

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Tuesday, 19 October 2021
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: [9:34:22] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:34:52](Interpretation) Court is in session.
15 Good morning to all.
16 Mr Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:35:02] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
19 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
20 ICC-01/12-01/18.
21 And for the record, we are in open session.
22 PRESIDING JUDGE MINDUA: [9:35:26](Interpretation) Thank you very much,
23 Mr Courtroom Officer.
24 As every morning we shall start with the introductions, first with the Office of the
25 Prosecutor.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

- 1 Madam Prosecutor.
- 2 MS LUPING: [9:35:35] Thank you. Good morning, Mr President. Good morning,
3 your Honours.
- 4 I just note for the record that Mr Gilles Dutertre passes on his apologies. He will not
5 be joining us today. I am joined by Ms Sandra Schoeters and myself, obviously,
6 Dianne Luping.
- 7 PRESIDING JUDGE MINDUA: [9:35:55](Interpretation) Thank you very much,
8 Madam Prosecutor.
- 9 Over to the Defence.
- 10 Counsel.
- 11 MS PRADHAN: [9:36:00] Good morning, Mr President, your Honours.
- 12 On behalf of Mr Al Hassan, myself, Alka Pradhan, Ms Julia Basile and
13 Ms Melinda Taylor. And I wish you all a good morning.
- 14 PRESIDING JUDGE MINDUA: [9:36:15](Interpretation) Thank you very much,
15 Ms Pradhan.
- 16 Now I'm turning to the Legal Representatives for Victims.
- 17 Maître.
- 18 MR LUVENGIKA: [9:36:24](Interpretation) Good morning, Mr President. Good
19 morning, your Honours.
- 20 The victims are represented at this hearing by Madam Claire Laplace and by myself
21 Maître Fidel Nsita Luvengika. Thank you.
- 22 PRESIDING JUDGE MINDUA: [9:36:38](Interpretation) Thank you very much,
23 Maître Nsita.
- 24 Now it's over to the counsel for our witness.
- 25 Maître.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

- 1 MR CANTIER: [9:36:44](Interpretation) Good morning, Mr President, your Honours.
2 François Cantier by the side of the witness.
3 PRESIDING JUDGE MINDUA: [9:36:50](Interpretation) Thank you very much,
4 Maître Cantier.
5 So this morning we shall be continuing with the testimony of the Prosecution Witness
6 P-0099. And it will now be the cross-examination on the part of the Defence.
7 I am now turning finally to the witness.
8 Good morning, Mr Witness. How are you?
9 WITNESS: MLI-OTP-P-0099 (On former oath)
10 (The witness speaks French)
11 THE WITNESS: [9:37:17](Interpretation) Good morning, Mr President. I'm fine.
12 Thank you.
13 PRESIDING JUDGE MINDUA: [9:37:20](Interpretation) Thank you very much,
14 Mr Witness.
15 On behalf of the Chamber I would like to thank you for your availability. And
16 I would like to remind you also that you are still under oath and that you should
17 therefore speak the truth, the whole truth and nothing but the truth.
18 Finally, I would like to remind you and all those present in the courtroom that we all
19 need to speak slowly, clearly and observe pauses. There we are.
20 So, without further ado, I hand over to Ms Pradhan.
21 MS PRADHAN: [9:38:01] Thank you, Mr President.
22 QUESTIONED BY MS PRADHAN:
23 Q. [9:38:06] Good morning, Mr Witness. I hope you're well this morning.
24 *Bonjour.*
25 A. [9:38:10] Good morning.

1 Q. [9:38:11] As you've heard, my name is Alka Pradhan. I represent the Defence.

2 Mr Witness, we'll start with the first topic. You were asked, sir, about the takeover

3 of Timbuktu in 2012. And you said, and I make reference here to the transcript,

4 transcript 145, at page 19, lines 21, beginning at line 21, to page 20 at line 1.

5 You said: "[From] what I saw and especially what I heard, it was the MNLA that

6 entered first. The MNLA allegedly engaged in some looting and the Arabs of

7 Timbuktu apparently called the AQIM groups to come and defend them in Timbuktu.

8 So AQIM came into Timbuktu. They drove out the MNLA towards the airport and

9 they began to establish order."

10 Do you recall that, sir?

11 My question -- my first question is: Could you please elaborate on what the MNLA

12 did that AQMI was asked to come in and take over and establish order?

13 A. [9:39:48] I can't provide too much detail because I wasn't present, but there was

14 looting of businesses. According to what I heard, these were rather targeted lootings.

15 There must have been some element of revenge and some disputes in the background.

16 That's about all that I know.

17 Q. [9:40:19] Mr Witness, if I may direct your attention to a document that's at OTP

18 tab 2, and that's MLI-OTP-0024-0069 at page 78. I'm looking particularly at

19 lines -- beginning at lines 316. Do you have that in front of you, sir?

20 A. [9:41:08] Yes, I do.

21 Q. [9:41:10] And I'll actually begin at line 317. That says: (Interpretation) "The

22 first intervention, the first entry was made by the Tuaregs. And then there were

23 Arab traders who called AQIM, because apparently they were frightened of

24 Tuareg violent acts against certain individuals."

25 (Speaks English) I'll stop there for a moment, sir. When you said first the Tuaregs

1 came in, whom did you mean by the Tuaregs?

2 A. [9:42:03] Well, I'm talking about the MNLA in that case. Because the MNLA
3 and Ansar Dine is the same community.

4 Q. [9:42:18] Well, then, I'd like to further direct your attention -- actually, I'd like to
5 change documents and this document is at OTP tab 67. That's MLI-OTP-0042-0506
6 at page 0513 and the paragraph beginning: (Interpretation) "Questioned about the
7 accommodation facilities."

8 (Speaks English) Do you that see that paragraph, sir?

9 A. [9:43:14] Yes, I do.

10 Q. [9:43:15] And in the middle of that paragraph there is a quotation attributed to
11 you that says: (Interpretation) "All of the houses had been looted after the MNLA
12 entered Timbuktu."

13 (Speaks English) And so, do you recall, sir, saying that all of the homes were pillaged
14 after the entrance of the MNLA?

15 A. [9:43:44] Yes. That is to say, that as soon as the authorities of Timbuktu
16 deserted Timbuktu, the houses belonging to the administration, and other houses as
17 well belonging to individuals who had left Timbuktu, were very quickly looted, yes.
18 When I say "looted", that means that they would even take out the electrical cables
19 from the walls.

20 Q. [9:44:22] And just for clarity, could you specify what you -- could you confirm
21 what you say here, which is: (Interpretation) "The houses were looted subsequent to
22 the MNLA arriving in Timbuktu."

23 (Speaks English) And my question is: Who was doing the pillaging, sir?

24 A. [9:44:51] Well, this is a chronology, as I said earlier. Well, the MNLA did loot
25 some shops and to my knowledge, as to what I heard said about these shops being

1 looted, then everything followed suit over the course of a night. That is to say that
2 the Arabs called AQIM for them to enter Timbuktu, and then during the same night
3 there were some Arabs who looted the barracks. And in the same night, those who
4 were working for the banks and all of the administrations, they left Timbuktu.

5 So AQIM drove out the MNLA. And during that time, especially during the night,
6 there were citizens - I don't know whether they were Africans. I can't really
7 say - who looted the houses, the houses that had been abandoned.

8 Q. [9:46:06] Mr Witness, thank you for that. I'd like you -- to direct you now to a
9 document at OTP tab 39, and that's MLI-OTP-0013-3101 at page 3105. And at
10 about -- I think it's about halfway down the page there's a question, and the question
11 put to you is -- I'll begin with -- with the question: (Interpretation) "You describe
12 things as such. It was said that Islamists had taken over Timbuktu. The MNLA
13 took --"

14 THE INTERPRETER: [9:47:19] The interpreter cannot find the precise location where
15 you are reading from. Apologies.

16 MS PRADHAN: [9:47:28] Not at all. I understand that there is -- so it is the -- I
17 don't wish to begin with the first two lines of the paragraph because I believe that's
18 potentially identifying. But the first statement in the paragraph is "*Votre épouse*
19 *résume*". Is that clearer?

20 THE INTERPRETER: [9:47:50] Which paragraph are we referring to, please? Is it
21 the paragraph commencing with "*Le Juge*" or "*Reponse*"?

22 MS PRADHAN: [9:48:06] "*Le Juge*". It's the third paragraph.

23 THE INTERPRETER: [9:48:11] Could it please be scrolled down on the screen.

24 Thank you.

25 Could the document please be scrolled down on the screen. Thank you.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 MS PRADHAN: [9:48:26] I believe the top of the paragraph is actually -- was at the
2 top of the screen.

3 THE INTERPRETER: [9:48:34] Anyway, if you just read slowly, it will be fine.
4 Thank you.

5 MS PRADHAN: [9:48:43] Sure.

6 Q. [9:48:44] I'll begin that statement again, Mr Witness, and it was your statement,
7 it says: (Interpretation)

8 "'It was said that Islamists had taken Timbuktu. The MNLA took the north of Mali
9 with Al Qaïda. But everything was done in total confusion in one night, the town of
10 Timbuktu was looted. AQMI then entered in March 2012 the town in order to
11 restore order, and drove out the MNLA towards the airport with a view to stabilising
12 the situation. Without this intervention on the part of AQIM, a humanitarian
13 catastrophe would have occurred.' Can you please explain yourself?"

14 (Speaks English) And my question to you, sir, is you've just described some looting.
15 Could you please explain what else occurred to the best of your knowledge or
16 recollection that constituted or would have constituted a humanitarian catastrophe?

17 A. [9:50:34] Well, when I talk here about humanitarian catastrophe, it was not an
18 immediate concern, but it could have given rise to violent acts or fighting between
19 ethnic groups, possibly serious matters between the ethnic groups, Tuaregs and
20 Arabs. And as most of them had retrieved weapons - and in Timbuktu most people
21 had weapons at the time - it could indeed have created a situation, a very serious
22 situation of sedition and, as such, a humanitarian situation.

23 Q. [9:51:29] Thank you, sir. And earlier you stated that -- I'm just trying to find
24 the reference.

25 Earlier you stated that the MNLA and Ansar Dine were part of the same community.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 What did you mean by "community"?

2 A. [9:52:03] Well, if you know the history of the MNLA a little bit, well, according
3 to the information that I gleaned from the Tuaregs on location, there was a gentleman
4 who was very elderly who was recognised by all of the Tuareg community and, at a
5 given moment in time, all of those below him, if you like - whether they had family
6 links or not, I don't know - they broke into two groups.

7 The MNLA was leading a totally secular independence movement with
8 representatives in an office in Paris leading negotiations, and on the other side Ansar
9 Dine, which had been set up by Iyad Ag Ghaly who created an alliance with AQIM.
10 And added to this request for independence was a religious connotation.

11 Q. [9:53:33] And, sir, on that same page of the document, under "*Reponse*", there's a
12 statement beginning with the word "*Entre*", and I'll read it to you:

13 (Interpretation) "Between the night where the army, the police and the Malian
14 administrations left the town, and the morning where AQIM and Ansar Dine arrived,
15 just after the MNLA, some of the Arabs who had called upon AQIM, looted the city,
16 especially the barracks, the World Food Programme and the administrative vehicles,
17 and they left for the desert. The Africans experienced this as treason and -- or
18 betrayal and there might have been a massacre --"

19 THE INTERPRETER: [9:54:53] Correction: A betrayal.

20 MS PRADHAN: [9:54:55]

21 Q. [9:54:56](Interpretation) -- "and there might have been a massacre. In addition
22 to which, the MNLA had had the time to commit a number of acts of violence against
23 Arab tradesmen because of former disputes. Imagine what would have happened if
24 Ansar Dine had not arrived."

25 (Speaks English) And so my question is, you make quite a distinction here, sir,

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

1 between Ansar Dine and AQMI entering Timbuktu and the MNLA that had been
2 causing violence at that time. Is that correct, sir?

3 A. [9:55:53] Yes.

4 Q. [9:55:56] But I believe that the text, when you read it back to me, really reflects
5 what happened.

6 MS PRADHAN: [9:56:15] Mr President, if we may move into private session, I have
7 a few questions that may be identifying.

8 PRESIDING JUDGE MINDUA: [9:56:24](Interpretation) Mr Courtroom Officer,
9 private session, please.

10 (Private session at 9.56 a.m.)

11 THE COURT OFFICER: [9:56:31] We're in private session, Mr President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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16 (Redacted)
17 (Open session at 10.07 a.m.)
18 THE COURT OFFICER: [10:07:13] We're back in open session, Mr President.
19 PRESIDING JUDGE MINDUA: [10:07:22](Interpretation) Thank you very much,
20 court officer.
21 But for the video, Maître Pradhan, can we publish that or not? I'm just putting the
22 question by way of prudence.
23 MS PRADHAN: [10:07:38] Yes, Mr President. I was just about to say I believe that
24 we can publish this to the gallery with sound. And I'd like to begin at time 00:34, I
25 guess 11:14.

1 (Viewing of the video excerpt)

2 MS PRADHAN: [10:09:34] Thank you. We can stop there.

3 Q. [10:09:36] Mr Witness, did you recognise the gentleman identified in that video?

4 A. [10:09:50] Yes, of course. It was Sandal.

5 Q. [10:09:55] And I'll just remind you that we are in -- in public session so we'll
6 refrain from saying anything that could identify you. But my question to you while
7 we're in public session is: You heard the description of Al-Qaeda transforming itself
8 into a, quote, humanitarian NGO at that time.

9 Do you agree with that assessment?

10 A. [10:10:22] Yes, at that time, perhaps. You have to add that the first pictures that
11 I saw affected me a lot, but you have to know that these things that was -- been lasting,
12 going on for over 60 years, that's in the north, in the north of Mali. You have to see
13 in -- there are a lot of people in northern Mali who are *apatrides*, they don't have
14 Malian papers. So it's a situation which has to be sorted. So according to the
15 pictures that you see, you feel that there is something humanitarian. That's not the
16 problem. The problem is that three months afterwards they want to set up
17 Islamic -- hard Islamic law via force on a people that's already Muslim. That's where
18 the problem starts.

19 That's to say, you can't apply law just like that on the people in very little time. You
20 have to give them time for this humanitarian situation to be corrected. And they had
21 the time in peace to do good for the people and they didn't do it.

22 Q. [10:11:54] And when you referred earlier, Mr Witness, to AQMI restoring order,
23 is what you saw on that video representative of what you experienced?

24 A. [10:12:23] Well, I think that was right at the start. There, it's just about treating
25 people, et cetera. But the difference between AQIM and Ansar Dine was that

1 Ansar Dine came into Timbuktu as a military force, whereas AQIM immediately took
2 over the hospital, the police services to prevent abuses and pillaging. And they also
3 set themselves up in the administrative buildings. So the pillaging stopped, at least
4 in those buildings that were occupied.

5 As I explained to you, the problem came afterwards when the Sharia was instituted,
6 which for me were barbarian acts. Even if they are things practised in Islam or were
7 practised in Islam centuries ago, times do change, nevertheless.

8 Q. [10:13:48] Mr Witness, when you said that they set themselves up in
9 administrative buildings, who did you mean by "they"?

10 A. [10:14:08] I'm speaking about the people from AQIM.

11 Q. [10:14:16] I'd like to -- I have a brief question that I think should be posed in
12 private session, Mr President.

13 PRESIDING JUDGE MINDUA: [10:14:40](Interpretation) Court officer.

14 (Private session at 10.14 a.m.)

15 THE COURT OFFICER: [10:14:48] We're in private session, Mr President.

16 (Redacted)

17 (Redacted)

18 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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12 (Open session at 10.16 a.m.)
13 THE COURT OFFICER: [10:16:59] We're back in open session, Mr President.
14 PRESIDING JUDGE MINDUA: [10:17:04](Interpretation) Thank you very much,
15 court officer.
16 Maître Pradhan.
17 MS PRADHAN: [10:17:09] Thank you, Mr President.
18 Q. [10:17:11] Mr Witness, bearing in mind of course that we are in public session,
19 I'll continue to ask you about a journalist, but we will not discuss the particulars of
20 what we just discussed in private session.
21 Would you consider a journalist named Yehia to be knowledgeable about events in
22 Timbuktu in 2012?
23 A. [10:17:54] Yes, I think so.
24 Q. [10:17:55] I'd like to direct your attention to a document at Defence tab 13, and
25 that's MLI-OTP-0068-4637. And I'd like to begin by scrolling down to the bottom of

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 that page -- or the next page, sorry, the last page of the article. Thank you.

2 Do you see the name at the bottom of that article, Mr Witness?

3 A. [10:18:33] Yes.

4 Q. [10:18:36] And are you familiar with that name as a journalist present in
5 Timbuktu in 2012?

6 A. [10:18:54] I don't know the name Tandina. Yehia, yes.

7 Q. [10:18:59] Okay. And if you -- if we could move back to the first page,
8 beginning -- the section beginning "*Qui est Alhassane?*" There's a sentence in the
9 middle of that paragraph saying: (Interpretation)
10 "Yes, he was responsible in the second degree with the Islamic police, just after the
11 sanction inflicted on Adama by the Islamist hierarchy."
12 (Speaks English) What do you understand that sentence to be saying with regards to
13 Mr Al Hassan's position in the Islamic police, Mr Witness?

14 A. [10:20:10] Could you repeat the question, please.

15 Q. [10:20:13] Of course. And perhaps I can clarify. I can ask a clearer question.
16 Isn't it true that that sentence identifies Mr Al Hassan as the second rung or the
17 second degree of the Islamic police after *Monsieur* Adama was decommissioned?

18 A. [10:20:42] Yes. But to the best of my knowledge, he replaced Adama.

19 Q. [10:20:49] Okay. Mr Witness, are you aware that another witness, P-654,
20 testified that the journalist Tandina's reporting in this article that Al Hassan became
21 second in command of the Islamic police after Adama was decommissioned?

22 MS LUPING: [10:21:24] Objection, Mr President. Asked and answered. We've
23 had the --

24 PRESIDING JUDGE MINDUA: [10:21:30](Interpretation) Madam.

25 Maître Pradhan.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 MS PRADHAN: [10:21:41] I don't believe it is asked and answered, Mr President.

2 I believe I'm asking -- I asked the witness about a statement in the article, and I'm now

3 asking if he's aware that (Redacted)

4 (Redacted)

5 PRESIDING JUDGE MINDUA: [10:22:09](Interpretation) Madam Prosecutor, this is

6 a new question. It's different to the first question.

7 MS LUPING: [10:22:15] Mr President, I believe it's essentially the same question

8 wrapped up in different words. The first point was to indicate and to put to the

9 witness an interpretation the Defence has of the words of this article.

10 The second question relates to what a witness stated was the same interpretation the

11 Defence is putting, again to this witness. It's -- it's the same interpretation. It's

12 effectively the same question and the witness has already provided a response.

13 There have been a few times questions have been asked repeatedly. I haven't stood

14 up before. But on this question I would say asked and answered. The witness has

15 provided a very clear response to essentially the same question already.

16 MS PRADHAN: [10:22:57] I'm happy to move on, Mr President.

17 PRESIDING JUDGE MINDUA: [10:23:04](Interpretation) Maître Pradhan, I follow

18 the interpreting in French. When you speak straightaway, I'm not able to get the end

19 of what the Prosecutor says. So I haven't heard what she said because you

20 intervened.

21 Madam Prosecutor, I think you'll save time. The question was put to the witness.

22 So let the witness answer. Like that we'll save time.

23 Please, witness, if you could you answer the question.

24 THE WITNESS: [10:23:37](Interpretation) Well, I can see that we're going alongside

25 the problem here. Al Hassan replaced Adama. For me, Adama and Al Hassan was

1 the chief of the Islamic police.

2 Did he have another level above him? There was a level above Mohamed Moussa,
3 Abou Talha. And I'm sure of that. And there was Abou Talha who was a member
4 of AQMI and had been since its origin.

5 And Mohamed Moussa had been recruited among the people from Timbuktu. So
6 this second degree, you have to have a first degree to justify the second degree.

7 MS PRADHAN: [10:24:37]

8 Q. [10:24:38] Mr Witness, if I may just clarify something that you said just now.

9 You mentioned Mohamed Moussa and you've testified that Mohamed Moussa was a
10 member of the morality police - is that correct - the *Hesbah*?

11 And it's your testimony then that Abou Talha, a member of AQMI, was above
12 Mohamed Moussa as in the *Hesbah*?

13 Okay. And so when we're discussing the Islamic police, and at the moment
14 discussing Mr Al Hassan's rank within that, it is -- I'm just trying to understand or
15 clarify your statement that you have to have a first degree to justify the second
16 degree.

17 Could you clarify what you meant by that.

18 A. [10:25:45] What I want to say is that with regards to the Islamic police, as far as
19 I'm concerned, I didn't have information or I hadn't remarked. Perhaps I just hadn't
20 remarked it, but I didn't note that there was a person who was part of AQMI, AQIM,
21 who acted in the first degree. That's something that I didn't see. Perhaps there was
22 one.

23 Q. [10:26:17] Mr Witness, there was a previous witness before this Court, P-065,
24 previously stated -- and here I'm referring to transcript 40 of the English, page 55,
25 lines 7 to 17. And I'll read you those lines. They say:

1 "Mr Witness, and maybe you could clarify things for the Chamber and help us again,
2 you said that Mr Al Hassan was the second person within the Islamic police. Could
3 you clarify for us so we can understand better on what basis you came to this
4 conclusion. What were the observations that led you to this?"

5 And the answer from P-65:

6 "I do not have a clear example, but we would always see -- in all the activities of the
7 Islamic police we would see Al Hassan present and overseeing the activities. But I
8 knew that he was not the head of the Islamic police. He might have been the most
9 cultivated among them, given his command of several languages, and that might
10 have been the reason he gained importance within the ranks of the Islamic police, but
11 I knew that he was not the head of the Islamic police. The leadership of the Islamic
12 police started with" - and it says Adam. I believe it means Adama - "and ended with
13 Khalid."

14 Would you agree with that statement, that the leadership of the Islamic police started
15 with Adama and ended with Khalid?

16 A. [10:28:28] Not to my knowledge. Firstly, it was Adama. And when I see the
17 testimony, it makes me think that -- well, I was also showed complaints that were
18 made by Abdoul Djalil, but Abdoul Djalil can be seen on certain videos. He was
19 within AQIM. So if he made a complaint, perhaps these complaints led to
20 something and that led to the sanctions against Adama and he was replaced by
21 Al Hassan.

22 Now, to the best of my knowledge, Khalid arrived afterwards. And to the best of
23 my knowledge, he was rather the person who was in the second degree.

24 MS PRADHAN: [10:29:16] I believe we need to move to private session,

25 Mr President, for a short while.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [10:29:30](Interpretation) Court officer, private
2 session, please.

3 (Private session at 10.29 a.m.)

4 THE COURT OFFICER: [10:29:34] We're in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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- 25 (Open session at 10.43 a.m.)

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [10:43:25] We're back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [10:43:31](Interpretation) Thank you very much,
3 Mr Courtroom Officer.

4 Now, Ms Pradhan, please do your very best.

5 MS PRADHAN: [10:43:37] Thank you, Mr President. I will do.

6 Q. [10:43:41] And, Mr Witness, again please be cognisant in your answers of not
7 revealing any identifying information while we are in public session.

8 I'd like to direct you to a document.

9 And would it be possible not to display this document to the gallery? Yeah?

10 PRESIDING JUDGE MINDUA: [10:44:09](Interpretation) Mr Courtroom Officer,
11 please, the document should not be shown to the public. Have you followed?

12 THE COURT OFFICER: (Microphone not activated)

13 PRESIDING JUDGE MINDUA: [10:44:18](Interpretation) Thank you very much
14 indeed.

15 MS PRADHAN: [10:44:24] Thank you, Mr President.

16 Q. [10:44:25] The document is OTP tab 24. That's MLI-OTP-0024-0487 at page
17 0503, beginning at page 0503. And I'll actually, just to shorten this, I'll go to line 585,
18 and it states there: (Interpretation) "Person interviewed: ... Adama was the first
19 chief of the Islamic police in Timbuktu."

20 (Speaks English) And I will move to page 0504 at -- beginning at line 619, where it
21 says: (Interpretation) "Person interviewed: And in addition, Adama, his ... He
22 was replaced, so ..."

23 (Speaks English) And the next line: (Interpretation)

24 "Interviewer 1: He was replaced by whom? Do you know?

25 Person interviewed: I saw his replay ... he was in Djabali, his replacement, but I do

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

1 not know his name, *hein*."

2 (Speaks English) And then at line 624: (Interpretation) "Person interviewed:"

3 (Speaks English) *Monsieur* President, I believe I need to read these particular lines in
4 private session, just to complete this excerpt.

5 PRESIDING JUDGE MINDUA: [10:47:24](Interpretation) Mr Courtroom Officer,
6 private session, please.

7 (Private session at 10.47 a.m.)

8 THE COURT OFFICER: [10:47:30] We're in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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15 (Open session at 10.55 a.m.)
16 THE COURT OFFICER: [10:55:49] We're back in open session, Mr President.
17 PRESIDING JUDGE MINDUA: [10:55:56](Interpretation) Thank you very much
18 indeed, Mr Courtroom Officer.
19 Ms Pradhan.
20 MS PRADHAN: [10:56:02] Thank you, Mr President.
21 Q. And again I'll be speaking carefully, Mr Witness, so that we don't say anything
22 identifying. But you met with OTP for several days in 2014; is that correct?
23 A. [10:56:28] I don't really remember the date. Yes, yes.
24 Q. [10:56:36] Okay. I'd like to show you a document that's OTP tab 9 at
25 MLI-OTP-0024-0201, and I'd like to go to page 0202, beginning at line 10.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 Actually, for completeness, Mr President, I'll begin at line 9 and I will be -- I would
2 ask that this document actually be taken out from public, from public gallery.
3 THE COURT OFFICER: [10:57:54] Your Honours, the document was not shown to
4 the public gallery.
5 MS PRADHAN: [10:57:59] Thank you.
6 PRESIDING JUDGE MINDUA: [10:58:00](Interpretation) Thank you very much.
7 Ms Pradhan.
8 MS PRADHAN: [10:58:04] And I will be excluding any identifying words in this as I
9 read this.
10 Q. [10:58:08] Beginning at line 9 -- at line 10, Mr Witness: (Interpretation)
11 "[Mr Witness], before continuing your testimony, we'd like to just sort out a small
12 procedural matter. We're going to ask you to tell us if you have brought any
13 changes, whatever they may be, to the record of the sessions that you have signed
14 since yesterday."
15 (Speaks English) And then at line 15: (Interpretation)
16 "Interviewer 1: But in the text that you have had access to, have you brought any
17 changes whatsoever?
18 Person interviewed: Yes, we did bring corrections, *hein*.
19 Interviewer 1: Could you please describe these corrections to us, please?
20 Person interviewed: These are especially corrections ... typos or sentences that are
21 rather awkward. These are not major corrections.
22 Interviewer 1: Very well. And did you make these corrections with the assistance
23 of your counsel?
24 Person interviewed: Yes."
25 (Speaks English) And finally: (Interpretation)

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 "Interviewer 1: Very well. Thank you."

2 (Speaks English) So you understood that procedure when it occurred, and that was
3 on -- that was in July 2014, Mr Witness; is that correct?

4 A. [11:00:36] Yes, yes.

5 Q. [11:00:37] And in fact you conducted that procedure of correcting your
6 statements or clarifying your statements each day after your interview; isn't that
7 correct?

8 A. [11:00:53] I do not recall, but whatever the case may be. It must have been
9 sentences that could lead to misunderstanding, little corrections that were brought.
10 It would seem to me, yes. But I don't know whether it was on a daily basis. I don't
11 remember.

12 MS PRADHAN: [11:01:16] Okay. I -- I do just have one additional question,
13 Mr President, that I could do in I think a minute or two.

14 PRESIDING JUDGE MINDUA: [11:01:29](Interpretation) Please go ahead,
15 Ms Pradhan.

16 MS PRADHAN: [11:01:31]

17 Q. [11:01:34] Mr Witness, I do just want to show you - and this should not be
18 published to the gallery - one last document before the break. And that's OTP tab 26,
19 MLI-OTP-0024-0506, beginning at page 0513.

20 Yes, if we could go to page 0513.

21 I think we're having some technical issues, Mr President. I can continue with this
22 particular question after the break.

23 PRESIDING JUDGE MINDUA: [11:03:10](Interpretation) Very well. In that case,
24 we shall suspend the hearing and resume at 11.30.

25 The hearing is suspended.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 THE COURT USHER: [11:03:20] All rise.
2 (Recess taken at 11.03 a.m.)
3 (Upon resuming in open session at 11.31 a.m.)
4 THE COURT USHER: [11:31:29] All rise.
5 Please be seated.
6 PRESIDING JUDGE MINDUA: [11:31:57](Interpretation) Court is in session.
7 Maître Pradhan, you have the floor to follow up with your cross-examination.
8 MS PRADHAN: [11:32:05] Thank you, Mr President.
9 When I ended, I was looking at a document that was OTP tab 26, that's
10 MLI-OTP-0024-0506. Now I would -- upon looking at this at the break and because
11 of the government's objection that we look at all of the transcripts, I would like to
12 make an application to add a document to the list of evidence that is a Prosecution
13 exhibit, so there's no prejudice, and that is a shorter version or a shortcut, one should
14 say, to the evidence that I was about to read to the witness. It's the difference
15 between about having him read about 10 pages from the document I just named or
16 going directly to one or two pages in this document. And the document that I'd like
17 to make the application for is MLI-OTP-0019-0448. I believe it would save some
18 time.
19 PRESIDING JUDGE MINDUA: [11:33:33](Interpretation) Maître Cantier.
20 MR CANTIER: [11:33:37](Interpretation) I'm sorry, your Honour. The document
21 which is currently presented, can the public see it? Because if not, it shouldn't be
22 shown. It has certain indications thereon.
23 PRESIDING JUDGE MINDUA: [11:33:54](Interpretation) Indeed.
24 Court officer, has this document been published? If it has, it should be withdrawn
25 and prepared for redactions.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [11:34:03] No, your Honours. The document was not
2 shown to the public.

3 PRESIDING JUDGE MINDUA: [11:34:08](Interpretation) Very well. Thank you
4 very much.

5 Maître Pradhan, do you want to introduce a new document to shorten the
6 proceedings?

7 MS PRADHAN: [11:34:21] Yes, Mr President, if that's acceptable.

8 PRESIDING JUDGE MINDUA: [11:34:30](Interpretation) Very well. I see no
9 objection from the Office of the Prosecutor.

10 Maître Luping, Madam Prosecutor.

11 MS LUPING: [11:34:39] Mr President, I'm simply trying to very quickly pull up the
12 document. It's not something that we had on our binder ourselves, so I'm just trying
13 to find it. It's hard for me to comment until I see it. That's the first thing.

14 The second thing is, again, I would repeat we're not -- we're not in a common law
15 system. We're in a *sui generis* mixed system. And if the purpose of this is to not

16 show the document that I referred to before, namely 0024-0201 at pages 0202 to 0203,
17 then I would object. There shouldn't be another document to circumvent a very

18 clear passage from the witness's ICC interview and it shouldn't be for the Prosecution
19 to wait till redirect to get clarity from the witness on his views on that document.

20 So showing another document that apparently is a short extract - I'm not sure what it
21 contains yet - but we would object to that procedure. This Court is about

22 determination of the truth. It's not a game of, you know, cross-examination and then
23 necessarily redirect. If the witness is here, he's able to confirm what his comments

24 are about that extract and that's why we would object to circumventing a relevant
25 transcript.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 MS PRADHAN: [11:36:05] Mr President, if I may be heard.

2 PRESIDING JUDGE MINDUA: [11:36:21](Interpretation) Your answer, please.

3 MS PRADHAN: [11:36:24] Thank you, Mr President. I believe, first, there is some
4 confusion and I would like to be very clear with the Chamber. This is not -- the
5 document that I seek to -- that I'm seeking an application for -- making an application
6 for is not to replace the document that my learned friend has identified at

7 MLI-OTP-0024-0201. In fact, I am going to go to that document next. But it is to
8 replace the document that I had directed the witness to look at prior to that, which is
9 a different document. And that number, just so we're clear, is OTP tab 26,

10 MLI-OTP-0024-0506. And the reason for the application is because the second
11 document for which I'd like to make the application is a *procès-verbal* with this
12 witness's signature that documents the exact same information in the document that
13 I had indicated immediately prior to the break.

14 It is merely a shortcut.

15 PRESIDING JUDGE MINDUA: [11:37:45](Interpretation) Maître Pradhan, the
16 Prosecutor is once again standing up. No. The document that you're speaking
17 about is the record of the testimony of 11 July 2014; is that correct, at tab 26?

18 Now, this discussion of evidence and the changing evidentiary items, this is
19 something that we don't want to do in open session. What I propose to you is that
20 you make a written application and that we will look at it during the lunch break and
21 then you will have a response thereto. You can do it by email, but the rest isn't
22 susceptible to discussion now.

23 MS PRADHAN: [11:38:34] Thank you, Mr President. I will do that.

24 PRESIDING JUDGE MINDUA: [11:38:47](Interpretation) Please go ahead,
25 Ms Pradhan.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 MS PRADHAN: [11:38:49] Thank you, Mr President.

2 Q. [11:38:53] I would like now -- I will -- Mr Witness, I apologise if that was a little
3 bit confusing. We are in public session at the moment and so I, again, would just
4 urge you and I will myself take care not to say anything identifying. I would like to
5 direct you to a document - and this document should not be shown to the gallery - at
6 OTP tab 9, MLI-OTP-0024 at page 0202.

7 And for completeness, I will begin at line 37: (Interpretation)

8 "Person interviewed: So there were lots of news -- new recruits among the people
9 from Mali --" (Overlapping speakers)

10 PRESIDING JUDGE MINDUA: [11:40:10](Interpretation) Madam Prosecutor.

11 MS LUPING: [11:40:10] Mr President, again, just out of fairness to the witness and
12 full context, the first initial question should be put at lines 29 starting from:

13 (Interpretation) "You spoke to us a lot of time about the Islamic police."

14 (Speaks English) For the sake of fairness to the witness, so that there's no confusion as
15 to what we're talking about in this context, it should start from there. I'm not
16 suggesting all of it should be read, but it should start from there.

17 PRESIDING JUDGE MINDUA: [11:40:41](Interpretation) Maître Pradhan, to be fair,
18 I think that the Prosecutor is right.

19 MS PRADHAN: [11:40:53] I'm happy to start with that question, Mr President. I
20 will attempt to be as complete as possible. I will just, as I noted, just skip anything
21 that might be identifying, if that's all right.

22 Q. [11:41:07] So we'll start at line 29, Mr Witness. So moving you up a little bit on
23 that page. And it says: (Interpretation) "You spoke to us several times about the
24 Islamic police."

25 (Speaks English) And you: (Interpretation) "Person interviewed: Yes.

1 You told us that you often went to the place where this police was."

2 (Speaks English) And then the question at line 36: (Interpretation) "Tell us first of all
3 what it was, this police?"

4 (Speaks English) And then the line I had begun reading, I'll read it again for
5 completeness: (Interpretation) "Well, there were -- in this police there were a lot of
6 new -- a lot of new recruits among the people of Mali or Burkina Faso who were
7 policemen."

8 (Speaks English) It continues to the next page:

9 (Interpretation) "Who were -- who had been put into the police."

10 (Speaks English) And this is the sentence that I'd like to particularly call your
11 attention to, Mr Witness:

12 (Interpretation) "And otherwise, only this ... do I remember his name, or the name ...
13 the person who had been appointed chief of police was a Tuareg. That's all that I can
14 say."

15 (Speaks English) And then there's an incomprehensible phrase after that.

16 Now, recently -- Mr Witness, my question for you is, when you say at line 40 the chief
17 of police was a Tuareg, who were talking about?

18 PRESIDING JUDGE MINDUA: [11:43:36](Interpretation) Madam Prosecutor.

19 MS LUPING: [11:43:37] Mr President, it's just again for the sake of fairness to the
20 witness and to provide full context, lines 43-46 provide a clearer indication of which
21 police the witness was talking about. I believe that extract should also be read to the
22 witness before this question is asked. Lines 43 to 46, the location of this particular
23 police.

24 PRESIDING JUDGE MINDUA: [11:44:11](Interpretation) Maître Pradhan, because
25 we have the text in front of us, you can read it to the witness.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 MS PRADHAN: [11:44:18](Interpretation) Very well, your Honour.

2 Q. [11:44:24](Speaks English) Mr Witness, I'll continue: (Interpretation)

3 "Very well. Where was this police when you saw it for the first time?

4 At the beginning it was in this bank there, the central bank of Timbuktu next to the
5 market. And afterwards, they established it in the governor's palace."

6 (Speaks English) And so my question to you again, Mr Witness, is, based on what I've
7 just read to you, at line 40 when you say the person who was designated chief of the
8 police *c'était un Touareg*, who were you talking about, do you recall, to the best of
9 your recollection?

10 A. [11:45:22] Well, it would seem to me that at the time when this question was put
11 to me that's all that I remembered.

12 Now, perhaps afterwards I was shown photographs where the memories came back
13 to me. But as I said at the time, as it was written, that's all I could say at that time. I
14 did not have this information in my memory.

15 MS PRADHAN: [11:45:54] The Court's indulgence for one moment.

16 (Counsel confers)

17 MS PRADHAN: [11:46:34]

18 Q. [11:46:40] Mr Witness - and, again, this document is not being shown to the
19 gallery - I'd like to show you the first page of this document. And do you see the
20 date there, Mr Witness, as July 8, 2014?

21 A. [11:47:06] Yes.

22 Q. [11:47:08] Okay.

23 A. [11:47:09] Yes.

24 Q. [11:47:11] Then in that case I'd like to return you to a document we were looking
25 at earlier at OTP tab 26, MLI-OTP-0024-0506.

1 And, again, this should not be shown to the gallery. And I'm looking at page 0507.

2 Because we are in public session, Mr President, I will ask for very -- I'd like to read
3 him very limited lines from here. I can go -- if you'd prefer that we be more fulsome,
4 I can go into private session. But as you'll see, at lines 23 and 24, there are
5 identifying items.

6 PRESIDING JUDGE MINDUA: [11:48:34](Interpretation) Indeed. But I think that
7 the witness has the text in front of him. He can finish reading himself. Please go
8 ahead.

9 MS PRADHAN: [11:48:43] Thank you, Mr President.

10 Q. [11:48:44] Mr Witness, at page 0507, do you see the sentence starting with:

11 (Interpretation) "The second chief of police was Khalid. That was his name, I think"?
12 And the second -- the next line after that, it says: (Interpretation) "Second chief after
13 whom?"

14 PRESIDING JUDGE MINDUA: [11:49:23](Interpretation) Madam Prosecutor.

15 MS LUPING: [11:49:24] Mr President, it's just that the page we're actually being
16 shown doesn't correlate to what the -- what counsel is reading out. So to -- in
17 fairness to the witness, if he could be shown the correct page, please.

18 MS PRADHAN: [11:49:34] Of course. I apologise. I believe we were looking at
19 page 0507. I apologise if that was not clear. And again beginning -- I was
20 beginning at line 17.

21 PRESIDING JUDGE MINDUA: [11:49:56](Interpretation) Please go ahead,
22 Ms Pradhan.

23 MS PRADHAN: [11:50:00](Interpretation) Thank you very much.

24 Q. [11:50:03] (Speaks English) Mr Witness, I -- I won't repeat lines 17 and 18.
25 I believe you've read them, sir.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 Could you please read to yourself -- actually, I'll read you line 19 -- 18 and 19:

2 (Interpretation)

3 "Second chief after whom?

4 Person interviewed: Who replaced Adama."

5 (Speaks English) And then --

6 PRESIDING JUDGE MINDUA: [11:50:31](Interpretation) Madam Prosecutor.

7 MS LUPING: [11:50:32] I'm sorry to -- to interrupt, but in fact the witness had not

8 actually seen this page whilst he was still speaking. Whilst -- sorry, whilst my

9 learned colleague was still speaking, it was still being scrolled up. So the witness

10 has not actually had a chance to see lines 16 and 17. So, again, I would just repeat

11 the request that the witness be given an opportunity to have actually read it before we

12 continue.

13 MS PRADHAN: [11:50:56] I'm just -- I -- I don't quite understand because I did sort

14 of understand from the witness that he was reading.

15 Q. [11:51:05] Mr Witness, perhaps we can just ask you. Mr Witness, are you able

16 to see lines 16 and 17 as they were read out to you? Or would you prefer that I go

17 over it?

18 A. [11:51:29] No. I've read the page which is in front of me.

19 PRESIDING JUDGE MINDUA: [11:51:34](Interpretation) Very well. Let's move on.

20 Ms Pradhan.

21 MS PRADHAN: [11:51:38] Thank you.

22 Q. [11:51:39] And thank you, Mr Witness.

23 And so I'd like you, after those lines which say: (Interpretation) "Second chief

24 afterwards who replaced Adama," (Speaks English) I'd like you to please read to

25 yourself lines 23 and 24. I won't read those out loud in open -- in public session.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 You've read those lines, Mr Witness? Thank you.

2 And is this the same Khalid --

3 A. [11:52:19] Yes. Yes.

4 Q. [11:52:24] I'll just finish my sentence so that we can be sure to understand each
5 other. Is this the same Khalid that we spoke about earlier in an earlier statement
6 where you said that Khalid replaced Adama?

7 A. [11:52:43] Yes, it's the same Khalid.

8 What I wanted to explain to the Court -- well, firstly, perhaps my memory in 2014
9 was more fresh than it is today. But since we were asked the question, I've been
10 trying to see -- since I was asked the question, I was trying to see why and how I was
11 so certain that Khalid was the chief of police, while I didn't deal with him. I'm trying
12 to remember something that could help me but, unfortunately, I'm not able to
13 remember something which would help me confirm that. So I still have doubt -- I
14 still keep some doubt.

15 Q. [11:53:35] Mr Witness, perhaps I can move you a little lower on the page. Have
16 you read line 25? I won't read that out loud, but can I ask you to read that line.

17 A. [11:53:57] Yes.

18 Q. [11:53:58] And then if I can then read out line 29. The question is:

19 (Interpretation) "You saw him as chief of police?"

20 (Speaks English) And the next line: (Interpretation)

21 "Yes, I saw him in Timbuktu as chief of police.

22 It was during which period?

23 In my opinion, it was always the same: September ... end of August or the month of
24 September, in this period. ... this period ... which they changed, so they created this
25 morality police. Well, they changed the chief of the morality police and they also

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 changed the chief of the Islamic police."

2 (Speaks English) Does that refresh your memory, Mr Witness, regarding the order of
3 the chiefs of the Islamic police?

4 A. [11:55:42] There's no problem there where it concerns the time when they
5 changed the morality police. At the same time, they changed the chief of the Islamic
6 police. That doesn't change the problem in the sense that I do not remember -- well,
7 there has to be something which would make it possible to confirm that, but I don't
8 remember.

9 At the time when I confirmed it, I'm trying to remember something that would make
10 it possible for me to confirm that Khalid was indeed the chief. As I was not really in
11 the confidentiality of the AQMI administration, I could not know exactly.

12 All I can remember is that it seemed to me - and the Court should know that as
13 well - It seemed to me that Khalid wasn't Tuareg. And Adama. And here I no
14 longer remember if -- well, I don't think Adama was Tuareg either.

15 But that doesn't resolve the problem that I do not remember something which would
16 have made it possible for me to confirm that Khalid was indeed the chief who
17 replaced the chief, that is to say, Adama. I apologise.

18 PRESIDING JUDGE MINDUA: [11:57:29](Interpretation) Ms Pradhan, on this
19 question, I think that you've explored all the possibilities and the Chamber is
20 sufficiently edified. You can move on.

21 MS PRADHAN: [11:57:40] Thank you, Mr President. May I just ask -- I was
22 going to -- I did have just one last line that I was going to read to him that may clarify,
23 and then I -- I'm happy to move on, if I might be allowed to just do that.

24 PRESIDING JUDGE MINDUA: [11:57:57](Interpretation) Please do. The last line.

25 MS PRADHAN: [11:57:59] Thank you, Mr President.

1 Q. [11:58:02] Mr Witness, I -- I do appreciate your patience with this. I have one
2 last line. It's on the next page of this same document. It's page 0508. And I'll call
3 your attention to line 43. The sentence beginning -- and this is a question put to you.
4 The sentence beginning:

5 (Interpretation) "Would you have known somebody called Hassan?"

6 (Speaks English) And line 45, the response: (Interpretation) "Ah ... Hassan. So the
7 second in command of the Islamic police who I said was Tuareg, of Tuareg origin."

8 (Speaks English) And the last sentence at line 48 is: (Interpretation) "He was the
9 second in command with Adama, and he was always the second in command after
10 his replacement -- after the replacement of Adama by Khalid."

11 (Speaks English) And I could continue reading further, but I'm happy to -- to finish
12 there, unless you'd like me to continue for completeness.

13 PRESIDING JUDGE MINDUA: [11:59:40](Interpretation) No. You can stop there,
14 Counsel, but I think the witness can read the rest himself.

15 MS PRADHAN:

16 Q. [11:59:49] Then, Mr Witness, if you would like to take a moment to read lines 51
17 to 54 -- to 56, excuse me, what is your understanding of your statements there
18 regarding the successor of Adama?

19 A. [12:00:11] Can I read further to 57, possibly?

20 Q. [12:00:32] Of course.

21 A. [12:00:40] A little bit further.

22 No. I can see. I acknowledge that I state it's still confused when he was the second
23 in charge with Adama. With Adama, yes, there's no problem there. He was the
24 second in command under Adama. There's no doubt in that regard. And it's after
25 when Adama was replaced that there is confusion. And when I read through my

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 statements again, if I assert these things in a rather assertive manner, it points to the
2 fact that there must have been something in my recollection that points in that
3 direction.

4 I do apologise once again. If it comes back to me, I won't hesitate to inform the
5 Court.

6 Q. [12:01:51] Not at all, Mr Witness. And there's certainly no need to apologise.

7 I -- we appreciate you're answering the questions to the best of your ability.

8 I would like to just move you forward to page 0513 of this document at line 237.

9 And there we see at line 238 the interviewer saying: (Interpretation)

10 "We shall stop your deposition at this stage and re-read and re-read and possibly
11 correct your -- the record of your session of today."

12 (Speaks English) Do you recall going through that process with the interviewers,
13 Mr Witness?

14 A. [12:03:21] Yes, yes.

15 MS PRADHAN: [12:03:23] And, Mr President, this is the document for which I had
16 requested the replacement, the procès-verbal document as part of my application,
17 because over the next 10 pages -- the last 10 pages, from page 8 to 18 of this document,
18 they go through the procès-verbal and I really just wanted the conclusion from that
19 document. And so --

20 PRESIDING JUDGE MINDUA: [12:03:54](Interpretation) I've already furnished you
21 with my decision, Ms Pradhan. We don't need to revisit it. You write to the
22 Chamber and we'll answer you after the lunch break.

23 MS PRADHAN: [12:04:11] I understand, Mr President. Thank you. I just wanted
24 to flag that.

25 Q. [12:04:14] Mr Witness, I may ask you another question about this particular

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 session later, but I would like to move to a different topic.

2 During direct examination you were asked about being shown a photo of

3 Mr Al Hassan in July of this year. Do you recall that?

4 A. [12:04:52] Ah, yes.

5 Q. [12:04:54] And just to be clear, do you recall being shown that photo in July?

6 A. [12:05:03] My lawyer, yes. I no longer had any recollection Of this gentleman
7 Al Hassan.

8 Q. [12:05:15] When that photo was shown to you, do you recall if you were told
9 that this was Mr Al Hassan?

10 A. [12:05:34] Ah, I don't know any more how -- yes, I believe he was introduced to
11 me as such. Well, he was -- I was told that that was him, that I was -- this -- I was
12 shown it to be him.

13 Q. [12:06:05] And was that the first time that you had been -- it had been confirmed
14 to you that a photograph was of Mr Al Hassan?

15 A. [12:06:23] Well, I can't remember whether he has already been shown to me
16 (Redacted)
17 (Redacted)

18 MS PRADHAN: [12:06:51] Mr President, I would ask that those lines be stricken
19 from the public transcript. It was in the English.
20 Apologies, Mr Witness.

21 PRESIDING JUDGE MINDUA: [12:07:02](Interpretation) Ms Pradhan, the
22 courtroom officer has already understood. Please continue. We are -- we have eyes
23 of hawks.

24 MS PRADHAN: [12:07:15] Thank you.

25 Q. [12:07:18] I'll put a clearer question to you, Mr Witness.

1 In July, when you were shown that photo, had you ever been given a photo and told,
2 "This is Mr Al Hassan"?

3 A. [12:07:40] No. When I saw this photograph and I recognised Mr Al Hassan,
4 I had no longer any recollection of his face since the investigation back in 2013. And
5 I am sure that I did have during the investigation, but at the time when it was shown
6 to me -- when he was shown to me, I no longer had any recollection whatsoever of his
7 face.

8 Q. [12:08:15] And after you were shown that photograph, did it become easier to
9 recognise images of Mr Al Hassan?

10 A. [12:08:36] No -- well, when I saw this, it really brought all my memories
11 flooding back.

12 Q. [12:08:47] I'd like to move to a new topic.

13 On direct examination you were asked about the role of Abou Talha, and here I'm
14 referring to the transcript, transcript 145 from October 15, page 65, lines 3 through 9
15 and from the English. I will -- I will read you the lines. It says:

16 "So all those duties had been given to local people, in particular, Tuareg people.
17 And I think that above each Tuareg person, they had a AQIM member who
18 supervised or oversaw all of that. So I think the ones who were over -- who had
19 oversight over the morality police, certainly it was Abou Talha. And then for the
20 Islamic police, there were people like Abdallah ..."

21 And then you go on to say: "... Who [you] mentioned in my statement as well."

22 And this was your response, if you recall.

23 You recall making that statement, Mr Witness?

24 A. [12:10:15] Yes, yes.

25 Q. [12:10:17] My first question is: When you say, "all those duties had been given

1 to local people, in particular, Tuareg people," what did you mean by "all those
2 duties"?

3 A. [12:10:34] That means the administration, the entire administration that needed
4 to manage relations with the people of Timbuktu. So they had delegated said
5 positions to Tuaregs who hailed from Timbuktu, which was quite understandable.
6 So as I shall explain to you once again, with regard to the morality police, I can
7 confirm one hundred per cent that Abou Talha was above, he was at the top. I know
8 that very well.

9 And as I shall repeat again, for Khalid, well, I can rummage around for something
10 that can bring me to make the statement that he was chief of the police at a given
11 moment in time, but I do apologise, my memories are not coming back to me.

12 But I do remember that Abou Talha was in charge and above Mohamed Moussa.

13 But as I say to you today, I cannot state that I am saying the truth more today than
14 I was at that moment in time.

15 Q. [12:12:07] Well, Mr Witness, I want -- I was wondering if you could elaborate
16 again. When you use the phrase "all those duties" you said that you were talking
17 about the administration of Timbuktu. Which institutions, which administrative
18 bodies were you talking about, sir?

19 A. [12:12:33] Well, the morality police, the Islamic police, and the judges, and those
20 who were working with the judges, who were also Tuaregs. And in most of the
21 videos that I have seen when there was the execution of a given punishment, I noticed
22 that the right-hand man or the deputy of the judge was always there. And I also
23 noticed when they would move around and when the tombs were destroyed et cetera,
24 the judge's deputy was always in attendance and when these punishments were
25 meted out, there was always Mr Al Hassan, there was Khalid. There were those

1 three individuals who on most occasions were in attendance.

2 Now, as for my memory, I cannot today state what the degree of responsibility was
3 with regard to Mr Al Hassan and Khalid.

4 Q. [12:13:58] Now, Mr Witness, in the second line I read you, which is line 5 of that
5 transcript, you said: "Above each Tuareg person, they had a AQIM member who
6 supervised or oversaw all of that."

7 And then you move on to say: "For the Islamic police, there were people like
8 Abdallah".

9 Now Abdallah you recalled -- you spoke about. And just to confirm, when you
10 mentioned Abdallah in this statement, are you saying that Abdallah was the AQIM
11 member who supervised or oversaw the Islamic police?

12 A. [12:14:39] No. What I meant to say was that amongst those people who were
13 working at the Islamic police or whom I saw at the Islamic police or the morality
14 police, there was this Abdallah person, that is to say, members of AQIM. I don't
15 know precisely what their roles were, but I would see them in some offices in some
16 locations, even if I cannot state specifically -- or state specifically what their role was.

17 Q. [12:15:13] And you spoke at some length about Mohamed Moussa being part of
18 the morality police; is that correct?

19 A. [12:15:25] Yes.

20 Q. [12:15:29] You gave an anecdote - and this is in the transcript, transcript 145,
21 page 26, at lines 13 to 15 - about -- and I'm going to word this carefully so that we
22 don't identify anyone -- or we don't identify you. But the anecdote was about the
23 morality police entering a house and striking a woman in front of her husband.

24 Do you recall that anecdote that you gave?

25 A. [12:16:12] Yes.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 Q. [12:16:12] And you said this incident was in late July or early August 2012. Do
2 you recall that, sir?

3 A. [12:16:18] Yes.

4 Q. [12:16:21] And after that incident - and this is at page 27 of the same transcript,
5 lines 6 to 7 - the head of the morality police was moved to Gao. Is that correct, sir?
6 Were you aware --

7 A. [12:16:42] Yes.

8 Q. [12:16:43] I apologise, I didn't mean to speak over you.
9 Were you aware that on August 15 of 2012, a directive was issued by Abou Zeid to
10 the *Hesbah* and the police prohibiting them from entering houses other than with the
11 authorisation of the emir of Timbuktu? Were you aware at the time of the passing of
12 that directive?

13 A. [12:17:16] No. I was not aware of such things at all.

14 Q. [12:17:24] And for your benefit, I'd like to show you that document. That's at
15 Defence tab 6, MLI-OTP-0077-2186 at 2187. I apologise. I have my translation
16 backwards.

17 PRESIDING JUDGE MINDUA: [12:18:08](Interpretation) Madam Prosecutor.

18 MS LUPING: [12:18:08] Mr President, your Honours, the witness has stated, "No,
19 I was not aware of such things at all." So my question is simply the utility of
20 showing to the witness something that he says he has no -- no knowledge of. This is
21 just not the correct witness to show this document to.

22 PRESIDING JUDGE MINDUA: [12:18:32](Interpretation) Ms Pradhan.

23 MS PRADHAN: [12:18:36] I -- I think if the witness is -- I'm really just directing him
24 to one particular line and then I have a question about that one line pertaining to the
25 anecdote that he told. So it's not really for him to authenticate the document. It's

1 about the effect of that document.

2 PRESIDING JUDGE MINDUA: [12:19:03](Interpretation) Very well. Then please
3 show him the line.

4 MS PRADHAN: [12:19:08] Of course. Of course.

5 Q. [12:19:11] Ah, okay. And so we're looking at page 2187 and number 1. This is
6 the translation of Defence tab 5, and I'll give the full cite, which is MLI-OTP-0002-0017.
7 And we're looking at number 1 in this document that said: "Houses may not be
8 entered other than with the authorisation of the Emir of the Emirate of Timbuktu."
9 Do you see that, Mr Witness?

10 A. [12:19:58] Yes.

11 Q. [12:20:00] And you've just testified that you've -- you weren't aware of this
12 directive at the time.

13 A. [12:20:16] Uh, no. What I remember, and we've talked about this already, is
14 that (Redacted), some members of AQIM, such
15 as Abou Darda and Mohamed Moussa himself, who in Radio Timbuktu went in the
16 opposite direction, that is to say (Redacted)
17 (Redacted), Mohamed Moussa and Abou Darda, et cetera. And even amongst the
18 young combatants, (Redacted), that is to
19 say that they -- they went against what appears here in this sentence about the emir
20 Abou Zeid.

21 So there was a whole host of people who went against this order of the emir. But
22 otherwise, as concerns these orders, I was not in the know.

23 Q. [12:21:52] And you testified yesterday, Mr Witness, that -- and this is at the
24 transcript 145 at page 60, lines 24, to page 61, line 1. You testified: "I remember the
25 fact that there were differences of opinion and conflict between each group. There

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 wasn't a coherence between them."

2 My question is, sir, when you say "between each group", to what were you -- to which
3 groups were you referring?

4 A. [12:22:36] Well, I apologise. In that sentence I'm talking about the armed
5 groups. I'm talking about the various groups within AQIM, that is to say,
6 Al-Fourqane, MUJAO, amongst others, plus the various differences with the Arabs
7 and the Tuaregs. But it is certain that within the organisation within the
8 administration of Timbuktu, as I have just explained to you, there was a certain
9 amount of confusion in the sense that the emir was giving orders. And (Redacted)
10 (Redacted), there was an entire group of members of AQMI, of young people from the
11 police, et cetera, and Mohamed Moussa, people who were supporting
12 Mohamed Moussa and who wanted even more power to do these things against the
13 population.

14 I don't think I can be clearer than that. So there is or was confusion.

15 So we need to come back to the acts themselves, which means that there are people
16 who commit acts without receiving orders and there are even people who do commit
17 acts contrary to the orders that they have received, but I'm not the person who can
18 testify to that.

19 Q. [12:24:11] Now, Mr Witness, you said -- I apologise, I thought I heard
20 something.

21 You said previously, Mr Witness, that everyone knew who was part of the morality
22 police. Do you agree with that statement now?

23 A. [12:24:38] When you say "everybody", who are you talking about?

24 Q. [12:24:43] Of course. And I'm happy to give you a reference. If we go to OTP
25 tab 9, MLI-OTP -- and this should not be displayed to the -- the gallery.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 MLI-OTP-0024-0201, page 0213 and lines -- beginning at line 436.

2 Do you have that document in front of you, Mr Witness?

3 At line 436 the question is: (Interpretation) "Were -- was there any way for the
4 population to know whether somebody was a member of the morality police?"

5 (Speaks English) And the answer: (Interpretation) "Interviewee: Well, yes,
6 everyone knew that."

7 (Speaks English) And so --

8 A. [12:25:59] Yes, yes, yes. I do apologise. I am talking here indeed about the
9 people -- the lower, the lower position people in the morality police who were
10 wearing uniforms and who were wearing characteristic things to do with their
11 function. And Mohamed Moussa, who was a very well-known person in Timbuktu
12 for some time and who was probably known before he was the chief of police,
13 somebody who was not well thought of by one person within the population.
14 But as for the people in AQIM who were supervising people or who had specific
15 responsibilities, it was a lot more difficult to know for members of the general
16 population. And even for me it was rather difficult. Not any easier for me even.

17 Q. [12:27:16] Thank you, Mr Witness. Do you recall at one point in
18 2013 -- actually, I'll show the document, sir, just to refresh your memory. And this is
19 OTP tab 39, MLI-OTP-0013-3101, page 3106.

20 (Counsel confers)

21 MS PRADHAN:

22 Q. [12:28:32] At the top of that page, Mr Witness, there's a sentence beginning:
23 (Interpretation) "Subsequent to this training, some people joined the Islamic police,
24 others occupied positions of guards. People were divvied out according to
25 requirements and capacity -- capacities."

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 (Speaks English) And the first two lines of the *réponse*: (Interpretation) "At the outset,
2 they didn't go looking for things in people's houses, spying on people. It was just an
3 office for complaints."

4 (Speaks English) Do you recall that statement that the Islamic police was just a bureau
5 for complaints?

6 A. [12:29:46] Yes. But I should put things straight. Here at this given moment in
7 time, the events that I'm recounting here, I was not privy to them from a specific
8 police force. It was right at the outset and at that moment in time the police was not
9 organised as it was at a later stage. So these complaints, the one -- the young
10 gentleman who stole a mobile phone in the military barracks inside there
11 were -- there were AQIM members. It might have been Mohamed Moussa (sic) who
12 told me about this. But it wasn't in context of organised police as organised it was
13 later.

14 This organised police subsequently started to spy on people with a view to applying
15 Islamic law, which is not Islamic at all, in fact. Because this has never existed in
16 Islam or never did prior to this, meaning that one does not spy on people with a view
17 to judging them or conducting an investigation on them.

18 People need to come and make a complaint. They need to testify to the effect that
19 somebody did this or did that. You don't spy on people. And this morality police
20 that was also set up in Saudi Arabia is not part of the pure form of Islam. It's an
21 innovation.

22 Q. [12:31:49] Mr Witness, I have -- I have two questions based on what you just
23 said.

24 PRESIDING JUDGE MINDUA: [12:31:57](Interpretation) Madam Prosecutor.

25 MS LUPING: [12:31:57] Mr President, we appear to have a potential mistake. It's

1 either in the -- in the English transcript. At page 63, line 19 there's a reference to
2 Mohamed Moussa. In the French transcript at page 60, line 1, instead there's a
3 reference to Abou Talha. It may be useful to ask first before posing the question for
4 the witness to clarify to whom he was referring. We have two different people being
5 mentioned in the equivalent references.

6 PRESIDING JUDGE MINDUA: [12:32:37](Interpretation) Maître Pradhan, could you
7 check this please with the witness.

8 MS PRADHAN: [12:32:42] Of course. And I had not seen that in French, but -- but
9 I thank my friend for pointing that out.

10 Q. [12:32:50] Mr Witness, it turns out I have three questions for you based on what
11 you just said.

12 My first question is - and let me go to the line - in the English you say at line 17:

13 "The young gentleman who stole a mobile phone in the military barracks inside there
14 were AQIM members." And then you mentioned someone who told you about that.

15 Do you recall who that person was?

16 A. [12:33:35] No. I don't remember exactly precisely, no.

17 Q. [12:33:41] Do you recall what you -- I understand that you don't recall precisely,
18 but do you recall what you said when you answered the question a moment ago
19 about who it may have been?

20 A. [12:33:56] I can't answer. Perhaps it was someone, but for what reason, what
21 function, what? In the text I've got in front of me I'm speaking about the way in
22 which AQIM bit by bit created a police system. So there I can see that -- well, there
23 were the small events that I was talking about at the start. That was before the
24 establishment of a precise police force with a location of the Islamic police station.
25 These small events were right at the very start.

1 PRESIDING JUDGE MINDUA: [12:35:03] (Overlapping speakers)

2 MS LUPING: [12:35:05] Mr President, I believe there's just simple confusion because
3 the witness may be thinking that he's being asked a question about the document in
4 front of him instead of a passage from his testimony right now. It might be simpler
5 simply to first read the line from his actual testimony and so that the witness
6 understands he's not being asked to comment on the document right now. It's what
7 he said in his testimony, lines -- page 60, line 1 to 2. And use his precise words and
8 then ask if -- who he's referring to, whether it was Abou Talha, as stated in the French,
9 or Mohamed Moussa, as stated in the English. It might be simpler, because at the
10 moment I believe there's a confusion.

11 MS PRADHAN: [12:35:50] That's fine, Mr President. I'm happy to just put both
12 before him and ask which one he meant.

13 PRESIDING JUDGE MINDUA: [12:36:08](Interpretation) Very well. Please go
14 ahead, Ms Pradhan.

15 MS PRADHAN:

16 Q. [12:36:13] Thank you, Mr Witness. The confusion, sir, is that we have two
17 different statements in the transcript, and so I'll read you the line from the French and
18 then I'll read you the line from the English and you can tell me which is correct, sir.
19 This is in the French transcript starting at line 20 -- page 59, line 26. The statement is:
20 (Interpretation) "So these complaints, for example, that young person who stole the
21 mobiles, I heard people speak about that inside the military barracks in which there
22 were members of AQIM. It's possible that it was Abou Talha who spoke to me about
23 that."

24 (Speaks English) And I'll stop there.

25 In -- if I may just read you the English line, Mr Witness, and you can tell me which is

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 correct. The English line is at page 63, starting at line 16: "So these complaints, the
2 young gentleman who stole a mobile phone in the military barracks inside there were
3 AQIM members. It might have been Mohamed Moussa who told me about this."

4 My question, sir, is just which name did you say when you -- when you spoke earlier?

5 A. [12:38:03] No, there it couldn't be Mohamed Moussa. It's Abou Talha.

6 Q. [12:38:08] Okay.

7 I hope that's sufficiently clear.

8 PRESIDING JUDGE MINDUA: [12:38:11](Interpretation) It's clear now,

9 Maître Pradhan. Thank you.

10 Let's move on.

11 MS PRADHAN: [12:38:17] Thank you.

12 Q. [12:38:20] So I'd like to go back to the answer you gave just before that point of
13 clarification, Mr Witness, where you say at page -- I'm looking at page 63 of the
14 English: "[The] organised police subsequently started to spy on people with a view
15 to applying Islamic law, which is not Islamic at all, in fact."

16 My first question is, when you say the "organised police", about which group were
17 you speaking?

18 A. [12:39:11] As I just explained, this happened on several different occasions. On
19 that occasion, I was speaking about the moment when the police were organised, that
20 is to say the Islamic police had been -- had set up at the governor's palace what they
21 called -- or the name has come back on a document. It's the *Hesbah*. The *Hesbah* is
22 that morality police.

23 As I stated, this *Hesbah* was an innovation in Islam. It's not part of the teachings of
24 the Prophet. And so I'm speaking about what the police organised within the
25 governor's palace. And they organised day and night rounds where they would

1 stop people with scooters who had a wife behind them to see if she was related to the
2 driver. Lots of incidents like that.

3 Q. [12:40:17] And again, just -- just to clarify, because I believe my question may
4 not have been sufficiently clear, when you're speaking about the group at the
5 governor's palace who spied on individuals, to the best of your recollection, were you
6 talking about the *Hesbah* or the Islamic police?

7 A. [12:40:47] It was the work of the *Hesbah*, of course. But the *Hesbah*, as I said it's
8 an innovation. I don't know a lot about that. Whatever the case, the *Hesbah* had to
9 go to the police and then to the judges. I think there's a whole procedure that needs
10 to be followed.

11 And as I stated, what shocked me in all the convictions that were made was that
12 I don't know if these convictions resulted from a Muslim behaviour or quite simply
13 because of administrative behaviour which had nothing to do with Islam.

14 I don't know the procedure that they used. Other than noting the -- other than
15 reporting the offence up to the moment of conviction.

16 Q. [12:42:03] You just stated, Mr Witness, and I'm looking at line 11 of the English
17 transcript -- well, I'll start at line 10, "Whatever the case, the *Hesbah* had to go to the
18 police and then to the judges. I think there's a whole procedure that needs to be
19 followed." How did you know about that procedure, Mr Witness?

20 A. [12:42:40] Well, what I was saying is that I didn't know the procedure. That's
21 the problem for me between what -- exactly what the morality police, the *Hesbah*,
22 were doing and exactly what the Islamic police were doing. It's difficult for me to
23 know what the limits were between the two, what the distinction was between the
24 two.

25 The dividing line between the two.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

1 THE INTERPRETER: [12:43:16] Corrects the interpreter.

2 MS PRADHAN: [12:43:18] Mr President, my next sort of set of questions I will try to
3 keep it brief, but they do need to be done in private session.

4 PRESIDING JUDGE MINDUA: [12:43:35](Interpretation) Indeed.
5 Court officer.

6 (Private session at 12.43 p.m.)

7 THE COURT OFFICER: [12:43:43] We're in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Page redacted – private session

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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- 10 (Recess taken in private session at 1.04 p.m.)
- 11 (Upon resuming in open session at 2.33 p.m.)
- 12 THE COURT USHER: [14:33:45] All rise.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [14:34:12](Interpretation) The hearing shall now
- 15 resume and Ms Pradhan may proceed with her cross-examination.
- 16 MS PRADHAN: [14:34:29] Thank you, Mr President.
- 17 I just want to confirm that we are continuing in private session at the moment.
- 18 PRESIDING JUDGE MINDUA: [14:34:45](Interpretation) Court officer?
- 19 THE COURT OFFICER: [14:34:47] We are currently in open session.
- 20 PRESIDING JUDGE MINDUA: [14:34:53](Interpretation) Private session, please.
- 21 (Private session at 2.34 p.m.)
- 22 THE COURT OFFICER: [14:34:58] We are now in private session, Mr President.
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Page redacted – private session

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Page redacted – private session

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Page redacted – private session

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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24 (Open session at 2.57 p.m.)

25 THE COURT OFFICER: [14:57:48] We're back in open session, Mr President.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [14:57:56](Interpretation) Thank you, court officer.

2 Ms Pradhan, as we have tried to do.

3 MS PRADHAN: [14:58:07] Thank you, Mr President. I do have a few more
4 questions in open session and then I believe the rest of this examination will be in
5 closed session for a period of time.

6 Q. [14:58:22] But to begin with, Mr Witness, if you recall this morning, we
7 discussed -- we discussed your interviews from July 2014 -- and again we're going to
8 be careful not to identify you. We discussed your interviews with the Prosecution
9 from July 2014 and we discussed the procès-verbal by which you would correct your
10 statements after your interviews. Do you recall that, sir?

11 A. [14:59:09] Yes, yes.

12 Q. [14:59:10] And do you recall a number of statements that you had made in those
13 interviews that we talked about in which you indicated at that time that you believed
14 that Khalid had replaced Adama as the chief of the Islamic police?

15 A. [14:59:40] No. I don't remember.

16 Q. [14:59:49] So if we return, Mr Witness, to a document at OTP tab 26, I believe
17 I can briefly refresh your memory. That's MLI-OTP-0024-0506 at page 0507.

18 And I direct you to line 14 and -- lines 14 to 17. And if you would read those to
19 yourself. And let me know if you recall reading those lines this morning.

20 A. [15:01:09] This morning? No.

21 Q. [15:01:16] Okay.

22 MS PRADHAN: [15:01:22] With the Court's indulgence?

23 It may actually be faster if I review these particular lines with the witness, if that's
24 acceptable to the Trial Chamber.

25 PRESIDING JUDGE MINDUA: [15:02:02](Interpretation) Please do, Maître Pradhan.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 But what do you want to do exactly? I don't understand.

2 MS PRADHAN: [15:02:11] I simply want to refresh this witness's memory about the
3 statements that were made in this particular document very briefly, and then move
4 on to the document that -- that we'd actually noticed.

5 PRESIDING JUDGE MINDUA: [15:02:28](Interpretation) Madam Prosecutor.

6 MS LUPING: [15:02:29] Mr President, your Honours, we have spent quite a
7 considerable amount of time going over various aspects of the transcripts of the
8 witness. I will be, in fact, asking a request to do a question in redirect for a
9 follow-up question that hadn't been asked that could have been asked.

10 But at this stage it's very hard to see what additional points can be made.

11 And my concern too is that there had been care to avoid summarising the witness's
12 testimony in a way that might mislead him as well. And at this stage we've just had
13 a summary that doesn't necessarily do justice to what was stated at the time of the
14 ICC interviews.

15 So I would request, as this has been asked on numerous occasions and answered, that
16 we move on to a different topic.

17 PRESIDING JUDGE MINDUA: [15:03:28](Interpretation) Yes, Ms Pradhan.

18 MS PRADHAN: [15:03:30] (Overlapping speakers) Yes, Mr President. And I want
19 to be clear that my intention here was not at all to go back over what we talked about
20 this morning or to go into any of these statements. I simply had a last question,
21 which I indicated this morning I would have, based on the outcome of our
22 application.

23 But because the witness does not recall what were -- what those statements were,
24 that's why I was actually endeavouring to go back to his specific statement, without
25 summarising them, to refresh his memory on one or two or those statements so that I

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 could then put the last question I had to him.

2 So I'm actually trying very hard to avoid doing exactly what my learned friend has
3 said that we are doing. The problem is simply trying to make sure that the witness
4 understands what we're talking about.

5 PRESIDING JUDGE MINDUA: [15:04:30](Interpretation) Very well. Ms Pradhan,
6 very briefly we're going to consult.

7 (Trial Chamber confers)

8 PRESIDING JUDGE MINDUA: [15:06:35](Interpretation) Very well. Ms Pradhan,
9 the Chamber is of the opinion that ultimately it's the same question that comes back
10 again. We are sufficiently edified. You can move on.

11 MS PRADHAN: [15:06:56] Mr President, is it -- again, just to clarify, may I ask the
12 question about that new document?

13 PRESIDING JUDGE MINDUA: [15:07:14](Interpretation) The Chamber has
14 understood for the new document because the question that was put, we can see the
15 line, we are sufficiently edified. There's no need.

16 MS PRADHAN: [15:07:26] Okay. The Court's indulgence for one moment.
17 (Counsel confers)

18 MS PRADHAN: [15:09:01] Apologies. I wanted to make sure I had the correct
19 record citation.

20 Q. [15:09:08] Mr Witness, I'd like now to show you a document that's marked
21 Defence tab 15 and that's D28-0005-7603.

22 And if we could scroll down to the photograph. Pause.

23 Mr Witness, was this the photograph that you were shown in July of this year?

24 A. [15:09:52] I'm sorry, I don't remember. I don't remember if he was dressed like
25 that. I don't know if it was that photo in particular, really, but his face I recognise. I

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 recognise him there.

2 Q. [15:10:13] And I'd like to turn you to a document marked -- at tab 445, marked
3 MLI-OTP-0080-4240-R1 at page 4246.

4 And it's the bottom of the page, the last full paragraph. Thank you.

5 Now, in this paragraph, this was your -- have you seen this document before,
6 Mr Witness?

7 A. [15:11:17] No.

8 Q. [15:11:21] Then I'll ask to scroll to the very beginning and show you the first
9 page of that document.

10 PRESIDING JUDGE MINDUA: [15:11:53](Interpretation) Madam Prosecutor.

11 MS LUPING: [15:11:54] I just want to clarify whether this document -- to make sure
12 that this document is not being transmitted publicly. It's a question really for the
13 court officer as well to ensure that this is not transmitted to the public gallery or
14 otherwise to the public.

15 PRESIDING JUDGE MINDUA: [15:12:13](Interpretation) Court officer.

16 THE COURT OFFICER: [15:12:14] Your Honours, that document is not broadcast to
17 the public.

18 PRESIDING JUDGE MINDUA: [15:12:19](Interpretation) Thank you very much.

19 MS PRADHAN: [15:12:22]

20 Q. [15:12:23] And Mr Witness, you see at the top of that document -- and as you
21 heard, we're not going to -- we're not going to talk about anything identifying in this
22 document, but do you see that that says "Witness Preparation Log and Note for
23 MLI-OTP-P-99"?

24 A. [15:12:51] Yes. Yes.

25 Q. [15:12:54] And do you understand that that -- that that note and that number

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 P-99 pertains to you and your testimony?

2 A. [15:13:09] Yes. You asked me if I had already seen the document, I said no, but
3 I can see what it's about.

4 Q. [15:13:17] Thank you, Mr Witness. Do you see there the dates for October 2021
5 to 12 October 2021 and does that --

6 A. [15:13:26] Yes.

7 Q. [15:13:26] Excuse me, sir, I didn't mean to speak over you.

8 Does that coincide with your meetings with the Prosecution to prepare for your
9 testimony here?

10 A. [15:13:43] Yes.

11 Q. [15:13:44] Thank you. And now if we can go to page 4246.

12 Thank you.

13 And that last photograph -- excuse me, that last paragraph, the witness was asked to
14 make a clarification regarding MLI-OTP-0024-0487 at 0503, and this was a document
15 that we discussed earlier today.

16 PRESIDING JUDGE MINDUA: [15:14:40](Interpretation) Prosecutor.

17 MS LUPING: [15:14:41] Mr President, it's not correct to say that the witness was
18 asked to make a clarification. What it states in the record and what we see here is
19 the witness asked to make a clarification. And that should be made clear in the
20 interpretation for the witness.

21 PRESIDING JUDGE MINDUA: [15:15:00](Interpretation) You're right, Madam
22 Prosecutor. But I think this is a problem of interpretation. So we'll correct that.
23 Ms Pradhan.

24 MS PRADHAN: [15:15:09] Thank you, Mr President. Indeed the witness asked to
25 make a clarification. And in the next sentence: "At lines 604 to 608, the witness

1 clarified that when he talked about the deputy chief of police of the Islamic police at
2 Timbuktu; at the time, it was Hassan."

3 And then -- I'll continuing reading for the sake of completeness:

4 "The witness said that he also talked about the first chief of police who was called
5 Adama, who was from Mauritania. The witness said that the deputy of Adama at
6 the time was Hassan, who later on became chief of police. The witness said that at
7 the time he did not remember the name Hassan; but they had not shown him a
8 picture. But when he talks about the deputy of the Islamic police in Timbuktu, he
9 remembers very well that this is Hassan. When asked to clarify whether when the
10 witness said 'at the time', he meant at the time of the interview, the witness said yes.
11 P-0099 said ... at that time of his interview, he did not remember the name of the
12 Hassan. He added that he met his lawyer before coming here, in July, who showed
13 him a picture of Hassan. When the witness went home" -- and just in abundance of
14 caution, sir, I'll allow you to read that last sentence starting with "When the witness
15 went home".

16 A. [15:16:53] Yes, I don't need to read it. I remember very well what happened.
17 So I remember -- well --

18 PRESIDING JUDGE MINDUA: [15:17:03](Interpretation) Please wait a minute,
19 Witness.

20 Madam Prosecutor.

21 MS LUPING: [15:17:05] It's just simply for the fairness for the witness, who doesn't
22 fluently read English or fluently speak English that -- which is why there was a reason
23 for having an English to French interpreter during his witness preparation, that in
24 fairness he should not be asked to read English to himself. We may need to simply
25 go briefly into private session, if that is what's required, simply to read that one

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

- 1 sentence to him. But he won't be able to be asked to be reading materials in English.
- 2 MS PRADHAN: [15:17:36] If --
- 3 PRESIDING JUDGE MINDUA: [15:17:40](Interpretation) Yes, Madam Prosecutor.
- 4 But I think that the Prosecutor (sic) recognised the paragraph in question.
- 5 Witness, are you able to answer?
- 6 THE WITNESS: [15:17:51](Interpretation) No, I remember the event in question.
- 7 And I remember exactly what happened.
- 8 PRESIDING JUDGE MINDUA: [15:17:58](Interpretation) During the preparatory
- 9 session?
- 10 THE WITNESS: [15:18:03](Interpretation) Yes, I can repeat it.
- 11 PRESIDING JUDGE MINDUA: [15:18:04](Interpretation) Please go ahead.
- 12 Yes, we are in open session.
- 13 THE WITNESS: [15:18:11](Interpretation) My lawyer showed me a photograph. I
- 14 recognise the person on the photo, but I had forgotten his name. But when I got
- 15 back home in the evening, (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 PRESIDING JUDGE MINDUA: [15:19:03](Interpretation) Very well. Thank you
- 22 very much, Witness.
- 23 Court officer, you know what you have to do.
- 24 Maître Pradhan, please continue.
- 25 MS PRADHAN: [15:19:19] Thank you, Mr President.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 Q. [15:19:22] Mr Witness, do you recall from this morning when you were
2 asked -- when I asked you when you were shown that photograph -- at the time you
3 were shown that photograph, were you told "This is Mr Al Hassan" and you
4 answered "Yes"; do you recall that?

5 A. [15:19:49] No. I remember my counsel showed me the photograph. I no
6 longer remember why. I neither remember his face nor his name I said. So he
7 made me see the photograph, perhaps he spoke. I don't know if he spoke about the
8 name Al Hassan, but whatever the case, I had forgotten it. (Redacted)

9 (Redacted)

10 (Redacted)

11 THE INTERPRETER: [15:20:46] Corrects the interpreter.

12 MS PRADHAN: [15:21:13]

13 Q. [15:21:14] Mr Witness, and here I'm -- I'd like to read to you from the transcript
14 of this morning. I'm reading from the French transcript at page 50, line 15.

15 The question is: (Interpretation) "When you were shown this photograph, do you
16 remember if you were told that it was Mr Al Hassan?"

17 (Speaks English) And the response: (Interpretation) "I don't know how -- yes.

18 I was presented it as such, I think, yes. I was presented it as such, as if one wanted
19 to present Hassan to me, yes."

20 (Speaks English) Do you recall that statement from this morning, Mr Witness?

21 A. [15:22:11] Yes, but as I explained to you, I neither remembered his face or name,
22 so my counsel showed me the photo. I recognised the person. I recognised this
23 person from his functions, but I no longer remembered his name. So afterwards, my
24 counsel might have said, this is such and such a person who's on trial today, maybe
25 he said that he's called Al Hassan. But I only got certainty about that (Redacted)

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

1 (Redacted) that gave me certainty that it was his face

2 and -- and that on that face we could put the name Al Hassan. And that refreshed

3 my memory. So there was no longer any doubt as to that in the evening.

4 Q. [15:23:13] Thank you, Mr Witness.

5 MS PRADHAN: [15:23:19] I believe that exhausts my questions for public session,

6 Mr President. The next topic I have is -- it's necessary to do in private session. And

7 I believe we -- I believe it's -- it's now 3.25. I think that will probably take us through

8 to the end of today.

9 PRESIDING JUDGE MINDUA: [15:23:44](Interpretation) Very well, Ms Pradhan.

10 We are going to go into private session until the end of today's hearing, that is to say,

11 at 4 o'clock.

12 Court officer, please take us into private session.

13 (Private session at 3.24 p.m.)

14 THE COURT OFFICER: [15:24:04] We're in private session, Mr President. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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13 Page redacted – private session

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

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13 Page redacted – private session

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Trial Hearing
WITNESS: MLI-OTP-P-0099

(Private Session)

ICC-01/12-01/18

1 (Redacted)

2 (Redacted)

3 (Redacted)

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5 (Redacted)

6 (Redacted)

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10 (Redacted)

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13 (Redacted)

14 (Redacted)

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20 (Redacted)

21 (Redacted)

22 (Open session at 4.00 p.m.)

23 THE COURT OFFICER: [16:00:38] We are in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [16:00:48](Interpretation) Thank you very much,

25 court officer.

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 Mr Witness, I think you'll have realised rather that today is the end of your testimony
2 for today. Once again, on behalf of the Chamber I would like to thank you very
3 much for making yourself available and thank you for answering the questions so
4 clearly and with such good will.
5 We shall now continue tomorrow morning. Tomorrow morning, I believe it's 10 a.m.
6 Court officer, tomorrow at 10 a.m.
7 In the meantime of course you realise that you must not talk about your testimony to
8 anyone whomsoever.
9 Before adjourning, I would like to thank everyone, the parties, participants, court
10 reporters, interpreters, security officers and the public who sometimes have difficulty
11 following the proceedings properly, given the way we are constantly going from open
12 session to private session and vice versa.
13 I'd like to wish everyone a pleasant afternoon and until tomorrow.
14 The hearing is now adjourned.
15 THE COURT USHER: [16:02:05] All rise.
16 (The hearing ends in open session at 4.02 p.m.)