

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0065

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 Friday, 20 November 2020
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:54] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:21](Interpretation) Court is in session.
15 Good morning to everybody.
16 Madam courtroom officer, could you please call the case.
17 THE COURT OFFICER: [9:33:33] 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 01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:55](Interpretation) Thank you very much,
22 courtroom officer.
23 Now, for the record, we shall go through the appearances, starting with the Office of
24 the Prosecutor.
25 Mr Prosecutor, please.

- 1 MR DUTERTRE: [9:34:09](Interpretation) Good morning, Mr President. Good
- 2 morning, your Honours. Good morning, Mr Witness. Good morning, everyone.
- 3 The Prosecution is still represented by Madam Coquillaud, Mr Garcia, and myself,
- 4 Mr Gilles Dutertre. Thank you.
- 5 PRESIDING JUDGE MINDUA: [9:34:30](Interpretation) Thank you very much,
- 6 Mr Prosecutor.
- 7 Defence. Ms Sutherland, please.
- 8 MS SUTHERLAND: [9:34:32] Good morning, Mr President, your Honours.
- 9 The Defence for Mr Al Hassan is today represented by Ms Melinda Taylor,
- 10 Ms Molly Thomas, Ms Dolly Chahla and myself, Ms Kirsty Sutherland.
- 11 PRESIDING JUDGE MINDUA: [9:34:52](Interpretation) Thank you very much,
- 12 Ms Sutherland.
- 13 Legal Representatives for Victims, Mr Nsita.
- 14 MR LUVENGIKA: [9:34:58](Interpretation) Good morning, Mr President,
- 15 your Honours.
- 16 The victims this morning are represented by Madam Claire Laplace and myself,
- 17 Mr Fidel Nsita Luvengika. Thank you.
- 18 PRESIDING JUDGE MINDUA: [9:35:15](Interpretation) Thank you very much,
- 19 Mr Nsita.
- 20 We shall continue today with the testimony of the 16th Prosecution Witness, P-0065,
- 21 and I hope that today we shall be finishing with his testimony.
- 22 Good morning, Mr Witness, can you hear me?
- 23 WITNESS: MLI-OTP-P-0065 (On former oath)
- 24 (The witness speaks Arabic)
- 25 THE WITNESS: [9:35:43](Interpretation) Good morning. I hear you very clearly.

1 PRESIDING JUDGE MINDUA: [9:35:50](Interpretation) Thank you very much,
2 Mr Witness.

3 The Chamber would like to welcome you once again and once again express its
4 gratitude for your availability. I would like to remind you that you are still under
5 oath and that you must speak the truth, the whole truth and nothing but the truth.
6 I would also like to remind you of my advice with regard to addressing the Court.
7 Now, without further ado, I shall hand over to the Defence.

8 Ms Sutherland, you have an hour maximum. Thank you.

9 MS SUTHERLAND: [9:36:30] Thank you very much, your Honour. I hope very
10 much that we will use less than that.

11 I am also happy to report that I can ask the first few questions in open session.

12 Unfortunately, due to the nature of the remaining questions, it's likely that
13 the witness will feel unable to answer fully unless we go into private session.

14 Again, I will do my utmost to ensure that that is kept as brief as possible.

15 QUESTIONED BY MS SUTHERLAND:

16 Q. [9:37:04] Good morning, Mr Witness. Thank you very much for all of the time
17 that you spent giving evidence to this Court. I know that we are all extremely
18 grateful.

19 Referring to transcript 39, page 40, line 23 to page 41, line 2, you told us you "knew
20 the name in full since 2012, but in more recent times when I tried to remember
21 the name in full, I couldn't. My memory did not serve me well. But the media
22 helped me afterwards. So it's not now that I have learnt the name. I already knew,
23 but I recalled it more at the beginning of the trial."

24 Since clearly you were following the media coverage of this trial, could you explain to
25 us which parts of the proceedings you were following?

1 A. [9:38:15] The question is not clear.

2 Q. [9:38:21] My apologies, Mr Witness. It's clear from what you told us that
3 you've been following these proceedings in the media. Could you please clarify
4 which parts of the proceedings you have been following?

5 A. [9:38:45] [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 Q. [9:39:42] Thank you very much for the -- such a clear answer.

13 Your Honours, I'm afraid I'm going to have to ask your permission to go into private
14 session.

15 PRESIDING JUDGE MINDUA: [9:39:59](Interpretation) Madam courtroom officer,
16 private session, please.

17 (Private session at 9.40 a.m.)

18 THE COURT OFFICER: [9:40:11] We are in private session, Mr President.

19 MS SUTHERLAND: [9:40:21] Mr Witness --

20 PRESIDING JUDGE MINDUA: [9:40:23](Interpretation) Thank you very much.

21 Ms Sutherland.

22 MS SUTHERLAND: [9:40:26]

23 Q. [9:40:27] Mr Witness, you are [REDACTED]

24 [REDACTED]
25 [REDACTED]

1 [REDACTED]?

2 A. [9:40:55] I do not remember having dealt with any judicial authority other than
3 the ICC in my whole life.

4 Q. [9:41:16] [REDACTED]

5 [REDACTED] Do you remember that?

6 A. [9:41:40] I remember that some information could be shared with some states or
7 some apparatus of states within specific measures and under certain circumstances.

8 But I do not have all details concerning that. Nor do I even understand that. And I
9 did not wish to understand further and that is why I did not enquire further about
10 that.

11 Q. [9:42:24] Did the Prosecution ever contact you for an updated [REDACTED]

12 [REDACTED] information [REDACTED]

13 [REDACTED]?

14 A. [9:42:46] I do not remember that I have been notified of that information that I
15 have given to investigators was shared with any other party outside the ICC.

16 Q. [9:43:09] Mr Witness, [REDACTED]

17 throughout your testimony and specifically referring to transcript 47, page 42, lines 2
18 to 3, you stated, [REDACTED]

19 [REDACTED]

20 Do you think it would be fair to say that [REDACTED] being one of those fires,
21 have had an impact on what was happening in the region in 2012?

22 A. [9:44:03] Certainly. [REDACTED]

23 [REDACTED]

24 Q. [9:44:16] Could you explain what you mean by "biggest problem"?

25 A. [9:44:25] Yes. [REDACTED]

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[REDACTED]

Q. [9:45:30] [REDACTED]

[REDACTED] ?

A. [9:45:44] [REDACTED]

[REDACTED]

1 Q. [9:47:31] Thank you, Mr Witness. [REDACTED]

2 [REDACTED]? I'm reminding you that we

3 are in private session and everyone is bound by very strict confidentiality rules.

4 PRESIDING JUDGE MINDUA: [9:47:59](Interpretation) Mr Prosecutor.

5 MR DUTERTRE: [9:48:01](Interpretation) Yes, Mr President. We're wondering

6 about the relevance of these questions as the witness has already indicated that he has

7 refused [REDACTED] so we don't see

8 the interest of this being mentioned.

9 PRESIDING JUDGE MINDUA: [9:48:19](Interpretation) Ms Sutherland, I don't see

10 the interest or relevance of this line of questioning because the witness has already

11 said that he has not [REDACTED] and it's rather intrusive.

12 MS SUTHERLAND: [9:48:35] Your Honour, the pertinence is that he's also indicated

13 that he is [REDACTED] but also we consider this to be relevant to other

14 witnesses in the case.

15 PRESIDING JUDGE MINDUA: [9:48:59](Interpretation) Please put this question to

16 one side, Ms Sutherland. He's already answered on a number of occasions.

17 MS SUTHERLAND: [9:49:11]

18 Q. [9:49:12] Mr Witness, we know that [REDACTED]

19 [REDACTED] Do you know who they were relying on?

20 A. [9:49:34] I cannot say that I know or do not know them.

21 Q. [9:49:41] Do you have any examples of [REDACTED]

22 [REDACTED] of what was happening

23 in 2012?

24 A. [9:50:03] Look, it's a very simple matter. There is something called fighting

25 terrorism and extremism. If you're not clearly taking part in such fight, then you

1 would be perceived as not fighting terrorism. And if you're not fighting terrorism,
2 then you are a terrorist. That's a very simple equation. That's the equation. And
3 [REDACTED] how do you fight? What types of fighting are there? The fighting or
4 the type of fighting is to tarnish terrorism. It's a very simple matter.

5 Q. [9:50:52] So are you saying that [REDACTED]

6 [REDACTED]?

7 A. [9:51:06] Let me give you a simple example. [REDACTED]

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[REDACTED]

Q. [9:53:53] [REDACTED]? Is
that what you're -- am I understanding you correctly?

A. [9:54:10] [REDACTED]

[REDACTED]

Q. [9:55:43] Thank you, Mr Witness.
In a conversation with a Prosecution investigator [REDACTED] and the reference is
MLI-OTP-0033-0044-R01 at 0047, you told them that you believed [REDACTED]
[REDACTED]

1 [REDACTED] ?

2 A. [9:56:30] [REDACTED]

3 [REDACTED]

4 [REDACTED] Tuaregs - we were not allowed to be part of the -- to join the civil service

5 or the police or the army. After the '90s, the Tuareg gained that right. But

6 there -- the intelligence apparatus has taken counterterrorism as an umbrella to

7 torture and kill Tuaregs, to arbitrarily detain them without any justification. If any

8 Tuareg tells you, whether this person is a member of the -- even if he is a member of

9 the Malian government, if any Tuareg tells you he's not afraid of the intelligence

10 raiding his home at night to detain him and torture him, then I assure you that person

11 is lying.

12 Q. [9:57:53] Mr Witness, following that, [REDACTED]

13 [REDACTED] ?

14 A. [9:58:15] No.

15 Q. [9:58:21] Have you heard of any instances of Malian (Overlapping speakers)

16 THE ARABIC INTERPRETER: [9:58:28] Ms Sutherland, message from

17 the interpreters: If you could please revert your question earlier, it was not properly

18 rendered, on [REDACTED] something like that.

19 MS SUTHERLAND: [9:58:41] Sorry, to the interpreters, the witness didn't hear my

20 last question?

21 THE ARABIC INTERPRETER: [9:58:45] Didn't hear it properly.

22 MS SUTHERLAND: [9:58:47] I'll repeat it. Thank you.

23 Q. [9:58:49] [REDACTED], do you follow the actions or follow news regarding

24 [REDACTED] ?

25 A. [9:59:11] I understand. I do not follow the news of that service, nor do I have

1 the possibility to follow their news, because [REDACTED] they do not issue any
2 public statements, [REDACTED] All they do, they do it in
3 secret. It's not possible in any way to follow what they do.

4 Q. [9:59:35] Have you heard of any instances of the *sécurité d'État* using force
5 against Tuaregs?

6 A. [9:59:52] State security or the intelligence is a service that works sometimes
7 through individuals and sometimes through the -- through police organs or military
8 organs, and sometimes through hitmen who are not -- who do not operate openly.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 So this is how things work. And this will not change. [REDACTED]

21 [REDACTED]

22 [REDACTED] There isn't justice, nor are there human rights
23 organisations. [REDACTED]

24 [REDACTED]

25 Q. [10:02:21] Have you heard about anything regarding the detention, detention at

1 the hands of the *sécurité d'État* in Bamako?

2 A. [10:02:39] There are tens of detainees. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] intelligence prisons in Sahel countries are filled

8 with people, half of whom are innocent and are tortured from one prison to the other,

9 and no one knows anything about them and they spend decades in detention without

10 standing in court, without being faced with their charges, without being given

11 a lawyer, or without their rights being ever recognised.

12 What is called counterterrorism is actually an authority above the law that trivialises

13 rights and that considers that any person that the state needs to deprive of his rights,

14 all the state has got to do is to call him a terrorist.

15 Q. [10:04:28] You said that many people are innocent. Is it correct then, from your

16 understanding [REDACTED] to surmise that Barkhane, Operation Barkhane was not

17 able accurately to determine always who was a jihadist and who was not?

18 PRESIDING JUDGE MINDUA: [10:04:57](Interpretation) Mr Prosecutor.

19 MR DUTERTRE: [10:04:58](Interpretation) Yes, this is a speculative question and we

20 object to it being put.

21 PRESIDING JUDGE MINDUA: [10:05:06](Interpretation) Yes, it is speculation,

22 Ms Sutherland. This witness doesn't have to answer this question.

23 MS SUTHERLAND: [10:05:15]

24 Q. [10:05:16] Mr Witness, given the ramifications of an accusation of being

25 a terrorist or jihadist, [REDACTED]

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1 [REDACTED] ?

2 A. [10:05:51] Look, what is certain is the following: In northern Mali, there have
3 been many -- it's a tribal desert society there that has ancient -- that has had ancient
4 conflicts and that are continuing to this day. And there is something called
5 retaliation at the individual level and at the tribal level. The force of Al-Qaeda and
6 the force of the intelligence have been tools to settle accounts in these conflicts.
7 There are people who gave imprecise information that this person or that other
8 person is an agent for an intelligence service and thus arranged the assassination and
9 killing of such individuals on the basis that they are agents. And it's -- and it's in
10 that sense only they were given the chance to revenge against someone.

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 Q. [10:07:40] Mr Witness, you previously told the Court [REDACTED]
18 [REDACTED] and the reference is transcript 47, page 59, lines 7 to
19 10, where you said: [REDACTED]

20 [REDACTED]
21 [REDACTED]

22 A. [10:08:20] Yes.

23 Q. [10:08:25] I'm just waiting for the interpreters.

24 [REDACTED]
25 [REDACTED]

1 A. [10:08:42] [REDACTED]
2 [REDACTED]
3 [REDACTED] First of all, the
4 then president of Mauritania in 2012, Mohamed Bin Abdel Aziz, was the commander
5 of the presidential security battalion. He is also the first Mauritanian president to
6 take part in a war on a foreign land. This is very simple. When he led a *coup d'état*
7 against Mohamed Ould Sidi Yahya (phon), the predecessor president, he conveyed to
8 the world that he is willing to fight terrorism and he did so to mobilise as much
9 international support for himself as possible. And he kept on his word. He pushed
10 the forces, the forces of his country to take part in the Hassi Sidi battles and in Rabat
11 and Gado battles also in northern Mali, and in coordination with the French and with
12 the revolutionaries of Benghazi and with Ag Bahanga, to pull out the Tuareg forces
13 that were under Gaddafi so that Gaddafi can be defeated quickly.

14 Q. [10:10:32] Given everything you've just told us, [REDACTED]

15 [REDACTED]?

16 MR DUTERTRE: [10:10:51](No interpretation)

17 PRESIDING JUDGE MINDUA: [10:10:53](Interpretation) Mr Prosecutor.

18 MR DUTERTRE: [10:10:54](Interpretation) There again, this is pure speculation and
19 for the same reason I do object. I know that the Defence says I object, but I object
20 because I think we can object. This is justified. So I think this is an example of why
21 I'm objecting. This is pure speculation.

22 PRESIDING JUDGE MINDUA: [10:11:15](Interpretation) Ms Sutherland, this
23 question is not acceptable because you've already asked it, but you are now asking it
24 again in a different way.

25 Proceed, please.

1 MS SUTHERLAND: [10:11:30]

2 Q. [10:11:30] You've previously outlined [REDACTED]

3 [REDACTED] that's transcript 45, page 6, lines 5 to 7. Also [REDACTED]

4 [REDACTED] that's the same page, lines 8 to 16. [REDACTED]

5 [REDACTED]
6 [REDACTED] and that's transcript 45, page 7, lines 1 to 10. Specifically
7 you explained at transcript 44, page 37, lines 1 to 6, I quote: [REDACTED]

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

12 PRESIDING JUDGE MINDUA: [10:12:49](Interpretation) Mr Prosecution.

13 MR DUTERTRE: [10:12:51](Interpretation) My lord, this is the same objection that I
14 have. We are asking the witness to speculate. And we don't see how this assists
15 the Chamber.

16 PRESIDING JUDGE MINDUA: [10:13:08](Interpretation) Ms Sutherland, when you
17 ask a question: [REDACTED]

18 [REDACTED] This is pure speculation.

19 Please proceed, move on.

20 MS SUTHERLAND: [10:13:31] Mr President, I think there may be a problem with
21 translation or something has been lost in translation. I didn't ask [REDACTED]

22 [REDACTED] I asked if [REDACTED]

23 [REDACTED]
24 [REDACTED]

25 But I accept that he -- this perhaps goes beyond his competence.

1 PRESIDING JUDGE MINDUA: [10:14:21](Interpretation) This is the speculative
2 element, you asked if the witness considers that this is of benefit, whether
3 [REDACTED] ?

4 MS SUTHERLAND: [10:14:36] I accept that, Mr President.

5 If you bear with me one moment, I think I am almost at the conclusion of my
6 questions. I would just like to confer with Ms Taylor briefly.

7 (Counsel confers)

8 MS SUTHERLAND: [10:15:13]

9 Q. [10:15:16] Mr Witness, in conclusion, from your direct experience, do you have
10 any information regarding attempts to influence this trial?

11 PRESIDING JUDGE MINDUA: [10:15:36](Interpretation) Prosecution.

12 MR DUTERTRE: [10:15:39](Interpretation) I don't understand the question very well.
13 What does it mean exactly? Could Ms Sutherland please clarify.

14 PRESIDING JUDGE MINDUA: [10:15:49](Interpretation) Ms Sutherland.

15 MS SUTHERLAND: [10:15:51] I mean simply, does this witness, from his direct
16 information -- experience, have any knowledge of any attempts to influence this trial
17 through, for instance, threatening witnesses, or pushing particular narratives. I don't
18 want to say anything else in the presence of the witness.

19 PRESIDING JUDGE MINDUA: [10:16:39](Interpretation) What do you want? Do
20 you want that the witness leaves the courtroom?

21 MS SUTHERLAND: [10:16:47] No, your Honour. I think I have said enough to be
22 understood by the legal experts in this room.

23 PRESIDING JUDGE MINDUA: [10:16:59](Interpretation) Prosecution, I think that
24 the witness can put this question. Because the witness asks a particular -- is
25 asking -- the witness can answer this particular question put by the Defence.

1 I think I'm going to allow this question.

2 Mr Witness.

3 THE WITNESS: [10:17:28](Interpretation) Yes, look, there's a question concerning
4 how much importance is given to the trial and there is a question on how important
5 or interesting this trial has been, and I can answer this question [REDACTED]

6 [REDACTED]

7 The Court held many hearings in different trials and cases, [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 We all know that in 2012 France has forced the US to get into the Libyan swamp and
12 conflict to guarantee its own rights. [REDACTED]

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

16 We all know that western powers and France, that have kicked the Islamists out of
17 northern Mali [REDACTED] -- this

18 served those parties' own interests. [REDACTED] it's

19 important [REDACTED] by following

20 the hearings of this Court.

21 So whenever there is news on 2012 being the subject of a trial at the ICC, that gives
22 further legitimacy to the French intervention and to the international intervention.

23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

1 [REDACTED]
2 As for the importance given, and I'd like to address this and I'd like to talk about who
3 pays or gives most importance. And allow me in this regard to speak about
4 the Tuaregs following the proceedings of the trial. And also, to do everyone justice, I
5 will talk about what I know on Mr Al Hassan very briefly. This will rest my
6 conscience so that I haven't hidden anything I know, and this is for the sake of justice.

7 Whenever any trial is held, all Tuaregs pay a great deal of attention, [REDACTED]

8 [REDACTED]

9 [REDACTED] There have been significant
10 campaigns on all social media used by the Tuareg -- or by the Tuareg.

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 [REDACTED] nor did I know how he joined these groups. He was a young person.

17 The groups, when they reached the cities, Al-Qaeda was in control and the tribal
18 leaders asked the young people to join the non-Qaeda section of Ansar Dine to protect
19 themselves, to protect the community and to develop a control of the organisation
20 from the inside.

21 So I felt that Al Hassan was among these. He was pushed by his tribe and he was
22 pushed by his ambition to be a non-extremist stakeholder. And I know this by my
23 presence there, and I've heard people saying this over and over. People were talking
24 about how positive Al Hassan has been within the Islamic police and how helpful he
25 has been to people within the organ.

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

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

8 So thank you for giving me this opportunity.

9 Q. [10:24:28] Mr Witness, thank you very much for answering my questions.

10 Your Honour, your Honours, I have no further questions.

11 Thank you very much.

12 PRESIDING JUDGE MINDUA: [10:24:40](Interpretation) Thank you, Ms Sutherland.

13 You have kept your word. It was less than an hour.

14 I think we are going to go into public session.

15 Courtroom officer, would you arrange that, please.

16 (Open session at 10.25 a.m.)

17 THE COURT OFFICER: [10:25:08] We're in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [10:25:15](Interpretation) Thank you.

19 The Defence has finished its cross-examination. I'd like to thank Ms Sutherland for
20 having kept her word. It was less than an hour.

21 Now it is up to the OTP, if they wish to put any further questions.

22 MR DUTERTRE: [10:25:52](Interpretation) My lords, no additional questions on
23 the questions that I've put and the methods, so we do not have any further questions
24 at this point.

25 PRESIDING JUDGE MINDUA: [10:26:05](Interpretation) Thank you, Mr Prosecutor.

1 We are winning a lot of time in this case.

2 I look at my colleagues to see if we have any questions. As I said yesterday, I don't
3 want to ask any questions, but I ask Judge Prost.

4 Judge Prost.

5 JUDGE PROST: [10:26:26] Thank you.

6 Mr Witness, I'm going to speak slowly and in English to help the interpreters who
7 assist us with the different languages.

8 I'm going to ask my first question in public session, but then I will have to move to
9 private session briefly to put a few questions to you on matters which could identify
10 you.

11 Don't hesitate in answering this question, though, if you have any need to go into
12 private, please, please let me know.

13 And this question actually follows on well from what you were just discussing, just
14 mentioned.

15 Mr Witness, in various parts of your testimony you have mentioned this concept of
16 national projects and those more interested in national projects even within, within
17 Ansar Dine. And you've told us that, in your view, Mr Al Hassan had a national
18 project. You said: I always found he was a person who didn't have outside projects.
19 He thought that he was carrying out a revolution, an internal revolution.

20 And I'm interested in hearing a bit more detail from you on that point, what you
21 meant by that and what you understood to be his, his concept of an internal
22 revolution.

23 THE WITNESS: [10:28:06](Interpretation) Thank you. I will try to be concise, but
24 also to mention details and to follow a clear logical order.

25 The Tuareg revolution started in the '60s, in 1963 precisely, and that revolution was

1 the beginning. As I previously said, the Tuaregs were banned from everything,
2 recruitment in the army, civil service, even access to certain fields of discipline,
3 education, and even from education at all -- in some parts of the country.

4 The 1963 revolution, there was an armed revolution, but it was quenched in Kidal
5 almost in the form of a genocide and that has ended the revolution. Afterwards,
6 some people emigrated to Libya, got trained and launched a war in the '90s and it's
7 called the war of the '90s.

8 The Malian army tried to follow the same thing that was done in the '60s, which is to
9 do racial killings and genocidal acts, but there were open borders and there was
10 a refugee agency that received the refugees and everyone fled from the Malian army,
11 and the only people who remained were armed people who were not easy to kill or to
12 neutralise.

13 There was another revolution in 2006 or 2007 led by Colonel Hassan Fagaga. This
14 revolution was -- given that the agreement of the '90s granted a quota for the people
15 of northern Mali, not only the Tuaregs, to enlist in the army or to be recruited in
16 the army at some points, but every year the quota for northern Mali comes but is
17 already filled with people from the south.

18 The revolution of the '90s ended with a mediation by Gaddafi. One of the leaders of
19 that revolution, Ibrahim Ag Bahanga, continued fighting for the cause, along with
20 other activists preparing for another revolution, and that is how different movements
21 were created. The goal of all of which was to get the rights of the northern people in
22 general, and the Tuaregs in particular, to take those rights from the Malian
23 government. The government forced the -- a blockade on the Tuareg areas. There
24 were no roads. There were no networks of communication. Goods that were sold
25 for \$10 in Bamako - there were very rough roads in the desert to take the transport

1 merchandise to northern Mali - those goods would reach northern Mali and be sold
2 for double price. There were no schools. There were no hospitals. There wasn't
3 the minimum of what you can call a decent life for the Tuareg communities.
4 In 2011, or at the end of 2011, many Tuaregs came back from Libya, arrived from
5 Libya. These people said that instead of getting into an agreement with the Malian
6 army granting us some rights and depriving us of some other rights, why don't we
7 take our independence from Mali.
8 So they formed the National Movement for the Liberation of Azawad and they tried
9 to launch the war for independence and they proclaimed the independence of
10 Azawad. At the same time, jihadist groups got involved and said: We don't want
11 independence only. We want Sharia to be the law.
12 These groups took control of the cities and kicked out the MNLA.
13 Here, the tribes were puzzled and wondered: What do we do? Do we leave our
14 lands and leave it to Al-Qaeda?
15 Iyad made a suggestion: We are Ansar Dine. We have a section within the group
16 that is taking care of national or patriotic projects, but as far as Al-Qaeda is concerned,
17 that's me. I'm the one responsible.
18 The tribal leaders saw that that is a solution. They thought that joining
19 the non-extremist section within Ansar Dine was a solution. So they were convinced
20 that they were taking advantage of this Al-Qaeda situation so that Al-Qaeda doesn't
21 dominate them.
22 But Al-Qaeda also thought that on its end. They thought they were using them as
23 a cover while achieving their objectives.
24 I hope this was an easy explanation.
25 JUDGE PROST: [10:33:34] Thank you, Mr Witness. That was very clear and I take

1 it that, with respect to Mr Al Hassan, he fell within that, that project, that nationalistic
2 aspect you've just described?

3 THE WITNESS: [10:33:57](Interpretation) Yes. For example, the Al-Qaeda group,
4 each one within Al-Qaeda had a *nom de guerre* and did not use their real names, but
5 this was not the case with Al Hassan. When we talk about the execution of *hudud*
6 punishments, you see that all of those who belonged to the extremist section cover
7 their faces, and we never saw Al Hassan trying to cover his face.

8 So these are illustrations that we can look at. Even a non-expert can conclude
9 the same thing. But as far as what I, what I said, I said it based on my conviction, my
10 expert knowledge and on my interest in being fair. As I previously said, I am here to
11 cooperate with the Court, to make the truth clear, and I'm not here to side with any
12 party against another party. And I'm saying all I know without premeditation and
13 without any other considerations.

14 JUDGE PROST: [10:35:14] Thank you very much, Mr Witness.

15 That is indeed very clear from what you have said.

16 At this point I believe I'll need to go into private session.

17 PRESIDING JUDGE MINDUA: [10:35:29](Interpretation) Madam courtroom officer,
18 private session, please.

19 (Private session at 10.35 a.m.)

20 THE COURT OFFICER: [10:35:49] We are in private session.

21 PRESIDING JUDGE MINDUA: [10:35:51](Interpretation) Thank you very much.

22 Madam Judge.

23 JUDGE PROST: [10:35:55] Thank you.

24 Mr Witness, I'm interested in just briefly exploring a few things

25

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1 So you've spoken -- it's very clear to me, I well noted [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 So I wondered if you had any examples you could give or any more detail you could

12 provide [REDACTED]

13 [REDACTED]

14 THE WITNESS: [10:37:26](Interpretation) Before I give you a response, I need

15 permission to leave for two minutes. Something is not allowing me to focus. If you

16 could allow me. Thank you.

17 PRESIDING JUDGE MINDUA: [10:37:47](Interpretation) Madam courtroom officer,

18 could you please show the witness out of the courtroom.

19 (The witness exits the courtroom)

20 (Pause in proceedings)

21 (The witness enters the courtroom)

22 PRESIDING JUDGE MINDUA: [10:40:34](Interpretation) There we are, the witness

23 is once again in the courtroom.

24 Your Honour.

25 JUDGE PROST: [10:40:39] Mr Witness, do you recall the question that I posed

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1 regarding -- Great. Thank you.

2 THE WITNESS: [10:40:50](Interpretation) I do and I apologise. I really had to

3 leave.

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[REDACTED]

JUDGE PROST: [10:44:43] Thank you for that, Mr Witness.

And you have, in a way, anticipated what was my next question because I was quite
interested as well [REDACTED]

[REDACTED]

You indicated that you'd heard about allegations of sexual violence in Timbuktu in
2012, including abuse at the prisons, and that you were of the view [REDACTED]
[REDACTED] that these were rumours and the information was without foundation.
And you said [REDACTED] that there was nothing, that these abuses did
not take place.

1 And specifically with respect to those allegations and the abuses in the women's
2 prison, is there any more detail you can provide [REDACTED]

3 [REDACTED]?

4 THE WITNESS: [10:45:52](Interpretation) Yes, but before that, I'd like to cite another
5 example.

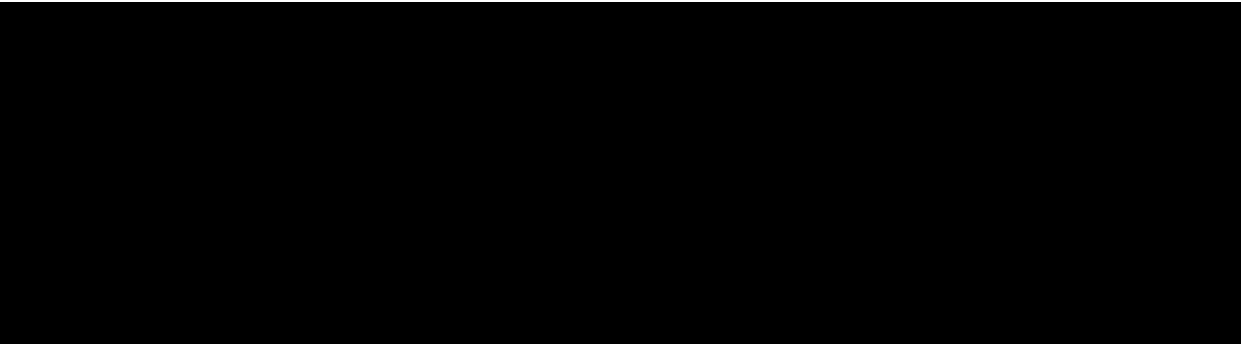
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 And by "neighbours" he meant Al-Qaeda, although Al-Qaeda there are also referred
14 to as Ansar Dine. [REDACTED]

15 [REDACTED] And since these people
16 were -- in Niafunké were locals and were forced by the authority of the tribal sheikhs,
17 the tribal leaders, that with the arrival of Iyad, they were given this name, but all they
18 were doing actually was to fulfil the requests of the tribal leaders.

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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6 When it comes to women, as I previously said, there isn't anyone. And here I'd like
7 to repeat something one of them said to me. He said: Even my own wife, I would
8 think a thousand times before touching her under the current conditions, let alone to
9 think about another woman.

10 Al-Qaeda's rules are merciless, al-Qaeda had the force, and they were able to stand up
11 to the strongest armies and intelligence services and yet they were able to go about
12 their operations on a daily basis. The secret is very simple. The secret is adherence
13 and precision -- precise compliance with orders. No one dares to steal. No one
14 dares to aggress a woman, let alone a woman that they had detained.

15 JUDGE PROST: [10:49:43] Thank you for that, Mr Witness.

16 If I could ask you just a few questions on, you spoke about a demonstration by
17 women that you came upon at one point. And at this demonstration you mentioned
18 that there were basically altercations between women and the members of the group.
19 Can you provide me with any more specific information about who from the armed
20 groups were involved in that particular situation, was there anyone there that you
21 recognised or you knew? Any more detail regarding that?

22 THE WITNESS: [10:50:32](Interpretation) Yes,



23 At that time there was a lot of
24 strictness in enforcing a dress code for women. This was -- there was -- this
25 strictness in this regard was at its peak, no woman could leave without observing

1 the dress code determined by the Islamist groups in control.

2 [REDACTED] there were shouts or rants. There were people from the Islamist
3 groups on one side, and on the other side there were the women protesting. And
4 this happened at the same market where *hudud* punishments were carried out. [REDACTED]

5 [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 What I understood is that the protest was against the strictness in enforcing the dress
11 code for women.

12 JUDGE PROST: [10:52:10] [REDACTED]

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

16 THE WITNESS: [10:52:33](Interpretation) [REDACTED]

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 JUDGE PROST: [10:53:08] Thank you very much, Mr Witness.

23 And finally, just a couple of questions related to the Islamic tribunal.

24 In answering questions of the Defence you confirmed that Al-Qaeda tried to make
25 Houka Houka seem more important than he was. [REDACTED]

1 [REDACTED] can you provide me with any
2 more detail on how that was done or any things that were done that you considered
3 were making him more important than he was?

4 THE WITNESS: [10:54:00](Interpretation) Look, before 2012, and even until now,
5 the tribes, as I previously said, do not go to state courts to settle their issues. When
6 there is a problem between two individuals, they would go to a judge. There isn't, of
7 course, there isn't an executive organ that implements judges' decisions, but people
8 are governed by their customs. So if the judge reaches a decision on some case and
9 any of the parties involved in the case refuses to accept the judge's decision, he -- that
10 person would be marginalised within the tribe.

11 Also, people fear the punishment in the earthly life and in the afterlife. So in Tuareg
12 culture, every person who takes an oath, who swears, will face dire consequences in
13 life and will be also punished in the afterlife. So it's a very simple logic.
14 So Al-Qaeda wanted to give people the false impression that what was, what was
15 going on was a continuation of pre-existing circumstances. However -- and also it
16 was that the seculars have taken -- are taking advantage, and now it's the Islamists are
17 just doing what the judge has always been doing.

18 Also, the Islamists wanted to give the impression that they were not present. [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED] that

22 Ansar Dine was a national non-terrorist movement that does not antagonise
23 the world and so would not provoke a foreign reaction or a foreign bombing or any
24 attempt to kick them out of their land.

25 JUDGE PROST: [10:56:19] Thank you very much.

1 And just, finally, the Al-Qaeda members of the bench, the Islamic bench. You've
2 mentioned these two individuals, Radwan and Koutaïba, on several occasions. Do
3 you know if they had any, any judicial training or had they been judges before 2012
4 and before they were put on to the Islamic tribunal?

5 THE WITNESS: [10:56:53](Interpretation) What I know is that Koutaïba was a man
6 who studied very, very well the sciences of Sharia legislation [REDACTED]

7 [REDACTED] There isn't there a field
8 of discipline called the judicial science, there is something called the Sharia sciences.

9 And if you reach a certain level, then you become eligible to serve as a judge. [REDACTED]

10 [REDACTED]
11 [REDACTED]

12 Radwan, [REDACTED]
13 followed the letter of the Sharia sciences [REDACTED]

14 [REDACTED] and was a very well-educated man. So these people,
15 their very good command of Sharia qualified them to serve as judges.

16 But [REDACTED] Koutaïba [REDACTED]

17 [REDACTED]

18 [REDACTED] -- was highly regarded within the group.

19 But as to Radwan, I don't think he had such high ranking, so he had to be -- either
20 serve under Koutaïba or under Youssef.

21 JUDGE PROST: [10:58:39] Thank you very much, Mr Witness, for those answers and
22 also all of the detailed information you provided us over the past, past few weeks.
23 Thank you.

24 PRESIDING JUDGE MINDUA: [10:58:58](Interpretation) Ms Taylor.

25 MS TAYLOR: [10:59:00] Pursuant to Rule 140, the Defence does request to have

1 the last word and to put additional questions to the witness.

2 PRESIDING JUDGE MINDUA: [10:59:17](Interpretation) Sorry, Ms Taylor, I was
3 waiting for the interpretation into French, but we still have Judge Akane who will be
4 putting her questions. You can then intervene after the questions to be put by the
5 Bench.

6 It is two minutes or one minute, in fact, to 11. We are going to go back into open
7 session and then take the break.

8 Madam courtroom officer, open session, please.

9 (Open session at 10.59 a.m.)

10 THE COURT OFFICER: [10:59:52] We are back in open session.

11 PRESIDING JUDGE MINDUA: [11:00:01](Interpretation) Thank you very much,
12 courtroom officer.

13 There we are. So it is 11 o'clock sharp. We are going to rise for half an hour and we
14 shall reconvene at 11.30 with the questions from the Chamber. It will be
15 Judge Akane's turn.

16 The hearing is suspended.

17 THE COURT USHER: [11:00:26] All rise.

18 (Recess taken at 11.00 a.m.)

19 (Upon resuming in open session at 11.31 a.m.)

20 THE COURT USHER: [11:31:40] All rise.

21 Please be seated.

22 PRESIDING JUDGE MINDUA: [11:31:59](Interpretation) The Court is in session.
23 We will continue with our hearing of the 16th witness of the Prosecution, and it is
24 the Judges' turn to ask questions, so I turn to Judge Akane for her questions.

25 JUDGE AKANE: [11:32:18] Thank you.

1 Mr Witness, I will ask you a series of questions about several aspects of the case
2 which were discussed in the context of your testimony. I will ask you several
3 questions in open session first, and then move to private session in order to protect
4 your identity.

5 Thank you for your patience and answers.

6 If you want to move to private session to provide a more detailed answer or explain
7 specific circumstances, please don't hesitate to indicate this to the Chamber.

8 I'll start with the questions in open session.

9 Mr Witness, you explained on several occasions the impact of the presence of
10 the armed groups for the population of Timbuktu. You mentioned negative impacts
11 as well as positive ones.

12 Now, could you explain again what you consider to be positive impacts.

13 THE WITNESS: [11:33:50](Interpretation) First of all, when the Islamist groups
14 arrived in Timbuktu, Timbuktu was in chaos. There were the Arab militias and
15 the MNLA members who entered the city, and so there was a total lack of rule of law
16 and total lack of order and of system. Every person with an arm could do whatever
17 they want. People were frightened.

18 When the Islamists entered the city, there became a clear rule of law and total equality
19 and a complete feeling of security, because no one could aggress another person, no
20 one's property or assets could be stolen.

21 These are parts of the positive aspects of their presence in Timbuktu.

22 JUDGE AKANE: [11:35:05] Thank you.

23 You said that hospital, electricity and water continued to be available and that
24 electricity and water were free at that time. Who or what organisation pays for
25 the utilities cost and the hospital fee at that time?

1 THE WITNESS: [11:35:43](Interpretation) There was the ICRC organisation of
2 Geneva and there were contributions by Doctors Without Borders and other
3 organisations.

4 JUDGE AKANE: [11:36:09] How about the water supply and the electricity?

5 THE WITNESS: [11:36:20](Interpretation) Water and electricity, when it comes to
6 those two, Ansar Dine has assigned people who had some experience before or
7 knowledge to oversee the supply of those utilities. They also received financial
8 support from those organisations to purchase fuel and to purchase change parts, as
9 far as I remember.

10 JUDGE AKANE: [11:36:52] Thank you very much.

11 Please tell us about the economic impact on the population of Timbuktu during what
12 some people call the occupation by the armed group. You said that most of the
13 population composed of merchants disappeared. My question is, what do you mean
14 by that?

15 THE WITNESS: [11:37:31](Interpretation) At the beginning of the events, when
16 the National Movement for the Liberation of Azawad in Timbuktu was besieged and
17 skirmishes erupted everywhere, the inhabitants of Timbuktu started fleeing the city
18 for fear of war. And after the control of Arab militias and the departure of the
19 Malian army and the situation of panic that accompanied that situation, everyone
20 who could leave the city did emigrate out of the city.

21 Timbuktu's economy relies on commerce and also on livestock, but only in a simple
22 or in a smaller way. I could say that Timbuktu's economy relies primarily on
23 commerce and tourism. With the coming of Islamist groups, there was no tourism.
24 No one would dare to come to Timbuktu as a tourist because revenue from tourists is
25 from western tourists who were not allowed to come to Timbuktu.

1 As to commerce, commerce depends on people's purchasing power, and people's
2 purchasing power depends on people with regular wages, people on a payroll.
3 Those who are part of that category can buy goods from merchants. The state was
4 absent and the banks were absent and people had no more purchasing power because
5 people no longer had wages.

6 The only thing that remained, I mean there were poor people who had -- who lived
7 on a daily income and that did activate the economic life, but these also could not
8 work anymore. So the only purchaser that remained was the Islamist groups. And
9 this was detrimental to the city's economy, where families relied on annual touristic
10 activity for their annual incomes.

11 JUDGE AKANE: [11:39:54] Thank you very much for your explanation.

12 And based on what you heard or saw, besides the economic consequences you
13 already mentioned now, what were, according to you, the negative impacts on
14 the presence of these armed groups for the population?

15 THE WITNESS: [11:40:29](Interpretation) Look, there are impacts. There is
16 the economic impact, the negative one, which is what I mentioned. Other negative
17 impacts were that the locals felt they were under the authority of foreigners who were
18 controlling them in their own country, and they felt powerless on their own land. So
19 this was a psychological impact. To see a foreigner imposing his terms and you
20 having no right to object, and all you could do is to, is to accommodate your life and
21 your system of living to that person's interpretation of Islamic Sharia, while you are
22 a Muslim and hold a different interpretation which you think is right, but that other
23 person with a force of arms can impose their interpretation.

24 The other impact also of a psychological nature concerned those with a Sufist
25 ideology. If you mention a shrine or if you mention the name of a saint in vain, that

1 has a very negative impact on people with such an ideology. Let alone someone
2 who demolishes these shrines, because these believers in Sufism hold the saints
3 so -- in very high regard to the extent of holiness, and they saw these shrines being
4 demolished and were not able to act on that in any way.

5 JUDGE AKANE: [11:42:33] Thank you very much. I would like to move on
6 another question. You said several times that Judge Houka Houka was a judge of
7 the Islamic court throughout the period when the armed grouped allegedly occupied
8 Timbuktu in 2012.

9 My question is, do you know what was the profession or occupation of Judge
10 Houka Houka before the armed group took over Timbuktu in 2012?

11 THE WITNESS: [11:43:18](Interpretation) I don't know what he -- what work he
12 used to do. All I know is that he was a man of -- who had a knowledge of Sharia and
13 who taught Sharia. This is how he was socially regarded. And he used to settle
14 disputes if people ask him, what does Sharia say on this or that particular matter.
15 As to whether he had a formal job, that I don't know about. And, as far as I know,
16 he continues until now to carry out his role, which is, if someone has a question on
17 what Sharia says about a particular matter, that person could come to him and he
18 would tell him Sharia says the following about that matter.

19 JUDGE AKANE: [11:44:19] Thank you very much, very good.

20 I will move on to another question. [REDACTED]

21 [REDACTED]
22 [REDACTED] ? If
23 yes, can you tell the Chamber about it.

24 THE WITNESS: [11:45:09](Interpretation) I do not have clear examples about that.
25 I cannot cite -- I cannot give a clear and detailed answer on that in answer to your

1 question, unfortunately.

2 JUDGE AKANE: [11:45:25] Very well.

3 Mr Witness, in the context of your oral testimony, you said you were willing to
4 explain to the Chamber why, quote, "the sons of Timbuktu joined the jihadist groups,"
5 unquote, referring to, quote, "the organisational aspect of Al-Qaeda and these
6 groups." Unquote.

7 My question is, could you elaborate on this, please.

8 THE WITNESS: [11:46:11](Interpretation) Look, as I previously said, recruitment,
9 military recruitment is open and all armed groups need additional members.

10 The economic factor and the social factor played an important role in some people
11 joining Ansar Dine. Some people could not afford what to eat on a daily basis for
12 their families. So when joining Ansar Dine, I don't think there were regular wages.

13 I don't know if there were, but there were monthly sums given to some people. So
14 some people were in a situation that forced them to earn a living and to earn -- to
15 bring food to their children. Some people were also afraid, so if the person is told
16 "come and join us", he would feel that that gives him a sense of security, knowing that
17 this is temporary only.

18 Some people played a role in revolutions and in other movements, and when those
19 movements became weak, their tribal leaders told them not to stay in camps like
20 women and children but should be men standing in the battlefield, regardless of the
21 name or the umbrella under which they would be, but to serve the interests of the
22 tribe anyway and to protect the members of the tribes.

23 Regarding the difference between Al-Qaeda and Ansar Dine, Al-Qaeda has a global
24 project and that project is targeting western interests. That is their primary goal first
25 and foremost everywhere, and especially in the African Sahel region, and in this case

1 we're talking about Al-Qaeda in the Islamic Maghreb. As to those holding a national
2 project, they wanted to gain rights -- to take rights from the Malian government with
3 a force of arms as they did in the '90s.

4 JUDGE AKANE: [11:48:59] Thank you very much. It's very clear.

5 Now I'd like to move into private. Dear, Presiding Judge, could you kindly ask
6 the court officer to move into private session.

7 PRESIDING JUDGE MINDUA: [11:49:17](Interpretation) Court officer, please can
8 we move into private session.

9 (Private session at 11.49 a.m.)

10 THE COURT OFFICER: [11:49:32] We're in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [11:49:39](Interpretation) Thank you very much.
12 Judge Akane.

13 JUDGE AKANE: [11:49:42] Thank you.

14 Mr Witness, was Judge Houka Houka a member of an armed group? If so, which
15 one?

16 THE WITNESS: [11:50:08](Interpretation) I don't think he has been a member of any
17 Islamic group formerly. In 2012 he was a member of Ansar Dine in a judge's
18 capacity.

19 JUDGE AKANE: [11:50:28] Do you know whether Judge Houka Houka was still
20 a member of Ansar Dine while he was working as a judge of the Islamic court?

21 Maybe it is related to the previous question I raised now.

22 THE WITNESS: [11:50:51](Interpretation) Yes, I think that when he was a judge at
23 the Islamic tribunal, that capacity gives him membership in Ansar Dine. But I do not
24 have knowledge of Ansar Dine's internal affairs.

25 JUDGE AKANE: [11:51:21] So maybe the next question is the same as before, but I

1 will ask you. Do you know how Judge Houka Houka was appointed as a judge of
2 the Islamic court? Was he appointed by the armed groups? And, if so, which one?

3 THE WITNESS: [11:51:49](Interpretation) I don't know.

4 JUDGE AKANE: [11:51:56] Thank you.

5 Do you know what kind of occupation Al Hassan had before the arrival of the armed
6 group in Timbuktu?

7 THE WITNESS: [11:52:16](Interpretation) I do not know.

8 JUDGE AKANE: [11:52:19] [REDACTED]

9 [REDACTED] ?

10 THE WITNESS: [11:52:32](Interpretation) I do not remember [REDACTED] I
11 mean, I do not remember that.

12 JUDGE AKANE: [11:52:41] Very well.

13 Next question: Mr Witness, you said that, quote, "For example, the Islamic police
14 took people who are thought or found guilty. They would take them to a public
15 square in order to enforce punishment against them. The Islamic police also
16 organised patrols. They received complaints from the inhabitants and, subsequently,
17 they would arrest people to prosecute them or to be prosecuted before the courts."
18 Unquote.

19 And you also stated yesterday that Mr Al Hassan was in the Islamic police and you
20 saw him [REDACTED] whether on the ground [REDACTED] at
21 locations where punishments, *hudud*, were carried out.

22 My question is, based on what you heard or what you observed yourself, what was
23 the role played by Mr Al Hassan in these different activities by police -- by the *Police*
24 *Islamique*, Islamic police?

25 THE WITNESS: [11:54:16](Interpretation) It's difficult for me to say he played this

1 role or that role, because I don't know exactly how they worked among themselves.

2 [REDACTED] he was from the Islamic police -- who was from

3 the Islamic police and who headed the Islamic police. As to internal details, I do not

4 know about that.

5 JUDGE AKANE: [11:54:49] Finally, I would like to ask you two questions related to

6 each other.

7 Mr Witness, in the context of your oral testimony, [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] That is my first question.

16 [REDACTED]

17 [REDACTED] That is my second

18 question.

19 THE WITNESS: [11:56:50](Interpretation) [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

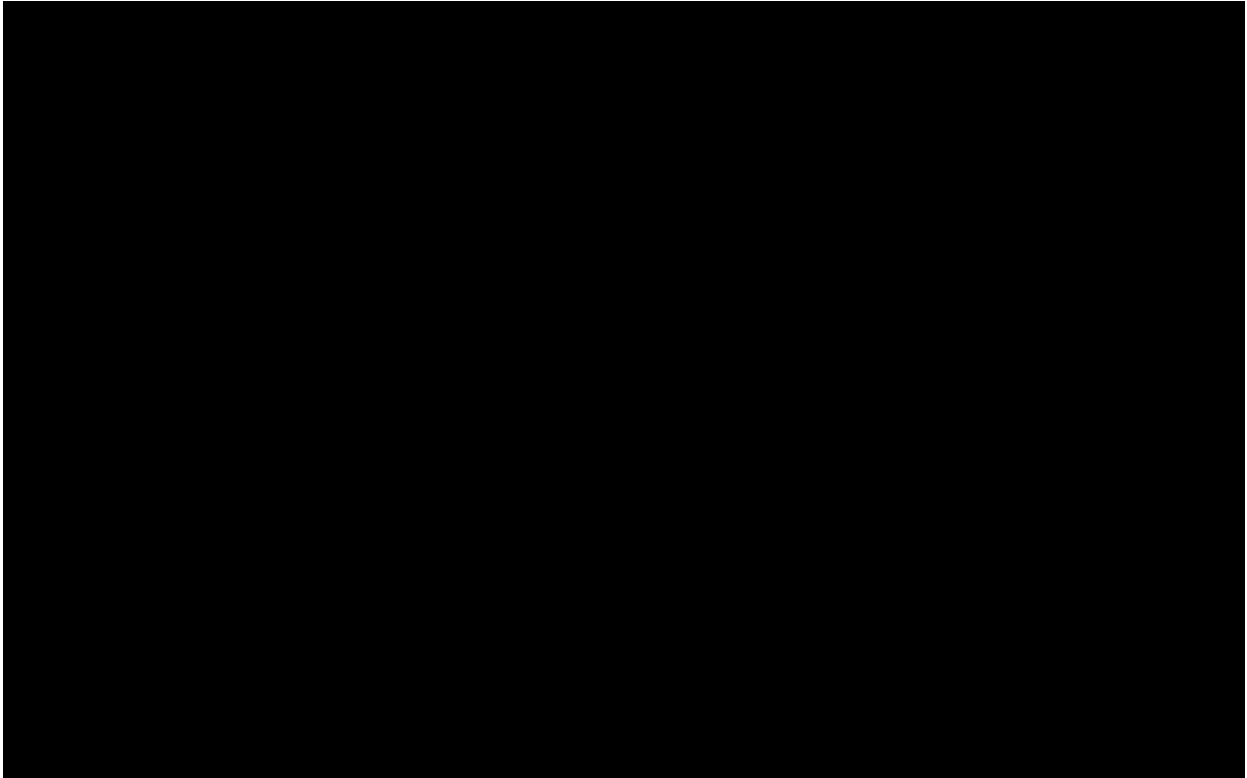
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(Private Session)

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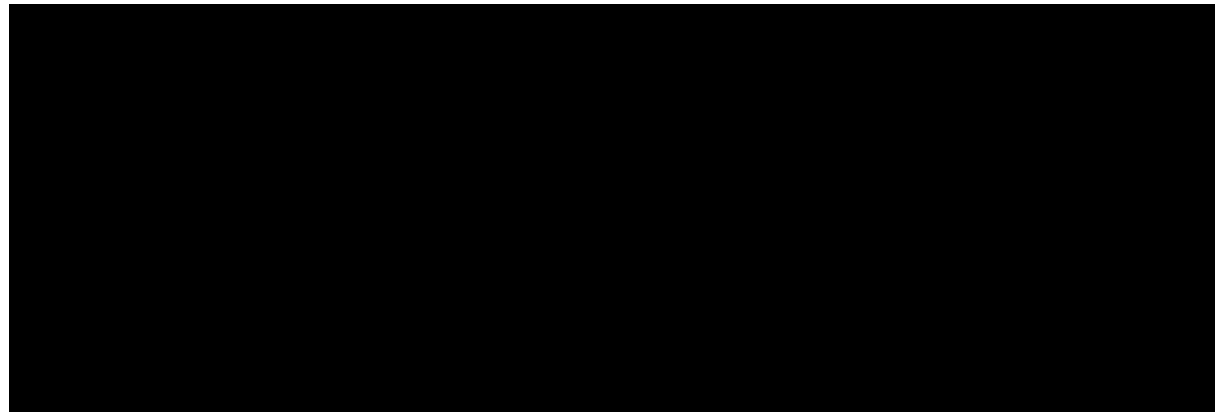
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12 As to the majority of the members of the groups were Arabs, Tuaregs and
13 fair-skinned people



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20 JUDGE AKANE: [12:00:10] Thank you very much. They were very helpful.
21 That's all my questions.
22 PRESIDING JUDGE MINDUA: [12:00:21](Interpretation) Thank you very much,
23 your Honour.
24 Madam courtroom officer, we can move back into open session now, please.
25 (Open session at 12.00 p.m.)

1 THE COURT OFFICER: [12:00:41] We are in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [12:00:49](Interpretation) Thank you very much,
3 courtroom officer.

4 Now, the Chamber has finished putting its questions to the witness.

5 I'm turning now to the Defence to see whether Ms Taylor would like to address
6 the Court once again.

7 MS TAYLOR: [12:01:07] Yes, thank you very much, Mr President.

8 I apologise for standing up before. I thought the witness was about to be dismissed
9 so I apologise to Judge Akane on that moment.

10 But, yes, we would like to put some additional questions to the witness. And

11 I believe we should be able to finish by 12.30. I just need to put the rostrum up.

12 QUESTIONED BY MS TAYLOR:

13 Q. [12:01:51] Good afternoon, Mr Witness, and thank you very much for bearing
14 with us over what has been quite a long few weeks. We are very grateful, as my
15 colleague Ms Sutherland mentioned.

16 Now, Mr Witness, I would just firstly like to clarify a few issues. And I do believe
17 we can do this in open session.

18 Now, Judge Prost mentioned to you a quote where you had indicated that you
19 thought that Mr Al Hassan was carrying on an internal revolution. This might be
20 a matter of translation or terminology, but by saying that he was "carrying on" a
21 revolution, would it be correct to say that you weren't suggesting that Mr Al Hassan
22 was himself carrying on a revolution but, rather, he was caught up with something
23 that was occurring?

24 A. [12:03:05] That's what I believe.

25 Q. [12:03:06] And that he had been pressured to join the wing of Ansar Dine that

1 was aligned to this national project of ensuring safety and security in Azawad?

2 PRESIDING JUDGE MINDUA: [12:03:28](Interpretation) Mr Prosecutor.

3 MR DUTERTRE: [12:03:30](Interpretation) Could we know where this question

4 comes from? Is it a question or is it a commentary on the part of the Defence?

5 PRESIDING JUDGE MINDUA: [12:03:41](Interpretation) Which question are you

6 referring to?

7 MR DUTERTRE: [12:03:45](Interpretation) As to whether pressure was exerted or

8 not.

9 PRESIDING JUDGE MINDUA: [12:03:49](Interpretation) Yes. Ms Taylor, we are in

10 the context of your questions, your additional questions, which shall remain within

11 the limitations of the questions put by the Prosecution or by the Chamber. You're

12 not going to develop new elements. So the Prosecutor would like to know where

13 this is coming from.

14 MS TAYLOR: [12:04:14] It's coming directly from the question put to him by

15 Judge Prost. And I think the problem is that the Prosecutor thinks that there's no

16 question mark at the end of what I said.

17 In any case, I can move on. But for my next questions, I will need to be in private

18 session.

19 PRESIDING JUDGE MINDUA: [12:04:45](Interpretation) Madam courtroom officer,

20 private session, please.

21 (Private session at 12.04 p.m.)

22 THE COURT OFFICER: [12:05:00] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:05:07](Interpretation) Thank you very much.

24 Ms Taylor.

25 MS TAYLOR: [12:05:10]

1 Q. [12:05:11] Now, Mr Witness, Judge Prost also posed questions to you regarding

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 A. [12:05:49] [REDACTED]

7 [REDACTED]
8 [REDACTED]

9 Q. [12:06:10] [REDACTED]

10 [REDACTED] So it's correct that you interacted with locals from different ethnicities?

11 A. [12:06:28] Certainly [REDACTED]

12 And all of those I lived with and shared with my daily life, shared dining tables with,
13 were locals.

14 Q. [12:06:49] And [REDACTED] it wasn't just
15 limited to Tuaregs, was it?

16 A. [12:07:05] That is true. With everyone, indeed.

17 Q. [12:07:10] And when you heard about rumours of abuses, did you consider
18 the source of the rumours to be credible?

19 A. [12:07:26] No. [REDACTED]
20 [REDACTED]

21 Q. [12:07:45] Do you recall how you heard these rumours?

22 A. [12:07:56] Look, it is difficult to remember exactly, [REDACTED]
23 [REDACTED]

24 [REDACTED] This is what I remember.

25 Q. [12:08:11] [REDACTED] did you consider them to

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1 be credible?

2 A. [12:08:27]

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14 Q. [12:09:36] , did this

15 impact on how locals started describing the events in 2012?

16 PRESIDING JUDGE MINDUA: [12:09:57](Interpretation) Mr Prosecutor.

17 MR DUTERTRE: [12:09:59](Interpretation) Yes, Mr President. I'm objecting to this.

18 Firstly, this is something that Ms Taylor could have explored during her

19 cross-examination. Secondly, this leads to speculation on the part of the witness that

20 is not likely to assist the Chamber in any manner whatsoever.

21 PRESIDING JUDGE MINDUA: [12:10:25](Interpretation) Ms Taylor.

22 MS TAYLOR: [12:10:26] Mr President, the issue arises from the fact that

23 the questions posed by the judges went directly into issues that were already

24 addressed in examination and cross-examination. So we now have the right to have

25 the last word on those issues to ensure clarity. Otherwise, we face the risk of having

1 multiple examinations being put to the witness on the same issues.

2 So the question isn't whether it arose for the first time, the question is whether it arose
3 from the judges' questions. And if the judges choose to include issues that have
4 already arisen during examination and cross-examination, that in itself triggers
5 a right under Rule 140 for the Defence to have the last word and to respond.

6 It's the same with re-examination. If the Prosecutor is allowed to raise issues, even if
7 they were raised previously, we have a right to respond. We always have a right to
8 respond.

9 Having decided to put questions to the witness on allegations of sexual abuse [REDACTED]
10 [REDACTED], we are entitled ourselves to put
11 questions in response pursuant to Rule 140. Otherwise, questions shouldn't be put
12 to the witness in the first place.

13 PRESIDING JUDGE MINDUA: [12:11:59](Interpretation) Well, Mr Prosecutor, this
14 is the last time, but on the same subject. Please go ahead.

15 MR DUTERTRE: [12:12:07](Interpretation) Yes, absolutely. On the one hand, this
16 line of questioning does not arise from the questions put by Judge Prost. And
17 secondly, this is a question that is entirely speculative. And just for the second
18 reason alone it can be objected to.

19 PRESIDING JUDGE MINDUA: [12:12:32](Interpretation) I think that the question
20 was generally broached by the Chamber, but that does not give you the right,
21 Ms Taylor, to speculate. So rephrase, put the question or couch it in a normal
22 manner.

23 MS TAYLOR: [12:12:49]

24 Q. [12:12:50] Mr Witness, [REDACTED]
25 [REDACTED] on the basis of what you saw and what you heard,

1 did these rumours influence the narrative provided by certain individuals in

2 Timbuktu as concerns allegations of sexual abuse?

3 A. [12:13:31] Look, I did not quite understand the question, but I will try to address
4 it directly.

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]

9 We, the people who in lived in Timbuktu, know that these were rumours, [REDACTED]

10 [REDACTED]

11 [REDACTED]
12 [REDACTED]

13 [REDACTED]
14 [REDACTED]

15 [REDACTED] some friends, we would gather. And some have listened

16 to news over the radio and would tell us what they heard, some people who have
17 been walking around the city would also tell us the news that are circulating the city.

18 When we heard the rumours, everyone sitting there was laughing. And over and
19 over we would hear news over the radio, news relayed by websites, and the people I
20 sat with were laughing at the news because they knew that these news were lies and
21 had absolutely nothing to do with reality.

22 I hope that this answers your question, because I didn't quite get it in full.

23 Q. [12:15:31] Thank you. And I apologise for the ambiguity in my question.

24 After these rumours came out and locals heard these rumours, based on what you
25 saw and what you heard, did some locals start repeating these rumours as if they

1 were truth?

2 A. [12:15:58] No. Inside the city everyone knew that these were rumours. But
3 there were people who were also fond of these rumours. They saw that these
4 rumours, this image of people in despair, will push the international community to
5 intervene and to bring back the Malian government to Timbuktu.

6 Q. [12:16:31] Now, various NGOs have published reports concerning allegations of
7 sexual assault in Timbuktu. Do you have any information, based on what you saw
8 and what you heard, as concerns individuals in Timbuktu providing false
9 information to NGOs?

10 PRESIDING JUDGE MINDUA: [12:17:04](Interpretation) Mr Prosecutor.

11 MR DUTERTRE: [12:17:06](Interpretation) Yes, Mr President. We are completely
12 coming out of the context of the questions posed earlier on and the questions put by
13 the Chamber. This is a very general question. What NGO are we talking about?
14 What report are we talking about? Does he know these reports? You know, it's all
15 very general questions that do not --

16 THE INTERPRETER: [12:17:34] And counsel turns off his microphone without
17 finishing his sentence.

18 PRESIDING JUDGE MINDUA: [12:17:38](Interpretation) It is true, Ms Taylor, that
19 these questions were touched upon by the Bench and the witness has already
20 answered. And when you put these questions again, when speaking about NGOs in
21 general, I don't think the witness can respond. Because, as the Prosecutor says, what
22 NGOs are you talking about? Otherwise the witness has already answered
23 the question when it was put by my colleagues. So please try to move on, because
24 NGOs in general, well, you know.

25 MS TAYLOR: [12:18:12] Thank you, Mr President. I don't think it would be

1 appropriate for me to name specific NGOs because that might lead the witness. But
2 the witness has said that locals were not reporting the rumours, so my question is
3 following on from that in the sense of how did these rumours end up being included
4 in NGO reports or other publications?

5 PRESIDING JUDGE MINDUA: [12:18:52](Microphone not activated)

6 THE INTERPRETER: [12:18:55] Microphone, please.

7 PRESIDING JUDGE MINDUA: [12:19:04](Interpretation) Can you please rephrase
8 your question and avoid talking about NGOs in general in order not to lead
9 the witness astray.

10 MS TAYLOR: [12:19:19]

11 Q. [12:19:21] Mr Witness, following the reports in the media of these rumours, to
12 your knowledge, did these rumours have any impact on how the events of 2012 have
13 been investigated or prosecuted at this court?

14 PRESIDING JUDGE MINDUA: [12:19:58](Interpretation) No, Mr Prosecutor.

15 The witness can answer this question.

16 Please be seated and let the witness answer.

17 MR DUTERTRE: [12:20:09](Interpretation) Well, how can he respond as to how we
18 investigated and how we prosecuted this case before the Court, Mr President?

19 PRESIDING JUDGE MINDUA: [12:20:18](Interpretation) What are you objecting on,
20 on what point?

21 MR DUTERTRE: [12:20:22](Interpretation) My objection is that the witness is not
22 able to answer such a question, if I have understood it correctly in English.

23 (Speaks English) "Did these rumours have any impact on how the events of 2012 have
24 been investigated or prosecuted at this Court?" (Interpretation) How could he
25 answer such a question? This is a question that could not or cannot be addressed to

1 him.

2 PRESIDING JUDGE MINDUA: [12:20:51](Interpretation) Ms Taylor, the witness is
3 not part of the Prosecution or prosecutive policy, if you like. I think the question is
4 speculative. This -- (Overlapping speakers)

5 MS TAYLOR: I'll reformulate --

6 PRESIDING JUDGE MINDUA: -- has already been --

7 MS TAYLOR: [12:21:12] I'm happy to reformulate, Mr President.

8 Q. [12:21:14] [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 PRESIDING JUDGE MINDUA: [12:21:59](Interpretation) No, Mr Prosecutor.

13 Please, Ms Taylor, proceed. Please, Ms Taylor, proceed. Put your question,
14 because it wasn't finished, your question.

15 MS TAYLOR: [12:22:15]

16 Q. [12:22:15] -- [REDACTED]

17 [REDACTED]?

18 A. [12:22:31] [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

1 [REDACTED] This is the first part of my answer.

2 The second part of my answer is, we've heard of these rumours that were circulating,
3 but as far as I knew -- as far as I know and according to the people I have seen and I
4 have met [REDACTED], everyone is certain that there has not been any
5 sexual abuse or any rape in Timbuktu. There was only one incident of a girl who
6 lodged her case before the Islamic tribunal about an Islamist having raped her. That
7 was investigated and, according to the information that we've all received, it is clear
8 that that member of Ansar Dine did have sexual intercourse with that girl with her
9 consent for a sum of money. But he betrayed that arrangement and did not give her
10 the money, so she wanted to revenge against him and so she complained about it.
11 And so he was whipped, he was expelled from the movement and he was sent away
12 or forced to leave. But there's no proof.

13 I have heard the same thing about Gao, when the armed people came to Gao, that
14 they committed rape. [REDACTED] I asked people who
15 were not Tuareg, Songhai people, friends of mine who knew about everything. [REDACTED]

16 [REDACTED] They told me, [REDACTED]
17 [REDACTED] that people have fled to Timbuktu because they were raped, it turns out,
18 according to the people I've spoken with, it turns out that these women were mostly
19 not from Mali, they were women working in bars at night and who used to sell their
20 bodies promiscuously. And when the Islamists came over, this business was
21 forbidden and these bars were closed. When they went to Timbuktu, this
22 information appeared so that they could get compensation and aid.

23 This is what I can say in general with regards to rape in Mali in 2012, in northern
24 Mali.

25 Q. [12:26:22] Now, Mr Witness, I'm going to turn now to a different topic, which is

1 the women's protest. Now, it's correct, isn't it, that the protest itself was allowed to
2 take place?

3 A. [12:26:49] If they were allowed, they would not have been -- there wouldn't have
4 been a crackdown on the protest. There was a strong crackdown. The protest was
5 not allowed. [REDACTED] I was not present [REDACTED]

6 [REDACTED] but this is what I concluded. [REDACTED]

7 [REDACTED] there was fighting, there were rants, I cannot say
8 that these were authorised protests.

9 Yes, there were protests authorised at first that were in support of Ansar Dine and
10 that were against the French intervention. [REDACTED]

11 [REDACTED] So I don't think in the case
12 you enquired about that there was an authorisation.

13 Q. [12:27:47] You have mentioned Al-Qaeda fighters being present, were these
14 fighters - I imagine they were soldiers - would they have been under Talha's
15 command?

16 A. [12:28:14] I do not remember [REDACTED]

17 Q. [12:28:24] Is it correct that under the rules that applied in 2012 it was generally
18 not allowed to photograph women?

19 A. [12:28:43] [REDACTED] that is true.

20 [REDACTED]
21 [REDACTED]

22 Q. [12:29:06] Now, Mr Witness, you've said that this protest was specifically
23 directed towards the more strict dress code that had been implemented. So would it
24 be correct that it was not necessarily a protest against Ansar Dine?

25 A. [12:29:32] What I can say is on the basis of the impression I had and what I

1 remember now is that that event was against the intensified -- of the heightened
2 measures under Mohamed Moussa about the dress code and for allowing no
3 easygoing about it.

4 Q. [12:30:04] And after this protest were you aware of an emergency committee
5 being convened by Ansar Dine to condemn Mohamed Moussa and to take steps to
6 address the concerns of the women?

7 A. [12:30:24] Unfortunately, I do not know. But I know that everyone was angry
8 at Mohamed Moussa. Even Al-Qaeda people were angry at him because they think
9 Mohamed Moussa was too strict and that, given that he justified his actions with
10 excerpts from the Koran, they couldn't object, but they realised that his actions led
11 to -- provoked the people with whom they wanted to cultivate a good relationship
12 and whom they wanted to accept or to show acceptance towards them. [REDACTED]

13 [REDACTED] Yahya Abou al-Hammam [REDACTED] did say that [REDACTED] unhappy
14 with his too strict approach, but could not object to the Koranic citations he used to
15 justify his strictness.

16 Q. [12:31:30] Would it be correct, therefore, that Mohamed Moussa's approach
17 could not be considered to be the approach or the objectives of Ansar Dine?

18 PRESIDING JUDGE MINDUA: [12:32:03](Interpretation) Madam courtroom officer,
19 it would seem that the witness has not received the interpretation.

20 THE COURT OFFICER: [12:32:15] Ms Taylor, could you please repeat your
21 question.

22 PRESIDING JUDGE MINDUA: [12:32:21](Overlapping speakers)

23 MR DUTERTRE: [12:32:24](Interpretation) I'm going to lead -- leave Ms Taylor to
24 repeat her question, but I am going to say that it is speculative and I am raising an
25 objection.

1 PRESIDING JUDGE MINDUA: [12:32:33](Interpretation) We would need for

2 Ms Taylor to repeat her question, remind us of it.

3 Is that all right now with the witness, madam courtroom officer?

4 THE COURT OFFICER: [12:32:47] Yes. Ms Taylor just needs to repeat her

5 question.

6 PRESIDING JUDGE MINDUA: [12:32:55](Interpretation) What was your question,

7 Ms Taylor?

8 MS TAYLOR: [12:32:59]

9 Q. [12:32:59] [REDACTED]

10 [REDACTED] would it be correct that Mohamed Moussa's more strict views and

11 approach did not embody the views of other members of Ansar Dine?

12 A. [12:33:33] Yes.

13 Q. [12:33:35] Now, Judge Akane posed questions to you regarding the services

14 provided from hospitals, water and electricity.

15 Now, Mr Witness, do you recall at transcript page 67, lines 17 to 24 --

16 PRESIDING JUDGE MINDUA: [12:33:56](Interpretation) Ms Taylor, we can now go

17 into public session, can we not?

18 MS TAYLOR: [12:34:03] Yes, if this was asked in public session.

19 PRESIDING JUDGE MINDUA: [12:34:08](Interpretation) Madam court officer,

20 could we go into public session, please.

21 (Open session at 12.34 p.m.)

22 THE COURT OFFICER: [12:34:24] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:34:31](Interpretation) Thank you.

24 Ms Taylor.

25 MS TAYLOR: [12:34:34]

1 Q. [12:34:34] Mr Witness, at transcript 44, page 67, lines 17 to 24, you testified,
2 firstly:
3 "I do not believe that the armed group offered medicine or free medical treatment, but
4 they did bring their support to the hospital and to water and electricity for free."
5 And then at transcript 44, page 70, lines 24 to 25, and page 71, lines 1 to 7, after I
6 showed you something that you had posted in December 2012, you said:
7 "... if your question is the following, as to whether hospitals in Timbuktu in 2012 was
8 free, the answer is yes, everything was free, including water and electricity and
9 medical treatment."

10 A. [12:35:39] That is true, everything was free, indeed. But these are two different
11 questions. When you say was everything free, that's something else, that's different
12 from a question on who funds that.

13 Q. [12:35:55] Yes, Mr Witness. Now, given that you said that Ansar Dine
14 supported the hospital, did their support to the hospital and to these facilities
15 contribute to the existence of free treatment?

16 A. [12:36:17] Yes. I can add even more to that. There were other -- there was
17 other aid, not just aid concerning hospitals. And as far as I know, these aids,
18 the money was spent appropriately. There was no corruption, there was no
19 misspending. And that's what made it possible to cover the costs in the city.

20 Q. [12:37:00] And would it be correct that if Ansar Dine hadn't supported
21 the hospital or hadn't contributed to these services, these organisations would not
22 have been able to provide the funding that made these services free?

23 PRESIDING JUDGE MINDUA: [12:37:20](Interpretation) Mr Prosecutor.

24 MR DUTERTRE: [12:37:23](Interpretation) I do apologise to object once again, but
25 this is purely speculative.

1 PRESIDING JUDGE MINDUA: [12:37:36](Interpretation) Yes, Ms Taylor. You are
2 trying to draw conclusions and have them validated by the witness. It is speculation.
3 What the witness has said, we've heard. But what you're doing is speculative.

4 MS TAYLOR: [12:38:01]

5 Q. [12:38:01] Mr Witness, based on what you saw and heard in 2012 [REDACTED]
6 [REDACTED] if Ansar Dine had not been present in Timbuktu, would
7 the services have been free?

8 A. [12:38:32] No.

9 PRESIDING JUDGE MINDUA: [12:38:35](Interpretation) Prosecutor, the witness
10 can answer that question.

11 THE WITNESS: [12:38:43](Interpretation) No. And I also think that, if my memory
12 serves me well, at some times the aid would stop. I don't know much about
13 the hospital, but I know about water, electricity, because that's what I also needed on
14 a daily basis, water, electricity. And I think sometimes it was Ansar Dine who, who
15 provided the necessary supply, fuel for the water and electricity plants, even in
16 the absence of a -- of funding by the ICRC. [REDACTED]

17 [REDACTED] Ansar Dine's
18 management was better than any other organisation, especially its management of
19 water and electricity.

20 MS TAYLOR: [12:39:59]

21 Q. [12:40:00] Now, Mr Witness, in response to a question from Judge Akane, you
22 referred to the psychological impact of the presence of foreigners. Would it be
23 correct that this psychological impact was felt by everyone in Timbuktu, including
24 locals, with Ansar Dine?

25 A. [12:40:28] Yes. This psychological impact was felt by even the local members

1 who were part of Ansar Dine. Everyone felt this. I felt it myself. I felt powerless
2 many times. I felt powerless in the face of a foreigner who was doing something and
3 who was forcing me to do as he wished.

4 Q. [12:41:01] Thank you, Mr Witness.

5 I have no final questions -- further questions.

6 PRESIDING JUDGE MINDUA: [12:41:07](Interpretation) Thank you very much,
7 Ms Taylor.

8 We have completed the additional questions of the Defence and no one else wants to
9 speak.

10 Madam courtroom officer, we are still in public session, are we not?

11 Mr Witness, we now reach the point where you've completed your testimony, finally.

12 The Chamber once again wants to thank you most sincerely for your assistance and
13 for your clear answers to the questions put to you by parties and participants. You
14 were very patient, you've been here for several weeks already, and I am very grateful
15 for having been available.

16 And I'd also like to thank you for your contributions in helping us seek the truth.

17 You've been called upon by the Prosecution and you've done your best to answer all
18 questions. So, for all those reasons, I would like to send our thanks to you, our
19 deepest gratitude. Now you can return home and continue to your normal activities.

20 To the parties, I'd like to remind you the procedure as regards to submitting exhibits
21 to the file for this witness.

22 Our next hearing is for Wednesday, 25 November, with your 17th witness.

23 MR DUTERTRE: [12:43:34](Interpretation) That is correct, my lord.

24 PRESIDING JUDGE MINDUA: [12:43:38](Interpretation) Very well.

25 Ms Taylor.

1 MS TAYLOR: [12:43:43] Mr President, I would just like to note that today we expect
2 to receive the report of the Registry on the situation in the detention unit. Now we
3 imagine that that will impact --

4 PRESIDING JUDGE MINDUA: [12:43:57](Interpretation) In that case, I will usher
5 out of the witness.

6 Court officer, would you kindly accompany the witness.

7 (The witness is excused)

8 PRESIDING JUDGE MINDUA: [12:44:31](Interpretation) The witness has left.

9 Ms Taylor, you have the floor.

10 MS TAYLOR: [12:44:36] Thank you very much, Mr President.

11 As the Chamber is aware, Mr Al Hassan has been required to participate via video
12 link and we have not been able to meet him in person. This has a significant impact
13 on defence preparation and it deviates from the principles established at the
14 beginning of this trial, which established that we should be able to meet him in
15 person and that he should be present in the courtroom.

16 As of this point in time, we have no indication from the Registry as to when this
17 situation will end. We face constant uncertainty as to the health of our client, which
18 in itself generates a significant degree of stress for the defendant. We intend to
19 submit an application to the Chamber as concerns these issues because we do
20 respectfully submit that they have a clear impact on the scheduling of future
21 witnesses, in particular witnesses for which we have not had the opportunity to meet
22 with the client in person and go through sensitive issues concerning
23 cross-examination strategy. We should not be prejudiced because of COVID, but
24 that is what happening.

25 So whilst it might be too late for some of the witnesses coming next week, we do

1 believe that this should be taken into account as concerns the feasibility and
2 suitability of scheduling the witness afterwards.

3 PRESIDING JUDGE MINDUA: [12:46:13](Interpretation) Prosecution, would you
4 like to say something on this matter?

5 MR DUTERTRE: [12:46:23](Interpretation) No. We don't really have much
6 information. But it is true that the Defence must have ample time to prepare. And
7 then we'll also need to see what we can do with the various witnesses.

8 PRESIDING JUDGE MINDUA: [12:46:49](Interpretation) Thank you very much.

9 Ms Taylor, yesterday you had contact with Mr Al Hassan, with your client?

10 MS TAYLOR: [12:47:09] Mr President, what was the question? I don't think it came
11 through. Did I have contact with my client?

12 PRESIDING JUDGE MINDUA: [12:47:16](Interpretation) Yes. Because you said
13 about difficulties of communicating with your client.

14 MS TAYLOR: [12:47:23] Yes, Mr President, and we have raised this repeatedly and
15 in detail. Our ability to communicate and consult with him by the phone is
16 significantly reduced, as are concerns our availability to meet with him in person, to
17 go through videos with him in person, to review statements with him in person.

18 A telephone call cannot replace in-person consultations. It simply can't. We try,
19 but it doesn't.

20 Thank you.

21 PRESIDING JUDGE MINDUA: [12:47:55](Interpretation) Very well.

22 The Chamber is most anxious to assist you so you have your privileged contact with
23 your client.

24 At the same time, the Chamber has been informed that there have been incidents
25 because of COVID in the detention centre. Once again, clear instructions will be

- 1 given to the Registry so that you can have communications with Mr Al Hassan so that
- 2 you can prepare properly for his defence.
- 3 That's all I can say for the moment.
- 4 Well, we will fix the programme as we have discussed, and based on the information
- 5 we receive we will review the situation.
- 6 So we will see each other on Wednesday at 9.30, here in this courtroom, for the 17th
- 7 witness of the Prosecution.
- 8 Once again, I'd like to thank parties and participants for their cooperation, exemplary
- 9 contribution. I'd like to thank the court clerks and the interpreters for their work,
- 10 which is not always very easy. And I'd like to thank the security officers and our
- 11 public.
- 12 I wish you all a good weekend. Take care and keep in good health.
- 13 The audience is adjourned.
- 14 THE COURT USHER: All rise.
- 15 (The hearing ends in open session at 12.49 p.m.)