:08] Mr Witness, according to what you saw -- could we please move into  
23 private session, your Honour.

24 PRESIDING JUDGE MINDUA: [14:30:22](Interpretation) Court officer, private  
25 session, please.

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(Private Session)

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1 (Private session at 2.30 p.m.)

2 THE COURT OFFICER: [14:30:36] We are in private session, Mr President.

3 PRESIDING JUDGE MINDUA: [14:30:41](Interpretation) Thank you very much.

4 Prosecution.

5 MR DUTERTRE: [14:30:46](Interpretation) Thank you, your Honours.

6 Q. [14:30:49] Mr Witness, according to what you saw during this scene [REDACTED]

7 [REDACTED] who was in charge of carrying out this punishment?

8 A. [14:31:07] \*As it seems, the person overseeing the execution of this punishment

9 in particular was Al Hassan and Abou Thar.

10 Q. [14:31:36] And, Mr Witness, what -- which of the two, Al Hassan or Abou Thar,

11 which of these two had the more important position in the Islamic police?

12 A. [14:32:06] I do not have a full knowledge of the Islamic police and the positions

13 held within the Islamic police. But I thought that Al Hassan would be the second

14 person in the Islamic police. [REDACTED]

15 [REDACTED] I expect that

16 Abou Thar also would have a status also within the Islamic police, without being able

17 to identify who was superior to whom or who gave instructions to whom.

18 PRESIDING JUDGE MINDUA: [14:33:10](Interpretation) Prosecutor, if I may,

19 excuse me. Before this image disappears, I would like to ask a question, a question

20 of clarification.

21 Mr Witness, this sign with the inscription "The city of Timbuktu is founded on Islam

22 and will only be judged by Islamic legislation (Sharia)", did this sign exist before

23 the arrival of Ansar Dine or AQMI, or was it put there by the new arrivals?

24 THE WITNESS: [14:33:58](Interpretation) This billboard and many other were

25 everywhere in the city and the groups had built them on after their control of the city.

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Trial Hearing  
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(Private Session)

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1 And I believe they were removed and things are back as they used to be. This was  
2 done after they, they have left the city. But I'm not sure of that.

3 PRESIDING JUDGE MINDUA: [14:34:32](Interpretation) Thank you very much,  
4 Mr Witness. You have answered my question.  
5 Prosecution.

6 MR DUTERTRE: [14:34:36](Interpretation) Thank you, your Honour.

7 Q. [14:34:38] Mr Witness, and maybe you could clarify things for the Chamber and  
8 help us again, you said that Mr Al Hassan was the second person within the Islamic  
9 police. Could you clarify for us so we can understand better on what basis you came  
10 to this conclusion? [REDACTED]?

11 A. [14:35:17] I do not have a clear example, [REDACTED] in all  
12 the activities of the Islamic police [REDACTED] Al Hassan present and overseeing  
13 the activities. But [REDACTED] he was not the head of the Islamic police. [REDACTED]

14 [REDACTED]  
15 [REDACTED] he gained importance within the ranks of the  
16 Islamic police, but [REDACTED] he was not the head of the Islamic police.

17 The leadership of the Islamic police started with Adam and ended with Khalid.

18 Q. [14:36:24] If I could have a moment to check the transcript.

19 Yes, you said it was Adama and then Khalid who were head of the Islamic police.

20 How did you know that it was Adama and then Khalid who were the head of  
21 the Islamic police?

22 A. [14:36:52] That was not secret. Everybody knew that. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1

2

3 Q. [14:37:53] And Khalid, could you give some details about this or was it also  
4 a well-known fact by the public?

5 A. [14:38:05] Yes, when Khalid was appointed, we all became aware of that.

6 I don't recall how exactly I became aware of that, but

7 he became the new head of the Islamic police.

8 Q. [14:38:27] And are you able to help the Chamber and to tell us roughly when  
9 Khalid took over from Adama? When was that?

10 A. [14:38:44] At the end of the period where -- when they had control, but at the  
11 last stage of their control of Timbuktu.

12 Q. [14:39:07] Very well.

13 I have questions, but perhaps I -- I would like to ask the witness to explain to us

14

15 ?

16 A. [14:39:36] I don't know. These were internal affairs under internal instructions  
17 within the structures that belonged to these groups and their leadership.

18 Q. [14:40:03] Are you able to tell us how people felt about the people who actually  
19 inflicted the punishments?

20 A. [14:40:23] I don't know. I cannot express that. All I know is that, in the period  
21 when I saw a great deal of anger, not anger regarding the execution of punishments  
22 like whipping, but the anger was about the treatment of women. That's how  
23 anger -- that's the anger that I saw manifested.

24 Q. [14:41:04] Mr Witness, could you tell us a bit more about that with regard to  
25 the anger relating to the treatment of women.



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ICC-01/12-01/18

1 A. [14:41:18] Yes. The entire people -- the majority of the people of Timbuktu who  
2 did not embrace an Islamist ideology, do not want to be imposed a particular dress  
3 code for women and girls and do not want to be treated with something that is being  
4 imposed on them by force and not something they chose. \*So this made them very  
5 angry and even resentful.

6 Q. [14:42:02] Thank you very much, Mr Witness.

7 I come back to the punishment of these two people for having consumed alcohol.

8 [REDACTED]

9 A. [14:42:20] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 MR DUTERTRE: [14:43:11](Interpretation) Your Honours, I would now like to show  
17 the document [REDACTED] which is at tab 55.

18 Q. Can you try and find this in your binder, Mr Witness.

19 A. [14:43:39] What is the reference number in Arabic, please?

20 Q. [14:43:48] Binder 1, tab 55.

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]?

25 A. [14:44:56] I do not follow the French website because the French website is

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1 always a translation of the Arabic website. But I think it talks here about the same  
2 event.

3 Q. [14:45:28] Can you read the date [REDACTED]  
4 [REDACTED] Can you read that date?

5 THE INTERPRETER: [14:45:49] The witness speaking in French.

6 A. [REDACTED]

7 MR DUTERTRE: [14:46:09](Interpretation)

8 Q. [14:46:10] And can you read the contents of what is written here? Or can you  
9 read French sufficiently for that purpose, Mr Witness?

10 A. [14:46:27] Yes, as it is clear here: The Ansar Dine movement executed  
11 the punishment of whipping 80 lashes for alcohol drinking.

12 That's what I gather from this.

13 Q. [14:47:07] (No interpretation)

14 A. [14:47:08] Certainly. [REDACTED]  
15 [REDACTED]

16 Q. [14:47:21] Thank you, Mr Witness.

17 Mr Witness --

18 MR DUTERTRE: [14:47:27](Interpretation) If we could go back into open session,  
19 your Honour.

20 PRESIDING JUDGE MINDUA: [14:47:34](Interpretation) Open session, please,  
21 courtroom officer.

22 (Open session at 2.47 p.m.)

23 THE COURT OFFICER: [14:47:49] We are in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [14:47:56](Interpretation) Thank you very much,  
25 madam courtroom officer.

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Trial Hearing  
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(Open Session)

ICC-01/12-01/18

- 1 Mr Prosecutor, I think it's time to ask the last question for today.
- 2 MR DUTERTRE: [14:48:04](Interpretation) Thank you, Mr President.
- 3 I just wanted to know whether the witness is capable or feels that he is capable on
- 4 the satellite image to indicate the location where this incident took place. It should
- 5 be posted on the screen and we need to zoom in.
- 6 Because it's quite a broad image, we might lose detail.
- 7 PRESIDING JUDGE MINDUA: [14:48:31](Interpretation) Please go ahead.
- 8 MR DUTERTRE: [14:48:32](Interpretation) 0019-0290. And there are handwritten
- 9 annotations in the top left-hand corner that should be gotten rid of before we show it
- 10 to the public.
- 11 Q. [14:49:01] So, Mr Witness, we're going to show you a map, we're going to zoom
- 12 in. The quality is not the best, not as good as the previous maps. But as you have
- 13 an overview, we are losing in quality what we are gaining in overview, and this
- 14 might be able to -- enable you to locate where this event took place.
- 15 Maybe we could zoom in a little bit more.
- 16 Maybe a little bit more. More. There we are.
- 17 Mr Witness, on this map - with the pen that you used earlier - are you able to locate
- 18 with a circle where that flogging for the consumption of alcohol took place?
- 19 Thank you, Mr Witness.
- 20 We can register this map.
- 21 PRESIDING JUDGE MINDUA: [14:50:41](Interpretation) There we are.
- 22 Madam courtroom officer, please record it and provide it with a reference number.
- 23 MR DUTERTRE: [14:50:50](Interpretation) I'd like to thank you for your patience,
- 24 Mr Witness, today. We have come to the end of what I wanted to do. I know these
- 25 are long and tiring days for you. Thank you so much.

~~---ICC-01/12-01/18-T-040-CONF-ENG-ET-04-11-2020-60/61-NB-T-----~~

Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [14:51:02] The document annotated by the witness will bear  
2 the number MLI-REG-0001-0009.

3 PRESIDING JUDGE MINDUA: [14:51:19](Interpretation) Thank you very much,  
4 courtroom officer.

5 And thank you very much to Mr Prosecutor and to the witness.

6 Now, Mr Witness, today's hearing is drawing to a close, as is your testimony for  
7 today. Tomorrow you will continue with your testimony and, until then, please do  
8 not forget that you are not allowed to talk about your testimony to whom whatsoever,  
9 may it be either to members of your family or to friends were you to come into  
10 contact with them this evening.

11 Once again, have you understood that correctly?

12 THE WITNESS: [14:52:10](Interpretation) Yes, that is clear.

13 PRESIDING JUDGE MINDUA: [14:52:15](Interpretation) Thank you very much,  
14 Mr Witness. Thank you, Mr Witness.

15 So, it is time to thank those -- or all those who have accompanied us today, that is to  
16 say the parties and participants, to the court reporters and the interpreters, and I am  
17 not forgetting our security officers and our public who are always very patient.

18 Thank you.

19 I would like to wish you all a very nice end of the day and we shall reconvene  
20 tomorrow morning at 9.30 for the continuation of this hearing.

21 Court is adjourned.

22 THE COURT USHER: [14:53:04] All rise.

23 (The hearing ends in open session at 2.53 p.m.)

24 CORRECTIONS REPORT

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

~~ICC-01/12-01/18-T-040-CONF-ENG ET 04-11-2020 61/61 NB-T-----~~

Trial Hearing  
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 audio-visual recording of the hearing, are brought into the transcript.
- 2 Page 54 line 8
- 3 "The person overseeing the execution..."
- 4 Is corrected to
- 5 "As it seems, the person overseeing the execution..."
- 6 Page 57 lines 4-5
- 7 "So this cause made them angry and even made them resentful."
- 8 Is corrected to
- 9 "So this made them very angry and even resentful."