

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Monday, 9 May 2022
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:10] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:31:22](Interpretation) The Court is now in
14 session.
15 Good morning, everybody.
16 Court officer, could you please call the case.
17 THE COURT OFFICER: [9:31:41] Good morning, Mr President.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number ICC-01/12-01/18.
20 And for the record, we are in open session
21 PRESIDING JUDGE MINDUA: [9:32:02](Interpretation) Thank you so much, court
22 officer.
23 Once again, good morning everybody. I would like to welcome everyone who is in
24 this room and also people in the gallery and people who are following us remotely.
25 I'd like to greet Mr Al Hassan who is here in this room.

1 As per usual, we are going to start off with the round of presentations, starting off
2 with the OTP.

3 So the representative from the OTP, please.

4 MR NIANG: [9:32:45](Interpretation) Thank you, your Honour, and presiding
5 judges. The OTP is represented by myself, Mr Mandiaye Niang. I am also
6 honoured to introduce myself for the first time before you and (indiscernible). I'm
7 also with Mr Gilles Dutertre, Dianne Luping and Lucio Garcia. And Marie-Jeanne
8 Sardachti. Thank you, your Honour.

9 PRESIDING JUDGE MINDUA: [9:33:32](Interpretation) Thank you, Mr Prosecutor.
10 On behalf of the Chamber, I would like to congratulate you for your election as the
11 Prosecutor in the -- the Deputy Prosecutor in the ICC.

12 I also would like to extend a warm welcome to you because this is the first time you
13 are putting in an appearance. On a personal note, I would like to also add that I'm
14 extremely glad and satisfied to see you in this court today, because we've actually
15 known each other for 30 years. We started as a legal expert at the tribunal in
16 Rwanda, and we also worked as judges at the former -- the international criminal
17 tribunal for ex-Yugoslavia.

18 I would like to now turn to the Defence.

19 Counsel Taylor, please.

20 MS TAYLOR: [9:34:42] Good morning, Mr President, good morning, your Honours.
21 Good morning to everyone inside and outside of the courtroom. On behalf of the
22 Defence, I would also like to welcome the Deputy Prosecutor, Maître Mandiaye, into
23 the courtroom and to congratulate him on his appointment.

24 The Defence is represented today by myself, Melinda Taylor, by Maître Michiel
25 Pestman, Ms Cécile Lecolle, Maître Mohamed Youssef, Ms Leila Abid, Maître Sarah

Marinier-Doucet, Ms Hannen Ghali and Ms Melissa Beaulieu Lussier.

And as previewed, I will be addressing the Bench and then afterwards, it will be my colleagues, Maître Mohamed Youssef, then Maître Melissa Beaulieu Lussier and then Maître Sarah Marinier-Doucet. Thank you very much.

PRESIDING JUDGE MINDUA: [9:35:39](Interpretation) Thank you, Counsel Taylor.

On behalf of the Chamber, I would like to welcome you and we are very happy to see that everyone is in good health and everyone is enthusiastic to start off with the proceedings.

I'm now going to turn to the Legal Representative of Victims. Counsel, you've got the floor.

MR LUVENGIKA: [9:36:05](Interpretation) Good morning, your Honours. The LRVs are represented by Mrs Boglioli, who's just behind me, and also by Mrs Anouk Kermiche, who's to my side, and myself, Mr Fidel Nsita Luvengika. Thank you.

PRESIDING JUDGE MINDUA: [9:36:30](Interpretation) Thank you, Counsel Nsita.

Unlike the Defence team that has grown in numbers, you have, basically, with the same number. So again, I'd like to welcome you back.

Today, we're going to start our proceedings with the opening statements from the Defence team. The roles have been inversed. Previously, it was the OTP that would -- and now it's the Defence case.

The Chamber would like that our discussions can continue with the same spirit of cooperation as it was the case when it was the Prosecution case.

Now without further ado, I'm going to give the floor to Counsel Taylor for her preliminary statements.

Counsel, you've the floor.

MS TAYLOR: [9:37:48] Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud

1 is a 44-year-old Malian national. A Tuareg from the Kel Ansar tribe. He is a father
2 to five children and a pharmacist by profession.

3 Mr President, your Honours, I am starting with these details because details matter.

4 The Prosecution's case -- these charges lie not against an abstract entity or an
5 amorphous concept, but against an individual, Al Hassan, son of Abdoul Aziz, son of
6 Mohamed, son of Mahmoud.

7 And when you write your judgment, the question you will face is not only whether
8 crimes were committed in Timbuktu, but whether this person before you, Al Hassan,
9 is to blame for these crimes, and whether he, of all persons, should be punished, and,
10 it is our submission and our evidence that he should not.

11 Al Hassan should not be convicted because he happened to live in the wrong place at
12 the wrong time with the wrong ethnicity.

13 Like many of his generation, Al Hassan was exiled to refugee camps in Mauritania
14 and then in Libya at a young age, driven there by the twin spectres of drought and
15 ethnic cleansing at the hands of the Malian army and its proxy militia.

16 He was educated in Libya at a time when the country was still under Western
17 sanctions, virtually cut off from the rest of the world. And, as a Tuareg, he was not
18 able to pursue further education in Libya, and risked being drafted into the army and
19 dragged into Libya's many wars.

20 He returned to Mali when his family came back, and did his best to eke out a living
21 and establish a home in Zorho, a village about 170 kilometres from Timbuktu. He
22 earned a meagre living through teaching, driving taxis, and then followed in the
23 footsteps of his father, a veterinarian. He trained as a pharmacist and eventually set
24 up his own pharmacy in Zorho.

25 Those who know him best at this time, describe someone whose path was not

1 particularly exceptional or different from those of other young men of his age and
2 background. Al Hassan went to music concerts in Timbuktu and even arranged
3 them. He danced in the dunes and got in trouble for flirting with girls. He sang
4 and played guitar with his friends. He was religious, but not an extremist.
5 When 2012 rolled around, Al Hassan was not a member of any political or armed
6 groups -- although lines were being drawn in the sand as the people of Azawad rose
7 up for the fifth time in 50 years to fight for their right to self-determination.
8 Now "Azawad" is a name you've heard throughout the case, but what does it mean?
9 It's an Arab version of a Tuareg word, meaning, wide empty plains, that is, the desert
10 that stretches from Timbuktu to the borders. And these plains of Azawad were full
11 of people, but empty of hospitals, schools or law courts for decades.
12 The events of 2012 did not arise from a vacuum. They were the fruits of colonisation,
13 corruption and neglect. The state of Mali was a fiction created by French colonisers.
14 It existed on paper, but never in reality.
15 The French set up their buildings, their universities, their courts in the south in
16 Bamako, but largely left the north to fend for itself in accordance with pre-existing
17 tribal customs and religious practices.
18 On the eve of the departure of the French, the notables of Azawad - through the Cadi
19 of Timbuktu - petitioned the French to recognise their right to territorial
20 independence. But afraid that this could lead to a domino effect in neighbouring
21 countries, the French refused outright independence.
22 Instead, they opted for ambiguous compromise: Autonomy and a special status for
23 the north. Words that can mean everything in theory and nothing in practice.
24 And for decades, the people and cities of Azawad were marginalised and victimised.
25 Attempts to achieve change were derailed by a combination of reprisals and

1 divide-and-rule politics.

2 The post-colonial state of Mali was formed in 1960. And the first Tuareg rebellion

3 was launched two years later in 1962,

4 put down with the help of weapons from Morocco and Algeria.

5 The government responded by imposing military rule and martial law in the north

6 and forbidding tourism.

7 Severe droughts and poverty forced many into exile over the coming decades, until

8 the next Azawad rebellion was launched in the 1990s.

9 Mr President, your Honours, this is a photo from the 1990s.

10 On the left, you see Iyad Ag Ghaly. In the middle, Ibrahim Bahanga, and, on the

11 right, Ibrahim Ag Alhabib. You have heard the first two names in the case before.

12 In the charges, Iyad Ag Ghaly is described as the head of Ansar Dine.

13 Prosecution witnesses have testified in relation to the role of Ibrahim Bahanga in

14 leading the National Movement for the Liberation of Azawad, that is, the MNLA,

15 before he died in 2011. The person on the far right is Ibrahim Ag Alhabib, the famed

16 rebel guitarist for the band, Tinariwen.

17 Their journey to these positions started with the 1990s, when they were simply three

18 Tuareg freedom fighters. Their paths may have since diverged, but like everyone

19 else in the Tuareg and Azawad community, they crossed and were connected by the

20 shared cause of Azawad.

21 They returned from Libya in the 1990s, and, with a band of very few, took on the

22 Malian state and won in the sense that they brought Mali to the negotiating table and

23 obtained key concessions for the north.

24 This included the promise that the Malian army would reduce its presence in the

25 north. Rebel combatants would be integrated into the Malian army and units

1 deployed to the north would include Azawadis who would be less likely to target
2 other Azawadis. It also included the promise that there would be greater political
3 and security autonomy for the north and more development.
4 These promises were never kept. In 1994, only two years after the national pact was
5 signed, the Malian army reportedly sponsored an attack on the Tuareg village of Kel
6 Essouk, razing the village, killing dozens of innocent civilians.
7 This incident was not unique or exceptional. You will hear similar accounts from
8 Defence witnesses, of family and relatives killed in cold blood by the Malian army.
9 Innocent Azawadi civilians who were targeted due to their ethnicity. And you will
10 hear how these atrocities sowed the seeds for future rebellions.

11 (Viewing of the video excerpt)

12 "[Journalist]: Their veteran commander, Meshkenani, is the fourth generation from
13 his family to rise up against Mali and its forerunner, colonial France.

14 [Colonel Meshkenani Ag Bela:]"

15 (No interpretation)

16 MS TAYLOR: [9:48:26] If we could have interpretation?

17 THE INTERPRETER: [9:48:51] (Interpretation of the video excerpt)

18 "[Colonel Meshkenani Ag Bela:] We have a deep-rooted and bitter history. We
19 fought French imperial forces until they left. We never accepted colonialism, nor
20 when France gave our land to Mali without our consent. Ever since then, we have
21 never stopped struggling. Every decade, we start a new rebellion for our rights.

22 [Journalist] For Meshkenani, the victory at Gao was bittersweet. It was he who'd led
23 the failed effort to take this place 20 years before.

24 [Colonel Meshkenani Ag Bela:] This is the prison where we were put back [in 1990].

25 This is the prison that we were in. This is where we were kept by the Malian

1 authorities.

2 These are the names. My friends were tortured to death, here, under interrogation,
3 with electric shocks and from not being allowed to drink and from beatings."

4 MS TAYLOR: [9:50:26] The rebellions of the past impacted the future. Past
5 atrocities fueled the desire to obtain more control over their homeland to ensure their
6 own protection from these atrocities. Past exactions by the Malian army led to
7 a form of generational trauma, triggering a fight or flight response from the Tuareg
8 community when the army launched operations against the rebels in 2012.

9 Now in 2006, Iyad Ag Ghaly was among the leaders of the third Tuareg uprising and
10 was again successful in bringing the Malian state to the negotiating table where the
11 state again made promises to provide more autonomy and development in lieu of
12 outright independence. And, importantly, the state promised again that the north
13 could have more say and control over security and protection.

14 The state once again failed to honour its commitments.

15 At the same time, the state attempted to weaken opposition by stoking ethnic and
16 tribal rivalries and divisions in the north. And the politics of division entailed
17 supporting and arming various militia groups and giving free reign to Al-Qaeda in
18 the north.

19 And I would ask for the next section to also be interpreted.

20 (Viewing of the video excerpt)

21 "[Journalist:] Colonel Salat was once a top officer in the Mali army in charge of
22 Aguelhok, a Tuareg town deep in the desert where, for 10 years, Al-Qaeda operated
23 openly. When the colonel asked for permission to expel the mujahidin, he says the
24 army ordered him to leave Al Qaeda alone."

25 THE INTERPRETER: [9:52:24] (Interpretation of the video excerpt)

1 "[Colonel Al Salat Ag Habi:] They are the ones who opened the land to Al-Qaeda to
2 roam in the refugee camps and in -- and in the villages thinking by that, they are
3 going to have an impact on the continuing Tuareg rebellion, which has been going on
4 against the governing regime for 50 years."

5 MS TAYLOR: [9:53:13] Mr President, your Honours, Al-Qaeda did not arrive in
6 northern Mali in 2012. It had been there for many years before, with the complicity
7 of the Malian state.

8 Defence witnesses will give evidence that the Malian state not only failed to take steps
9 to confront or expel Al-Qaeda, members of the army and security services actively
10 collaborated with it, taking a cut from hostage negotiations.

11 And, there were successive unsuccessful attempts to use peaceful means to convince
12 the Malian government to fulfil its obligation to create a safe and secure environment
13 for the people of Azawad.

14 In November 2009, Alghabass Ag Intalla - the son of a respected tribal leader in Kidal,
15 elected member of the national assembly - set up the *réseau de plaidoyer en faveur de la*
16 *paix, de la sécurité et du développement au Nord-Mali*.

17 This network attempted to convince the government through peaceful avenues,
18 political steps -- to take steps to stop the trafficking, to fight and expel extremists in
19 the north and to promote development as a bulwark against Al-Qaeda recruitment.
20 These pleas fell on deaf ears.

21 In 2010, a group of Azawadi youths and intellectuals set up the MNA, the National
22 Movement for Azawad. The MNA was a political group dedicated to achieving
23 social justice for Azawad through nonviolent means.

24 But its efforts, its entreaties, were also rebuffed. In November 2010, when the
25 movement attempted to launch its declaration in Timbuktu, the Malian authorities

1 illegally arrested and detained two of its leaders, Moussag Ag Achratoumane and
2 Boubacar Ag Fadil.

3 The fall of Gaddafi in Libya and return of trained Tuareg soldiers, like Ibrahim
4 Bahanga and Mohamed Ag Najim, led to the "L" being added to the MNA. The
5 National Movement for Azawad became the National Movement for the Liberation of
6 Azawad, that is, MNLA, in French.

7 At this point, they didn't see armed struggle as a choice, but as the only means for
8 survival.

9 Now I would ask the interpreters to interpret the next section of the transcript that
10 has been given to them.

11 (Playing of the video excerpt)

12 THE INTERPRETER: [9:56:15] (Interpretation of the video excerpt)

13 "[Bilal Ag Cherif] The right of the Azawadi people to self-determination is a life or
14 death issue. The Azawadi people have taken a final decision to restore their historic
15 rights, their right to form their own entity, their right to found a state. This is not
16 a new demand. It's a demand that goes back to 1957, when a group of Azawadi
17 leaders signed a petition for the French government.

18 The Azawad area is not tied to Mali in any way, other than the presence of the Mali
19 army and security forces. This army no longer has any role in securing and
20 stabilising the area. It has no role other than persecuting the people and instilling
21 fear and terror in the minds of people of Azawad."

22 MS TAYLOR: [9:57:15] Now, as stated by MNLA leader, Bilal Al Cherif in this
23 video:

24 "The right of the Azawadi people to self-determination is a life or death issue."

25 The Azawadi people also followed their siren song. Why? Because once the

1 wheels of rebellion started turning, they didn't see any other choice for survival. The
2 word "Tuareg" had once again become synonymous with "rebel" or "terrorist". They
3 knew that if they stayed in Mali, they would be labelled and treated as a rebel or
4 terrorist, no matter what they did.

5 Now, I would ask for the next section to be translated.

6 (Playing of the video excerpt)

7 "[Journalist:] In Tuareg villages of the Malian Sahara, young men were joining the
8 MNLA rebels. Sheikhu had just returned from the nation's capital, fleeing riots
9 against people of the desert north.

10 In Mali, the Tuareg are in the minority, and people in the south were angry that
11 Tuaregs were trying to divide their country.

12 THE INTERPRETER: [09:58:35] (Interpretation of the video excerpt)

13 "[Sheikhu Al Kibeer:] They were searching for fair-skinned people. I went into
14 hiding. I was lucky they didn't see me. If they saw you, they would try to kill you.
15 When I returned here, I found our animals were starving. They were too weak to
16 stand up. We had to help them stand. There isn't anything for them to eat. Our
17 animals are all dying. There's nothing. (Microphones overlapping)

18 [Journalist:] In Mali, state power lies with the farming tribes of the sub-Saharan south.
19 The vast northern desert is underdeveloped, remote from services and
20 decision-making. The Tuareg have risen up seven times against Mali and Niger,
21 since their independence in 1960. Villages like this provide the foot soldiers. Seven
22 families lost fathers here, killed by the army during a previous Tuareg uprising in the
23 1990s."

24 THE INTERPRETER: [10:00:25] (Interpretation of the video excerpt)

25 "[Sheikhu Al Kibeer] There isn't -- there isn't enough to eat. There is no food aid

1 from the government for our people or animals. Development and assistance
2 programmes never reach our area. The poverty is almost killing us. When
3 emergency aid comes, they keep it for themselves in the south. There is no
4 development. There are no projects. There is nothing for us. That is why we have
5 risen up. We don't want to live together with them anymore."

6 MS TAYLOR: [10:01:09] Reprisals, poverty and fear. This was a powerful
7 compound of elements that coalesced into a choice between rebellion or forced exile.
8 And, thousands did flee.

9 Mr President, your Honours, you have already heard evidence from Prosecution
10 witnesses concerning their dangerous route to exile. One Prosecution witness
11 testified that while he was en route to a neighbouring country, his drivers were
12 stopped by pro-government militia, who accused them of being rebels and tied them
13 up and tortured them. This witness explained how this incident spurred him to join
14 the MNLA.

15 Those that succeeded in reaching the camp faced a humanitarian nightmare as the
16 overcrowded camps and surrounding countries were ill-equipped to handle the mass
17 exodus of Azawadis fleeing the Malian army. Defence witnesses that went into exile
18 will describe the extremely difficult conditions they faced. And, these conditions
19 and difficulties were also documented at the time in reports and videos, which I will
20 ask to be interpreted.

21 (Viewing of the video excerpt)

22 THE INTERPRETER: [10:02:49] (Interpretation of the video excerpt) "These families
23 coming from northern Mali have finally arrived in Mauritania after a long journey of
24 suffering in search of a safe haven. After the security procedures and identity checks
25 are completed, they will be granted refugee status in this camp, which receives daily

1 about 300 arrivals from Mali.

2 [Sheikh Ahmed - state nurse] One thousand and seventy-two pregnant women,
3 including 71 serious cases, among which there are cases of pressure and -- blood
4 pressure. We have 133,000 and 156 -- "

5 Inaudible --

6 "-- registered here, including 650 cases of medium malnutrition and 250 cases of
7 extreme malnutrition.

8 [00:40] Ali was one of the first to arrive in the camp when clashes erupted between the
9 Malian army and the armed groups months ago. He left his capital from livestock in
10 Mali and became subsistent from selling firewood to refugees. An entire family fled
11 with him, complaining of distress and lacking medicine and food.

12 [01:00] [Miriam - wife of Ali Ould Ahman:] They gave us four kilograms, and we
13 don't take oil, sugar, dates, quilts, mats, or cooking utensils.

14 [01:11] The Mauritanian and international humanitarian relief organisation is trying
15 to extend a helping hand to more than [100,000] refugees in this camp. It expressed
16 its concern over the deteriorating health conditions of the refugees, whose number is
17 increasing, which is described as worrying, compared to the available resources.

18 [01:29] Patodi Wabu - Oxfam representative in the refugee camp:

19 There are funding challenges. The situation of Malian refugees in this camp raises
20 major problems. Because there aren't enough sources of funding from donors to
21 meet the needs of those people.

22 [01:46] Narrator: The suffering of the refugees may be exacerbated by the advent of
23 the rainy season and the accompanying outbreaks of epidemics, as well as difficult
24 living conditions, high rates of malnutrition, severe shortages of potable water and
25 lack of hygiene.

1 [02:02] Zainab Bint Arbia: The acceleration of the arrival of the Malian refugees
2 made the humanitarian relief organisations active in the field, sound the alarm from
3 inside the camp, and from here, from Nouakchott, to demand the international
4 community to help them in order to avoid the worst.

5 Zainab Bint Arbia, Al-Jazeera, Nouakchott."

6 MS TAYLOR: [10:05:21] A Defence witness that stayed in Mali will explain that he
7 would have preferred to face death rather than go into exile without his family, that
8 could not travel or the animals he depended on for survival.

9 Now, to turn back to Al Hassan Ag Abdoul Aziz. In 2012, when the rebellion broke
10 out, Al Hassan was now himself a father. He was married and had a two-year-old
11 son and his wife was in the brink of giving birth to their second child. Exile was not
12 an option for him.

13 Al Hassan's pharmacy in Zorho shut down after he lost his supply of medications.

14 As soon as it was safe to travel there, he went to Timbuktu to try to search for
15 medicines to sell or a job of any kind to support his family.

16 Many of his friends joined the MNLA, but while Al Hassan shared many of its ideals
17 and the dream of achieving a better life for the people of Azawad, the MNLA was
18 also plagued by allegations that it was disorganised. That it lacked discipline. That
19 it had failed to maintain control over ranks, swollen with soldiers who had never
20 lived in Mali.

21 After the MNLA approached and entered the bigger cities of Gao and Timbuktu, the
22 local populations leveled accusations of looting and even rape against them. These
23 allegations were widely reported. For this reason, Defence witnesses will explain,
24 the religious leaders of Zorho warned the locals that if they joined the MNLA, they
25 could find themselves pursuing a path of crime. The religious leaders therefore

1 instructed the men of Zorho that they should join Ansar Dine instead. This was
2 because Ansar Dine had the same ideals as the MNLA, but was committed to
3 respecting the Islamic faith and traditions. So no theft, no rape, no crimes.
4 So who or what was Ansar Dine?
5 When the MNA mobilised and became the MNLA, it was first led by Ibrahim
6 Bahanga. But after he died in 2011 in a mysterious accident, the group decided to
7 place at their head new leaders who could promise a fresh start, and, for them, that
8 was not Iyad Ag Ghaly. At this point, Iyad Ag Ghaly's past successes were
9 a double-edged sword. Many MNLA members accused him of becoming too close
10 to the Malian state. The state had, after all, appointed Iyad as their consul to Saudi
11 Arabia and used him as an envoy in hostage negotiations.
12 Shunned by the MNLA, Iyad set up his own group, Ansar Dine, defenders of the faith.
13 Past rebellions had failed after united fronts were torn apart by tribal and ethnic
14 rivalries stoked by Bamako. Iyad learned from this lesson the importance of having
15 a unifying bond. Given that the population in the north of Mali is predominantly
16 Muslim - and, conservatively so - the Islamic faith supplied this bond.
17 Ag Ghaly convinced Alghabass Ag Intalla to join him as the political leader.
18 Alghabass agreed on the proviso that Ansar Dine committed to a path of negotiation,
19 operated within the territorial limits of Azawad and respected the customs and
20 traditions of its people, that is, the Islam of the Malekite tradition.
21 They were also joined by an individual called Sheikh Ag Aoussa who had deep ties
22 and authority within the Tuareg community.
23 And if I could have interpretation for the next video.

24 (Viewing of the video excerpt)

25 THE INTERPRETER: [10:10:55] (Interpretation of the video excerpt) "My friends,

1 listen and understand, you know you only have one country, only one faith and only
2 one objective. Build unity from one hand.

3 The first song was composed to unite the youth, so that they would join hands with
4 one another.

5 My friends, you know the suffering. It holds you and doesn't let go. You are all
6 tied to the same pillar. My friends, listen to me. You know the suffering. Your
7 brothers and sisters are also tied to it and only the union can free you. This song
8 reminds us of all the hardships we have endured. Our tents that were lit on
9 fire -- our tents that were lit on fire, our relatives that were burned. That was the
10 role of this first song.

11 MS TAYLOR: [10:12:36] In this extract from a 2006 documentary, you saw and heard
12 Sheikh Aoussa explaining the meaning behind one of the songs he wrote for
13 Tinariwen, the famed Tuareg band. As you heard, the song has the lyrics:
14 You know you only have one country, one faith and one objective and that was to
15 build unity from one hand.

16 Sheikh Aoussa explained that he wrote this song to unite the Azawadi youth. It was
17 to remind them of the hardships they had endured, the tents that were lit on fire, the
18 relatives that were burned.

19 Like many other Tuaregs, Sheikh Aoussa was a poet who loved music, but like many
20 other Tuaregs, the desire to save and protect his people from further massacres and
21 further harm was stronger and faith motivated different tribes to come together and
22 build unity from one hand.

23 In short, today, Iyad Ag Ghaly might feature in many most-wanted lists - and the
24 image you might have is a bearded person on these lists - but in 2012, Iyad and the
25 group he founded, Ansar Dine, had the most pro-Mali, pro-negotiation and

1 anti-crime credentials and the people who led Ansar Dine with him gave Ansar Dine
2 a substantial veneer of legitimacy and moderation.

3 Neutrality or staying on the sidelines was also not an option for those of the Tuareg
4 community that stayed in Mali.

5 Defence witnesses will explain that as a Tuareg in the north, you were damned if you
6 did, damned if you didn't. It didn't matter if you joined one of the groups or not. If
7 you were caught by the Malian army, you would be labelled a rebel and treated as
8 such, that is, you risked being killed, tortured or "disappeared" simply because of
9 your skin colour.

10 The Tuareg tribes also pressured their members to join the groups, including the one
11 that would offer the best prospects for protection in their area.

12 Al Hassan eventually started working with Ansar Dine, but he wasn't among the first
13 to join or even among the second or third waves. He started working with
14 Ansar Dine, with the Islamic police, after Ansar Dine had been in existence for several
15 months and after it had installed itself in Timbuktu for about a month. Ansar Dine
16 and its presence in Timbuktu was, by this point, a fait accompli.

17 Mr President, your Honours, the Prosecution's case is predicated on a false dichotomy
18 that if Ansar Dine had not been there, everything would have been rosy, business as
19 usual, the best of times and not the worst of times and that Ansar Dine was the sole
20 and only cause of everything bad that happened in Timbuktu.

21 But that portrait bears no resemblance to the reality.

22 The Malian state was not waiting in the wings to rescue and protect the people of
23 Timbuktu because it did not exist at this point.

24 (Viewing of the video excerpt)

25 THE INTERPRETER: [10:17:03] (Interpretation of the video excerpt)

1 "[Bilal Ag Cherif:] Mali has failed in the Azawad region. They didn't provide
2 security for the world here. They didn't provide development for the Azawadi
3 people or stability for themselves here. Talking about Mali as a military or political
4 power in Azawad is over. Even if we told Mali to return, it couldn't. Mali is
5 incapable of controlling Azawad."

6 MS TAYLOR: [10:17:30] As stated by Bilal Ag Cherif, "Even if we told Mali to return,
7 it could not."

8 Mr President, your Honours, the notion of a functioning Malian state was, in 2012,
9 a mere mirage.

10 When the MNLA launched its rebellion in the north, the weak semblance of state
11 control very quickly crumbled. The Malian army was not defeated. It collapsed
12 with soldiers deserting or defecting.

13 The other symbols of the Malian state followed suit: Judges, lawyers, the police,
14 they all left leaving a complete vacuum of law and order.

15 In the middle of March, members of the Malian army launched a coup d'état against
16 the Malian government. They established military rule and suspended the Malian
17 constitution.

18 Now the Prosecution has alleged that the actions of Ansar Dine violated the Malian
19 constitution, but the Malian state had itself decided to suspend the constitution and
20 they did so before Ansar Dine arrived in Timbuktu.

21 Ansar Dine did not displace the Malian state because the state had already
22 abandoned Timbuktu and left the Timbuktiens to their fate. The choice in April '12,
23 was not between Ansar Dine and Malian state, but between Ansar Dine or the MNLA
24 or Al-Qaeda alone.

25 Defence witnesses will describe the days that followed the coup d'état. The MNLA

1 had surrounded Timbuktu, although the Arab militia - also known as Dina's
2 group - had been tasked to ensure its protection. Deals had been done to pave the
3 way for the MNLA to take over.

4 But rather than protecting the population, the groups turned to carving up the spoils,
5 taking what was valuable, destroying what was not. The local Songhai population
6 thought that they were on the brink of a catastrophe; that there would be a settling of
7 scores due to decades of ethnic warfare.

8 You have already heard evidence from Prosecution witnesses who thought that they
9 would be massacred by the MNLA or Arab militia and Defence witnesses from the
10 local population will corroborate these sentiments. They will testify that in their
11 time of need, Ansar Dine saved them, protected them and helped them; that things
12 would have been worse for them if Ansar Dine had not been there at that point.

13 The Defence witnesses will explain that there was a pyramid of needs at this point
14 and security and order were at the top. And this is because security and order
15 protected the hospital and allowed it to function. Security and order were necessary
16 for the electricity and water services to function. Security and order were necessary
17 for the tradespersons and markets to function. Security and order were necessary
18 for Timbuktu to receive and distribute humanitarian assistance among its population,
19 and, security and order were necessary to stop the different ethnicities and tribes
20 from turning on each other and settling scores.

21 When Iyad Ag Ghaly came to Timbuktu in April, he promised security and order.
22 He promised assistance. He promised that Ansar Dine would help Timbuktu get
23 back on its feet, and, Ansar Dine with the help of Al-Qaeda, delivered on these
24 promises.

25 The rebels, that is, the MNLA and Arab militia, redeployed out of civilian areas.

1 Ansar Dine assigned people to protect the essential infrastructure of Timbuktu from
2 further harm and destruction. The black flag flew in Timbuktu, but after Ansar Dine
3 had entered and Al-Qaeda entered Timbuktu, they were viewed as a saviour of sorts,
4 a quasi-humanitarian NGO.

5 And if I could have interpretation.

6 (Viewing of the video excerpt)

7 "[Journalist:] In the Sahel in Sahara, hunger and malnutrition are chronic. And in
8 northern Mali, they're made even worse by instability and conflict.

9 At Timbuktu hospital, known members of Al-Qaeda, like Sanda, were ever present
10 ready to offer aid to the worst affected. In northern Mali, Al-Qaeda transformed
11 itself into a humanitarian NGO, providing medical supplies and food."

12 MS TAYLOR: [10:23:54] To the Tuaregs that stayed in Mali, the ones who were
13 caught between the devil and the deep blue sea, these good deeds were important
14 because they saw Ansar Dine helping people, not hurting them.

15 And if I could have interpretation for the next section.

16 (Viewing of the video excerpt)

17 "[Journalist:] But some people were glad to see the mujahideen. Like Tuareg
18 families who lost their traditional herding way of life, now living in slums in the city."

19 THE INTERPRETER: [10:24:38] (Interpretation of the video excerpt)

20 "[Fatimatou Wuld Aghaly:] All of our animals died from drought. We had some
21 crops and they failed too. Everything collapsed. The rainy season was poor and
22 nothing can make up for that. There just is not enough water.

23 [Journalist:] Fatimatou says Al-Qaeda are feeding her family. [Fatimatou Wuld
24 Aghaly:] Each time they come here to distribute aid, they give some of it to us.

25 And they clothed our girls. They brought them hijabs and proper clothes. We

1 cannot lie before God. They are helping strengthen our faith. Nothing come to us
2 except for the grace of God. We have nothing but the grace of God.

3 [Journalist:] After 10 years in northern Mali, with millions of dollars to spread,
4 Al-Qaeda and its affiliates had finally drawn recruits away from the secular Tuareg
5 rebellion.

6 [Tariq:] What attracts me to Ansar Dine is that they are assisting the people. Not
7 only the impoverished Tuareg, but all poor people everywhere. They are giving
8 material gifts of charity to everyone. And they are actively supporting orphans. In
9 Tessalit town, I saw them call all the orphans to the mosque and they gave them,
10 money, money, money. They gave each child 2,500 dollars in Algerian currency. It
11 is something beautiful."

12 MS TAYLOR: [10:27:06] So when Al Hassan started working with Ansar Dine in
13 May 2012, it had established its presence in Timbuktu. Its infrastructure, its
14 hierarchy, its goals and rules were fait accompli. And its work in ensuring security
15 and distributing aid had won local hearts and minds.

16 And if I could have interpretation.

17 (Viewing of the video excerpt)

18 "[Journalist:] In the market place, people gathered to talk to the new leaders, some
19 with complaints, some with demands and some just out of curiosity. At least, in
20 front of them, people spoke favourably of the men in charge.

21 [Sana:] We are very happy for the arrive for these people. When they did not
22 coming, we're very fry.

23 [Unidentified speaker:] Afraid.

24 [Sana:] Afraid. When the come, they said for the people, 'We are here for us. For
25 you. We are here for peace.'

1 [Amadou Sidibe:] I thank these people who, after the Malian army fled, came here
2 to enforce law and order. People here are suffering a lot. They don't have jobs or
3 food or anything. But at least, they have security.

4 [Journalist:] That security, however, is not certain. There is a potential for
5 confrontation. The area is divided between rival groups of Ansar Dine, which do
6 not recognise the new state announced by Tuareg fighters.

7 [Unidentified speaker:] Our stance towards the Republic of Azawad is just like our
8 stance toward all other republics. They do not concern us. Our purpose is to
9 spread Islam on the land of God.

10 [Journalist:] Among the scenes, Ansar Dine wanted us to film is this, they also
11 distribute cereals in mosques and provide water and power services for the
12 population, a battle for hearts and minds in an area that stands at the crossroads, not
13 certain if it will continue to be part of Mali or become a new state or turn into another
14 lawless land."

15 MS TAYLOR: [10:29:31] In this extract, you heard a member of the local Songhai
16 population explain that before Ansar Dine arrived, they were very afraid. But after
17 Ansar Dine arrived, they were very happy and did not want them to go.
18 You have already heard evidence from Prosecution witnesses concerning the positive
19 steps taken by Ansar Dine. The free medical care, the free electricity and water.
20 And Defence witnesses will further describe and explain the critical assistance that
21 Ansar Dine and Al-Qaeda provided in keeping Timbuktu as a town afloat. This
22 included securing vital facilities from acts of theft and banditry; helping cultivators in
23 the field by arranging for transport and fuel; helping transport old and sick people to
24 the hospital, and, unlike the past, ensuring that humanitarian aid was distributed
25 among the population fairly without corruption.

1 Timbuktu enjoyed the lowest mortality rate throughout Mali at this point.

2 Defence witnesses will describe the role that Adam and the Islamic police played in

3 hearing complaints and solving problems.

4 After Ansar Dine and Al-Qaeda first arrived, a green number was distributed that the

5 local population could call if they needed help or wanted to report a complaint, and

6 the local population did use this number. They actively sought out the help of

7 Ansar Dine. They called the Islamic police. They came to the police station for

8 assistance because they wanted to have the police resolve these issues for them.

9 They saw this service as a positive contribution to the daily life of Timbuktu.

10 And what would have happened if, during this precarious time, the Islamic police

11 were not there to hear and resolve disputes? The chaos, the crimes, the settling of

12 scores, they would have continued. It would have been the law of the jungle.

13 You only need to look to Bamako to see what would have happened if religious order

14 had not stepped in to fill the gaps of a flawed judicial administration.

15 In 2011 and 2012, the local population in Bamako became completely disillusioned

16 with the ineffective and corrupt judicial system. Fed-up with thieves being able to

17 bribe their way out of prison, they reinstituted the practice of article 320, and this is

18 a practice where mobs track down thieves, douse them in petrol and set them alight.

19 Mr President, your Honours, you have already heard evidence in this case concerning

20 at least seven such vigilante killings that occurred in the first months of 2012 alone in

21 Bamako.

22 Now turning back to Timbuktu.

23 When Al Hassan joined the Islamic police, the emir was Adam. Defence witnesses

24 will describe Adam as someone who rubbed shoulders and joked with everyone. He

25 was well liked and appreciated, particularly among the Songhai population.

1 An article published by the UK newspaper, The Times, describes Adam as having
2 earned the unusual reputation as Al-Qaeda's friendliest jihadi. A Timbuktu tour
3 guide, interviewed by the publication, gives the following account:

4 "He is like a superstar," said Aboubakar, a former tourist guide who fled the town
5 two weeks ago. "Everyone is talking about him. He is always very careful with the
6 people and he is always very polite. He tells his people not to be aggressive and he
7 is always very open and smiling. They told us if we have any problems about the
8 movement we can go to see him."

9 Mr President, your Honours, Prosecution witnesses have described Al Hassan as
10 someone who was gentle, kind and helpful. And Defence witnesses will describe
11 Al Hassan as someone who did what he could to help the local population. He had
12 a reputation for being approachable and helpful. He did not discriminate and, as an
13 added bonus, he spoke local languages.

14 They will explain that that is why his name was known and his presence in the
15 Islamic police was known to the local population. The locals knew that if they
16 approached Al Hassan, he would try to find a way to help them or refer the matter to
17 someone who could.

18 Defence witnesses who are insiders or have first-hand knowledge of the inner
19 workings of the group will testify that after Adam left the Islamic police, he was
20 replaced by Khaled Abou Souleiman, who was from the Polisario.

21 Adam spoke French and socialised and bantered with the locals. But Khaled did
22 neither. He used a nom de guerre and his face was often covered. His name, his
23 position, were not known to the locals. Indeed, Defence witnesses will explain the
24 difficulties that the local population faced in knowing who did what and who was
25 responsible for what.

1 Many of them knew Al Hassan's name because he was from Timbuktu. He used his
2 real name. He never covered his face. Al Hassan worked as an interpreter and an
3 administrator, and since these are office functions, he would be in the police office.
4 As a result, Al Hassan was the person that locals could find if they wanted help.
5 And that is why he became the go-to guy, the face of the commissariat, even though
6 Adama and then Khaled were the emirs.
7 Security and order came with rules. And the Prosecution has made much ado of
8 these rules being new, of them being foreign, except they weren't particularly new or
9 foreign. Maître Youssef will address you on this point and describe the various local
10 efforts that took place before 2012, efforts to implement similar rules of good conduct
11 and to prohibit immoral behaviour.
12 The use of Sharia was also not new to Timbuktu. Sharia or Islamic law and religious
13 judges, known as the "cadi", had long played a key role in ensuring social stability
14 and order in a region bereft of state-sponsored justice.
15 Throughout the Prosecution case, the Prosecution peppered witnesses with questions
16 as to whether the Islamic tribunal in Timbuktu adhered to Western notions of due
17 process. Were defence lawyers present? Was there a judge specialised in juvenile
18 justice waiting in the wings?
19 Now these questions, these arguments, they miss the larger point. Before
20 Ansar Dine arrived in Timbuktu, there was no due process. There were no fair trials.
21 There were no defence counsel. There were no specialised judges, because there
22 were hardly any judges or courts in the north of Mali.
23 The state-justice system as applied in the north of Mali was widely considered to be
24 inexistent or ineffective or discriminatory, biased and corrupt; whereas Malian laws
25 promulgated in French in Bamako were not known by the Tuareg and

1 Songhai-speaking populations of the north. The Koran and Koranic principles were
2 broadly known and understood, religious law was known. It was certain and was
3 widely considered to be more legitimate than Malian law.

4 As confirmed by Prosecution expert P-643, given the deficiencies in the Malian justice
5 system, the religious judge, that is the cadi, played a key role in ensuring access to
6 justice in Timbuktu. The cadi was, in fact, more trusted as an agent of justice than
7 formal Malian justice institutions.

8 Before, during and after 2012, Sheikh Houka Houka received and adjudicated
9 complaints from the local population as did many other religious leaders and cadis.

10 The Malian authorities were fully aware of the role that he played before 2012, and
11 the role he continues to play.

12 Defence witnesses will also give evidence concerning the broad category of cases
13 heard by cadis, and this included cases of marriage, divorce, theft, assault, even
14 murder.

15 At the beginning of 2012, in order to assuage the stirrings of rebellion, the Malian
16 authorities proposed that each northern city should have its own imam and cadi, but
17 this wasn't even a new proposal. It was simply the state repeating what it already
18 committed to do during past peace agreements.

19 And in 2012, there was no disagreement between the different groups in the north as
20 concerns the use of religious judges. If it had been the MNLA and not Ansar Dine
21 that stayed in Timbuktu, or if Al-Qaeda had never come to town, there still would
22 have been an Islamic tribunal or a court in Timbuktu that applied Sharia. When the
23 MNLA convened a meeting of imams and religious leaders in Gao in April 2012, they
24 agreed to set up religious courts and apply Sharia in Azawad.

25 And when the MNLA and Ansar Dine agreed to set up a transitional governance

1 authority in Azawad, they both agreed to the use of religious courts and the
2 applications of Sharia.

3 And these agreements occurred because the traditional religious justice system was
4 the only system that they had the capacity to apply in the circumstances. People
5 wanted security and order to avoid violence, to avoid crimes being committed, and
6 that is what traditional religious justice achieved.

7 As explained by Bilal Ag Cherif, the MNLA leader, in a June 2012 interview:

8 "The people of Azawad are 100 per cent Muslim and it is a moderate Islam."

9 He continues:

10 "The people have already regulated their problems before the imams and the cadis of
11 the village before going to the police or before the Malian justice system. We --"

12 Meaning the MNLA and Ansar Dine --

13 "have just officialised on paper the reality of Azawadians."

14 And when Ansar Dine and Al-Qaeda came into Timbuktu, when they set up the
15 Islamic tribunal, they publicly promised that they would interpret and apply the
16 Koran in accordance with the Malekite tradition, a tradition that will be explained by
17 my colleague, Maître Youssef.

18 Now if we bring this back to our client, Mr Al Hassan Ag Abdoul Aziz, we would
19 have to ask what any of this has to do with him?

20 Al Hassan played no role in the decision to set up an Islamic tribunal in Timbuktu.

21 It would have existed even if he never existed. Al Hassan played no role in policy or
22 religious questions concerning how Koranic law should be interpreted and applied by
23 the groups in Timbuktu or by the Islamic tribunal in specific cases.

24 THE COURT OFFICER: [10:45:10] Excuse me for interrupting. We've had the
25 Arabic interpretation on the English channel.

1 (Pause in proceedings)

2 MS TAYLOR: [10:45:32] Al Hassan --

3 (Counsel confers)

4 MS TAYLOR: [10:46:10] Al Hassan also played no role in the decision-making
5 processes of the Islamic tribunal.

6 Prosecution witnesses have already testified the tribunal conducted their own
7 investigations and did not rely on police reports when formulating their decisions.

8 Al Hassan was a member of the Islamic police, and, as a member of the Islamic police,
9 he was obliged to respect and execute the decisions of the Islamic tribunal. And this
10 is what the police around the world do: they execute decisions and judgments.

11 The very notion of law and order depends on their full compliance.

12 Mr President, your Honours, blaming Mr Al Hassan for the contents of these
13 judgments would be the same as blaming the security guards in this courtroom
14 currently sitting next to him for the content of your future judgment, simply because
15 they are the ones who brought Al Hassan in and out of the courtroom.

16 Disobedience was also out of the question. It was simply inconceivable. As my
17 colleague Maître Youssef will explain, the *cadi* speaks with the voice of God. Going
18 against the *cadi* means going against the Islamic faith and, if you do so, you will be
19 expelled from the Islamic faith.

20 Al Hassan would have also risked being branded a traitor or a spy and being dealt
21 with as a traitor or spy.

22 Now during the Prosecution case, we saw in the Al-Qaeda traitor's video, how
23 Al-Qaeda deals with traitors. They kill them. Fleeing, going into exile, it would
24 have risked the life of his family, and, with hindsight, we can say this risk was real.

25 In January 2013, the Malian army arrived in Timbuktu and Al Hassan's family fled

1 into exile. Staying at this point would have meant almost certain death. Indeed,
2 the very few Arab males that stayed in Timbuktu were "disappeared" by the army
3 and killed. So Al Hassan's family took the difficult -- the dangerous route to Libya.
4 His newly born daughter was of course slightly older then, she was about
5 nine-months old when they set off, but still not old or strong enough to survive the
6 difficult route.

7 She contracted measles and died when they arrived in Libya.

8 So, yes, when Al Hassan decided to stay in Timbuktu in 2012, it was necessary and
9 a reasonable decision to do so. And given that he continued to help and act as
10 a buffer between the locals and the more extreme elements of the group, his decision
11 was proportionate.

12 Now when we look at the charges in this case, it appears that the Prosecution raked
13 through the coals of everything that happened in Timbuktu in 2012 to find and
14 present as many allegations as possible, and they have decided to put Al Hassan on
15 trial for all these things. They have put him on trial for marriages, for arrests, for
16 beatings, that have no link to him, acts and actions that would have taken place even
17 if Al Hassan had never come to Timbuktu.

18 Mr President, your Honours, the point is not whether bad things happened in
19 Timbuktu, but whether Ansar Dine - or, more concretely, the Islamic police had
20 a common plan to commit specific crimes. And most importantly, whether
21 Al Hassan knew of such a plan and, with this knowledge, made an intentional
22 contribution to the realization of criminal acts.

23 And the Defence will demonstrate that the Prosecution's case, it falls at the first
24 hurdle.

25 There was no organisational plan to commit assaults or to mistreat the local

1 population. The emirs gave strict instructions to the contrary to members of the
2 police, members of Hesbah and members of the security. Members of the group did
3 have weapons, but they were also under strict orders not to use them or brandish
4 them in front of civilians. The Koran also forbids forced marriage and rape as did
5 Ansar Dine.

6 As my colleague, Maître Bailleau Lussier, will explain, when a member of the Islamic
7 police was accused of rape, he was arrested. He was punished publicly, and the
8 judgment of the Islamic tribunal aggravated his conviction and punishment because
9 he had a weapon on him at the time. He was punished for misusing his position and
10 misusing his weapon. Individuals who took advantage of their position or power
11 were punished.

12 Defence witnesses will also explain the societal approach to marriage and obtaining
13 consent in Timbuktu. This approach remained unchanged in 2012. If the proper
14 procedures for consent were not followed, the Islamic tribunal would dissolve the
15 marriage.

16 A further glaring gap concerns the issue of knowledge. Prosecution witnesses
17 testified that they didn't tell anyone as concerns what happened to them, and Defence
18 witnesses will testify that even close family members - even neighbours - were
19 unaware of incidents of forced marriage or rape taking place.

20 Given that Al Hassan was not present when these incidents took place, how can the
21 Chamber conclude that Al Hassan must have known that these incidents took place
22 when no one else did? A further liability flaw that will be exposed during the
23 Defence case is that the Prosecution has expected the Chamber to close your eyes and
24 ignore the presence of other groups that were in and around Timbuktu throughout
25 2012. And why is that?

1 It's because their case rests on the most tenuous of threats, that if someone spoke
2 Tamasheq or Arabic, if they wore a turban, then, Hey, voilà! They must have been
3 a member of Ansar Dine or Al-Qaeda or both.
4 To be frank, it's still not clear.
5 This case -- this position, it ignores the reality that will be described by Defence
6 witnesses; that Ansar Dine and Al-Qaeda were not the only shows in town. They
7 were not the only Arabs or Tuaregs in town. They were not the only Islamists in
8 town, and they were not the only turbans in town.
9 MNLA members stayed in and around Timbuktu throughout the first part of the year.
10 They were armed. They had checkpoints. They spoke many different languages,
11 including Arabic and Tamasheq, they wore turbans and traditional *bazins*.
12 Dina's group - composed of Berabish Arabs - were also in and around Timbuktu.
13 Ansar Al Sharia were also there. The list goes on. These charges -- these allegations,
14 they offend basic notions of individual criminal responsibility. If you hold
15 Mr Al Hassan responsible for disaggregated actions, for incidents committed by
16 unidentified individuals, where do you draw the line?
17 The presumption of innocence simply does not allow the Court to convict an
18 individual on flawed assumptions and stereotypes, like those that underpin these
19 charges.
20 Nor does the drive and desire for justice take precedence over the need to ensure due
21 process. And due process requires this Court to weigh very carefully the
22 implications of relying on statements taken from tortured detainees.
23 And this is a topic that my colleague, Maître Marinier-Doucet, will elaborate further.
24 She will explain the Defence witnesses will describe the circumstances of
25 Mr Al Hassan's arrest in 2017. He had returned to Zorho and was living there with

1 his family, a regular member of his community.

2 One day in April, he helped take a pregnant woman to the hospital. Suddenly,
3 helicopters surrounded him, shooting bullets in the air and in the ground. He was
4 taken to the Sécurité d'État in Bamako. And the Sécurité d'État is, essentially, a black
5 site used by Malian intelligence security services. It is the Malian Guantanamo.
6 He was held there for 11 months without seeing a judge. Without seeing an arrest
7 warrant. Without seeing or even speaking to his family. His detention was
8 absolutely illegal and arbitrary. For the Tuareg community, whose members have
9 been victims of its cells for years, the name of the Sécurité d'État is synonymous with
10 torture and death.

11 And that is what happened. He was tortured and he saw and heard people die
12 around him.

13 Ms Marinier-Doucet will explain the various aspects of physical and psychological
14 torture that will be corroborated by Defence evidence and witnesses. She will
15 describe the stark reality of being held incommunicado; of being "disappeared" from
16 the outside world; of living and breathing the dark stench of death and torture each
17 day.

18 This reality, these experiences, which were embedded in Al Hassan's mind and very
19 existence at the time, they drain all the weight and reliability from any evidence that
20 Al Hassan provided to the ICC Prosecution when he was held captive in this hell.

21 Mr President, your Honours, Al Hassan's torture and abuse at the hands of the
22 Malian authorities is also relevant to your judgment because it demonstrates that in
23 2012, his fears for his life and that of his family were justified. If he had left the
24 protection of Timbuktu and Ansar Dine, if he had been caught by the Malian army in
25 2012, he might not be here today.

1 And with your leave, Mr President, I have two more minutes, if I can continue.

2 PRESIDING JUDGE MINDUA: [11:02:11](Interpretation) Please go ahead,

3 Ms Taylor, please go ahead.

4 MS TAYLOR: [11:02:15] For these reasons, Mr Al Hassan's role in the Islamic police
5 must be viewed in light of the totality of circumstances that existed in 2012. He was
6 simply one man - a *petit poisson* - in an impossible situation. On one side, he faced
7 the risk of torture and ethnic cleansing by the Malian army and, on the other side, the
8 real risk of disobedience to Al-Qaeda emirs would have engendered death or severe
9 harm. Caught between the frying pan and the fire, like many others, he chose the
10 least worst option.

11 Mr President, your Honours, you have already heard evidence from locals that they
12 cooperated, they collaborated, because they had no choice. Witnesses testified that
13 the religious leaders in Timbuktu even advised the local population not to confront
14 the group, to take the path of least resistance.

15 Like many members of the local population that did what they could to survive the
16 year, Al Hassan should not be convicted because he happened to live in the wrong
17 place at the wrong time with the wrong ethnicity.

18 Al Hassan was not a cog in the wheel of criminality. The wheels were turning before
19 him and they would have turned without him. If anything, he was more like
20 a spoke or a brake that helped cushion the impact for locals.

21 The people of Timbuktu have a right to reparations. They have a right to justice for
22 all that they have been through. But it is the Malian state that owes them that. Not
23 Al Hassan. And that is because it was the Malian state that abandoned Timbuktu,
24 not Al Hassan.

25 Thank you, Mr President, your Honours, we will continue with Maître Youssef after

1 the break.

2 PRESIDING JUDGE MINDUA: [11:04:55](Interpretation) Thank you very much,
3 Ms Taylor, for your presentation.

4 So it is now six minutes past 11. We shall now take a break for half an hour and let
5 us say that we shall reconvene at 11.35. The hearing is suspended.

6 THE COURT USHER: [11:05:21] All rise.

7 (Recess taken at 11.05 a.m.)

8 (Upon resuming in open session 11.38 a.m.)

9 THE COURT USHER: [11:38:38] All rise. Please be seated.

10 PRESIDING JUDGE MINDUA: [11:38:56](Interpretation) The Court is now in
11 session.

12 Good morning. Right, for the summary records, we're going to see if there are any
13 changes amongst the various teams.

14 So let's start off with the OTP.

15 MR DUTERTRE: [11:39:25](Interpretation) Good morning, your Honours. So the
16 OTP team comprises Mrs Charlotte Luijben, Mrs Paola Sacchi and Mr Garcia and,
17 myself, Gilles Dutertre.

18 PRESIDING JUDGE MINDUA: [11:39:43](Interpretation) Thank you, OTP.

19 I'm turning to the Defence team.

20 Counsel Taylor.

21 MS TAYLOR: [11:39:48] Thank you very much, Mr President. The composition of
22 the Defence remains the same. Thank you.

23 PRESIDING JUDGE MINDUA: [11:39:56](Interpretation) Thank you, Counsel
24 Taylor.

25 I'm talking to the LRV. Counsel Nsita.

1 MR LUVENGIKA: [11:40:06](Interpretation) Thank you, your Honour. The legal
2 representatives for victims' composition has not changed.

3 PRESIDING JUDGE MINDUA: [11:40:12](Interpretation) Thank you, Counsel Nsita.
4 I'm turning to the Defence now. If I understand, it's Mr Youssef's turn -- Counsel
5 Youssef's turn.
6 Counsel Youssef, you've got the floor.

7 MR YOUSSEF: [11:40:32] Mr President, your Honours, my presentation today will
8 provide a summary on the role of Sharia in Timbuktu prior to and during 2012, and
9 will demonstrate how the system implemented in 2012 was not at all new or foreign
10 to the residents of Timbuktu.

11 I will provide you with a brief overview on the components of Sharia and its
12 interpretation and implementation. I will then address the crucial role played by the
13 Islamic judge prior to and during 2012, in answering the demands of the residents as
14 opposed to the state justice that had been failing them for decades.

15 Mr President, your Honours, the Prosecution's opening statement referred to new
16 rules that were also quite alien to the residents of Timbuktu. Islam, your Honours,
17 has been actively practiced in Timbuktu for generations. The Koran and the
18 teachings of the Prophet - peace be upon him - have been recited every day,
19 throughout the day, in every school and Koranic school, on the radio, in gatherings,
20 through preaching, at every prayer, in every mosque, in every home.

21 And what is Sharia, your Honours, but the legal principles deriving from the Koran
22 and through the teachings of the Prophet - peace be upon him - also referred to as
23 Sunna.

24 Sharia is founded on justice, protection of human life, dignity, equality and the duty
25 to spread peace amongst mankind. Sharia contains rules that guide the faithful to

1 living in a peaceful society. Sharia obliges the faithful to be honest in their business
2 transactions, to provide assistance to those in need and to be generous in charity.
3 Sharia contains duties on peaceful human interaction, on maintaining a healthy and
4 respectful marriage and ensuring mutual respect between spouses. It contains strict
5 rules on consent in marriage; requires for a marriage to be valid, the clear and
6 expressed elements of offer and acceptance, also referred to as Al-Ijab Wal Qabul, and
7 strictly forbids forced marriage.

8 So a clear distinction must therefore be made between *hudud* punishments and Sharia
9 as a whole. *Hudud* are mandatory punishments fixed by the Koran allowing the
10 defendant to atone for his sins. *Hudud* are only one of the many aspects of Sharia,
11 and, as will be explained later, they mainly fall within the prerogatives of the Islamic
12 judge as known as the *cadi*.

13 This case is an opportunity to make this distinction between Sharia as a whole and
14 *hudud* as a separate component.

15 As concerns the interpretation of Sharia, there are four main schools of doctrine in
16 Sunni Islam, also referred to as *Madhahib*. They are the Hanafi, Maliki, Shafi and
17 Hanbali schools named after the four respective imams.

18 With the Koran and Sunna being the primary sources of Sharia, there are additional
19 sources ranked differently, according to each one of those *Madhahib*. These include,
20 for example, consensus, also referred to as *Ijma*; analogy, *Qiyas*; custom, '*urf*'; the
21 public good, *Istislah*; equity, *Istihsan*; and progressive reasoning, *ijtihad*.

22 These sources also include precedent from the practices of the Prophet's successors,
23 also called Al-Khulafa, and decisions of the learned judges. Sharia also contains
24 rules and procedure to be applied by a *cadi* when studying a certain case, such as the
25 rules on investigation, entering and searching homes, the power to commit or not to

1 commit an act - also referred to as Qudra; knowledge, 'ilm; intent, Qasd; and the
2 concept of uncertainty, al-shubha.

3 It is, indeed, a complex system of law.

4 And while the notions and rights and duties dictated in Sharia are known to the
5 layperson in a community such as Timbuktu's, the interpretation and implementation
6 of the sources of Sharia are complex and are only entrusted to individuals who are
7 considered from the scholars, also known as Ulema.

8 In Timbuktu, your Honours, the Ulemas were the imams, the marabouts the notables
9 and, of course, the cadis. These Ulemas have, for centuries, provided guidance to
10 the residents of Timbuktu and have been raising their awareness of Sharia for
11 generations through preaching, regular meetings, in schools and mosques. They
12 have historically followed the Maliki school of thought, also known as Al Madhhab
13 Al Maliki.

14 So it is evident that Sharia has always been an integral part of Timbuktu's daily life
15 and Ansar Dine, in 2012, maintained that. Timbuktu, for decades, has chosen to
16 follow the Maliki school of thought, and Ansar Dine maintained that too, in order to
17 respect the customs of Timbuktu's community.

18 This is far from an alien system of law.

19 The Defence case will also demonstrate that these rules implemented in 2012 were not
20 new, but in conformity with the demands of the local population. And not only
21 were these rules known and understood by the local population, they were also
22 demanded by Timbuktu's local leaders, notables and imams, well prior to the arrival
23 of Ansar Dine in 2012.

24 The Defence will showcase testimonies illustrating the fact that Timbuktu has been,
25 well before 2012, a conservative society. The so-called "new rules" on public conduct

1 and individual behaviour were already part of persistent demands from the
2 Timbuktu notables and representatives to the governing authorities.
3 On 12 June 2010, for example, a general assembly took place in Timbuktu comprising
4 local leaders. They issued resolutions called, in French, "*Résolution comité des mœurs,*
5 *assemblée générale du samedi 12 juin 2010 à la place Sankoré*", and they issued findings
6 that will also be explained by Defence witnesses.
7 These findings spoke about the deteriorating respect for Islam and its cultural values
8 in Timbuktu. They complained about many aspects of Timbuktu's modern society.
9 The revealing dress code that undermines these values and the passive attitude of
10 state authorities in protecting these values. They called for the creation of a morals
11 committee to implement the resolution's conservative views. They called for the
12 segregation of the sexes in beach gatherings and the banning of the pageant show
13 called Miss ORTM.
14 Demands also included the strict implementation of Ramadan and Maouloud in
15 reference to individuals who do not observe Ramadan, and to dance parties called the
16 Balani Show, taking place during the Maouloud and causing outrage amongst the
17 leading members of Timbuktu's society. The list is long, I could go on.
18 As will be shown by the Defence witnesses, these demands represented the voice of
19 Timbuktu way before the arrival of Ansar Dine through neighbourhood chiefs and
20 advisers, imams, preachers, fathers and mothers of families, local youth and Islamic
21 associations. They were the fruit of many assemblies, meetings and intensive
22 mobilisation of the local population by the leaders, young leaders, imams and chiefs.
23 Turning to the justice system.
24 The Prosecution's opening statement referred to an irregularly constituted Islamic
25 tribunal. The Prosecution lays down its own version of an ideal system, a version far

1 from the religious and socio-cultural reality of the north of Mali.

2 The Defence witnesses will demonstrate how the north of Mali has never known the

3 formal justice system the Prosecution speaks of. State justice has always been alien

4 to the north of Mali. State justice meant travelling a thousand kilometres only to find

5 a practising lawyer with an exorbitant fee and who speaks a different language. It

6 meant paying the attorney a "judge fee" to compensate for the judge's bribe.

7 In 2011, a study found that there were only 270 lawyers at the time for the entire

8 population of Mali of 15 million people then. And most were located in Bamako, at

9 least a thousand kilometres away from Timbuktu and far more from remote areas.

10 Unfortunately, the state-justice system in northern Mali has been, for decades,

11 irrelevant and illegitimate. Customary justice wasn't the second-best option. It was

12 the only option. As will be shown by Defence witnesses, the north has chosen, well

13 before 2012, the Islamic judge, also known as the *cadi*, to resolve their disputes using

14 Sharia - once again, a set of laws they are familiar with as dictated by the Koran and

15 the teachings of the Prophet, peace be upon him.

16 The *cadi* answered their demands for a justice system that is expeditious, fair,

17 accessible, not corrupt and, most importantly, a justice system that exists. The *cadi*

18 was not only recognised by state authorities, but also consulted by state judges in

19 some cases, especially in complex situations that have social implications on the

20 community.

21 For instance, I will cite an extract from a case study that used the Afrobarometer

22 survey to summarise the dynamics between the state justice and the *cadis*.

23 I will be grateful for interpretation from the Arabic and the French booth -- the Arabic

24 and the English booth, sorry.

25 The citation is in French.

1 (Interpretation) "Mali is one of the countries surveyed by trust and traditional
2 authorities is particularly strong and far exceeds the trust in state institutions.
3 Moreover, traditional and religious authorities are the authorities that are most
4 consulted for conflict resolution.
5 The traditional authorities (administrative and knowledge criteria), but also religious
6 authorities, in the case of the cadis in the Timbuktu region, substitute themselves for
7 state justice because of the weak presence and the limited capacities of the state in
8 managing local conflicts.
9 A very strong substitution effect was observed during the 2012, 2013 crisis. So this
10 was observed during the crisis of 2012, 2013, in the regions that the
11 administration - the army, judges, teachers and local-elected representatives - left.
12 The traditional and religious authorities, notably, the heads of village, neighbourhood
13 and factions, these notables, cadis and imams, took over public management by
14 implementing humanitarian measures to ensure the survival of the populations in the
15 areas occupied by the jihadist groups. However, they are also the ones who have
16 collaborated and negotiated with the armed jihadist groups." End of quote.
17 This, your Honours, demonstrates not only the lack of trust in state justice, but also
18 the need for religious authorities, including the cadi, to take in order to survive and
19 ensure the survival of the population. This substitution existed before 2012, and was
20 the salvation for the people during 2012, through public management, humanitarian
21 assistance and collaboration with the groups present.
22 Defence witnesses will speak about Islamic justice in 2012 that provided them with
23 a wide spectrum of services, from resolving their daily family matters, business and
24 land disputes, to providing them with deterrence from major crimes and corruption
25 and with safety in their homes, shops and roads.

1 They will testify to the fact that the corrupt state justice had failed them for decades
2 and gave them no choice, but to resort to religious justice. The *cadi* system had been
3 well established before 2012. Ansar Dine did not replace it, your Honours, it simply
4 reinforced it.

5 The principal judge of the Islamic tribunal in 2012, Judge Houka Houka, was
6 exercising the same functions as *cadi* before 2012, during 2012, and continues to do so
7 as we speak. His functions have simply expanded in 2012, and, due to this
8 expansion, he was assisted with other Ulema, carefully selected to interpret and
9 implement the provisions of Sharia in accordance with the Maliki school of doctrine.

10 In 2012, only the *cadi* was entrusted with the task of issuing sentences, including
11 punishments, under *hudud*. And the Ulema are those he consulted with and with
12 whom he could discuss the complex notions of Sharia.

13 Islamic justice in Timbuktu should not be analysed against a vacuum. It should be
14 seen within the transitional context at the time. Without the system in place in 2012,
15 disputes would not have been resolved. Crime would have been the only option, as
16 well as summary executions, banditry and prolonged detention without any form of
17 trial.

18 2012, in Timbuktu, was a critical time with critical priorities and the critical priority
19 then was preventing crime and corruption, resolving disputes within a reasonable
20 delay and ensuring safety in homes, businesses and roads. This was achieved by
21 Islamic justice to the best of its capacity and it is impossible and unrealistic to have
22 expected a better alternative or any alternative at all.

23 Islamic justice, your Honours, saved Timbuktu from utter chaos. This was not the
24 only motive for resorting to a religious judge and wholeheartedly obeying him
25 without question. Justice is one of the core values of Sharia. Amongst the 99 names

1 of God in Islam, God is called Al-Hakam and Al-Adl, which means the impartial
2 judge and the utterly just. His finding and rules simply cannot be questioned by the
3 layperson. The Koran emphasised, in many ways, on the orders to the faithful to
4 obey God, his Prophet, and those entrusted with authority.

5 That divine authority cannot be handed to a layperson but a person with wisdom,
6 and, above all, knowledge of the Koran and the teachings of the Prophet, peace be
7 upon him.

8 This is where the legitimacy of the cadi is of significant relevance. A cadi is from the
9 Ulema, trusted by the community with a sacred job of interpreting and implementing
10 the word of God. The cadi was that divine authority that must be obeyed and
11 cannot be questioned.

12 Entities, such as the Islamic police, and members of the Islamic police, such as, Mr Al
13 Hassan, members of the Islamic police from the lowest to the highest ranks were
14 equally under that obligation. No member of the Islamic police was from the Ulema
15 or had a say in the judgment issued by the cadi. They had no choice but to
16 implement the sentences. Obeying the cadi meant obeying God. Defying the cadi
17 meant defying God and being considered an apostate, also known as Murtad. Being
18 called a Murtad, your Honours, is one of the most serious accusations in Islam and is,
19 in some regions of the world, punishable by death.

20 But not only did the cadi implement the words of God, the cadi also honoured the
21 duties that form part of the life of every Islamic faithful. Those were duties - not
22 a choice - to serve God and the community, to promote goodness, also known as
23 Ma'ruf, and change evil, also known as Munkar, and, most importantly, a duty to
24 obey the path paved by God and dictated in the Koran. A duty to act against evil or
25 else inaction would be a violation of allegiance to God.

1 It is this obligation that drove the notables of Timbuktu to convene a morals assembly
2 in 2010, for example, make recommendations against practices that disrespect
3 Timbuktu's cultural and religious values. It is also this obligation that drove some of
4 the locals to join Ansar Dine in 2012. These duties won't disappear with time and
5 the state has done little, if any at all, to allow the people of the north to honour these
6 duties.

7 So how can the people honour these duties without a system in place that supports
8 these values? Inaction is simply not an option. The inaction of the state cannot be
9 met with inaction from the people. The people of the north practice a religion that
10 punishes inaction and obliges the faithful to take action against injustice, banditry and
11 corruption, and a duty of the man to provide for his family, protect his community
12 and develop and reconstruct the land.

13 Without a compatible system that takes all these factors into account, this obligation
14 would have led the population to take matters into their own hands or otherwise
15 hang on to any straw of rescue that would honour their demands, even if for a few
16 months.

17 Some convened general assemblies and made demands to the state to protect the
18 religious values of the city; others joined groups that helped them fight injustice and
19 insecurity. But most have undoubtedly fallen victim to the perpetuated cycle of one
20 rebellion after another and one coup d'état after another.

21 Mr President, your Honours, in 2012, it was a system the residents of Timbuktu were
22 familiar with, a system that honoured their demands and duties and provided them
23 with justice. Not abstract notions of modern-day Western courts that are practically
24 impossible to achieve.

25 It might have not been the Prosecution's ideal form of justice, but had Ansar Dine

1 implemented the system advocated by the Prosecution, it would have constituted
2 new rules that were quite alien to the residents of Timbuktu.

3 This concludes my presentation, Mr President.

4 With your leave, I will now yield the floor to my colleague, Maître Melissa Beaulieu
5 Lussier.

6 PRESIDING JUDGE MINDUA: [12:05:37](Interpretation) Thank you very much,
7 Maître Youssef, for your brilliant presentation. Now we shall hand over to - I have
8 forgotten your name, I do apologise - to Maître Beaulieu Lussier. Thank you.

9 MS BEAULIEAU LUSSIER: [12:06:04] (Interpretation) Mr President, your Honours,
10 Mr Al Hassan is not being prosecuted for having --

11 THE INTERPRETER: [12:06:11] Counsel needs to slow down. She needs to slow
12 down.

13 MS BEAULIEAU LUSSIER: [12:06:14] He is prosecuted for having put in place
14 a system of forced marriage and sexual abuse of women in Timbuktu in 2012.

15 The Defence submits to you that, in fact, such a system of forced marriage did not
16 exist. If some marriages were indeed entered into between the local population and
17 members of the organisation once Ansar Dine was present in Timbuktu, it was not
18 part of a common plan or an organised policy.

19 These were ordinary marriages that had been concluded in Timbuktu before the
20 arrival of Ansar Dine. Mr Al Hassan did certainly not contribute to the installation
21 of such an organisational policy or a common plan to force women to marry members
22 of the group or to sexually abuse women of Timbuktu.

23 There is no iota of evidence to establish that Mr Al Hassan had the knowledge of such
24 allegations.

25 I shall therefore talk to you about absence of a system of forced marriage in Timbuktu,

1 on the absence of evidence as to Mr Al Hassan's knowledge, and on the
2 contamination of the evidence by some NGOs present in Timbuktu.

3 From the outset, Ansar Dine was a religious group that respected the teachings of the
4 Koran applied to the Sharia. As my colleague has just explained to you, it was an
5 organisation that did not accept rape, nor did it accept forced marriage.

6 Any individual committing such a crime would be exposed to a conviction and
7 a sentence in the form of a punishment. The Prosecution admits himself in his
8 pretrial brief, and, I quote: (Overlapping microphones)

9 (Speaks English) "Rape in detention did not fit within the proclaimed ideology or
10 the rules imposed by the organisation in Timbuktu."

11 (Interpretation) The Prosecution is mistaken when he contends that the group
12 contracted this type of marriage and especially to enable the members of the group to
13 satisfy their sexual needs, and that violence -- sexual violence was tolerated or even
14 permitted within the group itself.

15 What is more, and, as an example, a member of the Islamic police was accused and
16 sentenced to 100 lashings when the Islamic police ruled in its judgment that he had
17 committed an act of rape. The fact that he was carrying a weapon was considered or
18 deemed by the tribunal to be an aggravating factor.

19 The punishment was executed in public in order to act as an example and to serve as
20 a deterrent to any other members of the group who would be tempted to commit such
21 a crime.

22 The Prosecutor has presented evidence to this Court that women were raped at the
23 BMS, the *Banque Malienne de Solidarité*, because of a permissive environment that
24 existed at that location whilst the group was there.

25 However, the Trial Chamber has already heard Prosecution witnesses saying that

1 they were not aware that women were being held at the BMS whilst the Islamic police
2 was there and were that to have been the case, they would have known that.

3 So Mr Al Hassan was no longer at that location. Defence witnesses will confirm this
4 fact.

5 The marriages that did occur in Timbuktu in 2012, were concluded or entered into in
6 conformity with tradition existing in Timbuktu before, during and after 2012. These
7 traditions were accepted, not only by the local population, but also by the state.

8 These were -- or this was an ordinary manner to enter into marriage.

9 Before 2012, marriages were traditional and were entered into before a *cadi* or an
10 imam in Timbuktu. The documents signed by the religious figure of authority
11 would serve as a marriage contract, and marriages in Timbuktu were not celebrated
12 before state authorities, but rather religious.

13 Defence witnesses will come to explain that in the year 2012, for a marriage to take
14 place, the consent of the parents or guardian of the woman was obtained by the
15 members of group. Sometimes intermediaries were used to negotiate the marriage
16 and a dowry was agreed upon and the marriage was celebrated according to
17 local-established customs.

18 The practice around marriage in Timbuktu was a conservative one, and that long
19 before 2012, Ansar Dine did not set up or create or was not the cause of such practices.
20 Moreover, when reading the family law in Mali, it is eloquent on the manner in which
21 women were treated in the context of marriage.

22 At the outset of the year 2000s, for about 10 years, continued efforts on the part of
23 international and local efforts for the defence of human rights led a proposal of the
24 Malian law, which was deemed to be discriminatory, especially those provisions that
25 deemed that the woman was inferior to her husband and that she needed to obey

1 them during their marriage, whilst -- and that girls could be married off as young as
2 16; whereas, 18 was the age for men.

3 The Malian parliament accepted this in 2009 and this was followed by demonstrations
4 in Timbuktu and Mopti. The demonstrators said that this was completely
5 incompatible with Islam and with the founding principles of the Malian society. The
6 Malian president finally opted not to adopt this reform and a new code - which was
7 far more favourable to women - was finally adopted in 2011, well before 2012,
8 therefore.

9 The Prosecution admits himself in his document containing the charges that
10 traditionally marriages in Timbuktu required the consent of the family and this is
11 how marriages came about in the region. Whether we be in agreement or not with
12 the traditional and conservative manner in which marriages were entered into in
13 Timbuktu, whether we think that it is backward or it does not respect women's rights,
14 this does not necessarily mean that this practice is criminal as such.

15 And in Timbuktu, in the year 2012, what would happen if the family or the future
16 spouse would refuse to marry the members of a group -- or the member of a group?
17 Well, Defence witnesses will come to explain that nothing at all happened. That the
18 woman was not forced to marry the man in question and that she and her family did
19 not have to fear any reprisals or any form of persecution against them.

20 The members of the group did not seek to take advantage of a coercive environment
21 in order to take women in marriage. A member of the family of a Prosecution
22 witness who alleged that she was forced to get married, who testified to the effect that
23 her family was threatened for the marriage to go ahead, will come to explain to the
24 Court that her family didn't -- had not -- was not threatened for this marriage to occur.
25 This witness will come to explain to the Court that her family did not receive any

1 threats whatsoever; that she saw the members of her family throughout the duration
2 of her marriage and that she would go and -- and that her family would come and
3 visit her in her house and that she would even -- that her family would even see her
4 husband on occasion.

5 The neighbour of this lady will come to explain to the Court that she saw this lady in
6 the neighbourhood whilst she was married to a member of the group. This woman
7 was not taken away and locked up against her will.

8 Neither the circumstances of these marriages, nor the marriages themselves were
9 contracted because a coercive environment existed. These are not forced marriages
10 as outlined in the jurisprudence in the Ongwen case, for example, and such
11 judgments had no place in the system.

12 Defence witnesses will come to explain that the members of Ansar Dine were not in
13 the least encouraged to marry local women. That they were not offered a woman
14 when joining the group as one might expect of a system or organised policy. Even
15 so - and according to a Prosecution witness - the women were happy to get married to
16 members of the group. It was not shameful. They were the people in charge of the
17 town, and it was only subsequent to the French intervention that it was frowned
18 upon.

19 This very same witness in response to a question from the Defence - asking whether
20 some families in 2012 had encouraged their daughters to marry these leaders because
21 the families were under the impression that they might benefit from the position of
22 the husband in Timbuktu - the witness answered as follows, transcript 46:

23 "Yes, yes. I believe that the main factor in play here was the economic factor because
24 the town found itself in a very dire situation and these people had substantial
25 financial means. So it was like making it possible for a poor family to marry a rich

1 family."

2 And in response to the Defence's question attempting to ascertain whether it was the
3 family themselves that put pressure, the witness answered -- and this is still transcript
4 46:

5 "Yes. On occasion, there was pressure exerted by the family or by the girl herself
6 because he or they could not see how they could -- she could not see how they could
7 have a sexual life without going through marriage."

8 Now as to Mr Al Hassan's knowledge, there is no evidence to the effect that he had
9 the knowledge of any system or the perpetration of any form of sexual violence.

10 A Prosecution witness involved in the Malian programmes on sexual and
11 gender-based violence based in Timbuktu, a jurist, a gentleman, who testified that he
12 was really -- he really supported the victims' cause and who was actively seeking
13 victims at the time, himself, claimed that of the seven cases of forced marriage that he
14 documented in Timbuktu in 2013, in the context of his activities, he deemed that two
15 of those marriages were precocious - that is to say, that the woman was not yet 18
16 years of age - and that there had been consent in the case of four others.

17 A person close to a Prosecution witness shall claim in the Defence case that a member
18 of her family never complained of any ill-treatment or of the fact that she had not
19 consented to being married to a member of the group.

20 Mr President, your Honours, if an activist in human rights who was actively
21 searching for victims of forced marriage was not able to find any - even an individual
22 close to a woman who is married to a member of the group in 2012, did not complain
23 of anything in particular in that regard - how can one expect Mr Al Hassan in 2012, to
24 be in the know? To know that women were forcibly married to members of
25 Ansar Dine?

1 With regard to sexual violence alleged to have taken place at the BMS, Defence
2 witnesses will also come to testify and corroborate the evidence heard to the effect
3 that there was no knowledge of any women detained during the period when the
4 Islamic police was in place at the BMS.

5 Mr Al Hassan could not be aware of what was going on at the BMS after his
6 departure from said location. So why is it that so many women have claimed that
7 they were forced to get married in Timbuktu and that they were victims of sexual
8 violence?

9 In fact, what happened - according to the Defence case that will be presented to
10 you - is that the NGOs set up shop, rather, as an emergency subsequent to the events
11 in 2012. They were not prepared to gather evidence from potential victims. And
12 despite their best intentions, they had neither the training nor the necessary resources
13 to question potential victims and gather their testimony without potentially
14 contaminating the evidence.

15 The NGOs used interviewing methods that do not meet judicial standards. They
16 showed photographs and videos; they used specific language that contaminated both
17 the memories and potential evidence, and it is this very same evidence that was used
18 by the Prosecution in the instant case.

19 The Prosecution witnesses, when it comes to forced marriage and the victims of
20 sexual abuse, are the same people who were interviewed at the time through the same
21 intermediaries at the time.

22 The Defence will present evidence to the effect that some NGOs were forced to inflate
23 their statistics, to lie about the true numbers of victims, to encourage women to use
24 certain language in order to fulfil the requirements of their funders that financed
25 these NGOs.

1 Some NGOs would conduct preparatory sessions for testimony. They would
2 prepare the victims with regard to the language to use and with regard to their
3 experience. A Prosecution witness contended during their questioning, when
4 referring to the preparatory session conducted by a victim's association with them,
5 and I shall be citing transcript 153, in English:
6 (Speaks English) "Question: Madam Witness, I was asking if you meant earlier that
7 when you said:
8 'They would help us to say everything that had happened to us ...'
9 Did you mean that they helped you find the words?"
10 *Réponse* : "Yes. What I told you, I just want to come back to that. If somebody
11 helps you to say the words in the right way to better interpret things, then I think that
12 helps. They didn't help me in a pecuniary fashion with money, but they helped me
13 [to] translate and interpret the words that we had to say. [...]"
14 (Interpretation) A report by Freedom House, an American-funded organisation
15 present in Timbuktu subsequent to the events, explains how some victims'
16 associations functioned, notably, WILDAF, which was one of the most active victims'
17 organisations in Timbuktu.
18 And I shall be reading an excerpt from this report, in English:
19 "During documentation, WILDAF/Mali reported encountering false victims claims
20 noting that some interviewees were repeatedly inconsistent in relaying the facts,
21 could not give specific details, seemed to be more concerned about receiving financial
22 assistance, seemed to be giving "influenced responses," or whose interviewees who
23 provided witnesses could not confirm their experience[s]."
24 (Interpretation) The victims were all prepared by the same NGOs, and because they
25 had not set up a methodology of work that would have put pay to any bias, the

1 probative value of this evidence has unfortunately been weakened as a result.

2 Mr President, your Honours, you have heard Prosecution witnesses recount their
3 rape and the conditions of their marriage to members of the group. Some events that
4 were recounted did potentially occur, but the circumstances surrounding them were
5 exaggerating or deformed subsequent to the process through which the potential
6 victims went through with the NGOs, without the NGOs necessarily having bad
7 intentions or having done it deliberately.

8 In the light of these issues of potential contamination by NGOs, what weight can
9 therefore be given to the testimony of Prosecution witnesses, with these witnesses
10 having been interviewed originally by these NGOs?

11 This evidence for which the probative value and the reliability is weak cannot be used
12 to convict Mr Al Hassan for these crimes. And the mere risk of contamination and
13 impact on reliabilities cannot be used to convict an individual in the context of an
14 international trial.

15 And I would like to reiterate finally that Mr Al Hassan could not have had the
16 knowledge or the required intent to reach a finding of guilt with regard to these
17 charges.

18 That is the end of my presentation, and I would like to thank you, Mr President and
19 your Honours.

20 With your leave, I will now hand over to my colleague, Maître Sarah Marinier-Doucet,
21 and I thank you.

22 PRESIDING JUDGE MINDUA: [12:30:59](Interpretation) Thank you so much,
23 Counsel, for your brilliant presentation.

24 And now I would like to give the floor to your colleague, Counsel Marinier-Doucet.

25 You've got the floor, Counsel.

1 MS MARINIER-DOUCET: [12:31:19] (Interpretation) Your Honours, Mr Al Hassan
2 was tortured while in detention in Mali. During his detention by the Malian
3 authorities, the ICC Prosecution team met with Mr Al Hassan and obtained
4 statements from him. These statements formed the basis of the application for an
5 arrest warrant, the confirmation of charges and the pretrial brief against
6 Mr Al Hassan.

7 In the Defence the case, the Defence shall demonstrate that Mr Al Hassan was
8 tortured. That this torture has had a gross impact on the reliability of his statements
9 and that no weight should have been given to these statements, and, more
10 importantly, no weight should have been given and should be given to these
11 statements in determining Mr Al Hassan's guilt.

12 From May 2017 to March 2018, Mr Al Hassan was detained at the state security in
13 Mali. This establishment is a place of detention, considered illegal, incommunicado,
14 which does not fall under this jurisdiction of justice, and in which no control is
15 allowed, neither by the UN bodies, nor by the International Committee of the Red
16 Cross.

17 The poor conditions of detention in this place is not a secret, but it is a matter of
18 public knowledge. Several reports can be cited that support these facts, including
19 reports published by the Human Rights Watch organisation and articles by
20 independent research institutes. These articles coincide with the period when
21 Mr Al Hassan was detained at the state security. Nevertheless, Mr Al Hassan was
22 detained there for almost one year before an ICC arrest warrant was issued and his
23 transfer to The Hague was completed.

24 Throughout this year of detention at *Sécurité d'État*, the Prosecutor met Mr Al Hassan
25 for questioning for a total of 19 days of questioning. Other witnesses of the

1 Prosecutor in the same or similar situation have also been interviewed by the OTP as
2 part of the investigations into the situation in Mali.

3 The Defence team will demonstrate to you, your Honours, that the information
4 obtained during these interviews do not have the necessary reliability to be admitted
5 into evidence.

6 The Defence will bring factual witnesses, who will be able to corroborate the
7 conditions of detention as described and suffered by Mr Al Hassan, as well as to
8 discuss the reality for the populations; particularly the Tuaregs, who are detained at
9 the *Sécurité d'État* prison.

10 In order to contextualise this, the Defence will rely on several experts to analyse the
11 scars still present on Mr Al Hassan's body to determine the effects of such detention
12 on Mr Al Hassan's cognitive abilities, and, finally, demonstrate that the evidence
13 obtained at the time Mr Al Hassan and other witnesses were detained under these
14 conditions have low reliability.

15 The Defence wishes to make it clear that it is not arguing that the ICC investigators
16 themselves tortured Mr Al Hassan and the other state security detainees. That was
17 not the case. However, the minutes obtained during the interviews of the ICC
18 investigators with the *Sécurité d'État* prison detainees while they were in a constant
19 situation of fear, threat, beating, handcuffing - the interrogation room where the
20 meetings took place were, itself, supervised by the very guards who beat the
21 detainees - and it's in this background that the fear does not disappear and continues,
22 beyond the moment of physical violence.

23 Conditions of uncontrollable stress, emotional trauma, PTSD effects can lead to false
24 statements. And the Chamber cannot rely on these statements to hand out a guilty
25 verdict.

1 Several Defence witnesses will testify that in 2017, on the eve of his arrest by
2 Barkhane forces, Mr Al Hassan was living in his -- with his family in Zorho, a village
3 east of Timbuktu. He was a member of the Congress for Justice in Azawad, CJA.
4 Al Hassan was not working with terrorist organisations. On the contrary, the CJA,
5 as several witnesses will show, was working for the implementation of a 2015 peace
6 agreement. Such an organisation would have never accepted that one of its
7 members be part of a group, such as, Al-Qaeda, because this would be tantamount to
8 defeating the very purpose of the CJA. Mr Al Hassan was living in Zorho, and it
9 was public knowledge that he was not living in hiding. Both the UN representation
10 in Mali, MINUSMA and Barkhane, knew of his whereabouts and his activities, and
11 even that as a member of the CJA, Mr Al Hassan was working with Barkhane and
12 MINUSMA forces.

13 Witnesses will confirm that at this time, Mr Al Hassan was helping local people to
14 travel as he had a car. He would take sick people to the nearest hospitals and was
15 putting his knowledge in pharmacology to good use.

16 However, while Mr Al Hassan was travelling to Er-Intedjeft - a village still east to
17 Timbuktu, and when he was transporting a pregnant woman to a health
18 centre - helicopters landed where he was and took Mr Al Hassan away. He had
19 been arrested by the Barkhane forces.

20 Several witnesses explained that they had sought to obtain information with regards
21 to the surprising arrest, but Barkhane was unable to provide an explanation for his
22 arrest. Moreover, he was never brought before a judge or was shown any
23 paperwork that could have justified his arrest and transfer to the Malian authorities.

24 After a brief stay at the Timbuktu base, he was transported to Gao before being
25 handed over to the Malian authorities. Several witnesses will testify that the transfer

1 to Malian authorities itself was a great source of stress for Tuaregs as the reputation of
2 the treatment suffered is well known.

3 Several Defence witnesses corroborate that Mr Al Hassan's first day at the state
4 security prison was marked by physical and psychological violence, a mere foretaste
5 of what was in store for the year.

6 In particular, Mr Al Hassan - like others - was forced to stand for eight to nine hours
7 and beaten if he fell down. He was beaten with a baton, cables. He was punched.

8 He had several sessions of beating between rest sessions. He was subjected to falaka,
9 hitting the soles of his feet with a cane, and was not allowed to drink water and
10 subjected to several simulated executions with a rifle to his head. He saw other
11 prisoners being treated in the same way, including a federal prisoner who was
12 seriously injured.

13 Following the first day, he was detained at the state security prison for almost a year
14 in a windowless-detention room with no sunlight, handcuffed for more than four
15 months, 24-hours a day, without being able to talk to his family. And he was
16 regularly interrogated throughout his detention by different authorities, including
17 the ICC investigators.

18 Witnesses will corroborate that he was brought to meetings with ICC investigators
19 with a bonnet over his face, and his transport to the investigators was carried out by
20 the state security agents, the same ones who would beat him up and kept him in
21 a state of fear.

22 In determining the probative value of the statements taken by the Prosecutor, the
23 test is subjective. It is not the action of the investigator that determines the probative
24 value of the information, but the reliability according to the circumstances of the
25 person encountered.

1 Your Honours, with all due respect, I therefore ask you to walk a mile in Mr Al
2 Hassan's shoes. You will find yourself in detention, in a small room, overcrowded
3 with no light, with no toilet facilities. And you are taken out of this room and the
4 same person, who previously beat you up and put a bonnet on your head -- you
5 know you're being unlawfully detained and you haven't been brought before a judge
6 ever since you were arrested, you are taken to a car, still handcuffed, hooded.
7 You've seen other detainees disappear and you firmly believe that you are going to
8 die. You recite a prayer in your head.
9 The driver insults you all along the way. The car stops. You are taken out of the
10 car, still hooded and handcuffed. Once seated in a chair, the bonnet is removed and
11 as your eyes quietly adjust to the sudden light, you notice that the person who
12 removed your bonnet is still the same man responsible for your injuries. And in
13 front of you, is a table with a panel of strangers. This is not the first time that you've
14 been interrogated, and, in these sessions, threats and beatings were frequent.
15 You have already been in detention for more than a month under constant fear. The
16 questioning begins. The statements - made once the cap is removed - cannot be
17 considered independent of the conditions of detention, the beatings, the hunger, the
18 thirst, suffered for days together. These conditions affect the probative value, the
19 reliability of the information, and, as the expert witnesses shall demonstrate, the very
20 reliability of the submissions and the decisions taken by Mr Al Hassan.
21 The witness for the Prosecution also corroborated the facts reported by Mr Al Hassan,
22 in particular, P-0626, who was arrested by the national authorities and was detained
23 at the state security at the time of his interrogations with the ICC Prosecutor.
24 At the time of his first meeting with the Prosecutor, he had been held in solitary
25 confinement for two months. He was not brought before a judge, had no access to

1 legal counsel, had no contact with the outside world. He was handcuffed 24-hours
2 a day and he was still handcuffed at the time of the interrogation with the ICC, since
3 one of them broke and could not be removed.

4 The Prosecutor's investigators did not -- did offer access to a duty counsel. They
5 read him his rights, according to Article 55(2) of the Rome Statute, brought the duty
6 counsel.

7 And P-0626 complained about the conditions of detention when they met with the
8 Prosecution team. And I'm just going to quote the transcript in public audience of
9 his cross-examination, that is, transcript 144:

10 "Question: Is it true that after describing the state of your health, you emphasised on
11 two things: getting in touch with your family and the improvement of your
12 conditions of detention?

13 Answer: That is right.

14 Question: Your lawyer described your conditions of detention as inhumane. Is that
15 consistent with your experience at that point of time?

16 Answer: It is."

17 In his testimony before this Court, (Redacted) stated that he underwent great
18 suffering at the time of his interrogation by the ICC and asked the investigators to
19 take him to the ICC detention centre rather than leave him alone in these conditions.

20 I'm quoting transcript (Redacted)

21 "Question: Were you afraid of what would happen if the Prosecution left you in the
22 situation that you were in?

23 Answer: You could expect anything under these conditions. You could expect to
24 die of thirst, if I ran out of water and I knocked on the door and asked the guard to
25 help me, he would only answer when he wanted to. That's how it worked."

1 The Defence relies on leading experts to demonstrate the psychological effects of
2 these conditions on Mr Al Hassan, the physical effects, and, ultimately, the impact of
3 these conditions on the evidence obtained by the Prosecutor during Mr Al Hassan's
4 detention.

5 The experts we will present are highly experienced in the science of torture; that
6 there's medical and psychological reasons why torture and inhumane treatment
7 irrevocably taint any subsequent statements. Katherine Porterfield is an expert in
8 psychology and has been working since 1998 in the NYU School of Medicine. She
9 specialises in the assessment and diagnosis of torture-related trauma. She has
10 produced several clinical reports on individuals detained at black sites, including,
11 Guantanamo Bay.

12 She has published several articles on the analysis and treatment of trauma and torture,
13 and she also participated in drafting the "Istanbul Protocol: Manual on the Effective
14 Investigation and Documentation of Torture and other Cruel, Inhuman or Degrading
15 Treatment or Punishment."

16 After spending several hours with Mr Al Hassan and listening to the details of his
17 detention, arrest, and interrogation by various authorities, Dr Porterfield considers
18 Mr Al Hassan's situation to be very severe. She considers Mr Al Hassan to be
19 credible in his description of symptoms, particularly because he does not exaggerate
20 the intensity or frequency of the symptoms. Dr Porterfield analysed Mr Al Hassan's
21 statements to ICC investigators as well as Mr Al Hassan's medical records ever since
22 his arrival at the ICC Detention Centre and she determined that Mr Al Hassan suffers
23 from post-traumatic stress disorder with dissociative symptoms.

24 Based on the clinical analysis of Mr Al Hassan's statement, Dr Porterfield believes that
25 Mr Al Hassan has symptoms attributable to the effects of torture and cruel treatment.

1 This torture, according to Dr Porterfield, includes both direct and physical
2 abuse - such as, beatings and waterboarding sessions, harsh conditions of detention
3 and psychological torture. This has created a situation of learned helplessness,
4 a situation where a person, who continues to be held in an environment in which he's
5 being tortured, learns that no matter what he does, he will not be able to escape these
6 coercive conditions.

7 In the situation the victim stops fighting his senses and may then agree to make false
8 statements because he's afraid and even expects further harm to be done to him.

9 Dr Porterfield will detail the evidence that Mr Al Hassan was suffering from learned
10 helplessness at the time of his questioning by the ICC Prosecutors.

11 Dr Porterfield concluded, and I quote, in English:

12 "The multiple personnel and authorities handling Mr. Al Hassan served as triggers
13 and reminders that he could be returned to the worst torture -- including threat of
14 being killed -- at any time. He developed a state of learned helplessness in relation
15 to these interrogators and investigators -- that is, a state of passive acquiescence and
16 cooperation in order to minimize the risk of death or grave bodily harm. Thus,
17 Mr. Al Hassan's position in relation to his interrogators, including those who did not
18 explicitly torture him, was to view them as in complete control of him and able to
19 return him to great suffering at any moment."

20 (Interpretation) The expert, Dr Juliet Cohen, is a forensic doctor who has written more
21 than 1,500 reports in her area of specialisation; namely, the examination of victims of
22 violence related to torture, domestic violence, and trafficking for prostitution
23 purposes.

24 Dr Cohen is the director of the Medico-Legal Report Service foundation.

25 Throughout her years of experience, Dr Cohen has examined a wide variety of

1 populations coming from different parts of the world. Dr Cohen will testify about
2 her examination of Mr Al Hassan in person and her review of Dr -- Al Hassan's
3 medical records, since his transfer to The Hague.

4 In order to analyse the scars and the lesions visible on Mr Al Hassan's body, in order
5 to verify whether these are the result of the abuse he suffered while in detention in
6 Mali --

7 "Of the 31 lesions I can find on the body, 12 are considered to be attributable to torture,
8 with seven being highly consistent with the attribution of torture given, and five
9 being consistent with the attribution of torture given."

10 Dr Cohen concludes in her report, and, I am going to quote, in English:

11 "I note that the lesions are widespread over the head and body and caused by a range
12 of different methods of trauma. I have considered what is known of his past
13 occupations and medical history. In my opinion the overall evaluation is that the
14 physical findings are highly consistent with the torture described."

15 (Interpretation) Dr Cohen considers that there is, therefore, physical evidence on
16 Mr Al Hassan's body of the following assaults: Injury to the mouth, striking with
17 a rod to the head; hit in the abdomen with a cable, having been beaten up; abuse
18 of -- forced to wear handcuffs; kicking on the feet; kicking in the abdomen; hitting on
19 the arm; and being subjected to the falaka. Finally, expert, Dr Charles Morgan III,
20 with 30 years of expertise as a medical-legal psychologist - who has conducted
21 scientific studies on the impact of stress on human neurobiology and its cognitive
22 effects on memory - will be able to demonstrate to the Chamber that the condition of
23 detention and interrogation of Mr Al Hassan and (Redacted) created a situation of
24 uncontrollable stress.

25 The situation of uncontrollable stress significantly reduces the accuracy and veracity

1 of memory and recollection. After having carefully reviewed the various evidence
2 regarding the conditions of detention of Mr Al Hassan and Witness P-0626, the expert,
3 Dr Morgan, concluded that they were exposed to uncontrollable stress during their
4 detention in Bamako, specifying, in particular, stress linked to interrogation stress
5 caused by the duress of their detention; stress caused by lack of sunlight; stress
6 caused by the blows to their bodies; direct threats to their lives; and the fear that if
7 they did not lie about the meeting with the ICC Prosecution team, once they returned
8 to state security, it would jeopardise their lives.

9 Furthermore, Dr Morgan will not be able -- will be able to explain that the impact of
10 uncontrollable stress on people's memories goes far beyond the situation of
11 uncontrollable stress itself. This means that when Mr Al Hassan and Witness
12 (Redacted) were questioned by the ICC's investigators, their ability to recall reliably
13 and truthful memories was impaired.

14 Mr Morgan concluded -- and, I'm going to quote in English:

15 "[...] it is within a reasonable degree of medical and scientific certainty that the
16 information -- "

17 Al Hassan and (Redacted)

18 "provided [to] during their sessions with the ICC investigation team is subject to
19 substantial error."

20 (Interpretation) Dr Morgan will be able to list the effects that may aggravate this
21 impact and the wide variety of research associated with this correlation.

22 Dr Morgan also discusses the fact that witnesses under uncontrollable stress may
23 show signs of psychological dissociation and distress, which may impact their ability
24 to make decisions that are free from undue influence.

25 The comments made by Witness (Redacted) before this Court during his testimony,

1 demonstrate precisely the influence on the statements made by a witness when he is
2 in a situation of uncontrollable stress and is trying, by all means, to put an end to it.

3 I'm referring to transcript 144:

4 "Question: Mr Witness, is it true that after meeting the Malian prosecutor and after
5 your transfer, there was a considerable improvement in your condition?

6 Answer: That is true.

7 Question: Do you think that the Prosecution -- the ICC Prosecution played a role in
8 the improvement?

9 Answer: Yes, I think so, because I insisted several times. I asked them to do
10 something about it and they promised me that they would do something -- they
11 would say something to the deputy chief on this issue.

12 Question: Witness, at the end of [this] interview, they say: And [these] last few days,
13 the fact that I was feeling very comfortable, I'm thinking, 'How can I assist you in
14 terms of -- in terms of the information? You've come so far to gather this
15 information.'

16 Witness, is it true that you said this to the Prosecution? Answer: Yes.

17 Question: And that was because you were grateful to the assistance that was provided
18 to you?

19 Answer: Yes."

20 The witness, P-0626, stated that his conditions had improved - thanks to the actions of
21 the prosecutor - and he also insists that once his conditions had improved, he looked
22 further into how he could assist the ICC investigation team.

23 Your Honours, statements obtained from witnesses who were detained at the state
24 security prison do not have the necessary reliability for a guilty verdict to be passed
25 on this basis. The Defence case will corroborate the facts relating to the conditions of

1 Mr Al Hassan's detention as well as provide a conceptual framework to explain how
2 these conditions negatively impact the reliability of evidence obtained in these
3 circumstances.

4 The Defence shall demonstrate that Mr Al Hassan's guilt cannot be decided on the
5 basis of statements he made while he was held in conditions attributable to torture.

6 Thank you very much for your kind *attention, and I would like to conclude the
7 Defence statements.

8 PRESIDING JUDGE MINDUA: [13:01:37](Interpretation) Thank you, Counsel
9 Marinier-Doucet. So if I've understood you, you've actually concluded the opening
10 statements of the Defence, if I have understood you well. Is that what you said?

11 MS TAYLOR: [13:01:55] (Overlapping microphones) Yes, indeed, and thank you,
12 Mr President.

13 PRESIDING JUDGE MINDUA: [13:02:02](Interpretation) Right, we've got nothing
14 for today then.

15 So I'm going to turn to the various parties, OTP, the LRV.

16 Right, so we've come to the end of our hearing for today.

17 Now before I conclude, I would like to thank all the people who participated in an
18 active fashion to the success of this hearing; obviously, the participants and the
19 various parties, the court reporters and the interpreters, our security staff.

20 I also would like to thank our public in the gallery and our public who's watching us
21 remotely.

22 We're going to now close the session and we will start tomorrow at 9.30 with the first
23 Defence witness, which is *D-0020.

24 Is that it?

25 Thank you so much.

Trial Hearing
Defence Opening Statements

(Open Session)

ICC-01/12-01/18

- 1 The session is closed.
- 2 THE COURT USHER: [13:03:55] All rise.
- 3 (The hearing ends in open session at 1.04 p.m.)