

# Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, at the opening of Trial in the case against Mr Ahmad Al-Faqi Al Mahdi

Mr President, Honourable Judges,

Mr Ahmad AL FAKI AL MAHDI, known by his nom de guerre "Abou Tourab", is appearing before your Chamber today.

He will give an account of his role in the attack carried out in Timbuktu in June and July 2012 against ten historic and religious buildings of immeasurable value. These buildings, notably the mausoleums of Muslim saints, were among the best known in Timbuktu.

They were a major part of the historic heritage of this ancient city. They were also more generally a part of the heritage of Mali, of Africa and of the world. All, except one, were inscribed on the World Heritage List.

Notwithstanding these facts, these buildings were deliberately destroyed by Mr AL MAHDI and his co-perpetrators before the very eyes of the people of Timbuktu, who looked on powerlessly.

Mr AL MAHDI, a member of Ansar Dine, was directly involved in the entities established by the armed groups Al-Qaeda in the Islamic Maghreb (AQIM) and Ansar Dine during the occupation of Timbuktu in 2012.

He participated in the activities carried out by these entities in order to forcibly impose their ideology and to dominate the population. In particular, he was appointed to head the Hisbah, the morality brigade. He set up this structure in April 2012 and led it from the time it was created until September 2012. It was in his capacity as head of the Hisbah that he personally directed and oversaw the attack against the ten buildings in question.

The extremely varied and copious evidence my Office has collected overwhelmingly demonstrates that the Accused played a central role in the destruction operations. He selected the sites to be destroyed. He determined the sequence in which the acts of destruction would take place, moving from the north to the south of the city. He provided material resources. He gave instructions.

Mr President, Honourable Judges,

It must be said, and it must be said clearly: to intentionally direct an attack against historic monuments and buildings dedicated to religion constitutes a war crime, duly punishable under the Rome Statute. These are serious crimes which must be dealt with at the hands of justice.

As we know, this is the first time that the International Criminal Court is trying an accused person for such acts and for such grave crimes.

Today's trial is indeed historic.

And it is all the more historic in view of the destructive rage that marks our times, in which humanity's common heritage is subject to repeated and planned ravages by individuals and groups whose goal is to eradicate any representation of a world that differs from theirs by eliminating the physical manifestations that are at the heart of communities. The differences and values of these communities are thus simply denied and annihilated.

Mr President, Honourable Judges,

This is the essence, the very heart of this case. What makes this crime so serious is the fact that it is a profound attack on the identity, the memory and, therefore, the future of entire populations.

This is a crime against that which constitutes the richness of whole communities. And it is thus a crime that impoverishes us all and damages universal values we are bound to protect.

The evidence that my Office has collected will take you to Timbuktu: a city that was desecrated; a city that was oppressed; a city that was scarred within a period of some ten days between June and July 2012.

Timbuktu, a city that was disfigured so profoundly that its people were wounded to the depths of their soul, forever marking that painful and dark chapter in the history of the city.

Allow me to describe what the mausoleums of the Muslim saints of Timbuktu represent, the meaning they bear and the function they have fulfilled, for many, over centuries.

With your leave, I will continue my submissions in English.

Mr President, Honourable Judges,

Timbuktu is indeed an ancient and vibrant city.

Timbuktu's name is one that is commonly associated with a rich history and culture.

In the 15th and 16th centuries, Timbuktu became a regional centre of economic activity and trade. More importantly, it blossomed into one of Africa's most vibrant intellectual and spiritual capitals.

It played an essential role in the expansion of Islam in Africa.

It was, to be sure, the cradle of education, where enlightenment was nurtured for the benefit of generations of students, attracting scholars from far and wide.

Some of these sages would be venerated as Muslim saints, and mausoleums would be erected on their graves to honour their memory as well as the notable contributions they made to the lives of the people of Timbuktu, and beyond.

These mausoleums, which survived the ravages of time, have continued to play a fundamental, even foundational, role in both the life within the city's gates and beyond the city's borders.

These monuments, Your Honours, were living testimony to Timbuktu's glorious past.

These mausoleums undoubtedly also served as a unique testament to the city's urban settlements. But above all, they were the embodiment of Malian history, captured in tangible form, from an era long gone yet still very much vivid in the memory and pride of the people who so dearly cherished them.

The mausoleums also testify to the historical role Timbuktu played in the spread of Islam in Africa and in the history of Africa itself.

They are relics of a great chapter in humankind's intellectual and spiritual development on the continent, which gave Timbuktu its standing in the world. This is particularly important in a society that is partly rooted in oral tradition. And it is notably for these reasons that they are so precious, and were inscribed on the World Heritage list in 1988.

What's more, the mausoleums of Timbuktu played and continue to play an important religious role in the daily lives of the city's inhabitants. Mausoleums are sacred places of worship. They are frequently visited by the city's residents. Pilgrims would also come from distant places to pay their respects and to pray. Going to the mausoleums was and still is an expression of one's faith and religious piety.

It is specifically these deeply rooted religious practices and beliefs that Ansar Dine and AQIM wanted to annihilate by destroying these mausoleums. Through their brutal and callous acts, they made it impossible for the inhabitants of Timbuktu to devote themselves to their religious practices during the ten-month occupation of their city. Our evidence,

Your Honours, will demonstrate how important these mausoleums were to the people of Timbuktu.

During the course of this trial, you will hear from Witness P-0431. The testimony to be tendered by this Witness will describe how, as soon as the armed groups were driven out of the city in 2013, the residents of Timbuktu returned to pray at the ruins of the mausoleums. This is how deep the connection is between the mausoleums and the people of Timbuktu.

Additionally, the mausoleums played a key role in fostering the social cohesion that is so characteristic of Timbuktu. The mausoleums are related to families who take care of them and resort, when needed, to masons. These masons are considered to be "living human treasures" for their unique craftsmanship. And while they are the ones who maintain these buildings, the renovation of a mausoleum is a task in which the entire community joins and participates. Everyone helps the masons. At the level of neighbourhoods, materials are collected and meetings are held. It is an event that brings together and unites worshippers, different age groups and the community as a whole.

Those are not the only social functions linked to the mausoleums. The mausoleums – which were destroyed – also contributed greatly to what I would call "the workshop of peaceful coexistence." Consider the names of the mausoleums.

They remind us that the Muslim saints to whom the mausoleums were dedicated came from different backgrounds and tribes. One is called the "Sidi Mahamoud Ben Omar Mohamed Aquit" mausoleum, after the name of the Saint Sidi Mahmoud Ben Omar Mohamed Aquit, a San Hadji who lived in the 16th century. Another one is called the "Cheick Sidi Ahmed Ben Amar Arragadi" mausoleum, named after a revered Muslim scholar and saint, a Kounta who lived in the 18th century. By the mere fact of their names, these mausoleums conveyed a message of tolerance and peaceful co-existence, transcending differences.

Last but certainly not least, the destroyed mausoleums played a crucial role in shaping the identity of the people of Timbuktu. Timbuktu is known as the "City of 333 Saints." The mausoleums were the contemporary living symbol of the city. As one resident of the city declared at the time of the destructions, and I quote: "The people are very, very angry today because the mausoleum is the symbol of Timbuktu."

To destroy Timbuktu's mausoleums is therefore to erase an element of collective identity built through the ages. It is to eradicate a civilisation's landmark. It is the destruction of the roots of an entire people, which irremediably affects its social attitudes, practices and structures. Another inhabitant of Timbuktu summarized this notion as follows: "Timbuktu is on the verge of losing her soul; Timbuktu is threatened by outrageous acts of vandalism; Timbuktu is being held under a sharpened blade ready for use in a cold-blooded murder."

Your Honours,

Culture is who we are. Our ancestors created paintings, sculptures, mosques, temples and other forms of cultural possessions all around us. They put their hearts and souls into the creation of such cultural heritage so that it represents the cultural identity of their times, and is passed on for the benefit of future generations.

Indeed, this cultural heritage shapes the spirit and identity of our own generation and of generations to come. With the passage of time, they become archetypes of social memory from which individuals shape their identity and grow.

Make no mistake: for centuries, the mausoleums in Timbuktu have been an important foundational block on which the identity of the city's inhabitants has been built. That continues to be very much true today.

To be born and raised in Timbuktu is to be inspired and shaped by the century-old mosques and mausoleums that personify this historic city's cultural foundation.

I ask us all to imagine, if only for a second, what it must have felt like, then, in that fateful summer in 2012, to witness the wanton destruction of this cherished cultural heritage — a deliberate assault on one's identity, spiritual beliefs and prized cultural possessions.

Your Honours,

All of this was reduced to dust by a destruction operation led by the Accused. By eradicating the mausoleums, Mr AL MAHDI intentionally destroyed something that is intangible and immeasurable. Mr AL MAHDI himself comes from the Timbuktu region, and as a result, was fully aware of the importance of the mausoleums and their significance to the city's inhabitants.

Nonetheless, he showed determination and focus in his supervision of the operations. He ensured he was present at every single site that was targeted and destroyed. You can see him in video clips presented, unreservedly holding his pickaxe. You can also hear him confidently and repeatedly attempting to justify these crimes by reiterating his resolve to eliminate all things he labelled as being 'inappropriate' to Timbuktu.

Images speak a thousand words indeed, but so does the Accused's expressed intent.

These are all found in the open source material included in the Prosecution and Defence joint list of evidence.

Your Honours,

The commission of such a crime is not merely a deplorable event. This type of crime, wherever it may happen in the world, presents the international community today with enormous challenges. With your indulgence, I would like to highlight three general points in this regard:

The first is that deliberate attacks on cultural property are often the precursor to the worst outrages against a population. As some learned observers have noted, the struggle to defend the cultural property of a population is an integral part of the humanitarian operation aimed at protecting that population.

The second aspect, one of greater concern, is that deliberate attacks on cultural property have become actual weapons of war. They are being used to eliminate entire communities and wipe out any traces left of them, their history and identity, as though they never existed.

Let us consider the example of the town of Zvornik. As the trier of fact established in the relevant case, the Serbs destroyed five mosques in that town. Later, the mayor of the overrun town was quoted uttering this revisionist account: "There were never [he proclaimed] any mosques in Zvornik." To be sure, attacks on historic monuments and buildings dedicated to religion are de facto attacks on the very people that hold such tangible possessions near and dear to their cultural identity.

Lastly, the protection of cultural heritage is an essential part of the post-conflict social reconstruction and reconciliation process. This is because cultural heritage gives meaning as well as a sense of continuity and direction from the past to the future. Cultural heritage provides reference points. Once destroyed, as noted by the UN International Criminal Tribunal for the former Yugoslavia, the restoration of cultural heritage never brings back its inherent value.

These complex issues and concerns must propel us to act. Deliberate attacks against historic monuments and buildings dedicated to religion are grave offences, with significant debilitating impact, first on affected communities, but also far beyond the socio-geographical space they occupy. We must stand firm in our resolve to end impunity for such serious crimes.

Your Honours,

Today, the Accused, Mr Ahmad Al Faqi Al Mahdi, has confirmed that he makes an admission of guilt.

It is now entirely for Your Honours to consider his admission of guilt, which he made through the agreement he has signed with my Office. This is an admission the Accused has consistently given and voluntarily so, while fully informed and assisted by legal counsel. The general terms of this agreement were published on Friday last week; he fully recognises the facts of the case and his own individual responsibility.

I am satisfied with this development in the case.

I am satisfied because it is the first-ever admission of guilt before the Court. Mr AL MAHDI was transferred to the Court less than one year ago. The current trial should only take a few days. It will contribute to the expeditiousness of proceedings. Such expeditiousness will benefit the victims just as much as it will benefit the Accused.

Above all, I am satisfied because Mr AL MAHDI's admission directly helps bring justice: it helps uncover the truth and leads to the catharsis that should arise from any judicial process. In preparations of this case, my Office collected overwhelming evidence of the guilt of the Accused. You will have the opportunity to judge this for yourselves in the coming hours. An admission of guilt facilitates the establishment of the truth. The fact that the Accused recognises his criminal responsibility is crucial for Timbuktu's victims. It will also support the reconciliation process in the field.

In addition, this admission of guilt and Your Honour's ultimate judgement will set a clear precedent, sending an important and positive message to the entire world.

One must not forget that this attack rightfully raised a chorus of protests not only from the affected community and Mali more generally, but also from the international community.

The African Union, the UN Security Council, the Economic Community of West African States, UNESCO and numerous States expressed their strong condemnation of the war crime committed. The UN Security Council itself stated that "[the] perpetrators must be held accountable [...]", while the Chairperson of the African Group at UNESCO emphasised that "it is not only Mali which is affected by [these] destruction[s...]. Mali's heritage sites are Africa's heritage sites and they are also the world's heritage sites." Indeed, it was our world heritage that was harmed by the destruction of nine UNESCO-listed sites, which were among the ten destroyed sites in Timbuktu.

Your Honours,

The appeals of the Malian and the international community to take action against such serious crimes must yield results.

It falls to Your Honours to ensure that the Accused is held responsible. It falls to Your Chamber to lay the first brick of the Court's jurisprudence in this area.

The world in the 21st century has witnessed too many attacks against historic monuments and buildings dedicated to religion. This worrying trend must be stopped in its tracks. This regrettable reality must cease.

Recently, we have seen the calamitous destruction of Palmyra in Syria, and just last month, we saw the so-called ISIS destroy yet another historic monument: a mausoleum north of Baghdad.

My message today is this: our cultural heritage is not a luxury good. Our cultural heritage is a vital instrument of human development.

To protect cultural property is to protect our culture, our history, our identity, and our ways of expressing faith and practicing religion for current and future generations. We must protect our common heritage from desecration, ravages and the long-term effects of such destructive acts.

The severity of the crimes committed in this case calls for an appropriate punishment, one that is firm and serves as a deterrent, while taking into account all of the Accused's particular circumstances, including his admission of guilt and cooperation.

Your judgement is awaited, from the ancient streets of Timbuktu and throughout Mali to all four corners of the world.

As I have mentioned in prior proceedings in this case: "history itself, whose physical embodiment is at peril through such attacks, will not be generous to our failure to care, or to act decisively."

I thank you for your attention.

With your leave, I will now give the floor to my learned colleague, Mr Gilles Dutertre, the Senior Trial Lawyer from the Prosecution team, to present a more detailed outline of our case.

Source : Office of the Prosecutor