

Trial Hearing
WITNESS: MLI-OTP-P-0160

(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 Tuesday, 2 March 2021
10 (The hearing starts in open session at 9.33 a.m.)
11 THE COURT USHER: [9:33:11] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:42](Interpretation) The hearing is now open.
15 Good morning, everybody.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:33:54](Interpretation) Good morning, your Honours.
18 Situation in the Republic of Mali, The Prosecutor versus Al Hassan Ag Abdoul Aziz
19 Ag Mohamed Ag Mahmoud, ICC-01/12-01/18.
20 And we are in public session.
21 PRESIDING JUDGE MINDUA: [9:34:13](Interpretation) Thank you, court officer.
22 As usual, we will start with the introductions.
23 Prosecutor, please. Madam Prosecutor.
24 MS YAMAGUCHI: [9:34:23] Good morning, Mr President, your Honours.
25 Today the Prosecution is represented by Lucio Garcia on my left, Gilles Dutertre on

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1 my back, and myself Yayoi Yamaguchi.

2 PRESIDING JUDGE MINDUA: [9:34:43](Interpretation) Thank you very much,

3 Madam Prosecutor.

4 I turn now to the Defence.

5 MS TAYLOR: [9:34:49] Good morning, Mr President. Good morning,

6 your Honours. Good morning to everyone inside and outside the courtroom.

7 The Defence for Mr Al Hassan is represented today by Dolly Chahla and myself

8 Melinda Taylor. Thank you.

9 PRESIDING JUDGE MINDUA: [9:35:04](Interpretation) Thank you, Ms Taylor.

10 And the Legal Representatives for Victims.

11 MR LUVENGIKA: [9:35:15](Interpretation) Good morning, your Honours.

12 The victims are represented today by Ms Claire Laplace and myself Maître Nsita

13 Luvengika. Thank you.

14 PRESIDING JUDGE MINDUA: [9:35:32](Interpretation) Thank you, Maître Nsita.

15 This morning we will continue hearing the 24th Prosecution Witness P-0160. So I

16 turn to the witness.

17 Good morning, Mr Witness, can you hear me?

18 WITNESS: MLI-OTP-P-0160 (On former oath)

19 (The witness speaks French)

20 (The witness gives evidence via video link)

21 THE WITNESS: [9:36:00](Interpretation) Yes, I can hear you very well, your Honour.

22 PRESIDING JUDGE MINDUA: [9:36:04](Interpretation) Thank you very much,

23 Mr Witness.

24 We would once again like to welcome you here and also to thank you for your

25 cooperation. I would like to remind you that you are still under oath and I would

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1 also remind you of my practical advice with regard to speaking in the courtroom.

2 Thank you.

3 So we are still in the examination-in-chief and therefore I give the floor to

4 the Prosecution.

5 Madam Prosecutor.

6 MS YAMAGUCHI: [9:36:53](Overlapping speakers) Thank you very much, Mr

7 President.

8 QUESTIONED BY MS YAMAGUCHI: (Continuing)

9 Q. Good morning, Mr Witness.

10 A. (No interpretation)

11 Q. I would just like to start with a few clarification questions regarding what you

12 have told us yesterday. Yesterday you indicated that for project B you used a form

13 that was slightly different from what was used in project A. And I'm referring to the

14 transcript from yesterday, P -- page 56 --

15 PRESIDING JUDGE MINDUA: [9:37:35](No interpretation)

16 MS YAMAGUCHI: [9:37:43] My microphone is on.

17 PRESIDING JUDGE MINDUA: [9:37:47](Interpretation) There was a problem with

18 interpretation.

19 THE COURT OFFICER: [9:38:00](Interpretation) The problem seems to have been

20 resolved, your Honour.

21 PRESIDING JUDGE MINDUA: [9:38:04](Interpretation) Thank you very much,

22 court officer.

23 Madam Prosecutor, you have the floor.

24 MS YAMAGUCHI: [9:38:10] Thank you, Mr President.

25 Q. [9:38:17] Mr Witness, I will repeat what I have just said. So I would like to start

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1 with some clarification questions regarding what you told us yesterday.

2 First, you indicated that for project B you used a form that was slightly different from
3 what was used in project A. And I'm referring to transcript number 66, page 56, line
4 2 to 11.

5 Now please turn to tab 3 of your binder.

6 The ERN of the document is [REDACTED] And Madam Court Officer, please
7 do not broadcast this document.

8 Mr Witness, do you have the document in front of you under tab 3?

9 A. [9:39:49] I have the document.

10 Q. [9:39:51] You confirmed yesterday that this was a report you produced in
11 the context of project B. Now please turn to page 12, which corresponds to the ERN
12 0039-0931.

13 Do you recognise --

14 A. [9:40:20] I have the page.

15 Q. [9:40:23] Do you recognise this document?

16 A. [9:40:30] Yes, indeed I do.

17 Q. [9:40:32] Could you please explain to us what it is.

18 A. [9:40:45] Madam Prosecutor, in order to be able to interview the people, we
19 have these two forms, the witness (sic) form and the witness form. And these forms
20 were used for all the people we heard. And then we filled in the forms according to
21 the different wording. And the main aim was to construct a profile of the victim
22 with the additional information of the gender of the victim, status, location by
23 address, and then finally to see what type of offence was involved, the description of
24 the violence suffered.

25 And for the victim we also mention whether the victim had been taken care of or not.

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1 And then you will also have the victim -- the witness form, which is slightly different
2 from the victim form and this confirms whether the witness had knowledge of
3 the victim's situation.

4 So we worked with these forms for some of the people whom we interviewed.

5 Q. [9:42:58] Thank you, Mr Witness. There was a bit of confusion in
6 the interpretation, so could you please just clarify which one is the witness form; on
7 the right or the left?

8 A. [9:43:22] On my right, where it says "*fiche du témoin*", that is the witness form.

9 Q. [9:43:33] And what is the form on the left?

10 A. [9:43:44] The one on the left is used only for people who we have met as victims.

11 Q. [9:44:00] Now focusing on the left form for the victim you've met, could you
12 please briefly describe any -- the differences in comparison with the form used in
13 project A?

14 A. [9:44:28] The main difference relates to the description of the violence suffered,
15 because the witness will give a description of the facts, which is different from
16 the victim. Very often we noted that there was a difference between the statement
17 made by the victim and that of the witness. And the victim/witness -- the victim
18 form was 20 per cent -- sorry, the witness, there were only 20 per cent of them
19 compared with all the victim forms. So, in other words, we had very few witnesses
20 who could actually describe the violence to the victim because they were there -- they
21 were there, therefore they could provide a witness statement to the state of the victim
22 in relation to the violence suffered.

23 Q. [9:45:58] Thank you very much, Mr Witness.

24 Now, yesterday you told us about a victim of rape who was initially reluctant to tell
25 you about the rape part of her victimisation. And you mentioned that this victim

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- 1 mentioned the name of the perpetrator and the fact that he had red skin.
- 2 And I'm referring to the transcript from yesterday at page 64, line 24 to 25.
- 3 Could you please just clarify what you meant by having red skin.
- 4 A. [9:46:53] It's the colour of the skin.
- 5 Q. [9:47:01] Is that colour of skin usually associated with certain ethnic groups?
- 6 A. [9:47:19] Yes.
- 7 Q. [9:47:22] Could you tell us which groups they are.
- 8 A. [9:47:35] Generally speaking, the Arab and Tuareg communities are described
- 9 that way.
- 10 Q. [9:47:48] Thank you. I have just one more clarification question in relation to
- 11 your testimony yesterday. Yesterday you mentioned that not all rape victims were
- 12 raped in prison, others were also raped at the base.
- 13 And I'm referring to transcript page 76, line 4 to 5.
- 14 Now, were victims you met able to describe where this base had been located?
- 15 A. [9:48:30] This base was a former hotel which was located behind the market in
- 16 Timbuktu.
- 17 Q. [9:48:47] Do you recall the name of the market?
- 18 A. [9:49:01] The market was the small market, Yobou Tchiné, in Timbuktu.
- 19 Q. [9:49:13] Could you please spell the name of the market?
- 20 A. [9:49:19] Y-O-B-O-U, that means "market" in the local language. And *Tchiné*
- 21 means "small", T-C-H-I-N-É.
- 22 Q. [9:49:54] Thank you, Mr Witness. Now I would like to go back to the category
- 23 of crimes we were discussing the last -- at the end of yesterday's session, which is
- 24 arbitrary arrest and imprisonment. So please bring back -- look at your report under
- 25 tab 3 of your binder. The ERN again is 0039-0920. We saw -- we can see that you

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1 documented 50 cases under this category. Now, did you meet or hear of other
2 victims of arbitrary arrest and imprisonment in Timbuktu?

3 A. [9:51:05] Other than these cases, we met no one else, to be quite clear.

4 Q. [9:51:12] Did you hear of other cases or be informed about other cases in respect
5 of victims you did not meet?

6 A. [9:51:38] No. We worked on the basis of people who had been identified as
7 having had their rights violated, but we were not focusing on everything we were
8 told. In other words, people who were identified as having had their rights violated
9 were the ones that we met.

10 Q. [9:52:17] Thank you, Mr Witness.

11 Now I would like to turn to another category: Floggings, physical assault, and
12 threats.

13 Please look at page 8 of the report, which corresponds to the ERN 0039-0927.

14 So from this page to the next page there is a summary relating to the category of
15 floggings, physical assault, and threats. And according to this summary, almost all
16 victims interviewed reported having suffered floggings. Now, do you recall what
17 were the common reasons for which these victims were flogged?

18 A. [9:53:26] Flogging followed non-compliance with measures imposed by
19 the Islamic police.

20 Q. [9:53:44] Could you give us some specific examples?

21 A. [9:53:55] I said in my statement yesterday that the Islamic police had instituted
22 a dress code and had -- also had restricted certain activities for women, in particular,
23 a woman had to be completely covered and, further, she also had to wear gloves and
24 socks. And any woman who did not respect these measures was flogged.

25 Other cases were women carrying out commercial activities on the small level, such

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1 as selling cosmetics. Or a woman walking around with goods for sale, that was also
2 prohibited. In principle, a woman trading in any way -- because, generally speaking,
3 in our community, when people trade they prefer to do it in the street in front of their
4 homes and any activity of that type spotted by the Islamic police meant that
5 the woman would be flogged. And that was the lowest form of punishment by
6 the police.

7 Q. [9:55:51] Thank you very much, Mr Witness.

8 Now, this summary also mentions that the name of two alleged perpetrators were
9 frequently mentioned by victims interviewed, and that is Demba Demba and
10 Amadou Mossa. Do you recall hearing these names from victims of floggings?

11 A. [9:56:24] Yes, as being the representatives of those who gave orders -- those in
12 charge of those who gave orders.

13 Q. [9:56:44] Now, apart from the 27 cases documented in this report, did you meet
14 or hear of other cases of floggings in Timbuktu?

15 A. [9:57:09] We were indeed told that there were a lot of other cases, but we did not
16 meet those people.

17 Q. [9:57:25] I would like to move on to another category of psychological and
18 emotional violence. In the table on page 8 of the report, which corresponds to ERN
19 0039-0927, it is indicated that 27 cases of this nature were documented by your project.
20 Could you please briefly explain what type of cases were included under this
21 category.

22 A. [9:58:14] Well, I could mention elements of testimony mentioning threats
23 relating to certain activities which women were involved in and were immediately
24 arrested, and a slap being given to a small girl in front of her mother when her father
25 had just been removed. The little girl did not accept the slap and she leapt onto

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1 the perpetrator to bite him and the mother went towards her daughter to hold her
2 back and, unfortunately, she was insulted and that is something that, that has stayed
3 with her, it very much affected her.

4 Q. [9:59:40] When you say "very much affected her", do you mean affected the girl
5 or the mother? If you could please clarify.

6 A. [9:59:55] The mother was affected psychologically.

7 Q. [10:00:02] And you mentioned that the father was removed. Could you please
8 explain what you meant?

9 A. [10:00:26] When there was the liberation in January, the armed groups tried to
10 reoccupy the area and, once they had arrived back in the city under fire, there was
11 a confrontation with the regular army and at that point, following these altercations,
12 confrontations with the regular army, some people were targeted as having been
13 accomplices of the army or the armed groups. This man had been identified, as such.
14 They came to collect him at his home and took him away, and when she saw her
15 father being taken away, the daughter reacted in that way. That's just an
16 explanation of why the daughter reacted in that way towards these members of
17 the armed group.

18 Q. [10:01:45] Thank you, Mr Witness.

19 Now I would like to move on to yet another category, which is appropriation and
20 destruction of goods. In the table on the page -- on page 8 of the report, again which
21 corresponds to the ERN 0039-0927, it is indicated that seven cases of appropriation
22 and destruction of goods were documented by your project. Again, could you
23 please briefly describe what type of cases were included under this category?

24 A. [10:02:33] The first case was those women -- applied to those women who had
25 been seen at the market who were illegally dressed, as it were, or dressed in such

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1 a -- in such a manner that they did not respect Islamic or Islamist habits. So
2 everything that they were selling was taken away. They were dispossessed of their
3 goods and taken away to be flogged. So that woman, that specific woman lost
4 everything that she had and lost all of the goods that she was selling at the market.
5 The other case was a transport vehicle that was moving from one locality to come
6 back to Timbuktu that was stopped and the occupiers of the vehicle were told to
7 alight and they were searched, all of their goods were taken out of the vehicle and
8 the vehicle was set alight. And then they were taken back to Timbuktu and thrown
9 in prison.

10 So those are the two cases to explain to you somewhat what this category of human
11 rights violations applies to.

12 Q. [10:04:09] And do you recall approximately when those two cases took place?

13 A. [10:04:28] The victims said that it was during the year 2012. But as to
14 the precise date, I would have to refer to the form.

15 Q. [10:04:43] Thank you, Mr Witness.

16 I would like to turn to my final topic, which is the impact of the crimes on victims in
17 Timbuktu.

18 Now, you've told us about a number of crimes committed by the Islamists, or
19 so-called Islamists, that you and your team documented in the -- in the context of both
20 project A and B, and you have already told us some specific cases you still recall. Is
21 there any additional case which you -- left a particular impression on you because of
22 the extensive impact on the victim?

23 A. [10:05:38] Thank you, Madam Prosecutor. I would admit to you that this work
24 which enabled me to gather data did have an effect on me and it affected me
25 psychologically by mere virtue of the fact that I could not follow up by providing

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1 continual assistance to these individuals that I met with.

2 It is true that in my work I was not supposed to feel empathy, but I did ask myself
3 a lot of questions how -- as to how I could help these women, how I could obtain
4 reparation for them, how I could help these women no longer think about what they
5 had endured. Also men, because there's not only women we're talking about. How
6 could I help these people recuperate their civil rights, their political rights, their
7 economic rights?

8 On a personal level, I did ask myself a lot of questions: Should I leave those children
9 whose legitimate father was absent? These children certainly did not have any
10 future as to the presence of two parents. How could one help these families? How
11 could one help these persons who had been affected to reinsert, to rejoin society and
12 really enjoy their rights to the full?

13 Now, in the face of all these questions without answers, I asked my organisation if I
14 could find or we could find the means to follow up on this, find further funds and
15 provide assistance and accompany these individuals that we had met with.

16 Unfortunately, this was not the case and we remained for a few years and then I
17 thought to myself that this does not serve me any purpose to remain in this
18 organisation and continue to provide assistance to these people for whom I could
19 really not provide any assistance at all.

20 So that is what I have to say on the matter, Madam Prosecutor.

21 Q. [10:08:18] Thank you, Mr Witness.

22 Now, based on what you heard from victims you met and what you personally
23 observed in the context of your work in Timbuktu, could you please tell us what
24 impact, if any, these crimes committed by the Islamist groups had on the population
25 of Timbuktu in general.

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1 A. [10:08:55] The first impact would be continual impoverishment, because there
2 was a restriction upon activities. The second form of impact would be the lack of
3 security for individuals, because with the acceptance -- with the exception of the
4 Islamic police, there was no state administration, there were no basic state services,
5 there was no orientation as -- in terms of accompanying people in their search for
6 human rights.

7 Now, in addition to the limitation and restriction upon activities in terms of
8 economics, the other impact was the loss -- the loss of rights.

9 So those are fundamentally the two forms of impact that I felt when working in
10 those -- with those communities in Timbuktu.

11 Q. [10:10:04] And when you visited Timbuktu after the occupation ended, were
12 you able to observe the impact remaining -- was there any still remaining impact on
13 the population you could observe?

14 A. [10:10:37] Yes, because the population was in a state that was a little bit difficult
15 to comprehend. Because despite the end of the occupation, with the return of some
16 security forces and some forms of administration, the population had lost confidence
17 and that is why it was a little bit difficult for the new authorities to bring
18 the population back to a state of confidence amongst its -- those it administered. So
19 the -- they felt a little bit freed of the occupation of the Islamist groups. However,
20 they did not feel confident in true terms.

21 Q. [10:11:34] Thank you very much, Mr Witness.

22 That concludes my questions.

23 PRESIDING JUDGE MINDUA: [10:11:52](Interpretation) Thank you very much,
24 Madam Prosecutor. I understand, therefore, that you have finished with your
25 examination-in-chief; that is correct?

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1 MS YAMAGUCHI: [10:12:06] Yes, Mr President.

2 PRESIDING JUDGE MINDUA: [10:12:17](Interpretation) Thank you very much.

3 So I note that, in total, you have used four hours and 46 minutes. Of course, this will

4 have an impact for what happens later, but I can see on the side of the Legal

5 Representatives for Victims that there are preparations afoot. So I will ask you

6 the usual question, Maître Nsita, would you like to address the Court after the end of

7 the examination-in-chief?

8 MR LUVENGIKA: [10:12:58](Interpretation) Yes, thank you, Mr President, for

9 allowing me to address the Court.

10 As you know, my interventions are not as lengthy as they might be. Madam

11 Prosecutor has really broached these subjects very well from the victims' standpoint.

12 I would just like to hark back to a specific category of victims for which I would like

13 to obtain some additional clarification or elements from the witness, because the NGO

14 did have a programme on that subject.

15 PRESIDING JUDGE MINDUA: [10:13:44](Interpretation) Yes, thank you very much,

16 Maître Nsita.

17 So, of course, the traditional question to the Defence. Ms Taylor, do you have any

18 objections to raise?

19 MS TAYLOR: [10:13:56] Not in principle, Mr President.

20 PRESIDING JUDGE MINDUA: [10:14:08](Interpretation) Thank you very much,

21 Ms Taylor.

22 Now, the Chamber is entirely in agreement with the Legal Representatives putting

23 questions to the witness.

24 Mr Witness, Mr Witness, I would like to draw your attention to the fact that

25 Maître Nsita will be putting questions to you now for the Legal Representatives for

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1 Victims.

2 Maître Nsita, please, over to you.

3 MR LUVENGIKA: [10:14:48](No interpretation)

4 PRESIDING JUDGE MINDUA: [10:15:06](Interpretation) Mr Witness, when you say
5 something, doesn't just nod, please say something into the microphone.

6 THE WITNESS: [10:15:14](Interpretation) Yes, Mr President.

7 QUESTIONED BY MR LUVENGIKA:

8 Q. [10:15:19] Mr Witness, I wanted to ask you to explain in general terms to
9 the Chamber the issues associated with children who were victims, those I consider to
10 be victims, in terms of rape and forced marriage. The NGO had a support and
11 finance programme for children who had issues. Now, did the NGO take under its
12 wings -- under its wing all those children who had been victim of rape and forced
13 marriage?

14 A. [10:16:07] Thank you, Legal Representative for Victims. Now, in clear,
15 the NGO did not have any finance for supporting children. Through both projects A
16 and project B, the mission of the NGO was to identify and to classify the types of
17 human rights violations and to provide orientation.

18 When we realised that we were up against such cases of children who were born out
19 of rape and forced marriage, we then introduced a parallel activity of support for
20 those families. And it was in or within this context that there was a distribution of
21 culinary kits - and this is different for other victims, different from other
22 victims - culinary kits and also money, 25,000 francs per family as a form of support
23 for those children. And thirdly, we aimed at assisting the mothers in conducting
24 administrative acts associated with those children.

25 These activities were introduced within a programme that did not have as its mission

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1 the support of -- the aim of supporting those children who were victims.

2 Q. [10:18:01] Yes, Mr Witness, but could you explain to us what you mean by
3 administrative acts associated with these children?

4 A. [10:18:17] By "administrative acts" we mean obtaining judgments associated
5 with birth certificates.

6 Q. [10:18:30] Of course, when you were in charge of this project, these children
7 were only mere babies. Do you know how these children were considered by
8 the community, how the community saw them?

9 A. [10:18:52] We didn't work in those terms with regard to the community itself.
10 But we worked on the basis of how those children were considered within the context
11 of their family. First of all, the women were ashamed, they were ashamed of going
12 out in the company of those children because those children were born out of
13 relationships with members of armed groups who had left, and the mothers were
14 ashamed of the fact that they could be picked out or seen to be different in colour
15 from their mothers. And the mothers also were somewhat stressed by virtue of the
16 fact that they did not have the financial means and it was difficult for them to go and
17 find those financial means elsewhere to fulfil the needs of those children. So it was
18 really stigmatisation that made them feel stressed.

19 Q. [10:20:11] Very well. Thank you very much.

20 MR LUVENGIKA: And thank you, Mr President, that concludes my questioning.

21 PRESIDING JUDGE MINDUA: [10:20:19](Interpretation) Thank you very much,
22 Maître Nsita.

23 Now I am turning to the Defence for the cross-examination.

24 Ms Taylor.

25 MS TAYLOR: [10:20:37] Thank you, Mr President. If we may just have a couple of

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1 minutes to distribute the binders to the interpreters and to the, to the Bench.

2 PRESIDING JUDGE MINDUA: [10:20:51](Interpretation) Of course, yes, Ms Taylor.

3 Please go ahead.

4 MS TAYLOR: I apologise. I had assumed with the timing that we would go up to
5 the break.

6 PRESIDING JUDGE MINDUA: [10:21:24](Interpretation) Ah, I understand better
7 now. Are you saying that you want to take a break now?

8 MS TAYLOR: [10:21:30] No, Mr President. I had assumed that the Prosecution
9 would take longer and that we would be able to distribute the binders during
10 the break. So I apologise for that.

11 PRESIDING JUDGE MINDUA: [10:21:42](Interpretation) No problem at all,
12 Ms Taylor.

13 Please go ahead with the distribution of the binders.

14 (Pause in proceedings)

15 QUESTIONED BY MS TAYLOR:

16 Q. [10:22:28] Good morning, Mr Witness. My name is Melinda Taylor and we met
17 briefly during the courtesy meeting yesterday. I'm the counsel for Mr Al Hassan and
18 I'll be putting questions to you today.

19 A. [10:22:47] Thank you.

20 MS TAYLOR: [10:22:49] Mr President, with your leave, I have a very small amount
21 of questions which are identifying, if I could start with those before going into open
22 session.

23 PRESIDING JUDGE MINDUA: [10:23:03](Interpretation) Madam Courtroom Officer,
24 private session, please.

25 (Private session at 10.23 a.m.)

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1 THE COURT OFFICER: [10:23:14](Interpretation) We are in private session,
2 your Honours.

3 PRESIDING JUDGE MINDUA: [10:23:17](Interpretation) Thank you very much.
4 Ms Taylor.

5 MS TAYLOR: [10:23:23]

6 Q. [10:23:23]

7

8 A. [10:23:46]

9 Q. [10:23:49]

10 A. [10:24:00]

11 THE INTERPRETER: [10:24:09]

12 MS TAYLOR: [10:24:18]

13 Q. [10:24:18]

14

15 A. [10:24:34]

16 Q. [10:24:35]

17 A. [10:24:38]

18 Q. [10:24:51]

19 A. [10:25:04]

20 Q. [10:25:12]

21 A. [10:25:26]

22 Q. [10:25:37]

23 A. [10:25:51] Yes, on many an occasion.

24 Q. [10:25:56]

25 A. [10:26:13]

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Q. [10:26:38]

A. [10:26:57] Yes, Counsel.

Q. [10:27:01]

A. [10:27:28]

Q. [10:27:47]

A. [10:28:02] Correct.

Q. [10:28:05]

A. [10:28:33] No.

Q. [10:28:35]

A. [10:29:02]

Q. [10:29:11]

A. [10:29:56]

Q. [10:30:11]

A. [10:30:24]

Q. [10:30:34]

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3 A. [10:31:12] Yes.

4 Q. [10:31:18]

5 A. [10:31:37]

6 Q. [10:31:57]

7 A. [10:32:07]

8

9 Q. [10:32:27]

10 A. [10:32:34]

11 MS TAYLOR: [10:32:53] Mr President, I believe I can ask the remaining questions on
12 this issue in public session.

13 PRESIDING JUDGE MINDUA: [10:33:02](Interpretation) Thank you very much,
14 Ms Taylor.

15 Courtroom officer, please, open session.

16 (Open session at 10.33 a.m.)

17 THE COURT OFFICER: [10:33:14](Interpretation) We are in open session,
18 Mr President.

19 PRESIDING JUDGE MINDUA: [10:33:17](Interpretation) Thank you very much.
20 Ms Taylor, please.

21 MS TAYLOR: [10:33:23]

22 Q. [10:33:23] Now, Mr Witness, I'm going to ask you some questions about this
23 report. It won't be shown to the public. And just to remind you that we are in open
24 session.

25 Now, Mr Witness, do you know which areas the data was collected in?

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1 A. [10:33:59] I do remember that this study was conducted in the regions of Gao
2 and Timbuktu.

3 Q. [10:34:15] Do you know if it was possible to collect data from refugee camps in
4 Mauritania or Nigeria?

5 A. [10:34:35] I recall that during this study there was talk of looking at refugee
6 camps in Burkina and Niger to collect data.

7 Q. [10:35:03] If I could just turn to page 7282 of the report.
8 Can you see that on your screen, Mr Witness?

9 A. [10:35:33] Not yet.

10 MS TAYLOR: [10:35:35] If page 7282 could be brought up.

11 THE COURT OFFICER: [10:35:44] It's currently displayed on evidence channel 1
12 and broadcast to the witness, confidentially, of course.

13 MS TAYLOR: [10:35:54]

14 Q. [10:35:54] Now, Mr Witness, can you see the limitations to the study?

15 A. [10:36:10] I'm afraid I can't read it like that.

16 MS TAYLOR: [10:36:13] Would it be possible to zoom in on the third paragraph on
17 the page, otherwise I can read it out.

18 Q. [10:36:31] Now, Mr Witness, is it correct that due to security issues it wasn't
19 possible to collect data from refugee camps in Mauritania or Nigeria or Kidal?

20 A. [10:36:50] Niger.

21 Q. [10:37:54] Mr Witness, are you in a position to confirm whether it is correct that
22 it was not possible to undertake investigations in either the refugee camps in
23 Mauritania or Niger or Kidal region?

24 A. [10:38:18] I confirm this for reasons of security.

25 Q. [10:38:26] And would that have been a general issue faced by NGOs collecting

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1 data at the time?

2 A. [10:38:42] Yes, Counsel, absolutely.

3 Q. [10:38:46] And was the data collected through discussion groups?

4 A. [10:39:00] Yes, indeed that was the case.

5 Q. [10:39:05] And was data also collected by liaising with leaders and influential
6 people in the community?

7 A. [10:39:24] Yes, during individual meetings.

8 Q. [10:39:30] Do you know who selected these leaders and influential people?

9 A. [10:39:51] Once a data collection area is identified, we knew that they were
10 people with resources who could aid us to get information from the community, in
11 particular, thinking of village heads and other people with resources identified for
12 these localities.

13 Q. [10:40:29] In terms of having links to the community, would it have been helpful
14 to have people who had links to the victim community?

15 A. [10:40:49] Yes, I can remember that.

16 Q. [10:40:54] And was it in these individual meetings that the data collectors would
17 obtain information about the political or cultural context?

18 A. [10:41:19] Yes, because these people had been identified and targeted to
19 facilitate our work. So it was under their advice and authorisation. Sometimes
20 they came to the field with us and there we met with the community.

21 Q. [10:41:50] If we could just bring up page 7281 onto the screen.

22 And, Mr Witness, if you could confirm to me when you can see it.

23 Are you able to read the figures at the top of the page, Mr Witness?

24 A. [10:42:22] If one could zoom in a little bit more, please.

25 Yes, now I can.

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1 Q. [10:42:32] Now, the figures at the top show the composition of the discussion
2 groups. Would you agree that the composition was mainly, predominantly
3 Songhai?

4 A. [10:42:54] Yes, because that is the -- they make up the majority of the community
5 located there.

6 Q. [10:43:06] And the next highest represented was the Tuareg noir with
7 43 per cent; is that what you recall?

8 A. [10:43:20] Yes, indeed.

9 Q. [10:43:25] And was it also the case that the Arab community and the Tuareg
10 community, the Tuareg blanc or mixte, were represented in very small numbers?

11 A. [10:43:46] Yes, Counsel, that was the case.

12 Q. [10:43:55] Now, are you familiar with any accounts from white Tuaregs of
13 retaliation occurring after 2013?

14 A. [10:44:20] Yes, Counsel.

15 Q. [10:44:23] Can you explain what you know about this, what you heard.

16 A. [10:44:37] Thank you. During our community meetings, we heard certain
17 testimonies which we transcribed into the report and which we reported on. I recall
18 that at a place about 40 kilometres from Gao, in the community, they as Tuareg -- as
19 white Tuaregs explained that they were not part of the movement. They did not
20 bear arms, they did not leave, so they were not part of this event.

21 I recall a man whose picture is actually in our report, he explained to us that there
22 would be one thing he would never ever forget and that was the murder of his wife.
23 When she was shot, he -- as soon as we met him, he told us at what time he used to
24 take tea with his wife and now he's just left with his daughter. And that -- that was
25 very shocking. And he was a white Tuareg. So that is one of the elements that we

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1 heard as bearing witness to the events during our field study.

2 MS TAYLOR: [10:46:53] Mr President, I've noted that the LRV have left
3 the courtroom. I'm happy to have a break now, if that would be more convenient, or
4 I can continue.

5 PRESIDING JUDGE MINDUA: [10:47:11](Interpretation) No, Ms Taylor, do
6 continue, he will return immediately.

7 MS TAYLOR: [10:47:19] If we could bring up page 7287 onto the screen.
8 If you could scroll down.

9 Q. [10:47:50] Now, the report has at this page an account of a white Tuareg in
10 the region of Timbuktu, and it says: (Interpretation) "This crisis is a nightmare for
11 me. During the previous crisis I lost my father and my young brother. They were
12 arrested and executed here because we didn't flee. I pardoned them that because it
13 was an error. But this crisis has spared nobody. It has upset everything."
14 (Speaks English) Based on what you yourself heard, was it also the case that members
15 of the Tuareg community had been subjected to reprisals or attacks before 2012?

16 A. [10:48:55] Counsel, I would say that it wasn't all the white Tuaregs who joined
17 the armed groups, and that is why we were lucky enough to meet some white
18 Tuaregs who stayed and who did not participate in the armed movement. And for
19 that reason they were victims just like other communities were. That's something
20 that needs to be made clear.

21 PRESIDING JUDGE MINDUA: [10:49:40](Interpretation) Ms Taylor, I would like to
22 point out to you that Mr Nsita is back and also it can be noted in the record.
23 Please proceed.

24 MS TAYLOR: [10:49:57]

25 Q. [10:49:57] Now, for these white Tuaregs that stayed, was security an issue for

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1 them, were they concerned about attacks and reprisals in 2012?

2 A. [10:50:16] Yes, indeed, I agree.

3 Q. [10:50:29] Would you agree that, for this community as -- and other
4 communities, ethnicity and skin colour became a source of discrimination in 2013 and
5 onwards?

6 A. [10:50:57] Yes, Counsel.

7 Q. [10:51:00] And there was a stigma of being associated with being an Arab or
8 being associated with Arabs or Tuaregs?

9 A. [10:51:31] Yes, Counsel.

10 Q. [10:51:35] Do you recall if one of the issues faced during these discussion groups
11 was that participants would make broad generalisations concerning ethnic groups?

12 A. [10:52:05] The statements were part of the considerable element of the reality of
13 the movement, it was that 80 per cent of the armed groups at the time who were in
14 occupation were from a clearly identified community, the Tuaregs and the Arabs,
15 white Tuaregs and Arabs. So there were black communities also associated with
16 them, so they were together with the white communities. So the stigmatisation had
17 a reason with regard to the category of the community. So at that time there was
18 a vast divide in terms of trust between the white communities and the black
19 communities and even for -- even though the white communities who stayed were
20 stigmatised because most of the armed groups consisted of Arabs and white Tuaregs,
21 others who were not involved in the movement were, nevertheless, stigmatised. I
22 think that is the best way I can describe it.

23 Q. [10:53:43] If I could turn to page 7291 of the report.
24 And if it could be scrolled down.

25 A. [10:54:51] Yes, I can see it.

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1 Q. [10:54:54] Now, is it correct that in these discussion groups people would
2 identify groups by particular ethnicities, that you had a kind of a war of colours?

3 A. [10:55:20] Yes.

4 Q. [10:55:23] And is it correct that they would, for example, automatically associate
5 Tuaregs with the MNLA or Ansar Dine?

6 A. [10:55:41] Very much so, Counsel.

7 Q. [10:55:45] And Arabs with MUJAO or AQIM?

8 A. [10:55:56] Indeed.

9 Q. [10:55:58] Based on what you heard, is it correct that there were Arab groups
10 around Timbuktu who were aligned with the Malian army and then the MNLA?

11 A. [10:56:27] This is information which I paid attention to because it needed to be
12 verified. Even if this information was circulating, I was very wary of it because it
13 was not necessarily evident. I had no evidence.

14 Q. [10:57:03] Now, on the same page it says, and this is starting with "*Parmi les*
15 *participants*", it says:

16 "For some of the interviewees it follows from this that these ethnic groups are
17 the cause of the suffering inflicted on local populations when those armed groups
18 controlled the three regions of northern Mali. 'We are afraid of the white Tamasheq,
19 we even close our doors if we see them coming, because we don't even want to speak
20 to them anymore.'"

21 This is a Songhaï woman in a village in the Timbuktu region.

22 Now, would this conclusion in the report mean that the participants would blame
23 whichever group was in control of the area at the time the violation occurred?

24 A. [10:58:08] Yes, indeed, because it was the group that occupied with weapons.

25 Q. [10:58:18] And on the same page it says:

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1 (Interpretation) "Amongst the participants to the individual interviews who
2 mentioned that their social relations are average or poor, six of ten affirmed that they
3 had a problem with a whole ethnic group rather than with certain individuals.
4 The difficulty of distinguishing the degrees of responsibility and the propensity of
5 expressing judgments relating to a whole group is a clear -- clearly shows the fragility
6 of the social makeup."

7 A. [10:59:10] Yes, I can confirm that.

8 Q. [10:59:11] Would it also mean that if the victim did not know the identity of the
9 perpetrator, they would be likely to name the group they associated with the ethnicity
10 of the perpetrator?

11 A. [10:59:36] Yes, in most cases, yes.

12 Q. [10:59:45] Now, Mr Witness, given the risks of retaliations against Tuaregs and
13 Arabs that existed this time, would you accept that it would have been difficult for
14 victims or witnesses to speak positively about Ansar Dine in 2013 and onwards?

15 A. [11:00:22] The victims know the facts they went through. So there was
16 the matter of the personal identification of the victim, but the ethnic group was not in
17 doubt and the act committed was suffered by the victim and could be described by
18 the victim. So I think that people did not make errors about ethnic -- ethnicity, but it
19 was difficult to identify individual assailants or individuals who had violated their
20 human rights.

21 MS TAYLOR: [11:01:13] Mr President, looking at the clock, would now be a good
22 time for a break?

23 PRESIDING JUDGE MINDUA: [11:01:22](Interpretation) Yes, that's quite correct.
24 It is time to take our break. We will now take a half an hour break, starting again
25 at 11.30.

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1 The hearing is suspended.

2 THE COURT USHER: [11:01:37] All rise.

3 (Recess taken at 11.01 a.m.)

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

5 THE COURT USHER: [11:31:21] All rise.

6 Please be seated.

7 PRESIDING JUDGE MINDUA: [11:31:45](Interpretation) Court is in session once
8 again.

9 The Defence is still questioning and we shall continue with the cross-examination on
10 the part of the Defence.

11 I just wanted to make sure that the witness is present. He is indeed.

12 Ms Taylor, over to you.

13 MS TAYLOR: [11:32:06]

14 Q. [11:32:07] Good morning, Mr Witness. Can you confirm that you can hear me
15 okay?

16 A. [11:32:17] I can confirm indeed, Counsel.

17 Q. [11:32:21] Thank you. Now, before the break we were discussing this issue of
18 generalisation. Would you accept that this issue of generalisations may have led
19 some victims that you spoke to to exaggerate what happened in 2012?

20 PRESIDING JUDGE MINDUA: [11:33:01](Interpretation) Madam Prosecutor, you're
21 on your feet.

22 MS YAMAGUCHI: [11:33:04] We object to this question because it is speculative.

23 The Defence is asking -- the Defence -- maybe the witness should be asked to
24 remove -- or the feed for the witness should be cut so we can discuss this in -- without
25 his presence.

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1 PRESIDING JUDGE MINDUA: [11:33:27](Interpretation) Madam Courtroom Officer,
2 could you please cut off the feed to the witness.

3 THE COURT OFFICER: [11:33:38](Interpretation) It has been confirmed out in
4 the field that the sound has been cut off. We can continue.

5 PRESIDING JUDGE MINDUA: [11:33:44](Interpretation) Thank you very much.
6 Madam Prosecutor.

7 MS YAMAGUCHI: [11:33:45] Thank you, Mr President. The question posed by
8 the Defence is not clear and it is asking the witness to speculate about what some of
9 the victims he met may have done or not.

10 PRESIDING JUDGE MINDUA: [11:34:03](Interpretation) Very well.

11 Ms Taylor, what do you have to say to that?

12 MS TAYLOR: [11:34:07] Thank you, Mr President. I'm happy to reformulate, but
13 this is a witness who is testifying about what he heard from victims and he did testify
14 yesterday that he took steps to verify the reliability of the accounts that he heard. So
15 this question is directly targeted at that issue specifically, whether he could assess
16 whether victims or witnesses were exaggerating accounts.

17 PRESIDING JUDGE MINDUA: [11:34:38](Interpretation) Madam Prosecutor.

18 MS YAMAGUCHI: [11:34:40](Overlapping speakers) Thank you, Mr President.

19 We would then ask the Defence to indeed reformulate the question so it is based -- it
20 is targeted on what the witness has heard from the victims directly.

21 PRESIDING JUDGE MINDUA: [11:34:57](Interpretation) I do believe that you can
22 rephrase your question, but what you said seems correct to me, that the witness has
23 made observations and that he is in a position to say what he has heard and what he
24 did with regard to all of the graphs that we went through earlier.

25 So we have established or re-established the connection -- or we shall re-establish

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1 the connection, please, Madam Courtroom Officer.

2 It is the connection that we should indeed be re-establishing, is it not, not the lights?

3 THE COURT OFFICER: [11:35:46](Interpretation) I can indeed confirm that

4 the sound has been re-established.

5 PRESIDING JUDGE MINDUA: [11:35:50](Interpretation) Thank you very much.

6 So please go ahead, Ms Taylor.

7 MS TAYLOR: [11:35:53]

8 Q. [11:35:54] Mr Witness, when you met with victims in Timbuktu, did you have
9 the impression that certain victims exaggerated what occurred in 2012?

10 A. [11:36:14] Thank you, Counsel. As part of the mandate of our mission our duty
11 and responsibility was to gather information and consult data, but not to make an
12 interpretation of what people might consider as generalisations, that -- there was no
13 nexus for us. As I said, we needed to report what the victims told us and transcribe
14 this on form and compile a databank that we placed at the disposal of organisations.
15 But it was not our job to interpret this data.

16 Q. [11:36:57] Now, Mr Witness, yesterday you testified, this is transcript 66 at
17 page 86, that "Income-generating activities are the day-to-day activities that women
18 engaged in to make some money. For example, doing hairdressing which was
19 forbidden. At the time, no woman was allowed to wear braids. No woman was to
20 appear barefoot or have their hands uncovered without gloves. No woman was
21 allowed to sell any cosmetics. No woman was allowed to engage in any activities
22 that would mean they would be walking in the street. No selling. Nothing like that.
23 A woman on her own could do nothing" like this -- "like that. So these activities
24 were prohibited and thus the power of women was restricted. They were simply not
25 allowed to carry out any activity that would allow them to earn any kind of money."

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1 Mr Witness, was this based on information you received from victims?

2 A. [11:38:18] Thank you, Counsel.

3 I believe that I have provided an explanation when I was asked for it with regard to
4 what we mean by "income-generating activities". And I explained what I
5 understood to mean by principles and measures imposed by the Islamic police. And
6 it was within that context that I provide the explanation. Because this is not borne
7 out in the forms, but it was during the meetings or interviews that the victims and
8 people that we met with explained to us precisely what went on. And I would like
9 to specify that.

10 Q. [11:39:07] Mr Witness, when you say "during meetings", was it during
11 discussion groups?

12 A. [11:39:26] The discussion groups were in the context of the study that you are
13 referring to through the report that you have presented. But in addition to those
14 discussion groups, we organised individual interviews in the context of this study.

15 MS TAYLOR: [11:39:52] I'd like to play a video. If we could play it without sound
16 and it won't be transmitted to the public. It's Defence tab 25, it's MLI-OTP-0018-0483.
17 And it will be shown on evidence channel 2.

18 (Viewing of the video excerpt)

19 MS TAYLOR: [11:41:04]

20 Q. [11:41:05] Mr Witness, do you recognise the location?

21 A. [11:41:15] I do believe that it is one of the roads in the centre of the town of
22 the Timbuktu market.

23 Q. [11:41:28] And what colour was the clothing worn by the women?

24 A. [11:41:43] They were wearing veils from what I could see, light pink in colour.

25 Q. [11:41:54] So they were wearing colours, not black clothing; that's correct?

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1 A. [11:42:06] Indeed.

2 Q. [11:42:09] And they weren't wearing gloves, were they?

3 A. [11:42:17] No.

4 Q. [11:42:21] And the women walking on the street weren't being stopped by
5 the police, were they?

6 A. [11:42:37] Counsel, I do not know when that film was filmed and by whom, so
7 I'm not in a position to say.

8 MS TAYLOR: [11:42:49] If I could show another video, it's Defence tab 24,

9 MLI-OTP-0018-0056. And if we could again show it without sound and not transmit
10 it publicly.

11 (Viewing of the video excerpt)

12 MS TAYLOR: [11:44:17]

13 Q. [11:44:17] Mr Witness, do you recognise the location?

14 A. [11:44:25] Yes. Once again, this is in Timbuktu city.

15 Q. [11:44:33] And did you see women handing out food at a market?

16 A. [11:44:51] Indeed.

17 Q. [11:44:54] And is it correct that they were wearing coloured clothing?

18 A. [11:45:07] Yes, Counsel.

19 Q. [11:45:11] And is it correct that they weren't wearing gloves?

20 A. [11:45:25] Correct.

21 Q. [11:45:30] Mr Witness, if I was to put it to you that these videos were filmed in
22 2012, would you agree that because you were not present in 2012 it was difficult for
23 you to know if victims were exaggerating or giving you incorrect information?

24 A. [11:46:10] To provide you with an assessment of the images, I would say, well,
25 what time specifically, at what moment in 2012? Were these images filmed while

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1 the armed groups were walking around armed as Islamic police? And, you know, I
2 find this a little bit confusing.

3 The manner in which the victims told us their story - and I'm not interpreting
4 here - they endured human rights violations for specific and -- specific reasons that
5 they told us. Now to go beyond that and interpret whether it is true or false, because
6 either the town was calm or it was -- it was under force or it was suffering under
7 the measures of the restraints, I can't tell you that.

8 What we did was gather data. But as to assess whether there was an exaggeration or
9 not, we didn't put ourselves in that position, we just noted down the statements and
10 then we assessed them at our level.

11 Thank you, Counsel.

12 Q. [11:47:50] Now, Mr Witness, I'd like to go back to the report that I was
13 discussing with you previously. During the discussion groups that took place in
14 connection with that report, is it correct that most participants were of the view that
15 disputes and redress should fall within the domain of religious authorities based on
16 the Koran?

17 A. [11:48:46] As I said yesterday in my testimony, during the occupation
18 the measures and principles were applied according to an interpretation of Islam. So
19 there were some members of the population who went along with this form of
20 interpretation and others who did not see it as such. And that is why, of those
21 groups that we met with, they clearly told us that these were people who were
22 bearing weapons and who were asking for a certain interpretation of the Koran.
23 That is what transpired from those group discussions.

24 MS TAYLOR: [11:49:45] If we could bring up, again from the same report, page [REDACTED]
25 onto the screen. I'm just finding the first page reference. It is [REDACTED]

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1 and the page is [REDACTED]

2 Q. [11:50:19] And, Mr Witness, if you could confirm to me when you can see that
3 on your screen.

4 A. [11:50:30] Not yet.

5 THE COURT OFFICER: [11:50:44] It's now on evidence channel 1, for everyone.

6 MS TAYLOR: [11:50:48] If it could be zoomed in so that the witness can read it.

7 THE INTERPRETER: [11:51:07] From the interpreters: Could we please know
8 the tab in the binder, please.

9 MS TAYLOR: [11:51:13] I believe it's tab 7.

10 THE INTERPRETER: [11:51:16] Thank you.

11 THE WITNESS: [11:51:33](Interpretation) Yes, I can see it now.

12 MS TAYLOR: [11:51:37]

13 Q. [11:51:37] And, Mr Witness, can you see the summary that starts under
14 "Encadré 3"?

15 A. [11:51:56] Which paragraph are we talking about?

16 Q. [11:52:00] It's the text in the box. And it starts with "*Les résultats de l'enquête*".

17 A. [11:52:23] I can see.

18 Q. [11:52:24] And it ends with the quote starting with "*Chez les personnes âgées*". If
19 you could confirm when you've read that, Mr Witness.

20 A. [11:52:36] I can see, yes.

21 Q. [11:52:39] So, Mr Witness, is it correct that during these discussion groups
22 the majority of participants indicated that they were in favour of resolving disputes
23 through traditional justice or religious justice?

24 A. [11:53:12] I am in agreement with that, because at the north of the country
25 the mechanism of traditional justice is of very great importance for all

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1 the communities. Whatever the nature or degree of the conflict, people prefer to
2 resolve matters through the traditional mechanism rather than go through
3 the tribunal. So resolving disputes or conflicts is always an area for discussion and
4 mediation at a community level. That was their wish, rather than instituting
5 proceedings. So I can confirm this, that this is a reality within the region of the north,
6 with a great deal of consideration given over to traditional methods of achieving
7 justice.

8 Q. [11:54:30] And is it correct that these traditional leaders would rely upon
9 the Koran as a basis for resolving disputes?

10 A. [11:54:50] Not only on -- upon the Koran, that is an extreme, but they would
11 base themselves on traditional practices and the life in the community. But if one
12 were to refer to the Koran, it was because one was taking it to an extreme, but not in
13 general cases.

14 Q. [11:55:13] Mr Witness, you said that it was taking it to an extreme, but if you
15 could look at the sentence starting with "*Les chefs traditionnels gèrent les conflits sous*
16 *l'arbre à 'palabre', à l'amiable, tandis que les chefs religieux se basent sur les versets du*
17 *Coran.*"

18 So is it not correct that this study states that religious leaders would rely upon
19 the Koran and not just in extreme cases?

20 A. [11:55:57] If we take into consideration the structures and functions of
21 the authorities at a regional level, one must make a distinction between
22 the -- the religious council or the *cadi*, which is the extreme religious authority based
23 on the Koran. It is only at the level of the *cadi*. And within the region of the north,
24 if one refers to the *cadi*, it is because it is very necessary and the situation is not an
25 easy one and one needs to consult it. Otherwise, people prefer to resolve disputes

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1 either with or among the group of elders or within -- with -- but the *cadi* is really -- is
2 the extreme and that is what is referring to the Koran.

3 MS TAYLOR: [11:57:09] Mr President, may I have your permission to ask a couple
4 of questions in private session that are identifying as concerns the witness?

5 PRESIDING JUDGE MINDUA: [11:57:19](Interpretation) Of course.

6 Madam Courtroom Officer, private session, please.

7 (Private session at 11.57 a.m.)

8 THE COURT OFFICER: [11:57:31](Interpretation) We are in private session,
9 Mr President.

10 PRESIDING JUDGE MINDUA: [11:57:36](Interpretation) Thank you very much.
11 Ms Taylor.

12 MS TAYLOR: [11:57:41]

13 Q. [11:57:41]

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16 A. [11:58:20] Counsel, which prosecutor are you referring to?

17 Q. [11:58:25] The ICC Prosecution.

18 A. [11:58:40]

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21 THE INTERPRETER: [11:59:07] Unintelligible.

22 THE WITNESS: [11:59:11](Interpretation) It is possible, yes, but I'm not entirely sure.

23 MS TAYLOR: [11:59:15]

24 Q. [11:59:16]

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1 A. [11:59:43]

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9 MS TAYLOR: [12:01:01] Mr President, I believe I can ask my following questions in
10 open session.

11 PRESIDING JUDGE MINDUA: [12:01:09](No interpretation)

12 (Open session at 12.01 p.m.)

13 THE COURT OFFICER: [12:01:18](Interpretation) We are back in public session,
14 your Honour.

15 PRESIDING JUDGE MINDUA: [12:01:22](Interpretation) Thank you very much.

16 Ms Taylor.

17 MS TAYLOR: [12:01:25]

18 Q. [12:01:25] Now, Mr Witness, we're in open session so I'll just remind you of that,
19 not to mention the names of specific organisations.

20 Now, based on your work with the organisations we've been discussing, did you
21 identify any barriers as concerns the ability and willingness of communities in
22 the north to make use of formal judicial systems?

23 A. [12:02:10] Well, the work we were there to do, really in that where there is no
24 place for that question. We were there to meet the victims and to ask them how,
25 who and why things happened.

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1 If you talk about the need to regulate their decision -- to regulate their situation,
2 traditional or new, then that's not really within that framework. That was not a part
3 of the work that we were doing in Timbuktu.

4 MS TAYLOR: [12:03:03] Mr President, I believe I'll have to ask the questions in
5 private session to be clearer as to what I'm referring to.

6 PRESIDING JUDGE MINDUA: [12:03:16](Interpretation) Courtroom officer, private
7 session, please.

8 (Private session at 12.03 p.m.)

9 THE COURT OFFICER: [12:03:29] We are in private session, Mr President.

10 PRESIDING JUDGE MINDUA: [12:03:38](Interpretation) Thank you very much,
11 court officer.

12 Ms Taylor.

13 MS TAYLOR: [12:03:40]

14 Q. [12:03:40]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [12:04:24] Thank you, Counsel.

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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5 MS TAYLOR: [12:06:10]

6 Q.

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And if we can

10 turn to page 7125.

11 Mr Witness, can you confirm that page 7125 is on your screen and that you can read

12 it?

13 A. [12:07:37] Yes, Counsel, I have it. Although it's a bit vague still, a bit fuzzy.

14 Q. [12:07:56] If it could be scrolled down so that you could read it.

15 A. [12:08:12] I'm afraid I can't read it, it's still not clear enough for me.

16 Q. [12:08:20]

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19 A. [12:08:33] Yes. Okay.

20 Q. [12:08:40]

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23 A. [12:09:12]

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[REDACTED]

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PRESIDING JUDGE MINDUA: [12:10:39](Interpretation) Madam Prosecutor.

MS YAMAGUCHI: [12:10:41] Mr President, as the witness was having difficulty reading actually what was written on this page, if the Defence could please read out the relevant passage where there was a reference [REDACTED]

PRESIDING JUDGE MINDUA: [12:11:05](Interpretation) Ms Taylor, that seems to be a reasonable request from Prosecution.

MS TAYLOR: [12:11:17]

Q. [REDACTED]

[REDACTED]

(Interpretation) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A. [12:12:04] I have noted that.

Q. [12:12:06] [REDACTED]

[REDACTED]

[REDACTED]

A. [12:12:39] Thank you for the clarification. I think I can say that [REDACTED]

[REDACTED]

[REDACTED]

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5 Q. [12:13:32]

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7 A. [12:13:56] I have no memory of that.

8 Q. [12:14:01]

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10 A. [12:14:22] Yes, I did.

11 Q. [12:14:26] And is it the case that you did not have a code for him because he did
12 not wish to pursue legal proceedings?

13 A. [12:14:51] I don't recall the form for this gentleman's case. The gentleman had
14 suffered an amputation. But I know that in the notebook there must be a code.
15 And if there is no code there, then I don't know the reason, but normally speaking
16 anyone identified by us as a victim had a code. It would be a little difficult for me to
17 understand that there was no code for this gentleman. I know him, he was met and
18 interviewed in Timbuktu and he is in the forms.

19 Q. [12:15:49] Well, perhaps if I can refresh your memory by referring to your
20 statement.

21 If we can pull up tab 1, that's -- this is the Prosecution binder, MLI-OTP-0046-8685,
22 and the relevant page is 8708.

23 PRESIDING JUDGE MINDUA: [12:16:17](Interpretation) Prosecution.

24 MS YAMAGUCHI: [12:16:20] Mr President, we were just wondering if it's still
25 necessary to stay in private session?

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- 1 PRESIDING JUDGE MINDUA: [12:16:31](Interpretation) Ms Taylor.
- 2 MS TAYLOR: [12:16:32] I'm happy to go into public session if the Prosecution
- 3 confirm that reading out this paragraph won't identify the witness.
- 4 PRESIDING JUDGE MINDUA: [12:16:54](Interpretation) Because you want to read
- 5 something from the witness statement, Ms Taylor, is that correct?
- 6 MS TAYLOR: [12:16:58] Yes.
- 7 PRESIDING JUDGE MINDUA: [12:17:02](Interpretation) Prosecution, Ms Taylor is
- 8 about to read a paragraph from the witness statement.
- 9 MS YAMAGUCHI: [12:17:11] I believe the point the Defence is referring to
- 10 is -- concerns only two last sentences and if the readout would be limited to those two
- 11 sentences, it would not be identifying.
- 12 PRESIDING JUDGE MINDUA: [12:17:36](Interpretation) Very well.
- 13 Court officer, public session, please.
- 14 MS TAYLOR: [12:17:46] Just before doing so, I think to be fair to the witness I would
- 15 have to start from "he was tried by the Islamic tribunal" but I don't believe that will
- 16 identify the witness if I read from there onwards.
- 17 PRESIDING JUDGE MINDUA: [12:18:02](Interpretation) Court officer, are we still
- 18 in private session?
- 19 (Open session at 12.18 p.m.)
- 20 THE COURT OFFICER: [12:18:13](Interpretation) We are now in public session.
- 21 PRESIDING JUDGE MINDUA: [12:18:18](Interpretation) Ms Taylor, we are in
- 22 public session.
- 23 THE COURT OFFICER: [12:18:26] (Overlapping speakers) redacted version of the
- 24 document the Defence would like to use, we have R01 and R02, for clarifications.
- 25 Thank you.

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1 MS TAYLOR: [12:18:32] R02.

2 THE COURT OFFICER: [12:18:36] R02. Thank you very much.

3 MS TAYLOR: [12:18:40]

4 Q. [12:18:41] Now, Mr Witness, I'm going to read some sentences from your

5 statement and then ask you questions. And this is paragraph 93 and this concerns

6 the individual we were just discussing:

7 "His hand was amputated publicly. During the interview with him, we asked if he

8 would like to pursue this legally but he said that all he wanted was that the person

9 who cut his hand off would have his hand cut off too. I had to refer to his *fiche*

10 *individuelle* to see that the incident took place on 15 May 2012 and that the young man

11 was 22 years old. I recognised this case in my files because I remember the name

12 Dédéou Maïga. I do not have a code for him, and this is because he did not want to

13 pursue legal proceedings."

14 Mr Witness, do you recall this case now?

15 A. [12:19:59] Yes, I do, Counsel.

16 Q. [12:20:03] So is it correct that you didn't have a code for him because he didn't

17 want to pursue legal proceedings?

18 A. [12:20:35] Well, that happened in the context that when we met the victim there

19 would be -- when we met victims there would be a code. And I do remember

20 having met this person.

21 Q. [12:20:54] Mr Witness, according to this part of your statement, you told

22 the Prosecution that you did not have a code because he did not wish to pursue legal

23 proceedings; is that correct?

24 A. [12:21:22] If that is what is written here, then that is what I said. But,

25 Mr Dédéou, Mr Maïga wanted the person who cut his hand off to suffer the same

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1 thing by way of justice.

2 Q. [12:21:46] So would it be correct he wanted a form of justice that was similar to
3 Sharia law?

4 A. [12:22:01] Yes, indeed.

5 Q. [12:22:08] Now, Mr Witness -- I believe we can go into open session -- oh, we are
6 in open session. I apologise.

7 Now --

8 PRESIDING JUDGE MINDUA: [12:22:18](Interpretation) We are in open session,
9 Ms Taylor.

10 MS TAYLOR: [12:22:21]

11 Q. [12:22:22] Now, Mr Witness, in your work for different organisations, did you
12 receive any information or reports concerning the trafficking of women or forced
13 prostitution in the north of Mali, either before 2012 or after 2013?

14 A. [12:22:56]

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19 MS TAYLOR: [12:23:44] Mr President, may I go briefly into private session?

20 PRESIDING JUDGE MINDUA: [12:23:55](Interpretation) Court officer, private
21 session, please.

22 (Private session at 12.24 p.m.)

23 THE COURT OFFICER: [12:24:03](Interpretation) We are in private session,
24 your Honour.

25 PRESIDING JUDGE MINDUA: [12:24:07](Interpretation) Thank you very much.

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1 Ms Taylor.

2 MS TAYLOR: [12:24:10]

3 Q. [12:24:10] Mr Witness, I apologise [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 I believe we can now go back into private -- to public session.

7 THE WITNESS: [12:24:35](Interpretation) Thank you very much.

8 PRESIDING JUDGE MINDUA: [12:24:38](Interpretation) Court officer, public
9 session, please.

10 (Open session at 12.24 p.m.)

11 THE COURT OFFICER: [12:24:50](Interpretation) We are back in public session,
12 your Honour, and if I am authorised, I can redact the part in question.

13 PRESIDING JUDGE MINDUA: [12:25:07](Interpretation) Yes. Thank you very
14 much.

15 Ms Taylor.

16 MS TAYLOR: [12:25:10]

17 Q. [12:25:11] Now, Mr Witness, after 2012 did you hear of any reports alleging that
18 international peacekeepers had engaged in sexual assault or exploitation of women?

19 PRESIDING JUDGE MINDUA: [12:25:43](Interpretation) Prosecution.

20 MS YAMAGUCHI: [12:25:45] We would like to object to this question because
21 we cannot see any relevance to the charges in this case.

22 PRESIDING JUDGE MINDUA: [12:26:01](Interpretation) Ms Taylor, what is your
23 reply?

24 MS TAYLOR: [12:26:05] Would it be possible to cut the feed to the witness.

25 PRESIDING JUDGE MINDUA: [12:26:13](Interpretation) Court officer, could you

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1 please cut the communication. Thank you.

2 THE COURT OFFICER: [12:26:21](Interpretation) The communication is cut. We
3 can continue.

4 PRESIDING JUDGE MINDUA: [12:26:28](Interpretation) Thank you very much,
5 court officer.

6 Ms Taylor.

7 MS TAYLOR: [12:26:32] Thank you, Mr President.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 PRESIDING JUDGE MINDUA: [12:27:28](Interpretation) Ms Taylor, I haven't
17 understood. What sort of time frame are we in? Are we talking about the period of
18 the conflict or are you going before that or are you referring to the period thereafter?

19 MS TAYLOR: [12:27:45] The period, Mr President, is between 2011 and 2015.
20 The accounts were collected in 2015 and it's the position of the witness that sometimes
21 witnesses or victims were not able to identify the perpetrator or did not identify
22 the perpetrator. So the purpose of this line of questioning is to identify whether any
23 other violations were committed in or around these areas that may have given rise to
24 the same violations or the same type of violations.

25 PRESIDING JUDGE MINDUA: [12:28:24](Interpretation) Do you see

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1 the Prosecution is going to object because we are going beyond the time frame for
2 the charges? But I will give the Prosecution the floor.

3 MR GARCIA: [12:28:38](Interpretation) Thank you. Firstly, I still don't understand
4 after the Defence's lengthy explanation between the questions to be asked to
5 the witness and the charges. But the Defence wants to ask questions of that time,
6 there needs to be a basis for that. We are talking about people who were not
7 mentioned in this dossier at all, so we are going beyond the limits and we may create
8 confusion within the mind of the witness who is here for a specific reason.

9 PRESIDING JUDGE MINDUA: [12:29:22](Interpretation) Ms Taylor, if you wish to
10 ask questions going beyond our time frame, then please establish the basis therefore.
11 If not, please would you return to the time frame which links to the charges. Thank
12 you.

13 MS TAYLOR: [12:29:41] Thank you, Mr President. If I can reply briefly. Firstly, I
14 only have two questions I wish to put to witness on this issue.
15 Secondly, this point is directed specifically to the fact that he has stated that witnesses
16 were not always able to give dates or time periods as to when violations occurred.
17 So the point is not whether these violations occurred at the time of the charges, but
18 whether these violations might have been swept into the documentation project that
19 he was involved in.

20 That is a relevant time period, it's a documentation project time period.

21 MR GARCIA: [12:30:18](No interpretation)

22 PRESIDING JUDGE MINDUA: [12:30:24](Interpretation) Prosecution, for the last
23 time.

24 MR GARCIA: [12:30:28](Interpretation) Then one should put a clear precise
25 question to ask him whether there were other cases which came up, so it clearly and

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1 precisely -- there is no point in beating around the bush here.

2 PRESIDING JUDGE MINDUA: [12:30:45](Interpretation) Ms Taylor, I agree with
3 the way the Prosecution has put it.

4 So we will re-establish the connection and you can put your question again.

5 Court officer.

6 THE COURT OFFICER: [12:31:10](Interpretation) The link has been re-established.

7 PRESIDING JUDGE MINDUA: [12:31:16](Interpretation) Thank you very much,
8 courtroom officer.

9 Ms Taylor, please.

10 MS TAYLOR: [12:31:20]

11 Q. [12:31:21] If we could bring up Defence tab 8, that's MLI-D28-0004-7209.

12 Mr Witness, this is an article, it's in English, but it's from the time period during
13 which you were documenting violations.

14 When you were engaged in this documentation process, did you hear of allegations
15 that international peacekeepers, such as Chadian forces, had engaged in sexual
16 assault or exploitation of women?

17 And I can read the first paragraph on this page, since it's in English:

18 "Now that Gao, a remote but critical outpost in northern Mali, has been a hub of
19 military personnel -- Mali Army, French troops and UN peacekeepers -- to fend off
20 terrorist incursions, it is also a simmering spot for sexual assaults and intimidation of
21 women who live there. These acts are committed in the shadows of some Gao
22 residences in public areas and in brothels, say aid workers and journalists who have
23 spent time in the city.
24 Few women who endure some treatment want to report the threats or violations to
25 officials in Gao for fear of retribution and out of humiliation."

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1 Mr Witness, were you aware of these allegations?

2 A. [12:33:22] I can confirm that I was aware of these facts.

3 Q. [12:33:29] And do you know if these women were able to obtain a remedy from
4 the United Nations or from the countries associated with the peacekeeping forces?

5 MR GARCIA: [12:33:41](Interpretation) I am objecting to this.

6 PRESIDING JUDGE MINDUA: [12:33:47](Interpretation) Mr Prosecutor.

7 MR GARCIA: [12:33:49](Interpretation) If we look at the last question, your Honour,
8 I think we're going -- we're going out of the framework of what concerns us here.

9 We're asking here whether there has been reparation. We're not talking about
10 whether this is the aim of the Defence's questioning. We're coming completely out
11 of the scope here.

12 PRESIDING JUDGE MINDUA: [12:34:09](Interpretation) Ms Taylor.

13 MS TAYLOR: [12:34:12] I don't understand that objection, but, to put it simply,
14 the witness has said that he's aware of these allegations. I'm simply asking if he's
15 aware whether organisations such as those he was involved in are aware if these
16 women obtained assistance or a remedy from the United Nations or from Chad.

17 PRESIDING JUDGE MINDUA: [12:34:42](Interpretation) The Prosecutor is opposed
18 to you talking about reparations. You can just ask the witness whether he's aware of
19 crimes committed by organisations and we can stop at that.

20 MS TAYLOR: [12:34:53] Mr President, may I -- if we're putting aside reparations,
21 may I ask if he knows whether these victims received any form of assistance in terms
22 of financial assistance or psychological assistance from the groups allegedly
23 responsible?

24 PRESIDING JUDGE MINDUA: [12:35:14](Interpretation) Yes, I will accept that
25 phrasing of the question.

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1 Please go ahead.

2 THE WITNESS: [12:35:27](Interpretation) Counsel, can I answer?

3 MS TAYLOR: [12:35:30]

4 Q. [12:35:32] Yes, please.

5 A. [12:35:34] I can confirm that at the time of the facts, we came into possession of
6 information and evidence and the organisation tried to meet up with the victim to
7 hear what they had to say and to hear them describe the facts and, if possible, tell us
8 who the perpetrators were. Even if, generally speaking, the people were in the know
9 that these were the perpetrators whose names had been given.

10 But unfortunately, this was objected to because there was a convention in existence in
11 the framework of the peace corps, the MINUSMA, who said that there could no -- be
12 no -- we had to abandon this entirely because it was not supposed to go before
13 the Malian courts but, rather, before the courts of the country of origin of
14 the perpetrators.

15 So, with the objection that had been raised and the difficulties that we encountered,
16 then we withdrew from the management of those cases. I was aware, I was seized of
17 this, but we started to try and do something about it, but it was taken away from me.
18 That's what I can say about it.

19 Q. [12:37:11] Mr Witness, are you familiar with *decret 2015* -- or 2015-0858 of
20 31 December 2015 concerning the indemnisation of victims for 2012 events?

21 And if we can bring up on to your screen, it's Defence tab 11, MLI-D28-0004-7240.

22 Are you able to see this on your screen, Mr Witness?

23 THE COURT OFFICER: [12:38:02] No, we are currently processing it. Thank you.

24 MS TAYLOR: [12:38:44]

25 Q. [12:38:45] Mr Witness, this was -- this law was confined to the events of 2012; is

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1 that correct?

2 A. [12:39:08] Counsel -- if you will allow, counsel, I can give you some information
3 with regard to the law.

4 Q. [12:39:28] Yes, Mr Witness.

5 A. [12:39:36] [REDACTED]
6 [REDACTED]
7 [REDACTED]

8 It is specific to a category of individuals and it does not take into account the victims
9 for whom we identified human rights violations. And you can verify this, that there
10 were complaints that the application -- the law was not applied and human rights
11 organisations produced an outcry, saying that the law is restrictive in nature, and we
12 were asked -- we asked for it to be reviewed, for it to apply to all of the victims in
13 the north of Mali. Otherwise we know that this is a law that confers a specific
14 category of victims of the *coup d'état* in 2012. That is what I can say about this law.

15 Q. [12:41:19] Mr Witness, you've said that this is restrictive and it only applies to
16 specific categories of individuals. Which categories of individuals did it apply to?

17 A. [12:41:37] Specifically those people who were victims of the *coup d'état*.

18 Q. [12:41:45] Did it also apply to victims of rebel groups?

19 A. [12:42:02] Were it to come about that rebel groups did take part in the *coup d'état*,
20 then yes. But the important thing for us was for this law to be generalised to cover
21 also the armed groups and the armed forces of the north and those people who had
22 been affected by the crisis in general, not specifically.

23 Q. [12:42:30] Is it correct that this law would not apply to victims of the Malian
24 army?

25 A. [12:42:47] I wouldn't be in a position to say.

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1 Q. [12:42:54] Based on what you know of this law, to get compensation under
2 the law, was it necessary to have a medical certificate?

3 A. [12:43:18] Counsel, these are details that I am not aware of.

4 Counsel, please, quite simply, in addition to the law there are methods of application
5 that I am just not aware of.

6 MS TAYLOR: [12:43:47] Mr President, I have a few identifying questions, if I could
7 put them to the witness.

8 PRESIDING JUDGE MINDUA: [12:43:56](Interpretation) Madam Courtroom Officer,
9 private session, please.

10 (Private session at 12.44 p.m.)

11 THE COURT OFFICER: [12:44:08](Interpretation) We are in private session,
12 Mr President.

13 PRESIDING JUDGE MINDUA: [12:44:14](Interpretation) Thank you very much.
14 Ms Taylor, please.

15 MS TAYLOR: [12:44:19]

16 Q. [12:44:20] Mr Witness, earlier today when I mentioned you meeting
17 the Prosecutor, you said "which prosecutor". Did you meet with other prosecutors?

18 A. [12:44:48] In -- at what moment in time? What period?

19 Q. [12:44:53] [REDACTED], have you met with any Malian
20 prosecutors or prosecutors of third states concerning the events in 2012?

21 A. [12:45:20] To my knowledge I have not met with any prosecutor on that subject.

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

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2 The second time I met with the Prosecutor was to prepare for this hearing, and that
3 was a few days ago.

4 Q. [12:46:34]

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7 A. [12:47:02]

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10 Q. [12:47:20]

11 A. [12:47:39]

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17 Q. [12:48:22]

18 A. [12:48:41]

19 Q. [12:48:49] Mr Witness, are you familiar with the case of a woman who was
20 flogged in Timbuktu for having a child outside of wedlock?

21 A. [12:49:14] No.

22 Q. [12:49:15] I'm going to pull up a document on your screen, this is going to be not
23 shown to the public, Defence tab 13, MLI-OTP-0034-0630-R01 at 632, 0632. Actually,
24 it should be 0633.

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[REDACTED]

9 A. [12:51:11] Thank you, counsel, I would say once again that this is not a case that
10 was taken into account in the context of the implementation of the two projects,
11 project A and B. Neither of these projects took this situation into account. So I have
12 not -- I did not work out in the field, technically speaking, with this instance. [REDACTED]

13

[REDACTED]

14 Q. [12:51:48]

[REDACTED]

15 A. [12:52:12]

[REDACTED]

16

[REDACTED] those cases [REDACTED]

17

[REDACTED] those that were taken into account under the projects A

18 and project B, but not specifically this case here.

19 MS TAYLOR: [12:52:38] Mr President, I believe we can go into open session.

20 PRESIDING JUDGE MINDUA: [12:52:46](Interpretation) Open session, please,

21 Madam Courtroom Officer.

22 (Open session at 12.52 p.m.)

23 THE COURT OFFICER: [12:52:56](Interpretation) We are in open session,

24 Mr President.

25 PRESIDING JUDGE MINDUA: [12:53:03](Interpretation) Thank you very much.

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1 Ms Taylor, please.

2 MS TAYLOR: [12:53:06]

3 Q. [12:53:06] Now, Mr Witness, again I'd like to remind you that we're in open
4 session, so I would ask you not to give the names of any organisations.

5 Now, when you met with the ICC Prosecution, you were working for a different
6 organisation. But is it correct you still had access to the files concerning project A
7 and project B?

8 A. [12:53:38] No.

9 Q. [12:53:44] So, Mr Witness, is it your case that you did not give these files to
10 the Prosecution during this interview? Or some of these files, to be clear.

11 A. [12:54:11] [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] director, who then authorised that we provide

16 electronic copies at -- to the Office of the Prosecutor. And when I was granted

17 the authorisation by the executive director, because I was the only contact with

18 the Office of the Prosecutor even though I didn't work within the organisation

19 anymore, I then went to get those -- or went to find those electronic documents to

20 place them at the disposal of the OTP.

21 But since I left the organisation, I myself no longer have the right to have access to

22 said documents and give them to whomsoever. Thank you, counsel.

23 Q. [12:55:31] Did you read the content of these files during your interview with
24 the Prosecution?

25 A. [12:55:51] The files were in electronic version, so I did not have the time to read

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1 through them again. These were forms that were from the organisation and -- and
2 my duty was to hand them over to the OTP. I did not read through them again.

3 Q. [12:56:19] If I could just turn to your statement, that's Prosecution tab 1,
4 MLI-OTP-0046-8685 at 8698.

5 If that could be brought up on to the screen.

6 And, Mr Witness, if you could turn to paragraphs 55 and 56 of your statement and
7 where -- it's in English, so I'll see if I can read out the relevant section.

8 Mr President, may I read this in private session? Or if the interpreters -- well, no.

9 Because the witness can't read English, it's only fair that I read it to him or otherwise
10 if I could leave out the name of the organisation with your permission.

11 PRESIDING JUDGE MINDUA: [12:57:27](Interpretation) Yes, indeed.

12 Madam Courtroom Officer, we are in --

13 THE COURT OFFICER: [12:57:31](Interpretation) We are currently in open session.

14 PRESIDING JUDGE MINDUA: [12:57:33](Interpretation) So we are going to move
15 into private session for us to read through said paragraph.

16 (Private session at 12.57 p.m.)

17 THE COURT OFFICER: [12:57:48](Interpretation) We are in private session,

18 Mr President, your Honours.

19 PRESIDING JUDGE MINDUA: [12:57:56](Interpretation) Thank you very much.

20 Ms Taylor.

21 MS TAYLOR: [12:57:57] "As agreed with the investigators beforehand," - this is
22 paragraph 55 - "I brought with me to this interview some electronic material that
23 could help me recall the work I had done for [REDACTED]

24 [REDACTED]

25 [REDACTED]

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[REDACTED]

10 The material I brought and that I used during the interview whenever I could not
11 recall details that I wanted to provide to the investigators consists of the tools we use
12 for identification and" [REDACTED]. I
13 have brought some images, and showed two of them to the investigators as an
14 example."

15 I believe we can go into open session and I can ask a couple of questions and then we
16 can -- before the recess, if that's acceptable to the Chamber.

17 PRESIDING JUDGE MINDUA: [13:00:03](Interpretation) Madam Prosecutor.

18 MS YAMAGUCHI: [13:00:09] (Overlapping speakers) I would just like to inform
19 the Chamber that we have reached the maximum number of redactions we could
20 apply during this session. So just out of an abundance of caution, we would suggest
21 that we remain in private session.

22 PRESIDING JUDGE MINDUA: [13:00:34](Interpretation) Anyway, it's time to rise.
23 Everyone needs to have a bit of a rest, especially we need the time to apply
24 the redactions.

25 We shall move back, please, Madam Courtroom Officer, into open session.

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1 (Open session at 1.01 p.m.)

2 THE COURT OFFICER: [13:01:01](Interpretation) We are in open session,

3 Mr President.

4 PRESIDING JUDGE MINDUA: [13:01:05](Interpretation) Thank you very much,

5 madam courtroom officer.

6 It is 1 p.m., we shall rise now for an hour and a half for luncheon and we shall

7 reconvene at 2.30 this afternoon.

8 Court is suspended.

9 THE COURT USHER: [13:01:24] All rise.

10 (Recess taken at 1.01 p.m.)

11 (Upon resuming in open session at 2.30 p.m.)

12 THE COURT USHER: [14:30:44] All rise.

13 Please be seated.

14 PRESIDING JUDGE MINDUA: [14:31:12](Interpretation) Court is in session once

15 again. We shall continue with the cross-examination on the part of the Defence.

16 Ms Taylor, over to you.

17 MS TAYLOR: [14:31:30]

18 Q. [14:31:31] Good afternoon, Mr Witness. How are you?

19 A. [14:31:46] Good afternoon. I'm all right.

20 Q. [14:31:52] Now, before the break I read out two paragraphs from your statement,

21 that was paragraph 55 and 56. Do you remember those paragraphs or should I read

22 it out again. I don't think it's possible to show it on the transcript.

23 A. [14:32:20] I can remember, counsel.

24 PRESIDING JUDGE MINDUA: [14:32:24](Interpretation) Madam Prosecutor.

25 MS YAMAGUCHI: [14:32:26] Thank you, Mr President. And I'm sorry to interrupt,

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1 but we would like to point out that there is another paragraph in his statement
2 relating to the material this witness brought to the interview with the investigators in
3 2017. We would like to suggest that for the fairness to the witness, that particular
4 paragraph should also be read out to him. This is paragraph 62.

5 PRESIDING JUDGE MINDUA: [14:33:00](Interpretation) Ms Taylor.

6 MS TAYLOR: [14:33:03] Mr President, I was also planning on reading paragraph 63
7 until the first line of paragraph 64, which address the same issue, but I was going to
8 put him questions regarding paragraph 55 and 56 first, but I can read them all out.

9 PRESIDING JUDGE MINDUA: [14:33:26](Interpretation) Please proceed according
10 to your method, Ms Taylor.

11 MS TAYLOR: [14:33:32]

12 Q. [14:33:32] Now, Mr Witness, these paragraphs concerned electric files that you
13 had with you at the time of the Prosecution interview. Is it correct that you read
14 these files during the interview so that you could recall the details of the cases you
15 worked on?

16 A. [14:34:06] Yes, indeed.

17 Q. [14:34:11] So would it be correct that these files formed the basis for some of
18 your responses to the Prosecution?

19 A. [14:34:33] Precisely.

20 Q. [14:34:38] Is it correct that you did not provide all of these files to
21 the Prosecution at the end of the interview?

22 A. [14:34:53] Correct.

23 Q. [14:34:58] And did you continue to have these files after the interview?

24 A. [14:35:14] [REDACTED]

25 [REDACTED]

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and after that the hard disk was wiped and all of the data on

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the little key was done away with.

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MS TAYLOR: [14:36:05] Mr President, with your permission may we go into private

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session?

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PRESIDING JUDGE MINDUA: [14:36:13](Interpretation) Courtroom officer, private

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session, please.

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(Private session at 2.36 p.m.)

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THE COURT OFFICER: [14:36:26](Interpretation) We are in private session

12

Mr President, your Honours.

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PRESIDING JUDGE MINDUA: [14:36:30](Interpretation) Thank you very much.

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Ms Taylor.

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MS TAYLOR: [14:36:32]

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Q. [14:36:32] Mr Witness, I'm going to read out paragraph 63 and the first line of

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paragraph 64:

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5 A. [14:38:01]

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well, this statement does not

17 really reflect the truth.

18 Q. [14:39:40] Mr Witness, perhaps it's the way I phrased it. I'm going to read out

19 that sentence again and just ask you a question. This is the first line of paragraph 64:

20

21

22 Is that correct?

23 A. [14:40:11] Well, on the -- in the transcription in this statement it might be written

24 there, but that is not possible. It is not possible.

25

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1 [REDACTED] That's not possible.

2 [REDACTED]

3 Q. [14:40:47] Now, yesterday the Prosecution asked you if you recalled the names
4 of certain victims. Is that the first time they put that question to you?

5 A. [14:41:08] Well, every time that question was put to me, even during
6 the investigations, I asked that they refer to the forms.

7 Q. [14:41:20] Concerning the forms, did the Prosecution ask you for a list of names?

8 A. [14:41:35] Yes. [REDACTED]
9 [REDACTED]

10 Q. [14:41:55] Did you provide the Prosecution with a list of the names of the
11 persons you met and included in your files?

12 A. [14:42:15] Yes, [REDACTED]
13 [REDACTED] It did not contain any information as to the type of cases or the accounts
14 that those people gave [REDACTED]
15 [REDACTED]

16 Q. [14:42:46] And did you provide this to the Prosecution [REDACTED]
17 [REDACTED]

18 A. [14:42:59] Yes, she was given the list of the people whom we had met.

19 MS TAYLOR: [14:43:12] I believe we can go into open session.

20 PRESIDING JUDGE MINDUA: [14:43:18](Interpretation) Courtroom officer, please
21 could we move into open session.

22 (Open session at 2.43 p.m.)

23 THE COURT OFFICER: [14:43:34](Interpretation) We are in open session,
24 Mr President.

25 PRESIDING JUDGE MINDUA: [14:43:37](Interpretation) Thank you very much.

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1 Ms Taylor.

2 MS TAYLOR: [14:43:43]

3 Q. [14:43:44] Now, Mr Witness, without giving the name of the organisation, just
4 referring to project A and project B. Now, during your testimony you referred to
5 notebooks that were used during project A to write down victim accounts. Where
6 are the notebooks stored?

7 And please let me know if you prefer to answer this in private session.

8 A. [14:44:26] To my knowledge, [REDACTED]

9 MS TAYLOR: [14:44:36] Mr President, if we could go into private session.

10 PRESIDING JUDGE MINDUA: [14:44:42](Interpretation) Madam courtroom officer,
11 please, private session.

12 (Private session at 2.44 p.m.)

13 THE COURT OFFICER: [14:44:52](Interpretation) Mr President, we are in private
14 session.

15 PRESIDING JUDGE MINDUA: [14:44:59](Interpretation) Thank you very much.

16 Ms Taylor?

17 MS TAYLOR: [14:45:03]

18 Q. [14:45:03] [REDACTED]

19 A. [14:45:15] Indeed.

20 Q. [14:45:18] [REDACTED]

21 [REDACTED]

22 A. [14:45:35] No.

23 Q. [14:45:42] Now, Mr Witness, turning to the events of 2013, [REDACTED]

24 [REDACTED]

25 A. [14:46:05] [REDACTED]

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- 1 Q. [14:46:07] [REDACTED]
- 2 A. [14:46:21] [REDACTED]
- 3 [REDACTED]
- 4 [REDACTED]
- 5 [REDACTED]
- 6 [REDACTED]
- 7 [REDACTED]
- 8 [REDACTED]
- 9 [REDACTED]
- 10 Q. [14:47:19] [REDACTED]
- 11 [REDACTED]
- 12 A. [14:47:32] [REDACTED]
- 13 Q. [14:47:37] [REDACTED]
- 14 And if you could confirm, Mr Witness, if you could see this on your screen.
- 15 Mr Witness, can you see this individual, the photo?
- 16 A. [14:48:45] Yes, I can see the photo and I recognise the lady.
- 17 Q. [14:48:51] [REDACTED]
- 18 A. [14:48:58] [REDACTED]
- 19 Q. [14:49:07] [REDACTED]
- 20 A. [14:49:18] [REDACTED]
- 21 Q. [14:49:27] [REDACTED]
- 22 [REDACTED]
- 23 A. [14:49:45] [REDACTED]
- 24 [REDACTED]
- 25 Q. [14:50:04] [REDACTED]

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1 [REDACTED]

2 A. [14:50:17] [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 THE INTERPRETER: [14:50:46] Correction.

6 THE WITNESS: [14:50:47](Interpretation) [REDACTED]

7 MS TAYLOR:

8 Q. [14:50:49] [REDACTED]

9 [REDACTED]

10 A. [14:51:14] [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 Q. [14:51:58] [REDACTED]

16 [REDACTED]

17 A. [14:52:15] [REDACTED]

18 Q. [14:52:22] If I could bring up Defence tab 18, that's D28-0004-7224. I'm just

19 going to check the reference. It might be incorrect. I apologise.

20 [REDACTED]

21 I apologise again, I'll bring up another one. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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A. [14:55:14]

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Q. [14:56:23]

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A. [14:56:52]

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Q. [14:56:57]

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A. [14:57:27]

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Q. [14:57:34] Mr Witness, I'm going to ask the Presiding Judge if we can go into
public session. But before doing so, may I remind you not to give the names of

24

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A. [14:57:56] Okay. Okay.

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(Open Session)

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1 PRESIDING JUDGE MINDUA: [14:58:01](Interpretation) Madam courtroom officer,
2 could we move into open session, please.

3 (Open session at 2.58 p.m.)

4 THE COURT OFFICER: [14:58:13] We are in open session.

5 PRESIDING JUDGE MINDUA: [14:58:20](Interpretation) Thank you very much.

6 Ms Taylor.

7 MS TAYLOR: [14:58:24]

8 Q. [14:58:25] Mr Witness, yesterday at transcript 66, page 22, you testified that you
9 were informed of a first case of sexual slavery and you met that person in Bamako
10 subsequent to the first piece of information given by the other NGO. And this victim
11 that you met was surprised because this was a first occasion she was identifying
12 herself as a victim.

13 Mr Witness, my question is: If this was the first occasion this individual was
14 identifying herself as a victim, how did the other NGO know that this woman was
15 a victim of sexual slavery?

16 A. [14:59:32] Okay, counsel, I think that I said that we were approached by
17 the organisation to take a victim under our wing, without going into any details.
18 The organisation did not tell us the state of victimisation of the girl -- or, rather,
19 the woman, excuse me. The organisation just told us that there was a case, a victim,
20 who needed our assistance and our care. And when -- it was when we met
21 the person on the first occasion we talked a little, got to know each other so that she
22 could understand to what extent we were intervening, in what capacity and so we
23 could have access to her account.
24 It was during her statement that we realised the effectiveness of the description of the
25 events. But these events were not related to us by any other organisation or any

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1 other person before we met with her.

2 Q. [15:00:59] Now, Mr Witness, you met her in February 2013 with two female
3 colleagues. Did you then interview her subsequently alone?

4 A. [15:01:24] Yes. In our office.

5 Q. [15:01:31] Now, yesterday you testified about checking whether the information
6 you heard was reliable. What checks did you take with this witness?

7 A. [15:02:00] We checked reliability by trying to see that the information on
8 the notes and in the form agreed. And we then went on to invite the person who
9 was being received to listen carefully to the material that was on the form on
10 the statement. And then she -- the person went on to recognise and validate that
11 information. So that, for me, is what I refer to as relevance of the information that
12 was gathered.

13 Q. [15:02:50] Now you testified that she spoke to you in Bamana. Is it correct that
14 it's quite rare for people from Timbuktu to speak Bamana?

15 PRESIDING JUDGE MINDUA: [15:03:06](No interpretation)

16 MS YAMAGUCHI: [15:03:09] Mr President, in accordance with the directions on
17 the conduct of proceedings, if the Defence could please just refer to specific page and
18 line numbers of the passages she's paraphrasing.

19 MS TAYLOR: [15:03:26] I'm happy to give the page.

20 PRESIDING JUDGE MINDUA: [15:03:35](No interpretation)

21 MS TAYLOR: [15:03:36] It's transcript 66, page 24.

22 Q. Mr Witness, is it correct that it's quite rare for people from Timbuktu to speak
23 Bamana?

24 A. [15:03:59] That is not correct, counsel. About 80 per cent of the population of
25 Timbuktu would understand and speak Bamana, and this can be cross-checked.

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1 Q. [15:04:16] Now yesterday you mention that she was stopped by the Islamic
2 police. Is it correct that you didn't mention the Islamic police when the Prosecution
3 interviewed you in 2017?

4 A. [15:04:48] Counsel, I -- well, maybe the question that was put to me did not refer
5 to the Islamic police. But I believe that on the forms and in various other documents,
6 I wonder whether this is what was mentioned in the questions that were put to me as
7 to the identity or ethnicity of the persons involved. But on the forms and in
8 the reports that I made available to the investigators, the expression "Islamic police" is
9 used properly.

10 Q. [15:05:38] Mr Witness, let's bring up that form.
11 This is Prosecution tab 4 and it's not to be shown to the public. MLI-OTP-0049-0752.

12 A. [15:06:38] I have the document.

13 Q. [15:06:41] Are you able to see the entire file?

14 A. [15:06:53] Yes, counsel.

15 Q. [15:06:55] Now this file doesn't refer to the Islamic police, does it?

16 A. [15:07:17] No, counsel.

17 Q. [15:07:21] And it doesn't refer to Islamists either, does it?

18 A. [15:07:37] Thank you, counsel. However, the difference is that this is entitled
19 as "identification form for victims" and yesterday I said there were two forms. This
20 is the first one. When it comes to project A, there is a second form -- for project B,
21 rather, and that form contains reference to ethnicity and belonging to an armed group
22 in reference to the attackers. Yesterday what I said is that we had two forms,
23 the first one is the identification form which is different from the second form, which
24 mentions the various donors and implementing partners of the project.
25 So this one does not deal with ethnicity, this form does not deal with ethnicity nor

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1 with any knowledge of the authors or perpetrators. But on the other form, yes, and
2 that's the difference between the two forms.

3 Q. [15:08:57] Now, Mr Witness, it's correct, isn't it, that you didn't give the project B
4 forms to the Prosecution?

5 A. [15:09:20] Obviously not.

6 Q. [15:09:25] Mr Witness, for you, is the Islamic police and Islamists
7 interchangeable? Does it mean the same thing?

8 A. [15:09:52] I do not know which document points out any difference between
9 the two. But as far as I am concerned, since it's the Islamists who implemented
10 the police, there is a difference to be made between Islamists who are not of the police
11 and Islamists who belong to the Islamist police.

12 Q. [15:10:15] What is the difference?

13 A. [15:10:28] The word Islamist was used to refer to the entire armed group, but
14 within that armed group there were persons who were in charge of implementing
15 police measures and they were different from the others who were in charge of the
16 checkpoints or -- of the administration. They had a headquarters and -- at which
17 there were one or two persons in charge of the police, and then there were other
18 people who went around the town on a regular basis to implement policing measures.
19 And my understanding of those two is that the one is different from the other.

20 Q. [15:11:24] Do you consider the MNLA to be an Islamist group?

21 A. [15:11:43] Counsel, your question is somewhat difficult because, you see,
22 the purpose or the goal of all the groups was to occupy and implement certain
23 measures based on Islamist rules and principles. So when you ask me today
24 whether the MNLA is an Islamist group, I think that's somewhat difficult, a difficult
25 question for me to answer because I don't know what answer I can provide clearly.

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1 What I know is that as organised armed groups, there were MNLA, Ansar Dine,
2 AQMI and other groups. And so when you ask me whether the MNLA was an
3 Islamist group, I don't know what answer to give you.

4 Q. [15:12:47] Now yesterday at transcript 66, page 27, you testified that this victim
5 told you that she was travelling between Bintagoungou and Douentza. Did you
6 check which armed group was in charge or in control of this route at the time of the
7 event?

8 A. [15:13:24] That was not part of my mission. It was not part of my duties and
9 it's not in the report.

10 Q. [15:13:33] Did you tell the Prosecution that the incident occurred in
11 December 2012?

12 A. [15:13:53] Incident December 2012? Which incident?

13 Q. [15:14:02] With this -- the incident concerning this lady, this -- the sexual slavery
14 incident.

15 A. [15:14:18] Based on the information on the form, I think that -- well, with your
16 leave, can I consult the form, can I take a look at the form, please?

17 Q. [15:14:33] You may, but I believe that according to your statement you may have
18 consulted the plan -- project B form, and I can refer you to the relevant paragraph of
19 your statement if that would assist.

20 MS TAYLOR: [15:15:29] Mr President, I believe I would have to read this out in
21 private session, with your permission.

22 PRESIDING JUDGE MINDUA: [15:15:41](No interpretation)
23 (Private session at 3.15 p.m.)

24 THE COURT OFFICER: [15:15:46](No interpretation)

25 PRESIDING JUDGE MINDUA: [15:15:51](No interpretation)

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1 MS TAYLOR: [15:15:52] For the record, this is at page 8689 and it's paragraph 22.

2 "We had heard about the case of the victims from Tombouctou [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED] She

9 told us that she used to sell her products in other towns and during one of her trips,
10 the vehicle was stopped by the Islamists. They told the rest of the persons to go, and
11 kept her for a week, during which time she served as a sex slave. She was assigned
12 to one of the leaders who spent every night with her. Afterwards, she found out she
13 was pregnant and she gave birth to a child of a Jihadist. She told us her story and I
14 met the child. Unfortunately, she was left by her husband. The incident took place
15 between Goundam and Tombouctou. I had to refer to her *fiche* to check when we
16 first met her. [REDACTED] And I can see that the incident had taken place in
17 December 2012."

18 Q. [15:17:37] Now, Mr Witness, is it correct that you told the Prosecution when you
19 met them in 2017, after consulting her file, that she was stopped by Islamists?

20 A. [15:18:14] Yes, that is correct.

21 Q. [15:18:17] And that the incident concerning sexual slavery occurred in December
22 2012?

23 A. [15:18:29] Yes, going by the information on the form, yes.

24 Q. [15:18:34] Now, Mr Witness, yesterday you mentioned that when you met with
25 the witness she had two children breastfeeding, one of whom you identified as being

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1 the child of an Islamist.

2 Did you ask the victim how it was possible to get pregnant and have a child in less
3 than three months?

4 A. [15:19:21] This question was not raised. Maybe the dates mentioned -- well,
5 once you mentioned the date, that's what I thought about by way of question. In any
6 event, if the statement and the form refer to a date in 2012, then we must need to go
7 back to the form and check the information. So when I say that we referred in
8 answer to the form, what I -- that is what I -- I meant. But I think also that it is
9 impossible to have a child or to have two children within a span of three months.

10 If I look at the form, the date on which we met -- or the victim was met, I can see that

11 [REDACTED]

12 [REDACTED] That's the information I have before me.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] that doesn't add up to three months only, it's more than three months.

16 Q. [15:21:04] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 A. [15:21:44] That is correct. [REDACTED]

21 Q. [15:21:53] Mr Witness, given this issue of dates, would you accept that some of
22 the details in the files might not be accurate?

23 A. [15:22:17] You see, that -- that could be possible, because to get victims to be
24 specific on the dates on which acts were committed, well, is something that I could
25 agree might have to be cross-checked. Our meeting at the time, however, was to

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1 transcribe the exact statements provided by the victims. And that was in compliance
2 with the questions that were raised. So what the victims told us is what we entered
3 on the forms as the dates on which the events occurred and that's the information you
4 will find on the forms.

5 Q. [15:23:10] Now, Mr Witness, would you accept that if it was difficult for victims
6 to remember dates and details [REDACTED] afterwards, it might be difficult for you to
7 remember the dates and details told you by these victims several years afterwards?

8 A. [15:23:45] Well, maybe when it comes to months, but when it comes to years,
9 most of the victims said that they were victimised in 2012, both before and after.

10 Q. [15:24:09] Mr Witness, would you accept that you're basing that on a general
11 recollection and not a specific memory of specific incidents concerning specific
12 individuals?

13 A. [15:24:38] Counsel, all I am doing is remembering that which we recorded on
14 the forms, in spite of the years that have gone by. I hope that I can answer your
15 questions by providing information that can be cross-checked through the forms.
16 These are not personal memories which might have some emotional aspects to them.
17 I am making my level best effort to recall the work that we did professionally and
18 recorded on those forms. I agree that it is not easy to remember everything, but I am
19 very, very aware that there are cases that I do remember clearly for which I try to
20 bring forth a clear memory through the recollection.

21 Q. [15:25:37] Thank you for that, Mr Witness.

22 [REDACTED]

23 A. [15:25:58] [REDACTED]

24 Q. [15:26:04] [REDACTED]

25 [REDACTED]

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1 A. [15:26:28]

2

3 Q. [15:26:41]

4

5

6 A. [15:27:01] Yes, I do. That's correct.

7 Q. [15:27:06]

8

9 A. [15:27:31]

10

11

12

13

14 Q. [15:28:01]

15

16 A. [15:28:28]

17

18

19

20 Q. [15:29:02]

21

22 A. [15:29:29]

23

24 Q. [15:29:51] Mr Witness, if I can perhaps refresh your memory by referring to your
25 statement. This is page 8685.

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1 And, Mr President, I believe if I leave out the name of the organisation I can read it in
2 public session.

3 PRESIDING JUDGE MINDUA: [15:30:32](Interpretation) Very well. Please
4 proceed.

5 MS TAYLOR: [15:30:38]

6 Q. [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 This woman was left alone with a child who is now in the 2nd year in school. She is
14 under a lot of psychological pressure. She also needs to meet all the needs of the
15 child. It is not easy. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 Now, Mr Witness, did you tell the Prosecution that the child was in the second year of
19 school?

20 PRESIDING JUDGE MINDUA: [15:32:13](Interpretation) Madam Prosecutor.

21 MS YAMAGUCHI: [15:32:17] Thank you, Mr President.

22 I would just like to point out that the relevant passage reads: "This woman was left
23 alone with a child who is now in the 2nd year in school."

24 Now, this statement was taken in 2017, "now", most likely, was referring to 2017.

25 PRESIDING JUDGE MINDUA: [15:32:49](Interpretation) Ms Taylor, the Prosecutor

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1 says that this statement dates back to 2017.

2 MS TAYLOR: [15:32:55] Mr President, may we cut the feed to the witness.

3 PRESIDING JUDGE MINDUA: [15:33:02](Interpretation) Yes, of course.

4 Madam courtroom officer, could we please cut off the feed.

5 THE COURT OFFICER: [15:33:10](Interpretation) The feed has been cut off,

6 Mr President.

7 PRESIDING JUDGE MINDUA: [15:33:15](Interpretation) Thank you very much.

8 Ms Taylor, please.

9 MS TAYLOR: [15:33:19] Mr President, my question was merely whether he told this
10 to the Prosecution. I was then going to ask a follow-up question which was

11 dependent on [REDACTED] So I don't accept that "now" is
12 necessarily 2017, but I was going to put to the witness what time period he meant.

13 PRESIDING JUDGE MINDUA: [15:33:45](Interpretation) Very well. We shall
14 reconnect.

15 Madam Prosecutor, you've heard what has been said. It's very clear from my part
16 what the Defence just said.

17 Madam courtroom officer, please.

18 THE COURT OFFICER: [15:34:01](Interpretation) The link has been re-established,
19 Mr President.

20 PRESIDING JUDGE MINDUA: [15:34:07](Interpretation) Thank you very much.

21 Ms Taylor.

22 MS TAYLOR: [15:34:10]

23 Q. [15:34:11] Mr Witness, do you need me to repeat my question?

24 A. [15:34:21] Yes.

25 Q. [15:34:26] Mr Witness, did you tell the Prosecution: "This woman was left

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1 alone with a child who is now in the 2nd year in school"?

2 A. [15:34:41] Yes.

3 Q. [15:34:45] [REDACTED] Did you obtain this information on
4 or before this date?

5 A. [15:35:12] Thank you, counsel. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED] Thank you.

14 Q. [15:36:22] Now, Mr Witness, earlier you stated that school starts at seven years
15 old. So would you accept, Mr Witness, that if this child was in the second year of
16 school in 2017, it's unlikely that the child was born after 2012?

17 MR GARCIA: [15:36:45](Interpretation) I'm going to raise an objection,
18 Mr President.

19 PRESIDING JUDGE MINDUA: [15:36:50](Interpretation) Mr Prosecutor.

20 MR GARCIA: [15:36:51](Interpretation) I don't know whether we can just cut
21 the link with the witness for a few moments.

22 PRESIDING JUDGE MINDUA: [15:36:59](Interpretation) Could you please cut off
23 the link, madam courtroom officer.

24 THE INTERPRETER: [15:37:02] Overlapping speakers.

25 THE COURT OFFICER: [15:37:05](Interpretation) It has been cut off.

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1 MR GARCIA: [15:37:07](Interpretation) When my colleague rose to her feet to object
2 earlier on to ascertain precisely which year this was related to the witness,
3 the Defence told the Chamber that she was going to shed light on all of this with
4 the witness. She has not done so, and now we are going ahead on the premise that
5 the information was transmitted to him in 2017, which has not yet been confirmed by
6 the witness.

7 PRESIDING JUDGE MINDUA: [15:37:38](Interpretation) There we are.

8 Ms Taylor, you heard what has just been said. The witness has not yet confirmed
9 what you're just saying, namely that the information was communicated in 2017.

10 What is more, you are saying that at the age of seven the child is in the second year of
11 school. I think that's you saying that as well, isn't it?

12 MS TAYLOR: [15:38:08] Thank you, Mr President. I'll address both issues
13 separately.

14 As concerns the first issue, I'm not sure the Prosecution's objection helps their case.

15 Whether the information was received in 2017 or earlier, that still means that
16 the oldest the child could have been would have been roughly four years old, if not
17 less.

18

19 [REDACTED] He hasn't given a specific date, but given that the interview was
20 in 2017 it can't be after that date.

21 So either he was informed of this at 2017 or before 2017. So even taking it at his
22 highest, it still results in a child that had to have been, if we do the maths, three and
23 a half years old at the oldest.

24 PRESIDING JUDGE MINDUA: [15:39:19](Interpretation) Mr Prosecutor.

25 MR GARCIA: [15:39:21](Interpretation) First of all, Mr President, it's not whether it

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1 aids our case or not, it's for it to be clear in the record for the case, for the Chamber, as
2 to precisely when the information was transmitted, so that if the Defence wants to
3 rely upon this piece of information it can do so in all clarity. And that's why I'm
4 rising to my feet and objecting.

5 And as to the mathematics that has just been conducted by my colleague, I am
6 objecting to this. I think that we can shed light on the matter very easily by putting
7 the question to the witness because we are turning around in circles on this matter.

8 PRESIDING JUDGE MINDUA: [15:40:00](Interpretation) Ms Taylor, the Prosecutor
9 has come back to this issue once again. Now, in order to save time, you can put
10 the question directly to the witness rather than doing the mathematics yourself.

11 MS TAYLOR: [15:40:19] (Overlapping speakers)

12 PRESIDING JUDGE MINDUA: [15:40:22](Interpretation) Madam courtroom officer,
13 could we re-establish the link with the witness, please.

14 THE COURT OFFICER: [15:40:31](Interpretation) The link is back up and running,
15 Mr President.

16 PRESIDING JUDGE MINDUA: [15:40:35](Interpretation) Thank you very much,
17 madam courtroom officer.

18 Ms Taylor.

19 MS TAYLOR: [15:40:43]

20 Q. [15:40:43] [REDACTED]

21 [REDACTED]

22 A. [15:41:02] [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 [REDACTED] I was told that he had grown and that he was even at school, that he was going to
2 school.

3 I didn't try to find out whether it was preschool or whether it was school itself, but
4 I was told that he had grown and he was even going to school. So that's what I
5 heard and that's what I told the investigators.

6 Q. [15:42:23] [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 A. [15:42:48] Yes. Yes.

10 Q. [15:42:52] [REDACTED]

11 [REDACTED]

12 A. [15:43:17] Yes, technically speaking, we didn't have the way of -- a way of
13 verifying. But all of this did have a link with the events on 2012. However, we
14 focused on the fact that these people came forward as victims. And on the basis of
15 some of the information of the investigators that we had -- that had been gathered in
16 the locality, there was an agreement that these people were indeed victims of
17 the events of the crisis of 2012. These were the events that we recorded.
18 As to whether we had to really go and verify technically and see what the relevance
19 of certain cases was, well, we didn't give ourselves that choice.

20 Q. [15:44:19] Now, Mr Witness, going to project A, now it's correct that you hired
21 local fixers to identify human rights violations?

22 A. [15:44:50] Focal points to enable us to have easy access to certain individuals
23 who had been victims, without even knowing the type of abuse that these individuals
24 had endured.

25 MS TAYLOR: [15:45:09] Mr President, may I ask some follow-up questions in

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1 private session?

2 PRESIDING JUDGE MINDUA: [15:45:20](Interpretation) Madam courtroom officer,
3 private session please.

4 THE COURT OFFICER: [15:45:27](Interpretation) I see that we are still in private
5 session.

6 PRESIDING JUDGE MINDUA: [15:45:32](Interpretation) Very well, there we are.
7 Sometimes we do forget.

8 MS TAYLOR: [15:45:44]

9 Q. [15:45:44] Mr Witness, [REDACTED]

10 A. [15:45:49] [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 Q. [15:46:46] [REDACTED]

18 [REDACTED]

19 A. [15:47:06] [REDACTED]

20 Q. [15:47:11] Could you give their names?

21 A. [15:47:21] [REDACTED]

22 THE INTERPRETER: [15:47:23] Repeats the witness.

23 THE WITNESS: [15:47:25](Interpretation) [REDACTED]

24 [REDACTED]

25 [REDACTED] The last person, it will come to me in

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1 a moment.

2 Q. [15:48:19] [REDACTED]

3 A. [15:48:39] [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Q. [15:49:24] [REDACTED]

8 [REDACTED]

9 A. [15:49:46] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [15:50:33] [REDACTED]

15 A. [15:50:52] Yes, I can confirm that. [REDACTED]

16 [REDACTED]

17 MS TAYLOR: [15:51:19] I think I have five more questions in private session before
18 moving to open session, Mr President, with your permission. I can ask them in open
19 session, but I think there would be a risk.

20 PRESIDING JUDGE MINDUA: [15:51:35](Interpretation) Madam courtroom officer,
21 have we already reached that high level of redactions?

22 THE COURT OFFICER: [15:51:42](Interpretation) Mr President, for this session we
23 are, you know, within the allowed number. We don't have a maximum amount of
24 redactions to take into account during this last half an hour.

25 PRESIDING JUDGE MINDUA: [15:52:03](Interpretation) Thank you very much.

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1 Open session then, please.

2 (Open session at 3.52 p.m.)

3 THE COURT OFFICER: [15:52:18](Interpretation) We are back in open session,

4 Mr President, your Honours.

5 PRESIDING JUDGE MINDUA: [15:52:24](Interpretation) Thank you very much.

6 Ms Taylor.

7 MS TAYLOR: [15:52:29]

8 Q. [15:52:29] Now, Mr Witness, you've talked about the criteria you used for

9 appointing these fixers. Did you have any guidelines for identifying whether they
10 might have a conflict of interest?

11 A. [15:53:00] To my knowledge, it is true that by ethical standards professionally
12 speaking, one can ever attain a zero risk level. But one does try to set aside those
13 situations of conflict of interest.

14 To my mind, all the individuals that we met with were, according to certain
15 indications of choice, were indeed people who had been victims. Of course,
16 materially speaking it was difficult to prove it, because 2012 was a long time ago.
17 But we made the effort to target those individuals that we were dealing with.

18 So as to conflict of interest, to say that there was none, I would say that even if there
19 was, it was at an extremely reduced proportion. One cannot say that there is zero
20 risk, but very, very minimal numbers. And I was not aware of it, and throughout
21 my entire duration of coordinating the investigation I was not aware.

22 Q. [15:54:27] Did you take any steps to check if these fixers had affiliations with
23 persons who were responsible for human rights abuses?

24 A. [15:54:57] With difficulty, but when taking stock during preparatory meetings,
25 we made sure that these individuals had no link with the perpetrators, because these

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1 individuals were called to Bamako. It was their choice to come and follow training,
2 advice, et cetera. And these practices in terms of conduct for the A project were
3 enforced by the office here in Bamako, so before putting them on the road with
4 the tools for investigating, if you like.

5 So that is how we went about things methodologically speaking, to make sure that
6 a link of conflict of interest or a link of belonging to a given group was -- was
7 impossible, put to one side.

8 Q. [15:56:11] Now, before putting them on the road, how did you know who
9 the perpetrators were?

10 A. [15:56:31] Well, we knew that from the general information received the human
11 rights violations had occurred during the crisis. So from our point of view, we
12 needed to go out in the field and ascertain in concrete terms who the victims of the
13 crisis were and describe the cases and ascertain who the perpetrators were. But we
14 couldn't upfront say who the perpetrators were, but when going out into the field
15 they were able to ascertain who the perpetrators actually were. Otherwise,
16 beforehand we were not in the know.

17 Q. [15:57:22] Did you verify whether any of the fixers were actively involved in
18 political parties?

19 A. [15:57:51] I did not verify that, but I do believe that their commitment and
20 determination was proof in itself of their not belonging to any political party. And I
21 think that throughout their work out in the field this was confirmed, because at the
22 time there was so much to do that political activity was not the subject at hand in
23 2013.

24 MS TAYLOR: [15:58:29] Mr President, with your permission, may I ask three
25 questions in private session before we close for the day?

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1 PRESIDING JUDGE MINDUA: [15:58:42](Interpretation) Madam courtroom officer,
2 private session, please.

3 (Private session at 3.58 p.m.)

4 THE COURT OFFICER: [15:58:55](Interpretation) We are in private session,
5 Mr President.

6 PRESIDING JUDGE MINDUA: [15:58:57](Interpretation) Thank you very much.
7 Ms Taylor.

8 MS TAYLOR: [15:59:02]

9 Q. [15:59:02]

10 [REDACTED]
11 [REDACTED]

12 A. [15:59:18] Indeed.

13 THE INTERPRETER: [15:59:34] Unintelligible.

14 THE WITNESS: [15:59:39](Interpretation)

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 [REDACTED]
24 [REDACTED]

25 Q. [16:00:59]

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3 A. [16:01:19] That's the first I hear of it, I didn't know that.

4 Q. [16:01:27]

5

6 A. [16:01:49]

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10 MS TAYLOR: [16:02:19] Mr President, is this a good time to stop for the day?

11 PRESIDING JUDGE MINDUA: [16:02:28](Interpretation) You went over time by

12 two minutes. And, Ms Taylor, I understand that you are done for today but you

13 haven't concluded your cross-examination; is that the case?

14 MS TAYLOR: [16:02:55] Yes, that's correct, we continue -- we stop at 4, don't we?

15 PRESIDING JUDGE MINDUA: [16:03:03](Interpretation) Yes, indeed.

16 So you have used 3 hours, 23 minutes for your information.

17 Court officer, can we please return to open session, please.

18 (Open session at 4.03 p.m.)

19 THE COURT OFFICER: [16:03:29](Interpretation) We are back in open session,

20 Mr President, your Honours.

21 PRESIDING JUDGE MINDUA: [16:03:33](Interpretation) Thank you, court officer.

22 Mr Witness, I would like to turn to you now and, as you have understood, we have

23 come to the end of today's hearing. Unfortunately, your testimony is not yet

24 concluded.

25 Let me on behalf of the Chamber thank you once again for providing very clear

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1 answers to the questions that were put to you and you did so, may I say, with great
2 clarity and courtesy. I therefore invite you to come back tomorrow at 9.30 for
3 the next phase in your testimony. And as you already know, you are forbidden from
4 discussing your testimony with anyone whosoever.
5 Thank you very much, Mr Witness.
6 And now I turn to the parties and participants and, once again, I thank all of you for
7 your excellent cooperation.
8 I want to thank the court reporters and the interpreters for the work they continue to
9 do. I also express my thanks to our security officers and to the public and I wish you
10 all a very pleasant evening.
11 See you all tomorrow morning.
12 The hearing is adjourned.
13 THE COURT USHER: [16:05:19] All rise.
14 (The hearing ends in open session at 4.05 p.m.)