

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 1
9 Monday, 9 November 2020
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:18] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:46](Interpretation) The hearing shall now
15 begin. Good morning, everyone.
16 Madam courtroom officer, if you could please call the case.
17 THE COURT OFFICER: [9:33:56] Thank you, Mr President.
18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:34:19](Interpretation) Thank you very much,
22 courtroom officer.
23 As usual, we will begin with introductions, beginning with the Office of the
24 Prosecutor.
25 Prosecutor.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 MR DUTERTRE: [9:34:31](Interpretation) Good morning, your Honours. The
2 Prosecution is represented by Mousa Allafi at the back, Sarah Coquillaud,
3 Mr Lucio Garcia, and myself, Gilles Dutertre. Thank you.
4 PRESIDING JUDGE MINDUA: [9:34:49](Interpretation) Thank you very much.
5 And now the Defence please.
6 Ms Taylor.
7 MS TAYLOR: [9:34:55] Good morning, Mr President, your Honours. The Defence
8 for Mr Al Hassan is represented by Kirsty Sutherland, Dolly Chahla, and myself,
9 Melinda Taylor.
10 PRESIDING JUDGE MINDUA: [9:35:09](Interpretation) Thank you very much,
11 Ms Taylor.
12 And now the Legal Representatives of Victims, Mr Kassongo.
13 MR KASSONGO: [9:35:18](Microphone not activated)
14 THE INTERPRETER: [9:35:19] Microphone, please.
15 PRESIDING JUDGE MINDUA: [9:35:29] Microphone.
16 MR KASSONGO: [9:35:37](Interpretation) Thank you very much, your Honours.
17 Good morning. I wish everyone a good week.
18 The Legal Representatives of Victims is made up of the following people:
19 Ms Claire Laplace, who is assisting me, and myself, Mayombo Kassongo.
20 Thank you.
21 PRESIDING JUDGE MINDUA: [9:35:55](Interpretation) Thank you very much,
22 Mr Kassongo.
23 Now, today we will continue with testimony from Witness P-0065, who is the 16th
24 Prosecution witness.
25 Good morning, Witness. Can you hear me?

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 WITNESS: MLI-OTP-P-0065 (On former oath)

2 (The witness speaks Arabic)

3 THE WITNESS: [9:36:22](Interpretation) Good morning. I hear you very clearly.

4 PRESIDING JUDGE MINDUA: [9:36:27](Interpretation) Thank you very much.

5 Once again, welcome, and I thank you for being so patient.

6 Now I would like to remind you that you are still under oath and that you must tell

7 the Court the truth, the whole truth and nothing but the truth.

8 I remind you as well of the practical considerations which I read out to you recently

9 when you take the floor and give testimony.

10 Without any further ado, I'll now ask the Prosecution to proceed.

11 Mr Duterte.

12 MR DUTERTRE: [9:37:11](Interpretation) Thank you very much, your Honours.

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

14 Q. [9:37:16] Good morning, Mr Witness. How are you at the beginning of this

15 new week?

16 A. [9:37:24] Good morning. I am doing well, thank God.

17 Q. [9:37:34] Mr Witness, we are going to continue with one of the themes we were

18 exploring last Friday, in particular transcript 42, page 43, you mentioned Mohamed

19 Moussa saying that he was present at the Islamic tribunal. Would it be possible for

20 you to specify what role he played within the Islamic tribunal?

21 A. [9:38:18] As far as I know, when the Islamic court was first established, there

22 were -- there was a number of Timbuktu imams who were asked to be -- to sit the

23 court to be part of the judicial bench when that Court considered cases, among whom

24 was Mohamed Moussa.

25 Q. [9:38:48] Did he carry out any other duties in 2012 in Timbuktu other than being

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 a member of the Islamic tribunal?

2 A. [9:39:01] The last -- he was the last emir of the *Hesbah*.

3 Q. [9:39:18] Could you clarify for the Chamber whether if -- well, when he was the
4 emir of the *Hesbah*, was he also carrying out duties within the Islamic tribunal at the
5 same time?

6 A. [9:39:37] I do not know.

7 Q. [9:39:53] And you say that he remained emir until, until what time exactly?

8 A. [9:40:05] Until the beginning of the French intervention and the taking out of the
9 groups from the cities that they were controlling in northern Mali.

10 Q. [9:40:26] Well, I think it's implicit that when I said "emir" I meant emir of the
11 *Hesbah*, but just for the sake of the transcript I'm being specific.

12 Now, at transcript 37, page 15, lines 14 to 23, you said that towards the end, I quote:
13 "Towards the end, the dress code became very radical and if I -- and apparently there
14 was a new director, a new head of the *Hesbah* who was rather extremist." End of
15 quote.

16 Could you clarify what you meant by that exactly, Mr Witness.

17 A. [9:41:36] Yes. Depending on the strategy of the groups in Timbuktu, there was
18 a sort of a gradual pattern in the enforcement of Sharia. Also the *Hesbah*, as far as I
19 know, was in rotation, that is the emir would change every three months.

20 The main duties of the *Hesbah* were what they call forbidding the explicit wrong.

21 Any explicit wrong should be changed, and that includes women's clothing.

22 Women should dress the way Sharia has instructed and that is up to the emir. For
23 example, when it was Ahmad Abou Faqi, the emir at the beginning, there was a sort
24 of a flexibility, a flexibility for preaching that is following a preaching sense rather
25 than an imposition or imposing things on people.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 But at the end, when Mohamed Moussa became emir, the dress code become more of
2 a mandatory thing imposed on women rather than something invited through a
3 preaching sense or a preaching approach.

4 Q. [9:43:10] Mr Witness, you mentioned one particular name, the name of another,
5 another emir, but you said that under certain emirs, and it was in plural in the French,
6 under some of the emirs of the *Hesbah*, how many other emirs of the *Hesbah* were
7 there during that period of time when Timbuktu was occupied in 2012, other than
8 Mohamed Moussa?

9 A. [9:43:59] I'm sorry, I will go back to this. It's been a long time and I think I've
10 mentioned something wrongly.

11 Mohamed Moussa was not the last emir, but his tenure ended days before the French
12 intervention. His successor was another emir of the *Hesbah* and I think it was
13 someone of a Chadian nationality. And I am not fully knowledgeable about the
14 *Hesbah*, but I know just that Ahmad Abou Al Faqi was emir of the *Hesbah* and so were
15 Mohamed *Hesbah*. And the last, someone from Chad whose name I have forgotten.

16 Q. [9:45:07] Very well. Do you know where the *Hesbah* had its headquarters?

17 A. [9:45:20] The first building, I don't know about that and I'm not sure whether it
18 was at the Islamic tribunal, the -- sorry, the old building of the Malian court. As to
19 their second office, it was the municipal Internet café. Their last office was the
20 Islamic police's previous location, which is the bank's building next to the market.

21 Q. [9:46:05] Thank you.

22 MR DUTERTRE: [9:46:05](Interpretation) Mr President, I'd like for us to briefly go
23 into private session just a few moments and then we can go back into open session. I
24 realise that we do have some people in the public gallery today.

25 PRESIDING JUDGE MINDUA: [9:46:20](Interpretation) Thank you very much,

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Mr Prosecutor. And thank you for reminding us that we have people in the public
2 gallery.

3 Courtroom officer, private session, please.

4 (Private session at 9.46 a.m.)

5 THE COURT OFFICER: [9:46:38] We're in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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- 19 (Open session at 9.54 a.m.)
- 20 THE COURT OFFICER: [9:54:42] We're in open session, Mr President.
- 21 PRESIDING JUDGE MINDUA: [9:54:48](Interpretation) Thank you very much.
- 22 Mr Prosecutor, please proceed.
- 23 MR DUTERTRE: [9:54:54](Interpretation) Yes, I will.
- 24 Q. [9:55:00] Mr Witness, at 00:08:17:17, who is the person speaking?
- 25 A. [9:55:19] This man has as *a nom de guerre* Chourahbil. I don't know his real name.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 He is a Libyan national and I think he is from Al-Qaeda.

2 Q. [9:55:37] And what is he doing here at that point in time?

3 A. [9:55:42] Here he is trying to explain the goals of the Ansar Dine group. This
4 was part of the *Hesbah* activities and this is a sort of communication with the people of
5 Timbuktu.

6 Q. [9:56:23] Mr Witness, to the left we see a person facing away with a blue vest
7 and a green turban. Now, could you tell us more about this vest?

8 A. [9:56:40] This is the special vest of the *Hesbah*.

9 Q. [9:57:04] And at 30:01 timestamp, could you tell us exactly what is written on
10 this vest?

11 A. [9:57:14] The Ansar Dine group, the *Hesbah* committee, Timbuktu.

12 Q. [9:57:26] Thank you.

13 MR DUTERTRE: (Interpretation) If we could go into private session.

14 PRESIDING JUDGE MINDUA: [9:57:32](Interpretation) Private session, please.

15 (Private session at 9.57 a.m.)

16 THE COURT OFFICER: [9:57:45] We're in private session.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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18 (Open session at 10.05 a.m.)

19 THE COURT OFFICER: [10:05:53] We are back in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [10:06:01](Interpretation) Thank you, court officer.

21 Prosecutor.

22 MR DUTERTRE: [10:06:04](Interpretation)

23 Q. [10:06:05] Mr Witness, could you tell us what we are seeing in this video?

24 A. [10:06:13] This is a destruction of a bar in Timbuktu next to -- or actually all the

25 bars in Timbuktu. And this was the first thing that Ansar Dine or Al-Qaeda did as

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 soon as they got control of the city.

2 Q. [10:06:43] At 00:00:57:14, there are two people on --

3 A. [10:06:54] This is Abou Thar.

4 Q. [10:07:07] At 00:01:07:11, can you please tell us who this is in the image?

5 A. [10:07:19] This is Talha.

6 MR DUTERTRE: [10:07:31](Interpretation) I would now like to move into private
7 session, your Honour.

8 PRESIDING JUDGE MINDUA: [10:07:36] Private session, please court officer.

9 (Private session at 10.07 a.m.)

10 THE COURT OFFICER: [10:07:49] We're in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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9 (Open session at 10.12 a.m.)

10 THE COURT OFFICER: [10:12:23] We are back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [10:12:35](Interpretation) Thank you, court officer.

12 Prosecutor, please continue.

13 MR DUTERTRE: [10:12:39](Interpretation) Thank you, your Honour.

14 Q. [10:12:43] Mr Witness, for the public record, what is happening in this video?

15 A. [10:12:53] Here the members of the Islamic police are burning a quantity of
16 tobacco. Actually, it's a delivery on -- from two vehicles that they are burning here
17 in the middle of Timbuktu.

18 Q. [10:13:27] Mr Witness, at 00:00:15:15, who is the person on the right of the screen
19 bending over?

20 A. [10:13:47] Although the image is of a very poor quality, that person seems to be
21 Abou Thar.

22 MR DUTERTRE: [10:14:12](Interpretation) I'd now like to return to private session,
23 your Honours.

24 PRESIDING JUDGE MINDUA: [10:14:18](Interpretation) Private session, please,
25 court officer.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 (Private session at 10.14 a.m.)

2 THE COURT OFFICER: [10:14:24] We're in private session, Mr President.

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25 (Open session at 10.17 a.m.)

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [10:17:56] We are back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [10:18:02](Interpretation)

3 MR DUTERTRE: [10:18:06](Interpretation) Thank you, your Honour.

4 Q. [10:18:08] Mr Witness, you talked about writings to protect one from spirits or
5 bad luck. Is this current custom in -- a common custom in Timbuktu to have this
6 kind of writing upon one's person?

7 A. [10:18:28] Yes. This is a tradition in Timbuktu, in Mali, and in other -- in many
8 other countries, but in recent years people who follow this tradition have been called
9 infidels. This is part of the Wahhabist wave. But for Sufis, this is a formal tradition
10 that continues to this day.

11 Q. [10:19:08] And could you explain to us why the members of the groups are
12 burning these writings?

13 A. [10:19:22] With regards to the Al-Qaeda group, which embraces a Salafist
14 ideology and which is almost the same ideology as the Wahhabist ideology, they
15 believe that putting on these amulets is sort of a violation of monotheism because you
16 are relying on someone other than God. And that the person who wears this writing
17 or this amulet believes that that can protect him, while the proper belief is that only
18 God can protect you -- can protect you, no one else and no writing whatsoever.

19 Q. [10:20:12] Thank you very much.

20 MR DUTERTRE: [10:20:13](Interpretation) I'd like to move briefly into private
21 session, please, your Honour.

22 PRESIDING JUDGE MINDUA: [10:20:18](Interpretation) Private session, please,
23 court officer.

24 (Private session at 10.20 a.m.)

25 THE COURT OFFICER: [10:20:25] We're in private session.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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- 23 (Open session at 10.23 a.m.)
- 24 THE COURT OFFICER: [10:23:23] We are back in open session.
- 25 PRESIDING JUDGE MINDUA: [10:23:32](Interpretation) Thank you very much.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 Prosecutor.

2 MR DUTERTRE: [10:23:35](Interpretation) Thank you, your Honour.

3 Q. [10:23:39] Mr Witness, can you tell us what this scene depicts.

4 A. [10:23:51] Here the members of Al-Qaeda and Ansar Dine are destroying and
5 demolishing African statuettes. These at some point in history represented pagan
6 symbols and are now used for decoration that represents African culture.

7 Q. [10:24:28] Thank you very much.

8 MR DUTERTRE: [10:24:31](Interpretation) Mr President, it's now 10.25 and I have a
9 request to present to the Chamber.

10 To be able -- to be able to complete my examination and to present the documents,
11 I would like to have not only the next session but also this afternoon's session. That
12 would be an extra hour and a quarter for my examination, but that would allow me to
13 finish completely and to present all the elements linked to my examination of this
14 witness for proving the truth, and obviously the Defence would have the opportunity
15 to have the same amount as me.

16 PRESIDING JUDGE MINDUA: [10:25:43](Interpretation) What do you mean by
17 finish, by presenting your evidence? Does that mean you would not speak
18 tomorrow?

19 MR DUTERTRE: [10:25:54](Interpretation) No, that would indeed mean that by
20 close of play today I would have finished my examination of the witness and I would
21 not speak again tomorrow.

22 PRESIDING JUDGE MINDUA: [10:26:03](Interpretation) Thank you very much.

23 Ms Taylor, I think that's a good arrangement, because if the Prosecutor finishes today,
24 do you have the time to start tomorrow with your cross-examination? And

25 I think -- it would of course be the turn of the Legal Representative of Victims first,

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 Mr Kassongo.

2 MR KASSONGO: [10:26:24](Interpretation) Mr President, I will pick after the OTP,
3 as usual.

4 PRESIDING JUDGE MINDUA: [10:26:35](Interpretation) So it would not be
5 Ms Taylor. But I think it's a good arrangement.

6 Prosecutor, your request is granted.

7 But before we continue, we have four minutes, I have a question for the witness.

8 Mr Witness, in the video earlier we saw somebody destroying a statuette and you
9 said it was because the group did not accept African culture, but I don't quite
10 understand that. This person destroying the -- was destroying the statue because it
11 was a symbol, a pagan symbol against religion or because it was a representation of
12 African culture, which?

13 THE WITNESS: [10:27:29](Interpretation) They did not explain clearly why they
14 destroyed that, but in general they destroyed these statuettes, and also images drawn,
15 because they believe that any sort of a physical manifestation of something is
16 forbidden in Islam and so are drawings. Some of them go as far as considering
17 filming as also forbidden, but that's a subject of disagreement among them.

18 PRESIDING JUDGE MINDUA: [10:28:13](Interpretation) You talked about drawn
19 images, are you talking about representations of a human being or of all drawings,
20 including of an animal?

21 THE WITNESS: [10:28:31](Interpretation) Anything that has a soul, drawing that or
22 embodying that is prohibited. But that doesn't apply to inanimate things. That is
23 not prohibited, I think.

24 PRESIDING JUDGE MINDUA: [10:28:56](Interpretation) Thank you very much,
25 Mr Witness.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 I see Ms Taylor is on her feet. Ms Taylor.

2 MS TAYLOR: [10:29:03] Yes. Thank you, Mr President.

3 We of course note that the Chamber made its ruling before hearing from the Defence
4 on this issue. We of course do not object to the Prosecution's request, but note that
5 the same flexibility should be applied to the Defence, and in particular draw the
6 Chamber's attention to the fact that we still have an outstanding request to the
7 Chamber concerning the scheduling of hearings in light of medical examinations
8 which are occurring after these hearings on every day this week.

9 Thank you.

10 PRESIDING JUDGE MINDUA: [10:29:49](Interpretation) I was just waiting for the
11 French version, of course.

12 Yes, Ms Taylor, the Chamber is fair, as you know, so you will have the same
13 opportunities as the Prosecutor with regard to speaking.

14 With regard to the request on the other matters, we have been made aware of this and
15 the Chamber -- and we will give you the reply as soon as possible.

16 It is now 10.30. We will now take our 45-minute break and reconvene at 11.15.

17 The hearing is suspended.

18 THE COURT USHER: [10:30:35] All rise.

19 (Recess taken at 10.30 a.m.)

20 (Upon resuming in open session at 11.15 a.m.)

21 THE COURT USHER: [11:15:37] All rise.

22 Please be seated.

23 PRESIDING JUDGE MINDUA: [11:16:05](Interpretation) We shall now resume.

24 Mr Prosecutor, please proceed for the rest of your examination-in-chief, please.

25 MR DUTERTRE: [11:16:15](Interpretation) Thank you, your Honours.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Now just one point for the transcript, for the purposes of the transcript, and I'll do this
2 in private session, your Honours, if you so desire.

3 PRESIDING JUDGE MINDUA: [11:16:35](Interpretation) Private session, please,
4 madam courtroom officer.

5 (Private session at 11.16 a.m.)

6 THE COURT OFFICER: [11:16:46] We are in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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9 (Open session at 11.27 a.m.)

10 THE COURT OFFICER: [11:27:55] We're in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [11:27:59](Interpretation) Thank you very much.

12 Mr Prosecutor, please proceed.

13 MR DUTERTRE: [11:28:01](Interpretation) Thank you, Mr President.

14 Q. [11:28:04] Mr Witness, this footage is self-evident. If we could hark back to

15 once earlier point, could you explain for the public record who this person is,

16 Mr Abou Al Baraa?

17 A. [11:28:27] Abou Al Baraa I think is a Mauritanian. And what I'm sure of is that

18 he was one of the Al-Qaeda imams and leaders, one of the very important ones, and

19 he oversaw the demolition of mausoleums in Timbuktu.

20 Q. [11:28:50] Thank you, Mr Witness. What can you tell us about the destruction

21 of mausoleums in Timbuktu, Mr Witness.

22 A. [11:29:11] The matter of the mausoleums is at the core of the Al-Qaeda ideology

23 and it goes back to their intersection with the Wahhabist ideology because they said

24 that it is religiously prohibited to build on top of tombs more than *a hand's span.

25 And the mausoleums matter angered the people in Timbuktu unprecedentedly. The

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 majority of the people believe that the Islamists were opening up graves to take out
2 the remains of the saints, while in fact they were destroying the top part on -- above
3 the tombs because they believed that whatever *is built higher than a hand's span is
4 prohibited religiously.

5 Q. [11:30:33] That happened when? Approximately. When did the destruction
6 of the mausoleums in Timbuktu begin, Mr Witness?

7 A. [11:30:50] In the middle of 2012.

8 Q. [11:31:02] And the beginning of the destruction of the mausoleums, was that
9 before or after Ramadan in 2012?

10 A. [11:31:18] I cannot recall exactly now, but it was the last -- but it was the last part
11 of 2012, that is for sure.

12 MR DUTERTRE: [11:31:38](Interpretation) I'd like us to go into private session.

13 PRESIDING JUDGE MINDUA: [11:31:42](Interpretation) Private session, madam
14 courtroom officer.

15 (Private session at 11.31 a.m.)

16 THE COURT OFFICER: [11:31:50] We're in private session, Mr President.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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9 (Open session at 11.33 a.m.)

10 THE COURT OFFICER: [11:33:50] We're in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [11:33:56](Interpretation) Thank you very much.

12 Mr Prosecutor.

13 MR DUTERTRE: [11:34:02](Interpretation) Thank you.

14 Q. [11:34:05] Now at this cemetery, the Sidi Mahmoud *cimetière* - and I'm at
15 timestamp 00:00:03:22 - could you explain to the Chamber what those people are
16 doing? These people who are at the top of the surrounding wall?

17 A. [11:34:36] Yes, these members were securing the cemetery and they were around
18 all the corners of the cemetery to protect those doing the demolition inside the
19 cemetery.

20 Q. [11:35:02] Very well.

21 MR DUTERTRE: [11:35:04](Interpretation) If we could go into private session.

22 PRESIDING JUDGE MINDUA: [11:35:07](Interpretation) Private session, please.

23 (Private session at 11.35 a.m.)

24 THE COURT OFFICER: [11:35:11] We're in private session, Mr President.

25 (Redacted)

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 (Redacted)

2 (Open session at 11.39 a.m.)

3 THE COURT OFFICER: [11:39:26] We're in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [11:39:47](Interpretation) Thank you very much.

5 Mr Prosecutor.

6 MR DUTERTRE: [11:39:52](Interpretation) Thank you.

7 Q. [11:39:54] Witness, what's going on? Could you tell us what this is all about?

8 A. [11:40:02] This is a group of members of Ansar Dine and Al-Qaeda. They were
9 demolishing one of the mausoleums built on -- on top of a saint in Timbuktu.

10 Q. [11:40:26] At 08:10, could you tell us what body or organ this person belongs to?

11 A. [11:40:36] It's the Islamic police as it can be told from the vest.

12 MR DUTERTRE: [11:40:52](Interpretation) I'd like us back into private session, if
13 that's possible, Mr President.

14 PRESIDING JUDGE MINDUA: [11:41:02](Interpretation) Private session, please.

15 (Private session at 11.41 a.m.)

16 THE COURT OFFICER: [11:41:11] We're in private session.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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24 (Open session at 11.45 a.m.)

25 THE COURT OFFICER: [11:45:23] We're in open session, Mr President.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [11:45:33](Interpretation) Thank you, court officer.
2 Mr Prosecutor, please continue.
- 3 MR DUTERTRE: [11:45:37](Interpretation) Thank you, your Honour.
- 4 Q. [11:45:42] Mr Witness, at 00:00:00:00, who is the person that we see here dressed
5 in green with a black turban?
- 6 A. [11:45:58] Abou Al Baraa.
- 7 Q. [11:46:02] And what is he doing, Mr Witness?
- 8 A. [11:46:11] Here they are demolishing the mausoleums at the Sidi Yahia cemetery
9 in Timbuktu.
- 10 MR DUTERTRE: [11:46:40](Interpretation) Did not hear any translation.
- 11 Q. [11:46:48] Could you please repeat the name of the cemetery, Mr Witness.
- 12 A. [11:46:53] It's either Sidi Mahmoud or Sidi Yahia. I do not recall the exact
13 name.
- 14 Q. [11:47:37] Mr Witness, at 00:00:44:20, are you able to say who this is on the left of
15 the screen with a light green turban?
- 16 A. [11:47:53] This is Abou Bacar Al Chingetty.
- 17 Q. [11:48:07](Interpretation) Thank you.
18 Your Honour, I would like to move into private session, please.
- 19 PRESIDING JUDGE MINDUA: [11:48:13](Interpretation) Private session, please,
20 court officer.
21 (Private session at 11.48 a.m.)
- 22 THE COURT OFFICER: [11:48:18] We're in private session, Mr President.
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24 (Redacted)
25 (Redacted)

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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8 (Open session at 11.49 a.m.)

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

10 PRESIDING JUDGE MINDUA: [11:49:21](Interpretation) Thank you very much.

11 Mr Prosecutor.

12 MR DUTERTRE: [11:49:24](Interpretation) Thank you, your Honour.

13 Q. [11:49:26] Mr Witness, can you say who is the person here on the left of the
14 screen?

15 A. [11:49:35] That's Abou Bacar Al Chingetty.

16 Q. [11:49:49] And can you, if possible - it's difficult - say who is this person
17 in -- towards the back at the -- to the right of the wall with a -- in green with a black
18 turban?

19 A. [11:50:17] It's difficult to be sure on this, this is quite distant and the quality of
20 the image is not reliable either, but I could say that this seems to be Abou Al Baraa.

21 Q. [11:50:48] Thank you.

22 MR DUTERTRE: [11:50:49](Interpretation) I'd now like to move into private session,
23 please, your Honour.

24 PRESIDING JUDGE MINDUA: [11:50:53](Interpretation) Private session, please,
25 court officer.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 (Private session at 11.50 a.m.)

2 THE COURT OFFICER: [11:51:03] We're in private session, Mr President.

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9 (Redacted)

10 (Redacted)

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16 (Redacted)

17 (Open session at 11.52 a.m.)

18 THE COURT OFFICER: [11:52:56] We're in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [11:53:02](Interpretation) Thank you.

20 Mr Prosecutor.

21 MR DUTERTRE: [11:53:05](Interpretation) Thank you, your Honour.

22 Q. [11:53:06] Mr Witness, at 00:00:09:21, who is the person on the left with a white
23 turban?

24 A. [11:53:19] This is Talha.

25 Q. [11:53:26] Can you tell us what he was doing there on that day?

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 A. [11:53:32] Here he's at the cemetery during the demolition of mausoleums in
2 Timbuktu.

3 Q. [11:53:59] I'm now at 00:02:22. Are you able to recall who is the person in black
4 whom we see from the back here on the screen?

5 A. [11:54:16] I think that that is Abou Sayaf. This is what I think.

6 Q. [11:54:33] Thank you.

7 MR DUTERTRE: [11:54:34](Interpretation) I would now like to move into private
8 session, please, your Honour.

9 PRESIDING JUDGE MINDUA: [11:54:38](Interpretation) Private session, please,
10 court officer.

11 (Private session at 11.54 a.m.)

12 THE COURT OFFICER: [11:54:49] We're in private session, Mr President.

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14 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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- 23 (Open session at 11.59 a.m.)
- 24 THE COURT OFFICER: [11:59:08] We are back in open session, Mr President.
- 25 PRESIDING JUDGE MINDUA: [11:59:12](Interpretation) Thank you very much.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 Mr Prosecutor, please continue.

2 MR DUTERTRE: [11:59:15](Interpretation) Thank you, your Honour.

3 Q. [11:59:17] Mr Witness, who do we see at the start of this video, 00:00:00:00?

4 A. [11:59:29] Mr Al Faqi.

5 Q. [11:59:37] And what is he saying at this point?

6 A. [11:59:45] Here he is explaining the Islamic perspective on the levelling of tombs
7 and the removal of anything built above tombs.

8 MR DUTERTRE: [12:00:12](Interpretation) I would like to move again to private
9 session, please, your Honour.

10 PRESIDING JUDGE MINDUA: [12:00:17](Interpretation) Private session, please,
11 court officer.

12 (Private session at 12.00 p.m.)

13 THE COURT OFFICER: [12:00:27] We're in private session, Mr President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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- 15 (Open session at 12.03 p.m.)
- 16 THE COURT OFFICER: [12:03:40] We are in open session, Mr President.
- 17 PRESIDING JUDGE MINDUA: [12:03:46](Interpretation) Thank you.
- 18 Mr Prosecutor.
- 19 MR DUTERTRE: [12:03:48](Interpretation) Thank you, your Honour.
- 20 Q. [12:03:51] Mr Witness, a brief question. Who do we see at 00:00:00:00?
- 21 A. [12:04:03] It's Mr Al Faqi.
- 22 Q. [12:04:15] I understand from one of your previous answers that there were other
- 23 destructions at other cemeteries; is that correct, Mr Witness?
- 24 A. [12:04:26] Yes. If my memory serves me well, there were three or four stages of
- 25 demolition. The first was at the principal cemetery, which is at Abaraz. Then

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 another cemetery near the national guard centre. And after some time, the outer
2 cemeteries -- the tombs, the outer tombs adjacent to the Djingureber mosque, and
3 then there were individual tombs in the middle of the city.

4 Q. [12:05:17] You talked about the main cemetery of Tele (phon). Could you
5 please tell us to what that refers?

6 A. [12:05:32] This might have been an imprecise interpretation. I don't recall
7 having said Tele.

8 Q. [12:05:49] (No interpretation)

9 A. [12:06:05] I think that was the Sidi Mahmoud cemetery. I don't recall the exact
10 names of cemeteries.

11 MR DUTERTRE: [12:06:22](Interpretation) I'd like to move into private session, your
12 Honour.

13 PRESIDING JUDGE MINDUA: [12:06:30](Interpretation) Private session, please,
14 court officer.

15 (Private session at 12.06 p.m.)

16 THE COURT OFFICER: [12:06:37] We are in private session.

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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- 12 (Open session at 12.09 p.m.)
- 13 THE COURT OFFICER: [12:09:19] We're in open session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [12:09:25](Interpretation) Thank you very much.
- 15 Prosecutor.
- 16 MR DUTERTRE: [12:09:27](Interpretation) Thank you, your Honour.
- 17 Q. [12:09:30] A very quick question: At 00:00:02:08, who is the individual on the
- 18 left, the second from the left?
- 19 A. [12:09:48] This is Abou Bacar Al Chingetty.
- 20 MR DUTERTRE: [12:09:57](Interpretation) I'd like to move into private session,
- 21 please, your Honour.
- 22 PRESIDING JUDGE MINDUA: [12:10:01](Interpretation) Private session, please,
- 23 court officer.
- 24 (Private session at 12.10 p.m.)
- 25 THE COURT OFFICER: [12:10:18] We're in private session, Mr President.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 (Open session at 12.16 p.m.)

2 THE COURT OFFICER: [12:16:36] We are back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [12:16:44](Interpretation) Thank you, court officer.

4 Mr Prosecutor, it is now 12.15, which is the time for our lunch break, which will last
5 an hour and a quarter. That is correct, I believe. You will continue your
6 examination at 13.30.

7 We are going to suspend the hearing.

8 The hearing is suspended.

9 THE COURT USHER: [12:17:15] All rise.

10 (Recess taken at 12.17 p.m.)

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

12 THE COURT USHER: [13:31:02] All rise.

13 Please be seated.

14 PRESIDING JUDGE MINDUA: [13:31:30](Interpretation) We shall now resume the
15 hearing and I will now ask the Prosecutor to proceed.

16 Just to remind you, you have only one more hour and we need to end at 2.30.

17 MR DUTERTRE: [13:31:48](Interpretation) Duly noted. I will make the necessary
18 sacrifices.

19 I'd like us to immediately go into private session.

20 PRESIDING JUDGE MINDUA: [13:31:59](Interpretation) Private session,
21 courtroom officer.

22 (Private session at 1.32 p.m.)

23 THE COURT OFFICER: [13:32:08] We are in private session, Mr President.

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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23 (Open session at 1.47 p.m.)

24 THE COURT OFFICER: [13:48:11] We are in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [13:48:12](Interpretation) Thank you very much.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 Prosecutor.
- 2 MR DUTERTRE: [13:48:15](Interpretation) Thank you.
- 3 Q. [13:48:17] Who do we see at the left, on the left of this particular photograph, at
4 the far left?
- 5 A. [13:48:26] This is Abou Bacar Al Chingetty.
- 6 Q. [13:48:37] Who do we see just beside him, to the right of him, wearing a sort of
7 brownish turban?
- 8 A. [13:48:48] That's Radwan Abou Al-Achbal.
- 9 Q. [13:49:01] And who is right of him wearing a white turban?
- 10 A. [13:49:06] That's Mr Al Faqi.
- 11 Q. [13:49:14] And who is the person in the middle wearing a white garment?
- 12 A. [13:49:19] That's the imam of the mosque where there is the Alkyama gate, but
13 I don't know his name.
- 14 Q. [13:49:31] And the person right of the imam who is dressed in blue?
- 15 A. [13:49:41] That's one of the Kounta sheikhs.
- 16 Q. [13:49:58] Is it the same person as the one we saw earlier?
- 17 A. [13:50:01] Yes.
- 18 Q. [13:50:08] And the person to the right, the second last person wearing a black
19 turban, who is that person?
- 20 A. [13:50:19] The image is not clear.
- 21 Q. [13:50:36] We are just going to continue a little bit with this footage.
22 (Viewing of the video excerpt)
- 23 MR DUTERTRE: [13:50:57](Interpretation)
- 24 Q. [13:50:58] At 00:03:22:13, can you tell us who are these three people dealing with
25 the door?

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 A. [13:51:13] These are members of the Ansar Dine and Al-Qaeda. Here they are
2 breaking the Alkyama gate in Timbuktu.

3 Q. [13:51:31] Can you give us their names. I know that they're facing away from
4 the camera, but ...

5 A. [13:51:46] If you play the video that will be possible for me, certainly.

6 Q. [13:51:57] Who is the person who has just walked by wearing a black turban,
7 00:03:25:03?

8 A. [13:52:09] Abdallah Al Chinguetti.

9 Q. [13:52:20] Now, at 04:03:13, who are these two people that we see to the right?

10 A. [13:52:29] It's Mr Al Faqi and Abou Al Baraa.

11 Q. [13:52:52] At 03:34:13, who is the person far to the right in the photograph? We
12 just see a side view of his face?

13 A. [13:53:08] Youssouf.

14 Q. [13:53:11] Could you remind me who that person is?

15 A. [13:53:16] Youssouf is the person in charge of the media or the media officer
16 Ansar Dine, or a leader in Timbuktu in 2012.

17 Q. [13:53:41] At 00:09:31:12, who is this person wearing a white turban?

18 A. [13:53:51] That's Mr Al Faqi.

19 Q. [13:53:59] And what's he doing at that point in time?

20 A. [13:54:03] Here he is explaining the reasons for which they are opening the
21 Alkyama gate.

22 MR DUTERTRE: [13:54:21](Interpretation) Your Honours, if we could go into
23 private session.

24 PRESIDING JUDGE MINDUA: [13:54:25](Interpretation) Private session, courtroom
25 officer.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 (Private session at 1.54 p.m.)

2 THE COURT OFFICER: [13:54:35] We're in private session, Mr President.

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21 (Redacted)

22 (Open session at 1.58 p.m.)

23 THE COURT OFFICER: [13:58:34] We are back in open session, Mr President.

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

25 Mr Prosecutor.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 MR DUTERTRE: [13:58:40](Interpretation)

2 Q. [13:58:41] Do you know who the person to the left is wearing a grey turban and
3 a white garment, 0018-0148?

4 A. [13:58:57] That's Adam, the head of the Islamic police.

5 Q. [13:59:19] Now, at 007 -- we see someone to the left with a pick. Do you know
6 who this person is?

7 A. [13:59:33] Yes. It's Mr Al Faqi.

8 Q. [13:59:55] At 10:54:24, the person who has this pickaxe, do you know who that
9 person is?

10 A. [14:00:08] The image is not clear enough for that. If you could play the video,
11 please.

12 (Viewing of the video excerpt)

13 MR DUTERTRE: [14:00:52](Interpretation)

14 Q. [14:00:54] Was that helpful, Mr Witness?

15 A. [14:00:58] The quality of the image is bad, but from his bodily movement I can
16 say it's Abou Thar.

17 Q. [14:01:20] And who is the person to his left wearing black at 00:11:10:18?

18 A. [14:01:35] That's Radwan Abou Al-Achbal.

19 Q. [14:01:48] Now at 00:14:55:06, who is this person and what is he doing?

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 MR DUTERTRE: [14:02:39](Interpretation) I'd now like to show a document in
25 private session, please, your Honour.

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [14:02:48](Interpretation) Private session, please,
2 court officer.

3 (Private session at 2.02 p.m.)

4 THE COURT OFFICER: [14:02:59] We are in private session.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

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09.11.2020

Page 47

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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Trial Hearing
WITNESS: MLI-OTP-P-0065

(Private Session)

ICC-01/12-01/18

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23 (Open session at 2.32 p.m.)

24 THE COURT OFFICER: [14:32:51] We are in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [14:32:56](Interpretation) Thank you very much,

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

- 1 courtroom officer.
- 2 Mr Witness, we have come to the end of your testimony for today. Tomorrow you
- 3 shall continue providing testimony and, in the meantime, do not forget what I have
- 4 said: You are not allowed to discuss your testimony with anyone whatsoever.
- 5 So, before we adjourn for the day, I would like to thank all parties and participants.
- 6 I thank the court reporters and interpreters and our security officers, and of course I
- 7 thank the public.
- 8 We will now adjourn and we will see one another tomorrow at 9.30 a.m.
- 9 THE COURT USHER: [14:33:48] All rise.
- 10 (The hearing ends in open session at 2.33 p.m.)