

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0643

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Tuesday, 18 May 2021
10 (The hearing starts in open session at 9.30 a.m.)
11 THE COURT USHER: [9:30:37] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:30:53](Interpretation) Court is in session.
15 Good morning to all.
16 Mr Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:31:18] Good morning, Mr President,
18 your Honours.
19 This is the situation in the Republic of Mali, in the case of The Prosecutor
20 versus Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number
21 ICC-01/12-01/18.
22 And for the record, we are in open session.
23 PRESIDING JUDGE MINDUA: [9:31:39](Interpretation) Thank you very
24 much, Mr Courtroom Officer.
25 And we shall start with the appearances, starting with the Office of the

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1 Prosecutor.

2 Madam Prosecutor, please.

3 MS LUPING: [9:31:50] (Overlapping speakers) Good morning, Mr President.

4 Good morning, your Honours. Appearing again on behalf of the Prosecution
5 is the same team, myself, Dianne Luping and Mr Raymond Sandoval.

6 Thank you.

7 PRESIDING JUDGE MINDUA: [9:32:01](Interpretation) Thank you very
8 much, Madam Prosecutor.

9 I'm now turning to the Defence.

10 Counsel.

11 MS TAYLOR: [9:32:07] Good morning, Mr President. Good morning,
12 your Honours. Good morning to everyone in the courtroom. The Defence
13 for Mr Al Hassan is represented today by Mohamed Youssef and myself,
14 Melinda Taylor.

15 PRESIDING JUDGE MINDUA: [9:32:22](Interpretation) Thank you very
16 much, Ms Taylor.

17 Now I'm turning to the Legal Representatives for Victims. Maître.

18 MR KASSONGO: [9:32:30](Interpretation) Good morning, Mr President.
19 Good morning, your Honours. Thank you very much. Representing the
20 Legal Representatives for Victims today in the modified team, I am
21 Mr Kassongo.

22 PRESIDING JUDGE MINDUA: [9:32:45](Interpretation) Thank you,
23 Mr Kassongo. Thank you very much, Mr Kassongo.

24 Now we shall continue with the testimony of the 33rd Prosecution witness.

25 This is Witness P-0643.

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1 But before so doing, I would like to ask Ms Taylor how much time she intends
2 to use?

3 MS TAYLOR: [9:33:10] Thank you, Mr President. It's my understanding that
4 the Defence has 2 hours and 20 minutes remaining, and I understand that we
5 will probably take up until that amount. It's possible that we might finish
6 earlier, and I'll endeavour to do so.

7 PRESIDING JUDGE MINDUA: [9:33:35](Interpretation) Thank you very
8 much, Ms Taylor. Very well.

9 So under these conditions, I think that we can start with the 34th witness for
10 the Prosecution at 2.30 this afternoon, after the luncheon break. So I think
11 everyone is warned.

12 Now I shall turn to the witness.

13 Good morning, Mr Witness. Can you hear me?

14 WITNESS: MLI-OTP-P-0643 (On former oath)

15 (The witness speaks French)

16 (The witness gives evidence via video link)

17 THE WITNESS: [9:34:04](Interpretation) Good morning, Mr President. Yes,
18 I can hear you.

19 PRESIDING JUDGE MINDUA: [9:34:07](Interpretation) Thank you very
20 much, Mr Witness.

21 THE WITNESS: [9:34:10](Interpretation) You are welcome.

22 PRESIDING JUDGE MINDUA: [9:34:11](Interpretation) Mr Witness, I would
23 like to, once again, welcome you and thank you again for working with us.
24 I would also like to remind you that you are still under oath and that you must
25 speak the truth, the whole truth and nothing but the truth. Lastly, I would

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1 like to remind you of my practical advice with regard to addressing the Court.

2 Now, without further ado, I shall pass the floor to Ms Taylor, who shall

3 continue her cross-examination of you.

4 Ms Taylor, please.

5 QUESTIONED BY MS TAYLOR: (Continuing)

6 Q. [9:35:01] Good morning, Mr Witness. How are you this morning?

7 A. [9:35:09] Good morning, Counsel. Very well, thank you. And how are
8 you?

9 Q. [9:35:13] Well, thank you very much.

10 Yesterday, Mr Witness, we were discussing differences between traditional and

11 religious forms of justice and the formal system of justice, and, now, I'm going

12 to turn specifically to formal systems of justice in Mali.

13 Mr Witness, would you agree that before, during and after 2012, human rights

14 violations have occurred within the framework of the formal justice system in

15 Mali?

16 A. [9:35:51] Could you please repeat your question.

17 Q. [9:36:06] Mr Witness, would you agree that before, during and after 2012

18 in Mali, human rights violations have been committed within the framework of

19 the formal justice system in Mali?

20 PRESIDING JUDGE MINDUA: [9:36:33](Interpretation) Madam Prosecutor,

21 please.

22 MS LUPING: [9:36:36](Overlapping speakers) Mr President, simply a request

23 for the Defence counsel to reformulate the question. It is rather confusing.

24 Even hearing it the second time, it's very unclear to me as well.

25 PRESIDING JUDGE MINDUA: [9:36:50](Interpretation) Ms Taylor, could you

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1 please rephrase? The question is too lengthy.

2 MS TAYLOR:

3 Q. [9:36:56] Mr Witness, are you aware of human rights violations being
4 committed within the framework of the justice system in Mali?

5 A. [9:37:10] Well, I would answer by saying that in the reports of human
6 rights associations - at a national level and in an international level - did report
7 that. That is what I believe I should answer.

8 Q. [9:37:42] And were these violations reported by these associations before,
9 during and after 2012?

10 A. [9:37:52] I do have the impression, yes, in view of the complaints that
11 were filed in the light of the reports and what they reported. And I would
12 refer you to the reports of the International Human Rights Commission of 2018
13 that takes stock of the human rights violations situation.

14 Q. [9:38:28] Mr Witness, you were in Bamako in 2012. Were you aware of
15 an incident where a man was burnt to death by a mob for stealing a motorbike?

16 A. [9:38:48] Expeditious and constant justice. Well, I'm not aware of the
17 fact that you're telling me, but this is a practice that is still current today.

18 Q. [9:39:11] I'm going to turn to Defence tab 2. That's MLI-D28-0004-0993.

19 And this is an article from 2012 -- it's dated, sorry, 10 September 2013, and it's
20 concerning this incident. And if I could turn to page 0994, it refers to several
21 incidents -- or, rather, four other persons suffering the same fate. And I'm
22 going to read out a paragraph and ask you a question.

23 Now this is in English, so I'll speak slowly so you have the translation.

24 "'Article 320 is back', according to a headline on the news website maliactu.net.

25 There is no need to look up this article, though, because it doesn't exist in any

1 law book. The practice, put in place after the March 1991 revolution, means
2 taking the law into your own hands, bypassing the legal system and a police
3 force considered inefficient. It is called '320' because at the time, it was the
4 price of a can of petrol and a box of matches.
5 Forgotten for nearly 20 years, 'article 320' has become increasingly popular
6 since the March 2012 coup d'état and the subsequent political and military
7 crises. Bruce Whitehouse, an anthropologist at the Lehigh University in
8 Bethlehem, Pennsylvania, wrote in his blog in April 2012: 'The coup and
9 vigilante justice are different expressions of a single logic shaped by the state's
10 perceived failure to enforce the law. When the government is seen as having
11 abdicated its fundamental responsibilities, by this logic, taking charge through
12 violence becomes legitimate and even salutary.'"

13 Mr Witness, my question is, did the absence of state authority and the
14 subsequent coup in Mali trigger incidents of civilians taking justice into their
15 own hands?

16 A. [9:42:08] Well, my report is explicit on the difficulties of the judicial state
17 system that the state of Mali went through after independence, that is, after
18 1961 until today. In 1991, there was this infamous article 320 and the citizens
19 found it difficult to understand the state of law and they -- they thought -- the
20 text that you just read from, well, I was not able to read it in English, but
21 through the translation I heard that this can be salutary in nature.

22 I do not believe that it can be salutary. This is not how things are perceived.

23 As to the theft itself of a telephone, for example, I did see or assist scenes where
24 people interceded to request that the citizens did not take justice into their own
25 hands.

1 Now, this all has to do with the issues of poverty, Madam, to my mind. It is
2 not very specific to Mali itself, and it may be that -- well, I'm not an expert in
3 criminal law, but from my knowledge of sociology, maybe we could look into
4 this more deeply. Violence within -- within an area of poverty is indeed -- of
5 course, this popular justice does exist, but it is not universal in nature because
6 moral authority does indicate that this kind of justice does continue in a very
7 trivial manner.

8 People are under the impression that they are denouncing people and that they
9 will then see those people in the street and -- and there is a weakness, this
10 weakness that has to be explained to people. And one would have to explain
11 the -- the rule of law to people for them to be able to understand.

12 Q. [9:45:31] Thank you, Mr Witness. I have two follow-up questions. At
13 line 14 you referred to incidents of popular justice. You said popular justice
14 does exist, but is not universal in nature.

15 Did the coup d'état in 2012, and issues concerning state authority in 2012, give
16 rise to more incidents of popular justice?

17 A. [9:46:03] By what I could observe of society, I persist in believing, but, of
18 course, I am humble because we're dealing here with criminal matters and I
19 would have the humility to request that studies be conducted on the matter.
20 It is very clear in the criminal area that statistics of interpreting such a situation
21 can be problematic.

22 I believe that there is a structural manner, Madam, a deregulation of the
23 judicial system, but I do not believe that it is the coup d'état of 2012 that made
24 this situation any worse.

25 In -- in a situation of poverty, a Jakarta motorbike or a mobile telephone that

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1 a young person has paid a fortune for, when you deprive them of that
2 possession, they might have emotional reactions that have consequences,
3 serious consequences.

4 So I would like this question to be looked at more deeply. This might not be
5 the best approach before this august Chamber, but when you asked me
6 whether I consider, you know, you asked me whether I agree, no, I do not
7 agree. I cannot agree with such a situation. But I do say that maybe what
8 might seem to me to take a bit of a shortcut, well, maybe we should do.

9 Q. [9:48:16] Mr Witness, my follow-up question actually concern this issue of
10 poverty and the linkage between poverty and such incidents. Did you have
11 anything more to add on that point?

12 A. [9:48:30] Well, there's a lack of confidence on the part of the citizen in the
13 judicial authorities -- in more than one country, that is. And, we are dealing
14 with Mali here, and I can indeed confirm that this crisis of confidence between
15 the citizens and the institutions has got worse in 2012, as the -- the International
16 Human Rights Commission reports indicates. And all the documentation, all
17 the relevant documents, Counsel, make mention of the multidimensional
18 nature of the crisis. And I would like to really underscore that aspect, the
19 multidimensional nature of the crisis.

20 Q. [9:49:33] I would like to turn back to your report. That's OTP tab 1.
21 That's MLI-OTP-0077-2933 at 2964.

22 Now, starting with the fourth paragraph on the page, starts with "*Le premier*
23 *président*", and it reads:

24 (Interpretation) "The first president of the Supreme Court Amadou Aliou
25 N'Diaye felt that in a structural manner, all the political regimes without

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1 exception have refused to put in place the necessary and substantial separation
2 between democracy of powers."

3 (Speaks English) Mr Witness, should we understand from this paragraph that
4 Mali has experienced issues with separation of powers?

5 A. [9:50:50] Counsel, with regard to this paragraph, in the biography I
6 mentioned the book by the president, Amadou Aliou N'Diaye, *L'Urne et le*
7 *glaive*, the separation of powers of the democratic system after the president. I
8 believe that this is a remark that can be made for all the sub-Saharan African
9 countries. Of course, there is an issue with the separation of powers -- it's not
10 only with sub-Saharan Africa that there is indeed a problem with the
11 separation of powers in the terms of the involvement of political power and the
12 judiciary.

13 This might be outside the scope of what we're concentrating on here, but this is
14 without doubt the case.

15 Q. [9:52:29] And, Mr Witness, in your opinion, has there been instances of
16 political interference in criminal proceedings in Mali?

17 A. [9:52:39] As to the history of Mali, as I said to you yesterday, the state is
18 young, and, you interrupted me on that subject. We have a republic from
19 1960 to 1968; that was the first republic. And in the following paragraph, on
20 the one -- from the one that I was just being questioned on, the second line of
21 the following paragraph does indicate that there is a unique party. From '90
22 to 1996, there was this unique party, political party. Now, if you have de facto
23 a unique political party, it is -- then, of course, one can presume that there is
24 a separation of powers.

25 Now, after '68, there was a rupture and there was 28 years of autocracy. In

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1 those 23 years in total, the constitution named the political -- the unique
2 political party as constitutional.

3 Now, you quoted -- or mentioned article 320 earlier. In 1991, there was
4 a rupture with 30 years of *monocratie*. The constitutionalists were of the mind
5 that the attempt to democratise only took place from 1991. The state started to
6 build itself up and the -- the stakes were really high to do with the separation
7 of powers, not only in the criminal field, but when separation of powers does
8 not occur, then, of course, there is interference by -- in the judicial system
9 on -- in that regard.

10 Q. [9:55:10] Mr Witness, are you aware of accusations that Malian security
11 forces, including the director general *de sécurité d'État*, have engaged in
12 practices of arbitrary arrest and detention?

13 A. [9:55:30] It has been reported that there were arbitrary arrests, and, to
14 date, there has been security forces interfering more than maybe they should
15 do. But today, there are social networks. There is free press dating back to
16 1991. And from 2012 until today, Madam, I believe that there is a certain
17 degree of increased consciousness that is quite extraordinary.

18 And yesterday we mentioned this fact; that people are no longer fatalist as they
19 might have been for many a year. There is a bubbling under the surface and
20 there are no reports of interference. And I would say that even when there
21 was a report on the part of the United Nations, the state of Mali, the
22 government of Mali, did not share the report.

23 And every time difficulties are reported, the viewpoints are discussed. So 20
24 or 25 years ago, there was no debate, no discussions as in all democracies -- in
25 all democracies.

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1 Now, to date -- today, things are being discussed. There have often been
2 accusations, but you haven't said specifically what they are. But generally
3 speaking, I would say that there has been an awakening.

4 Q. [9:57:40] If I can turn to Defence tab 46. That's [REDACTED]

5 And this is a Facebook post by a lawyer in Bamako.

6 And is that in front of you, Mr Witness? It's dated December 2020 and it
7 concerns the arrest of a magistrate Sékou Traoré by the director general *de*
8 *sécurité d'État*.

9 Are you aware of this incident, Mr Witness?

10 PRESIDING JUDGE MINDUA: [9:58:52](Interpretation) Madam Prosecutor.

11 MS LUPING: [9:58:54] Mr President, I'm just concerned that we are in public
12 session. I'm not sure what additional questions may be asked, but if -- in the
13 interest of the witness's security, it may be wise to move into private session;
14 especially if Defence counsel is going to be able to establish the appropriate
15 foundation even to put this document to this witness.

16 PRESIDING JUDGE MINDUA: [9:59:24](Interpretation) Ms Taylor.

17 MS TAYLOR: [9:59:25] Thank you, Mr President. This is a document with
18 a legal analysis in it concerning, over the page, several provisions of the
19 constitution and various Malian laws. So I was going to put to the witness
20 questions concerning Malian law. And, I believe, given the scope of his
21 expertise, I'm perfectly entitled to put to him questions of law.

22 Now, this I don't -- I don't intend to name the author of this Facebook post; I
23 don't think it's necessary to do so. I can establish that it is a lawyer from
24 Bamako who is providing a legal opinion of Malian law.

25 PRESIDING JUDGE MINDUA: [10:00:13](Overlapping speakers)

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1 THE INTERPRETER: [10:00:14] Overlapping speakers.

2 MS LUPING: [10:00:15] (Overlapping speakers) I just want clarity from

3 Defence counsel that they are not asserting that this is the witness.

4 THE INTERPRETER: [10:00:20] Message from the English interpreter:

5 Could counsel please wait for the interpretation. Thank you.

6 PRESIDING JUDGE MINDUA: [10:00:28](Interpretation) No, no, Madam

7 Prosecutor. I believe that the Defence has established a foundation. And

8 taking into account the expertise of the witness, I do believe that the witness is

9 in a position to answer the question.

10 Now as to confidentiality, I believe the Defence has already said that there

11 won't be any identifying questions that might put in issue for the witness.

12 Madam -- Ms Taylor, please continue.

13 MS TAYLOR: [10:00:58] Thank you, Mr President.

14 Q. [10:01:02] Mr Witness, are you aware of this incident concerning the

15 arrest of the magistrate, Sékou Traoré?

16 A. [10:01:16] Counsel, this is a case -- well, Mr Traoré is a magistrate by

17 profession. I have not read the article, but you're talking about Mr Traoré

18 who was a senior official within the presidency of the republic, the -- and the

19 lawyer you're mentioning is an eminent individual, well known.

20 This case was -- there was -- the Supreme Court made a determination on this

21 case, and, in its opinion, there was no reason to detain said individual; so it is

22 true that it became known by the international community. The UN said that

23 it was an open-and-shut case, but there was not only Mr Traoré involved; so as

24 I said, it was an open-and-shut case and the UN said so to the government.

25 The -- the subregional said a week ago that it was overjoyed that the case had

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1 come to an end in such a manner. There were lots of comings and goings, but
2 the supreme judge said *in fine* that there was no reason to detain said
3 individual and Mr Ben Mamata, who was his counsel -- yes, well, do I need to
4 add that fact?

5 Q. [10:03:21] You can, Mr Witness. It's not necessary, but you can if you
6 wish to do so.

7 A. [10:03:30] I haven't understood that point.

8 Q. [10:03:41] I apologise, Mr Witness. I was simply answering your
9 question.

10 Perhaps, Mr Witness, if we can turn to page 9456 of the same article and it sets
11 out various Malian laws. In particular, it's referring to law number 89-18, 1
12 March 1989 concerning the creation of the DGSE.

13 And if we can turn to the paragraph which says:

14 (Interpretation) "The article 2 of the law confers no attribution or competence
15 for detentions of citizens." (No interpretation)

16 THE INTERPRETER: [10:05:00] Message from the English booth: Could
17 counsel please slow down when reading. Thank you.

18 MS TAYLOR: [10:05:08]

19 Q. [10:05:08] Mr Witness, under Malian law, would it follow from this that
20 the DGSE does not have the power to arrest civilians?

21 A. [10:05:25] Well, Madam, thank you for crediting me with being able to
22 comment on all these legal texts. The general directorate for state security,
23 putting things into context, I would just say this is a political policy of
24 a country. It could be called state security intelligence at a general level.
25 The constitution in Mali is clear in this regard. The judicial organisation,

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1 whether it's the general directorate or any other police service, when it comes
2 to the action undertaken, that can only be done under the authority of
3 a magistrate.

4 That is the constant theme when it comes to policy in Africa; it's not just in
5 Africa. Thank you.

6 Q. [10:06:41] Now if we can turn to a paragraph a bit further down.

7 And I apologise to the interpreters. I will read it more slowly:

8 (Interpretation) "Beyond this mission, the decree sets the general framework
9 for the organisation of state security in its article 2, which provides that the
10 general directorate of the state security is placed under the direct authority of
11 the president of the republic."

12 So should we understand from that, Mr Witness, that the *Sécurité d'État* falls
13 under the authority of the executive and not the ministry of justice?

14 A. [10:07:24] The police services in the Republic of Mali come under the
15 executive, Madam. The services of police, all police services, come under the
16 executive.

17 Q. [10:07:50] And, Mr Witness, according to this, it falls under the president
18 of the republic. So can institutions that fall under the --

19 A. [10:08:03] State security in the Republic of Mali for a long time was under
20 the authority of the president of the republic for a long time.

21 Q. [10:08:19] And does their involvement in judicial proceedings raise issues
22 of separation of powers?

23 A. [10:08:31] Counsel, you've mentioned the case, Boubou Cissé, Sékou
24 Traoré. Boubou Cissé, the former prime minister of Mali. In the Boubou
25 Cissé case, Ras Bath, Ras Bath was well known. Mr Sékou Traoré was also

1 well known in this case.

2 And I said that in this case, there was the decision of the Supreme Court
3 according to which there was no crime with regards to the laws of the republic.
4 Furthermore, in a recent article, the president of the National Commission for
5 Human Rights said that his body had intervened such that very quickly the
6 case would be in the hands of the judges; otherwise, there would be an
7 arbitrary detention.

8 Here, I repeat that Mr Sékou Traoré, the magistrate, was in -- functions -- at the
9 time he was apprehended, he was in his functions of general secretary of the
10 presidency of the republic. It's a political case.

11 But you asked me: On a daily basis, do state security get involved in judicial
12 cases? That's something I don't know. What I can say is that, whether it's
13 state security or whatever, there's an open debate, and this is a debate that's
14 been carried out.

15 Q. [10:10:29] If I could turn to page 9457, it says: (Interpretation) "DGSE does
16 not have the vocation of arresting people. And under its authority, the
17 method adopted is cavalier and not legal: Arresting to investigate in place of
18 investigating before arresting. With regards to the quality of the persons
19 arrested by the DGSE, there has to be something which is more global."

20 So, Mr Witness, what is your legal opinion as concerns the power of the DGSE
21 to arrest persons, Malian citizens?

22 A. [10:11:33] Before giving a legal opinion, just a reaction as a citizen in
23 a state of law. You can't detain people outside the laws of the country.
24 Article 9 of the Malian constitution is very explicit in this regard. That's it.
25 This is legislation, and, even before this legislation, there had to be a lawyer in

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1 the preliminary phase. This is a basic principle. I can hardly understand
2 your insistence on this. I have difficulty in understanding it. It is necessary
3 to have a lawyer involved.

4 Q. [10:12:33] Mr Witness, if we can turn to Defence tab 16. That's
5 MLI-D28-0004-7124 at 7125. And yesterday we discussed the factors at figure
6 4 and why citizens avoid courts. And we listed them out: 32 per cent prefer
7 to go to traditional or local leaders, 20 per cent don't expect fair treatment, 18
8 per cent believe the courts favour the rich and powerful, 16 per cent believe
9 that judges or courts will demand money, and 13 per cent believe that -- don't
10 trust the courts.

11 Now my question, Mr Witness, is: Do incidents of arbitrary and illegal arrest
12 also contribute to why citizens don't have trust in the formal judicial system?

13 A. [10:13:35] Probably I'm not making a direct link to that -- probably I
14 wouldn't make a direct link to that. The problem of justice in Mali is
15 a structural problem. Under President Amadou N'Diaye, the first president of
16 the Supreme Court, he made this clear. And in my report I say this is as well.
17 It's not just the public service of justice. Yesterday we mentioned the fact that
18 only in 2020 the state budget made available judicial services. It was 1 per
19 cent of the budget, which is derisory.

20 Now in the sector such as health, there's a lot more. In the health sector, it's
21 perhaps the second or third budget item in the state budget. The citizens go
22 to the therapist more often than to the doctor. That's with regards to the
23 health services. They go to their traditional therapist more than their doctor.
24 But that's with regard to the health services.

25 So with regards to the public services of justice, you -- well, it's constant, and

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1 there are statistics with regards to public health which are clear in this regard.

2 If you look at the citizens, if you take the case of Mali - and, I think that we

3 know this - when you look at the different regions, citizens prefer to see

4 a -- prefer to go to see a healer rather than a doctor.

5 Q. [10:15:36] Mr Witness, and how would that analogy apply to issues of
6 law or justice?

7 A. [10:15:45] If I've understood the question, there is disregard for public
8 institutions. There is a lack of trust in it.

9 MS TAYLOR: [10:16:12] Mr President, I have several questions which are
10 of identifying nature. If we can go into private session for them.

11 PRESIDING JUDGE MINDUA: [10:16:23](Interpretation) Certainly,
12 Ms Taylor.

13 Court officer.

14 (Private session at 10.16 a.m.)

15 THE COURT OFFICER: [10:16:30] We're in private session,
16 Mr President.

17 PRESIDING JUDGE MINDUA: [10:16:36](No interpretation)
18 Maître Taylor.

19 MS TAYLOR: [10:16:40]

20 Q. [10:16:41] Mr Witness, were you introduced to the ICC Prosecution by
21 [REDACTED]?

22 A. [10:16:55] Yes.

23 Q. [10:16:56] How do you know [REDACTED]?

24 A. [10:17:09] Should I say that [REDACTED] thought that I was a person
25 who was qualified to appear before this Court. He's a lawyer at the bar.

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1 Q. [10:17:26] How long have you known [REDACTED]?

2 A. [10:17:31] I've known him for many years. I can't say exactly how many,
3 but I've known him for years.

4 Q. [10:17:44] [REDACTED]?

5 A. [10:17:49] No.

6 Q. [10:17:54] How did you first meet him?

7 A. [10:17:59] I have difficulty in thinking of a situation. But a while ago
8 you mentioned [REDACTED]

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. [10:18:58] How often are you in contact with [REDACTED]?

16 A. [10:19:03] I'm not in contact with [REDACTED]

17 Q. [10:19:15] Now, is it correct that [REDACTED] is familiar with your
18 background and your contacts in Timbuktu?

19 A. [10:19:24] Perhaps you should put the question to [REDACTED]

20 Q. [10:19:36] If we can turn to Prosecution tab 14, MLI-OTP-0072-0246. This
21 is a note prepared by the Prosecution concerning a meeting between you and
22 [REDACTED] And it starts with a paragraph, which I'll read to you and
23 then ask questions:

24 "[REDACTED] offered to introduce the Team to a Malian [REDACTED] with
25 strong knowledge about the history of Mali and in particular that of

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1 Tombouctou. He indicated that P-643 was [REDACTED]
2 [REDACTED]"

3 Mr Witness, have you received the French translation -- interpretation. Sorry.

4 Mr Witness, this document is in English, so I can read out the paragraph again
5 so you get the French interpretation. It was:

6 '[REDACTED] offered to introduce the Team to a Malian [REDACTED] with
7 strong knowledge about the history of Mali and in particular that of

8 Tombouctou. He indicated that P-643 was [REDACTED]
9 [REDACTED]"

10 My question, Mr Witness, is: Do you know how [REDACTED] would
11 know that you [REDACTED]
12 [REDACTED]?

13 A. [10:21:59] So, Counsel, without going against you in any way, I don't
14 want to - if you go back to the question, I'm a public person. I'm a public
15 person.

16 Q. [10:22:25] Prior to the meeting with the Prosecution, did you discuss ICC
17 proceedings with [REDACTED] or your potential role as an expert?

18 A. [10:22:38] Not specially.

19 Q. [10:22:47] You'd followed the Al Mahdi case; that's correct?

20 A. [10:22:54] Yes. And everything related to criminal matters concerning
21 the country, of course.

22 Q. [10:23:06] And some parts of this case?

23 A. [10:23:11] Via the press.

24 Q. [10:23:18] What were you aware of at the time?

25 A. [10:23:22] I read information in the press about the confirmation of

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1 charges, the confirmation of charges hearing. I've got certain cuttings
2 therefrom. The Malian press was following that issue. It was relaying the
3 activities of the Court, the activities the Court was carrying out. And I have
4 press cuttings, passages about members of the International Criminal Court
5 which explains what the Court is doing.

6 And that's what I have by way of information.

7 Q. [10:24:12] Now, when [REDACTED] introduced you to the Prosecution,
8 did he explain to you that he was proposing you as an expert?

9 A. [10:24:25] No.

10 Q. [10:24:32] If I could turn to your report, that's tab 1 MLI-OTP- --

11 A. [10:24:38] Please do.

12 Q. [10:24:39] -- 0077-2933, turning particular to 2985. This is the document
13 cited.

14 Do you have that document in front of you, Mr Witness?

15 A. [10:25:13] The annexes?

16 Q. [10:25:14] Yes.

17 A. [10:25:19] The persons met.

18 Q. [10:25:20] Above that.

19 A. [10:25:21] Oh, then I can read it on the screen. Thank you.

20 Q. [10:25:25] Yes. And above that, can you see that you're referring, in
21 terms of the documents that you reviewed: (Interpretation) [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Mr Witness, did you read this complaint?

25 A. [10:25:59] Well, it was a large dossier with regards to the situation of the

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1 tribunal in Bamako. [REDACTED]

2 Q. [10:26:21] [REDACTED]?

3 A. [10:26:24] If you would allow me, Madam. [REDACTED]

4 [REDACTED] That's it.

5 Q. [10:26:43] What were those means?

6 A. [10:26:48] Well, it concerns research, documentation.

7 Q. [10:27:06] When you met the ICC investigators in [REDACTED]

8 [REDACTED] did they tell you about the Al Hassan case and outline for you
9 the main allegations the Prosecution seeks to have confirmed?

10 A. [10:27:29] I shall be explicit in this regard. [REDACTED] had already
11 said that I could be useful with regards to the report, and information,
12 providing information for the report.

13 [REDACTED]
14 [REDACTED]
15 [REDACTED] We spoke about the information, relevant information that I
16 could give as an expert about this northern region. And the questions which I
17 replied to came from the Prosecution. They didn't come from me.

18 Q. [10:28:37] When you spoke about this information with the Prosecution,
19 did the Prosecution outline the main allegations the Prosecution seeks to have
20 confirmed?

21 A. [10:28:54] I didn't get any interpretation of that.

22 Q. [10:29:03] Well, I'll turn to the Prosecution document. That's OTP tab 14,
23 MLI-OTP-0072-0246.

24 PRESIDING JUDGE MINDUA: [10:29:19](Interpretation) Madam Prosecutor.

25 MS LUPING: [10:29:20] Mr President, yes. I see that the witness has said "I

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1 didn't get interpretation of that." I think there is an interpretation issue. You
2 may need to repeat the question.

3 MS TAYLOR: [10:29:28] I was going to.

4 PRESIDING JUDGE MINDUA: [10:29:30](Interpretation) Please do,
5 Ms Taylor. Please repeat the question.

6 MS TAYLOR: [10:29:34]

7 Q. [10:29:36] Mr Witness, I'm going to read to you a section, a paragraph,
8 from this document. And I'll do it slowly, because it's in English, so you get
9 the translation.

10 It says:

11 "Investigator [REDACTED] provided a general overview of the OTP activities in Mali
12 since the opening of the investigation in 2013. After a brief recall of the Al
13 Mahdi case, particular details were given about the stage of the proceedings
14 against Al Hassan and the main allegations the Prosecution seeks to have
15 confirmed."

16 Mr Witness, do you recall the Prosecutor giving you details about the stage of
17 the proceedings against Al Hassan and the main allegations the Prosecution
18 seeks to have confirmed?

19 A. [10:31:00] From our interview, I had to be clear with regards to the
20 situation in the north. That's what I've tried to do. In addition to that,
21 Madam, once again, the press relayed the different phases of the trial and the
22 press continues to do so. The interruptions, the restart in March. Before that,
23 this information was given.

24 Q. [10:31:51] Now, after this meeting on the [REDACTED] did you meet
25 again in [REDACTED]?

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1 A. [10:32:05] I did have meetings which I had -- I had meetings which are
2 accounted for, and there was planning which was not very developed, but
3 because of the pandemic, obviously, that had an impact on having any
4 meetings with anyone. And when we separated, there was a plan, a very
5 clear plan for meetings between us. But I remember that there was
6 a telephone call and I was told that travel was no longer allowed out of the
7 office, for example.

8 Q. [10:33:07] Now, Mr Witness, you've referred to discussions. Did the
9 Prosecution provide you with further details on the type of information they
10 were interested in?

11 A. [10:33:19] As to the type of information they were interested in, it is
12 written down in Roman numbers I, II, III and IV. And I think that there is
13 additional information that was requested, which led to Roman numerals
14 number V and number VI.

15 So the basis of our exchanges was with regard to those points that I was due to
16 develop in my report, and I'm recalling those from memory.

17 Q. [10:34:15] And did these exchanges on these Roman numerals, did they
18 occur when the Prosecution was intending to call you as a fact witness?

19 A. [10:34:30] Counsel, could you please be more specific on that point.

20 Q. [10:34:50] If I can refer to tab 16, I'll read something out to you and put
21 the question to you. It's MLI-OTP-0078-3962, and the page we're looking at is
22 3964.

23 If I can read out the paragraph to you, Mr Witness, and then put the question
24 to you. It says:

25 "On [REDACTED] explained to P-643 that after further internal consultations,

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1 the position remains that the OTP cannot 'pay' P-643 as such and in the
2 circumstance, as if he had provided an expert report. [REDACTED] reminded P-643
3 that the collaboration with him had not been built with the view to ordering
4 and producing an expert report. [REDACTED] also recalled that, as P-643
5 acknowledged, the investigators had been clear all along and at the last
6 meeting in [REDACTED] that the Prosecution was interested in P-643's
7 personal experience and knowledge on the topics highlighted, which could
8 help better -- understand better what happened in 2012. It was clearly stated
9 that the OTP wished to collect a witness statement. The meeting scheduled
10 for that purpose was cancelled only as a result of the COVID-19 pandemic."
11 Mr Witness, my question is, when you were having these discussions with the
12 Prosecution on these issues of interest to the Prosecution, was it their
13 understanding that you were a fact witness testifying about your personal
14 knowledge?

15 A. [10:37:01] I understood that what was expected of me was that I testify as
16 an expert. I did insist on the fact -- or underscore the fact that [REDACTED]
17 [REDACTED] who knows the area, but I am an expert. I am very much aware of
18 what's going on in my country and have always been in the know. [REDACTED]

19 [REDACTED]
20 Q. [10:37:55] Now, Mr Witness, in preparing your report, did you speak to
21 someone called [REDACTED] at length?

22 A. [10:38:08] I did indeed speak to him and even meet with him physically.

23 Q. [10:38:21] How do you know [REDACTED]?

24 A. [10:38:29] He is a compatriot. A compatriot. [REDACTED]
25 [REDACTED]

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1 [REDACTED]

2 Q. [10:38:52] When did you meet [REDACTED]?

3 A. [10:39:00] Well, [REDACTED] and myself hail from the same

4 town -- from the same town. [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 Q. [10:39:51] Mr Witness, I apologise. My question was not clear. When
12 you were preparing your report, when did you speak to [REDACTED] or
13 when did you meet him as part of your preparation for your report?

14 A. [10:40:10] Thank you for being more explicit. I shall be explicit myself.
15 When, in [REDACTED] I had had discussions with the well-known people
16 I just mentioned, I started to conduct an investigation or research in
17 preparation for the report. There are individuals whom I have not cited for
18 security reasons - I could take the risk but I should not put other
19 people's -- other people at risk - those people who had remained there
20 throughout the occupation.

21 I spoke to [REDACTED] but I did not speak to him -- only to him to write my
22 report. [REDACTED]

23 [REDACTED]

24 Madam.

25 Q. [10:41:24] When was the last time you spoke to or met [REDACTED]?

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1 A. [10:41:36] [REDACTED]

2 Q. [10:41:45] And did you discuss your report on this date?

3 A. [10:41:50] No. In questioning people, I never spoke to anybody about
4 the fact that I was drafting a report. I never spoke to anybody about the fact
5 that I was drafting a report. For very obvious reasons, Madam, I never spoke
6 to anybody about the fact that I was drafting a report.

7 THE INTERPRETER: The witness repeats himself for the fourth time.

8 MS TAYLOR:

9 Q. [10:42:25] Mr Witness, during this meeting, did you discuss any of the
10 issues that you have testified about over the last two days?

11 A. [10:42:37] Well, I was talking about the global situation of the town. As I
12 continue to do -- as I repeat, [REDACTED]

13 [REDACTED] I spoke to people. [REDACTED]

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 It is a global situation and it is not necessary for me to tell people that I'm
18 writing a report for the International Criminal Court.

19 Q. [10:43:40] Now, Mr Witness, when you spoke to [REDACTED]
20 did he tell you about [REDACTED]?

21 A. [10:43:53] Absolutely.

22 Q. [10:44:06] Did he explain to you how he collected these documents?

23 A. [10:44:13] You've talked about [REDACTED] was the
24 last time I met with him, if that was your question. I met him for the last time

25 [REDACTED] I

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1 couldn't speak [REDACTED] of a situation, if I have understood the dates that you
2 have indicated correctly. [REDACTED]

3 [REDACTED] so I did not have any situation to talk about in [REDACTED] with [REDACTED]
4 [REDACTED]

5 You asked me when I met him for the last time and I told you that it was
6 indeed in [REDACTED] and I did not mention to him that I was preparing
7 a report. That's quite normal.

8 Q. [10:45:17] If I can turn to OTP tab 5, that might bring a bit more clarity.

9 That's MLI-OTP-0078-1382. This is a memo that you provided to the
10 Prosecution dated April 2020, and it's referring in particular to actions that you
11 took after your meeting on [REDACTED] And we can see here a paragraph
12 saying:

13 (Interpretation) [REDACTED]

14 [REDACTED]

15 [REDACTED] as to how to undertake the occupation of Timbuktu in
16 the perspective compliant with Sharia. [REDACTED]

17 [REDACTED]

18 End of quote.

19 (Speaks English) So, Mr Witness, my question is, did [REDACTED] explain to
20 you during these conversations how he collected these documents?

21 A. [10:47:03] I'm reading along with you, Counsel, that the conversation was
22 over the telephone. It was by telephone. He is a extremely
23 professional-ist -- a professional [REDACTED] that goes without saying. And for

24 [REDACTED]

25 [REDACTED] - I will just say that, as he said to me

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1 over the telephone, he had said documents in his possession.

2 Q. [10:47:56] Did he tell you how he got them in his possession?

3 A. [10:48:02] I didn't ask him the question, [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. [10:48:47] Did [REDACTED] tell you what he did with the documents?

9 A. [10:48:56] No, Madam.

10 Q. [10:49:10] Did you record this conversation?

11 A. [10:49:14] That is not part of my habits. Even professionally speaking,
12 I'm not in the habit of doing that.

13 Q. [10:49:33] Now, after you met the Prosecution [REDACTED] and

14 before you finished this document, is it correct that you [REDACTED]

15 [REDACTED]?

16 A. [10:49:56] Mm-hmm, yes, that's what I said. That is correct, of course.

17 Q. [10:50:07] Can you provide the names of the persons that you spoke to on
18 these issues during those visits?

19 A. [10:50:15] Well, Madam, I use the term of a mass of people, you know,
20 a great number of people. A *foultitude*, in French, a great number of people.

21 And I would say - from all conditions, to cross-check everything that I know
22 about what happens in the field, you know - I did this in all good conscience.

23 Q. [10:51:05] And can you give the names of this *foultitude*?

24 A. [10:51:14] I'm not in a position to be able to provide you with names,

25 Madam. On my honour, I can tell you [REDACTED] and that's all I

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1 can tell you.

2 Q. [10:51:30] Is it correct that you [REDACTED]?

3 A. [10:51:40] He is the imam [REDACTED]

4 [REDACTED] He is the imam of my neighbourhood.

5 Q. [10:52:12] Now, going to tab 14 -- Prosecution tab 14, that's

6 MLI-OTP-0072-0246, the account of your first meeting with the Prosecution,

7 and turning to page 24 -- 0247, it's saying that [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Now, apart from the fact that you come from the same neighbourhood, [REDACTED]

12 [REDACTED]?

13 A. [10:53:06] No.

14 Q. [10:53:20] [REDACTED] in your phone investigations,

15 did you speak to [REDACTED]?

16 A. [10:53:37] No.

17 Q. [10:53:40] Did you speak to anyone connected to [REDACTED]

18 [REDACTED]?

19 A. [10:53:52] I can be very specific. I did not talk to the imam about this
20 case, but it might be that I spoke or I did indeed speak to him about the issues
21 associated with our town, globally speaking.

22 Q. [10:54:21] And did you speak to [REDACTED] about these
23 global issues?

24 A. [10:54:37] Are you talking about [REDACTED]?

25 Q. [10:54:42] Yes.

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1 A. [10:54:44] No, I didn't talk to him about those issues.

2 Q. [10:54:54] Now, at the time you were doing these researches, is it correct
3 that you were under the understanding that you would be paid by the
4 Prosecution?

5 A. [10:55:07] It is not that I understood it. I thought that the work of an
6 expert should be paid for.

7 Q. [10:55:25] And is it correct that you asked to be remunerated for 60 days'
8 work?

9 A. [10:55:37] Under the conditions where I did make mention of this in
10 writing, indeed.

11 Q. [10:55:51] Did you tell the Prosecution in May 2020 that you were not
12 willing to testify as a witness?

13 A. [10:56:02] Certainly, in the context that we just outlined, mm-hmm.

14 Q. [10:56:14] Can you explain what that context is, why you would not
15 testify as a witness?

16 A. [10:56:22] For a very simple reason, Madam. From the first contact that I
17 had with the Office of the Prosecutor until today, I told them that I was an
18 expert and I was told that I could be an expert witness, quite simply.

19 Q. [10:56:49] So is it correct that you were not willing to testify unless you
20 were paid?

21 A. [10:56:58] No, that is not correct.

22 Q. [10:57:13] Well, is it correct then, that you did not want to testify as a fact
23 witness?

24 A. [10:57:22] I expected to be an expert first and foremost because I am

25 [REDACTED] Madam.

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WITNESS: MLI-OTP-P-0643

1 Q. [10:57:36] Now, is it correct that after you said you would not testify, the
2 Prosecution then proposed to call you as an expert and pay you for your
3 testimony?

4 A. [10:57:54] Madam, as for -- for remuneration, I find this a little bit
5 embarrassing, because if you read through the entire document, you -- it will
6 not have escaped you. And I'd like to underscore this, that the first time I
7 talked to [REDACTED] I clearly said in writing that the issue of
8 payment for me was secondary. Secondary. There was an issue. I was to
9 provide expert knowledge, information, and, I used the term, I said that we
10 needed to lay a foundation together. We had to construct this together.
11 There were things to do in order to provide information on a certain situation.
12 [REDACTED] after all. Without entering into controversy, there's certain
13 knowledge that needs to be laid out, and that's how we were going to get there.
14 Now, to say that I'm an expert because I'm paid, well, that seems to me to be
15 playing with ethics and my professional practice, Madam.

16 Q. [10:59:27] Now, is it correct that you were paid an honorarium for both
17 your report and for your testimony?

18 A. [10:59:41] As to my report, I entered into a contract that I'm sure is
19 available to the services of the Court. I have a contract. There we are.

20 Q. [11:00:05] If we can turn to Prosecution tab 21, that's MLI-OTP-0077-4446.
21 And I'll read out the paragraph, although I'm noticing the time, Mr President.
22 Can I ask one question before the break?

23 PRESIDING JUDGE MINDUA: [11:00:42](Interpretation) Please go ahead,
24 Ms Taylor.

25 MS TAYLOR:

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WITNESS: MLI-OTP-P-0643

1 Q. [11:00:46] This states that:

2 "The honorarium fee was agreed to cover P-643's preparation of an expert
3 report covering, *inter alia*: (1) origins and composition of the population of
4 Timbuktu; (2) customs of the various communities in Timbuktu; (3) status of
5 women in Malian society, in particular in Timbuktu; (4) applicable laws in Mali,
6 including in Timbuktu, including 'cadi' laws and influence of Sharia law. The
7 fee also included any time spent preparing for, or providing testimony in
8 court."

9 So, Mr Witness, is it correct that you are being paid by the Prosecution to testify
10 today?

11 A. [11:01:40] I would answer what the document has written, what the
12 document states.

13 MS TAYLOR: [11:01:59] Is this a good time to break, Mr President?

14 PRESIDING JUDGE MINDUA: [11:02:04](Interpretation) Certainly,
15 Ms Taylor.

16 Court officer, please take us into open session.

17 (Open session at 11.02 a.m.)

18 THE COURT OFFICER: [11:02:15] We're back in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [11:02:27](Interpretation) Thank you very
20 much, court officer.

21 We are now going to take a break for half an hour and we will be back at 11.30.

22 Court is suspended.

23 (Recess taken at 11.02 a.m.)

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

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

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(Open Session)

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WITNESS: MLI-OTP-P-0602

1 Please be seated.

2 PRESIDING JUDGE MINDUA: [11:31:39](Interpretation) Court is in session.

3 Ms Taylor, you have the floor for the follow-up of your cross-examination.

4 MS TAYLOR: [11:32:00] Thank you, Mr President. And I believe we can stay
5 in open session.

6 PRESIDING JUDGE MINDUA: [11:32:09](Interpretation) Very well. We're
7 in open session, please continue.

8 MS TAYLOR: [11:32:12]

9 Q. [11:32:13] Good morning, Mr Witness.

10 A. [11:32:18] Good morning, counsel.

11 Q. [11:32:22] Now, to start with, to remind you that we're in open session. I
12 don't believe that my questions go into anything specifically that's confidential,
13 but just as a -- as a slight warning not to mention anything that might be
14 identifying to you.

15 Now, is it correct that on 26 November 2020, the Prosecution asked you if you
16 could convert your aide-memoire into a formal report?

17 A. [11:33:06] With an additional -- with an additional part to the question,
18 with questions added thereto.

19 Q. [11:33:18] Now, in terms of these additional questions, are these
20 a demographic table, a section on the status of women in Malian society and
21 Timbuktu, a section on the legal status of marriages in Timbuktu, and a section
22 on peace and reconciliation in Timbuktu?

23 A. [11:33:40] Well, I'll be more explicit. It's on the basis of a *lettre de mission*,
24 a mission letter, with a very explicit questionnaire. The mission letter
25 indicates that I am apt to take account for all the elements which I developed in

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WITNESS: MLI-OTP-P-0602

1 my aide-memoire. That's how I would prefer to state things.

2 Q. [11:34:19] Now, apart from these elements I just outlined, is it correct that
3 in your final report you simply copied over the existing elements from your
4 aide-memoir?

5 A. [11:34:37] That's not correct. With the greatest respect, counsel, that is
6 not correct. It is possible - without cutting you off - it is possible to already
7 see new elements in the bibliography and in the updates that were made
8 thereto.

9 Q. [11:35:00] Now, apart from the bibliography and these specific updates,
10 my question is, was the remainder copied over from your aide-memoire?

11 A. [11:35:14] I will come back to you, Counsel. I worked, I wrote my report
12 on the basis of a mission letter. The mission letter indicates that -- indicated
13 I'm able to use elements of my aide-memoire which I already provided. That
14 is important for me.

15 Q. [11:36:10] By using these existing elements in your final report, is it the
16 case, then, that you were effectively paid for your initial aide-memoire?

17 PRESIDING JUDGE MINDUA: [11:36:33](Interpretation) Counsel, Ms Taylor,
18 so I would have to intervene here. The witness has already replied to the
19 question about the aide-memoire and about the elements that were added on
20 the basis of the mission letter that he received. That's been resolved. The
21 Chamber was enlightened.

22 And now you're coming back to the issue of pay. We've discussed -- or, rather,
23 you have discussed this with the witness. You did so before the break. I
24 don't understand why you're coming back to that now. Please go on to
25 something else, unless have you a fundamental reason to going back to that.

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1 What is the reason?

2 MS TAYLOR: [11:37:28]

3 Q. [11:37:30] Mr Witness, let's turn to the text of your report. OTP tab 1,

4 MLI-OTP-0077-2933, and if we turn to page 2946. And if we look at the fourth

5 paragraph down, it starts with:

6 (Interpretation) "Certain steps in this aide-memoire -- were in this

7 aide-memoire."

8 Did you review this text before you included it in your report?

9 A. [11:38:29] I'm following the paragraph. Please put your question. I can
10 see the paragraph.

11 Q. [11:38:42] My question is, Mr Witness, that this says: (Interpretation)

12 "Somewhere in this aide-memoire".

13 So it appears this comes from your aide-memoire.

14 Did you review it before inserting it in your report?

15 A. [11:38:58] Counsel, I'm going to be formal, just as you are. I received
16 a letter, a mission letter, which explicitly says I can refer to my aide-memoire.

17 And I consider that the report was written along the lines set out in the mission
18 letter.

19 If there is an issue you would like to refer to, then do so. Please ask a question
20 with regard to the paragraph, if you would like to; otherwise, I am available for
21 any other question you would like to put.

22 As I said, we are among lawyers here, so I'm going to be formal, just as you are.

23 Q. [11:39:55] As a lawyer, have you testified as an expert in court before?

24 A. [11:40:01] Counsel, I am not a lawyer.

25 Q. [11:40:15] Have you testified as an expert in court before?

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1 A. [11:40:22] No, counsel.

2 Q. [11:40:29] Would you agree as a - that it is important in providing an
3 expert report to clearly acknowledge any sources of information you rely on?

4 A. [11:40:52] Well, there are ethics which are -- which govern who can be an
5 expert. That's an ethical issue.

6 Q. [11:41:15] And as a matter of expert -- of ethics, sorry, is it important to
7 acknowledge whether something written is an original piece of writing or
8 taken from someone else?

9 A. [11:41:30] I don't think that I've taken from anywhere. Where
10 I've -- where I've quoted anything, of course I have given my sources.

11 Q. [11:41:50] If I can turn to your report, OTP tab 1, MLI-OTP-0077-2933,
12 looking specifically at 2934. And if we -- if we can look at the paragraph
13 starting with "*La pluviométrie*".

14 Do you have that in front of you, Mr Witness?

15 A. [11:42:30] Yes, I've got context in front of my eyes. Yes, the rain index.

16 Q. [11:42:41] Now can you see the paragraph starting with (Interpretation):
17 "The rain index, between 800 and 1000 mm per year, goes over six months."
18 (No interpretation)

19 Do you have that in front of you, Mr Witness?

20 A. [11:43:15] (No interpretation)

21 Q. [11:43:17] Are these your original work?

22 A. [11:43:30] I -- I quote a report, which I mention explicitly.

23 Q. [11:43:41] If we turn to Defence tab 37, MLI-D28-0004-8799, looking at
24 page 8812.

25 Mr Witness, can you see under paragraph 1 ...

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1 A. [11:44:26] Not yet, Counsel.

2 Q. [11:44:29] Can you see in paragraph 1, Mr Witness, the -- starting with
3 (Speaks French) (Overlapping speakers)

4 A. [11:45:25] Yes.

5 Q. [11:45:27] Can you see the exact same words?

6 A. [11:45:33] Counsel, have you read the first paragraph from the point?
7 The point is about the context. The paragraph that you showed before that,
8 which I said that I had cited from Mr Younoussa Hamara, it goes to the context.
9 It's evaluating the context.

10 You go from a document, which is from Malian public service, and the
11 programme indicates the inventory of ground resources. Perhaps you have
12 taken the paragraph not in the right place. Necessarily, I would ask you to go
13 back to the context.

14 Right, the very beginning of the presentation, the classification that you have
15 there, that goes -- is -- comes from the Malian public service, which has an
16 inventory. And that's where this information comes from. It's in the public
17 domain. It's geography.

18 Q. [11:47:03] My question, Mr Witness, is: Did you cite this text, or did you
19 copy and paste the information from this text?

20 A. [11:47:13] I didn't quote this text. I quoted the text of Mr Younoussa
21 Hamara, Abdoulaye Sall. That's annexed to the bibliography.

22 And if you would like to go back to the context, then the whole context
23 indicates that what follows comes from a classification made by the inventory
24 of ground resources. And this is in the public domain, so you don't use terms
25 like copy and paste.

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1 I'm fine with it. I quote Mr Hamara and Mr Sall and they themselves refer to
2 a document which is in the public domain, *Programme d'inventaire des*
3 *ressources terrestres*.

4 So I'm explicit in this regard.

5 Q. [11:48:23] Can we turn now to page 2937 of your report. And if you
6 could let me know when that's in front of you,
7 Mr Witness.

8 A. [11:48:54] I have the folder in front of me. Please go ahead.

9 Q. [11:49:00] If we can look at the paragraph starting with:
10 (Interpretation) "The main ethnic groups that live in Timbuktu".
11 (Speaks English) And if we can look down the next paragraph to (Overlapping
12 speakers)

13 A. [11:49:15] Please go ahead.

14 Q. [11:49:17] So we have four paragraphs here.

15 A. [11:49:21] Please go ahead.

16 Q. [11:49:22] Now, is the wording in these four paragraphs your original
17 wording, or did you take this wording from another source?

18 A. [11:49:35] The source is indicated, Counsel. On the third paragraph, if
19 you go from the bottom to the top. Here, I quote: "Development plan.
20 Cultural, social and economic development plan Timbuktu urban commune
21 'PDESC' 2016-2020."

22 That is my source and I quote my source.

23 Q. [11:50:23] So does this mean that the paragraphs above are all quotes
24 taken from that source and not your original words?

25 A. [11:50:34] Madam, what do you mean by, not original? The question is

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1 the following: The origin and the composition of the population of Timbuktu
2 in the towns and the regions, describing and explaining them on the basis of
3 official censuses and surveys and on the basis of knowledge and -- personal
4 knowledge.

5 The question is precise. It's better to answer the question with precise and
6 reliable sources.

7 Q. [11:51:39] So to be clear, you answered this question with the information
8 you took from this source?

9 Mr Witness, did you hear my question?

10 A. [11:52:19] No. I heard, "using this source". Perhaps there's a technical
11 issue. I didn't get the first part.

12 Q. [11:52:32] So to be clear, Mr Witness, you answered the question by
13 taking information from this source?

14 A. [11:52:44] Well, without pretension, I will be more explicit. The
15 information that I give answers a question where I'm invited to refer to the
16 official surveys and censuses, an official plan for development of a commune.
17 That is an official census. That is the question. That is indeed the title,
18 "Official Census, what is your personal opinion".

19 Q. [11:53:32] Now, if we can now turn to page 2942. If we look at the
20 phrase starting with:

21 (Interpretation) "All the social and cultural values are inspired by Islam."
22 Now this paragraph, are these your original words or do they come from
23 a source?

24 A. [11:54:26] The words come from an expert, a researcher, an emeritus
25 researcher, Salem Ould Elhadj. On page 49 of book 1, Salem Ould Elhadj.

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1 Page 49, book 1.

2 Q. [11:54:56] Now if can we turn to Defence tab 43. That's

3 MLI-D28-0004-9396.

4 Do you write this report from May 2016?

5 A. [11:55:24] I'm sorry, could you put the question to me.

6 Q. [11:55:41] Did you write this report?

7 A. [11:55:45] I don't know this report.

8 Q. [11:55:53] It's dated May 2016, so before you prepared your aide-memoire;
9 that's correct?

10 A. [11:56:02] Please, please go to your question, Counsel.

11 Q. [11:56:11] If we go to page 9408. 9408.

12 Is that in front of you, Mr Witness?

13 A. [11:56:36] Yes.

14 Q. [11:56:41] And we can see here information concerning the ethnic groups
15 in Timbuktu?

16 A. [11:56:50] Yes.

17 Q. [11:56:51] Now, Mr Witness, do these words seem similar, almost
18 identical to the words in your report?

19 A. [11:57:05] Necessarily I would say that I quote Salem Ould Elhadj
20 in -- from a publication in 2010. This report is from 2016. So could I turn the
21 question around?

22 Q. [11:57:27] Mr Witness, perhaps to be clear with my question, I showed
23 you page 2937 of your report previously. That was the section concerning *les*
24 *Touaregs, les Bellas, les Bozo, les Maures, les Kel-Tamacheqs.*

25 Do you have --

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1 A. [11:57:50] Yes.

2 PRESIDING JUDGE MINDUA: [11:57:51](Interpretation) Madam Prosecutor.

3 MS LUPING: [11:57:54] Objection, Mr President. This has been asked and
4 answered repeatedly. I think the witness's last response was extremely clear.

5 PRESIDING JUDGE MINDUA: [11:58:05](Interpretation)

6 Ms Taylor.

7 MS TAYLOR: [11:58:08] Mr President, I haven't actually put the question to
8 the witness yet, which is to -- if we could cut the sound to the witness, I can
9 perfectly explain it. But I do believe it's essential that we be able to test the
10 methodology of the witness. And given that the Prosecution hasn't heard my
11 question, it's not possible to say it's asked and answered when I actually
12 haven't put the question or the follow-up question to the witness.

13 PRESIDING JUDGE MINDUA: [11:58:34](Interpretation) No. We're going
14 to cut communication with the witness. But I would say that you've already
15 asked the question several times. You've compared the reports of the witness,
16 and you've -- he told you what the source was. And then you raised the issue
17 of the other report, May 2016.

18 So do you want to come back to the same question? The Chamber doesn't
19 understand where you want to go with this.

20 So just once again, we're going to cut communication. And then you will
21 explain the reason why, what the basis is for your ...

22 Please, could you cut the communication.

23 THE COURT OFFICER: [11:59:23] Your Honour, the sound is cut off.

24 Thank you.

25 PRESIDING JUDGE MINDUA: [11:59:28](Interpretation) Are you sure?

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1 THE COURT OFFICER: [11:59:36] That's -- that is confirmed. Thank you.

2 PRESIDING JUDGE MINDUA: [11:59:49](Interpretation) Thank you very
3 much, court officer.

4 Ms Taylor, the Chamber would like to know what the reason is for this
5 repetitive questioning.

6 MS TAYLOR: [11:59:59] Mr President, if we look at this report, we have on
7 two separate pages different extracts which are identical to the witness's report.
8 Now it's possible that there could be a coincidence of wording as concerns one
9 section of extracts, but to say that it's a coincidence to have several extracts,
10 including Salem Elhadj, the identical quote from Salem Elhadj, goes beyond the
11 realms of coincidence.

12 PRESIDING JUDGE MINDUA: [12:00:45](Interpretation) Madam Prosecutor.

13 MS LUPING: [12:00:47](Overlapping speakers) Mr President, out of fairness
14 to the witness, he has been asked the question to -- comparing it to the
15 sources that the Defence has put to him. He has referred to precise sources for
16 this information. And in his last response, he indicated that he took it from
17 a 2010 source and the document put to him by the Defence was a 2016 source,
18 which comes after Mr Salem Ould Elhadj.

19 And, he quite rightly says, you might want to turn the question around. In
20 other words, the document provided by the Defence, what is the source for that
21 reference? It appears to be identical to the source provided by the witness in
22 his report; in other words, Mr Salem Ould Elhadj.

23 Now the question that -- we tried to be patient,

24 Mr President, your Honours. This has been a repeated line of questioning,

25 and I would submit, without success. The witness has been extremely clear in

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1 his responses. And it's to the point, really, of almost being -- of badgering, in
2 the sense that the witness now -- that counsel is now suggesting that she's
3 going to put to this witness that this is, you know, beyond coincidence, that
4 there are two sections of the report that are identical to the sources being
5 provided by the Defence. But this is not fair to the witness. The witness has
6 already said where he has got it from. And it may be indeed that the sources
7 the Defence is providing had identical sources which are then referred to in
8 the -- in the witness's report.

9 Those are the Prosecution submissions, your Honours.

10 PRESIDING JUDGE MINDUA: [12:02:20](Interpretation) Thank you very
11 much, Madam Prosecutor.

12 So, Ms Taylor, well, I do agree with what the Prosecutor has just said.

13 What do you want to add to this?

14 MS TAYLOR: Thank you, Mr President. I do believe it's inappropriate for
15 the Prosecution to accuse us of badgering when the Trial Chamber has made
16 clear in several decisions, including the decision to admit this report, that we
17 would be perfectly entitled to raise in cross-examination these very points.

18 Now, I'm not disputing that Salem Elhadj is the source. The question is that
19 this precise report quotes to Salem Elhadj.

20 Now, the concern of the Defence is that this witness has not properly
21 referenced sources throughout his reports. He does not use quotations. He
22 does not attribute these sources to specific paragraphs, ideas, or views.

23 Now, given that he's testifying as an expert, we have a complete entitlement to
24 put to him questions with a view to identifying the specific source for each
25 paragraph in his report.

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1 PRESIDING JUDGE MINDUA: [12:03:34](Interpretation) Ms Taylor, you will
2 agree with me that the Chamber has been very patient with regard to all the
3 questions you've put.

4 Now, as to the ethnology, the division of ethnic groups, the witness did give
5 his source, and it dates back to 2010. And you're providing us another one
6 from 2016. The witness has already answered this.

7 Now I would like you to please move on, and we shall re-establish the
8 connection with the witness and move on to something else, because the
9 witness has already answered this on a number of occasions.

10 Mr Courtroom Officer, please, could you please re-establish the link with the
11 witness.

12 THE COURT OFFICER: [12:04:25] The sound has been re-established.

13 PRESIDING JUDGE MINDUA: [12:04:31](Interpretation) Thank you so much,
14 Mr Courtroom Officer.

15 Ms Taylor, please.

16 MS TAYLOR: [12:04:37]

17 Q. [12:04:37] If we can turn to another part of your report, Mr Witness,
18 page 2959.

19 A. [12:05:01] 2959. Okay.

20 Q. [12:05:10] And my question, Mr Witness, looking at these first two
21 paragraphs, you're referring to Saliou M'Baye.

22 Are these paragraphs your arguments or did you take them from Saliou
23 M'Baye?

24 A. [12:05:37] Thank you, Counsel. The question is number V, that is
25 applied law and the resolution of disputes in Timbuktu before the events of

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1 2012-2013. This is a historical overview, so this goes to historians, and
2 Mr Saliou M'Baye is an expert in archival matters. It's a historical overview
3 and Mr Saliou M'Baye has provided references.

4 Q. [12:06:18] Did you change the words or did you use the same words?

5 A. [12:06:24] In the historical overview, I relied on what the historians had to
6 say. And Mr Saliou M'Baye is an authority on matters of archives, once again.
7 As for the comment, I provided it later. The historical facts are historical facts,
8 after all.

9 Q. [12:07:00] And for the section below, "*La justice musulmane*", does that also
10 come from the same source?

11 A. [12:07:09] Yes, indeed, Counsel. Indeed.

12 Q. [12:07:16] So this is not your research or writing. This is just coming
13 from that source?

14 A. [12:07:22] Well, Ma'am, this is a big question. You say it's not my
15 research. The research is being conducted from documentation referring to
16 Saliou M'Baye as to the organisation of the judicial in western French Africa. I
17 believe that I am delving into the issues of justice in western -- French western
18 Africa.

19 Unless you were to specify your question again, Counsel.

20 Q. [12:08:11] Turning to page 2966, if we look at starting with "*En matière de*
21 *réformes institutionnelles*" and to the end. Are these your words, Mr Witness,
22 or did you take them from another source?

23 A. [12:08:53] The source is indicated. The source is indicated, and the
24 personal comments are further on, mm-hmm.

25 Q. [12:09:06] What is the source, just to be clear?

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1 A. [12:09:11] Well, allow me to go to the bibliography, if you don't mind.

2 Am I allowed to do so?

3 Q. [12:09:24] Certainly.

4 A. [12:09:27] Thank you.

5 At page 51 of my report, I quote the implementation of the peace agreement
6 from the Algiers process in February 2020. I also quote the -- the office of the
7 high representative halfway down the page, from memory. And we have the
8 memo on the implementation of the peace and reconciliation agreement in
9 February 2020, and also the indication of the office of the high representative of
10 the president of the republic for the implementation of the agreement on
11 the -- on peace and reconciliation in Mali.

12 Q. [12:12:53] Can we turn to tab -- Defence tab 39, MLI-D28-0004-9020. This
13 is an article from 2 February 2019 and it concerns several propositions that
14 were made by the president of the APR, Oumar Ibrahim Touré.
15 And if we turn to page 9027.

16 Mr Witness, can you see:

17 (Interpretation) "The installation and effective functioning of interim
18 authorities".

19 A. [12:14:38] Mm-hmm, yes, please.

20 Q. (Overlapping speakers)

21 THE INTERPRETER: [12:14:42] Overlapping speakers.

22 MS TAYLOR: [12:14:47]

23 Q. [12:14:48] And can you see the propositions underneath?

24 A. [12:14:52] Well, I can rather see a statement being made. What am I
25 supposed to understand from your word "proposal"?

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1 Q. [12:15:06] I'm sorry. I didn't use the word "proposal". I asked -- you
2 can you see the phrase starting with "*L'installation et le fonctionnement effectif des*
3 *Autorités intérimaires*".

4 My question is: Did you base your report on these proposals?

5 A. [12:15:41] Madam, if I've followed what you just said correctly, you
6 indicate that the proposals that are contained therein are from Mr Touré. But
7 that is -- I -- I heard --

8 THE INTERPRETER: No. Correction: Mr Oumar Touré.

9 THE WITNESS: (Interpretation) I heard you make mention of Mr Oumar
10 Touré from the APR.

11 MS TAYLOR:

12 Q. [12:16:16] Yes, Mr Witness.

13 A. [12:16:21] But Mr Oumar Touré is a former minister of the republic. He
14 is a native from the north, and the question that is being put here -- but it might
15 be that Minister Touré used the same sources as myself. These are technical
16 issues, you know, the matter of the DDR. Under number 6, the peace and
17 reconciliation process in Timbuktu, subsequent to the events, I believe that it is
18 very much connected to the implementation of the peace and reconciliation
19 process from Algiers, and I profoundly believe that. And who could better be
20 in a position to know, those people taking stock of the situation, what the
21 situation of the implementation actually is.

22 Maybe we should note that Mr -- the Minister Touré is citing the same
23 resources -- sources as myself. [REDACTED]

24 [REDACTED] So this is documentation that is freely
25 available.

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1 THE INTERPRETER: [12:17:39] Could the witness please be requested to
2 slow down.

3 MS TAYLOR: [12:17:46]

4 Q. [12:17:46] Mr Witness, the interpreters asked if it is possible for you to
5 slow down.

6 Now, Mr Witness, this article is dated January 2019, and your sources that you
7 mentioned previously were from a later date. Can you explain that?

8 A. [12:18:01] In the main, I indicated that the peace and reconciliation
9 process is intimately connected with the implementation of the peace and
10 reconciliation agreement. Intimately linked.

11 One of the services involved in said implementation is the office of the high
12 representation of the implementation of the agreement. Updates are provided.

13 Updates are provided, and, [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED] So it would seem to me to be more important to provide the
20 implementation points, rather than to say myself or to provide myself a very
21 personal opinion that I might provide were the question to be put to me.

22 Q. [12:20:06] Mr Witness, is it correct that to answer the questions given to
23 you by the Prosecution, you considered it necessary to reply on the text of
24 other experts?

25 A. [12:20:28] Counsel, I don't understand that question.

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1 Q. [12:20:34] Mr Witness, we've gone through various sections of your
2 report where you've confirmed that several chunks of text are based on
3 individual sources who you consider to be experts.

4 Is it correct that to answer the questions of the Prosecutor, you considered it
5 necessary to on information and expertise of other persons?

6 A. [12:21:11] Earlier on, you did ask that question, Madam, and I was asked
7 in response to one of the questions *expressis verbis* very clearly. I was asked to
8 provide information on surveys on -- and other information. When I'm
9 invited to take stock of the surveys or whether I'm invited to provide
10 a personal opinion, it would seem logical to me that we -- that I seek sources in
11 others' opinions. But when reviewing the documentation and when
12 information is provided, then I refer to said documentation.

13 Your question - phrased in a manner in which it is phrased - suggests that my
14 expertise is based on the opinions of others, but that can be the case for any
15 expert, Madam.

16 I provide a documentary review when it was necessary for me to do so. And
17 the issues where I provided comments, personal comments, well, I did so. I
18 did not prefer to provide personal comments over providing a review of the
19 documentation.

20 Q. [12:22:55] Mr Witness, I have no further questions. Thank you.

21 A. [12:23:04] Thank you, Counsel.

22 PRESIDING JUDGE MINDUA: [12:23:12](Interpretation) Thank you very
23 much for your cross-examination of the witness, Ms Taylor.

24 So I can see the Prosecutor is on her feet.

25 Is there any -- are there any further questions?

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1 MS LUPING: [12:23:26] I do, Mr President, with your indulgence. I realise
2 it's very close to the lunch hour and -- but I intend to ask questions in relation
3 to -- briefly, in relation to five topics. I envisage it taking approximately 15
4 minutes, maybe 20 minutes. It does depend on how the witness responds, but
5 I'll try to be brief and to the point.

6 PRESIDING JUDGE MINDUA: [12:23:54](Interpretation) Ms Taylor?

7 MS TAYLOR: [12:23:57] Thank you, Mr President. I do note that this is a
8 Rule 68(3) witness and the Prosecution is now asking to have almost half the
9 time allocated to their examination-in-chief to do redirect.

10 Now, obviously, if the Prosecution is going to have a redirect, we would have
11 a right to have the last word. And, given that there's an issue of prejudice
12 here, because the Prosecution has introduced a significant volume of material
13 through Rule 68, that shouldn't be used as a vehicle for now evading the
14 strictures of Rule 68 by having a very lengthy redirect.

15 Now, if there are clear issues that arose exclusively from cross-examination,
16 then the Prosecutor should identify those issues. But redirect should not be
17 used as a vehicle for evading the time limits that apply when you have a Rule
18 68 witness. And thus far, the Prosecutor has not identified why these issues
19 could not be raised in examination-in-chief and how they arise exclusively
20 from cross-examination.

21 MS LUPING: [12:25:06] Mr President, my response can be very
22 brief -- apologies.

23 PRESIDING JUDGE MINDUA: [12:25:16](Interpretation) There you see,
24 Madam Prosecutor, the interpreters are protesting. You should not intervene
25 before I allow you to address the Court.

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1 Now, Madam Prosecutor, this witness we have heard on the basis of
2 68(3) -- paragraph 3 of the Rules of Procedure and Evidence. Now, you are
3 asking for 20 minutes, which is virtually one quarter of the time that was
4 imparted to you. I believe that it's far too much. I will grant you a
5 maximum, 15 minutes.

6 MS LUPING: [12:25:50] Thank you, Mr President. And to be clear, the
7 Prosecution is fully aware of the -- the Rules under Article -- paragraph 47 of
8 the conduct of proceedings decision. The re-examination questions are
9 focused on issues that arose during cross-examination.

10 QUESTIONED BY MS LUPING:

11 Q. [12:26:12] Mr Witness, can you hear me?

12 A. [12:26:17] Yes, perfectly, Counsel.

13 THE INTERPRETER: [12:26:21] Overlapping speakers, please.

14 MS LUPING:

15 Q. [12:26:23] Thank you. I have approximately five topics that I'd like to
16 briefly touch upon, and they relate to specific passages from the
17 cross-examination of -- largely of yesterday. I'm going to refer to transcript 83,
18 page 57, line 19 to page 58, line 91 (sic). And this is the -- the questions that
19 were asked to you about the situation of judges, and I quote:

20 "When you say that there wasn't a single lawyer, does that also include that
21 there was no judges in those areas?"

22 Response: "There are judges in all these regions that I indicated, but they are
23 hardly any of them in their post today due to the insecurity in the region."

24 Question: "And what was the situation in 2012, were there any judges in
25 Timbuktu?"

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1 Response: "From January 2012, certainly not."

2 My question is this --

3 PRESIDING JUDGE MINDUA: [12:27:17](Interpretation) Madam Prosecutor,
4 could you please slow down for the interpreters.

5 MS LUPING: [12:27:22] Apologies to the interpreters.

6 Q. [12:27:22] My question is this, why were there no judges in Timbuktu
7 from early 2012?

8 A. [12:27:32] May I answer?

9 PRESIDING JUDGE MINDUA: [12:27:58](Interpretation) Yes, please do, Mr
10 Witness.

11 THE WITNESS: [12:28:02](Interpretation) Well, if I've understood the
12 question correctly, in January -- in January 2012, part of the territory was
13 already occupied in the north-eastern part of Mali, but at the end of the first
14 quarter of 2012, the towns of Gao and Timbuktu were occupied and the judges
15 left at the time of the occupation.

16 THE INTERPRETER: [12:28:43] Overlapping speakers, yet again.

17 MS LUPING:

18 Q. [12:28:45] (Overlapping speakers) Moving to my second topic, and I refer
19 to yesterday's transcript 83, at page 49, line 9, to page 51, line 6, you were read
20 a passage from a document by Defence counsel and were asked your opinion
21 regarding reported views of Imam Dicko.

22 I'll refer to the passage that was read to you again.

23 "I'm fighting for my religion, but it would be premature to apply Sharia in Mali
24 and later. [...] I am Muslim. I can't oppose the establishment of an Islamic
25 republic. But I'm fine [...] in this lay country." End of quote.

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1 And then you were asked for your views, and, at page 48, lines 12 to 16, in
2 response to the Defence's question, you confirm that in 2012, Imam Dicko was
3 the president of the High Council for Islam in Mali.

4 Now, I have two questions for you, and this relates to the views that
5 you -- of -- reported of Imam Dicko that you were asked to give an opinion on.
6 And first turning to your own report, at page 32, 2695 (sic), you had expressed
7 the views provided by the *Haut Conseil Islamique* stating:
8 (Interpretation) "[...] Sharia is not yet in criminal field. The attempts to apply
9 it in 2012 was of the -- was that the high --"

10 THE INTERPRETER: [12:30:25] The interpreter cannot follow at speed.

11 MS LUPING:

12 Q. [12:30:30] (Overlapping speakers) My first question is this, was Imam
13 Dicko still in charge of the *Haut Conseil Islamique* at the time that this view was
14 expressed?

15 THE INTERPRETER: [12:30:41] Message from the English interpreter:
16 Could counsel please be requested to slow down when she quotes and when
17 she speaks. Thank you.

18 THE WITNESS: [12:30:52](Interpretation) Yes, Madam Prosecutor.

19 MS LUPING:

20 Q. [12:30:55] And moving to my second question that flows from that, and I
21 refer to Defence document at tab 3, MLI-D28-0004-0997, and at page 1012, and I
22 quote:

23 "[...] in September 2012, a conference of Muslim leaders organised by
24 the Dicko-led HCI argued that the jihad in northern Mali and the [im]position
25 of the *sharia* there contravened" Sharia "law." End of quote.

1 My question is this, is this what you were referring to in your report, the views
2 that were expressed by the *Haut Conseil Islamique*?

3 A. [12:31:53] Is the question for me?

4 Q. [12:32:08] I just read to you a passage from a document, and I can repeat
5 it for the interpretation.

6 "[...] in September" -- this is to be interpreted for you from English into French.

7 "[...] in September of 2012, a conference of Muslim leaders organised by the
8 Dicko-led HCI argued that the jihad in northern Mali and the [im]position of
9 the *sharia* there contravened" Sharia "law." End of quote.

10 My question is this, this view that I just quoted, expressed by the Dicko-led
11 *Haut Conseil Islamique* - referring to jihad and the application of Sharia in
12 northern Mali, that this contravenes Sharia law - is this what you were
13 referring to in your report?

14 A. [12:33:29] I'm going to be very explicit here. At the time of the
15 occupation, there was French intervention -- before the French intervention,
16 that is, on the day of Friday in Sikasso, there was the imam who clearly
17 indicated the point of view of the High Islamic Council.

18 In addition to that, within the High Islamic Council, there is somebody who is
19 responsible for the coordination, and, the person who is in charge of the office
20 for coordination, Mr Koné is his name, he is responsible for that office. Now,
21 Mr Koné clearly indicated that the doctrine of the High Islamic Council said
22 that the occupation was not in accordance with Sharia.

23 With regards to the details, Mr Koné is now in the function of minister of
24 religious affairs of the Republic of Mali.

25 Q. [12:34:56] Thank you. I'm now going to turn to my third topic. You

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1 were asked by the Defence questions about temporary so-called marriages
2 or - a term used - *al moutaa* and I refer to page 95, line 14, to page 96, line 12.

3 Also, in your testimony, at page 22, lines 18 -- 18 to 20, you had said that the
4 majority in Timbuktu are Sunni of the Malekite school of thought.

5 I would now like to turn to Defence document at tab 25, that's

6 MLI-D28-0004-8188 at page 8188, and I'm going to quote a passage for you.

7 (Interpretation) "This marriage can only be done under certain conditions.

8 This institution -- pre-Islamic institution is always recognised by the Shiite

9 minority and it is rejected as -- by the Sunnis, the Malekites, who are, for the

10 most part, a majority. Mali is a secular country where Islam is obeyed. The

11 Sunni -- the Sunnis and Malekites -- and it is the religion of over 900 -- 9 -- and

12 it is a religion of over ..."

13 (Speaks English) End of quote.

14 Q. [12:36:58] My question is this, Mr Witness, is it correct that these so-called
15 temporary marriages are prohibited by Sunni Malekites?

16 A. [12:37:10] I have no knowledge with regards to this precise question. I
17 read what's in front of my eyes. I replied yesterday that I didn't know what
18 was happening in Timbuktu. I also indicated that there was the opinion that
19 Mr Salem Ould Elhadj had given. It coincided with what Mr Salem Ould
20 Elhadj had given.

21 Q. [12:37:48] I now turn to topic 4, which relates to various questions that
22 you were asked about in terms of views regarding application of Sharia law in
23 Mali. At page 70, line 10 to 14, you responded to a question about research
24 that was done about statistics on views of the application of Sharia law, and I
25 quote:

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1 "[...] I think we need to make a distinction between Sharia in criminal law,
2 executions, floggings. October 2012, one person was executed in Timbuktu."
3 Again, at page 71, lines 1 to 7, you responded to a question from the Defence:
4 "Of course, Ma'am, the country is for the most part rural, but even in rural
5 settings, the Sharia in question is not the one of floggings [or] executions or
6 cutting people's hands off."

7 End of quote.

8 Now, my question is this, when you refer to floggings and cutting of people's
9 hands off, and you refer to an execution in Timbuktu, are you also referring to
10 events in Timbuktu in 2012?

11 PRESIDING JUDGE MINDUA: [12:39:06](Interpretation) Ms Taylor?

12 MS TAYLOR: [12:39:07] Thank you, Mr President. This goes far in excess of
13 re-examination. The mere fact that the witness gave a very vague reference to
14 incidents in 2012 in cross-examination does not give license to the Prosecution
15 to now conduct a new factual examination of very specific factual incidents in
16 this case.

17 Now, the Prosecutor chose not to take a statement from this witness. They
18 chose not to put these questions in examination-in-chief even if they squarely
19 concern the charges in this case. They cannot now, in the boundaries of
20 redirect, suddenly reopen the case and bring in a whole volume of new factual
21 allegations. That's highly prejudicial to the Defence. It goes against our right
22 to notice, our right to adequate time and facilities, and it falls outside the
23 parameters of this witness's testimony.

24 PRESIDING JUDGE MINDUA: [12:40:11](Interpretation) Ms Taylor, I haven't
25 heard factual allegations. This is a question of follow-up from what the

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1 witness has already said.

2 Prosecutor, please put your last question and I'm taking the floor away from
3 you afterwards.

4 MS LUPING: [12:40:34] Thank you. I only had, indeed, one other topical
5 question after this.

6 Should I repeat the question for the witness, the one I just asked?

7 PRESIDING JUDGE MINDUA: [12:40:39](Interpretation) Was it your last
8 question?

9 MS LUPING: [12:40:41](Overlapping speakers) No, I had a fifth topic.

10 PRESIDING JUDGE MINDUA: [12:40:48](Interpretation) Please, let's make
11 some progress here. Repeat the question very briefly and then that's it.

12 MS LUPING: Okay. Thank you.

13 Q. [12:40:50] Now, Mr Witness, in response to questions put to you by
14 Defence counsel, you referred to floggings and cutting of people's hands off,
15 and you also referred to events in Timbuktu in 2012.

16 Could you please clarify that when you talk about floggings and cutting of
17 people's hands off, are you referring to events in Timbuktu in 2012?

18 A. [12:41:11] Thank you. I don't think that I was vague. The 3 October
19 2012, I indicated that there was the execution of men according to Sharia.

20 That happened in 2012 and I -- it was the 3 October 2012. On 4 October 2012,

21 in Timbuktu, the opinion was that it -- there was an injustice, a very great

22 injustice. I'm still not being vague in this regard. On the Saturday, 6 October

23 2012, over 100 women demonstrated in Timbuktu against Sharia. That, I'm

24 not being vague about either. These sources can all be verified.

25 Q. [12:42:11] Mr Witness, my question was a different one. It was a

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1 reference to floggings and cutting of people's hands off --

2 PRESIDING JUDGE MINDUA: [12:42:17] (No interpretation) Maître Taylor?

3 Maître Taylor?

4 MS TAYLOR: [12:42:19] Thank you, Mr President. This is now asked and

5 answered and it's basically retreading exactly the same issues that came out in

6 examination-in-chief.

7 Now, Mr President, you asked the Prosecution to ask her last question. I

8 believe that's it's time for the last question, with respect.

9 PRESIDING JUDGE MINDUA: [12:42:39](Interpretation) Madam Prosecutor,

10 the witness has just answered the question with regard to executions and

11 floggings. Please go on to the last question, if you would be so kind.

12 THE INTERPRETER: [12:42:51] Overlapping speakers.

13 MS LUPING:

14 Q. [12:42:53] Mr Witness, I'm now going to turn to my last topic. Now, at

15 transcript 83, page 93, lines 19, to page 91 (sic), line 1, you were asked questions

16 about social views regarding illegitimate pregnancies. I'll read the passage for

17 you.

18 "Mr Witness, would you agree that both before 2012 and after 2012, social

19 views towards illegitimate pregnancies have affected girls' marriage choices in

20 Timbuktu?"

21 Response: "I did not conduct research in that area, but I do have in mind some

22 children who were born of relationships that did trouble the conscience of

23 people in Timbuktu. There were illegitimate children born because -- well,

24 during the occupation, that does come to mind." End of quote.

25 My question is this, what illegitimate children born during the occupation were

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1 you referring to and could you explain how you know that?

2 A. [12:43:48] Madam Prosecutor, I quote documentation from victims'
3 organisations and human rights organisations and associations from the period
4 of the occupation in 2012, when the situation with regards to the violence was
5 documented.

6 THE INTERPRETER: [12:44:21] "That's gender-based violence, in specific,
7 was documented." That's the interpreter.

8 PRESIDING JUDGE MINDUA: [12:44:30](Interpretation) Thank you very
9 much, Witness.

10 Madam Prosecutor, I see that you've finished?

11 MS LUPING: [12:44:36] (Overlapping speakers) Indeed, Mr President. That
12 was my final question. Thank you.

13 And thank you very much, Mr Witness.

14 THE WITNESS: [12:44:45](Interpretation) Thank you.

15 PRESIDING JUDGE MINDUA: [12:44:47](Interpretation) Thank you,
16 Madam Prosecutor.

17 Obviously, Ms Taylor, I see you are very combative. You would like to
18 respond to that?

19 MS TAYLOR: [12:44:56] I don't believe I'm being combative, Mr President. I
20 have a small number of questions in follow-up, with your leave.

21 PRESIDING JUDGE MINDUA: [12:45:05](Interpretation) Please go ahead.

22 QUESTIONED BY MS TAYLOR:

23 MS TAYLOR: [12:45:06] Thank you.

24 Q. [12:45:07] Mr Witness, you just mentioned that in January 2012, and
25 earlier, judges left. What were the names of these judges that left Timbuktu?

1 A. [12:45:22] I think I was clear. I'm sorry if I wasn't understood. In
2 January 2012, part of the Mali territory was already occupied in January 2012.
3 The towns of Gao and Timbuktu had been occupied at the end of the third
4 trimester of 2012. When the towns of Gao and Timbuktu were occupied, at
5 the end of the first trimester, the judges left the town of Timbuktu.
6 I should add that to this day, the judges are in the town of Timbuktu. That's
7 it.

8 Q. [12:46:16] My question, Mr Witness, was, what were the names of these
9 judges?

10 A. [12:46:23] During the -- the territorial administrators in the occupation,
11 the judges were the first who left. I don't have the names of the judges of the
12 different courts. In all occupation -- or situation, the territorial administrators
13 leave for obvious reasons.

14 Q. [12:46:57] So you're assuming that there were judges in Timbuktu that left,
15 but you don't have personal knowledge of specific judges that were there and
16 left?

17 A. [12:47:09] In Timbuktu, Counsel, there is a *tribunal de grande instance* in
18 Timbuktu. Outside Timbuktu, there are justices of the peace, of course, with
19 their competences. There are judges in the *tribunal de grande instance*,
20 according to the information I have, those judges were not there.
21 When it comes to the governor, the governor left the region himself.
22 I don't see why any judge would stay. That's coherent information that I have,
23 but perhaps I misunderstand your question. But this information would seem
24 to be coherent to me.

25 Q. [12:47:59] Now, Mr Witness, yesterday you said at page 24, lines 9 to 16,

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1 that you weren't an expert on issues of Islamic law or Sharia law. So when the
2 Prosecutor asked you just before about the views of Imam Dicko, are you
3 answering on the basis of what you have heard from others or from the media?

4 *A. [12:48:39] The person in charge of coordinating the offices... I repeat The
5 person in charge of coordinating the offices said that, in the opinion of the
6 experts within the High Islamic Council, the occupation was not in accordance
7 with Sharia. This was consistently stated outside of ... at other levels. He is
8 responsible for coordination and holds the function of minister of religious
9 affairs. In my report... I am sorry.

10 PRESIDING JUDGE MINDUA: [12:49:02] It would seem there isn't any
11 interpretation into English any more. Court Officer, please could you check
12 that everything is in order.

13 THE INTERPRETER: [12:49:13] Apologies, there was a technical error,
14 your Honour. It's now been resolved.

15 Could the question be repeated?

16 PRESIDING JUDGE MINDUA: [12:49:28](Interpretation) It would seem that
17 everything is in order now, so we will continue. Ms Taylor.

18 MS TAYLOR: [12:49:47] I believe we have the answer in the French, so I can
19 continue to save time.

20 PRESIDING JUDGE MINDUA: [12:49:54](Interpretation) Please continue,
21 yes.

22 MS TAYLOR:

23 Q. [12:49:57] Now, Mr Witness, these are my last questions. Turning to tab
24 44 of the Defence binder, it's MLI-D28-0004-9439. Do you have that in front of
25 you, Mr Witness?

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1 A. [12:50:35] Not yes, Counsel.

2 Q. [12:50:46] Is it in front of you now?

3 A. [12:50:49] Yes. And it's on the screen and on the laptop. Thank you.

4 Q. [12:50:59] It's an article dated 5 September 2019 referring to:

5 (Interpretation) "The President of the ARST (Association des Ressortissants et

6 Sympathisants du Cercle de Tombouctou). Association of Nationals and

7 Sympathisers of the Circle of Timbuktu.

8 And it refers, in particular, to an interview given with "Sanechirfi alpha",

9 a notable of Timbuktu, and, in it, he's submitting several complaints.

10 And if we turn to page 9440, he refers in particular to actions taken by "Les

11 jeunes" in Timbuktu:

12 (Interpretation) "[...] in Timbuktu after months of awareness raising, and

13 contacts, they have destroyed the lower part of the town -- ransacked the lower

14 part of the town. Imam Mahmoud Dicko of Bamako welcomed the initiative

15 and congratulated the young people. The religious authorities of Timbuktu

16 have condemned the young people concerned."

17 (Speaks English) Now, Mr Witness, I have two last questions. One, to your

18 knowledge --

19 A. [12:52:26] Please go ahead.

20 Q. [12:52:28] -- did Imam Mahmoud Dicko support these efforts -- these

21 efforts to close down bars in Timbuktu?

22 A. [12:52:36] I don't know about this press cutting, nor about these facts or

23 events. Yesterday, I said that in my bibliographical elements, I mentioned

24 two press cuttings where young people did ransack bars on 23 October and 30

25 October - that's in the bibliographical excerpts - in Djinguereber and in

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1 Sarekeina. That's in the bibliography; I said that yesterday. I don't know
2 about the opinion of Imam Mahmoud Dicko.

3 Q. [12:53:31] Mr Witness, when you say you don't know about the opinion
4 of Imam Mahmoud Dicko, would it be fair to say then, that you're only aware
5 of his opinion as expressed in those articles you have read?

6 A. [12:53:52] Madam, you showed me a press article. This press extract
7 that you showed to me, I say I don't know it. I can't go into the elements
8 contained therein about Imam Mahmoud Dicko. As far as I'm concerned, in
9 my report, I reported in a balanced way and I keep to it.

10 And I'm sorry, but I have to insist on it. But I maintain the fact that in my
11 report, in the bibliography, I indicate clearly the situation where young people
12 destroyed bars in Timbuktu. And I referenced it as well, two press
13 excerpts -- two independent press excerpts about that.

14 MS TAYLOR: [12:54:50] I have no further questions, Mr President.

15 PRESIDING JUDGE MINDUA: [12:54:55](Interpretation) Thank you very
16 much, Ms Taylor.

17 Witness?

18 THE WITNESS: [12:55:07](Interpretation) Yes, your Honour.

19 PRESIDING JUDGE MINDUA: [12:55:08](Interpretation) Myself, I have
20 a small question, by way of clarification.

21 THE WITNESS: [12:55:13](Interpretation) Please go ahead, your Honour.

22 PRESIDING JUDGE MINDUA: [12:55:15](Interpretation) Yesterday, in the
23 transcript, on page 22, line 14, you stated that the inhabitants of Timbuktu have
24 for generations, indeed centuries, followed the school of thought -- the
25 Malekite school of thought, which is far from extremism -- far from any

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1 extremism, as opposed to what you called the occupiers who arrived in 2012.

2 Do you know which school of thought the -- those who you called the

3 "occupiers" in 2012 followed?

4 If you know how to categorise their school of thought, I would like to know.

5 If not, it's not a problem. But if you can, please do.

6 THE WITNESS: [12:56:14](Interpretation) Thank you, your Honour, for this

7 question. The question has been put to me by the Prosecution, and I

8 answered that in Timbuktu, the doctrinal school is that of Malik ibn Anas, who

9 died in 1975 (sic).

10 I said that the occupiers only said that they applied Sharia.

11 PRESIDING JUDGE MINDUA: [12:56:45](Interpretation) So you have no

12 special category?

13 THE WITNESS: [12:56:51](Interpretation) I think that I can say with opinion

14 that they are not Malekite. That certainly can be said.

15 PRESIDING JUDGE MINDUA: [12:56:59](Interpretation) Thank you, witness.

16 I see there's no further requests for the floor.

17 Ms Taylor?

18 MS TAYLOR: [12:57:07] Thank you, Mr President, just one question arising

19 from that.

20 QUESTIONED BY MS TAYLOR:

21 MS TAYLOR: [12:57:11] You've said, Mr Witness, "I can say with opinion that

22 they are not Malekite."

23 Now, given, Mr Witness, that you've said that you're not an expert in Islamic

24 law, is that your personal opinion?

25 A. [12:57:24] Counsel, I answered yesterday that I had experience in

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1 comparative law, and I have written memoirs where -- [REDACTED]

2 [REDACTED] That's something that I
3 answered yesterday.

4 Q. [12:57:57] Mr Witness, my question was, is this your personal opinion?

5 A. [12:58:09] I gave my opinion yesterday, and I keep to my statement in the
6 current form.

7 MS TAYLOR: [12:58:22] I have no further questions.

8 PRESIDING JUDGE MINDUA: [12:58:25](Interpretation) Thank you very
9 much, Ms Taylor.

10 So, witness, I now turn to you.

11 As you will have seen, we are coming to the end of your testimony. Once
12 again, the Chamber would like to thank you enormously for your cooperation
13 for having answered very clearly and patiently the questions put to you.
14 Myself, on my behalf, of course, without considering the substance of the case,
15 I would like to raise the scientific precision and the effort of pedagogy that you
16 have made throughout your testimony, and that, for me, was a real pleasure to
17 listen to your expertise [REDACTED]

18 Once again, thank you very much.

19 THE WITNESS: [12:59:38](Interpretation) Thank you.

20 PRESIDING JUDGE MINDUA: [12:59:39](Interpretation) So I would just like
21 to wish you a very good continuation [REDACTED]

22 THE WITNESS: [12:59:48](Interpretation) Thank you, your Honour.

23 PRESIDING JUDGE MINDUA: [12:59:50](Interpretation) It's now almost
24 1 o'clock. We are going to have a break for lunch. Afterwards, we will be
25 back at 2.30 with the 34th Prosecution witness.

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1 (The witness is excused)

2 Court is suspended.

3 (Recess taken at 1.00 p.m.)

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

5 THE COURT USHER: [14:30:39] All rise.

6 Please be seated.

7 PRESIDING JUDGE MINDUA: [14:31:02](Interpretation) The Court is once
8 more in session. Good afternoon, everybody.

9 This afternoon, we are going to hear the 34th Prosecution witness, 0602.

10 So, I would just like to start with the teams, starting with the Prosecution. We
11 have a new witness of course.

12 MS SARDACHTI: [14:32:02](Interpretation) Good afternoon, your Honour.

13 The Prosecution is represented by my colleague, Dianne Luping, and myself,
14 Marie-Jeanne Sardachti.

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

17 Defence.

18 MS SUTHERLAND: [14:32:15] Good afternoon, Mr President, your Honours.

19 The Defence for Mr Al Hassan is this afternoon represented by Ms Melinda
20 Taylor, Ms Sarah Marinier-Doucet, Ms Sophia Westen, and myself, Kirsty
21 Sutherland.

22 PRESIDING JUDGE MINDUA: [14:32:33](Interpretation) Thank you very
23 much, Ms Sutherland.

24 Legal Representatives of Victims.

25 MR KASSONGO: [14:32:40](Interpretation) Good afternoon, your Honour.

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1 Thank you. The -- we are a reduced format here this afternoon. We -- I am
2 here by myself, Maître Kassongo.

3 PRESIDING JUDGE MINDUA: [14:32:53](Interpretation) Thank you very
4 much, Maître Kassongo. You have -- you are absolutely right. It is reduced
5 team.

6 And now I turn to our witness.

7 Good afternoon, Madam Witness. Can you hear me?

8 WITNESS: MLI-OTP-P-0602

9 (The witness speaks Songhai)

10 (The witness gives evidence via video link)

11 THE WITNESS: [14:33:17](Interpretation) Yes, I can hear you.

12 PRESIDING JUDGE MINDUA: [14:33:22](Interpretation) Thank you very
13 much, Madam Witness.

14 On behalf of the Chamber, I would like to welcome you. You are here today
15 to testify to aid the Chamber in its search for truth in the case of Mr Al Hassan.

16 THE WITNESS: [14:33:52](Interpretation) Okay.

17 PRESIDING JUDGE MINDUA: [14:33:54](Interpretation) Madam Witness,
18 protective measures have been put in place so that your identity will not be
19 revealed to the public.

20 Every time that you are likely to give details that would reveal your identity,
21 we will move into private session.

22 THE WITNESS: [14:34:38](Interpretation) I understand.

23 PRESIDING JUDGE MINDUA: [14:34:40](Interpretation) Very good.
24 I would now like to turn to your solemn declaration in accordance with
25 Paragraph 66(1) of the Rules of Procedure and Evidence.

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1 So, I would ask you to repeat after me, I solemnly declare ...

2 I solemnly declare that I will speak the truth.

3 THE WITNESS: [14:35:32](Interpretation) That I will speak the truth.

4 PRESIDING JUDGE MINDUA: [14:35:35](Interpretation) All the truth -- the
5 whole truth.

6 THE WITNESS: [14:35:44](Interpretation) The whole truth.

7 PRESIDING JUDGE MINDUA: [14:35:46](Interpretation) And nothing but
8 the truth.

9 THE WITNESS: [14:35:51](Interpretation) And nothing but the truth.

10 PRESIDING JUDGE MINDUA: [14:35:57](Interpretation) Madam Witness,
11 you are now under oath. The representatives of the legal aid to victims and
12 witnesses and the Prosecution have explained to you what this means.

13 THE WITNESS: [14:36:32](Interpretation) Yes.

14 PRESIDING JUDGE MINDUA: [14:36:35](Interpretation) I have a number of
15 practical hints for the procedure. Everything said in this courtroom is noted
16 by court reporters and translated into a number of languages by interpreters.
17 It is, therefore, important to speak clearly and slowly.

18 THE WITNESS: [14:37:26](Interpretation) Yes. I've understood.

19 PRESIDING JUDGE MINDUA: [14:37:30](Interpretation) Do not speak until
20 the person asking you the question has completed the question.

21 THE WITNESS: [14:37:52](Interpretation) I have understood.

22 PRESIDING JUDGE MINDUA: [14:37:55](Interpretation) I will now give the
23 floor to the Prosecution to ask you questions and then to -- after this is finished,
24 to the Legal Representative of Victims and then later, to the Defence.

25 I can see that you have understood and, therefore, I give the floor to the

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1 Prosecution.

2 QUESTIONED BY MS SARDACHTI: (Interpretation)

3 Q. [14:38:51] Good afternoon, Madam Witness. My name is Marie-Jeanne
4 Sardachti.

5 A. [14:39:10] Understood.

6 Q. [14:39:11] We have seen each other before at the preparation session.

7 A. [14:39:18] Yes.

8 Q. [14:39:23] And now I'm going to ask you questions on behalf of the Office
9 of the Prosecutor.

10 A. [14:39:35] Okay.

11 Q. [14:39:37] Before we start, I would like to remind you of a number of
12 things. If a question is not clear or you can't understand it, please let me
13 know and I will repeat it or put it a different way.

14 If there are questions which are likely to reveal your identity, please say so, and
15 I will ask the presiding judge for us to be allowed to move into private session.
16 This means that nobody outside the courtroom can hear any information that
17 you give.

18 A. [14:41:14] Understood.

19 MS SARDACHTI: [14:41:19](Interpretation) Your Honours, I would like to
20 move into private session for about 10 minutes to discuss the matters relating
21 to the identity of madam witness.

22 PRESIDING JUDGE MINDUA: [14:41:30](Interpretation) Of course, Madam
23 Prosecutor.

24 Court officer, private session, please.

25 (Private session at 2.41 p.m.)

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1 MS SARDACHTI: [14:41:44](Interpretation)

2 Q. [14:41:46] Madam Witness --

3 THE COURT OFFICER: [14:41:46] We are in private session,

4 Mr President.

5 PRESIDING JUDGE MINDUA: [14:41:49](Interpretation) Thank you, court
6 officer.

7 Madam Prosecutor, you need to wait before speaking.

8 Please go ahead.

9 MS SARDACHTI: [14:41:59](Interpretation)

10 Q. [14:42:00] We are now in private session, Madam Witness, and you can
11 now express yourself freely and give your name and the name of members of
12 your family. This information will only be shared amongst those
13 participating in the hearing.

14 A. [14:42:45] Understood.

15 Q. [14:42:47] What is your full name?

16 A. [14:42:51] My name is [REDACTED]

17 Q. [14:43:06] And your family name?

18 A. [14:43:09] [REDACTED]

19 MS SARDACHTI: [14:43:30](Interpretation) Your Honours, I would like to
20 display the identity card of the witness, which is MLI-OTP-0077-4489.

21 PRESIDING JUDGE MINDUA: [14:44:18](Interpretation) On which channel
22 will this be, Madam Prosecutor or court officer?

23 MS SARDACHTI: [14:44:23](Interpretation) Court officer, could you please
24 tell us on which channel it will be displayed.

25 THE COURT OFFICER: [14:44:38] We'll be displaying it from evidence 1.

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1 MS SARDACHTI: [14:44:44](Interpretation) Thank you, court officer.

2 THE COURT OFFICER: [14:45:30] Your Honour, I do apologise. We appear
3 to have a technical issue with the E-Court system.

4 PRESIDING JUDGE MINDUA: [14:45:43](Interpretation)

5 Ms Sutherland.

6 MS SUTHERLAND: [14:45:45] Mr President, I make the observation that
7 this --

8 PRESIDING JUDGE MINDUA: [14:45:57](Interpretation) Please go ahead.

9 MS SUTHERLAND: [14:45:59] Mr President, simply to make the observation
10 that this document was not on the Prosecution's list of material to be used with
11 this witness.

12 PRESIDING JUDGE MINDUA: [14:46:14](Interpretation) Madam Prosecutor,
13 that is a valid objection.

14 MS SARDACHTI: [14:46:17](Interpretation) Yes, indeed. It's simply
15 a question of clarifying the identity with the witness. So I would ask
16 permission -- it may not even be necessary to show it. It's simply that I want
17 to confirm with the witness the official name on the identity card.

18 PRESIDING JUDGE MINDUA: [14:46:41](Interpretation) Yes. Please go
19 ahead.

20 MS SARDACHTI: [14:46:43](Interpretation)

21 Q. [14:46:44] Madam Witness, on your identity card, which is,

22 OTP-0077-4489, the name that is shown is [REDACTED] Can you
23 confirm that this is a different name.

24 A. [14:47:21] This is the name of my father, and my name is [REDACTED]

25 [REDACTED]

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- 1 Q. [14:47:49] Thank you for this clarification.
- 2 How old are you, Madam Witness?
- 3 A. [14:47:59] Well, I can't really say.
- 4 Q. [14:48:18] Can you tell us where you were born?
- 5 A. [14:48:23] I was born in Timbuktu.
- 6 Q. [14:48:30] And where did you grow up?
- 7 A. [14:48:37] Also in Timbuktu.
- 8 Q. [14:48:45] What is your ethnic origin?
- 9 A. [14:48:51] Tamasheq.
- 10 Q. [14:48:58] And your religion?
- 11 A. [14:49:04] My religion is Muslim.
- 12 Q. [14:49:18] Which languages do you speak?
- 13 A. [14:49:25] I speak Tamasheq, and my mother tongue is Tamasheq, but I
- 14 also speak Songhai.
- 15 Q. [14:49:45] And do you know how to read and write Tamasheq or
- 16 Songhai?
- 17 A. [14:49:58] No. No. No, not at all. I don't know how to read or write
- 18 them.
- 19 Q. [14:50:16] Are you married?
- 20 A. [14:50:19] Yes.
- 21 Q. [14:50:26] Can you give us the name of your husband?
- 22 A. [14:50:32] Yes.
- 23 Q. [14:50:40] What is his name?
- 24 A. [14:50:43] His name is [REDACTED]
- 25 Q. [14:50:51] How many children do you have?

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1 A. [14:50:54] I have three children.

2 Q. [14:51:03] Do you have work at the moment?

3 A. [14:51:08] No. I don't do anything.

4 Q. [14:51:15] In 2012, what was your job?

5 A. [14:51:30] (No interpretation).

6 MS SARDACHTI: [14:51:47](Interpretation) Could I please ask the interpreter
7 to repeat the answer because we didn't understand.

8 * THE WITNESS: [14:51:59](Interpretation) That was the time those people
9 entered Timbuktu.

10 MS SARDACHTI: [14:52:03](Interpretation)

11 Q. [14:52:05] Madam Witness, I am going to ask now for permission to
12 return to public session, which means that people who are not here will be able
13 to hear what you say. So I would remind you that you should not mention
14 your name, nor the name of any other member of your family, nor your
15 friends.

16 PRESIDING JUDGE MINDUA: [14:53:02](Interpretation) Court officer, public
17 session, please.

18 (Open session at 2.53 p.m.)

19 THE WITNESS: [14:53:28](Interpretation) Yes. I've understood.

20 THE COURT OFFICER: [14:53:29] We are back in open session,
21 Mr President.

22 PRESIDING JUDGE MINDUA: [14:53:32](Interpretation) Thank you very
23 much, court officer.

24 Madam Prosecutor.

25 MS SARDACHTI: [14:53:38](Interpretation)

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1 Q. [14:53:40] Madam Witness, I would like to start by asking you questions
2 about life in Timbuktu in 2012.

3 A. [14:53:59] Understood.

4 Q. [14:54:01] Were -- were you present in Timbuktu when the town was
5 taken by armed groups?

6 A. [14:54:18] Yes. Of course I was there.

7 Q. [14:54:30] When we -- when we were in private session, you used the
8 term "those people."

9 A. [14:54:59] Those were the groups I was referring to when I said "those
10 people," the people -- when they came to Timbuktu.

11 Q. [14:55:11] And how did you call these people? Did they have a name?

12 A. [14:55:16] Who? The people -- the groups that were in Timbuktu?

13 Q. [14:55:35] Yes. I wanted to know whether you knew the name of the
14 group, the name that they used, "those people."

15 A. [14:55:51] Yes, there was the -- they had several -- there were several of
16 them. But they -- they were the Islamists. There was MNLA. There were
17 those two -- those are the ones I can remember.

18 Q. [14:56:33] Can you tell us about the first time you saw these people.

19 A. [14:56:41] Yes. When they came -- when they came, they went to the
20 military camp, and, all the soldiers left, they ran away. One by one, they all
21 went. And that's how the camp was taken, and the weapons were also taken.

22 Q. [14:58:08] Could you describe them please?

23 A. [14:58:14] What do you mean, "describe"?

24 Q. [14:58:25] How were they dressed?

25 A. [14:58:28] Okay. They were wearing clothes like Arabs wear. That's

1 the sort of thing that they were wearing.

2 Q. [14:58:57] In the French version, it says that they were made of poplin.

3 Could you make that clearer, please.

4 A. [14:59:20] Well, they -- they're sort of smooth fabrics that are like poplin.

5 They're kind of smooth.

6 Q. [15:00:03] Thank you for this clarification.

7 Earlier on, you talked about the Islamics and the MNLA.

8 Did they wear the same clothing?

9 A. [15:00:39] You want to know if they wore the same clothes?

10 Q. [15:00:49] Yes. What were they wearing? What sort of thing were

11 they -- did they have on?

12 * A. [15:00:55] Yes. Nearly all of them were dressed in the same way, but they

13 didn't have the same flags. That was the only difference.

14 Q. [15:01:16] Could you describe the flags of the MNLA.

15 A. [15:01:27] The flag of the MNLA has red, black and yellow I think.

16 Q. [15:01:50] And the Islamist flag?

17 A. [15:01:55] Theirs is black with white writing in the background.

18 Q. [15:02:12] Could you describe the vehicle.

19 PRESIDING JUDGE MINDUA: [15:02:57](Interpretation)

20 Ms Sutherland.

21 MS SUTHERLAND: [15:02:59] I'm sorry, Mr President. I just didn't

22 understand the reference to a vehicle, and I'd be grateful if I could have

23 a reference.

24 PRESIDING JUDGE MINDUA: [15:03:13](Interpretation) Madam Prosecutor,

25 Ms Sutherland is surprised because you're talking about a vehicle.

26 MS SARDACHTI: [15:03:17](Interpretation) I will ask a more open question.

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1 Q. [15:03:20] Madam Witness, the people that you called the Islamists and
2 the MNLA, could you tell us how they moved about.

3 A. [15:03:34] Yes. When people discovered that they had vehicles -- they
4 had these vehicles, but we thought they were soldiers as a result. They
5 covered their vehicles with banco or clay.

6 Q. [15:04:37] So could you describe the vehicles that the MNLA used.

7 A. [15:04:47] The people from the MNLA used the Arab vehicles, the *Kissono*,
8 and the Islamists put banco or mud on their vehicles, but I never saw the
9 MNLA do that.

10 Q. [15:05:48] So you said the people from the MNLA, they used the vehicles
11 of Arabs.

12 Could you describe the vehicles of Arabs.

13 A. [15:06:00] It was -- they were cruisers. The -- they are cars like the Hilux
14 where the -- they are closed, where the back of the car is not covered.

15 Q. [15:06:46] So I'm going to ask you a question with regards to the language
16 that they spoke. Could you tell us the language that the MNLA people spoke.

17 A. [15:07:00] The people from the MNLA spoke Tamasheq, but there might
18 be Arabs with them. But most of the time, it was Tamasheq that they spoke.

19 Q. [15:07:32] And what you call -- who you call the "Islamists", what
20 language did they speak?

21 A. [15:07:42] They speak Arabic. Some of them also speak Tamasheq.
22 Some of them speak Songhai. There are all different ethnic groups among
23 them.

24 Q. [15:08:31] Were the people from the MNLA armed?

25 A. [15:08:35] They were all armed. The MNLA were armed. The Islamists

1 were also armed. All of them were armed.

2 Q. [15:08:58] Do you know people who were members of the MNLA?

3 A. [15:09:05] People who were members? People who were part of what?

4 I'm sorry.

5 Q. [15:09:26] Among these people who were in these groups which you
6 described, the MNLA, did you know some of them?

7 A. [15:09:38] Yes. And I didn't spend a lot of time looking at them, but I do
8 know that there are people from Timbuktu among them, but I don't know any
9 person in particular.

10 Q. [15:10:29] And among the Islamists, did you know any people?

11 A. [15:10:35] Among the Islamists, there were black people who were among
12 them. There was a young man who was from the lower part of the town who
13 joined them. He was a former rapper.

14 Q. [15:11:34] What is the name of this young rapper?

15 A. [15:11:41] Yes. The name by which he was known was Didier Tasma
16 (phon). But when he entered the Islamist group, he was called Elhaj (phon).

17 Q. [15:12:18] And how did he dress?

18 A. [15:12:23] That -- that person?

19 Q. [15:12:32] Yes, that person, Elhaj?

20 A. [15:12:38] Yes. When he entered their group, he did what they did. He
21 dressed like they did, and any person who entered their group, also dressed
22 like them as well.

23 Q. [15:13:05] Just so it's clear for the Court and for myself, how did he dress?

24 A. [15:13:14] Yes. As I told you before, he entered their group. He was
25 a rapper, and he had his trousers which were like falling down, and he had

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1 a baseball cap, which he wore which was turned backwards. But he was
2 obliged to dress in the same way as they did.

3 Q. [15:14:05] Madam Witness, did things change for the people of Timbuktu
4 after these groups arrived into the town?

5 A. [15:14:23] When they entered Timbuktu?

6 Q. [15:14:48] Yes. When they entered Timbuktu and afterwards, did that
7 change anything in the life of people in Timbuktu?

8 A. [15:14:59] Everything changed. Nothing didn't change (sic). They said
9 that the women of Timbuktu didn't cover themselves.

10 Q. [15:15:38] You said they even said that the women of Timbuktu did not
11 cover themselves.

12 What was it like in Timbuktu prior to their arrival?

13 A. [15:15:51] Yes. Before they arrived, some people wore trousers and
14 skirts. Others, dresses. And they had scarves. But when they arrived,
15 everything changed.

16 Q. [15:16:49] You told us everything changed.

17 Were there other things, apart from the fact that women had to cover up, that
18 changed?

19 A. [15:17:00] At the start, when they said that the women didn't cover
20 themselves, they said that women had to cover themselves completely also
21 with the scarf. But afterwards,
22 they said no. Each person has to wear a sari. And they also did that for
23 Arabs as well.

24 Q. [15:18:09] And apart from that, did they impose other prohibitions or
25 bans?

1 A. [15:18:17] When they finished with covering women, they also said
2 that -- they were prohibited from meeting a man. And if they did so, they
3 would be punished.

4 Q. [15:18:59] You said *si* -- if they were surprised meeting a man, they would
5 be punished. Could you tell us more about that.

6 A. [15:19:23] Yes. They prohibited men and women from meeting each
7 other, and if they surprised them, they would carry them away and whip them.
8 And afterwards, they would force them to marry because they said it was
9 haram. It was prohibited to be with somebody who wasn't your brother or
10 sister.

11 Q. [15:20:23] Before asking the next question, just a reminder, if you could
12 speak in shorter sentences, if you would be so kind.

13 A. [15:20:47] Very well, I understand.

14 Q. [15:20:50] It's just to help the interpreters and the court reporters to make
15 their work easier.

16 A. [15:21:03] Okay, I understand.

17 Q. [15:21:08] Thank you. Now, you told us that they took them, they
18 whipped them. Did you see that?

19 A. [15:21:19] Yes. I saw once a girl being whipped, but they preferred -- the
20 man preferred to flee, and that was better for him. So I did see a girl who was
21 whipped in *Yobou tao*, but they didn't whip the man because he fled. That was
22 better for him.

23 Q. [15:22:09] So if we take as a reference the arrival of the armed groups in
24 Timbuktu, could you tell us approximately how much longer after -- or how
25 much time afterwards this was?

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1 A. [15:22:22] The time that they spent there, I don't know how much time. I
2 think it must be two years, I think that's right. It must have been two years.

3 Q. [15:23:42] So you spoke about women who didn't cover themselves, so
4 what was the punishment in that case?

5 A. [15:23:50] These women were taken to prison and there, they were locked
6 up.

7 Q. [15:24:15] Do you know which prison they were taken to?

8 A. [15:24:29] No, I wouldn't be able to tell you. I don't know because I was
9 never there. I know that they took people away, but I can't answer that. I
10 don't know.

11 Q. [15:24:53] And how did you know that they took people away?

12 A. [15:25:31] They took people. Generally, it was Mohamed Mossa who
13 took people. He took a woman and, one day too, in Abaradjou, at the
14 slaughterhouse, he had also taken a woman there, saying that she wasn't well
15 covered or she wasn't covered up properly. He accused -- wrongly accused
16 people.

17 Q. [15:26:12] You've just given us a lot of information. We are going to go
18 through this step by step.

19 You told us: I saw that they took a woman.

20 Could you describe the people who took this woman?

21 A. [15:26:42] As I said, it was Mohamed Mossa who used to take people, and
22 he -- people -- the women were very afraid of him. He was the person who
23 the women were afraid of.

24 Q. [15:27:15] Can you describe Mohamed Mossa?

25 A. [15:27:24] I don't know how to describe him, but what I do know is that if

1 you -- people saw him, they would flee from him. That's what I know. He's
2 from Bellafarandi.

3 Q. [15:27:58] Did you know Mohamed Mossa before the arrival -- did you
4 know Mohamed Mossa before the arrival of the armed groups?

5 A. [15:28:12] As I told you, I didn't know him, but I heard that he was from
6 Bellafarandi and when he came, he joined their group.

7 Q. [15:28:28] When you say "their group," could you say which group?

8 A. [15:28:35] The Islamists.

9 Q. [15:28:48] So with regards to this woman who was taken by Mohamed
10 Mossa, if we take as a point -- as a reference, the arrival of the groups in
11 Timbuktu, could you tell us how much time afterwards that event occurred?

12 A. [15:29:26] I know that it took a bit of time before they arrived. After
13 their arrival, it took some time before they started to do that to the women.

14 Q. [15:30:21] You talked about another time, you said, "One time at
15 Abaradjou ..." What did you see exactly?

16 A. [15:30:43] What do you mean, "Abaradjou"? I don't understand what
17 you asked.

18 Q. [15:30:58] There may have been a problem of interpretation. On line 14, it
19 says here that, "Also one day in Abaradjou, they took a woman who they said
20 was not well covered."

21 A. [15:31:29] You -- I said that Mohamed Mossa took her because her veil
22 had dropped, her sari had fallen, and Mohamad Mossa took her to Abaradjou.

23 Q. [15:32:03] It says here, "(Inaudible) took her to Abaradjou." Could you
24 please repeat the last answer as it wasn't noted properly.

25 A. [15:32:17] Yes. I said this was a woman who was selling pastries at

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1 Abaradjou and -- near the abattoir, and she was sitting down and her sari had
2 fallen and she hadn't realised. And it happened that Mohamed Mossa was
3 looking for people like that.

4 Q. [15:33:26] So what happened once her sari had fallen?

5 A. [15:33:35] Yes, well, we were going to the pump to get some water and
6 we were advised not to go because Mohamed Mossa was taking a woman.

7 Q. [15:34:40] When you said, "We were a bit further away and we were
8 going ...", who were you with?

9 A. [15:34:51] This was a sister, and also mother and little sister and my father.
10 We were all together. We were going to go to get water.

11 Q. [15:35:32] Did you yourself have problems with the groups?

12 A. [15:35:45] You're talking about me?

13 Q. [15:36:05] Yes. You told us what happened to other people. And now
14 I'm asking whether you yourself had problems with the people from the
15 groups.

16 A. [15:36:17] Yes. [REDACTED]

17 [REDACTED] and one day
18 while I was doing this, I was going towards the big market and I came across
19 them. And the people were shouting. And people were saying that you
20 have to cover yourself. And I was able to escape to -- escape into a house
21 where I was able to hide.

22 Q. [15:37:56] Can you describe the people to us. You were saying
23 people -- you said people were saying, "You must cover yourself." Can you
24 describe these people.

25 A. [15:38:25] Yes. What I can recall, there were two people there. But

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1 behind -- but I was frightened, and that meant that I wasn't able to take in very
2 much. But I know that there were -- there were two people ahead and two
3 people behind, and the behind I was able to see, but I was afraid. I was very
4 afraid.

5 Q. [15:39:39] You say, two people ahead and two people behind. In front of
6 and behind what?

7 A. [15:39:54] It's like I said. There were two people behind and two people
8 in front, and there were people behind who had a rifle. And that's in the
9 vehicle, the vehicle in which they were.

10 Q. [15:40:58] Can you please describe the vehicle.

11 A. [15:41:03] It's like the military vehicles. That -- there was no military
12 colouring, the back is not covered, and we call them "cruisers".

13 Q. [15:41:56] Which language did they express themselves in?

14 A. [15:42:12] I -- they -- in the back, they were two black people who didn't
15 speak Songhai as they do in Timbuktu. But those two spoke to me. It was in
16 Songhai that they spoke to me. Yes, it was Songhai.

17 Q. [15:42:58] If you take as a starting point, the arrival of the groups in
18 Timbuktu, can you tell us how much later than that this was, roughly?

19 A. [15:43:23] Yes. That was the time when they arrived, but it was a bit
20 later that they asked women to cover themselves.

21 Q. [15:43:59] After this event, did you see them again?

22 A. [15:44:14] Yes. I remember once a friend and I had gone to watch
23 television, and they were -- it was a bit late, and they chased us. And when
24 we dispersed, I went into one family and the other woman went into another
25 family, and we spent the night there. And we didn't meet again until the next

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1 day.

2 Q. [15:45:19] When they say -- when you say, "they chased us," who are
3 "they"?

4 A. [15:45:37] The -- some of the Islamists.

5 Q. [15:45:48] And do you know why they chased you?

6 A. [15:45:52] We were chased because they said it was not a time at which it
7 was appropriate to be outside as a woman. And often when you go to watch
8 television, you talk to men, and they said that that's not something that women
9 should be doing, and to not be outside. That's why.

10 Q. [15:46:48] And how did you feel at that moment?

11 A. [15:46:52] I really, really was afraid at that time. I was really afraid.

12 Q. [15:47:14] Why were you afraid?

13 A. [15:47:21] The way that people chased me, that frightened me. I was
14 really very scared, and I slept for two days.

15 Q. [15:48:03] Apart from these two occasions you've described, did you have
16 problems on other occasions too?

17 A. [15:48:17] Yes. On one evening, the people came to us. I don't know
18 how they managed to find where I lived, but -- but nothing is secret at
19 Timbuktu. But they came. There were three of them. And they came, and
20 they said, "Need a girl who is here." My father asked, had they made
21 a mistake. And they said no, they hadn't made a mistake. And then they
22 said they'd come to find me and that they wanted to marry me.

23 Q. [15:50:12] Madam Witness, before we go on, please, could I ask you again
24 to speak in shorter passages. Thank you.

25 MS SARDACHTI: [15:50:34] Now, I would like authorization to move into

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1 private session. I'd like to explain why also in private session.

2 PRESIDING JUDGE MINDUA: [15:50:46](Interpretation) Court officer, could
3 we go into private session, please.

4 (Private session at 3.50 p.m.)

5 THE COURT OFFICER: [15:50:55] We are in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [15:50:59](Interpretation) Thank you very
7 much. Madam Prosecutor.

8 MS SARDACHTI: [15:51:07](Interpretation) Could I ask the court officer in
9 the field to cut the sound to the witness, please.

10 PRESIDING JUDGE MINDUA: [15:51:20](Interpretation) Court officer, could
11 you cut the sound to the witness, please.

12 MS SARDACHTI: [15:51:20](Interpretation)(Overlapping speakers)

13 PRESIDING JUDGE MINDUA: [15:51:20](Interpretation) You are always
14 very much in a hurry, Madam Prosecutor. Just one moment please.

15 THE COURT OFFICER: [15:51:37] The sound has been cut off.

16 PRESIDING JUDGE MINDUA: [15:51:39](Interpretation) Thank you, court
17 officer.

18 MS SARDACHTI: [15:51:41](Interpretation) Thank you, your Honour.

19 The witness has now started to talk about what happened to her. They said
20 they wanted to find a girl to marry her and the details could be identifying in
21 the circumstances, the location et cetera, the way it happened, obviously
22 without anticipating what she is going to say.

23 * We've also sent the resume with this part, which has been highlighted. So
24 we'd like to begin the questions about this part of her testimony in private
25 session, and that will take 30 minutes.

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1 PRESIDING JUDGE MINDUA: [15:52:31](Interpretation) Very well, please go
2 ahead, Madam Prosecutor.

3 One moment. You want to ask the questions in private session, is that
4 correct?

5 MS SARDACHTI: [15:52:50](Interpretation)(Microphone not activated)

6 THE INTERPRETER: [15:52:52] The Prosecutor has no microphone.

7 MS SARDACHTI: [15:52:55](Interpretation) I'd like to continue this part of
8 the examination-in-chief in private session.

9 PRESIDING JUDGE MINDUA: [15:53:00](Interpretation) We're now going to
10 re-establish the connection to the witness.

11 Court officer, please.

12 THE COURT OFFICER: [15:53:12] The sound has been re-established.

13 PRESIDING JUDGE MINDUA: [15:53:15](Interpretation) Thank you very
14 much, court officer.

15 Madam Prosecutor.

16 MS SARDACHTI: [15:53:23](Interpretation) Thank you.

17 Q. [15:53:44] Madam Witness, you've just said some important things, which
18 I would like to ask you questions about, and I would like to remind you to take
19 breaks. You can speak at length, but for the interpreters, it's very important to
20 have breaks in what you say.

21 So, what you said was that people came to your house. Can you describe
22 them, please?

23 A. [15:54:51] These three people who came, I don't know whether it's their
24 boss or what, but there were three people who came.

25 Q. [15:55:29] How were they dressed?

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1 A. [15:55:33] They were dressed -- well, I explained how they were dressed
2 and there was one who was wearing something different. It was something
3 more similar to a bazin.

4 Q. [15:56:16] Had you already seen them before?

5 A. [15:56:23] No, no, I hadn't seen them before. It was at night that they
6 came and I didn't even try to see them.

7 Q. [15:57:04] Were they armed?

8 A. [15:57:08] Two of them were armed, but yes, they had a weapon with
9 them.

10 Q. [15:57:31] And who was there when they arrived?

11 A. [15:57:35] Yes, when they arrived, there was [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 Q. [15:58:26] And you? Where were you at this time?

15 A. [15:58:31] As I said, I was at a sister -- at a neighbours with a sister who
16 was there, and that we were having a chat.

17 Q. [15:58:59] And you said that they spoke to your father. How did you
18 know that?

19 A. [15:59:07] They came and we were -- we were nearby, we were nearby,
20 and, afterwards, my father told me that they'd come to look for me. And we
21 could also see that they had their vehicle.

22 Q. [15:59:53] When -- I just need to understand this correctly. Were you
23 yourself in the house when they arrived?

24 A. [16:00:04] Yes, I said I was not in the house, I was at a neighbour's house.

25 Q. [16:00:19] So you said, "We could also see their vehicle."

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1 A. [16:00:32] Yes, I was at -- at the neighbours, and the houses are right next
2 to each other, so I wasn't far away.

3 MS SARDACHTI: [16:00:53](Interpretation) Your Honour, it's four o'clock, so
4 if you think that's appropriate, I could stop now.

5 PRESIDING JUDGE MINDUA: [16:00:59](Interpretation) Yes, it is time. We
6 can stop.

7 Court officer, could we return to public session, please.

8 (Open session at 4.01 p.m.)

9 THE COURT OFFICER: [16:01:13] We are back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [16:01:21](Interpretation) Thank you, court
11 officer.

12 Madam Witness, this brings us to the end of the hearing for today. On behalf
13 of the Chamber, I would like to thank you for your very clear answers to the
14 questions that had been put to you.

15 Unfortunately, this is not the end of your testimony. It will continue
16 tomorrow. Between now and then, please do not forget that it is forbidden to
17 talk of your testimony -- to discuss your testimony with anyone at all. Not
18 with family members or friends, if you should see them this evening.

19 THE WITNESS: [16:02:49](Interpretation) I've understood.

20 PRESIDING JUDGE MINDUA: [16:02:52](Interpretation) I see that you have
21 understood very well. So we will start again tomorrow morning at 9.30;
22 obviously, 9.30, is the time in The Hague and you will be given the time at
23 which you need to be there where you are.

24 So all I need to do now is to thank the parties and the participants. I would
25 like to also thank the court reporters and the interpreters and the security

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1 officers and, of course, our public.

2 We will now close today's session, and we will meet again tomorrow morning
3 at 9.30.

4 The hearing is suspended.

5 THE COURT USHER: [16:03:50] All rise.

6 (The hearing ends in open session at 4.03 p.m.)

7 CORRECTION REPORT

8 The following correction, marked with an asterisk and not included in the
9 audio-visual recording of the hearing, is brought into the transcript.

10 Page 61 lines 4-12

11 "A. [12:48:39] (No interpretation).

12 PRESIDING JUDGE MINDUA: [12:49:02] (No interpretation)" Is corrected to

13 "A. [12:48:39] The person in charge of coordinating the offices... I repeat The

14 person in charge of coordinating the offices said that, in the opinion of the

15 experts within the High Islamic Council, the occupation was not in accordance

16 with Sharia. This was consistently stated outside of ... at other levels. He is

17 responsible for coordination and holds the function of minister of religious

18 affairs. In my report... I am sorry.

19 PRESIDING JUDGE MINDUA: [12:49:02] It would seem there isn't any

20 interpretation into English any more. Court Officer, please could you check

21 that everything is in order."

22 SECOND CORRECTIONS REPORT

23 The following correction, marked with an asterisk and not included in the

24 audio-visual recording of the hearing, is brought into the transcript.

25 Page 73 lines 8-9:

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- 1 "THE WITNESS: [14:51:59](Interpretation) That was the time that they
- 2 entered Timbuktu."
- 3 Is corrected to
- 4 "THE WITNESS: [14:51:59](Interpretation) That was the time those people
- 5 entered Timbuktu."
- 6 Page 75 lines 12-13:
- 7 "A. [15:00:55] Yes. They were dressed in the same way, but they didn't
- 8 have the same flags. That was the only difference." Is corrected to
- 9 "A. [15:00:55] Yes. Nearly all of them were dressed in the same way, but they
- 10 didn't have the same flags. That was the only difference."
- 11 Page 85 lines 23-25:
- 12 "We've also sent the resume with this; so we'd like to discuss this matter in
- 13 private session, and that will take 30 minutes."
- 14 Is corrected to
- 15 "We've also sent the resume with this part, which has been highlighted. So
- 16 we'd like to begin the questions about this part of her testimony in private
- 17 session, and that will take 30 minutes."