

Trial Hearing
MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 15 September 2021
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: [9:34:10] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:34:25](Interpretation) Court is in session.
15 Good morning to all.
16 Mr Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:34:56] Good morning, Mr President, your Honours.
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 reference ICC-01/12-01/18.
20 And, for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:35:17](Interpretation) Thank you very much,
22 Mr Courtroom Officer.
23 As every morning, we are going to check the various teams, starting with the Office of
24 the Prosecutor.
25 Madam Prosecutor, please.

1 MS LUPING: [9:35:30] Good morning, Mr President. Good morning,
2 your Honours. Appearing on behalf of the Prosecution this morning are the same
3 team as two days ago. That's myself, Dianne Luping; Mr Gilles Dutertre; and Ms
4 Yayoi Yamaguchi.

5 PRESIDING JUDGE MINDUA: [9:35:50](Interpretation) Thank you very much,
6 Madam Prosecutor.

7 Now I shall turn to the Defence.

8 MS TAYLOR: [9:35:56] Good morning, Mr President. Good morning,
9 your Honours. Good morning to everyone in the courtroom and around the
10 courtroom.

11 The Defence for Mr Al Hassan is represented today by Mr Julia Basile; Ms Dolly
12 Chahla; and myself, Melinda Taylor.

13 Thank you very much.

14 PRESIDING JUDGE MINDUA: [9:36:14](Interpretation) Thank you very much,
15 Ms Taylor.

16 I'm now turning to the Legal Representatives of Victims. Maître.

17 MR KASSONGO: [9:36:21](Interpretation) Good morning, Mr President.
18 Thank you.

19 Good morning, your Honours. Good morning to all.

20 The Legal Representatives of Victims, as a team, is in the very simplified form this
21 morning. I am myself, Maître Kassongo, who is representing the legal -- the victims.
22 And I thank you very much.

23 PRESIDING JUDGE MINDUA: [9:36:42](Interpretation) Thank you very much,
24 Maître Kassongo.

25 This morning, we shall be continuing with the testimony of Witness P-0654 for the

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1 Prosecution.

2 Before addressing the witness, I would like to remind you -- or, in fact, point out for
3 the record, that yesterday, the Chamber did not sit and the hearing was cancelled at
4 the behest of the Defence for matters relating to the accused.

5 This morning, at the request of the Defence, once again, the Chamber has granted
6 authorisation to the accused to follow the proceedings via video link from the
7 detention unit.

8 There we are.

9 Good morning, Mr Witness. How are you?

10 WITNESS: MLI-OTP-P-0654 (On former oath)

11 (The witness speaks French)

12 (The witness gives evidence via video link)

13 THE WITNESS: [9:37:46](Interpretation) Good morning, Mr President. I am well.

14 PRESIDING JUDGE MINDUA: [9:37:52](Interpretation) Thank you very much,
15 Mr Witness.

16 THE WITNESS: [9:37:56](Interpretation) Thank you.

17 PRESIDING JUDGE MINDUA: [9:37:57](Interpretation) I would like to, on behalf of
18 the Chamber, wish you -- welcome you once again and remind you that you are still
19 under oath and that you should speak the truth, the whole truth and nothing but the
20 truth.

21 I would like to lastly remind you of my practical advice with regard to addressing the
22 Court. We must all speak in this courtroom slowly and clearly, respecting the
23 habitual pauses for the work of the interpreters and court reporters to be conducted
24 smoothly.

25 So this morning, we shall continue with the cross-examination on the part of the

- 1 Defence.
- 2 And, without further ado, I shall now be handing over to Ms Taylor.
- 3 Ms Taylor.
- 4 MS TAYLOR: [9:38:58] Thank you.
- 5 QUESTIONED BY MS TAYLOR (Continuing)
- 6 Q. [9:39:00] Good morning, Mr Witness. How are you this morning?
- 7 A. [9:39:06] Good morning. I am well, Counsel.
- 8 Q. [9:39:10] Mr Witness, during the courtesy meeting, I explained to you that you'd
- 9 be able to see perhaps Mr Al Hassan behind me. But as the Presiding Judge has
- 10 explained, Mr Al Hassan has regrettably had back pain, and the Chamber has kindly
- 11 allowed him to participate via video link. So we can see a screen of him in the
- 12 courtroom.
- 13 It's my understanding that he can see you, but you might not be able to see him. But
- 14 I want to assure you, that is out of no disrespect to the Chamber or to you that he is
- 15 not present today in the courtroom.
- 16 A. [9:39:46] Okay. Thank you.
- 17 MS TAYLOR: [9:39:48] Mr President, just a quick housekeeping matter. If
- 18 Mr Al Hassan has any issues, is it acceptable to the Chamber if he raises his hand so
- 19 as not to disturb the proceedings? Because he can't communicate directly with the
- 20 Defence.
- 21 PRESIDING JUDGE MINDUA: [9:40:05](Interpretation) Yes, indeed, Ms Taylor.
- 22 Indeed.
- 23 MS TAYLOR:
- 24 Q. [9:40:08] Now, Mr Witness, if you may recall during the last hearing, we were
- 25 discussing a particular document. I'm going to ask for that document to be shown

1 on your screen and I want to reassure you that it's not going to be shown to the public.

2 So just because you see something on your screen, does not -- does not mean that the
3 public gallery can see it.

4 Now, the document in question is Defence tab 209. It's MLI-D28-0005-7194.

5 And if the court officer could kindly put it on evidence 1.

6 On Monday I read out the contents of this document, so I won't repeat it. It refers to
7 youths coming to protest.

8 The youths referred to in this document, did they come from Timbuktu, to your
9 knowledge?

10 A. [9:41:23] Yes, these young people are from Timbuktu, more specifically, from
11 Hamma Bangou and Sareïkena.

12 Q. [9:41:42] And this document refers to destruction and fires. Were the youths
13 responsible for this?

14 A. [9:41:50] I can confirm that the young people were, indeed, responsible for these
15 acts because at a given moment in time, we thought that the youth had been
16 infiltrated by extremists who did not want alcohol to be sold, and there is a group of
17 young people that set themselves up as gendarmes to fight against this practice of the sale
18 of alcohol.

19 And the president of this group came to see me in person to say that he was going to
20 conduct a campaign to raise awareness about the sale of drugs in the town of
21 Timbuktu, but he never said that they were going to take part in any destruction or
22 that they would themselves administer justice.

23 So, on the day of this event, I called him and he said that they had been taken over by
24 young people who really wanted to destroy these areas.

25 So I understood that it was not an invisible hand if you like; that it was young people

1 from Timbuktu who did conduct this act. I can confirm that, yes.

2 Q. [9:43:46] And what are the buildings we can see in these photos?

3 A. [9:43:52] This is what we call a nightclub for young people. When I say
4 "a nightclub", it is a dancing bar or café; so it is a place where young people would
5 come together.

6 Q. [9:44:30] At transcript 132, realtime, page 62 to 63, lines 22 to 26, you stated:
7 As I said earlier, of all the various occupations, Timbuktu was able to learn some
8 lessons. The one of 2012 was a reminder that women should not wear indecent
9 clothing, and the attitude of young people influenced by new technologies was such
10 that people had even spoken out against that attitude. The proof of that was there
11 was the establishment of a commission for the establishment of values and morality
12 of Timbuktu.

13 And you refer to a certain person being a spokesperson, but I'm not going to name
14 that person.

15 Now, Mr Witness, speaking of the time period before 2012, do you recall an assembly
16 *pour la correction des moeurs* taking place in Timbuktu in June 2010?

17 A. [9:45:48] I remember only too well because I took part. It was at Sankoré
18 square.

19 Q. [9:45:59] I'm going to ask the Registry to bring up a document and for it not to
20 be shown publicly out of an abundance of caution. It's Defence tab 143. It's
21 MLI-D28-0004-3227. If it could be shown on evidence 1, and, just to emphasise again
22 that we are in public session.

23 Mr Witness, do you recognise any person in this photograph?

24 A. [9:46:49] (Redacted)

25 MS TAYLOR: [9:47:03] Mr President, I believe it might be best to quickly go into

1 private session.

2 PRESIDING JUDGE MINDUA: [9:47:12](Interpretation) Mr Courtroom Officer,

3 private session, please.

4 (Private session at 9.47 a.m.)

5 THE COURT OFFICER: [9:47:17] We're in private session, Mr President.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
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10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)

16 (Open session at 9.50 a.m.)

17 THE COURT OFFICER: [9:50:23] We are back in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [9:50:30](Interpretation) Thank you very much,

19 Mr Courtroom Officer.

20 Ms Taylor.

21 MS TAYLOR:

22 Q. [9:50:37] I'm going to bring up another document. It's Defence tab 140, and it
23 should not be shown to the public. It's MLI-D28-0004-3189.

24 The description states that these are historical photos from the *Assemblée des Moeurs* at
25 the *place Sankoré*.

1 Is this the same event that we were discussing?

2 A. [9:51:21] Well, I do think that that's the same event. It was the same gathering.
3 It's the same event.

4 Q. [9:51:44] Now, Mr Witness, without giving any names, the photos here have
5 several persons.

6 Are these people coming from the local population of Timbuktu?

7 A. [9:52:01] Yes. You have all the high leaders, the notables of Timbuktu: The
8 religious leaders, the traditional leaders, the customary leaders and even the ...

9 THE INTERPRETER: [9:52:34] Inaudible.

10 MS TAYLOR: [9:52:36]

11 Q. [9:52:38] Mr Witness, I believe in both the French and the English transcript,
12 they didn't catch the last thing you said. You said -- you referred to the traditional
13 authorities and "even the ..."

14 What were your last words?

15 A. [9:52:53] The griot, that is, the caste men, men of caste.

16 Q. [9:53:04] Now according to this post, the assembly issued resolutions to the
17 mayor. And the resolutions were issued by the imam of the Djinguereber mosque.
18 That's Imam Essayouti.

19 Do you recall these resolutions?

20 A. [9:53:24] Yes, I do remember some of those resolutions. It's 11 years ago now.
21 So amongst those resolutions, there was the -- the fact that the election for Miss -- the
22 "Miss" election should not be held in Timbuktu, and there was also the formal
23 prohibition of -- for selling alcohol in the medina - it was prohibited to sell alcohol in
24 the medina - and the fact that it was unacceptable for girls to wear indecent attire in
25 the medina.

1 Well, so those were some of the resolutions, but I knew that those would come to
2 mind. I would memorise them.

3 THE INTERPRETER: [9:54:52] The election of the "Miss" would be the beauty
4 contest, message from the interpreter.

5 MS TAYLOR: [9:54:59] I'm just going to bring up another document. It's Defence
6 tab 147, MLI-D28-0004-3335. This is a document titled: "RESOLUTIONS COMITE
7 DES MOEURS 10 juin 2010 Tombouctou".

8 And then we have: "ASSEMBLÉE GÉNÉRALE" --

9 (Interpretation) Resolutions of the *Comite des Moeurs* of 10th June 2010 in Timbuktu.
10 Assembly general on Saturday 12 June 2010 at Place Sankoré. General resolutions.

11 (Speaks English) Do you have this document in front of you, Mr Witness?

12 A. [9:55:52] Yes, I do have it up on the screen.

13 Q. [9:55:57] And does this refresh your memory -- does this appear to be the
14 resolutions that were issued at that assembly? We can scroll through if it's easier for
15 you to read through it.

16 A. [9:56:11] Yes, that is indeed the heading, I remember.

17 PRESIDING JUDGE MINDUA: [9:56:39](Interpretation) Madam Prosecutor, please.

18 MS LUPING: [9:56:41] Mr President, your Honours, it's just a question of procedure.
19 We just want to ensure that the witness has sufficient time to properly read through
20 this document. I know that the witness does usually require a hard copy to be able
21 to read it in front of him -- to be able to read it properly, and it usually does take a bit
22 more time to be able to read through documents thoroughly. It's just a request that
23 more time be given if he's being asked to confirm the authenticity of this document.
24 And I would also just note that this is dated -- we have a date here that is three years
25 after the purported date of the document.

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1 So it's just to ensure enough time is given to the witness to read it.

2 PRESIDING JUDGE MINDUA: [9:57:32](Interpretation) Madam Prosecutor, are you
3 saying that the document is dated three years later? I see Timbuktu, the 12th of June
4 2010.

5 THE WITNESS: [9:57:51](Interpretation) Yes. In fact, the assembly was held on the
6 10th. And on the 12th, there was a publication of the resolutions.

7 THE INTERPRETER: [9:58:02] Says the witness.

8 PRESIDING JUDGE MINDUA: [9:58:04](Interpretation) Very well. But, Madam
9 Prosecutor, before I hand over to the Defence --

10 MS LUPING: [9:58:09] Mr President, if you look under the heading at the very top,
11 there's a name that I'm not going to state. You will see a date, 25 December 2013.
12 That is the date I'm referring to. So my -- my point is this, to make sure, in fairness
13 to the witness, that he's given proper time to read through this document. It's clearly
14 not from him as well. So it's just an opportunity to be -- to be given. That's my -- it
15 was a simple point. Just that he been given sufficient time to read the document.
16 And, I understand a hard-copy binder is being provided, but when it's being scrolled
17 through, it's just being scrolled through extremely quickly.

18 That -- that was my only point. And -- but I did want to note, to bring to
19 your Honours' attention, there is a difference in the dates that you need to be aware
20 of.

21 PRESIDING JUDGE MINDUA: [9:59:02](Interpretation) Very well, Madam
22 Prosecutor. At the top of the document, we can indeed see the date of the -- of 2013,
23 25 December 2013.

24 Ms Taylor, Madam Prosecutor is just reminding us of our procedure; namely, that the
25 witness needs to have enough time to read through the document.

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1 MS TAYLOR: [9:59:25] Thank you, Mr President.

2 The Prosecution may recall that this document has already been submitted through
3 other witnesses. So I think this was an unnecessary intervention. I also intend to
4 read out components of the document before putting questions to this witness. I'm
5 happy for him to read it in its entirety, but I hadn't even put a question to the witness
6 when the Prosecution objected.

7 So we would ask them to exercise a little bit of restraint.

8 PRESIDING JUDGE MINDUA: [10:00:07](Interpretation) Very well, Ms Taylor.

9 But let's allow the witness to read the document.

10 MS TAYLOR: [10:00:11] Certainly.

11 Q. [10:00:12] Mr Witness, do you have up -- I'm not sure if the court officer on site
12 has been able to print documents for you. If so, it would be wonderful if a copy
13 could be provided to you. If not, if the Registry could slowly scroll down. But I can
14 also read out components into the record, but perhaps if you can look through it first.

15 PRESIDING JUDGE MINDUA: [10:01:06](Interpretation) Mr Witness, are you
16 ready?

17 THE WITNESS: [10:01:07](Interpretation) Yes.

18 PRESIDING JUDGE MINDUA: [10:01:11](Interpretation) Ms Taylor.

19 MS TAYLOR: [10:01:13]

20 Q. [10:01:13] Thank you.

21 Mr Witness, I'm going to ask a preliminary question.

22 Are you aware of an organisation called the UJMM? *The Union des Jeunes Musulmans*
23 *du Mali.*

24 A. [10:01:28] Yes. I know that organisation. It is a religious organisation.

25 Q. [10:01:36] And was it connected to this initiative, this initiative of the *Comité des*

1 *moeurs*?

2 A. [10:01:51] The name is UJMM actually, Union of Young Muslims of Mali. So
3 the association was a member of the morality committee.

4 Q. [10:02:15] Do you remember how many members this association had?

5 A. [10:02:20] It would be difficult to tell you the number of people who are
6 members of an organisation or an association, but I do know that this association does
7 have an office, and a number of pious people are the ones who are the leaders of this
8 association.

9 Q. [10:02:56] You've referred to "a number of pious people" who are the leaders of
10 the association.

11 Are you able to give us the names of these people?

12 A. [10:03:05] Yes. I don't know the first names of some of them -- or, at least, not
13 off the top of my head. But there's -- well, most are *médessa* teachers. So Bollo
14 Albakaye. There's Haidara, a fellow by the name of Haidara, as well there's Sidi
15 (phon) Moulaye, and another by the name of Shabuli (phon) or something sort of like
16 that.

17 Well, those are the most influential ones that one finds in the city. So those are the
18 names, but the first names I -- I can't remember, or I don't know for now.

19 Q. [10:04:43] If I could just bring up Defence tab 220. That's MLI-D28-0005-7222.
20 And, Mr Witness, again could you be given a hard copy on site? If the Registry
21 could confirm whether that's possible. Mr Witness, I understand that a hard copy has
22 been given to you as well.

23 A. [10:05:41] Yes. I'm -- I'm just looking for it.

24 Q. [10:05:47] It's tab 220, if that assists the field office.

25 A. [10:06:15] Yes, I found it.

1 Q. [10:06:19] Mr Witness, if you could look through it and if you could indicate to
2 me when you've had a chance to look through it and then I'll pose some questions.

3 A. [10:07:52] Yes, I've skimmed it.

4 Q. [10:07:56] Mr Witness, this is a document published by the *Union des Jeunes*
5 *Musulmans du Mali Tomboctou* in June 2010. Is this the same organisation we were
6 just discussing?

7 A. [10:08:14] Exactly, the same association.

8 Q. [10:08:19] Now this document refers to a general assembly on 12 June 2010, and
9 it refers to resolutions having been issued. Are these the same resolutions we were
10 just referring to?

11 A. [10:08:37] Yes, the resolutions that I just saw, they're the same as the ones that
12 were provided to the authorities.

13 Q. [10:09:02] Mr Witness, at this point in time, was there a concern regarding the
14 clothing behaviour of young girls and boys and that it would compromise the cultural
15 heritage of Timbuktu?

16 A. [10:09:15] Yes, in actual fact, the alert had been -- or the alarm bell had been
17 sounded ever since 2009 by a number of wise men in Timbuktu who deplored what
18 was going on in the city, particularly in the medina, in recent years.

19 And in 2009, even then, Timbuktu was coveted because many tourists would come,
20 and, to draw attention of visitors, Timbuktu had to remain authentic, including
21 people's clothing, the way the people behaved.

22 So some remarks were made during this time when the alarm bells went off, so to
23 speak, in 2010. After a dialogue and consultation with all neighbourhoods of the city,
24 the wise men gathered, in addition to a number of associations, including UJMMA,
25 U-J-M-M ... and RECOTRADE, which was another association that brought together

1 all the men from the various castes of Timbuktu. RECOTRADE.

2 Both -- well, you see, the morality committee was made up of various people and I
3 would say it was represented -- well, if you were a imam or a marabout, or if you
4 weren't a neighbourhood leader, you belonged to a cultural association. So all the
5 people of Timbuktu were represented within the morality committee in order to do
6 something about this -- this downward slide, so to speak, in morality that had been
7 observed.

8 Indeed, people had noticed that -- I mentioned the influence of new technologies,
9 television, soap operas series from the west. All of these things seriously affected the
10 behaviour of young people.

11 And so, you see, often, we would see young girls wearing indecent clothing - and
12 what I mean by that, miniskirts, transparent items of clothing, provocative
13 clothing - not the kind of clothing that is indicative of this city of culture and religion,
14 namely, Timbuktu.

15 Q. [10:13:13] Mr Witness, you referred to an organisation called "RECOTRADE."
16 Could you please spell that so that we have it accurately reflected in the transcript?

17 A. [10:13:33] R-I-C-O-T-R-A-D-E (sic).

18 THE INTERPRETER: [10:13:50] "E" -- RECOTRADE.

19 THE WITNESS: [10:13:51](Interpretation) I can tell you what it means. It is the
20 network for traditional communicators for development.

21 THE INTERPRETER: [10:14:05] RECOTRADE.

22 MS TAYLOR:

23 Q. [10:14:11] Does this organisation have a governing body or leadership?

24 A. [10:14:16] Yes. Yes, it did have sort of a -- I guess, you could call it a steering
25 committee, and this committee was in all the communes, in all the neighbourhoods

1 and all regions of Mali.

2 Q. [10:14:48] Do you recall who was involved in the leadership in the years leading
3 up to 2012?

4 A. [10:14:55] Up until 2012, it was Moussa Moussa Ag Mohamed Ali.

5 Q. [10:15:21] And what was his profession?

6 A. [10:15:25] He was a smith, an ironsmith.

7 Q. [10:15:35] I'd like to turn to page 2773 of this document, Mr Witness, if you have
8 that in front of you.

9 And if it could also be shown on evidence 1. I apologise, no, 7224. It's the
10 recommendations. This document sets out a series of recommend --

11 PRESIDING JUDGE MINDUA: [10:16:04](Interpretation) Ms Prosecutor.

12 MS LUPING: [10:16:07] Mr President, your Honours, this is now the third document
13 that the witness has been shown, and I've tried not to interrupt, but before there is
14 any further questions regarding the actual content of this document, the Prosecution
15 would simply ask that the normal questions be asked as to: Has the witness actually
16 seen the document before? Does the witness know who has authored this document?
17 Certainly, the last document the witness was asked if it was, in fact, the resolution
18 that he'd been referring to.

19 Now before these types of questions are put, in particular, delving into the content,
20 we would simply ask that the procedure be adopted as normal, that, basically, as per
21 the conduct of proceedings decision.

22 The witness also be asked questions regarding his knowledge as to the nature of this
23 document, whether he's even actually even seen it before.

24 PRESIDING JUDGE MINDUA: [10:17:08](Interpretation) Ms Taylor.

25 MS TAYLOR: [10:17:10] Thank you, Mr President. That's not actually what the

1 decision on the conduct of the proceedings states. It's sufficient to establish that the
2 witness has knowledge of the events or issues being discussed in the document.
3 This witness has established multiple times that he's aware of the information set out
4 in this document. He's ascertained that it's the same resolution he's been referring
5 to.

6 And again, I'm in open session here, but this is a witness who has already given
7 testimony as to a general assembly, to resolutions being issued during that general
8 assembly, his knowledge of those resolutions. He has now read the resolutions in
9 both sets of documents and stated it's the same resolutions that are being referred to.
10 Now I'm entitled to put questions to this witness in relation to the contents of this
11 document. It's not necessary to establish that he's read this specific document.

12 There's nothing in the decision on the conduct of proceedings that states that, and, the
13 Prosecution is aware of that because they repeatedly show videos and articles to
14 witnesses who have not authored the document and who have not reviewed or read
15 the document.

16 I do hope we can move forward to save time.

17 PRESIDING JUDGE MINDUA: [10:18:39](Interpretation) One last time, Ms
18 (Overlapping speakers)

19 THE INTERPRETER: Overlapping.

20 MS LUPING: [10:18:44] (Overlapping speakers) Your Honours, very briefly, the
21 Prosecution is not objecting to the use of the document with this witness, and that is
22 not the point, and I'm sure Defence counsel is fully aware of that.

23 The point we're making is simply at the end of this trial, when your Honours are
24 turning to determine whether or not an item of evidence is appropriately admitted
25 through a specific witness or not, there will be certain questions that will need to be

1 asked and the basic questions include, simply, whether or not the witness has actually
2 ever seen this document or not, aware of its existence, aware when it was made.

3 That is all I'm simply -- the point I'm making.

4 And I would just note for the record that when Defence counsel refers to this witness
5 as having confirmed that the resolution that was shown to him was, in fact, the
6 resolution, there was -- he hadn't even finished reading the document. It was
7 removed from his screen before being able to confirm it.

8 And that was the point I was making earlier as well. He needs time to read
9 documents if he's being asked to confirm it is what it purports to be. Thank you.

10 PRESIDING JUDGE MINDUA: [10:19:58](Interpretation) Thank you very much,
11 Madam Prosecutor.

12 Ms Taylor, I don't see the problem in what the Prosecution has said. We've already
13 said that the foundation would be something like, you would ask the witness if he
14 wrote the document, if he was familiar with the document or if he was familiar with
15 the events relating to the document.

16 In this case, he said he was aware of the facts. But you do need to give the witness
17 enough time to read the actual document. I believe the Prosecutor is correct when
18 she makes this point. So give the witness enough time to read the document before
19 putting questions to him.

20 MS TAYLOR: [10:20:48] Mr President, with the greatest respect, that is exactly what
21 I was doing when the Prosecutor objected. If you actually scroll through to the
22 transcript, I had not put a question to the witness. I had asked the Registry to go to
23 this specific page to allow the witness to read through it. I've also - on multiple
24 occasion - asked if this witness has the hard copy with him. So I was doing exactly
25 that. And I would ask the Prosecution to recall that this -- these resolutions have

1 been discussed with other witnesses.

2 Now, I know that Ms Luping was not in the courtroom at that point in time, but I
3 don't believe it's appropriate to apply a standard that does not arise from the decision
4 on the conduct of proceedings. And we would like to avoid multiple interventions,
5 which are premature and which prevent us from using our time in an efficient
6 manner.

7 PRESIDING JUDGE MINDUA: [10:21:58](Interpretation) Ms Prosecutor --

8 MS LUPING: [10:21:58](Overlapping speakers) Just one brief point --

9 PRESIDING JUDGE MINDUA: [10:21:56](Interpretation) -- I've dealt with the
10 problem. What's going on?

11 MS LUPING: [10:22:02](Overlapping speakers) Mr President, your Honours, it's
12 completely irrelevant whether or not other witnesses have seen documents being
13 shown to this witness. If he's being asked, Is this document - I'm referring now to
14 the prior resolution - what it purports to be, he needs to be given an opportunity to
15 read it before he can say whether he agrees with that proposition. It's neither here
16 nor there if others have also read it before. That's not our point, Mr President, and
17 that was all I have to say. Thank you.

18 PRESIDING JUDGE MINDUA: [10:22:35](Interpretation) Very well. I think we
19 have dealt with -- finished this discussion. I think what's good is that, while we
20 were having this discussion, the witness was in a position to read the document.

21 Mr Witness, did you read the document?

22 THE WITNESS: [10:22:52](Interpretation) Yes.

23 PRESIDING JUDGE MINDUA: [10:22:54](Interpretation) Counsel.

24 MS TAYLOR: [10:22:56]

25 Q. [10:22:57] Wonderful, Mr Witness. Have you had a chance to read all the

1 recommendations? Otherwise, I'm happy to read them into the record.

2 A. [10:23:07] No, I've read it all while you were having your discussion.

3 Q. [10:23:13] Thank you very much, Mr Witness, and thank you for your patience.

4 Mr Witness, is it correct that before 2012, within the local population of Timbuktu,
5 there were groups that were advocating for a *Comité des moeurs* to be set up in each
6 quarter of Timbuktu?

7 A. [10:23:36] Yes, indeed.

8 Q. [10:23:48] And is it also correct that before 2012, within the local population of
9 Timbuktu, there was support for measures to be taken during the Friday prayer to
10 restrict circulation in the city during this time?

11 A. [10:24:12] Yes, that was amongst the recommendations from the general
12 assembly that we see here.

13 Q. [10:24:22] And is it correct before 2012, within the local population of Timbuktu,
14 there was support for measures to be taken so that Ramadan would be strictly
15 observed?

16 A. [10:24:38] Yes, for the specific case of Ramadan and Maouloud, because you
17 have to take into account both celebrations. During Ramadan, people didn't want
18 activities to occur that would be a distraction, so all other activities had to be brought
19 to a halt during Ramadan. Even closing the bars and other establishments had been
20 discussed during the assembly.

21 And as for Maouloud, it was necessary to avoid because the afternoon of the
22 baptism -- that is, an occasion for people to come together. Men and women were
23 gathering together at the same time, mixing in the same place - even though wisdom
24 would have it that women would be on one side and men would be on the other
25 side - so as to praise the prophet, the reason for the gathering.

1 Because, you see, this event was a celebration of the prophet's birth and baptism. So
2 strong recommendations were made in this regard in 2010.

3 Q. [10:26:32] And before 2012, was there also support within the local population
4 for uniforms to be worn in school?

5 A. [10:26:46] Yes. School clothing is what we called the uniforms. By that, we
6 meant this could keep young students, male or female, to -- it would keep them from
7 wearing indecent clothing because, you see, clothing -- uniforms or standard clothing
8 would mean that all the children would be the same. There would be no distinctions
9 based on what the parents were. The children -- you see, some children did not
10 want to ... school because they were ashamed of having to wear the same shirt every
11 day, and if the parents did not have the resources to pay for a second shirt, that could
12 represent an obstacle to education.

13 And the third item for school clothing was that it would allow everyone to be wearing
14 the same clothing, same price, same fabric, so there would be equality. It would be
15 a physical demonstration of equality.

16 That is why the morality committee focused on the wearing of school uniforms.

17 Q. [10:28:37] I'd like to bring up Defence tab 144. This is MLI-D28-0004-3228, and
18 if that could be put on evidence 1.

19 If it could be scrolled down so the witness can see it, the photo -- the first photo at the
20 top.

21 Now, Mr Witness, in this photo we can see an individual speaking into a microphone.

22 Do you recognise this individual?

23 A. [10:29:35] Yes.

24 Q. [10:29:42] What is his name?

25 A. [10:29:45] Sane Chirfi Alpha.

1 Q. [10:29:54] In these photos, can you see an individual called Mahamane Askia?

2 A. [10:30:06] He's not in this photograph. Not in this photograph.

3 Q. [10:30:21] Was Mahamane Askia a member of the *comité des moeurs*, to your
4 recollection?

5 A. [10:30:30] Yes, he was a member of the committee and he was in the commission
6 for communication.

7 Q. [10:30:46] I'd just like to bring up another document. It's Defence tab 221, it's
8 MLI-D28-0005-7226.

9 It's a post from 30 June 2010 from the *Union des Jeunes Musulmans du Mali Tombouctou*,
10 and the post is titled:

11 "The UJMMA Tombouctou (Interpretation) solicits all goodwill from those who could
12 help them to find an Islamic radio for Timbuktu."

13 (Speaks English) Now, Mr Witness, do you recall if, in 2010, there was an initiative to
14 set up an Islamic radio in Timbuktu?

15 A. [10:31:58] Yes, this was one of the ambitions of the UJMMA, I do remember that.
16 But I didn't know that they had sent out an SOS for this radio to be set up.

17 Q. [10:32:24] Do you recall who was involved with this initiative?

18 A. [10:32:29] Well, I did give the names of a few influential leaders with whom I
19 had discussions. (Redacted)

20 (Redacted). So, I do not recall that they had any difficulties in setting up
21 a radio or that they had sent out a message for people to show their goodwill and
22 provide assistance. I didn't recall that.

23 THE INTERPRETER: [10:33:32] Message from the interpreter: Could the witness
24 please be requested to speak up. He is mumbling.

25 MS TAYLOR: [10:33:42]

1 Q. [10:33:43] Mr Witness, I apologise, the interpreters have asked if you could
2 speak with a bit more volume so that they can pick up your voice, if that's okay, given
3 there's a significant distance here between you and them.

4 Mr Witness, was Mahamane Askia, to your knowledge, involved with this initiative
5 of setting up an Islamic radio in Timbuktu?

6 A. [10:34:06] I never had a discussion with Mahamane Askia on that subject, so I
7 cannot confirm that.

8 I said, furthermore, that (Redacted)

9 (Redacted). There we

10 are.

11 Q. [10:34:56] And did they tell you what they intended to broadcast on this radio?

12 A. [10:35:04] No. We didn't talk about all of that. As I said, we just talked about
13 the procedure for setting up a radio.

14 Q. [10:35:23] Now speaking still of the activities of the UJMMA, I'd like to bring up
15 Defence tab 219. It's MLI-D28-0005-7220.

16 If it could be -- it's tab 219, if that could be provided to the witness and if it could also
17 be shown on evidence 1.

18 This is a -- and if you could scroll -- this is a report of the activities of the

19 UM -- UJM -- A -- MA between 2008 and 2009. And if we scroll down, this

20 document refers to a --

21 (Interpretation) "A conference on the dress code for young girls."

22 (Speaks English) And it states:

23 (Interpretation) "On the occasion of the night of the 27 Rajab ..."

24 PRESIDING JUDGE MINDUA: [10:36:41](Interpretation) Madam Prosecutor.

25 MS LUPING: [10:36:42](Overlapping speakers) Mr President, we just want to note

1 that in spite of your reminder to Defence counsel that it would be appropriate to ask
2 the witness if he recognises the author or the document itself, none of these questions
3 have been put to the witness in the series of documents we've been shown.

4 The last document, the document before that, Defence counsel stated she hadn't got to
5 that question. We never got it. We haven't had it for this last document and now
6 we're moving on to a new document.

7 We would just note for the record, Mr President, that we would be expecting these
8 types of questions to be asked for these documents as we have no doubt that
9 these -- there will be a request for an ultimate admission of these documents, but we
10 haven't had any of that put to this witness.

11 PRESIDING JUDGE MINDUA: [10:37:33](Interpretation) Ms Taylor, I am in
12 agreement with Madam Prosecutor. Please put the usual questions and do allow the
13 witness the time to familiarise himself with the document, please.

14 MS TAYLOR: [10:37:47] Thank you, Mr President. And I would like to recall that
15 the Chamber's last direction to the Defence was to allow the witness to read the
16 recommendations.

17 Now, what the Prosecutor is proposing here is a procedure that falls outside the scope
18 of the decision on the conduct of the proceedings.

19 If I may, Mr President -- I can read it out to the record so that the witness can hear it.
20 Now, we can either allow the witness to read it or I can read it. I don't believe that
21 we should be prevented from reading the relevant section and then putting the
22 question to the witness if he has knowledge --

23 PRESIDING JUDGE MINDUA: [10:38:26](No interpretation) (Overlapping
24 speakers)

25 MS TAYLOR: [10:38:26] -- of the event.

1 PRESIDING JUDGE MINDUA: [10:38:27](Interpretation) No, no, Ms Taylor.

2 Please allow the witness the time to familiarise himself with the document and then
3 let us solve this issue once and for all.

4 MS TAYLOR: [10:38:38] Thank you, Mr President.

5 Q. [10:38:40] Now, Mr Witness, can you again see that at the top of this document,
6 the organisation, *Union des Jeunes Musulmans du Mali Tombouctou*. And if you could
7 kindly tell us if that's the same organisation that we've been speaking about for the
8 last hour?

9 A. [10:39:00] Yes, it is the same organisation.

10 Q. [10:39:08] Thank you, Mr Witness.

11 Now, if you could kindly read the paragraph stated: (Interpretation) "Conference on
12 the dress code for young girls."

13 (Speaks English) And if you could kindly alert me when you have read it.

14 A. [10:39:58] Yes, I have read it.

15 Q. [10:40:01] Now, Mr Witness, my first question is that this refers to -- gives
16 several names. It refers to a conference. It says:

17 (Interpretation) "A number of communications were presented on the theme of the
18 day by: Hammou Mohamed Dedeou, Tadjir Wangara, Bilal Baba, Moussa
19 el-Maouloud, Bollo Albakaye and Moulaye Ismail."

20 (Overlapping speakers)(Speaks English) Do you recognise any of these names?

21 A. [10:40:39] Yes, I had provided some of those names, such as, Bollo Albakaye,
22 Moulaye Ismail. These are marabouts and disciples whose names were provided, but
23 the first two names are not. Hammou Mohamed Dedeou is an erudite from
24 Timbuktu and a preacher. So maybe with regard to the topic of the conference, he
25 was called to attend. Then, Tadjir Wangara also. But the others are young people

1 and might be activists for UJMMA.

2 Q. [10:41:54] The individuals I have referred to, did they come from Timbuktu to
3 your knowledge?

4 A. [10:42:02] They all hail from Timbuktu.

5 Q. [10:42:12] Do you recall this conference?

6 A. [10:42:26] Well, I don't remember it today because a conference and a preaching
7 session need -- well, you need to make a distinction. I have taken part in preaching
8 sessions with various topics, but if this is a conference, I -- I don't know. A
9 conference, to my understanding, I don't remember it as such. But preaching
10 sessions, yes.

11 Q. [10:43:22] Do you recall -- you've referred to "preaching sessions", and this
12 section refers to the *associations féminines de la place*.

13 Do you recall who these preaching sessions were addressed to?

14 A. [10:43:37] Well, I know Hammou Mohamed Dedeou, the imminent preacher, at
15 the approach of Ramadan, would organise preaching sessions that are very targeted
16 in nature. And these teaching -- preaching sessions were aimed at the youth as to
17 the behaviour they were to adopt during the period of Ramadan. And there were
18 preaching sessions aimed uniquely at women during the month of Ramadan and so
19 on and so forth. So every stratum of society had its awareness raised during that
20 period. And this was the opportunity for him to also remind what was -- people of
21 what was forbidden under religion and the beneficial acts that can be done as
22 a recompense.

23 So that was what he was in the habit of organising.

24 Now, whether that was with the UJMMA or not, I cannot tell you, but I know that
25 generally speaking he would order -- organise preaching sessions in Timbuktu.

1 Q. [10:45:18] Now, this individual, Hammou Mohamed Dedeou - and you've
2 referred to him as an "imminent preacher" - was he associated with a particular
3 mosque or quarter in Timbuktu?

4 A. [10:45:33] Well, he was the president of the AMUPI, by which you should
5 understand, the Association for the Unity and Progress of Muslims. He is the
6 regional president in Timbuktu, and, as such, he is also a civil servant of the state
7 because he is a researcher and a professor at the centre of documents for manuscripts.
8 He is also an imam who encourages people to pray and it is he who authorises
9 such-and-such an individual to pray or not in Timbuktu.

10 Q. [10:46:53] Now, Mr Witness, at page 16 today, you referred to concerns
11 regarding tourism and the need for Timbuktu to remain authentic. Do you recall
12 a gathering that was organised in September 2010 to denounce secular education,
13 western tourism and to call for -- and the state's lack of support for Islamic education?

14 A. [10:47:43] No, I do not recall. However, I do know that the men of culture and
15 the religious individuals would fight to maintain Timbuktu's identity and for -- in
16 terms of respect for places of worship and religious buildings, such as, mausoleums,
17 cemeteries et cetera. But these men of culture, who also are the men who attempt to
18 protect our culture and our crafts so these locations, these mausoleums and
19 cemeteries, are the coveted areas for people who come to visit Timbuktu.
20 So these two categories go hand in hand when working together, but I do not have
21 any recollection of an assignment of this type. With regard to Islamic education, I do
22 not recall.

23 THE INTERPRETER: [10:49:22] Could the witness please be requested to look up.
24 He is looking down all the time.

25 MS TAYLOR: [10:49:30] Mr Witness, the interpreters have asked if when you're

1 speaking, you could have your face upward so they can catch your voice into the
2 microphone.

3 THE INTERPRETER: [10:49:38] Message from the interpreter: We also need to see
4 his lips move. Thank you.

5 MS TAYLOR: [10:49:42] They've also indicated that they need to see your lips move,
6 and that makes it easier for them to interpret. Thank you very much, Mr Witness.

7 THE WITNESS: [10:49:58](Interpretation) Okay.

8 MS TAYLOR: [10:49:59]

9 Q. [10:50:00] If I could bring up another document. It's Defence tab 222. It's
10 MLI-D28-0005-7228. I think we'll need to go to the second page. We'll need to go to
11 7230 to see the title. It's tab 222. If a hard copy could be given to you, Mr Witness.

12 Now, the title is:

13 (Interpretation) "Current situation in Timbuktu: Looking forward, what shall happen?

14 A native wonders."

15 (Speaks English) It's dated 10 May 2012, and if we could go to the end of the
16 document, and that is page 7237, we see the name. If that could be shown on the
17 screen for the witness.

18 You see the name: "Abdel - Kader HAIDARA, Gestionnaire des Ressources
19 Humaines, Bamako".

20 (Interpretation) "Abdel - Kader HAIDARA, Human Resources Manager, Bamako".

21 A. [10:52:08] Yes, I have seen it.

22 Q. [10:52:13] Is the Haidara family, is that a name of people from Timbuktu?

23 A. [10:52:22] Yes, there are a number of Haidara families in Timbuktu. A number.

24 Q. [10:52:37] Are you familiar with this name?

25 A. [10:52:40] Well, the Abdel Kader Haidara that I know, well, I don't know what is

1 meant by "human resources manager", but he is the president of the SAVAMA-DCI,
2 which is a structure for the -- for safeguarding manuscripts in Timbuktu.

3 And on the first days of the occupation, he played a major role by getting a good
4 number of these manuscripts out and making them secure in the capital, Bamako.

5 But as to the title human resources manager, where would that be? I do not know
6 him according to this title.

7 Q. [10:53:56] Mr Witness, I don't believe it's the same individual. Do you know an
8 "Abdel - Kader Haidara" who has links to electricity or energy?

9 A. [10:54:12] No.

10 Q. [10:54:23] Now, Mr Witness, this author writes about the *Comité des mœurs* in
11 Timbuktu. So I'm going to turn to that page which specifically refers to the ...

12 Oh, we have two people standing up.

13 PRESIDING JUDGE MINDUA: [10:54:42](Interpretation) Madam Prosecutor.

14 MS LUPING: [10:54:44] Mr President, I have had to repeat the same objection over
15 and over again for almost every document. The simple question of, Have you seen
16 this document before has not been asked. Now simply saying, "Do you know
17 such-and-such organisation that may or may not have written a document" is not
18 enough.

19 Now we have had the witness establish he doesn't know the individual even who has
20 authored this, and we would argue that it's not appropriate simply to start delving
21 into a document. The fact that he states that he doesn't know the person suggests he
22 has never seen it. So what is the basis? What is the foundation for showing it to
23 this particular witness? In our submission, there is none.

24 Unless the Chamber would like to have a large number of documents with no link
25 whatsoever to the witness, which is what we currently have, then I would ask that the

1 question be asked.

2 PRESIDING JUDGE MINDUA: [10:55:49](Interpretation) Ms Taylor, I believe that
3 this is not the right witness for you to be able to talk about this document. You have
4 asked him whether he knows "Abdel - Kader Haidara" and he said no. And it would
5 not be right to continue putting questions to him on this document of which he is
6 not -- with which he is not familiar.

7 Please continue.

8 MS TAYLOR: [10:56:19] Mr President, if I may be briefly heard. I'm concerned that
9 this is something that would lead to a mistrial. And I say that with due concern -- if
10 I may, Mr President, because --

11 PRESIDING JUDGE MINDUA: [10:56:29](Interpretation) No.

12 MS TAYLOR: [10:56:30] Mr President.

13 PRESIDING JUDGE MINDUA: [10:56:33](Interpretation) No, Ms Taylor, the
14 Chamber has already decided. On every objection raised, the Chamber does not
15 have to hand over to each party to -- for them to voice their concerns.

16 For this document, however, our guidelines on the conduct of proceedings are very
17 clear in this regard. I do not need a second opinion on this occasion.

18 So I have already ruled. Please move on to another subject -- on to another
19 document.

20 MS TAYLOR: [10:57:12] Mr President, if I may, during the break we can send you
21 every oral decision on this subject which says the opposite.

22 Now I'm not attempting to authenticate this document through this witness. It's the
23 wrong test. And if you could only go through the preparation logs, we see:

24 Witness has not seen this before.

25 There's no rule that the witness has to have seen the document before --

1 PRESIDING JUDGE MINDUA: [10:57:36](Interpretation) Ms Taylor, Ms Taylor, you
2 know the situation with this Chamber. When I issue a decision, I do not want there
3 to be any further arguing on the point. So please move on to something else.

4 MS TAYLOR: [10:57:58] Mr President, I note that it is 11 o'clock, almost. Now I do
5 seek a point of clarification. Now, under -- it's a point of clarification. I'm going to
6 put questions to this witness. Now under the decision of the conduct of proceedings,
7 if a witness does not remember something, we are permitted to confront the witness
8 with documents that are not authored by the witness that speak to the specific
9 question that's being put to the witness.

10 For example, we can put extracts from another witness's testimony, even if this
11 witness hasn't reviewed those statements. It's not --

12 PRESIDING JUDGE MINDUA: [10:58:43](Interpretation) Ms Taylor, what are we
13 talking about? Are we still talking about this document by "Abdel - Kader Haidara"
14 or are we talking about something else?

15 MS TAYLOR: [10:58:58] Mr President, I'm seeking a clarification that will have an
16 impact on my entire cross-examination.

17 Now I will put questions to this witness --

18 Mr President, if I may because I do have the right to cross-examine.

19 PRESIDING JUDGE MINDUA: [10:59:10](Interpretation) No, no, no, Ms Taylor, it's
20 not like that. The instructions on the conduct of proceedings are entirely clear.

21 With regard to this document we have already ruled. You shall move on to
22 something else. Otherwise, there is one minute remaining, we shall suspend and we
23 shall start again in 30 minutes on other topics.

24 MS TAYLOR: [10:59:40] We note that, Mr President.

25 PRESIDING JUDGE MINDUA: [10:59:48](Interpretation) Thank you very much,

1 Ms Taylor.

2 Now it is 11 o'clock. We shall rise for 30 minutes and reconvene at 11.30.

3 Court is suspended.

4 THE COURT USHER: [11:00:01] All rise.

5 (Recess taken at 11.00 a.m.)

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

7 THE COURT USHER: [11:31:16] All rise.

8 Please be seated.

9 PRESIDING JUDGE MINDUA: [11:31:32](Interpretation) The hearing shall now
10 resume.

11 Ms Taylor, you have the floor for continuation of your cross-examination.

12 MS TAYLOR: [11:31:55]

13 Q. [11:31:59] Good morning, Mr Witness, how are you?

14 A. [11:32:03] I'm well, Counsel.

15 Q. [11:32:10] Wonderful. Now, Mr Witness, before the break, we were discussing
16 a *Comité des mœurs* and a particular assembly. Based on your recollection, was there
17 more than one assembly that took place or meeting?

18 A. [11:32:32] Alongside the general assembly, there were some meetings for
19 dialogue within a number of neighbourhoods. On the basis of concerns expressed
20 by people in various neighbourhoods, the general assembly was held and this was to
21 take into account the concerns of all the various neighbourhoods. This was
22 a prelude to the actual general assembly.

23 So these were opportunities for dialogue and consultation.

24 Q. [11:33:33] So would it be fair to say that the resolutions issued by the general
25 assembly took into account these views and concerns expressed during these

1 neighbourhood meetings?

2 A. [11:33:50] Exactly.

3 Q. [11:34:01] Do you recall if, at any point, there was a kind of tribunal convened in
4 the framework of this *Comité des moeurs* where the mothers of the families expressed
5 their concerns regarding the comportment of their children?

6 A. [11:34:23] I don't remember a tribunal, a parallel tribunal, other than the official
7 tribunal that was there. Well, the communities could refer to someone else without
8 my knowing about it.

9 In any event, I am not aware of any such tribunal.

10 Q. [11:35:08] Mr Witness, is it correct that in the years leading up to 2012, there was
11 a concern among the local population in Timbuktu that they won't be given the same
12 treatment and advantages as the south of Mali?

13 A. [11:35:31] Yes. And one of the reasons for the cyclical rebellions was primarily
14 the imbalance between the south and the north of Mali. And I remember that same
15 year, 2010, I was personally affected by one of the officials from the MNLA. He
16 came and he said to me that he wanted to speak out against the injustice of the central
17 government in Bamako. So I asked him, "What means are you going to use?" And
18 he said that, for the time being, they had a document with an official
19 acknowledgment of receipt and he showed it to me. And this document was not the
20 four letters. It was three letters, MNA, the *Mouvement National de l'Azawad*, Azawad
21 National Movement.

22 And that same week, they had an information meeting at the city hall of Timbuktu
23 with a number of youth leaders. Unfortunately, at that -- unfortunately, I was not
24 present at that meeting, but at the end of the meeting, the gentleman came back to see
25 me. He gave me an account, and, that same night, he was arrested by the authorities.

- 1 After a number of interventions, he was released.
- 2 So you see, this movement had as its main demand, they were calling for a new
3 balance to be struck in terms of the management of public affairs. They wanted the
4 south and the north to be treated equally. Put on the same footing. They wanted
5 a rational, logical management of the resources of the country and they wanted the
6 country's resources to be managed fairly.
- 7 All the people of the north agreed to this. Not just in Timbuktu, but also in Gao,
8 Kidal. All those regions were in favour of this because the injustice was -- was clear
9 to see and experienced by everyone and experienced everywhere.
- 10 However, the movement changed once it became more based on ethnicity. At that
11 time, the MNLA was primarily -- or, for the most part, made up of Tuareg people,
12 and then another group created its own camp.
- 13 So that is how I came to know that there was injustice before 2012.
- 14 The sedentary, that is to say, settled black people, also had created their camp.
- 15 Q. [11:40:37] Mr Witness, I have a number of follow-up questions.
- 16 My first is, are you in a position to give us the name of this official from the MNA?
- 17 A. [11:40:51] Yes. Mahamane Djeri. The late Mahamane ...
- 18 THE INTERPRETER: [11:41:17] Inaudible.
- 19 THE WITNESS: [11:41:06](Interpretation) He has since passed away. He was the
20 number 2, the second in command, so to speak, within the MNLA.
- 21 THE INTERPRETER: [11:41:17] Interpretation correction: MNA.
- 22 MS TAYLOR: [11:41:23]
- 23 Q. [11:41:24] I'm afraid, Mr Witness, we don't have it recorded in either the English
24 or the French transcript.
- 25 Would it be possible for you to just spell the last name. We had "Mahamane", but

1 not the last name.

2 A. [11:41:35] Djeri Maïga. Djeri, D-J-E-R-I. Then Maïga, M-A-Ï-G-I.

3 THE INTERPRETER: [11:42:01] Correction: G-A.

4 MS TAYLOR: [11:42:07]

5 Q. [11:42:08] Mr Witness, did this individual have an association with the

6 Ganda-Koye?

7 A. [11:42:16] He was -- well, in relation to an earlier rebellion, he was with

8 Manda-Koye (phon). After the 1996 agreements, he did not benefit from anything.

9 And he himself decided to change camps, and history was on his -- on his side. He

10 was proven right.

11 In the new movement, there were more prominent people. More missions were

12 entrusted to him, and he became the direct interlocutor between his movement and

13 the state.

14 So there you have it.

15 THE INTERPRETER: [11:43:36] Interpreter correction: The witness mentioned

16 Ganda-Koye at the beginning of his reply. "He was a militant of Ganda-Koye."

17 MS TAYLOR: [11:43:47]

18 Q. [11:43:48](Overlapping speakers) Mr Witness, you said: He himself decided to

19 change camps, and history was on his side. He was proven right in the new

20 movement.

21 Is this referring still to the MNA?

22 A. [11:44:04] No. I said "MNA". That is when he showed me that document.

23 That's when it was three letters in the acronym, but then later, it became four letters,

24 MNLA, National Movement for the Liberation of the Azawad. That is when there

25 was a separation for two reasons. First of all, the movement became more based on

1 ethnicity; and then secondly, the mention of liberation.

2 They agreed to revolt so as to obtain fair use of resources, but not to break up the
3 country. Not to separate -- not for separation. That was the difference.

4 And, you see, it also -- there were differences between the sedentary, that is to say, the
5 non-nomadic people and those who established the MNLA.

6 Q. [11:45:20] Now, Mr Witness, you've referred to concerns being expressed of
7 injustice.

8 Based on what you heard and saw before 2012, were there concerns regarding the
9 effectiveness of this civil administration in Timbuktu?

10 A. [11:45:36] Like the governance throughout the entire country, that is what was
11 experienced as well by the citizens of Timbuktu. And -- but denouncing the people
12 of Timbuktu, that wasn't just the administration.

13 In terms of education, there were not many schools -- not many classrooms, and
14 people spoke out against the complete lack of state representatives in some locations.
15 And also demilitarisation of the north, that opened up a space or an opportunity for
16 anyone with bad intentions.

17 So this -- these were the things that citizens were speaking out against. And bad
18 governance was sensed throughout the entire country. You could smell it. Not just
19 in Timbuktu.

20 Q. [11:47:45] Now, in terms of bad governance, was corruption an issue?

21 A. [11:47:54] Yes. Corruption, favouritism. These were words often used against
22 the administration. Above all, when it turns to justice, there were no lawyers in
23 Timbuktu. Not just before 2012, but before and -- unless it can be proven otherwise.
24 There were serious problems.

25 Q. [11:48:49] Do you recall whether there were protests in June and July 2011 in

1 Timbuktu concerning the -- the situation regarding civil administration and justice?

2 A. [11:49:02] Yes. These were demonstrations that brought together thousands of
3 people because at the time, the judge, who was there, had been denounced
4 because -- because he dealt with problems quite openly, right out in the open.
5 The hospital, for example, there was the same sort of problems. Some healthcare
6 workers were scamming the patients, hitting them up for money. There were
7 complaints from various neighbourhoods. The local media talked about these
8 problems. And once people had had it with the case of a black merchant and
9 a light-skinned gentleman, the judge had sided with one party, and that was -- that
10 was it. It was the straw that broke the camel's back. And the people went out
11 calling for the judge to be dismissed as well as the CEO of the hospital. And that
12 happened that same -- they wanted that to happen the same week. Otherwise,
13 anything that would happen would be the state's problem because, you see, these
14 people were not accepted by the community.

15 Q. [11:51:40] And why were they not accepted by the community?

16 A. [11:51:46] I gave the example of the one particular judge who made bad
17 decisions when dealing with problems. And, at the hospital, some of the workers
18 there, people provided evidence. Some people who were ill, even died.
19 The people had had it up to here, and that's why the march occurred.

20 MS TAYLOR: [11:52:20] Now, I'm going to play a video, and I believe it will be
21 necessary to play it in private session. And then we can go into open session for
22 some of the questions, and I can explain why in private session.

23 PRESIDING JUDGE MINDUA: [11:52:45](Interpretation) Private session, courtroom
24 officer, please.

25 (Private session at 11.52 a.m.)

- 1 THE COURT OFFICER: [11:52:55] We are in private session, Mr President.
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4 (Open session at 11.59 a.m.)

5 THE COURT OFFICER: [11:59:00] We're back in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [11:59:09](Interpretation) Thank you very much.

7 Ms Taylor.

8 MS TAYLOR: [11:59:14]

9 Q. [11:59:15] Mr Witness, in the extract we just heard, we heard the individual refer
10 at line 30 of the transcript to:

11 "[...] le vol qui était amplifié à un certain moment [...]"

12 (Speaks English) Based on what you saw and heard in Timbuktu, was this referring to
13 the pillaging and theft committed by the MNLA and Arab militia at the beginning of
14 April 2012?

15 A. [11:59:49] Well, the author here is not referring to a specific case but to a general
16 situation, an observation in the years before the occupation and up until the time of
17 the occupation. Because when he talks about -- about returning to traditional values,
18 such as respect for women, normally, in a civilised and respected society, women
19 should not have to endure catcalls in the street or a girl -- or girls either.

20 So I'm talking about respect for our customs, given that everything should be
21 extremely discreet. And, there's a reason for that. By way of your behaviour, be it
22 good or bad ... not influence the other people.

23 So there you have it.

24 So in the case of theft, even before the arrival of the MNLA, there were hold-ups, even
25 in houses, in private homes. And the people were no longer in the -- in the habit of

1 sleeping outside.

2 Now with the occupation, the first armed groups and the militia, the MNLA, they
3 activated this practice by turning the city into a jungle and those people who had
4 weapons were the strongest. Some people were stripped of their possessions.
5 And this did not escape the -- even the occupants of that time, the Ansar Dine
6 movement, which had thieves, rapists, among their ranks.

7 Q. [12:03:04] Mr Witness, you've said that the Ansar Dine movement had thieves
8 and rapists among their ranks.

9 Are you referring to Bocar, the Burkinabe?

10 Is that the incident you're referring to?

11 A. [12:03:25] Yes. The flagrant case of Bocar. And the Islamist combatant who
12 was the guard at the Hotel Azalai who would embezzle the equipment. And it was
13 after Adama led an investigation that he was caught and he was publicly punished.
14 So you find bad eggs everywhere. So their punishment limited damage within their
15 movement itself.

16 Q. [12:04:28] Mr Witness, you've referred to limiting damage. Did the installation
17 of a system of policing and protection for civilians, did that assist with protecting
18 civilians against theft and crime in 2012?

19 A. [12:04:41] Well, as I said, any occupation has its pros and cons. I, as any other
20 native of Timbuktu, was hostile to the weapons that were circulating. That really
21 was a negative point. A positive point was that at least the circulation was well
22 regulated, the traffic was well regulated. And there was a virtual state of siege that
23 was not called as such. But at a given moment in time, there was nobody out in the
24 streets. So this was something that could stop the thieves from conducting their
25 activities during the night.

1 There was also a curfew that wasn't announced as such that stopped or put a stop to
2 any activity that could be embarrassing for these major figures. Whilst some of the
3 erudite individuals were reading the Koran, some others might have been playing
4 music.

5 But there was this curfew in place. So reading the Koran and playing music side by
6 side -- this was something that was incompatible. And, this was one of the
7 advantages that came out of that period, the fact that each thief is aware that if they
8 act, they will be punished. And this was something that really put a stop to theft in
9 Timbuktu.

10 There we have it.

11 Q. [12:07:23] In terms of negative aspects, the author states: (Speaks French)

12 THE INTERPRETER: [12:07:39] Could the interpreter please be told which and
13 where we are reading from. Thank you.

14 MS TAYLOR: [12:07:45] I apologise to the interpreters. It's page 345 of the
15 transcripts, lines 33 to 37.

16 MS TAYLOR: [12:07:53]

17 Q. [12:07:54] (Speaks French)

18 (Interpretation) Furthermore, I would also like to call upon them to exert less pressure
19 and to communicate with a society that is already organised. We have imams. We
20 have notables. We have cadis. They can communicate with those individuals to
21 get their message across, so -- so people come 'round or return to their previous
22 behaviour.

23 (Speaks English) Now, Mr Witness, is it correct that the author believed that it would
24 be helpful for there to be more interaction and engagement between the locals and the
25 Islamists?

1 A. [12:08:43] Yes. This is what was lacking in their behaviour. And this was
2 denounced by one of their major spiritual chiefs, Abdel ...

3 THE INTERPRETER: [12:09:03] The interpreter did not catch the rest of the name.

4 THE WITNESS: [12:09:09](Interpretation) So the author said that he was going to
5 encourage them to exert less pressure because this pressure was the weapon that was
6 not known to the population.

7 If you enter a mosque with a weapon, if you come to a pharmacy with a weapon, if
8 you go to a school carrying a weapon, this is really the greatest form of pressure that
9 the population could have experienced, whilst there could have been a possibility to
10 exchange or conduct exchanges with a society that was already well organised and
11 had taken its responsibilities.

12 There needed only to be a small alliance for the message to be followed to the letter.

13 That was the vision of the author of this piece.

14 MS TAYLOR: [12:10:18]

15 Q. [12:10:19] At transcript 132, page 39, line 3, there's a quote referring to

16 Mr Al Hassan as being:

17 "[...] shy, peace-loving, and friendly for those who knew him in 2012."

18 Now, Mr Witness, did the presence of Al Hassan in the Islamic police help with this
19 process of dialogue and engagement?

20 A. [12:10:50] Well, nobody's perfect. We have to acknowledge that. Maybe for
21 those who approached him, they might have found him endowed with such qualities.

22 Others will say quite the contrary.

23 Timid. Well, he wasn't that talkative. Accessible, that's obvious. By virtue of his
24 origins, the fact that he comes from there, that he is known to everybody, that he
25 knows everybody. And those are some of his virtues for those who had the luck to

1 approach him.

2 Q. [12:12:08] And, Mr Witness, did these virtues assist with your recommendation
3 that there be communication between the Islamists and the locals?

4 A. [12:12:42] Well, at a given moment in time, what I didn't understand was that
5 the national union of young Malians - who, most of the leaders in 2010 had supported,
6 and whose resolutions they had supported - they were the first to scarper in 2012
7 when they fled the city.

8 So I had the opportunity to tell them in 2010, that: You implored God for us to
9 return to our ancestral values, for Timbuktu to be all that you want it to be and God
10 complied. But this time, by bringing you men carrying weapons. If you had
11 followed the political course, you wouldn't have fled and you would have got the
12 message through. But your absence meant that there was a vacuum, and, ultimately,
13 it was the weapons that got that message across.

14 So this is to say that, contrary to what this *Comité des moeurs* was looking for, to my
15 mind, one had to understand that the better idea was to meet these Islamists and to
16 say to them that we are working on it, rather than fleeing and leaving everything up
17 to them.

18 So everything that the Islamists prohibited at that moment in time was contained in
19 the resolutions that came out of the assembly general of the *Comité des moeurs*, with
20 the exception of the application of the Sharia.

21 There we are.

22 MS TAYLOR: [12:15:20] Mr President, I'm going to play another extract from the
23 video and then I can go again into open session.

24 PRESIDING JUDGE MINDUA: [12:15:35](Interpretation) So we shall now move into
25 private session, is that it?

- 1 MS TAYLOR: [12:15:38] Yes, with your permission.
- 2 PRESIDING JUDGE MINDUA: [12:15:42](Interpretation) Courtroom Officer, private
3 session, please.
4 (Private session at 12.15 p.m.)
- 5 THE COURT OFFICER: [12:15:46] We're in private session, Mr President.
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5 (Open session at 12.21 p.m.)

6 THE COURT OFFICER: [12:21:07] We are back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [12:21:12](Interpretation) Thank you very much,

8 Mr Courtroom Officer.

9 Ms Taylor.

10 MS TAYLOR: [12:21:15]

11 Q. [12:21:15] Now, Mr Witness I'm going to read a very short extract and put

12 a question.

13 For the interpreters, it's page 0346 lines 63 to 68.

14 And, the author states:

15 (Interpretation) "But I'm talking about a war. I do not believe that that is the solution.

16 The solution is what we understand. The Sharia for us, is already part of our

17 education. If we" --

18 THE INTERPRETER: [12:21:55] I'm still waiting for it to come up on the screen. It

19 is not yet on the screen. Excuse me.

20 MS TAYLOR: [12:21:58] I apologise to the interpreters and to Mr Witness. The

21 interpreter is waiting for it to be shown on the screen.

22 I believe it's on the screen now. I'll just continue.

23 (Interpretation) "The Sharia for us, is already part of our education, it doesn't want to

24 do us any harm. And if as good Muslims we accept it, accept with our social

25 organisation, with our notables, that it be applied, I think that the best formula – it

1 would be a better formula than to see bombs falling on our buildings and on
2 ourselves."

3 End of sight translation.

4 MS TAYLOR: [12:23:01]

5 Q. [12:23:01] Now, Mr Witness, is it correct that since Sharia law is part of your
6 culture, it was preferable to choose a form of Sharia that involved Timbuktu notables
7 and locals over the possibility of war and civilian casualties?

8 PRESIDING JUDGE MINDUA: [12:23:25](Interpretation) Madam Prosecutor.

9 MS LUPING: [12:23:28] Mr President, your Honours, there are about at least three
10 contentions in one question. It's a compound question. I would simply request,
11 Mr President, that it be reformulated.

12 PRESIDING JUDGE MINDUA: [12:23:46](Interpretation) Ms Taylor.

13 MS TAYLOR: [12:23:47] Mr President, if I may, this is all based on what's been said
14 in the lines before.

15 Now, this is -- again, I'm aware we're in open session. There are certain questions
16 that have already been put to this witness that authenticate the contents of the
17 document. I can rephrase it, but I do hope we don't have to raise questions that are
18 identifying to the witness.

19 I've just said I will rephrase it. I don't think it's necessary for the Prosecutor to again
20 respond.

21 PRESIDING JUDGE MINDUA: [12:24:30](Interpretation) Ms Taylor, I believe that
22 Madam Prosecutor's observation is well founded because we are here avoiding
23 multistoreyed questions.

24 So please rephrase.

25 MS TAYLOR: [12:24:46]

1 Q. [12:24:48] Mr Witness, the author of this extract stated that Sharia law was part
2 of your culture. The author also states that they thought the best solution was to
3 accept it with their social organisation, with the notables to apply it.

4 Is it correct that there were persons in Timbuktu, such as yourself, who believed it
5 was better to apply Sharia with the involvement of locals and notables at this point?

6 PRESIDING JUDGE MINDUA: [12:25:45](Interpretation) Madam Prosecutor.

7 MS LUPING: [12:25:50] Mr President, your Honours, besides the fact that we've
8 just -- we, again, have a compound question, my objection is a new one, which is this
9 also now calls for speculation. The witness is not an expert being called to provide
10 his opinion on matters in which he -- he can only speak for himself. But now we're
11 being asked -- he's being asked to give an opinion in relation to others as well.

12 PRESIDING JUDGE MINDUA: [12:26:17](Interpretation) Madam Prosecutor, I do
13 not follow you here. The witness was present in Timbuktu and he can at least give
14 us his feeling or sentiment.

15 Ms Taylor.

16 MS TAYLOR: [12:26:34] I'm also avoiding referring to the identity of the author.

17 Q. [12:26:38] So, Mr Witness, could you kindly -- could you please respond to my
18 question.

19 Now, this author has stated something. Is it correct, based on what you saw and
20 heard, that persons - such as, the author and yourself - considered it preferable for
21 Sharia to be applied with the involvement of notables, rather than risk the possibility
22 of war?

23 A. [12:27:10] Yes. The author has here provided a personal opinion, and in
24 listening to what he has to say, this is a personal opinion that he has provided. And
25 in supporting him in his reaction, I would say that the authentic person hailing from

1 Timbuktu was already under the Sharia before the occupiers arrived. I would say to
2 you that the manner in which society was organised in Timbuktu meant that with the
3 prohibitions that were ongoing, there were fewer cases going to court.
4 Each community has a *cadi*, and, in Timbuktu, there is the office of the *cadi*. And
5 before a case arrives at the office of the *cadi*, people would meet or refer to the *doyen*
6 of the sector even before coming to the *cadi*. And when it comes to the head of the
7 sector, then they would also talk to the customary chief. And when the matter is
8 overly complex, then they would consult the imam who could then refer it to the *cadi*.
9 So you can see the various steps that are taken, and this is what was recommended
10 under the religion and Timbuktu has already -- always functioned like this. And the
11 *intronisation* of the *cadi* is a special event.
12 The fact of prohibiting smoking -- well, Timbuktu, for many years, it was formally
13 prohibited for people to smoke in a gathering. It is formally prohibited to smoke in
14 front of an elder -- or to smoke because one is respecting customs.
15 One cannot stop and talk to somebody else's wife or girl in the street. So that is the
16 culture of Timbuktu that goes hand in hand with the Sharia.
17 Now, as for other forms of punishment, such as amputation, these are not developed
18 as such, but there are more severe punishments that could be rejected by society.
19 These were things that already existed in Timbuktu.
20 So all of that was abandoned, set to one side. And they -- maybe people thought to
21 themselves, "Well, if we use weapons, then we can force the inhabitants of Timbuktu
22 to practice Sharia once again," I say to myself.
23 But everything that was said was only said and only is the opinion of the author.
24 What he says and what he writes is his own opinion. He is not speaking on behalf of
25 a community.

1 Q. [12:31:41] Now, Mr Witness, I'm just going to ask you to provide one response
2 as to a further few lines.

3 And for the interpreters, it's again on page 0346. It's lines eight -- 86 to 88. And the
4 author has been asked about the application of Sharia in the north, and the author
5 responds:

6 (Interpretation) "Yes, in the North, that ... that depends ... the North was affected, but
7 does that mean the entire North accept Sharia law? Myself, I'm not speaking on
8 behalf of the people of TIMBUKTU, but I think that Sharia law would not bother
9 or -- would not bother TIMBUKTU."

10 (Speaks English) Mr Witness, do you share this opinion?

11 A. [12:32:44] Yes, I do share that opinion. The author who already was
12 accustomed to Sharia law is now ... And ...

13 THE INTERPRETER: [12:33:09] Interruption.

14 MS TAYLOR: [12:33:11] I apologise, Mr Witness. I thought you'd finished.

15 THE WITNESS: [12:33:19](Interpretation) And I said in light of everything I
16 explained, Sharia law should not actually bother a person from Timbuktu if that
17 person has been properly educated. The same religious organisation exists in
18 Timbuktu and I don't see why one would be afraid. And people who did not want
19 Sharia law to be practised were usually wrongdoers. People who stole. Rapists.
20 Those who broke divine law. They were the ones who feared the application of
21 Sharia law.

22 In general terms, I think that in Timbuktu, everyone who -- believes that the stability
23 of Timbuktu depends on justice. This is what these people think. The proof of that
24 is that just like Mali itself, where traditional authorities were out and out set aside,
25 put on the sidelines -- no longer take part in decision-making, this weakened the state.

1 Otherwise, by giving all the power to the representatives of the state and only to the
2 justice system, all of these things went off the rails. No one has a monopoly on
3 providing guidance or exercising power in this world.

4 So if the traditional authorities had still been involved - for example, the imam, the
5 *cadi*, the traditional *chefs* - I think that -- I think that we would have gotten out of that
6 crisis in a better condition and -- or it might not even have happened.

7 Q. [12:36:34] I'm going to bring up another article. It's OTP tab 56,
8 MLI-OTP-0068-4637. And if it could not be shown to the public.

9 MS TAYLOR: [12:36:58] And, Mr President, if I could go very briefly into private
10 session; it will be just one question -- well, actually, not even a question.

11 PRESIDING JUDGE MINDUA: [12:37:09](Interpretation) Certainly. Private
12 session, courtroom officer.

13 (Private session at 12.37 p.m.)

14 THE COURT OFFICER: [12:37:16] We are in private session, Mr President.

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25 (Open session at 12.38 p.m.)

1 THE COURT OFFICER: [12:38:13] We are back in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [12:38:22](Interpretation) Thank you very much,

3 Courtroom Officer.

4 Ms Taylor.

5 MS TAYLOR: [12:38:27]

6 Q. [12:38:27] Now, Mr Witness, do you have a hard copy of the document with you?

7 It's tab 56 from the Prosecution binder.

8 A. [12:38:49] I'm looking for it just now.

9 Q. [12:38:53] And in the meantime, perhaps we could scroll down to see the text on
10 this page on evidence 1.

11 Now, Mr Witness, this document states -- it's referring to "Lahsane" or Al Hassan.

12 And in the second paragraph, the document states:

13 (Interpretation) "Yes he was the second in command at the Islamic police just after the
14 punishment inflicted on Adama by the Islamist hierarchy."

15 (Speaks English) Now, based on your own personal recollections, do you recall that

16 Al Hassan took up this position after Adama was decommissioned?

17 A. [12:40:06] Yes.

18 Q. [12:40:13] This document then has written:

19 (Interpretation) "Shy, peace loving and friendly in the eyes of those who knew him in
20 20-- year 2012."

21 A. [12:40:33] Yes, indeed, he did have those virtues.

22 Q. [12:40:44] Now, the author is saying "for those who he welcomed in 2012,"

23 did -- did you hear whether anyone else shared that point of view? Did anyone else
24 have that impression?

25 A. [12:40:57] Yes. I would have liked to have said, perhaps in private session --

1 Q. [12:41:27] Mr Witness, we can go into private session.

2 PRESIDING JUDGE MINDUA: [12:41:33](Interpretation) Courtroom officer.

3 (Private session at 12.41 p.m.)

4 THE COURT OFFICER: [12:41:41] We are in private session, Mr President.

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Trial Hearing
MLI-OTP-P-0654

(Private Session)

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Trial Hearing
MLI-OTP-P-0654

(Private Session)

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12 (Open session at 12.47 p.m.)
13 THE COURT OFFICER: [12:47:32] We are back in open session, Mr President.
14 PRESIDING JUDGE MINDUA: [12:47:36](Interpretation) Thank you very much,
15 courtroom officer.
16 Ms Taylor.
17 MS TAYLOR: [12:47:43] Now, on page 4638, I'm going to read out from line 7. If
18 the interpreters could indicate if they have it in front of them. It starts with:
19 "*L'homme était plus fréquent ...*"
20 THE INTERPRETER: [12:48:08] English interpreter is ready.
21 MS TAYLOR:
22 Q. [12:48:14] It states:
23 THE INTERPRETER: [12:48:17] Sight translation:
24 (Interpretation) "The man was more frequently at his office because he served both as
25 interpreter between his boss and those who came with complaints, and as a duty

1 officer to deal with routine matters. He was less seen in the field contrary to
2 everyone who accused him of things."

3 MS TAYLOR:

4 Q. [12:48:52] Mr Witness, does this correspond to what you yourself recall?

5 A. [12:48:58] Yes, exactly.

6 First of all, when I would go to the police station, he was there. And, I didn't see him
7 in the field during the destruction -- in any event, I didn't see him.

8 Q. [12:49:46] Now, Mr Witness, at transcript 128 - it's page 38, lines 3 to 9, and lines
9 17 to 25 - (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE MINDUA: [12:50:50](Interpretation) Madam Prosecutor.

16 MS LUPING: [12:50:52] Mr President, just a request. If we could please go into
17 private session. This was deliberately sought in private session -- this
18 information -- and we do believe this is -- this is identifying.

19 PRESIDING JUDGE MINDUA: [12:51:09](Interpretation) Private session, courtroom
20 officer.

21 (Private session at 12.51 p.m.)

22 THE COURT OFFICER: [12:51:19] We are in private session, Mr President.

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(Open session at 12.57 p.m.)

Trial Hearing
MLI-OTP-P-0654

(Open Session)

ICC-01/12-01/18

- 1 THE COURT OFFICER: [12:57:50] We're back in open session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [12:58:01](Interpretation) Thank you very much.
- 3 Ms Taylor.
- 4 MS TAYLOR: [12:58:06] Mr President -- oh, sorry --
- 5 Q. [12:58:08] Mr Witness, I apologise, what we just heard, does this correspond to
- 6 what you yourself recall from 2012?
- 7 A. [12:58:16] Indeed. In 2012, nowhere did I see -- I didn't see the destruction of
- 8 the mausoleums. And the events relating to the amputation and the punishment, I
- 9 don't remember seeing Al Hassan in such a position.
- 10 MS TAYLOR: [12:59:16] Mr President, I'm looking at the time. It's one o'clock.
- 11 PRESIDING JUDGE MINDUA: [12:59:24](Interpretation) Quite so, Ms Taylor. It is
- 12 one minute to one, and I think we can break now for our lunch, and we will resume at
- 13 2.30.
- 14 But I believe we're still in private session.
- 15 THE COURT OFFICER: [12:59:42] (Overlapping speakers) We are in open session,
- 16 Mr President.
- 17 PRESIDING JUDGE MINDUA: [12:59:46](Interpretation) Very well. I was
- 18 mistaken.
- 19 We will now suspend. The hearing shall now -- is now suspended.
- 20 THE COURT USHER: [12:59:56] All rise.
- 21 (Recess taken at 12.59 p.m.)
- 22 (Upon resuming in open session at 2.33 p.m.)
- 23 THE COURT USHER: [14:33:20] All rise.
- 24 Please be seated.
- 25 PRESIDING JUDGE MINDUA: [14:33:39](Interpretation) Court is in session.

1 The Defence has the floor for the follow-up of the cross-examination.

2 Ms Taylor.

3 MS TAYLOR: [14:34:00]

4 Q. [14:34:01] Good afternoon, Mr Witness, how are you?

5 A. [14:34:05] I'm well.

6 Q. [14:34:11] Now, Mr Witness, I have a very few amount of questions where I'm
7 going to refer to your work. I'm not going to describe it in any way. And I would
8 ask that in your answers that you also not describe it, as we are presently in open
9 session. But if you feel that you need to go into private session to respond, if you
10 could just kindly raise your hand.

11 A. [14:34:42](No interpretation)

12 Q. [14:34:43] Thank you very much.

13 Now, Mr Witness, apart from trips to other cities, is it correct that you continued to
14 live in Timbuktu throughout 2012?

15 A. [14:34:59] Yes.

16 Q. [14:35:12] And did you feel constrained to stay in Timbuktu for family reasons?

17 A. [14:35:21] First of all, not only family reasons.

18 MS TAYLOR: [14:35:45] Mr President, if we can go into private session.

19 PRESIDING JUDGE MINDUA: [14:35:51](Interpretation) Court officer.

20 (Private session at 2.35 p.m.)

21 THE COURT OFFICER: [14:35:58] We're in private session, Mr President.

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- 20 (Open session at 2.41 p.m.)
- 21 THE COURT OFFICER: [14:41:23] We're back in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [14:41:37](Interpretation) Thank you very much,
- 23 Court Officer.
- 24 Ms Taylor.
- 25 MS TAYLOR: [14:41:40]

1 Q. [14:41:42] Now, Mr Witness, speaking of this early period of 2012, at transcript
2 127, page 23, line 17 to 19, you spoke of people going to Bamako.

3 At this time period, was there also an exodus of Tuaregs and Arabs to the refugee
4 camps in surrounding countries?

5 A. [14:42:10] Indeed, this occupation didn't just happen against one ethnic group.
6 The occupation came for the communities living in Timbuktu. It wasn't just blacks.
7 Everybody was in their different localities where they could be received. But there
8 were others who didn't have relatives but they were accepted in the refugee camps, if
9 you talk about the camp of Mbera, Mauritania, and a lot of others also in Burkina Faso.
10 Tuaregs, Songhai people, Mauritians, Tuareg, Arabs -- Niger, Algeria, all the
11 neighbouring countries received people who had fled, firstly, because of fear.
12 Others fled due to possible reprisals, and, sometimes -- not to mention that I was
13 present -- they would -- they preferred not to be present. They preferred to be far
14 from the situation.

15 Q. [14:43:58] Mr Witness, you've referred to "reprisals." Based on what you saw
16 and heard in these beginning months of 2012, were some of the members of Timbuktu
17 concerned about attacks or reprisals by the Malian army?

18 A. [14:44:15] Are you speaking about 2012? Before 2012? I haven't understood
19 the question.

20 Q. [14:44:38](Overlapping speakers) Yes, Mr Witness, the -- for example, between
21 January and March 2012, the beginning of the year?

22 A. [14:44:50] Well, throughout the crisis, you had the whole rebellion, and,
23 throughout that time, you had people who left. 2006, 2012, there were waves of
24 people who left. There were waves of refugees.

25 Now, the reasons as to why people fled, they're different. Some people

1 were -- feared the return of the army. They thought that would be catastrophic for
2 them. People were also afraid of the power of a Tuareg-ethnic group. Certain
3 sedentary black people were afraid of that. Fear meant that a lot of people preferred
4 to leave from all the different crises that occurred.

5 It wasn't just 2012, and -- still today, you still have people who have fled since 2011.

6 Q. [14:46:23] Mr Witness, do you recall an incident in September 2012 concerning
7 the death of 16 Dawa preachers?

8 A. [14:46:36] Sixteen ...? Yes, I heard about that, but it wasn't in the area of
9 Timbuktu.

10 Q. [14:47:02] Did six of these preachers come from Timbuktu?

11 A. [14:47:09] Well, they mentioned them, but I didn't know them.

12 Q. [14:47:18] Did the Arab population in Timbuktu organise a march to express
13 concern following these deaths?

14 A. [14:47:32] I don't think there was a march. Well, yes, I do remember, but the
15 march, first of all, came with the French-Serval intervention. And, at the same time,
16 it was deploring the death indeed of this delegation.

17 Q. [14:48:09] I'm just going to bring up Defence tab 54, MLI-OTP-0012-1854. It's
18 a photograph that was (indiscernible) date of 12 September 2012. And,
19 Mr Witness --

20 MS TAYLOR: [14:48:31] It shouldn't be shown to the public.

21 Q. [14:48:32] But if you could confirm if you have it in front of you, either the hard
22 copy or on evidence 1.

23 A. [14:48:51] I don't have it.

24 Q. [14:48:54] Mr Witness, can you see it now on evidence 1?

25 I'll have to, with the permission of the Chamber, ask one question in private session.

- 1 PRESIDING JUDGE MINDUA: [14:49:11](Interpretation) Court officer.
- 2 (Private session at 2.49 p.m.)
- 3 THE COURT OFFICER: [14:49:22] We are in private session, Mr President.
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8 (Open session at 2.58 p.m.)

9 THE COURT OFFICER: [14:58:32] We are back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [14:58:44](Interpretation) Thank you very much,
11 court officer.

12 Ms Taylor.

13 MS TAYLOR: [14:58:51]

14 Q. [14:58:51] Mr Witness, just to recall, we are in open session.

15 Now this document refers to a meeting in September. Does that refresh your
16 memory as to when this march occurred?

17 A. [14:59:03] Yes, indeed.

18 Q. [14:59:20] The note --

19 A. [14:59:25] In 2012, indeed. The Arab community had organised a march to
20 protest against the killings in Diabaly. This was an initiative from the Arab
21 community, the president thereof was a member of the community. He was a trader.

22 And there was the Islamic police there, and even the army. They were involved.

23 Q. [15:00:14] Now, this note refers to the Arab community being a victim in 1992
24 and 2006. Based on what you saw and heard from the people marching, were they
25 concerned about the possibility of being victims again?

1 A. [15:00:33] Indeed. These were people who were worried. And that is why the
2 spokesperson in his speech said that we do not want what happened in the other
3 rebellions -- we do not want people to continue to be a victim of such incidents.
4 So it was a reminder, it was a SOS. But it was also a heartfelt message on the part of
5 a community that was worried.

6 Q. [15:01:29] Now, turning to the beginning of 2013 - and we are in open
7 session - did the Arab population organise another march to express their concerns
8 regarding hostilities and the possibility of civilian casualties?

9 A. [15:01:53] Yes. After the liberation, there were a number of marches, but I do
10 not know which march we're talking about.

11 Q. [15:02:24] I'm going to play a video without sound. It's -- and then I'll ask
12 questions. But before asking the questions, I will ask to go into private session very
13 briefly. It's tab -- Defence tab 45. It's MLI-OTP-0012-1774. I'm going to play a
14 couple of seconds on evidence 1 -- evidence 2, I apologise, without sound.

15 PRESIDING JUDGE MINDUA: [15:02:57](Interpretation) Private session, please,
16 Mr Courtroom Officer.

17 (Private session at 3.03 p.m.)

18 THE COURT OFFICER: [15:03:07] We're in private session, Mr President.

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13 (Open session at 3.05 p.m.)
14 THE COURT OFFICER: [15:05:04] We are back in open session, Mr President.
15 PRESIDING JUDGE MINDUA: [15:05:12](Interpretation) Thank you very much,
16 Mr Courtroom Officer.
17 Ms Taylor.
18 MS TAYLOR: [15:05:17] Thank you.
19 Q. [15:05:18] We're going to play it with sound for the interpreters. The transcript
20 is Defence tab 46, it's MLI-D28-0005-5000. And if they could kindly give me
21 a thumbs up when they're ready, we'll then play it.
22 Thank you. We'll play it now from evidence 2 with sound.
23 (Viewing of the video excerpt)
24 THE INTERPRETER: [15:06:01] (Interpretation of video excerpt) "No to war, no to
25 foreign meddling, yes to negotiations [...] Inaudible.

1 Killing people by famine and then shelling them is something that goes against the
2 law of God, the United Nations charter and is contrary to humanity.
3 Preserve the archeology of Timbuktu, and preserve its innocent population. Spare it
4 from blind bombings.
5 To the north of the fragile towns and old buildings, and they do not -- or cannot put
6 up with these shellings because it's the extermination of their people.
7 The people...the people.
8 May peace be with you, may peace be with you, may peace be with you."
9 End of sight translation.

10 (Viewing of the video excerpt)

11 MS TAYLOR: [15:07:41] I might have given the wrong reference to the English
12 transcript, but I believe we can correct that afterwards, as the French would have been
13 correct.

14 Q. [15:07:59] Mr Witness, does this refresh your memory as to when this occurred?
15 We're in open session.

16 A. [15:08:10] Yes. As I said, it was a march that happened at the same time as the
17 French shelling, but also at the same time as the members of the Dawa community ...
18 So I remember only too well this march.

19 MS TAYLOR: [15:08:52] I believe the correct reference I should have given would
20 have been tab 48, MLI-D28-0005-7114, for the English. So I apologise to the
21 interpreters for that.

22 Q. [15:09:10] Now, Mr Witness, after the Malian army came into Timbuktu, did
23 many of the Arab and Tuareg population flee from Timbuktu?

24 A. [15:09:27] Yes, at the beginning of the reconquest, many people fled as they were
25 fearful of reprisals. And many people left the city, but some also remained as they

1 were convinced that they should.

2 Q. [15:10:14] Mr Witness, you've said that, "they were fearful of reprisals."

3 Were there reprisals based on what you know or heard?

4 A. [15:10:24] I didn't personally hear of any cases of reprisals. However, there
5 were mistakes that were highlighted by some media, and, just after the reconquest, I
6 came to rest for a while in Bamako. So after the reconquest, I rested up for a few
7 months.

8 And amongst those mistakes that were talked about in the media, there was the
9 disappearance of an Arab tradesmen, Ali Kobbad - in addition to two other salesmen
10 who sold salt, and I saw something about the director of Nour El-Moubin - and
11 various foreign media made documentaries in which I read about or saw material
12 about the mistakes made by the Malian army, but I was not out in the field myself at
13 the time.

14 Q. [15:12:26] Mr Witness, you've referred to the director of Nour El-Moubin. Are
15 you referring to an individual called Mohamed Lamine?

16 A. [15:12:40] Yes, precisely.

17 Q. [15:12:47] You referred to foreign media and documentaries. Are you familiar
18 with articles written by Rukmini Callimachi and Baba Ahmed concerning what
19 happened to these individuals?

20 A. [15:13:08] I didn't read what Baba Ahmed wrote. But as I said to you, it was on
21 Western media like France 24, TV5, they made documentaries about these mistakes
22 made by the Malian army.

23 MS TAYLOR: [15:13:38] Mr President, I will need to play one small video in private
24 session, and then I believe we can be in open session based on what the witness has
25 said.

- 1 PRESIDING JUDGE MINDUA: [15:13:53](Interpretation) Mr Courtroom Officer.
2 (Private session at 3.14 p.m.)
3 THE COURT OFFICER: [15:14:04] We're in private session, Mr President.
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9 (Open session at 3.23 p.m.)

10 THE COURT OFFICER: [15:23:43] We are back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [15:23:53](Interpretation) Thank you very much,

12 Mr Courtroom Officer.

13 Ms Taylor.

14 MS TAYLOR: [15:24:02] Thank you, Mr President.

15 Q. [15:24:04] Now, Mr Witness, we're in open session.

16 You referred earlier to media documentaries by -- I think it was France 24. I'm going
17 to play some -- a short extract. It's Defence tab 92. It's MLI-OTP-0068-4828. I'll be
18 playing a short extract without sound. It's between 4:26 to 4:40. And we're playing
19 it on evidence 2.

20 (Viewing of the video excerpt)

21 MS TAYLOR: [15:25:00] We'll be stopping at 4:40.

22 Q. [15:25:08] Mr Witness, do you recognise the individual shown?

23 A. [15:25:11] Yes. It is Ali Kobbad, the elderly gentleman.

24 Q. [15:25:17] I'm just going to play another section from 8:26 until 11:19. And if
25 we could play it with sound. The transcript is tab 93. It's MLI-OTP-0078-6219.

- 1 The translation is tab 94, MLI-OTP-0078-6227.
- 2 If the interpreters could kindly indicate to me if they're ready.
- 3 THE COURT OFFICER: [15:25:54] Sorry. Would counsel kindly confirm what
4 page and the level of confidentiality as well. Thank you.
- 5 MS TAYLOR: [15:26:00] I believe this can be played in open session. And I'll just
6 find the page for the interpreters. I think it should be on page 6224 from lines 169.
7 (Counsel confer)
- 8 MS TAYLOR: [15:27:05] And the translation would be page 6223 from -- from line
9 175.
- 10 THE INTERPRETER: [15:27:32] The interpreter is having problems finding the
11 document because there's a contradiction between the lines and the actual number of
12 the document. Sorry.
13 Could you please repeat the number of the tab.
- 14 MS TAYLOR: [15:27:49] Certainly. The translation is tab 94. The full document is
15 MLI-OTP-0078-6227.
- 16 THE INTERPRETER: [15:28:04] Thank you. Which line would you like us to start
17 with?
- 18 MS TAYLOR: [15:28:10] Line 175.
- 19 THE INTERPRETER: [15:28:25] This is a different document to the one actually up
20 on the screen on evidence 2, 175.
21 Do you mean commencing with: "*Soudain, derrière le groupe ...*"
22 Is that the one you are identifying?
- 23 MS TAYLOR: [15:28:47] Yes, I believe so.
- 24 THE INTERPRETER: [15:28:49] All right. Thank you.
- 25 MS TAYLOR: [15:28:50] Also, if it would be quicker, we can also insert the text into

1 the transcript afterwards, if that would assist the interpreters, so as not to lose time
2 because I believe it's in French.

3 PRESIDING JUDGE MINDUA: [15:29:05](Interpretation) Yes. Indeed, Ms Taylor,
4 in order to save time.

5 (Viewing of the video excerpt)
6 (Translation of video excerpt MLI-OTP-0078-6227, commencing from line 175)

7 Reporter (voice over): Suddenly, behind the group, Ali the Arab cattle farmer
8 appeared with his friend Moustapha. The old man has come to offer the army a cow
9 for having freed the city.

10 Reporter (voice over): This doesn't mean to say that he is welcome.
11 "Those whites there! Take them to the exit. We don't want them here!"
12 "And take your bull back!"

13 Non-Identified Speaker: "Those whites, those whites (incomprehensible), will leave,
14 we don't want them. Take your bull back."

15 Reporter: Surprised, yet compliant, they leave the camp. This was the last time we
16 saw the old man. The cow was not lost to all. A few minutes later, the soldiers
17 discreetly usher it into their barracks.

18 "It's so sad! I am heartbroken. Ali is a man of peace and we want peace. Only
19 peace."

20 Reporter: The next day, in front of the old man's house, people are grief-stricken.
21 People from the neighbourhood have formed a crowd in front of his door to rally
22 around the son and a neighbour who are in shock.

23 Reporter: One of the inhabitants of the neighbourhood saw it all. She is the only
24 one who agrees to testify. The other neighbours are afraid of reprisals.

25 Non-Identified Speaker: A military vehicle stopped here. They went straight to his

1 house. They didn't even question him, he wasn't given the time to express himself.
2 He was so afraid that he couldn't get into...he was pushed into the vehicle. That's
3 how he was taken away. He never collaborated with the terrorists. If the terrorists
4 came, he would also say that he wanted peace. Really, if we can really motivate the
5 population, we need to march to put a stop to this confusion.

6 Reporter: At the site, we also learn that the tradesmen selling salt were also arrested
7 in the process. We find young Boukar in a state of shock.

8 Boukar: They got them and took them away...they covered them with a tarpaulin...
9 The Malian army took them...for no reason... They said nothing to them; they just
10 took them away.

11 Boukar: The army came and took my father away. They put a tarpaulin over him.
12 The Malian army. They did not utter a word, they just took him without any
13 reason. They wanted to take me too, in their truck. But then they said "stay,
14 stay".

15 Reporter: Worried about being seen, Boukar joins his grandfather who has come to
16 take care of him in the family home.

17 Boukar's grandfather: My two sons were born here. Both of them. In Timbuktu.
18 We have never left here! Somebody who had committed a crime would not have
19 stayed here.

20 Reporter: For the Touaregs and Arabs of the city, the new free Timbuktu has
21 become a trap.

22 End of translation.

23 MS TAYLOR:

24 Q. [15:32:16] Mr Witness, in the first part of this extract, we saw an old man with
25 a cow. Was that Ali Ould Kobbad?

1 A. [15:32:28] Kobbad, yes, him.

2 Q. [15:32:31] And at the end, we saw a reference to a -- someone who sold salt. Is
3 that the same person you were referring to earlier?

4 A. [15:32:42] Exactly.

5 Q. [15:32:48] In this extract, we heard people describing what they saw and heard.
6 Is this consistent with what you yourself heard from people at the time?

7 A. [15:33:03] Exactly. It's the same version that I heard. And having approached
8 the old person, he told me he was never associated with this type of thing. His
9 conviction was to stay at home.

10 Q. [15:33:47] (Overlapping speakers) And did you hear or receive any information
11 that the bodies of Ali Ould Kobbad and Mohamed Lamine were found in the dunes?

12 A. [15:34:03] There, too, I followed the media, but not for Ali Kobbad.
13 They -- they've buried the body in his shop, and they said that it was Mohamed
14 Lamine.

15 Q. [15:34:28] Now, Mr Witness, earlier you talked about the reasons why you
16 stayed in Timbuktu and one of those reasons -- you gave several reasons, and one of
17 them concerned your family situation.

18 Based on your discussions with individuals, was this also a factor for Tuaregs who
19 were present in Timbuktu?

20 A. [15:34:54] Yes, what I said. A lot of them had several different reasons. They
21 were Tuaregs, Arabs, who stayed because of the same conviction. Some of them just
22 didn't have the means; so they couldn't even get to the refugee camps so then they fell
23 into a trap and they had to stay.

24 Even if these people stayed, they were still afraid.

25 Q. [15:35:51] And for the ones that had to stay, based on what you saw or heard,

1 was pressure placed on them by their community to join the groups?

2 A. [15:36:03] I'm sorry, I haven't understood the question. If there was pressure
3 from whom?

4 Q. [15:36:22] Mr Witness, I apologise, I'll make it more specific.

5 At transcript 131, page 23, lines 23 to 24, you stated:

6 "[...] there was pressure on people to be active."

7 And at page 31, line 7 to 11, the Prosecution refreshed your memory with the
8 following. This is line 7 to 11:

9 "But one time, even though I had not even asked him the question, Lahssane said to
10 me, 'Elder brother, I'm in this thing because I have to be.'

11 [Speaks English] And then the next sentence:

12 [Interpretation] He explained to me that since he was from the Tuareg community, he
13 was obliged to be with them."

14 Based on your conversation with Al Hassan, was it your understanding that he'd
15 been pressured by his community to be part of this group in 2012?

16 PRESIDING JUDGE MINDUA: [15:37:30](Interpretation) Madam Prosecutor.

17 MS LUPING: [15:37:33] Mr President, if we could cut the sound to the witness.

18 PRESIDING JUDGE MINDUA: [15:37:40](Interpretation) Court officer, please cut
19 the sound to the witness.

20 THE COURT OFFICER: [15:37:46] Your Honours, the sound at the VTC location has
21 been cut off.

22 PRESIDING JUDGE MINDUA: [15:37:53](Interpretation) Thank you very much.
23 Madam Prosecutor.

24 MS LUPING: [15:37:56] Mr President, I object to the question, because it calls for the
25 witness to speculate about the relationship that the accused had with his community

1 and the reasons for which he actually assumed the role that he did. It's not
2 appropriate for this witness to be able to state.
3 He's able to say what the conversation was about. But for him to confirm whether or
4 not Mr Al Hassan was pressured by his community to be part of group, in our
5 submission, goes too far. It's calling for this witness to speculate. He is not in
6 a position to give that information.

7 PRESIDING JUDGE MINDUA: [15:38:42](Interpretation) Madam Prosecutor, I'm
8 trying to check the transcript.

9 Page 78, lines 23 to 25. I think that Ms Taylor asked the witness if according to the
10 conversations that he had with Mr Al Hassan. So that's not speculation.

11 Ms Taylor, please proceed.

12 MS TAYLOR: [15:39:13] Thank you, Mr President.

13 If we could have the sound re-established with the witness.

14 PRESIDING JUDGE MINDUA: [15:39:21](Interpretation) Yes.

15 Court officer, please, could we have the sound.

16 THE COURT OFFICER: [15:39:27] The sound at the VTC location has been
17 re-established.

18 PRESIDING JUDGE MINDUA: [15:39:32](Interpretation) Thank you very much,
19 court officer.

20 Ms Taylor.

21 MS TAYLOR:

22 Q. [15:39:36] Mr Witness, do you recall the question, or would you like me to
23 repeat it?

24 A. [15:39:41] If you could repeat the question, please.

25 Q. [15:39:51] My question was, based on your conversations with Al Hassan, did

1 you understand from these conversations or did you receive information from these
2 conversations that he had been pressured by his community, the Tuareg community,
3 to be part of the group in Timbuktu in 2012?

4 A. [15:40:13] It's possible, but it's not in the same case. When I talked about
5 pressure, I said those that stayed, they couldn't be victim to pressure from their
6 community. Perhaps they would get advice that they had to move until -- until the
7 town was stable. That's advice that they could get.

8 Now, where it concerns Al Hassan, when the group was started -- when you set up
9 a group, there are certain conditions that need to be met. You need human resources.
10 You have to have the financial means, logistics. All of that.

11 So those who had the means to contribute with human, financial, and logistical
12 resources did so. Those who had nothing to give, could give their children. Those
13 who had children but didn't want to give them, they could make a financial
14 contribution. That was at the start of the group, when the group was being set up.
15 It wasn't just atypical of the Tuareg. It was in a lot of groups -- a lot of groups start
16 out in that way. It's not only typical of the Tuareg.

17 The fact that Al Hassan told me that there was a constraint, that is explained; so I
18 don't need to -- didn't need to go into the details to ask him what his contribution was.
19 The fact -- whether he was an activist, I didn't go into that type of detail.

20 Q. [15:42:28] Now, Mr Witness, I'm going to refer to your work with
21 going -- without going into details.

22 Is it correct that Mr Al Hassan never tried to pressure you as concerns your work?

23 A. [15:42:43] Personally, me? No. I'll come back to that.
24 Quite the opposite. He facilitated my work.

25 Q. [15:43:03] And when you saw Mr Al Hassan, is it correct that he didn't have

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1 a weapon on him?

2 PRESIDING JUDGE MINDUA: [15:43:16](Interpretation) Madam Prosecutor.

3 MS LUPING: [15:43:18] Mr President, could I ask that the sound be cut off to the
4 witness.

5 PRESIDING JUDGE MINDUA: [15:43:25](Interpretation) Court officer, please could
6 you be so kind as to cut the sound to the witness.

7 THE COURT OFFICER: [15:43:32](Overlapping speakers) Your Honours, the sound
8 at the VTC location has been cut off.

9 PRESIDING JUDGE MINDUA: [15:43:35](Interpretation) Thank you very much.
10 Madam Prosecutor.

11 MS LUPING: [15:43:37] Mr President, your Honours, the objection is to the
12 extremely general nature of this question. There is absolutely no indication of what
13 time period or specific event that we're talking about. And if it is identifying, I
14 would then ask that we move into private session.

15 But at this stage, it's simply an extremely general question as to "when you saw
16 Mr Al Hassan."

17 He -- this witness has testified about seeing the accused on different occasions. So
18 it's extremely unclear as to what the question relates to.

19 PRESIDING JUDGE MINDUA: [15:44:14](Interpretation) Ms Taylor, I agree with
20 Madam Prosecutor. This is a vague question. Please, can you try to reformulate it.

21 MS TAYLOR: [15:44:23] Thank you, Mr President. Although I do believe we can
22 do it in open session and I believe ...

23 If the sound could be re-established with the witness.

24 PRESIDING JUDGE MINDUA: [15:44:36](Interpretation) Court officer, please
25 re-establish the connection.

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1 THE COURT OFFICER: [15:44:41] Your Honours, the sound at the VTC location has
2 been re-established.

3 PRESIDING JUDGE MINDUA: [15:44:48](Interpretation) Thank you very much,
4 court officer.

5 Ms Taylor.

6 MS TAYLOR:

7 Q. [15:44:53] Mr Witness, it's correct, isn't it, that you saw Mr Al Hassan on several
8 occasions between May 2012 and the end of January or mid-January 2013?

9 MS TAYLOR: [15:45:06] I don't know why I'm getting an objection here. I'm
10 establishing a foundation.

11 PRESIDING JUDGE MINDUA: [15:45:15](Interpretation) Madam Prosecutor.

12 MS LUPING: [15:45:16] Mr President, I'm going to have to ask that the sound be cut
13 off to the witness for this next objection, which is a new and a different objection.

14 PRESIDING JUDGE MINDUA: [15:45:29](Interpretation) Court officer, please cut
15 the sound.

16 THE COURT OFFICER: [15:45:35] Your Honours, the sound has been cut off.

17 PRESIDING JUDGE MINDUA: [15:45:40](Interpretation) Thank you very much,
18 Court Officer.

19 Madam Prosecutor.

20 MS LUPING: [15:45:43] Mr President, your Honours, my objection relates to the
21 time period that has been stipulated to the witness that he saw Mr Al Hassan in
22 different occasions between May 2012 and the end of January.

23 At no point has the witness stated that the first time he saw Mr Al Hassan that it was
24 only from May 2012. Quite the contrary. This witness has stated that the Islamic
25 police was already established by the end of April 2012, and when he gave evidence

1 as to when he first saw Mr Al Hassan, he said it was at the beginning - although, he
2 did not know what his role was at that time - and he saw him at the BMS of the
3 Islamic police.

4 So it is incorrect to assert as a fact that the witness saw Mr Al Hassan from May 2012.

5 PRESIDING JUDGE MINDUA: [15:46:48](Interpretation) Ms Taylor.

6 MS TAYLOR: [15:46:51] Mr President, I wasn't asserting any facts as to when the
7 witness first -- first saw Mr Al Hassan. And as this Chamber and the Prosecution are
8 aware, I am giving the time period of the charges.

9 Now, I'm wasting a lot of time on meaningless objections.

10 Now, throughout the entirety of the Prosecution's examination-in-chief between -- for
11 various witnesses they will phrase questions between a certain date and another date,
12 blah, blah, blah.

13 Now, this witness has been talking about 2012. It's abundantly clear the time period
14 we're referring to. They've asked me to give more specificity, I'm trying to do that,
15 except that I keep constantly getting objections and interruptions.

16 Now, I don't believe it's necessary to go through every single incident --

17 PRESIDING JUDGE MINDUA: [15:47:39](Interpretation) Very well. Very well,
18 Ms Taylor.

19 Madam Prosecutor, I think that Ms Taylor is right. Because the first question was
20 vague, and I said it was vague. Then Ms Taylor has reframed and reformulated the
21 question within a certain time frame. Now this time frame is that of the charges
22 precisely.

23 So now let her put her question -- no, no. Please sit down.

24 Ms Taylor, please go ahead.

25 MS TAYLOR: [15:48:15] Thank you very much. And if we could have the sound

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1 established with the witness.

2 PRESIDING JUDGE MINDUA: [15:48:22](Interpretation) Court Officer.

3 THE COURT OFFICER: [15:48:26] Your Honours, the sound has been re-established.

4 PRESIDING JUDGE MINDUA: [15:48:31](Interpretation) Thank you very much,
5 Court Officer.

6 Ms Taylor.

7 MS TAYLOR: [15:48:35]

8 Q. [15:48:35] Now, Mr Witness, I apologise for these interruptions.

9 Now, speaking of a certain time period, we're talking in the time period of the
10 charges - that's the beginning of May until mid- - or end of January 2013 - on the times
11 that you saw Mr Al Hassan, based on your knowledge is it correct that he did not
12 have a weapon? He was not wearing a weapon?

13 A. [15:49:04] I didn't say that he wasn't armed. What I said was every time I saw
14 him, it was in his office. But I would not say that people didn't see him with
15 a weapon. I said every time I went to see him, it was in his office. He was there.
16 He was present. That was it.

17 Q. [15:49:48] Mr Witness, speaking specifically of what you saw when you saw him,
18 did you see him on these occasions with a weapon on him?

19 PRESIDING JUDGE MINDUA: [15:50:06](Interpretation) Madam Prosecutor.

20 MS LUPING: [15:50:07] Objection, Mr President. Asked and answered. The
21 question was asked and a clear answer has been given.

22 PRESIDING JUDGE MINDUA: [15:50:18](Interpretation) Ms Taylor.

23 MS TAYLOR: [15:50:23] I don't believe the witness has himself seen what he
24 saw -- he said he can't see what -- he can't say, one way or the other, what other
25 people saw. He's just said he was at -- when he saw him he was at his bureau.

1 So I'm a clarification on the basis of that. I do believe we should be entitled to do so.

2 The Prosecution has asked numerous clarification questions. And I do believe that

3 he's only referred thus far -- he hasn't made any positive assertion.

4 He has said:

5 "I can't say that other persons didn't see him armed. But me, I say that when I saw

6 him, it was at his office. He was present."

7 He hasn't said what he himself saw.

8 PRESIDING JUDGE MINDUA: [15:51:13](Interpretation) Madam Prosecutor, when

9 Ms Taylor was speaking, I was checking the transcript. What Ms Taylor says is true.

10 That's what we've got on the transcript.

11 So perhaps you have to give the witness to -- opportunity to answer one last time, just

12 to save some time here.

13 Witness, could you please answer the question of Ms Taylor one last time.

14 THE WITNESS: [15:51:48](Interpretation) I don't remember seeing him with

15 a weapon when I spoke to him.

16 PRESIDING JUDGE MINDUA: [15:51:55](Interpretation) Very well.

17 Let's make progress on this, Ms Taylor.

18 MS TAYLOR: [15:52:00] Thank you, Mr President.

19 Q. [15:52:02] I'm now moving on to another subject, and that's concerning the

20 events at the beginning of 2012.

21 And at transcript 2 -- 127, that's page 47, the Prosecution asked you questions

22 concerning what happened in Kidal and Gao. And at lines 3 to 4, you said:

23 "The army wanted to keep a hold over Kidal, but at the end of March Kidal came

24 under attack. And then it was Gao's turn, which did not resist either."

25 Is it correct that you learned about what happened in Kidal and Gao at this time

1 through the media, specifically through RFI?

2 A. [15:52:52] Yes. I had other ways of checking this information as well.

3 Q. [15:53:12] Now, Mr Witness, I'm going to refer to your statement, it's the first
4 statement you gave to the Prosecutor. And it's MLI-OTP-0019-0296 at 0304,
5 paragraph 50:

6 (Interpretation) "Friday March 2012, Kidal fell in the hands of the armed groups.

7 Then, Gao fell. That was 31 March. I learned of these attacks thanks to the media."

8 (No interpretation)

9 THE COURT OFFICER: [15:54:09] Counsel, I'm sorry to interrupt. Is it R01 or R02?

10 MS TAYLOR: [15:54:15] I apologise. R02.

11 I will just repeat the last bit:

12 (Interpretation) "On the Friday 30 March 2012, Kidal fell into the hands of the armed
13 group. Then, Gao fell. It was 31 March. I learnt about the attacks thanks to the
14 media. Everybody was stuck to listening to the news of RFI."

15 (Speaks English) Mr Witness, do you recall saying this to the Prosecutor?

16 A. [15:55:02] (Overlapping speakers) Yes.

17 Q. [15:55:05] Mr Witness, do you recall saying this to the Prosecutor?

18 A. [15:55:11] Yes.

19 Q. [15:55:16] Is it correct that the media was your source of information?

20 A. [15:55:21] Mm-hmm.

21 THE INTERPRETER: [15:55:25] Says the witness.

22 MS TAYLOR: [15:55:28]

23 Q. [15:55:30] Now, in the lead-up to 2012, is it correct that the Malian state failed to
24 take steps to eliminate the Al Qaeda presence in the north of Mali? Speaking of 2011.

25 A. [15:55:50] I wouldn't say the state failed to do that. There was a tomb that was

1 destroyed from the Malian -- of an officer of the Malian army. He had fought, and,
2 he too, he was a victim of a reprisal, a retaliation.

3 I cannot say that the Malian army didn't fight against Al Qaeda, but perhaps the
4 presence of this group was minimised in that part of the territory.

5 Q. [15:56:52] Now, speaking of the beginning of 2012, did the Malian government
6 provide support to the Arab militia, the Berabiche militia in Timbuktu? I'm talking
7 here about the very first months.

8 A. [15:57:10] Yes, the setting up of the militia was something that the government
9 wanted. If you have a republican army, you can't have such forces in a serious
10 country. It was denounced by the population, firstly, not only because of the setting
11 up of the militia, but in particular it was an ethnic militia.

12 Q. [15:57:54] And as an ethnic militia, was -- were there concerns that it would not
13 act to protect all ethnicities?

14 A. [15:58:05] That's exactly the point.

15 Q. [15:58:21] Now turning to the events of 1 April 2012, is it correct that the Arab
16 militia were able to take over public buildings after the Malian army abandoned
17 them?

18 A. [15:58:37] Public buildings weren't guarded by the Malian army. The social
19 services were run by civil servants and administrators and officials. The soldiers
20 were in the garrison, which was occupied by the Malian army. The MNLA was
21 occupying the garrison, but prior to the arrival of the MNLA, indeed, it was the
22 militia who preceded the MNLA.

23 Q. [15:59:35] Now, according to a Prosecution witness - it's P-65, it's transcript 45,
24 page 11, lines 2 to 7 - I'll just read out the relevant sections and ask you a question.

25 "Do you recall telling the Prosecution in 2014, that at this point the Arab militia

1 played a double game; that they were initially part of the Malian army, but after the
2 Malian army left Timbuktu, they pretended to chase them out to create an appearance
3 that they were opposed to the army?"

4 Answer: "Very much so."

5 Mr Witness, were you in a position to ascertain whether there was any actual
6 confrontation between the Malian army and the Arab militia?

7 A. [16:00:23] I'm sorry, what year was that?

8 Q. [16:00:32] I apologise, Mr Witness. We are speaking about the beginning of
9 April 2012, and I read to you a quote where a previous witness was speaking about
10 a double game being played, that is:

11 "[...] after the Malian army left Timbuktu, they pretended to chase them out to create
12 an appearance that they were opposed to the army?"

13 A. [16:01:01] I don't remember a convoy being seen -- a convoy leaving. What I
14 know is that on the 31st, the last convoy of the Malian army leaving Niafunké for
15 Timbuktu -- left Niafunké for Timbuktu, but they weren't given the time for this
16 convoy to transit to Timbuktu. It continued directly onwards.

17 And, on the morning -- that's when the first shots were heard, the commander in the
18 zone was in the camp. He was with his two wives. He refused to abandon the
19 camp. And (Redacted) and
20 make no resistance, which would go against the population. The argument, which
21 was put forward -- which the officer put forward is that he had received no
22 decision -- no order from Bamako to abandon the camp. Even if the others had left,
23 he would die there.

24 And it was afterwards, that (Redacted)

25 (Redacted). And this officer of the

1 Malian army, he was on an armoured vehicle going towards the town, a heavily
2 armed vehicle -- armoured vehicle.
3 And now, it wasn't possible to get hold of anyone at the time. There were orders
4 from Bamako. And the army had no structure left. They didn't know who was in
5 charge of whom. And that was on the first day of the coup, and you can imagine the
6 first hours.

7 So (Redacted)

8 (Redacted). And he made his colleague

9 from Timbuktu understand that he was not going to receive any order because,

10 "There was no leader. Nobody in command. It was total disorder, so it was in your
11 interest in saving the population of Timbuktu, when you are not in a position of
12 strength, then go and free up the space ... whatever happens."

13 That was the argument which was used to convince this person to leave the camp.

14 And indeed, he was still supported by another community to get him to leave, an
15 Arab - that I knew perfectly well - who helped to take him out of harm and to protect
16 him so that he would be alone outside Timbuktu.

17 And that's how I knew there wasn't any confrontation and, even less, any tricks
18 played as to the best of my knowledge. That's the first thing that I wanted to say.

19 And when the MNLA came in at 11 o'clock to Timbuktu, there was no resistance to
20 make it seem or not seem to accompany the MNLA. They came in majestically to
21 establish themselves -- set themselves up in the military camp.

22 Q. [16:06:13] Thank you, Mr Witness.

23 MS TAYLOR: [16:06:17] And I do believe it's six past four. I apologise to the Bench,
24 but I didn't want to disturb the witness as he was giving a response.

25 PRESIDING JUDGE MINDUA: [16:06:33](Interpretation) Yes, you are right,

1 Ms Taylor. It is six minutes past four, we didn't want to interrupt the witness.

2 Mr Witness.

3 THE WITNESS: [16:06:43](Interpretation) Mr President.

4 PRESIDING JUDGE MINDUA: [16:06:46](Interpretation) We have come to the end
5 of your testimony for today and we shall now rise in a few moments. As you will
6 have noticed, your testimony is not yet over. But tomorrow, here, at the Court, it is
7 an official holiday, so we shall not be sitting. We shall, therefore, meet again on
8 Friday morning at 9.30 a.m. as usual. On behalf of the Chamber I would like to
9 thank you for your patience, for your clear answers and precise answers, and I would
10 like to also remind you that you are not allowed to talk to anybody about your
11 testimony.

12 Ms Taylor, before we rise for today, I would just like to ask you how much time you
13 need because you can see with this official holiday and with the witness, I just need to
14 have a little idea.

15 MS TAYLOR: [16:08:00] Thank you, Mr President. It's a bit hard to give an answer
16 off the hoof like that. I wasn't expecting not to sit yesterday, so that has in a way
17 impacted upon us.

18 We would definitely need to obviously continue over to Monday, and I would need
19 to liaise with the Registry to see how much time I have used, but I do have
20 some -- quite a few substantive topics to address with the witness.

21 PRESIDING JUDGE MINDUA: [16:08:36](Interpretation) You shall be continuing on
22 Monday, therefore, but do you think that you will be able to wrap up on Monday
23 before lunch or in the afternoon?

24 MS TAYLOR: [16:08:46] It's very difficult to answer that, Mr President, because
25 obviously our time is impacted upon by whether we have objections et cetera, so that

1 does affect the ability for me to plan my cross-examination.

2 Perhaps if it would be permissible to the Chamber, if I can give a response at the
3 beginning of Friday? But I would believe it would be conservative to at least allow
4 for perhaps some time on Tuesday, but I will obviously do my best to have a more
5 streamlined cross-examination.

6 But I do believe it's premature for me to give you an exact answer at this point.

7 PRESIDING JUDGE MINDUA: [16:09:30](Interpretation) Thank you very much,
8 Ms Taylor. So we shall wait for Friday to find out your answer or to hear your
9 answer.

10 Mr Courtroom Officer, are you saying that there remains a certain amount of time?

11 Could you please do the accounting. Where are we at?

12 THE COURT OFFICER: [16:09:58] The Defence has used four hours and 41 minutes
13 so far.

14 PRESIDING JUDGE MINDUA: [16:10:07](Interpretation) Thank you very much,
15 Mr Courtroom Officer.

16 So, we shall await your answer on Friday, Ms Taylor. But I might have liked it to
17 come to an end on Monday.

18 So Madam Prosecutor, you heard what Ms Taylor said. If there are lots of objections
19 being raised, she can't move forward. So would you like to answer that? No.

20 So before rising for today, I would like to, as always, very sincerely thank all of those
21 who make this hearing possible. I'm of course thinking of the parties because they
22 are the lynchpin -- the parties and participants. We have our court reporters, our
23 interpreters, our security guards and, of course, our public who are always our
24 greatest supporters.

25 I wish you all a very pleasant evening.

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- 1 And I say, until Friday morning, Court is adjourned.
- 2 THE COURT USHER: [16:11:22] All rise.
- 3 (The hearing ends in open session at 4.11 p.m.)