

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
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 3 March 2021
10 (The hearing starts in open session at 9.30 a.m.)
11 THE COURT USHER: [9:30:46] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:31:11](Interpretation) Good morning, the Court is
15 in session. Good morning to all.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:31:25] Good morning, Mr President, your Honours.
18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:31:47](Interpretation) Thank you very much,
22 court officer.
23 As usual, we will start with the appearances. The OTP, please, first.
24 MS YAMAGUCHI: [9:32:00] Good morning, Mr President, your Honours. Today
25 the Prosecution is represented by Gilles Dutertre, on my left, and myself

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- 1 Yayoi Yamaguchi.
- 2 PRESIDING JUDGE MINDUA: [9:32:14](Interpretation) thank you very much,
- 3 Madam Prosecutor.
- 4 Now Defence counsel, please.
- 5 MS TAYLOR: [9:32:20] Good morning, Mr President, good morning, your Honours.
- 6 The Defence for Mr Al Hassan is represented today by Ms Dolly Chahla and myself
- 7 Melinda Taylor. Thank you.
- 8 PRESIDING JUDGE MINDUA: [9:32:33](Interpretation) Thank you very much,
- 9 Ms Taylor.
- 10 And now over to the legal representatives.
- 11 MR LUVENGIKA: [9:32:42](Interpretation) Good morning, Mr President,
- 12 your Honours. Victims are represented here by Madam Claire Laplace and myself
- 13 Fidel Nsita.
- 14 PRESIDING JUDGE MINDUA: [9:32:53](Interpretation) Thank you very much,
- 15 Maître Nsita.
- 16 Now let me turn to the witness.
- 17 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: [9:33:03](Interpretation) Yes, Mr President, I can hear you clearly.
- 22 PRESIDING JUDGE MINDUA: [9:33:07](Interpretation) Thank you, Mr Witness.
- 23 We want to wish you again a welcome on behalf of the Chamber and allow me to
- 24 remind you that you are still under oath to speak the truth, the whole truth and
- 25 nothing but the truth.

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1 I also want to remind you of the guidelines I gave you relating to your testimony.

2 This morning we will continue to hear you as Defence counsel continues her
3 cross-examination.

4 And without any further ado, Ms Taylor, you have the floor.

5 MS TAYLOR: [9:33:57] Thank you, Mr President. I have a few very brief questions
6 that are identifying, so with your permission - it won't be more than, I would say, five
7 minutes - if we could start in private session.

8 PRESIDING JUDGE MINDUA: [9:34:12](Interpretation) Court officer, private
9 session, please.

10 (Private session at 9.34 a.m.)

11 THE COURT OFFICER: [9:34:22] We are in private session, Mr President.

12 PRESIDING JUDGE MINDUA: [9:34:28](Interpretation) Thank you very much.

13 Ms Taylor, you have the floor.

14 QUESTIONED BY MS TAYLOR: (Continuing)

15 Q. [9:34:36] Good morning, Mr Witness, how are you today?

16 A. [9:34:39] I'm fine, Counsel. Good morning.

17 Q. [9:34:43] [REDACTED]

18 [REDACTED]

19 [REDACTED], is it correct that the Islamic
20 police were responsible for committing violations on the part of the Islamists?

21 A. [9:35:25] Thank you, counsel. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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1 Personally, I am not in a position to talk about the Islamic police at that level at that
2 time, because in terms of actions, those activities were not observed in relation to my
3 person. But I can speak about the presence and action of armed groups that were on
4 the ground at the time of the occupation.

5 Q. [9:36:47] Now, Mr Witness, at transcript 66, page 17, lines 17 to 18, you stated:

6 "Being in Bamako, I knew that the same thing was going on in Timbuktu."

7 Did you consider that the victims of Timbuktu had endured the same things that you
8 were hearing when you were in Bamako?

9 A. [9:37:24] Thank you, counsel. When I was in Bamako, and going by
10 the information that was globally and generally available, I knew that in the two areas
11 of occupation more or less the same events, the same abuses were committed.
12 Then, subsequently, when we began to meet with some individuals, so-called victims
13 in Bamako, at the early stages we realised that they were men and women whose
14 human rights had been abused. And that is how our organisation and our team
15 reached out to meet them to determine exactly what had transpired.

16 MS TAYLOR: [9:38:23] Mr President, I believe we can go into open session.

17 PRESIDING JUDGE MINDUA: [9:38:30](Interpretation) Court officer, public session,
18 please.

19 (Open session at 9.38 a.m.)

20 THE COURT OFFICER: [9:38:41] We are back in open session, Mr President.

21 PRESIDING JUDGE MINDUA: [9:38:48](Interpretation) Thank you very much.

22 Ms Taylor, please.

23 MS TAYLOR: [9:38:51]

24 Q. [9:38:51] Now, Mr Witness, when you conducted your fact-finding activities in
25 Timbuktu, did you find it hard to be neutral? Did you find yourself on the side of

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1 the victims?

2 A. [9:39:16] Thank you, Counsel. Regardless of what the circumstances might be,
3 it is difficult to be neutral. But for the purpose of this specific assignment, our duty
4 was to gather information. And during that process of gathering information and
5 data, I believe that our duty was solely to establish what we had been told by
6 the individuals we met, to transcribe the same on a document without any analysis or
7 judgment. That was our duty. We did not have any concerns regarding belonging
8 to any party or any such other group, but rather we were supposed to be independent,
9 impartial and neutral, and I want to insist on that.

10 Q. [9:40:24] Mr Witness, if I can read a section from your statement.

11 And I believe I can do this in open session if I read the first part of the paragraph.

12 MLI-OTP-0046-8685 at 8693. It's paragraph 35, and it states:

13 "I must admit that I was on their side, and sometimes I felt not totally neutral because
14 I was empathetic to them. What I mean by this is that normally I must be completely
15 neutral and impartial in my work, but sometimes some accounts have made me
16 crumble and made me take the side of the victim and make a moral judgment about
17 what happened to them."

18 So, Mr Witness, my question is --

19 PRESIDING JUDGE MINDUA: [9:41:20](Interpretation) Madam Prosecutor, please.

20 MS YAMAGUCHI: [9:41:23] Mr President, according to the fourth decision on
21 matters related to the conduct of proceedings, decision 1265, paragraph 19, when
22 the statement is used to refresh the -- is put to the witness, the witness must be read at
23 least the full paragraph involved. We suggest, therefore, that Defence reads full
24 paragraph 35 for the fairness to the witness.

25 PRESIDING JUDGE MINDUA: [9:42:02](Interpretation) Ms Taylor, please.

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1 MS TAYLOR: [9:42:06] I can do that if it's possible to do so in open session. I note
2 that these have already -- these two cases have already been referred to by the witness,
3 so ...

4 MS YAMAGUCHI: [9:42:15] Yes --

5 PRESIDING JUDGE MINDUA: [9:42:17](Overlapping speakers)

6 MS YAMAGUCHI: [9:42:19] Yes, we believe it can be read out in public, open
7 session.

8 MS TAYLOR: [9:42:25]

9 Q. "This happened in two cases: in one case, the victim was a black lady. She
10 came to me in [REDACTED] to hand me her child who was not black, because
11 the father was an Islamist. She said that if she would leave the house with that child,
12 people would laugh, so she preferred to not leave the house for fear of stigmatisation.
13 The second case was a girl who had been victim of an attempted rape. She had been
14 badly injured. She undressed in front of me to show me all the cuts she had; the cuts
15 had been made by window glass. These were very difficult situations I had to deal
16 with."

17 Now, Mr Witness, my question is: In these cases, is it correct that you took the side
18 of the victim and made a moral judgment about what happened to them?

19 A. [9:43:26] It is true that in those two cases I had an effective situation of empathy,
20 but it didn't mean that I embraced the cause and the situation of the persons I
21 interviewed. It is true that during the interviews there was some very difficult
22 situations to handle which called for self-control and the respect of the rules of ethics
23 pertaining to research. But if you were to argue that I supported the cause of the
24 victims, I do not think that I recall having done that. What I can say, therefore, is
25 that I don't have any recollection of actually embracing the cause of the victims.

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1 I don't have any such recollection.

2 Q. [9:44:26] Mr Witness, is it correct that you told the Prosecution "sometimes I
3 took the side of the victims"?

4 A. [9:44:47] I don't have any such recollection. And that -- that actually would be
5 difficult to establish. I can't say that. You see, my job was not to judge or to be
6 partial, my job was to transcribe what those whom we met actually told us, to
7 transcribe that into writing.

8 Q. [9:45:15] Now, Mr Witness, when you came to Timbuktu for missions [REDACTED]
9 how long were the periods of your missions?

10 A. [9:45:38] It's difficult to state the duration of the missions, but it was generally
11 [REDACTED]

12 Q. [9:45:55] How many victims did you interview each day?

13 A. [9:46:09] It depended on the number of appointments we had, so per day it went
14 from five to seven, sometimes up to 10 victims per day.

15 Q. [9:46:27] Was there more than one team working each day?

16 A. [9:46:44] Yes, absolutely. I told you already that the team was made up of five
17 persons, three women and two men, who divided up the zones among themselves
18 based on the number of cases that had been identified. Therefore, we had five
19 people on the team each day, on average, or at least three persons involved each day.

20 Q. [9:47:17] So if I could just clarify, did that mean that you had three or five
21 different teams each day or was everyone present in the interviews that took place on
22 that day?

23 A. [9:47:41] Our team was made up of five persons, I repeat, three women and two
24 men. Each morning we would come together and plan for the day and each
25 individual would then go out and listen, and then thereafter we would meet again to

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1 conclude our work for the day. And that's how our planning was organised.

2 Q. [9:48:10] So would that be correct, then, that you weren't present for either
3 a third or a fifth of the interviews that took place each day? Rather, you were only
4 present for a third or a fifth of the interviews that took place each day?

5 A. [9:48:39] Thank you, Counsel. We must be clear about what the two projects
6 were all about. Project A adopted that format, but on project B I was permanently
7 on the ground in relation to project B.

8 Q. [9:48:59] Now moving to project B, is it correct that under project B the parent
9 organisation required you to identify the perpetrator and that the violations were
10 manifestly unjust?

11 A. [9:49:31] Thank you, Counsel. Under project B, indeed our mission, our duty
12 was to interview, but not only to take down the facts, we had to identify the authors.
13 But when it comes to determining whether it was right or wrong, that would be
14 a judgment, there was no room for that. All we had to do was to transcribe the facts
15 as narrated to us by the individuals without making any judgment.

16 Q. [9:50:15] If we could bring up on to the screen, it's a report - it shouldn't be
17 shown to the public - it's Defence tab 2, it's MLI-D28-0004-7042, and if we can first go
18 to page 7043 so that you can see the cover page of the report. It's a report dated
19 29 April 2016.

20 And if we could then turn to page 7062. And this refers to a training where
21 participants agreed that a case must demonstrate:

22 "(1) that the acts committed were manifestly unjust -- creating a strong imperative to
23 punish perpetrators; that evidence exists that supports the victims' allegations and
24 satisfies all legal admissibility requirements; that victims consent to the pursuit of
25 legal remedies; and that alleged perpetrators could be identified."

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1 So is it correct that there was a requirement that the cases must demonstrate facts
2 showing that the violations were manifestly unjust?

3 PRESIDING JUDGE MINDUA: [9:52:00](Interpretation) Madam Prosecutor.

4 MS YAMAGUCHI: [9:52:13] Thank you, Mr President. The witness has not been
5 given an opportunity to confirm or not he recognises this report or if he was involved
6 in any way in the preparation of this report. We would suggest that this be first
7 clarified with him.

8 PRESIDING JUDGE MINDUA: [9:52:35](Interpretation) Ms Taylor, I think
9 the Prosecutor is right. You need to put it to the witness first whether he knows
10 the report, whether he has any relation with the report.

11 And secondly, the interpreters have pointed out that you are reading too fast, which
12 makes interpreting difficult.

13 Thank you.

14 MS TAYLOR: [9:52:57] Mr President, can we cut the feed to the witness and go into
15 private session.

16 PRESIDING JUDGE MINDUA: [9:53:08](Interpretation) Court officer, private
17 session, please. And please cut the link with the witness.

18 (Private session at 9.53 a.m.)

19 THE COURT OFFICER: [9:53:31] We are in private session, Mr President.

20 PRESIDING JUDGE MINDUA: [9:53:34](Interpretation) Private session. And have
21 you cut the link with the witness, court officer? Is that the case?

22 THE COURT OFFICER: [9:53:44] Mr President, the sound has been cut out.

23 PRESIDING JUDGE MINDUA: [9:53:50](Interpretation) Very well.

24 Ms Taylor, please.

25 MS TAYLOR: [9:53:53] Thank you, Mr President.

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1 [REDACTED]
2 [REDACTED] Now, according to the decision under the conduct of the
3 proceedings, it's not necessary for the Defence to establish that the witness authored
4 the report or that he produced it. It's only necessary to establish that he has
5 knowledge of the contents referred to in the document, video, photo, item being
6 presented to the witness.

7 [REDACTED]
8 [REDACTED] So irrespective of
9 whether the witness has read this report - which is in English, so I doubt the witness
10 has read it - the Defence is entitled to put elements of the report referring to

11 [REDACTED]
12 [REDACTED]
13 PRESIDING JUDGE MINDUA: [9:55:06](Interpretation) Madam Prosecutor.

14 MS YAMAGUCHI: [9:55:08](Overlapping speakers) Mr President, [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 The Defence's argument is based on the presumption that he was already involved in
18 this particular report, which she also suggests that he may not even have read. We
19 would suggest that she would properly establish that he was -- whether or not he was
20 involved in the preparation of this report.

21 PRESIDING JUDGE MINDUA: [9:55:55](Interpretation) Ms Taylor --

22 MS TAYLOR: [9:55:59] (Overlapping speakers) Mr President, if I may just respond
23 very briefly? Just to be consistent with the case law -- (Overlapping speakers)

24 PRESIDING JUDGE MINDUA: [9:56:02](Interpretation) Please proceed, Ms Taylor.

25 MS TAYLOR: [9:56:03] Just to be consistent with the case law of this Chamber,

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1 the Chamber has consistently allowed the Prosecution to show videos with a witness,
2 even if the witness did not produce or create that video. The only requirement was
3 that the witness have knowledge of the events referred to in the video, photo or
4 document. So here, it's only necessary for the Defence to establish that the witness
5 has knowledge of the project being referred to in this report.

6 I also would like to note that the Prosecution has already shown this witness a report

7 [REDACTED]

8 [REDACTED] effectively documenting how
9 [REDACTED] implemented project B.

10 PRESIDING JUDGE MINDUA: [9:57:12](Interpretation) Ms Taylor, the protocol on
11 the conduct of proceedings provide, indeed -- or do not provide that, prior to putting
12 questions to the witness, the witness necessarily has to be the author of the report.
13 So even though he may have not drafted this report, he might be aware of the report.
14 So in this case you have already established a link with the witness without asking
15 him whether he was the author. The witness has mentioned [REDACTED]

16 [REDACTED]

17 [REDACTED] I therefore do not understand how you
18 would read an excerpt of the report and then put questions to him. So that's why it
19 might be proper to put some questions to him on some of the activities of that
20 organisation to determine whether he is aware or not of these things. Maybe he's
21 not.

22 Thank you.

23 MS TAYLOR: [9:58:24] Mr President, may I do so in private session?

24 PRESIDING JUDGE MINDUA: [9:58:32](Interpretation) Yes, yes, we can proceed in
25 private session.

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1 And please open up the link with the witness again, Ms Court officer, please.

2 THE COURT OFFICER: [9:59:01] Mr President, the sound has been opened.

3 PRESIDING JUDGE MINDUA: [9:59:05](Interpretation) Thank you very much,
4 court officer.

5 Ms Taylor, please.

6 MS TAYLOR: [9:59:11]

7 Q. [9:59:11] Mr Witness, if we could bring up on to your screen, it's Prosecution
8 document number 3 from their binder, it's [REDACTED]

9 [REDACTED]

10 A. [10:00:18] I have the report before me now.

11 Q. [10:00:23] Is this a report [REDACTED]
12 [REDACTED]?

13 A. [10:00:42] Yes, counsel.

14 Q. [10:00:44] Could we turn to page 0924 of the same report.

15 It says: (Interpretation)

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 (Speaks English) Now, Mr Witness, earlier in your testimony you referred to a donor
21 specifying certain criteria for project B, including that the crimes had to take place in
22 Timbuktu. Did [REDACTED] provide certain guidelines concerning
23 the implementation of project B?

24 A. [10:02:13] Thank you, counsel. If I remember correctly, the partnership
25 agreement defined the various guidelines specifically and the main guideline was to

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1 provide documentation and monitoring of human rights violations cases as outlined
2 in the title of the report. But beyond that, when it comes to analysing or any,
3 any -- anything else, I think the main focus was on strengthening promotion of
4 human rights in Mali based on the information that we would gather and then
5 forward [REDACTED]

6 Q. [10:03:14] So it's correct then that [REDACTED]
7 [REDACTED]

8 A. [10:03:28] Yes, indeed.

9 Q. [10:03:31] And did this include a report concerning the limitations you faced,
10 the challenges, and the lessons learned?

11 A. [10:03:56] This is the report, the report that we have in front of us, which was
12 sent together with the sheets [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. [10:04:34] Now, Mr Witness, if we could bring up Defence tab 2, that's
16 MLI-D28-0004-7042, and if we could turn to page 7043. You can see the title page.
17 It's a report [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 And if we could turn to page 7055 --

21 PRESIDING JUDGE MINDUA: [10:05:34](No interpretation)

22 MS YAMAGUCHI: [10:05:38] Thank you, Mr President. Considering that
23 the witness does not speak or read English, if the Defence could please read out
24 the title of the report, please, and ask if he recognises this report.

25 MS TAYLOR: [10:05:52] Again, it's not necessary for me to demonstrate that he

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1 recognises the report, it's only necessary to demonstrate he's aware of the contents in
2 the report, which I'm about to get to. So I think it's a waste of the Defence's time to
3 require us to read out a title that has no meaning to the witness.

4 PRESIDING JUDGE MINDUA: [10:06:17](Interpretation) I have not quite
5 understood your concern, Madam Prosecutor. What do you want to happen?
6 Somebody to read the report so that it can be translated into French?

7 MR DUTERTRE: [10:06:33](Interpretation) Your Honour, if I may, it's important that
8 it be clear for everybody before we go any further to determine whether the witness
9 knows this report, whether he's seen it previously. Of course, it is in English. And
10 on that basis questions may be asked. But we can't jump the gun talking about
11 a report where we have no idea whether the witness has ever seen it. I think we
12 should establish that point and then we can continue.

13 And it is in English, therefore it will have to be read out so that he can be made aware
14 of the contents.

15 PRESIDING JUDGE MINDUA: [10:07:17](Interpretation) Thank you, Mr Prosecutor.
16 That's what I had already said to Ms Taylor, that we needed to ask the witness
17 whether he knew this report and then we could ask questions.

18 The report is of course in English, so perhaps we should read out to him the first page,
19 7043, with the title so that he is aware of what we're talking about and then we can
20 continue on that basis.

21 MS TAYLOR: [10:07:47] Mr President, with the greatest respect, I feel we'll get
22 further if I can read out the paragraph and page which actually [REDACTED]
23 If I can turn to page 7055 --

24 PRESIDING JUDGE MINDUA: [10:08:05](Interpretation) Ms Taylor, first ask
25 the witness whether he knows this report, show him [REDACTED]

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1 then you can proceed to your questions.

2 MS TAYLOR: [10:08:19]

3 Q. [10:08:19] Mr Witness, reading out this page: [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 Now this is a report in English. Are you familiar with the report submitted by

8 [REDACTED]

9 A. [10:09:00] Thank you, counsel. I must say that this is the first time I have this

10 report before me. Not having been part of drafting the report [REDACTED]

11 [REDACTED] I cannot answer anything about this report because I've never seen it

12 before this morning.

13 Q. [10:09:37] Could we turn to page 7057 of report.

14 PRESIDING JUDGE MINDUA: [10:09:47](Interpretation) Madam Prosecutor.

15 MS YAMAGUCHI: [10:09:49] Thank you, Mr President. The witness was

16 extremely clear that he was not involved in the drafting process [REDACTED]

17 [REDACTED] of this particular report. We believe that there is no basis for

18 the Defence to proceed with questioning him on the content of this report.

19 PRESIDING JUDGE MINDUA: [10:10:16](Interpretation) Ms Taylor.

20 MS TAYLOR: [10:10:18] Well the page I was turning the witness to [REDACTED]

21 [REDACTED] so I do believe that's a question he can answer.

22 So I do believe, actually, under the decision on the conduct of proceedings, there's

23 a range of questions we can put to the witness even though he did not author

24 the report. And that's entirely consistent, as I mentioned, with the practice of this

25 Chamber allowing the Prosecution - as the examining party, not even

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1 the cross-examining party - to introduce a range of materials that were not produced,
2 authored or read by a witness prior to their testimony. That even includes videos
3 they haven't seen before. So I don't see how we can be burdened with a requirement
4 that has not applied henceforth in the proceedings, particularly when we're only
5 using it to confront the witness.

6 I'm not arguing that the witness wrote this. We're using it pursuant to the decision
7 on the conduct of the proceedings to confront the witness, as we would, for example,
8 if we were to show the -- not show the witness, but read out extracts from a witness
9 statement. Now, obviously the witness hasn't authored another person's witness
10 statement, but the decision on the conduct of the proceedings allows us, the Defence,
11 to read out extracts to a witness.

12 PRESIDING JUDGE MINDUA: [10:11:45](Interpretation) Ms Taylor, I have
13 understood. You are right. In order to remain fair I will allow you to ask your
14 questions to the witness, but we have already heard from the witness that he has
15 never seen this report and he was not part of the drafting of the report.

16 [REDACTED]

17 [REDACTED] we will see how the witness replies to your
18 first question.

19 So let us proceed.

20 MS TAYLOR: [10:12:27]

21 Q. [10:12:27] Mr Witness, turning to page 7057 of the report, can you tell me if you

22 [REDACTED] ?

23 A. [10:12:49] Yes.

24 Q. [10:12:49] [REDACTED]

25 A. [10:13:03] [REDACTED]

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1

[REDACTED]

2

Q. [10:13:18] Now turning to page 7055, and I'll read it out for the witness:

3

[REDACTED]

4

[REDACTED]

5

[REDACTED]

6

[REDACTED]

7

[REDACTED]

8

[REDACTED]

9

[REDACTED]

10

[REDACTED] -- I'll slow down.

11

PRESIDING JUDGE MINDUA: [10:14:11](Interpretation) Ms Taylor, you are

12

speaking too fast, please could you read this more slowly.

13

MS TAYLOR: [10:14:19]

14

Q. [REDACTED]

15

[REDACTED]

16

[REDACTED]

17

[REDACTED]

18

[REDACTED]

19

[REDACTED]

20

[REDACTED]

21

[REDACTED]

22

[REDACTED]

23

[REDACTED]

24

[REDACTED]

25

Mr Witness, is this based on information

[REDACTED]

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1 A. [10:15:51] Counsel, [REDACTED]

2 [REDACTED]

3 [REDACTED] However, [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 What I can say, I recognise the figures in here [REDACTED]

9 [REDACTED]

10 Q. [10:17:09] Now, Mr Witness, this report states that:

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 PRESIDING JUDGE MINDUA: [10:17:51](Interpretation) Ms Taylor, can we move
18 into public session?

19 MS TAYLOR: [10:17:58] [REDACTED]

20 [REDACTED] I can move into public session soon, but for this discrete question I
21 think it's best to stay in private session.

22 PRESIDING JUDGE MINDUA: [10:18:13](Interpretation) Very well.

23 THE WITNESS: [10:18:20](Interpretation) Thank you, counsel.

24 To reply to your question, I would say that [REDACTED] we had

25 encountered some victims whom we believed to be false victims, simply because we

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1 found in the notes and we said to the victims that we couldn't note their references
2 because we found inconsistencies between what they were saying and the reality.
3 Some victims had problems at the time in giving descriptions of the act and, on
4 the basis of the inconsistencies in these stories, we were able to say that these were
5 false victims. That I maintain.

6 MS TAYLOR:

7 Q. [10:19:33] And did some victims give influenced responses?

8 A. [10:19:51] Influenced, well, I would say not, because part of the -- part of the
9 project -- the meetings were individual and so there was not any influence there, not
10 even in the way things were put.

11 MS TAYLOR: [10:20:12] We can go into public session.

12 PRESIDING JUDGE MINDUA: [10:20:18](Interpretation) Very good. Court officer,
13 public session, please.

14 (Open session at 10.20 a.m.)

15 THE COURT OFFICER: [10:20:32] We are back in open session, Mr President.

16 PRESIDING JUDGE MINDUA: [10:20:37](Interpretation) Thank you very much.

17 Ms Taylor.

18 MS TAYLOR: [10:20:40]

19 Q. [10:20:41] Mr Witness, before conducting interviews, did your NGO convene
20 preparatory and psychosocial sessions with victims before the interviews?

21 A. [10:21:10] Thank you, counsel. During the group sessions in project A - and I
22 repeat that - we described our methodology and our mechanisms for accessing
23 information, saying that our aim was to take statements from people on the basis of
24 facts.

25 In the case of project B there were not such group sessions, such psychosocial sessions,

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1 it was on the basis of individual interviews. But in our introduction we would
2 explain to the victim that we wanted to have reliable information that -- information
3 that we would have time to verify in the field, to check whether they were relevant,
4 and that -- and so for these informations it was on that description that we looked at
5 the facts, the authors, the period and the consequences. That was the basis of the
6 information we were collecting.

7 Q. [10:22:42] If we could bring up page 7056 on your screen. This is following on
8 from what I read before:

9 "In addition to the documentation," - that organisation that we're referring to - "held
10 four psychosocial sessions with victims of violence to breakdown taboos.

11 The breakdown of taboos is essential for victims to move forward as victims often
12 face two layers of trauma, the first being the violence against them and the second
13 being the discrimination they face in their communities as a result of this violence.

14 Through these sessions, [your organisation] anticipates that communities will better
15 understand the victim experience, which will help to combat existing social taboos.

16 Prior to each session, [your organisation] held a pre-session with participating victims
17 in order to evaluate the victim's readiness to participate and prepare them for
18 the session. The first two sessions were held in Timbuktu: the first had 37

19 participants (35 women and two men) and the second had 55 participants (51 women
20 and four men). Meanwhile, 18 of the participants were not victims but the parents of
21 victims. The sessions allowed victims to speak openly about their experiences and
22 learn from others who had similar traumas."

23 Mr Witness, does this refresh your memory? Do you recall there being these
24 sessions in 2015 in Timbuktu?

25 A. [10:24:43] Thank you, Counsel. I recall these sessions. But these were not

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1 a part of project B, which is why I was saying that if I had been involved in
2 the drafting in this report, I would have put this part in parentheses and said this
3 related to project A and project B, there are activities from project A that are in this.
4 That's what I'd like to say straightaway.

5 Q. [10:25:22] Would it be fair to characterise this then as project C, it was
6 a preparation for participating in court proceedings?

7 A. [10:25:44] Yes, because following project B -- A was at the beginning and after
8 project B, there was a project C to continue the activities not concluded by project B.
9 And in that context, we needed to bring together the people we had spoken to, to say
10 that following the interviews this is what is going to happen and these are
11 the perspectives for the future, how we're going to talk to these people so that they
12 can be psychologically prepared on how to reply. That is what was happened in a
13 public session, so with the groups of victims' group sessions in Timbuktu. That I
14 recognise.

15 Q. [10:26:55]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED] At the dialogue, the notion of human rights was
20 introduced, and as part of that, a victim's right to justice. [The organisation]
21 focused ... their presentation around the rights of women and the legal framework
22 around protecting women. The participants reported appreciating an open space for
23 dialogue on how the crisis has affected their communities and to ask questions, as
24 well as the documents provided to them by [your organisation] on the various human
25 rights laws and conventions. They also reported feeling a heightened sense of

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1 solidarity with the mayor's office, knowing that by endorsing the event, authorities
2 were aware of their situation and in favour of justice for victims.

3 [REDACTED] [the organisation] [REDACTED]
4 [REDACTED]
5 [REDACTED] [The organisation] held these sessions in order
6 to systematise follow-up with victims after their interviews and at these sessions,
7 [the NGO] staff reviewed many of the elements included in previous gatherings (e.g.
8 description of basic human rights concepts, mechanisms for protection, legal
9 framework for human rights protection in Mali, ...) but also focused more on building
10 cohesion amongst victims."

11 Mr Witness, are you familiar with these two meetings [REDACTED]

12 [REDACTED]?

13 A. [10:29:35] Yes, counsel. But I would like to make it clear yet again that if I had
14 been present when this report was drafted, I would have emphasised the fact that
15 these activities were part of project C. In fact, project B had as an aim to do -- to
16 carry out monitoring and documentation, but not to be part of project C, which was
17 a project devoted to guiding people through the legal process and offering legal
18 assistance. Again, if I had been part of the drafting of this report, I would have
19 asked for this clarification and to ensure that there be no confusion between
20 the different projects, project B and project C.

21 Q. [10:30:43] So is it correct that as part of project C victims attended a meeting
22 with community leaders where they were told that the mayor of Timbuktu endorsed
23 that specific project?

24 A. [10:31:14] Yes, but without it being made clear that these were victims identified
25 as part of project B. The three sessions of the meeting at the town hall were

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1 organised with community leaders and the women's' network for peace and cohesion
2 and the parents of the victims. Some of the victims were indeed present.

3 Q. [10:31:51] Is it correct that as part of project C, [REDACTED]
4 [REDACTED]? It was a training session for victims to
5 prepare them for court proceedings and to focus on building cohesion.

6 A. [10:32:28] I do recall that this training session took place in a hall at the mayor's
7 office in Timbuktu. I do recall that clearly.

8 Q. [10:32:47] (Overlapping speakers) back to project A and B, were all the project A
9 rape cases from Timbuktu included in project B?

10 A. [10:33:11] No, not all rape cases were recorded only in Timbuktu. We recorded
11 one case in Douentza and another in Diabaly. And though the rape took place in
12 Timbuktu, the person was met and interviewed in Diabaly. And then, under
13 project A, there was a third case also recorded in Gao.

14 Q. [10:33:48] Mr Witness, I apologise, I don't think my question was clear. During
15 project A you collected files concerning rape cases in Timbuktu. Were those
16 files -- were all of those files concerning rape cases in Timbuktu then included in
17 project B?

18 A. [10:34:28] No. But if you are referring to cases of rape that were identified in
19 Timbuktu under project A, yes, indeed those cases were included in project B. I can
20 confirm that.

21 Q. [10:34:49] And it's correct that none of the project A rape cases identified
22 perpetrators or armed -- or the specific group responsible?

23 A. [10:35:19] No, that part of the questions did not appear in the project A form,
24 but rather in project B.

25 Q. [10:35:32] Now going back to the victim of sexual slavery that you met in

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1 Bamako, it's correct that she was included in the November 2014 complaint that was
2 filed in Bamako?

3 A. [10:36:04] Counsel, I'm not able to answer that question because I wasn't
4 involved at that level where complaints were filed and transmitted.

5 Q. [10:36:18] Now, for the project A rape cases, it would be correct that to include
6 them in project B it would be necessary to add details concerning the armed group
7 responsible?

8 A. [10:36:44] Yes, absolutely, Counsel.

9 Q. [10:36:47] And you were the person responsible for that?

10 A. [10:37:00] Yes, Counsel.

11 Q. [10:37:03] Now, in the context of project A and B, dealing just with Timbuktu,
12 did you meet 11 rape and attempted rape victims in total?

13 A. [10:37:26] Yes, Counsel, as you can see in the report.

14 Q. [10:37:30] And is it correct that of those 11 you received the names of seven from
15 another victim?

16 A. [10:38:00] I am not in a position to confirm that.

17 Q. [10:38:06] Is that because you don't remember or it's not correct?

18 A. [10:38:25] That victims gave us the names of other victims of rape, or is it that
19 these cases of victims were mentioned during investigations?

20 Q. [10:38:42] My question was: Did one of the victims that you met who was
21 recorded as a rape victim give you the names of seven other rape victims who were
22 detained at the same time as her?

23 A. [10:39:08] I remember that during the interviews some victims told us and
24 asserted that all the women who spent between three to seven days there had
25 probably been raped, and it is only after meetings that we were able to identify

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1 the specific cases of rape. But to say that a victim gave us the names of other rape
2 victims, I do not agree with that.

3 Q. [10:39:56] Mr Witness, if I could read a paragraph from your statement. It's
4 OTP tab 1, MLI-OTP-0046-8685-R02. It's at 8685 (sic), it's paragraph 73:

5 "I asked this woman if she could give me a list of girls who had been raped, and she
6 said that only those, like her, who had been in prison, really knew who else had been
7 raped. She gave me the names of about seven other girls who had been raped in
8 the prison and who had been detained at the same time as her. She said that there
9 were others who had been raped in prison but who had left Tombouctou out of
10 shame. And this is why the proportion of 7 cases of rape among 182 in total is small,
11 but it is better to count only the accounts that were confirmed."

12 Mr Witness, is it correct that the woman you interviewed as a rape victim gave you
13 a list? That you asked her for more names and that she gave you a list of seven other
14 names of rape victims?

15 A. [10:41:39] Well, Counsel, thank you very much. I do remember that I am under
16 oath, but I cannot say this. It is unacceptable that you proceed to identify victims on
17 the basis of naming by -- by someone else. That did not happen in Timbuktu. Now,
18 to say that a woman gave us a list of seven other victims of rape, no, it never
19 happened.

20 Q. [10:42:18] Now, considering this first victim, is it correct that when she was
21 initially interviewed she did not describe herself as a rape victim, and it was only
22 afterwards --

23 PRESIDING JUDGE MINDUA: [10:42:40](Interpretation) Madam Prosecutor,
24 please.

25 MS YAMAGUCHI: [10:42:42] Thank you, Mr President.

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1 Paragraph 73, which the Defence has just read, does not explain exactly which victim
2 of rape is in question here. The details of this victim is explained in paragraph 72.
3 For the fairness to the witness, we suggest that the Defence reads that paragraph as
4 well.

5 PRESIDING JUDGE MINDUA: [10:43:17](Interpretation) Ms Taylor, please.

6 MS TAYLOR: [10:43:19] I'm aware that the witness is online, but it was actually my
7 intention, in accordance with the decision on the conduct of proceedings, to ask an
8 open question first linked to paragraph 72, and then only depending on the witness's
9 answer would I read out paragraph 72. I understood that it was better to first ask
10 him openly what he remembers rather than going first to reading out the paragraph.

11 PRESIDING JUDGE MINDUA: [10:43:52](Interpretation) Ms Taylor, please proceed.
12 Rather, Prosecutor, please.

13 MS YAMAGUCHI: [10:43:58] The Defence's question related to one particular rape
14 victim. However, unless it is specified which victim the Defence is asking about,
15 I believe it is impossible for the witness to answer any question about this rape -- this
16 victim. It is confusing.

17 PRESIDING JUDGE MINDUA: [10:44:28](Interpretation) Very well.

18 Ms Taylor, please could you put your question again to the witness by specifying
19 who you're referring to.

20 MS TAYLOR: [10:44:41] Certainly, Mr President.

21 Q. [10:44:43] Mr Witness, do you recall a woman about 30 years old who initially
22 only claimed to be imprisoned, and her fiche only recorded that, and then it was later
23 that you updated her form because she told you she had been raped?

24 A. [10:45:12] Yes, I remember, counsel.

25 Q. [10:45:16] And is it correct that no one was present when she said that to you?

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1 A. [10:45:28] Yes, no one else was present.

2 Q. [10:45:33] Now, yesterday in transcript 67, page 59, you stated: We knew that
3 the person had been in the women's prison and we knew that she'd been subjected to
4 an attempted rape or something like that.

5 Now I'm not referring specifically necessarily to this victim, but my question is,
6 Mr Witness, for you, if a woman was taken to a certain prison, is it correct that you
7 thought that it was -- she was probably raped there?

8 A. [10:46:14] Thank you, Counsel. It was not for us to think. What we did was
9 to listen, to hear the victim. But in this specific case, instead of mentioning names,
10 this lady said that any woman who had been in the prison for about seven days or
11 more than seven days was probably raped. So that was something that was said by
12 somebody whom we interviewed.

13 Q. [10:46:50] Now I'm going to bring up a report that was shown to you yesterday
14 by the Prosecution. It's a January 2016 report, it's [REDACTED] and
15 they showed you a particular summary on this page.

16 Is page [REDACTED] up? This refers to 11 cases of rape or attempted rape.

17 Now, it's correct, isn't it, that this doesn't break it down as concerns where people
18 were raped? It gives a global number -- is it correct, Mr Witness, it gives a global
19 number?

20 A. [10:48:23] Are you referring to the 11 cases mentioned in the table?

21 Q. [10:48:31] Yes, Mr Witness.

22 A. [10:48:33] All right, I can confirm that.

23 Q. [10:48:39] Now, Mr Witness, is it correct that only one woman claimed to have
24 been raped while imprisoned by the Islamic police?

25 A. [10:49:08] Based on what we heard and what we jotted down in the notebooks,

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1 and ultimately in the forms or fiche, we specifically had three cases of rape within
2 the prison or at the base -- or, rather, within the prison.

3 Now, when it comes to the base, there were two other recorded cases, one of rape and
4 one of attempted rape. And that gives you a total of five out of 11. And I think
5 the forms or the fiche can be looked up to determine the exact description of the facts.

6 Q. [10:50:10] Unfortunately we don't have the fiche.

7 But if I could bring up Defence tab 2, that's MLI-D28-0004-7042. If we could turn to
8 page 7063.

9 Now, earlier you stated that this parent organisation had your results, and footnote 7
10 says: "There are 36 cases of women being imprisoned by the Islamic police that have
11 been identified, one of which alleges rape during imprisonment."

12 Is this figure correct?

13 A. [10:51:10] Are you referring to project A or project B?

14 Q. [10:51:14] Project B. And just to recall, this is the April 2016 report which
15 followed the submission of your organisation's report.

16 A. [10:51:45] Counsel, I have said already that it is only this morning that I am
17 discovering the 2016 report, and I'm surprised that in what you have read out I do not
18 see any consistency with the data contained in the report submitted in January. It
19 would appear that the April 2016 report does not take into account the 11 cases of
20 rape.

21 Well, we might not be PhD holders to know exactly how many rapes occurred at the
22 prison or at the base, but what I'm saying is that if I had been present when the 2016,
23 April report was being drafted, I would have clarified things.

24 Now, it is not correct to say that only one woman declared that she had been raped
25 while in prison. That is the clarification I would like to make.

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1 PRESIDING JUDGE MINDUA: [10:53:02](Interpretation) Counsel, I think
2 the witness is consistent. In his answer he says he did not participate in the drafting
3 of this report, and that if he had seen the report he would have brought several
4 corrections to it. That's my first point to you, counsel.

5 Secondly, I want to point out to you that you have only five more minutes, in
6 principle.

7 MS TAYLOR: [10:53:26] Thank you, Mr President. But if I could just specify,
8 because I think there may have been a confusion with the witness, I'm not asking him
9 to verify the accuracy of the report, I'm refreshing his memory. So I think it's
10 important for the witness, to be clear and to give him a chance, for me to rephrase
11 the question.

12 Mr -- because there was an element that he did not respond to.

13 PRESIDING JUDGE MINDUA: [10:53:59](Interpretation) Madam Prosecutor,
14 please.

15 MS YAMAGUCHI: [10:54:03] Thank you, Mr President.

16 As the witness has repeatedly mentioned, that he was not involved in the drafting of
17 this report. And while he did mention that the files or the information he collected
18 in the context of project B was transferred to this donor organisation, this particular
19 passage in footnote 7 was drafted by someone else on the basis of the analysis of that
20 information. He would not be -- this is not the instance of refreshing his memory,
21 since he was not involved in this particular -- the drafting of this particular passage.

22 PRESIDING JUDGE MINDUA: [10:54:47](Interpretation) Yes, Ms Taylor.

23 MS TAYLOR: [10:54:48] If I can respond just briefly. I'm not asking to refresh his
24 memory by the report. We don't have access to his database, so I'm seeking clarity
25 as to a specific statistic, that's all. I don't even need to refer to the report.

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1 PRESIDING JUDGE MINDUA: [10:55:09](Interpretation) Yes, we have understood
2 you. You need clarification from the witness, that's clear.

3 Prosecutor.

4 MR DUTERTRE: [10:55:16](Interpretation) Thank you. The question was put to
5 the witness, he has said what he had to say on this question and I think there is no
6 need for further clarification.

7 PRESIDING JUDGE MINDUA: [10:55:30](Interpretation) Mr Prosecutor, I am in
8 agreement with you in principle, but Ms Taylor has pointed out that she is seeking
9 clarification, and, therefore, I give her the floor to seek that clarification on that
10 specific point.

11 MS TAYLOR: [10:55:44] Thank you, Mr President. I'll be very specific about this.

12 Q. [10:55:49] Mr Witness, is it correct that only one woman was identified who
13 stated that she was imprisoned by the Islamic police and raped? So there's two
14 elements here, raped while imprisoned and specifically identifying the Islamic police.

15 A. [10:56:36] I said yes, Counsel, but not just one woman.

16 Q. [10:56:42] Mr Witness, did this incident involve Amadou Mossa?

17 A. [10:57:03] This witness did not mention the name of Amadou Mossa in her
18 statement. I do recall that clearly.

19 Q. [10:57:17] Now, of the seven cases of forced marriage documented by your
20 organisation, is it correct that two were cases of early marriage and four cases
21 you believed there was consent?

22 MR DUTERTRE: [10:57:44] (No interpretation)

23 PRESIDING JUDGE MINDUA: [10:57:46](Interpretation) Mr Prosecutor.

24 MR DUTERTRE: [10:57:48](Interpretation) This is a very complex question. Can
25 counsel break it down so that the witness knows which part of the question to answer.

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1 Thank you.

2 PRESIDING JUDGE MINDUA: [10:57:59](Interpretation) Ms Taylor, please could
3 you break down your question. We should avoid very complex questions of this
4 nature. Please proceed step by step.

5 MS TAYLOR: [10:58:11]

6 Q. [10:58:12] Now, Mr Witness, is it correct that you documented seven cases of
7 forced marriage?

8 A. [10:58:22] That is correct, counsel.

9 Q. [10:58:25] And is it correct that of these seven cases two were what you termed
10 "early marriages"?

11 A. [10:58:41] That is correct. You see, the girls were not up to 18 years old yet.

12 Q. [10:58:52] And in four of these cases did you yourself believe that there was
13 consent?

14 A. [10:59:06] Yes, counsel.

15 Q. [10:59:10] Is it correct that in project B you received no allegations concerning
16 the presence or use of children as soldiers in Timbuktu?

17 A. [10:59:33] Never, Counsel.

18 Q. [10:59:39] Mr Witness, going back to the documents that you gave to the -- sorry,
19 going back to your meeting with the Prosecution - and these are my final two
20 questions - we've been informed by the Prosecution that you did not transmit a list of
21 names. Now, did that -- was the list not transmitted because the Prosecution did not
22 request it or because there were reasons not to transmit it?

23 A. [11:00:26] Thank you, Counsel. Are we -- since we are working under
24 confidential conditions, I think that in the first sessions in April and September which
25 we had before the investigations proper began, we had no mandate to hand over any

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1 lists to the OTP of persons who had been interviewed in relation to these violations.

2 Q. [11:01:11] Now, Mr Witness, you've referred repeatedly to the files you collected
3 in project B. Would you be willing to provide them to the Defence?

4 A. [11:01:32] Thank you, Counsel. Those documents belong to the organisation
5 for which we worked. Once again, let me repeat that these documents are no longer
6 available to me. So, if you need to have access to these documents today, you would
7 need to refer yourself to the organisation, which will then decide whether or not to
8 make the said documents available to the Court.

9 MS TAYLOR: [11:02:05] Thank you. I have no further questions.

10 PRESIDING JUDGE MINDUA: [11:02:13](Interpretation) Thank you very much,
11 Ms Taylor. We acknowledge the fact that you respected the time allotted to you.
12 And I now turn to the Office of the Prosecutor for any further examination.

13 MS YAMAGUCHI: [11:02:34] Thank you, Mr President, your Honours. Indeed
14 there is just one issue which we would like to seek your permission to re-examine this
15 witness, and this relates to a point which came up during, first, yesterday during
16 cross-examination and just now by the Defence, namely whether or not the witness
17 gave to the OTP any of the material he had brought to his interview in 2017.

18 (Counsel confer)

19 MS YAMAGUCHI: [11:03:10] Excuse me. And one additional point regarding
20 the issue of consent in relation to forced marriage cases, which was also brought up
21 this morning.

22 PRESIDING JUDGE MINDUA: [11:03:30](Interpretation) Very well.
23 How much time do you think you will require for this?

24 MS YAMAGUCHI: [11:03:35] I believe we will not require any more than
25 10 minutes.

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1 PRESIDING JUDGE MINDUA: [11:03:49](Interpretation) Very well. In that case
2 we will grant you the 10 minutes - after the break we will continue with the 25th
3 witness - so please ask your questions.

4 MS YAMAGUCHI: [11:04:08] Thank you very much, Mr President.

5 Now, I will start first with the issue of the transmission -- well, the material
6 the witness brought to the interview with OTP investigators in 2017.

7 Now, with respect to whether any of the material was transmitted to the OTP, there
8 seems to be some discrepancy between the French and English transcripts on this
9 issue.

10 Now, yesterday when this issue first came up, the Defence read out paragraph 55 and
11 56 of his statement. I then requested that, for the fairness to the witness, another
12 relevant paragraph, paragraph 62 be read out to him. And I'm referring to transcript
13 67, page 71, lines 6 to 12. But this particular paragraph, paragraph 60, was not read
14 out by the Defence. The two other paragraphs she read out, paragraphs 63 and 64,
15 relate to a database and the provision of the files he collected to his colleague when he
16 was leaving the organisation, not to the OTP.

17 MS TAYLOR: [11:05:31] Mr President --

18 PRESIDING JUDGE MINDUA: [11:05:34](Interpretation) Ms Taylor.

19 MS TAYLOR: [11:05:35] I apologise for interrupting, but perhaps we should be
20 cutting off the sound to the witness because counsel is effectively testifying. So I'm
21 not sure if this is argument or a question at the moment.

22 PRESIDING JUDGE MINDUA: [11:06:03](Interpretation) This was a rather long
23 intervention, Madam Prosecutor. What is your concern here?

24 MS YAMAGUCHI: [11:06:10] (Overlapping speakers) Yes, I would just like to seek
25 the Chamber's guidance in how to get clarity, because there are two approaches in

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1 how to get clarity on this issue. One approach would be to simply receive
2 the Chamber's authorisation to read out paragraph 60 -- 62 to the witness, because
3 that is to the point. I can also ask a series of open questions in order to clarify
4 the same issue, but I'm afraid that is going to be less efficient.

5 PRESIDING JUDGE MINDUA: [11:06:50](Interpretation) Ms Taylor, what is your
6 response? The Prosecution suggests reading out the paragraph in question.

7 MS TAYLOR: [11:07:02] (Microphone not activated) Sorry. Firstly, could the sound
8 be cut to the witness.

9 PRESIDING JUDGE MINDUA: [11:07:14](Interpretation) Court officer, please could
10 you cut the link to the witness.

11 THE COURT OFFICER: [11:07:30] Mr President, the sound has been cut out.

12 PRESIDING JUDGE MINDUA: [11:07:35](Interpretation) Thank you very much.
13 Ms Taylor.

14 MS TAYLOR: [11:07:39] Firstly, I'm not sure how this fits within the scope of
15 re-examination. The Defence asked questions openly to the witness on this question
16 and then referred specifically to a data -- a *banc de données*.

17 Now, this other issue appears not to be that profound or pressing. But, in any case, I
18 would suggest that the decision on the conduct of proceedings is clear during
19 examination-in-chief, that one cannot read out a witness statement to a witness
20 without firstly identifying where there's a basis to do so. That can only occur in two
21 situations, the first if the witness cannot remember, in which case it would be
22 necessary to establish this is a more contemporaneous document and use it to refresh
23 their memory. The second scenario is if you're using it after having declared
24 the witness hostile. These are the only two circumstances that exist with respect to
25 examination-in-chief.

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1 So the Prosecutor does have to actually ask open questions, and it's only if the witness
2 cannot remember that there is a basis to read them their statement.

3 PRESIDING JUDGE MINDUA: [11:08:59](Interpretation) Counsel, you haven't
4 answered the Prosecution question, because there were two paragraphs, you read
5 the first, and the Prosecution was asking you to read the second paragraph for
6 reasons of fairness. I'm going to authorise the reading of the second paragraph so
7 that we can proceed.

8 Madam Prosecutor, please read the paragraph and then you can ask your questions.
9 Let us first re-establish the connection to the witness -- Ms Taylor.

10 MS TAYLOR: [11:09:33] (Overlapping speakers) I'm a bit confused, are you -- was
11 the purpose for the Defence to read the paragraph, in which case it should be
12 the Defence to ask the questions? I don't understand how the Prosecution can read
13 a paragraph without actually following the decision on the conduct of proceedings.
14 I mean, if their point is that I should have read the paragraph, then they're seeking to
15 re-open cross-examination.

16 PRESIDING JUDGE MINDUA: [11:09:56](Interpretation) No, your
17 cross-examination has finished. You should have read the paragraph relating to this
18 paragraph. And now for further questions the Prosecution would like to read that
19 paragraph because that's linked, that's the hypothesis of the Prosecution. So we
20 were going to re-establish sound and the Prosecution will proceed as outlined. Then
21 you may ask questions, if necessary.

22 Courtroom officer, please could you please re-establish the link.

23 THE COURT OFFICER: [11:10:47] Mr President, the sound has been enabled.

24 PRESIDING JUDGE MINDUA: [11:10:52](Interpretation) Thank you.

25 Madam Prosecutor, please go ahead.

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1 MS YAMAGUCHI: (Overlapping speakers) Thank you very much, Mr President.

2 QUESTIONED BY MS YAMAGUCHI:

3 Q. [11:11:03] Mr Witness, I would just like to ask a few questions regarding

4 the material you had brought to the interview with OTP investigators in 2017. And

5 I'm going to read out one paragraph from your statement, paragraph 62. And that is

6 tab 1 in your binder. The ERN is MLI-OTP-0046-8685-R02. Please turn to page 8699,

7 and I read the paragraph:

8 "All the material I have used during this interview, and which I obtained when I was

9 in Tombouctou belongs to [the organisation] because I was in Tombouctou as

10 [the organisation's] staff. All of the files I showed the investigators remain

11 the property of [the organisation]. I informed the investigators that in my opinion if

12 they request them and [the organisation] gives its authorisation, all of these

13 documents could be shared."

14 Mr Witness, does this refresh your memory?

15 A. [11:13:03] Yes, indeed, Madam Prosecutor. I remain convinced that I am

16 maintaining the correct position.

17 Q. [11:13:19] Just for the record, do you recall if you handed over to

18 the investigators any of the material you had brought to the interview?

19 A. [11:13:42] Thank you, Madam Prosecutor. With the authorisation of the head

20 of the executive director of the organisation I was able to present during

21 the investigations the documents which were likely to help the procedure. And I can

22 say also that certain images, the first list of people [REDACTED] and the other list

23 [REDACTED], but also -- but not as victims, because at that point

24 the identification and monitoring had not started. The other documents submitted

25 for the investigation were the forms as set out in the document. Those were

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1 the documents that I made available for the investigations.

2 Q. [11:15:15] You mentioned that you were able to present the material. Do you
3 mean you showed the material to investigators during the -- during your interview?

4 A. [11:15:38] Yes.

5 Q. [11:15:42] Did you hand it over -- sorry. Did you hand over the material to
6 investigators for them to keep and bring to the headquarters?

7 A. [11:16:03] These were forms, forms relating to our investigations as part of
8 project A, but not those relating to project B. And then there was a single sheet
9 bearing the list of the focus groups met during the beginning of the work on
10 the project. I don't believe I gave them other material, because there was in fact
11 nothing other than these forms.

12 Q. [11:17:07] Just for the clarity of the record, so you mentioned forms relating to
13 project A and a single sheet bearing the list of the focus groups met during
14 the beginning of the work on the project. Did you give those documents to the OTP
15 investigators for them to keep?

16 A. [11:17:55] I recall having given the sheets for purposes of clarification for them
17 to keep.

18 Q. [11:18:17] Thank you, Mr Witness. I would like to move on to my second
19 question, relating to forced marriages.

20 Now, the Defence counsel asked you in relation to four cases documented in your
21 project B whether you yourself considered that there had been consent. Could you
22 please briefly describe what was your organisation's opinion about consent in relation
23 to forced marriages occurring during the period of the occupation of the city by
24 armed groups.

25 A. [11:19:15] Thank you, Madam Prosecutor. I think that we as an organisation

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1 were basing ourselves on a certain number of principles to defend women's rights.
2 We said to ourselves that if there is a marriage where the woman has not reached
3 the age of maturity, there would need to be written consent. And, unfortunately,
4 these marriages were -- took place under influence and, despite the acceptance by
5 the woman or the girl, we felt that it was necessary to classify them as forced
6 marriages, because the people had stated that they were not in agreement with this
7 form of marriage because they were going to be married to people -- to people who
8 are carrying weapons for whom they had, they had no intention. That's why we put
9 these four cases in the category of forced marriage.

10 Q. [11:20:57] Thank you very much, Mr Witness. I have no further questions.

11 PRESIDING JUDGE MINDUA: [11:21:06](Interpretation) Thank you, Madam
12 Prosecutor.

13 I see that Ms Taylor is looking at me. What is occurring?

14 MS TAYLOR: [11:21:16] Thank you, Mr President. We do have a right to respond
15 to the Prosecution, but bearing in mind it's 20 past, I would ask that we have a brief
16 break before doing so, since we've already exceeded the break time.

17 PRESIDING JUDGE MINDUA: [11:21:35](Interpretation) Indeed, Ms Taylor. How
18 much time will you need to reply to the additional questions, nothing further?

19 MS TAYLOR: [11:21:47] Mr President, we've sat longer than an hour and a half,
20 we've sat almost two hours, so what I'm asking is to have a brief break so I can go to
21 the bathroom and then ask, I would say, a limited amount of three questions.

22 PRESIDING JUDGE MINDUA: [11:22:15](Interpretation) Perhaps we could have
23 a five-minute break. In that case, let us suspend the hearing for five minutes.

24 THE COURT USHER: [11:22:29] All rise.

25 (Recess taken at 11.22 a.m.)

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1 (Upon resuming in open session at 11.29 a.m.)

2 THE COURT USHER: [11:29:06] All rise.

3 Please be seated.

4 PRESIDING JUDGE MINDUA: [11:29:26](Interpretation) Sitting resumes.

5 Ms Taylor, you have five minutes to respond to the further examination by
6 the Prosecutor.

7 QUESTIONED BY MS TAYLOR:

8 Q. [11:29:45] Mr Witness, now, of these seven cases referred to by the Prosecution,
9 were these also cases of abandoned -- what you described as abandoned families?

10 A. [11:30:13] Can I take a look at the table? Counsel, I just need to look at the table.
11 I need one minute to locate the table.

12 Q. [11:30:25] Which table are you referring to, Mr Witness?

13 A. [11:30:31] The table classifying the various types.

14 Q. [11:30:36] I'm happy to do so, Mr Witness.

15 If I may have an additional couple of minutes, as I had not included this in my plan?

16 PRESIDING JUDGE MINDUA: [11:30:51](Interpretation) Could you please provide
17 the reference to the Registry, it might go faster.

18 MS TAYLOR: [11:30:57] Yes, Mr President. May I have an additional couple of
19 minutes?

20 PRESIDING JUDGE MINDUA: [11:31:06](Interpretation) I did not understand you.

21 MS TAYLOR: [11:31:08] The witness has asked to refresh his memory by looking at
22 the graph. May I have an additional couple of minutes to allow the witness to
23 refresh his memory?

24 PRESIDING JUDGE MINDUA: [11:31:24](Interpretation) Ms Taylor, please proceed.

25 MS TAYLOR: [11:31:35]

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1 Q. I believe it's [REDACTED] It's tab 3 on the Prosecution's list and it's
2 page [REDACTED] I guess, if that's the graph you're referring to.

3 A. [11:32:18] Yes, counsel.

4 Q. [11:32:27] So is it correct that this figure of seven cases of forced marriage
5 includes the women who were categorised as having abandoned families?

6 A. [11:32:55] I believe that in my statement I indicated that, out of the five initially
7 abandoned, two belonged to the category of forced marriages, forced and early
8 marriages.

9 Q. [11:33:18] Did the category of forced marriages include the woman who had
10 a child who was in the second year of school?

11 PRESIDING JUDGE MINDUA: [11:33:36](Interpretation) Prosecutor, please.

12 MR DUTERTRE: [11:33:38](Interpretation) Mr President, I don't see the link between
13 these questions and the re-examination by Prosecution. The Defence is re-opening
14 cross-examination without linking them to the re-examination questions that we put.

15 PRESIDING JUDGE MINDUA: [11:33:57](Interpretation) Ms Taylor, we agree with
16 the Prosecutor. Please establish a link between your questions and
17 the re-examination and you should be done in five minutes.

18 MS TAYLOR: [11:34:10]

19 Q. [11:34:10] Mr Witness, you stated that it was your organisation that described
20 these marriages as forced marriage, not you. Is it the case that your organisation did
21 so after a discussion with partners as to how they should classify the cases?

22 A. [11:34:40] Thank you, Counsel. The organisation classified early marriages, not
23 forced marriages. When it came to forced marriages, it is the persons who were
24 interviewed who themselves declared that they had been forced into marriage
25 without their consent, rather, under pressure. So the organisation categorised cases

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1 of women who did not have the requisite maturity or civil status, age, to the married
2 and those were classified as early marriages, to be specific.

3 Q. [11:35:27] Mr Witness, if I can read a paragraph from your statement,
4 MLI-OTP-0046-8685 at 8705. It's paragraph 84 and it states:

5 "If we take into consideration forced marriages, early marriage, and consented
6 marriage, we have in total 7 cases. [REDACTED]

7 [REDACTED] was arguing that even
8 the cases where, in my view, there was 'consent', were in fact cases of forced marriage
9 because women did not give their real consent since it was a context of occupation. I
10 did not have the same understanding, but in the end, we included all these cases - of
11 forced marriage, of marriage with consent but with abandonment, and of early
12 marriage - under one category of forced marriage. In any case, both in cases of
13 forced marriages and those where, in my view, there was consent, the woman stayed
14 in her house and the Islamists came to her house at night."

15 Mr Witness, is this what you told the Prosecution?

16 A. [11:36:47] Yes, but that is an overview. But your question was specific and
17 precise as to the distinction between cases of forced marriages within the context of
18 abandoned families. So I don't see the link between two.

19 Q. [11:37:13] Just to be clear for the record, Mr Witness, do you confirm that this is
20 what you told the Prosecution?

21 A. [11:37:30] Thank you, counsel. When it comes to an overall assessment of the
22 two areas, forced marriages, early marriages and abandoned families, yes.

23 Q. [11:37:44] And is it correct as concerns cases where there were consent,
24 the position of your organisation was that there was no consent because it occurred in
25 the context of an occupation?

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1 A. [11:38:15] The position of the organisation was -- is that, in the context of
2 occupation there was pressure from the weapons, since the armed groups were
3 dominating. And even in specific cases of consent and marriage, it was necessary to
4 verify at the source whether there was effective consent. So what we did on
5 the forms is that we simply recorded what was narrated to us by the people we
6 interviewed. But the interpretation of organisations that wanted to defend the rights
7 of women felt that, since it was a time of occupation with arms and pressure on
8 people, it was not possible to talk about consent. That is what I have to say.

9 Q. [11:39:11] And did your organisation give financial assistance to any children
10 produced from these marriages?

11 PRESIDING JUDGE MINDUA: [11:39:24](Interpretation) Ms Taylor, that question
12 did not flow from the re-examination, so your time is up, in any event. Please
13 conclude.

14 MS TAYLOR: [11:39:38] Thank you, Mr Witness.

15 PRESIDING JUDGE MINDUA: [11:39:44](Interpretation) Thank you, Ms Taylor, for
16 your cooperation.

17 Mr Witness, we have now finally come to the end of your testimony. The Chamber
18 once again would like to thank you for helping it by providing very clear answers to
19 the questions that were put to you. I would like to add that we do not only thank
20 you as a Chamber, but we also want to congratulate you for your mastery of the files,
21 or the case, and for the care offered in your cooperation, either during
22 examination-in-chief or in cross-examination, without forgetting the questions from
23 the Legal Representative of Victims.

24 Now that we have come to the end of your testimony, once again I thank you and I
25 wish you good luck in your work.

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1 THE WITNESS: [11:40:54](Interpretation) Thank you, Mr President. I thank all in
2 attendance. Thank you very much.

3 PRESIDING JUDGE MINDUA: [11:41:03](Interpretation) Thank you.

4 Now, to parties and participants, it is 11.40. We shall break for 30 minutes and
5 reconvene at 10 after 12.

6 The hearing is suspended.

7 THE COURT USHER: [11:41:20] All rise.

8 (Recess taken at 11.41 a.m.)

9 (Upon resuming in open session at 12.22 p.m.)

10 THE COURT USHER: [12:22:39] All rise.

11 Please be seated.

12 PRESIDING JUDGE MINDUA: [12:23:16](Interpretation) The hearing has
13 recommenced.

14 Court officer, please call the case.

15 THE COURT OFFICER: [12:23:31] Thank you, Mr President, your Honours.

16 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
17 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.

18 And for the record, we are in open session.

19 PRESIDING JUDGE MINDUA: [12:23:53](Interpretation) Thank you very much,
20 court officer.

21 As we are about to start hearing a new witness, we will go through the appearances
22 again, starting with the Prosecution.

23 MS HUCK: [12:24:17](Interpretation) Good day, your Honours. Prosecution is
24 represented by Mr Gilles Dutertre and myself.

25 PRESIDING JUDGE MINDUA: [12:24:30](Interpretation) I now turn to the Defence.

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- 1 MS SUTHERLAND: [12:24:32] Good afternoon, Mr President, your Honours. The
2 Defence for Al Hassan is this afternoon represented by Ms Melinda Taylor,
3 Ms Sarah Marinier-Doucet, Ms Molly Thomas and myself, Kirsty Sutherland.
4 PRESIDING JUDGE MINDUA: [12:24:50](Interpretation) Thank you very much,
5 Ms Sutherland.
6 Legal Representatives of Victims, please.
7 MR LUVENGIKA: [12:24:57](Interpretation) Thank you for giving me the floor.
8 The victims are represented here by Claire Laplace and myself, Fidel Luvengika
9 Nsita.
10 PRESIDING JUDGE MINDUA: [12:25:14](Interpretation) Thank you, Mr Nsita.
11 I think I'm going to stop for a moment because I can't see the witness. Could
12 somebody please come and check my screen for me.
13 (Pause in proceedings)
14 PRESIDING JUDGE MINDUA: [12:26:08](Interpretation) A technician will be here
15 and this should be resolved very swiftly.
16 (Pause in proceedings)
17 PRESIDING JUDGE MINDUA: [12:28:04](Interpretation) Thank you very much to
18 the technician and to the Registry for this rapid assistance.
19 So I now address myself to the witness.
20 Good morning, Mr Witness. Can you hear me?
21 WITNESS: MLI-OTP-P-0984
22 (The witness speaks Songhai)
23 (The witness gives evidence via video link)
24 THE WITNESS: [12:28:26](Interpretation) Yes, I can hear you, I can hear you.
25 PRESIDING JUDGE MINDUA: [12:28:29](Interpretation) Thank you, Mr Witness.

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1 For the record, I will add that it's the 25th Prosecution witness, P-0954.

2 Mr Witness, on behalf of the Chamber may I welcome you here today. You are
3 going to testify in order to help the Chamber clarify their questions with regard to the
4 case against Mr Al Hassan.

5 Mr Witness, protective measures have been put in place so that your identity will not
6 be revealed to the public. Whenever you are asked to give details which might
7 reveal your identity, we will discuss these matters in private session. In that way
8 nobody outside this courtroom will be able to hear you.

9 Have you understood this?

10 THE WITNESS: [12:30:25](Interpretation) Yes, I have understood. Thank you.

11 PRESIDING JUDGE MINDUA: [12:30:33](Interpretation) I would now like to
12 proceed to your solemn declaration in accordance with Rule 66(1) of the Rules of
13 Procedure and Evidence.

14 Mr Witness, on your table I think you will find a sheet of white paper which is the
15 solemn declaration. Do you have it?

16 THE WITNESS: [12:31:18](Interpretation) Yes, it's here in front of me.

17 PRESIDING JUDGE MINDUA: [12:31:21](Interpretation) Very well. This is the
18 solemn declaration by which you swear to tell the truth, the whole truth and nothing
19 but the truth. Please would you read this for us.

20 Madam Prosecutor.

21 THE WITNESS: [12:32:02](Interpretation) The paper is in front of me. I will speak
22 the truth and nothing but the truth.

23 PRESIDING JUDGE MINDUA: [12:32:08](Interpretation) Madam Prosecutor.

24 MS HUCK: [12:32:13](Interpretation) I was waiting for the translation and the
25 interpretation, but I had wanted to point out that the witness has help with reading

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1 and I wanted this to be noted.

2 PRESIDING JUDGE MINDUA: [12:32:28](Interpretation) Thank you, thank you
3 very much, Madam Prosecutor, but we have now had the solemn declaration, so all is
4 well.

5 Mr Witness, you are now under oath. The representatives of the aid to witnesses
6 have -- and the Prosecution have explained to you what this means.

7 THE WITNESS: [12:33:11](Interpretation) Yes.

8 PRESIDING JUDGE MINDUA: [12:33:14](Interpretation) Very good.

9 And now I have a number of practical matters I'd like to broach. You need to
10 remember that throughout your testimony, everything said in this courtroom is
11 transcribed by court reporters and translated into several languages by interpreters.
12 It is therefore important to speak clearly and slowly.
13 Please do not start speaking until the person asking you the question has finished
14 speaking. If necessary, remember to count to three in your head before replying.
15 This short break is essential so that your statement can be correctly noted.
16 Of course if you have any questions, just raise your hand to indicate that you wish to
17 speak.

18 THE WITNESS: [12:35:38](Interpretation) Yes, I have no questions for the time
19 being.

20 PRESIDING JUDGE MINDUA: [12:35:43](Interpretation) Thank you very much,
21 Mr Witness.

22 And if at any point you wish to stop for a moment, then please also indicate this.

23 THE WITNESS: [12:36:07](Interpretation) Very well.

24 PRESIDING JUDGE MINDUA: [12:36:11](Interpretation) You are going to be
25 questioned by the parties starting with the Office of the Prosecutor. Then there may

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1 be an intervention from the Legal Representative of Victims and finally there will be
2 cross-examination by the Defence.

3 THE WITNESS: [12:36:51](Interpretation) Very well.

4 PRESIDING JUDGE MINDUA: [12:36:53](Interpretation) Without further ado, I will
5 hand the floor to the Prosecution to commence the examination-in-chief.
6 Madam Prosecutor.

7 MS HUCK: [12:37:10] (Interpretation) Thank you, your Honour. In terms of timing,
8 when do you intend to finish this session?

9 PRESIDING JUDGE MINDUA: [12:37:39](Interpretation) We are now going to work
10 until 1.30.

11 We will then have a short one-hour lunch break, and we will start again at 14.30 and
12 finish this evening at 4 o'clock.

13 So Madam Prosecutor, the witness is yours.

14 QUESTIONED BY MS HUCK: (Interpretation)

15 Q. [12:38:11] Good afternoon, Mr Witness.

16 A. [12:38:13] Good afternoon.

17 Q. [12:38:15] We met at the courtesy meeting yesterday.

18 A. [12:38:26] Yes, we did.

19 Q. [12:38:27] I am now going to ask you questions today. If my questions are not
20 clear, please let me know and I will put them differently. Are you okay with that?

21 A. [12:38:50] Yes, I have understood.

22 MS HUCK: [12:38:54](Interpretation) Your Honour, may we please move into
23 private session where we need to discuss identifying matters such as his personal
24 details. It will take me about 15 minutes.

25 PRESIDING JUDGE MINDUA: [12:39:11](Interpretation) Yes, that's fine, 15 minutes.

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- 1 (Private session at 12.39 p.m.)
- 2 THE COURT OFFICER: [12:39:20] We are in private session, Mr President.
- 3 PRESIDING JUDGE MINDUA: [12:39:35](Interpretation) Thank you, court officer.
- 4 Madam Prosecutor.
- 5 MS HUCK: [12:39:37](Interpretation)
- 6 Q. [12:39:40] Could you please tell me your name, Mr Witness?
- 7 A. [12:39:45] My name is Hamma.
- 8 Q. [12:39:58] And your full name?
- 9 A. [12:40:03] My name is * Hamma M'Bara. My family name is Arby.
- 10 Q. [12:40:21] And when and where were you born?
- 11 A. [12:40:27] I was born in Timbuktu and I'm 50 years old.
- 12 Q. [12:40:38] And what is your religion?
- 13 A. [12:40:46] I am Muslim.
- 14 Q. [12:40:51] Which languages do you speak?
- 15 A. [12:41:08] I speak Songhaï and a little bit of French, a bit of Arabic and a bit of
- 16 Bambara as well.
- 17 Q. [12:41:23] Are you married?
- 18 A. [12:41:31] I am married. I have two wives.
- 19 Q. [12:41:39] What are the names of your wives?
- 20 A. [12:41:58] My second wife is Salaka Djike, and the first, [REDACTED]
- 21 Q. [12:42:14] Do you have children?
- 22 A. [12:42:17] Yes.
- 23 Q. [12:42:25] With both wives?
- 24 A. [12:42:44] Yes, I have children with both my wives.
- 25 Q. [12:42:52] We are now going to talk about your situation before the armed

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1 groups arrived in Timbuktu in 2012. So before the arrival of the armed groups,
2 where did you live?

3 A. [12:43:42] I was in front of PMI where I had my trading post.

4 Q. [12:43:53] And where did you live and with whom?

5 PRESIDING JUDGE MINDUA: [12:44:37](Interpretation) Madam Prosecutor?

6 MS HUCK: [12:44:41](Interpretation) I haven't yet had the Songhai-French
7 interpretation.

8 PRESIDING JUDGE MINDUA: [12:44:49](Interpretation) Please could this be
9 interpreted.

10 Yes, I see that there is a problem with the connection.

11 Court officer.

12 THE COURT OFFICER: [12:45:22] Mr President, the connection is interrupted and
13 the technician is on the way to fix the interpretation.

14 PRESIDING JUDGE MINDUA: [12:45:32](Interpretation) Thank you very much.

15 We are still waiting. The matter is being attended to.

16 (Pause in proceedings)

17 PRESIDING JUDGE MINDUA: [12:47:19](Interpretation) It seems to be back, court
18 officer?

19 Court officer, can we move briefly into public session so that I can explain to our
20 audience that we have technical issues.

21 (Open session at 12.48 p.m.)

22 PRESIDING JUDGE MINDUA: [12:48:38](Interpretation) Thank you very much for
23 the information.

24 THE COURT OFFICER: We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: (Interpretation) Thank you, court officer.

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1 I would like to tell our audience that the connection has been broken between our
2 courtroom and the location of our witness. There are electrical issues there. We are
3 currently awaiting, waiting for these to be repaired. That's just to let you know.

4 (Pause in proceedings)

5 PRESIDING JUDGE MINDUA: [12:52:31](Interpretation) From the remote location,
6 we have been told that the repair could take five to 10 minutes. So let's just wait a
7 short while. If it can be repaired in that time, we can continue and, if not, we will
8 have to take a longer break.

9 (Pause in proceedings)

10 PRESIDING JUDGE MINDUA: [12:53:51](Interpretation) Ms Sutherland.

11 MS SUTHERLAND: [12:53:52](Overlapping speakers) Mr President, Mr Al Hassan
12 was wondering if it might be possible to take advantage of this very short break for
13 him to take a very short break himself.

14 PRESIDING JUDGE MINDUA: [12:54:16](Interpretation) Yes, let us have a
15 five-minute break in the hearing.

16 MS SUTHERLAND: [12:54:26] Mr President, if it makes things easier, it's simply for
17 Mr Al Hassan to take a comfort break.

18 PRESIDING JUDGE MINDUA: [12:54:38](Interpretation) Just to leave the room, yes,
19 that's fine.

20 I see that all has returned back to normal. Is that the case, court officer?

21 THE COURT OFFICER: [12:56:27] Yes, Mr President, the connection has been
22 restored.

23 PRESIDING JUDGE MINDUA: [12:56:35](Interpretation) Good. In that case, we'll
24 just wait another two or three moments for Mr Al Hassan to return to the room.
25 There, the accused has returned and therefore I hand the floor again to the Prosecutor,

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1 but we must first return into private session.

2 Court officer, please.

3 (Private session at 12.57 p.m.)

4 THE COURT OFFICER: [12:57:41] We are in private session, Mr President.

5 PRESIDING JUDGE MINDUA: [12:57:46](Interpretation) Thank you very much,
6 court officer.

7 Madam Prosecutor.

8 MS HUCK: [12:57:56](Interpretation)

9 Q. [12:57:59] I am sorry, Mr Witness, we have been experiencing technical
10 problems. So I will repeat the question I asked earlier.

11 In 2012, before the armed groups arrived in Timbuktu, which area were you living in?

12 THE SONGHAÏ INTERPRETER: [12:58:43](Interpretation) Message from the
13 Songhaï booth: We can't hear the witness.

14 PRESIDING JUDGE MINDUA: [12:58:51](Interpretation) Court officer. What is
15 going on?

16 THE WITNESS: [12:59:20](Interpretation) I was at Abaradjo with my first wife, we
17 were in Abaradjo.

18 Q. [12:59:33] And where was Salaka Djike living?

19 A. [12:59:43] She was living at [REDACTED]

20 Q. [12:59:51] Who was she living with?

21 A. [13:00:08] She was with the children [REDACTED]

22 Q. [13:00:16] Were you already married to her at that time?

23 A. [13:00:28] At that time we were not yet married.

24 Q. [13:00:38] For how long have you been with Salaka, approximately?

25 A. [13:00:59] At that time, we had been in a relationship for one year.

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- 1 Q. [13:01:08] (No interpretation)
- 2 A. [13:01:26] She had a shop in which she sold some creams and perfumes.
- 3 Q. [13:01:37] Where did you meet with her at that time?
- 4 A. [13:01:55] Next to where I used to work.
- 5 Q. [13:02:00] Where did you used to work, Witness?
- 6 A. [13:02:26] I used to sell fuel in front of the shop.
- 7 Q. [13:02:37] Where was your shop located?
- 8 A. [13:03:02] It was in front of PMI, along the tarred road * from Yoboutao to PMI.
- 9 It's at the bottom of the road towards PMI.
- 10 Q. [13:03:23] We will return to open session when we deal with what the PMI is, but
- 11 for now, let us talk about the day on which the armed groups arrived in Timbuktu.
- 12 A. [13:03:48] All right.
- 13 Q. [13:03:51] When they arrived, where were you?
- 14 A. [13:03:59] When they arrived, I was at the location where I did my business.
- 15 Q. [13:04:18] Who were you with?
- 16 A. [13:04:27] I was with some people who just came to hang out with us to chat.
- 17 Q. [13:04:50] Let's now return to open session and this would mean that persons
- 18 outside of the courtroom will be able to hear you, Mr Witness. So we urge you not
- 19 to mention the names of your family members and please do not mention that your
- 20 business was located near the PMI.
- 21 So we begin by saying that you were in front of the PMI and that the armed groups
- 22 arrived, but please don't mention that you were in front of your business.
- 23 A. [13:05:58] All right. I have understood.
- 24 MS HUCK: [13:06:01](Interpretation) Mr President, we can return to open session.
- 25 PRESIDING JUDGE MINDUA: [13:06:06](Interpretation) Court officer, please open

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1 session.

2 (Open session at 1.06 p.m.)

3 THE COURT OFFICER: [13:06:17] We are back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [13:06:24](Interpretation) Thank you very much.

5 Madam Prosecutor.

6 MS HUCK: [13:06:29](Interpretation) Thank you.

7 Q. [13:06:31] Now, Mr Witness, you have just told us that when the armed groups
8 arrived you were in front of the PMI. Can you tell us what the PMI is?

9 A. [13:06:59] Yes, I can tell you what the PMI is. PMI is a hospital where women
10 go to deliver babies and where sick people are treated.

11 Q. [13:07:27] In which neighbourhood is PMI located?

12 A. [13:07:45] It is between Abaradjo and Sankoré.

13 Q. [13:07:56] Can you describe to us how the armed groups arrived?

14 A. [13:08:39] When they came, they came in about 10 to 20 vehicles. There were
15 many of them.

16 Q. [13:08:52] If you do recall, what type of vehicles were they?

17 A. [13:09:17] These were 4x4 vehicles, pickup, yellow in colour and they had blanco
18 all over -- or banco all over and the vehicles were yellow in colour.

19 Q. [13:09:57] You said that there were many people. How, how were those people
20 who arrived?

21 MS HUCK: [13:11:04](Interpretation) I did not hear the Songhaï into French
22 interpretation.

23 * THE WITNESS: [13:11:12](Interpretation) Those people were wearing shortened
24 *réglans*. They also had some coloured vests in which they carried their bullets and
25 their military boots as well as weapons.

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1 MS HUCK: [13:11:29](Interpretation)

2 Q. [13:11:31] What do you mean by *réglans*, *réglans sautés*?

3 A. [13:12:02] The *réglans* is a traditional attire which people wear. They are not
4 very long, not lengthy and they go all the way to the knees. And the trousers you
5 wear with that outfit are also short.

6 Q. [13:12:23] You said they were bearing arms. What kind of weapons did they
7 have?

8 A. [13:13:01] They had Kalashes and other weapons were mounted on the vehicles
9 and they had their cartridges in a chain.

10 Q. [13:13:15] What did they do then when they arrived in their vehicles?

11 A. [13:14:00] When they arrived, they came to the front of the PMI. And those
12 evildoers mentioned their name and they said they had come to take over the country,
13 to take over the city.

14 Q. [13:14:21] How did they present or introduce themselves?

15 *A. [13:15:00] They introduced themselves as the criminals and said that they had
16 come to impose the Sharia.

17 Q. [13:15:19] When you say "evildoers", what does that term mean?

18 A. [13:15:55] Well, those evildoers were of course the MUJAO, who are generally
19 referred to as Islamists. The Ansar Dine are generally referred to as the Islamists.

20 Q. [13:16:20] You mentioned two groups, MUJAO and Ansar Dine. How did you
21 become aware of the names of those two groups?

22 A. [13:16:49] They were the ones who said it themselves. We heard it from their
23 own mouths. They said it themselves. I did not know them.

24 Q. [13:17:03] In which language were they speaking?

25 A. [13:17:13] They spoke to us in Arabic but also in Songhaï. They spoke all the

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1 languages.

2 Q. [13:17:44] Where did they settle or set up, those armed groups, where did they
3 settle in Timbuktu?

4 A. [13:18:22] Well, they settled at a number of locations. They were in CEDRAB,
5 in PMI, in BMS and (inaudible).

6 Q. [13:18:42] You have mentioned CEDRAB. What is CEDRAB? Can you tell us
7 what it is?

8 * A. [13:19:23] CEDRAB is a place where the *tarikhs* were kept.

9 THE INTERPRETER: [13:19:30] And the English interpreter did not get the word
10 from the French.

11 MS HUCK: [13:19:36](Interpretation)

12 Q. [13:19:36] How did you know that they set up there?

13 A. [13:19:59] Well, they were near us, near me. I could -- they came in and went
14 out all the time and they were nearby.

15 Q. [13:20:25] I see in the transcript that when you referred to CEDRAB, there is a
16 part which was inaudible.

17 You said CEDRAB was the place where something was kept. What is it that was
18 kept at CEDRAB?

19 A. [13:21:12] I think it's *tarikhs* in Songhaï, but in French it's manuscripts.

20 Q. [13:21:26] That is clear now, thank you.

21 So what was your reaction when you saw them, those armed groups?

22 A. [13:21:56] I did nothing. I looked at them. They came in, went out with their
23 vehicles. They roamed around the city and all I could do was look at them.

24 Q. [13:22:12] You said that they had come to impose their Sharia. What was their
25 Sharia?

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1 A. [13:22:50] Their Sharia was that men and women should not meet, that smoking
2 was prohibited, that people had to dress up properly. Women had to dress up
3 properly.

4 Q. [13:23:14] How did you find out or how did you get to know all these things?

5 A. [13:23:51] They were the ones who said it themselves. They went around the
6 city with PA systems and they announced all these things themselves using a
7 microphone.

8 Q. [13:24:07] Where did they carry those microphones?

9 A. [13:24:26] These were handheld microphones. They were in their vehicles and
10 used those microphones to make the announcements as they drove around.

11 Q. [13:24:41] Which language did they use in making those announcements or
12 those messages?

13 A. [13:25:10] They used many languages, Songhai, Arabic and many other
14 languages.

15 Q. [13:25:30] Do you know who made those announcements?

16 A. [13:25:49] I do not know who, I do not know the individuals, but I could see that
17 their attire was marked with the inscription "Islamic police", but I don't know the
18 individuals.

19 Q. [13:26:17] You said they went around the city. Where did they go to in the
20 city?

21 A. [13:26:51] There is no single neighbourhood in Timbuktu to which they did not
22 go. They went to all neighbourhoods in Timbuktu.

23 Q. [13:27:03] Was there any other means by which they made these announcements,
24 any other means of communication?

25 A. [13:27:36] Well, they also went to Radio Bouctou at the mayor's office, they also

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1 went to the radio and made the announcements on the radio.

2 Q. [13:27:51] How do you know that?

3 A. [13:28:09] I lived in Timbuktu and we used to listen to the radio station and I
4 heard the announcement on the radio.

5 Q. [13:28:25] Can you tell us the frequency with which you heard those messages,
6 approximately?

7 A. [13:29:00] Several times, several times. The messages were broadcast several
8 times.

9 MS HUCK: [13:29:12](Interpretation) Mr President, I turn to you mindful of the time.
10 It's almost 1.30.

11 PRESIDING JUDGE MINDUA: [13:29:24](Interpretation) You are right. It is 1.30.

12 We will take the lunch break now, a one-hour break and resume at 2.30.

13 The hearing is suspended.

14 THE COURT USHER: [13:29:43] All rise.

15 (Recess taken at 1.29 p.m.)

16 (Upon resuming in open session at 2.31 p.m.)

17 THE COURT USHER: [14:31:03] All rise.

18 Please be seated.

19 PRESIDING JUDGE MINDUA: [14:31:26](Interpretation) The Court is once more in
20 session.

21 Prosecutor, you may continue with your examination-in-chief.

22 MS HUCK: [14:31:43](Interpretation) Thank you, your Honour.

23 Q. [14:31:49] Mr Witness, we will start again now and talk about the changes that
24 happened once the armed groups arrived. And when we've dealt with that, we will
25 talk about what happened to you personally and that we will do in private session.

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1 Is that okay with you?

2 A. [14:32:42] Yes, that's fine.

3 Q. [14:32:46] Very well. Earlier you told us that women have to dress correctly.

4 Could you explain to me or to us what that meant, that women had to dress correctly?

5 A. [14:33:50] What I meant by that is that they said to people that women should

6 cover themselves from their head to their feet and they should wear gloves on their

7 hands and socks on their feet. They had to be totally covered.

8 Q. [14:34:18] And what happened if this was not the case?

9 A. [14:35:01] Well, after that, if they were to arrest somebody for not being dressed
10 correctly, this person would be taken to the Islamic police. They would be beaten.

11 And they kept the people with the Islamic police for two days.

12 Q. [14:35:31] Do you know women to whom that happened?

13 A. [14:36:10] That happened to a lot of women. I don't know their names, but it

14 happened to several of them. They once found a woman who was sitting with us

15 and they arrested her and took her away. She had just come to visit us and she was

16 not dressed correctly.

17 Q. [14:36:42] And who arrested her?

18 A. [14:37:01] It was one of these people who arrested her, one of them who was

19 known as Hamed Moussa. He was the person who arrested her.

20 Q. [14:37:21] Was he armed?

21 A. [14:37:47] When he arrived, he got out of his vehicle, which was next to us, and

22 the weapon remained in the vehicle. He got -- he got out and he arrested the woman

23 and took her away.

24 Q. [14:38:12] Were there other people with him?

25 A. [14:38:30] He was with two people in the vehicle.

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1 Q. [14:38:42] And what was the reaction of the woman to being taken away?

2 A. [14:39:10] The woman was unable to do anything. She cried and asked for help,
3 but we couldn't do anything for her. She asked for help and they took her and took
4 her away.

5 Q. [14:39:37] And what was your reaction?

6 A. [14:39:48] To do what, for example?

7 Q. [14:39:58] How did you react when the woman cried for help?

8 A. [14:40:13] We couldn't do anything. We were afraid for ourselves and we
9 couldn't do anything for her.

10 Q. [14:40:37] And why were you afraid for yourselves?

11 A. [14:41:06] Because they were in the town, they were in charge of the town. All
12 we could do was just remain as we were*, looking on. They were armed, so we
13 couldn't do anything against them.

14 Q. [14:41:44] You've just described what the women should be wearing. Was
15 there also a dress code for men?

16 A. [14:42:29] Men wore traditional clothing, but they were not supposed to style
17 their hair. And trousers had to be cut off at the ankle.

18 Q. [14:43:01] So how were trousers to be worn according to the armed groups?

19 A. [14:43:40] Trousers had to be short, finishing -- finishing at ankle length. And
20 hair should not be styled.

21 Q. [14:43:58] And what happened if these orders were not obeyed?

22 MS HUCK: [14:44:48](Interpretation) I have had no interpretation into French yet.

23 THE WITNESS: [14:44:56](Interpretation) What might happen was to take the
24 person in question, to take them to the Islamic police and to the BMS where they
25 would be flogged and kept for a week.

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1 MS HUCK: [14:45:19](Interpretation)

2 Q. [14:45:23] You all -- also talked about smoking being prohibited. Again, what
3 happened if somebody was caught smoking?

4 A. [14:46:01] Well, what they did with such a person was what I just said. They
5 took the person, beat them and kept them for a week.

6 Q. [14:46:16] And how do you know that?

7 A. [14:46:36] What I've just explained happened to a lot of people that I saw. I
8 saw a lot of people who were victim of this behaviour.

9 Q. [14:46:55] So you saw a lot of people who were victims of what, exactly?

10 A. [14:47:36] What I'm talking to you about, it is something that happened to a lot
11 of men. For example, cigarettes, people who were caught smoking, and also women
12 who didn't cover themselves properly. There were a lot who were taken away,
13 beaten and then kept for a week.

14 Q. [14:48:08] You also said that men and women should not meet together. What
15 was the punishment for that?

16 PRESIDING JUDGE MINDUA: [14:49:10](Interpretation) Madam Prosecutor, I'd
17 like to have one clarification, if I may.

18 When the witness says that the people were beaten or flogged and they're kept for a
19 week, was that the police or following a decision by some form of tribunal?

20 Who decided to -- that they should be beaten and who decided that they should be
21 detained? Could you ask that, please.

22 MS HUCK: [14:49:55](Interpretation)

23 Q. [14:49:56] Mr Witness, as far as you know, the people who were kept, who made
24 the decision to detain these people?

25 A. [14:50:36] They arrested them and they kept them there at the Islamic police.

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1 They had a cell where they kept them at the Islamic police. And the chief of the
2 Islamic police was Al Hassan, and he was the one who said that they should be kept
3 there.

4 Q. [14:51:03] And then who made the decision that someone should be beaten?

5 A. [14:51:23] It was the chief, Al Hassan. He was the one who said people should
6 be beaten and then detained for a week.

7 Q. [14:51:48] Now, we'll come back to the problem if a man and woman were to
8 meet together.

9 PRESIDING JUDGE MINDUA: [14:52:04](Interpretation) Ms Sutherland.

10 MS SUTHERLAND: [14:52:05] Mr President, we -- I would ask that my learned
11 friend for the Prosecution elicit precise basis of knowledge, or bases of knowledge, for
12 these allegations. The information thus far has been extremely vague.

13 PRESIDING JUDGE MINDUA: [14:52:35](Interpretation) Madam Prosecutor.

14 MS HUCK: [14:52:42](Interpretation) I can ask the question, but the Defence will be
15 entitled to cross-examination later.

16 Q. [14:52:53] Mr Witness, when you say that it was Al Hassan who had people
17 arrested and kept there, how do you know that?

18 A. [14:53:42] Well, they announced in the town, and he was the head of the Islamic
19 police. They go around town with that information and that is how these things
20 happened.

21 Q. [14:54:13] So we come back to the ban on men and women meeting together.
22 Could you please tell us --

23 PRESIDING JUDGE MINDUA: [14:54:29](Interpretation) Ms Sutherland.

24 MS SUTHERLAND: [14:54:29] Mr President, my friend for the Prosecution is under
25 an obligation as an examining counsel to elicit the basis of the witness's knowledge

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1 for every relevant fact, that's paragraph 43 of the directions on the conduct of the
2 proceedings.

3 We've just received a number of facts bundled together for which it's my learned
4 friend's obligation to elicit the basis of knowledge.

5 PRESIDING JUDGE MINDUA: [14:55:10](Interpretation) You said line 43 or
6 paragraph 43?

7 MS SUTHERLAND: [14:55:15] Forgive me, Mr President, I was referring to the
8 directions on the conduct of the proceeding, paragraph 43 of which mandates my
9 learned friend to elicit the basis of knowledge for every relevant fact.

10 PRESIDING JUDGE MINDUA: [14:55:38](Interpretation) Madam Prosecutor.
11 Mr Prosecutor.

12 MR DUTERTRE: [14:55:51](Interpretation) Yes, your Honour, we had -- we asked
13 questions for clarification of the Chamber, then we were asked to find the basis of the
14 reply. We did that and the witness replied to the question, and I think the Defence
15 will have the chance to ask their own questions during the cross-examination.

16 Time is ticking. We have a limited time available and this is impinging on our time.

17 PRESIDING JUDGE MINDUA: [14:56:27](Interpretation) Ms Sutherland, the
18 witness talked about people who had been arrested and beaten. I asked the witness
19 to give further clarification. He gave this clarification, we are informed, and I think
20 you can allow the Prosecution to continue and you will be able to deal with this
21 during your cross-examination.

22 The Chamber is informed. We can ask the question of the witness and he said that
23 the chief of police is Mr Al Hassan and he gave the information in town.

24 I think the Chamber knows what to do with this reply. You will be able to have your
25 chance during cross-examination.

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1 Madam Prosecutor, please continue.

2 MS HUCK: [14:57:24](Interpretation)

3 Q. [14:57:26] So we come back to the further prohibitions and my question related
4 to the sanction if a man and woman were to meet together.

5 A. [14:58:28] That's what I will tell you. If a man and woman were met -- were
6 seen together, if they were not married, they were -- if it was an unmarried man, they
7 were taken to the roundabout at Yobou Tao, they were taken there in front of the
8 public and given a hundred lashes.

9 But if the man was married, it seemed that a hole would be dug, he would be put in
10 the hole and he would be stoned to death. *I didn't see this happening in Timbuktu,
11 but it appears that that would be what happened.

12 Q. [14:59:18] And how did you hear this?

13 A. [14:59:38] * That's what I was telling you; they moved around the city from
14 neighbourhood to neighbourhood, disseminating the information over loud speakers.

15 Q. [14:59:55] And to your knowledge, how could the groups know that a man and
16 a woman were meeting together?

17 A. [15:00:40] In fact, they have people in town who work with them dressed in
18 civvies, and they were the ones who would inform them when they gleaned any
19 information.

20 Q. [15:01:09] Did the groups have any rules as far as trading was concerned?

21 A. [15:01:40] I didn't understand what you were saying. What do you mean to do
22 with business?

23 Q. [15:01:48] Did the arrival of the groups have an impact on the manner in which
24 people managed their businesses?

25 A. [15:02:23] In fact, business continued. Business always continued. And

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1 people would go about running their businesses.

2 Q. [15:02:39] Was there a specific rule for Fridays with regard to businesses and
3 trading?

4 A. [15:03:31] On Fridays, from midday everybody would shut up shop and they
5 would go through the various neighbourhoods to make sure that people had done so.
6 And if somebody did not shut up shop, they would inform them.

7 I remember one day on a Friday, they found me whilst I was performing my
8 ablutions to go to the *jumu'ah* and they came along and shut up my shop themselves
9 on that day.

10 Q. [15:04:09] Who was it who found you?

11 A. [15:04:29] It was those criminals there, those ones who found us performing our
12 ablutions. They shut my shop and I took my keys and I carried on.

13 Q. [15:04:49] Approximately how many of those people arrived, if you recall?

14 A. [15:05:13] There were six of them to arrive. Only one of them got out of the
15 vehicle to ask us to shut up shop. And there was even an altercation with my elder
16 brother.

17 Q. [15:05:36] And that person who got out, how was that person dressed?

18 A. [15:05:52] That person was dressed in yellow, wearing a waistcoat and military
19 shoes. That's what he was wearing.

20 Q. [15:06:16] And what does his waistcoat look like?

21 THE SONGHAI INTERPRETER: [15:06:28](Interpretation) Message from the
22 Songhai booth: Mr President, we did not hear the question.

23 PRESIDING JUDGE MINDUA: [15:06:37](Interpretation) Madam Prosecutor, please,
24 could you please repeat your question.

25 MS HUCK: [15:06:41](Interpretation)

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1 Q. [15:06:44] What were those waistcoats like?

2 A. [15:07:03] The waistcoat was comparable to those of the -- that soldiers wore,
3 yellowish in colour.

4 Q. [15:07:20] And the person who got out, were they armed?

5 A. [15:07:38] The person was -- had a Kalashnikov round their neck.

6 Q. [15:07:56] Earlier on you said that certain people were flogged. Where did
7 those floggings take place?

8 A. [15:08:27] There is a little roundabout near Yobou Tao, that is where people
9 were gathered to be flogged. That is where it happened.

10 Q. [15:08:43] And did you see that with your very own eyes?

11 A. [15:09:02] Well, personally, I don't go to such things. The information is
12 broadcast over the loudspeakers, but I've never gone to such a thing.

13 Q. [15:09:19] And what was the information that was broadcast over the
14 loudspeakers?

15 A. [15:09:52] When they catch somebody that they have to flog, then they broadcast
16 it over the loudspeakers saying that a person will be flogged on such and such a day.

17 Q. [15:10:21] Very well.

18 MS HUCK: [15:10:22](Interpretation) Mr President, I would like now to move into
19 private session in order to go into the personal story of the witness.

20 PRESIDING JUDGE MINDUA: [15:10:33](Interpretation) Madam courtroom officer,
21 private session, please.

22 (Private session at 3.10 p.m.)

23 THE COURT OFFICER: [15:10:49] We are in private session, Mr President.

24 PRESIDING JUDGE MINDUA: [15:10:54](Interpretation) Thank you very much.

25 Madam Prosecutor.

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1 MS HUCK: [15:10:59](Interpretation)

2 Q. [15:11:04] So, Mr Witness, we are in private session, which means that people
3 outside of the courtroom are not able to hear what we are saying.

4 At an earlier stage you talked to us about your elder brother. Could you please
5 provide us with his name.

6 A. [15:11:42] His name is [REDACTED]

7 Q. [15:11:56] Thank you. So during the occupation by the groups, when
8 did -- where did you see Salaka Djike?

9 A. [15:12:37] At approximately 10 p.m. I would go round and pick her up with my
10 motorbike and I would take her to a place next door to my business.

11 Q. [15:12:50] And why would you meet at approximately 10 p.m.?

12 A. [15:13:15] We met at 10 p.m. because we were all working. I worked and she
13 worked and it was at 10 p.m. that we would shut up shop and that is why we would
14 meet at 10 p.m.

15 Q. [15:13:32] And you personally with Salaka, as far as the rules of the armed
16 groups is concerned, how did that change things for you?

17 A. [15:14:14] Yes, it changed things, and it was because of that that we would close
18 shop at 10 p.m. Because otherwise, beforehand, we would meet well before that.
19 So, yes, it did change things.

20 Q. [15:14:34] And why was it that you could no longer see each other before
21 10 p.m.?

22 A. [15:14:54] It was because of our fear because we didn't want to be seen meeting
23 up.

24 Q. [15:15:07] Fear of who seeing you?

25 A. [15:15:23] Those criminals didn't accept people meeting up, and that is why I

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1 would take her to my place near where I worked.

2 Q. [15:15:43] And when you say that you were fearful of them, what exactly did
3 you fear?

4 A. [15:16:04] I feared what I mentioned earlier on. When they would catch
5 somebody, they would dig a hole and they would stone that person in that hole.
6 I was fearful of that.

7 Q. [15:16:30] Now, we're going to come back to the day of the events that unfolded
8 concerning you. Can you tell me on that day where you were?

9 THE SONGHAI INTERPRETER: [15:17:44](Interpretation) Message from the
10 Songhai booth: Could we please ask the witness to divide his message up for us to
11 be able to interpret it correctly.

12 PRESIDING JUDGE MINDUA: [15:17:57](Interpretation) Yes, indeed. So what
13 we're going to do, Madam Prosecutor, maybe we'll have the witness repeat his
14 answer phase by phase and then the interpreters shall interpret what he has to say.
15 Mr Witness, could you please repeat your answer and stop a little bit more frequently.

16 THE WITNESS: [15:18:43](Interpretation) Okay. As I was saying, I went to get her
17 at 10 p.m. and we would come to that location close to where I did my business.

18 That is where we would meet. And one night we went there and at one point I
19 wanted to go to urinate in the toilet, and it was when I was going to the toilet that I
20 saw people, two people coming in. In fact, there were five of them in total, two of
21 who came inside and asked me what I was doing there. And I said, "This is my
22 place." And they immediately continued and they went on into the living room and
23 that is where they chanced upon Salaka.

24 On their way through to the living room, I then just grabbed my motorbike and went
25 to the Salaka household and told their elder brother, and he said to me that I should

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1 flee.

2 So when he told me to flee, I immediately continued on with my motorbike and I
3 arrived at the post -- at the checkpoint, where they stopped me, asking me where
4 I was going in the middle of the night. And I said I was going to the *dik*. I said that
5 there was somebody who was sick there that I was going to go and visit and they said
6 I could go on my way. And that's how I managed to continue my journey.

7 During that very same night I took a pinnace, a boat, in order to go to Koreyamé
8 (phon). A pinnace is a type of pirogue that one uses to travel and that enabled me to
9 cross the river and I carried on my way.

10 When they took me across with my motorbike in that pinnace, well, then I jumped on
11 my motorbike and I spent the whole night driving until the next day I arrived in
12 Severe, in Mopti, and that is when I then got on the bus to continue my journey.

13 Before I reached Severe, between Konna and Severe I had an accident with my
14 motorbike, subsequent to which I lost a few teeth. But nevertheless I continued on to
15 Mopti.

16 And when I arrived in Mopti, I then got on the bus to continue my journey to my
17 elder brother in Bamako.

18 That is how events unfolded.

19 Q. [15:24:34] Very well. Thank you very much.

20 So you say that one night you were in the company of Salaka when some individuals
21 came into your home. What were those people like?

22 A. [15:25:20] Those people were wearing traditional clothing, the *réglans*, and they
23 were also wearing flak jackets with cartridges. And that was their normal attire.
24 They didn't change that attire.

25 Q. [15:25:45] Were they armed?

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1 A. [15:25:50] Each of them was holding a Kalashnikov.

2 Q. [15:26:07] And you say that they asked you what you were doing there. What
3 language did they ask you that in?

4 A. [15:26:25] They asked me in Songhaï.

5 Q. [15:26:39] And then you say that you took your motorbike. Why did you take
6 your motorbike?

7 A. [15:27:09] At that moment in time there was no means of transport. And
8 because I always had a full tank on my motorbike, that's why I took my motorbike
9 and I left.

10 Q. [15:27:26] But why did you leave?

11 A. [15:27:36] I left for the reasons I told you, because if what had -- they had -- they
12 had done what they were going to do, i.e., digging a hole and stoning me, we
13 wouldn't be here having a conversation today.

14 *And even after that, they went to the house of my first wife and searched
15 everywhere to try and find me. And to date this event has affected my first wife.
16 Today she is still unstable because of this event.

17 Q. [15:28:57] And how do you know that they went to the home of your first wife
18 subsequently?

19 A. [15:29:18] It was my first son who called me to tell me, and also somebody else
20 called me to inform me of the fact, my elder brother, [REDACTED]

21 Q. [15:29:40] Do you know whether the armed groups did anything else when they
22 saw that you had left?

23 A. [15:30:22] When I left, they looked everywhere for me. They even put out a
24 prize on my head to anyone who could tell them where I was to be found.

25 Q. [15:30:43] And how do you know that they put a prize on your head?

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1 A. [15:31:11] Everything that happened because of my situation. I've got my older
2 son, I've got my big brother, my parents, they all kept me informed.

3 Q. [15:31:24] You said that you continued on your motorbike and that you got to a
4 checkpoint?

5 PRESIDING JUDGE MINDUA: [15:32:08](Interpretation) Interpretation, please.

6 THE WITNESS: [15:32:13](Interpretation) Yes, it was the exit of the city, you can't
7 leave without going through that, and it's when I got there that they stopped me.

8 MS HUCK: [15:32:29](Interpretation)

9 Q. [15:32:32] And how many people were at this checkpoint, roughly?

10 A. [15:32:46] About eight people.

11 Q. [15:32:54] And where was this, where were you leaving the town?

12 A. [15:33:16] It's when you leave Timbuktu towards Koreyamé (phon), it's the exit
13 where you leave the city.

14 Q. [15:33:29] And were the people at this checkpoint armed?

15 A. [15:33:48] There were people who were armed. There were three of them who
16 were armed and the others I wasn't able to see because of course it was the middle of
17 the night.

18 Q. [15:34:10] There is a word here missing in the English transcript.

19 When you leave Timbuktu, going in which direction? Could you please tell us again
20 which direction you were leaving Timbuktu in?

21 A. [15:34:52] It's when you leave Timbuktu, you go through the gate towards
22 Koreyamé and it is a tarmac road.

23 Q. [15:35:10] So you said to this control post that you were going to the *dik*, what
24 do you mean by that?

25 A. [15:35:26] To the *dik*, this is a place in Koreyamé where they grow rice, so I said

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1 I was going there to help a brother who was ill.

2 Q. [15:36:00] And you say before you got to Sevare you had an accident?

3 A. [15:36:14] Between Konna and Sevare I had an accident and I lost some teeth
4 there.

5 Q. [15:36:34] How many teeth did you lose in that accident?

6 A. [15:36:52] Four of my upper teeth and four of my lower teeth and there were
7 also some molars that were damaged.

8 Q. [15:37:06] And you said you then arrived in Bamako and went to your older
9 brother. What's your brother's name?

10 A. [15:37:36] His name is [REDACTED]

11 Q. [15:37:46] And how long would you say that your trip to Bamako took?

12 A. [15:38:11] It took me two days.

13 Q. [15:38:43] So, Mr Witness, we are now going to return to public session. In
14 order not to reveal or identify you, we're going to talk about "Mrs A" when we talk
15 about Salaka Djike.

16 Are you okay with that?

17 A. [15:39:19] Yes.

18 Q. [15:39:21] And we're not going to talk about your dental problems, we're going
19 to talk about physical pain.

20 A. [15:39:42] Okay.

21 Q. [15:39:47] This is to avoid these things being mentioned in public session.

22 So we're going to come back to the moment when you're in Bamako at your brother's.

23 A. [15:40:13] Yes, that's fine.

24 MS HUCK: [15:40:15] (Interpretation) Your Honour, can we move back into public
25 session.

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1 PRESIDING JUDGE MINDUA: [15:40:19](Interpretation) Court officer, public
2 session, please.

3 (Open session at 3.40 p.m.)

4 THE COURT OFFICER: [15:40:29] We are back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [15:40:35](Interpretation) Thank you very much,
6 court officer.

7 Madam Prosecutor.

8 MS HUCK: [15:40:44](Interpretation)

9 Q. [15:40:45] So once you arrived, did you get any news about what was happening
10 in Timbuktu?

11 A. [15:41:16] I was getting some from -- information, some information which
12 related to my situation.

13 Q. [15:41:28] Did you get any news about Madam A?

14 A. [15:41:45] Yes, I had news of her.

15 Q. [15:41:49] How did you get this news?

16 A. [15:41:58] Members of her family called me and told me what was happening.

17 Q. [15:42:12] What did they tell you?

18 A. [15:42:32] What they told me was that she'd been taken away, beaten, and once
19 she'd been beaten, she had fallen ill and she'd gone to the hospital and she had been
20 given some medication.

21 Q. [15:43:18] You said she was beaten. In what way was she beaten?

22 A. [15:43:38] These people took her away and beat her. It was the same people
23 who took her away who beat her.

24 Q. [15:43:51] And what was she beaten with?

25 A. [15:44:15] With whips. She was beaten with whips. They brought people

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1 together in Yobou Tao and there she was beaten. It was not in front of me. It was
2 well after me.

3 Q. [15:44:44] And briefly, when did you return to Timbuktu?

4 A. [15:44:59] I can't give you a date, but it was when the army returned, the French
5 army and the Malian army. That's when I returned to Timbuktu.

6 Q. [15:45:27] And what did you discover when you returned there?

7 A. [15:46:03] When I returned, what I saw was that my business had been
8 completely trashed. Everything had been destroyed. And after that I had the
9 religious marriage with Madam A.

10 Q. [15:46:39] And how did you find Madam A on your return?

11 A. [15:46:58] You said when I returned what? I didn't quite understand.

12 Q. [15:47:04] When you returned, what state was she, Madam A?

13 A. [15:47:27] Well, frankly, she was not in a good state. She didn't feel right. She
14 was very ashamed of what had been done to her.

15 Q. [15:47:40] (No interpretation)

16 PRESIDING JUDGE MINDUA: [15:48:08](Interpretation) Interpretation?

17 THE WITNESS: [15:48:14](Interpretation) When I got back, I found she was not in a
18 good state. She was ashamed and her whole body was in pain.

19 MS HUCK: [15:48:35](Interpretation)

20 Q. [15:48:38] My question was: and you, how are you today?

21 THE SONGHAÏ INTERPRETER: [15:49:00](Interpretation) Sorry, we hadn't heard
22 that.

23 THE WITNESS: [15:49:22](Interpretation) Well, now that's okay. I'm much better
24 now, apart from my pain. Apart from that, I'm okay.

25 MS HUCK: [15:49:55](Interpretation)

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1 Q. [15:49:57] Mr Witness, I would like to show you now a document.

2 It's a confidential document but we can remain in public session. It's

3 MLI-OTP-0071-0352 and it's at tab 4.

4 Mr Witness, do you see the document?

5 A. [15:50:52] Yes, I can see it.

6 Q. [15:50:57] Do you recognise the document?

7 A. [15:51:06] Yes, I recognise it.

8 Q. [15:51:18] Were you the person who gave these documents to the OTP?

9 A. [15:51:30] Yes, it was me who gave you these documents.

10 MS HUCK: [15:51:45](Interpretation) Your Honour, I would like to move into

11 private session for five minutes because I'm told that we can't do any more redacting

12 at the moment.

13 PRESIDING JUDGE MINDUA: [15:52:05](Interpretation) Very well. Court officer,

14 please can we move into private session.

15 (Private session at 3.52 p.m.)

16 THE COURT OFFICER: [15:52:16] We are in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [15:52:19](Interpretation) Thank you very much,

18 court officer.

19 Madam Prosecutor.

20 MS HUCK: [15:52:27](Interpretation)

21 Q. [15:52:30] On this document on the right, this is a prescription for Salaka Djike.

22 Can you see it?

23 A. [15:52:58] Yes, I can see it.

24 Q. [15:53:02] Do you know what these -- this medication is?

25 A. [15:53:28] I understand that it's after she'd been beaten and she was ill, she

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1 received medication and it's the medication she received for that.

2 Q. [15:53:49] So could you perhaps be a little clearer. What was the illness?

3 A. [15:54:12] Once she'd been beaten, this caused a lot of illness for her, a lot of
4 problems.

5 Q. [15:54:30] And do you know what illness you're talking about here, if you
6 know?

7 A. [15:54:55] No, I don't know. What I do know, that it caused a lot of illness.
8 There was a lot of illness that was caused by all this.

9 Q. [15:55:12] Thank you. I would now like to see the document at tab 5,
10 MLI-OTP-0071-0353.

11 Can you see it?

12 A. [15:55:54] Yes, I see it.

13 Q. [15:55:57] Is this also a document that you gave to the Prosecutor?

14 A. [15:56:09] Yes, I myself gave this document.

15 Q. [15:56:14] And once again on the right there is a prescription for Salaka Djike.
16 Do you know what this medication was for?

17 A. [15:56:55] I know that this was a prescription for an illness of hers, but I don't
18 know what the illness was. And I know that what she went through caused a lot of
19 illness, but I can't be precise as to which illness this relates to.

20 MS HUCK: [15:57:17](Interpretation) Your Honour, we can now move back to
21 public session.

22 PRESIDING JUDGE MINDUA: [15:57:21](Interpretation) Court officer, public
23 session, please.

24 (Open session at 3.57 p.m.)

25 THE COURT OFFICER: [15:57:40] We are back in open session, Mr President.

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1 PRESIDING JUDGE MINDUA: [15:57:45](Interpretation) Thank you very much,
2 court officer.

3 Madam Prosecutor.

4 MS HUCK: [15:57:52](Interpretation)

5 Q. [15:57:58] I'd like to show you one final document.

6 This is a public document, MLI-OTP-0022-0418 (sic) and that's at tab 3.

7 Can you see this photo?

8 A. [15:58:53] Yes, I can.

9 Q. [15:58:58] Do you recognise this person?

10 A. [15:59:10] Yes.

11 Q. [15:59:13] Who is this?

12 A. [15:59:28] This is Oumar Hamaha.

13 Q. [15:59:43] And how do you know his name?

14 A. [16:00:05] At the market he went everywhere. Nobody can do anything against
15 him. Nothing can do anything -- nobody can doing anything to him. Only God
16 could do something against him. Even France couldn't do anything. That's what
17 he said everywhere.

18 Q. [16:00:45] And where did he say that exactly?

19 A. [16:00:58] He said it everywhere. He walked around, he went right up to
20 Yobou Tao to say it. He said it near me and he said it over there as well.
21 That -- well, he went all around the town saying this.

22 Q. [16:01:22] And what precisely did he say?

23 A. [16:01:50] He would say that he was at war with the French, with the Malian
24 army. And that nobody can do anything against them and that what they want is
25 what will be common practice in Mali.

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1 Q. [16:02:13] Thank you, Mr Witness.

2 MS HUCK: [16:02:14] (Interpretation) Mr President, I'm looking at the hour. I think
3 we are drawing to a close with the examination-in-chief, and if we could have just five
4 extra minutes tomorrow, maybe, just to see and finish up.

5 PRESIDING JUDGE MINDUA: [16:02:29](Interpretation) Very well. We shall rise
6 for today and we shall continue tomorrow.

7 Madam courtroom officer, we are in open session, are we not?

8 Ms Sutherland, you're on your feet.

9 MS SUTHERLAND: [16:02:52] Merely to enquire as to how much time the
10 Prosecution has taken, therefore how much time I can expect to have tomorrow.

11 PRESIDING JUDGE MINDUA: [16:03:05](Interpretation) Yes, you are right in so
12 saying, Ms Sutherland.

13 Madam courtroom officer, what are the -- how much time are we talking about?

14 The Office of the Prosecutor has used up to now 2 hours and 9 minutes.

15 Mr Witness, this marks the end of your testimony for today. The Chamber would
16 like to thank you for having answered very calmly and very clearly to the questions.
17 Tomorrow you shall continue with your testimony. Until then, please remember
18 that you are not allowed to talk about your testimony to anybody at all, whether it be
19 members of your family or friends were you to come into contact with them this
20 evening.

21 Very well, I've seen that you've understood everything.

22 So now I shall address the parties and participants. I would like to thank you all for
23 your collaboration. And I would also like to thank the court reporters and
24 interpreters. I would also like to thank the security officers. And lastly, I would
25 thank also all those who are listening to us from afar and wish you all a very nice

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1 evening.

2 We shall reconvene tomorrow morning at 9.30 as usual.

3 Court is adjourned.

4 THE COURT USHER: [16:06:01] All rise.

5 (The hearing ends in open session at 4.06 p.m.)

6 CORRECTIONS REPORT

7 The following corrections, marked with an asterisk and not included in the
8 audio-visual recording of the hearing, are brought into the transcript.

9 Page 48 line 9:

10 "Hamma" is added

11 Page 52 lines 8-9:

12 "near PMI" is corrected to "from Yoboutao to PMI. It's at the bottom of the road
13 towards PMI."

14 Page 53 lines 23-24:

15 "THE WITNESS: [13:11:12](Interpretation) Those people had *réglans*." Is corrected to

16 "THE WITNESS: [13:11:12](Interpretation) Those people were wearing shortened
17 *réglans*."

18 Page 54 lines 15-16:

19 "A. [13:15:00] Those evildoers, they introduced themselves "

20 Is corrected to

21 "A. [13:15:00] They introduced themselves as the criminals"

22 Page 55 line 8:

23 "A. [13:19:23] CEDRAB is a place where ... " is corrected to

24 "A. [13:19:23] CEDRAB is a place where the tarikh were kept."

25 Page 59 lines 12-13:

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1 "We couldn't doing" is corrected to "looking on. They were armed, so we couldn't
2 do"

3 Page 63 line 10:

4 "I don't know of this happening" is corrected to "I didn't see this happening"

5 Page 63 lines 13-14:

6 "A. [14:59:38] What I was telling you is what happened in the town, in the different
7 neighbourhoods, and the information was passed around. People talked to each
8 other. "

9 Is corrected to

10 "A. [14:59:38] That's what I was telling you; they moved around the city from
11 neighbourhood to neighbourhood, disseminating the information over loud
12 speakers."

13 Page 69 line 14:

14 "And even after that," is translated and added.