

Trial Hearing
WITNESS: MLI-D28-P-0272

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Kesia-Mbe Mindua, Judge Tomoko Akane and Judge Kimberly Prost
7 Trial Hearing - Courtroom 3
8 Wednesday, 8 June 2022
9 (The hearing starts in open session at 9.34 a.m.)
10 THE COURT USHER: [9:34:32] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MINDUA: [9:35:06](Interpretation) Court is in session.
14 Good morning to everyone.
15 Court officer, please call the case.
16 THE COURT OFFICER: [9:35:18] Good morning, Mr President.
17 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
18 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
19 ICC-01/12-01/18.
20 And for the record, we're in open session.
21 PRESIDING JUDGE MINDUA: [9:35:40](Interpretation) Thank you very much,
22 Madam Court Officer.
23 As we do every morning, we shall start with the appearances. Firstly, with the
24 Office of the Prosecutor. Madam Prosecutor.
25 MS LUPING: [9:35:56] Good morning, Mr President. Good morning,

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1 your Honours. Appearing on behalf of the Prosecution this morning are

2 Charlotte Luijben, Paola Sacchi, Gilles Dutertre and myself, Dianne Luping.

3 Thank you.

4 PRESIDING JUDGE MINDUA: [9:36:15](Interpretation) Thank you very much,

5 Madam Prosecutor Luping.

6 I now turn towards the Defence. Counsel.

7 MR PESTMAN: [9:36:27] Good morning, Mr President, your Honours, my

8 colleagues on the other side of the aisle, and everyone else in this courtroom.

9 Present today, of course, our client, Mr Al Hassan. And in the courtroom I have

10 Ms Dolly Chahla, Ms Melinda Taylor and me, Michiel Pestman. And in Bamako, we

11 have a new addition to our team, Mr Mohamed Al-Ansary. He will be attending via

12 video link today.

13 PRESIDING JUDGE MINDUA: [9:37:07](Interpretation) Thank you very much,

14 Counsel.

15 I now turn towards the legal counsel for victims. I think Maître Doumbia is

16 participating from afar. Maître.

17 MR DOUMBIA: [9:37:24](Interpretation) Indeed, I am, your Honour. Good

18 morning, your Honour, your Honours. The victims are represented this morning by

19 Anouk Kermiche, Madam Carla Boglioli, Madam -- and myself, Seydou Doumbia,

20 from Bamako. Thank you.

21 PRESIDING JUDGE MINDUA: [9:37:49](Interpretation) Thank you very much,

22 Maître Doumbia.

23 Now I shall turn towards the witness.

24 Witness -- I would point out for the record that we have the seventh Defence witness,

25 D-0272.

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1 Good morning, Witness. Can you hear me?

2 WITNESS: MLI-D28-P-0272

3 (The witness speaks French)

4 (The witness gives evidence via video link)

5 THE WITNESS: [9:38:15](Interpretation) Good morning. I can hear you well.

6 PRESIDING JUDGE MINDUA: [9:38:17](Interpretation) Thank you very much,
7 Witness.

8 On behalf of the Chamber, I would like to welcome you. You are going to testify
9 with a view to aiding the Chamber establish the truth in the case concerning
10 Mr Al Hassan.

11 Witness, protective measures have been set up such that your identity will not be
12 revealed to the public. Whenever you have to give details which might reveal your
13 identity, we shall speak in private session. As such, nobody, other than those inside
14 this courtroom, will be able to hear you.

15 I am now going to proceed with your solemn undertaking under Rule 66(1) of the
16 Rules of Procedure and Evidence, this solemn undertaking, according to which you
17 swear to tell the whole truth. On your table you will have a document with the
18 official formula; is that correct?

19 THE WITNESS: [9:40:03](Interpretation) I do.

20 PRESIDING JUDGE MINDUA: [9:40:04](Interpretation) Very well. So I would ask
21 you to read this wording aloud, please.

22 THE WITNESS: [9:40:14](Interpretation) I solemnly declare that I will tell the truth,
23 the whole truth and nothing but the truth.

24 PRESIDING JUDGE MINDUA: [9:40:25](Interpretation) Thank you, Witness. You
25 are now under oath.

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1 THE WITNESS: [9:40:35](Interpretation) Indeed.

2 PRESIDING JUDGE MINDUA: [9:40:39](Interpretation) The representatives of the
3 legal aid to victims section and the representatives of the Defence will explain to you
4 what that means.

5 THE WITNESS: [9:40:52](Interpretation) Yes.

6 PRESIDING JUDGE MINDUA: [9:40:54](Interpretation) So I have some advice of a
7 practical nature for you. You should keep in mind throughout your testimony that
8 everything that is said in this courtroom is transcribed by court reporters and it is
9 translated simultaneously into several languages by interpreters. It's, therefore,
10 important to speak slowly and clearly. Don't start speaking until the person who is
11 putting the question to you has finished speaking.

12 Of course, if you have any concerns, please raise your hand in order to indicate that
13 you wish to intervene.

14 Have you understood?

15 THE WITNESS: [9:42:11](Interpretation) I've understood well.

16 PRESIDING JUDGE MINDUA: [9:42:15](Interpretation) Thank you very much,
17 Witness.

18 So you will be questioned by the Defence for the examination-in-chief and then by the
19 Office of the Prosecutor for the cross-examination, and possibly by the Legal
20 Representatives of Victims or by the Chamber itself.

21 Without further ado, I give the floor to Maître Pestman for the start of the
22 examination-in-chief.

23 MR PESTMAN: [9:42:53] Thank you very much, Mr President.

24 I will have to go into private session a couple of times today. I will try to reduce the
25 number of changes as much as possible.

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1 Having said that, I would like to go, if possible, into private session now.

2 PRESIDING JUDGE MINDUA: [9:43:27](Interpretation) Indeed, Counsel.

3 Court officer, please take us into private session.

4 QUESTIONED BY MR PESTMAN:

5 Q. [9:43:37] Mr Witness, I don't know whether you can see me. Can you see me?

6 A. [9:43:43] Yes.

7 (Private session at 9.43 a.m.)

8 THE COURT OFFICER: [9:43:47] We're in private session, Mr President.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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16 (Redacted)

17 (Redacted)

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20 (Redacted)

21 (Open session at 9.59 a.m.)

22 THE COURT OFFICER: [9:59:07] We're back in open session. We have lost the
23 connection to the remote LRV counsel, but we are working to re-establish that.

24 PRESIDING JUDGE MINDUA: [9:59:25](Interpretation) I think we can continue,
25 Maître, because the team of Maître Doumbia is here. So we are going to get him

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1 back on line very quickly.

2 We are now in open session, Mr Pestman.

3 MR PESTMAN: [9:59:42] Thank you, Mr President.

4 Q. [9:59:47] In your statement, Mr Witness, you describe --

5 PRESIDING JUDGE MINDUA: [9:59:58](Interpretation) I'm sorry. Just to point out
6 that we now have Maître Doumbia back on line.

7 Please go ahead.

8 MR PESTMAN: [10:00:08] I'm glad he is back.

9 Q. [10:00:11] Mr Witness, in your statement, you describe Mr Al Hassan as a
10 person who wasn't at all, *pas du tout*, a radical person.

11 PRESIDING JUDGE MINDUA: [10:00:23](Interpretation) Madam Prosecutor.

12 MS LUPING: [10:00:27] Mr President, I'm sorry, I don't mean to interrupt. Defence
13 counsel, I just would like -- if Defence counsel could, please, as one of the clarification
14 questions, I was checking to see if you were on the same topic, but we don't have any
15 indication precisely of timing of the festival, neither in the statement or in his
16 testimony so far. I was expecting that to be a clarification question. If we could,
17 before we change topics, if we could have that clarification for the record.

18 PRESIDING JUDGE MINDUA: [10:01:07] (No interpretation) (Overlapping
19 speakers)

20 MR PESTMAN: [10:01:11] I'm happy to ask that question, of course.

21 Q. [10:01:12] Mr Witness, just quickly going to the *Festival au Désert*, when was the
22 last festival, when did the last festival take place in Timbuktu?

23 A. [10:01:26] The Festival of the Desert was in January or February 2011. That was
24 the last time that the festival was held.

25 Q. [10:01:48] Mr Witness, to go back to my previous question --

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1 PRESIDING JUDGE MINDUA: [10:01:55](Interpretation) Madam Prosecutor.

2 MS LUPING: [10:01:57] Mr President, the question is related to when was the last

3 date that the accused was involved in the festival with this individual. I mean, the

4 problem is the question at the moment, we don't have the clarification on the timing.

5 We've had information about the participation of the accused in the festival, and what

6 is unclear from the record remains when was the date in which the accused last

7 participated in the festival. I won't say more than that because we are in public

8 session right now.

9 PRESIDING JUDGE MINDUA: [10:02:43](Interpretation) Counsel, you've

10 understood the objection from the OTP. Go ahead.

11 MR PESTMAN: [10:02:57] I don't think it was an objection. It was more like a

12 suggestion for a question I could also ask. I'm more than happy to do it on behalf of

13 the Prosecutor (Overlapping speakers)

14 PRESIDING JUDGE MINDUA: [10:03:10](Interpretation) You are correct. Yes, it

15 was an additional question. The Prosecutor is asking for a clarification (Overlapping

16 speakers)

17 THE INTERPRETER: [10:03:23] Overlapping speakers.

18 MR PESTMAN: [10:03:26] I'm just worrying about -- about the time.

19 Q. [10:03:26] But, Mr Witness, can you tell us whether Mr Al Hassan was involved

20 in the organisation of the festival until the last festival took place in 2011.

21 A. [10:03:47] Ever since Al Hassan arrived in Timbuktu, he took part in all the

22 annual festivals in January, up until the last one in 2011. I can confirm that.

23 Q. [10:04:10] Mr Witness, I'll try again to go back to my previous question. You

24 described Mr Al Hassan as a person who wasn't radical. Can you explain how you

25 came to that conclusion. Maybe you can tell us how he behaved at the festival, how

1 he interacted with other people, how he interacted with you, and, for example, how
2 he dressed during those years that he was involved in the festival.

3 PRESIDING JUDGE MINDUA: [10:04:51](Interpretation) Madam Prosecutor, I hope
4 that we will continue with examination-in-chief. What is your concern?

5 MS LUPING: [10:05:02] Mr President, I know we're trying to expedite matters. I
6 realise that Defence Counsel is simply asking clarification questions. But on this sort
7 of question, I would ask that it not be so leading. I believe the witness should simply
8 be left to explain in his own words and in his own meaning what he meant by that
9 term. At the moment, it's a very -- it's a very leading question. We're being -- he's
10 being directed to indicate what context and he's being provided a context. So the
11 objection relates to the highly leading nature of this question.

12 PRESIDING JUDGE MINDUA: [10:05:48](Interpretation) Mr Pestman, kindly
13 rephrase.

14 MR PESTMAN: [10:05:52]

15 Q. [10:05:53] Mr Witness, can you explain to the Court why you think that
16 Mr Al Hassan was not a radical person.

17 A. [10:06:13] Thank you. I didn't have an opportunity to respond to the question
18 from the Defence counsel. I hadn't -- he put a question, but I hadn't answered yet.
19 But I believe -- you see, Hassan did not appear to be a radical person. I said that
20 because of his behaviour, his physical appearance, his -- his character, how he
21 behaved within society, all the various activities that he carried out. He rubbed
22 shoulders with musicians. His friends were smokers and drinkers of alcohol, for the
23 most part. So I don't think you can call such a person radical. Everything else is
24 based on my own experience. (Redacted), I know that he is very much
25 a peace-loving person, very calm. *He is not aggressive at all. So taking into

1 account all these aspects, I do dare to say that Mr Al Hassan did not show any sign,
2 be it in his religious or social behaviour or his day-to-day behaviour, he gave no sign
3 of being a radical person. In our society, he is mentioned by people as being very
4 serious, a very serious person.

5 If the investigations go towards other people, I think that you will get the same
6 answers from them. Thank you.

7 Q. [10:08:12] Thank you, Mr Witness, for your answer.

8 Did Mr Al Hassan smoke?

9 A. [10:08:25] Mr Al Hassan was not a smoker, but he would smoke shisha with us.
10 So I don't call that being a smoker. Before he got to Timbuktu, it's possible he
11 smoked, but I don't know. In Timbuktu, he did not smoke. He didn't have any
12 packages of cigarettes, like a smoker, but he did smoke shisha. In contrast myself, I
13 am a smoker.

14 Q. [10:09:01] Did he dance?

15 A. [10:09:06] Oh, yes, oh, yes, he was quite a dancer.

16 Q. [10:09:13] Can he sing?

17 A. [10:09:19] Of course. (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [10:09:41] Mr Witness, did you ever talk about religion with Mr Al Hassan?

21 A. [10:09:53] Well, religion is part of our lives, but I'm talking about moderate
22 religion. We did not engage in preaching or have religious debates, not at all. At
23 the time, we were focusing on going out, having picnics, playing guitar, that sort of
24 thing. In contrast, we did follow our religion in a modest way. We prayed, we
25 lived our lives, we fasted.

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1 PRESIDING JUDGE MINDUA: [10:10:34](Interpretation) Madam Prosecutor.

2 MS LUPING: [10:10:36] Mr President, could I just request -- for my brief objection, if
3 I could request that the sound be cut off to the witness.

4 PRESIDING JUDGE MINDUA: [10:10:52](Interpretation) Of course.

5 Court officer, please cut the audio feed to the witness.

6 THE COURT OFFICER: [10:11:01] The sound to the witness has been disconnected,
7 Mr President.

8 PRESIDING JUDGE MINDUA: [10:11:09](Interpretation) Thank you very much.
9 Madam Prosecutor.

10 MS LUPING: [10:11:13] Mr President, the Prosecution requests that when these
11 types of questions are being put, that we have clarity as to the timing of when the
12 witness is saying that these, these instances occurred. For example, at this stage, we
13 have no indication of the time periods that the witness would claim that these -- that
14 Mr Al Hassan behaved in this way.
15 Now, this is relevant. This is relevant. He's being called as a witness specifically on
16 this topic and it's important to understand when he is alleging that Mr Al Hassan
17 behaved in this way.

18 And so it would be a request that when Defence Counsel asks these questions relating
19 to this alleged behaviour of Mr Al Hassan, that he ensures that there is accuracy and
20 there's clarity in the record as to when he saw Mr Al Hassan behave in this way.

21 PRESIDING JUDGE MINDUA: [10:12:25](Interpretation) Mr Pestman, I think you're
22 quite right to put these questions to the witness, but as the Prosecutor has requested,
23 we need dates. Can you clarify all of that.

24 Madam Courtroom Officer, please re-establish the audio feed.

25 MR PESTMAN: [10:12:45] Thank you. There will be room for cross-examination, I

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1 suppose, of course.

2 I will ask this question because I think it's quite an interesting one.

3 THE COURT OFFICER: [10:12:55] The audio to the witness has been reconnected.

4 MR PESTMAN: [10:13:02] I will ask the question as suggested by the Prosecutor, but
5 I will change it slightly.

6 Q. [10:13:12] Mr Witness, during the period that you were in contact with
7 Mr Al Hassan, leading up to 2012, so from the moment Mr Al Hassan came back from
8 Libya until the beginning of 2012, did you see Mr Al Hassan change in any way?

9 A. [10:13:51] To tell you the truth, Al Hassan did not change, not until I heard
10 about him being arrested. All the time that I lived with him, until I left Mali in 2012,
11 to my mind, he did not change, not in the slightest.

12 MR PESTMAN: [10:14:27] I'm looking at the Prosecutor to see whether she is
13 satisfied with the answer.

14 PRESIDING JUDGE MINDUA: [10:14:36](Interpretation) Madam Prosecutor.

15 MS LUPING: [10:14:39] Mr President, I do believe Defence Counsel will be aware
16 that that doesn't provide the context. And it was highly leading in the way that this
17 is being provided, but I will have my chance indeed at cross-examination.

18 MR PESTMAN: [10:14:58] I would like to go back into private session for my last
19 topic, the last topic I would like to discuss today with the witness.

20 PRESIDING JUDGE MINDUA: [10:15:11](Interpretation) Court officer, private
21 session, please.

22 (Private session at 10.15 a.m.)

23 THE COURT OFFICER: [10:15:25] We're in private session, Mr President.

24 (Redacted)

25 (Redacted)

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9 (Open session at 10.20 a.m.)

10 THE COURT OFFICER: [10:20:03] We're back in open session, Mr President.

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

12 Mr Pestman.

13 MR PESTMAN: [10:20:17]

14 Q. [10:20:17] Mr Witness, is it correct that you talked to Madam M about her
15 marriage to an Islamist?

16 A. [10:20:35] Of course. We talked to one another during a family discussion, out
17 of curiosity, we talked about what had happened and she told us her story.

18 Q. [10:20:59] Do you remember when this meeting took place?

19 A. [10:21:13] Unless I'm mistaken, I don't remember the exact date. Around 2008.
20 No, 2018, I mean.

21 Q. [10:21:27] Where did this meeting take place?

22 A. [10:21:44] At my home, within the family, with my elder sister, my sisters, my
23 niece. We were having a family chat. She was there. She is almost a member of
24 the family.

25 Q. [10:22:07] Can you tell us in your own words what exactly Madam M told you

1 about her marriage to the Islamist?

2 A. [10:22:30] Of course. She told us that an Islamist came to see her and wanted to
3 marry her, she agreed, to sum up. And I asked her a question out of professional
4 instinct since I work in the humanitarian area and quite often we work with people
5 subjected to forcible marriage. And instinctively I said to her, "Are you sure you
6 want to marry him or are you being forced to do so?" And she said that she wanted
7 to marry him because it was -- it was a good deal for her. This person would take
8 care of her and she had other children outside of marriage.

9 Q. [10:23:25] Do you know where Madam M lived after she got married to the
10 Islamist?

11 A. [10:23:41] I can't be specific, but I believe she stayed at her home beside the
12 entrance to Timbuktu. I believe the man went to visit her regularly, but she stayed
13 at home with her parents. This was at the southern entrance to the city.

14 Q. [10:24:08] Did she tell you during this meeting that she was locked up in a -- in a
15 house which she was not able to leave while she was married to the Islamist?

16 A. [10:24:31] What I understood from the discussion was that it was just the
17 clothing that was required. There were no other restraints. She wasn't to show her
18 face. She was to dress suitably, like the women who wear a hijab. Other than
19 that -- well, that's how I understood things from the discussion.

20 Q. [10:25:07] Mr Witness, did you have any reason to believe that Madam M was
21 not able to speak freely at this meeting?

22 A. [10:25:26] No. Why? She had nothing to fear from us. We are her family.
23 On the contrary, we were worried about her. That's why we asked her to tell us her
24 story.

25 Q. [10:25:51] I have no further questions at the moment, apart from the formal

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1 ones.

2 Mr Witness, are there any corrections you would like to make to your statement, the
3 one that you have in front of you, apart from the corrections, the answers you have
4 already made today in court?

5 A. [10:26:28] Well, the answers that are -- that I'm giving represent corrections to
6 my statement, if there are any differences.

7 Q. [10:26:56] Mr Witness, do you object to the submission into the evidence, the
8 submission of your statement and the photo that was shown to you? Do you
9 subject -- do you object to the submission of these documents into evidence?

10 A. [10:27:19] No, I have no objection to my statement being placed on the record.

11 MR PESTMAN: [10:27:32] In that case, Mr President, and Mr Witness, I have no
12 further questions.

13 PRESIDING JUDGE MINDUA: [10:27:42](Interpretation) Thank you very much,
14 Mr Pestman, for your examination-in-chief.

15 I can see that the procedural conditions required under 68(3) of the Rules of evidence
16 and procedure have now been met. I thank you for being so efficient and effective.
17 I now turn to the Office of the Prosecutor.

18 Madam Prosecutor, we still have 32 minutes and I hope you're ready.

19 MS LUPING: [10:28:22] Absolutely, Mr President, I'm ready.

20 I would just ask, though, if the court officer could ensure I can see the witness because
21 at the moment I can't properly see him.

22 PRESIDING JUDGE MINDUA: [10:28:45](Interpretation) Court usher, if you could.
23 So that's done. You have the floor for your cross-examination.

24 MS LUPING: [10:29:35] Thank you, Mr President. And thank you to the court
25 usher and court officer.

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1 QUESTIONED BY MS LUPING:

2 Q. [10:29:42] So good morning, Mr Witness. We met yesterday very briefly. As
3 you know, my name is Dianne Luping, and I'm asking you questions on behalf of the
4 Prosecution.

5 A. [10:29:57] Very well.

6 Q. [10:29:59] Now, Mr Witness, I'm going to turn to your statement that you
7 provided to the Defence. And I'm looking first at page 4183 of MLI-D28-0006-4181
8 and that's at tab 5 of the binder. And I'd like to -- yes, so that's 4183. I'd like to
9 focus on paragraph 9.

10 Do you have the statement in front of you, Mr Witness?

11 A. [10:30:40] I have the statement in front of me.

12 Q. [10:30:44] Now, Mr Witness, we see in paragraphs 9, in fact, through to 13 of
13 your statement you describe what you term as (Interpretation) "the difficult events"
14 and "the classical cycle of rebellions" (Speaks English) for the Tuaregs before 2012.
15 Now is it correct that there were different Tuareg rebellions before 2012? Is that
16 right?

17 A. [10:31:22] Of course, there were several different rebellions before 2012. They
18 started in 1968.

19 Q. [10:31:33] And still remaining on your statement -- I'd ask the court usher please
20 to turn to page 4184, that's the next page and to focus on paragraph 21.

21 Do you have that paragraph in front of you, Mr Witness?

22 A. [10:31:55] Yes.

23 Q. [10:31:57] Now, before this specific paragraph, you had explained that before
24 the MNLA and other groups arrived in Timbuktu in 2012, that you and your family
25 left Timbuktu and you were outside of Timbuktu for all of 2012; is that correct?

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1 A. [10:32:26] That's correct.

2 Q. [10:32:28] And here, you speak of finding a home in the town of Ouagadougou;
3 is that correct?

4 A. [10:32:47] That's correct, I was living in Ouagadougou with my family.

5 Q. [10:32:52] And is it right that the refugees in the refugee camps you refer to
6 included Tuareg from Timbuktu; is that right?

7 A. [10:33:15] Principally. There were several camps, but it was principally the
8 Tuareg.

9 Q. [10:33:21] And amongst the Tuareg, that would include other family and friends;
10 am I right?

11 A. [10:33:33] Obviously. I had a lot of members of my families who were
12 concerned, who had to move to take refuge either in Burkina or in Niger or in
13 Mauritania or in Algeria, countries that are on the border of Mali. I chose to go to
14 Burkina.

15 Q. [10:33:59] Now, I'm not going to mention where you were working because
16 we're in public session, but am I right, you found a job in Ouagadougou; is that
17 correct?

18 A. [10:34:13] Indeed. I found a temporary job, which made it possible for me to
19 meet the needs of my family while awaiting to return to the country.

20 Q. [10:34:28] And would I be right that others were also able to find jobs, other
21 Tuareg were able to find jobs in Ouagadougou; is that correct?

22 A. [10:34:44] Of course. A lot of them. The intellectuals, the higher level, before
23 taking refuge, they were looking to find work. Some managed, some didn't. In
24 different places, there, for example, were farmers who didn't have that opportunity,
25 neither did cattle-breeders because there wasn't employment for them. And we all

1 wrote applications and a lot of us did manage to find work in the humanitarian field,
2 particularly in the humanitarian field. The NGOs would come to help refugees and
3 they would employ intellectuals who had the necessary competences to perform the
4 work.

5 Q. [10:35:35] So if I understand your answer correctly, well-educated people would
6 have opportunities to find work; is that correct?

7 A. [10:35:51] That's correct. The educated people above all, who met the criteria
8 of the NGOs working there: health, education, development.

9 Q. [10:36:10] And were there many Tuareg from Timbuktu who left before the
10 MNLA arrived?

11 A. [10:36:27] There were few of them when -- before the MNLA arrived. But there
12 were a lot more when the north was occupied by the Islamists. It was at that time
13 that a lot of them moved because the Tuareg, the Tuareg did not like the domination
14 of the Islamists.

15 Q. [10:37:08] Now, Mr Witness, did you ever personally join the MNLA?

16 A. [10:37:23] No. No, I'm rather -- I can't be in the army or -- I'm more of an
17 intellectual, a civilian. I'm -- when it comes to my personal convictions, they don't
18 allow me to join armed groups. Some of their causes defend my people, but I prefer
19 to be an intellectual and to work in a way through humanitarian means to help my
20 people.

21 Q. [10:38:04] Just to be clear and to clarify, though, did you ever join Ansar Dine?

22 A. [10:38:18] No. I didn't join any Islamist group or an armed group, and I
23 haven't to this day.

24 Q. [10:38:35] Now, you stated in reference to the armed groups, and I refer to page
25 27, line 10, "some of their causes defend our people." Could you explain what you

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1 meant by that.

2 MR PESTMAN: Sorry, I just --

3 PRESIDING JUDGE MINDUA: [10:38:59] Maître Pestman.

4 MR PESTMAN: [10:38:59] Sorry, just to -- the Prosecutor said page 27. Is it
5 paragraph 27?

6 MS LUPING: [10:39:09] I'm talking about the transcript right now. I'm talking
7 about today's transcript and the witness's testimony just a -- literally a few seconds
8 ago.

9 Q. [10:39:18] So, Mr Witness, I'm referring back to your testimony, and that's
10 English transcript page 27, line 10, "some of their causes defend our people." Could
11 you explain what you meant by that.

12 A. [10:39:42] Of course. May I? Okay.

13 So what I was saying was that these causes or the original causes of the armed
14 rebellion movements was -- where it came to the disparity of development between
15 the north and the south, they were focusing on development, health, education, these
16 aspects. And through this, they would defend our people. When I say "our people",
17 I'm talking about the people who live in the geographical space, without geographical
18 race. If we have -- it would -- it is to benefit everybody if we have roads, if we have
19 hospitals, if we have education, schools. That can benefit everybody. But when it
20 comes to these different causes, these causes were just for our people, and that is the
21 reason why they managed to get the people to join.

22 Q. [10:40:53] And could you be precise as to which group or groups you're
23 referring to that defended these causes that you've just described. To which groups
24 are you referring?

25 A. [10:41:13] Very well. Well, I think that I'll make the answer easier for you. If

1 you look at the Algiers peace agreements, you look at the different groups in there
2 and all the different articles that are there, and everything that is asked for there, I'm
3 speaking about that.

4 Q. [10:41:31] Are you referring to Ansar Dine?

5 A. [10:41:37] If I say to refer to the Algiers agreement, I don't think you'll find
6 Ansar Dine in there.

7 Q. [10:41:45] So can you be precise for the record as to which groups you're
8 referring to then.

9 A. [10:41:56] We have groups such as the MNLA, CMA, RCA, the pro-government
10 platform, all the different groups in the Algiers agreement. And the articles
11 in -- therein define which are the signatory groups and it also says what is asked for
12 in this agreement. And we, all the people of Mali, and most part, the people in the
13 north, adhered to this agreement. When I speak about the agreement, I'm talking
14 about the groups that signed it.

15 Q. [10:42:31] And am I right that one of the common goals of the MNLA and Ansar
16 Dine was for the liberation of Azawad; is that right?

17 A. [10:42:54] There you're asking my personal opinion because at a particular time
18 when they started, it was independence that they were calling for. But it went to
19 coming to an agreement which changed the events on the ground. When it came to
20 independence of the north, it was more about the development of the north, the
21 management of affairs by the people. These sort of aspects, that was all included in
22 the agreement.

23 Q. [10:43:27] Now, just a few moments before, you referred in your testimony to
24 Ansar Dine as being Islamist. To the best of your knowledge, isn't it correct that one
25 of the aims of Ansar Dine was for the application of Sharia law according to its own

1 vision of how it should be applied; is that a fair summation?

2 A. [10:44:07] In fact, I don't know what Ansar Dine were looking for or what they
3 did. That wasn't my role. My role is to clearly answer you with regards to the
4 questions that I know, not to inform you about Ansar Dine or the MNLA.

5 Q. [10:44:29] Now, you have indicated in your prior statement to the Defence,
6 which is now being submitted under Rule 68, that you were in contact with
7 individuals in Timbuktu during 2012; is that correct?

8 A. [10:44:57] That's correct. All of us left some of their family and friends in
9 Timbuktu in 2012 and all of us stayed in contact with these people because we also
10 have our houses. We left our goods, we left part of our family there. So we had to
11 be in contact with them. And it was often very complicated. Sometimes you had to
12 do it through an intermediary to see how they were, how was our property doing.
13 So all these different aspects.

14 Q. [10:45:32] And were you not aware, Mr Witness, that the group were imposing
15 new rules, Sharia law, according to their interpretation, during 2012?

16 A. [10:45:53] Of course I knew. That's one of the main reasons why I left. That's
17 because I didn't want to submit to their rules.

18 Q. [10:46:07] And could you clarify what you mean by that, when you say you did
19 not want to submit to their rules.

20 A. [10:46:20] When in fact if I said I didn't want to submit to their rules, I made the
21 choice, a choice to leave. I'm a Muslim and I'm a practising Muslim, but I'm not a
22 radical. I don't want there to be an imposition of a different notion of Islam than the
23 one I have. But nevertheless, when I left, I knew how it was going. Of course I was
24 informed of Afghanistan and everywhere in the world. I didn't wait for that to
25 happen. I just left.

1 Q. [10:47:02] Now, you've just said "I'm not a radical." Would you agree that this
2 imposition of these rules, that this was -- would you agree that this was radical, in
3 your opinion?

4 A. [10:47:26] That's my personal opinion, but for me, imposing the hijab on a
5 woman, that's radical. But that's just my opinion.

6 Q. [10:47:40] And just to clarify your opinion as well, Mr Witness, would you
7 consider flogging a person for drinking alcohol, in your view, would that be radical?

8 A. [10:48:04] Of course. Everything that you ask somebody to do against their
9 will is radical.

10 Q. [10:48:13] And again, just to be very clear, would you consider flogging a person
11 who is accused of adultery, in your view, is that radical?

12 A. [10:48:29] Yes. What I said was, everything that's imposed on a person against
13 their will is radical. But let's be careful. You -- you have -- this is nuanced here,
14 because you have my opinion and my security. I cannot contradict Islamic law, if it's
15 Islamist law, just as I can't contradict the -- your judicial rules as well.

16 If I chose myself personally not to live there, where Sharia was in place, that's not to
17 say Sharia doesn't exist. Just as well you, on your side, you represent a type of
18 justice as well, which is also imposing sanctions when it decides that a person is at
19 fault. So you can't take me into a debate where I'm going to give opinions on Sharia,
20 et cetera. I'm not -- that's not good for me. But I'm going to answer questions about
21 the case in point here.

22 Q. [10:49:41] And, Mr Witness, just to be clear, you've explained that you left
23 Timbuktu because that -- you didn't want this to be imposed on you. Isn't it right
24 that these new rules being imposed were not being enforced or imposed on people
25 before the groups arrived in 2012; isn't that correct?

1 A. [10:50:13] It's very clear that Sharia was not imposed before the Islamists arrived.

2 That's very clear.

3 MS LUPING: [10:50:21] Now, Mr President, I do need to ask some questions of an
4 identifying nature of the witness. I envisage -- I've tried to group the questions
5 together. I envisage it could take between 10 to 15 minutes, depending on how
6 quickly certain records can be shown to the witness. This is just also for the
7 information of the public in the gallery. It will take 10 to 15 minutes. I'd also be
8 happy to go out briefly if it appears to be going longer, if need be.

9 PRESIDING JUDGE MINDUA: [10:51:01](Interpretation) Would you like us now to
10 go into private session?

11 MS LUPING: [10:51:05] Indeed, Mr President. I just wanted to make it clear also
12 for the individuals in the public gallery that we would be going into private session, it
13 could be up to 15 minutes. It's simply to inform them.

14 PRESIDING JUDGE MINDUA: [10:51:23](Interpretation) You are completely right,
15 Prosecutor. So after the 10 minutes, are you going to continue or will it be the end?
16 You have the right to continue, I'm just asking the question.

17 MS LUPING: [10:51:33] Apologies, I had lost track of the fact that it's already 10 to
18 11. So, yes, for the ten minutes before the break, it will need to be entirely in private
19 session.

20 PRESIDING JUDGE MINDUA: [10:51:47](Interpretation) Very well. That's clear
21 for our public. We are going to take ten minutes in private session, and afterwards,
22 we are going to adjourn for 30 minutes and we will be back at 11.30 in open session.
23 Court officer, please take us into private session.

24 (Private session at 10.52 a.m.)

25 THE COURT OFFICER: [10:52:18] We're in private session, Mr President.

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- 10 (Open session at 11.05 a.m.)
- 11 THE COURT OFFICER: [11:05:42] We're back in open session, Mr President.
- 12 PRESIDING JUDGE MINDUA: [11:05:46](Interpretation) Thank you very much,
- 13 court officer.
- 14 We will now suspend the hearing for half an hour and resume at 11.35.
- 15 The hearing is now suspended.
- 16 THE COURT USHER: [11:06:03] All rise.
- 17 (Recess taken at 11.06 a.m.)
- 18 (Upon resuming in open session at 11.39 a.m.)
- 19 THE COURT USHER: [11:39:42] All rise.
- 20 Please be seated.
- 21 PRESIDING JUDGE MINDUA: [11:40:11](Interpretation) The hearing shall now
- 22 resume.
- 23 The Prosecution may now continue with cross-examination. Are we remaining in
- 24 private session for a few moments?
- 25 MS LUPING: [11:40:33] Mr President, perhaps we could just indicate to individuals

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1 in the public gallery that we will need to remain in private session for my next series
2 of questions. I didn't actually have an opportunity to ask those questions before the
3 break that I had anticipated asking because of the need to deal with various objections.
4 So if we go into public session just to inform the public and then return to private.

5 PRESIDING JUDGE MINDUA: [11:41:06](Interpretation) Very well.

6 We'll try to move more quickly than last time.

7 Court officer, private session, please.

8 (Private session at 11.41 a.m.)

9 THE COURT OFFICER: [11:41:29] We're in private session, Mr President.

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13 (Open session at 12.15 p.m.)

14 THE COURT OFFICER: [12:15:50] We're back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [12:15:56](Interpretation) Thank you very much,

16 court officer.

17 Madam Prosecutor.

18 MS LUPING: [12:16:02] Thank you, Mr President.

19 Q. [12:16:04] Mr Witness, you've been talking about -- or you talked about in your

20 testimony the organisation of the festivals of the desert, and you described there

21 being music and dancing; is that correct?

22 A. [12:16:21] Exactly.

23 Q. [12:16:24] And am I right that this was traditional Tuareg music and dancing?

24 It was a Tuareg cultural event; is that correct?

25 A. [12:16:42] No. We had all sorts of artists there. It's not correct. Whether they

1 were American, Asian, English, French, Spanish, everybody was there. All the major
2 artists were there, from within Mali and the Bambara, Dogon, everyone. It was
3 culture from all over the world, but different cultures of the world in the desert.

4 MS LUPING: [12:17:13] Now, I'm going to be switching to another topic, but I'm
5 afraid I have to just briefly ask this series in private session. It should be about five
6 minutes, Mr President, before going back into public.

7 PRESIDING JUDGE MINDUA: [12:17:34](Interpretation) Court officer, private
8 session, please.

9 (Private session at 12.17 p.m.)

10 THE COURT OFFICER: [12:17:46] We're in private session, Mr President.

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- 20 (Open session at 12.23 p.m.)
- 21 THE COURT OFFICER: [12:23:47] We're back in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [12:23:49](Interpretation) Thank you very much,
- 23 Madam Courtroom Officer.
- 24 Prosecutor.
- 25 MS LUPING: [12:23:54] Thank you.

1 Q. [12:23:56] Now, Mr Witness, you have described a person called Mr D who
2 contacted you for help. And in the statement at paragraph 22, you stated:

3 (Interpretation) "... as I knew Hassan who was at the Islamic commissariat."

4 (Speaks English) Is that correct?

5 A. [12:24:36] I haven't understood the question.

6 Q. [12:24:40] I'll try to make it clearer. You explained in your statement that a
7 person called Mr D called you and asked you for assistance. And then I'm going to
8 now quote from your statement at line 3 of paragraph 22: (Interpretation) "... as I
9 knew Hassan who was at the Islamic commissariat." (Speaks English) End of quote.

10 A. [12:25:17] I confirm that is what I said in my statement. Or should I give an
11 explanation?

12 Q. [12:25:26] I will ask you for an explanation, but first I had other questions to ask
13 you about that, if that's all right.

14 Now, the first question I had is: As I understand it, Mr D told you that after this
15 contact with Mr Al Hassan through Mr E, that his problem was solved; is that correct?

16 A. [12:25:56] Exactly. He even confirmed that Al Hassan himself had gone in
17 order to dissuade the people from taking his property from him and to leave him
18 alone.

19 Q. [12:26:10] And could you explain a bit more precisely what Mr Al Hassan did to
20 resolve this problem. You said he went to speak to the people. What precisely did
21 he do? And I'm talking now specifically in terms of his role within the *commissariat*
22 *Islamique*. Could you clarify what he did in the context of his work at the
23 *commissariat Islamique*?

24 A. [12:26:45] I wouldn't be able to give you more clarifications because I wasn't
25 there. What I can tell you is that the person who asked -- it was Mr D who asked me

1 to put him in contact with Mr Al Hassan, and he confirmed that Al Hassan had gone
2 there and he had dissuaded the people who wanted to take his property and got them
3 to leave him alone. That's all he told me. Because I repeat what he told me.

4 Q. [12:27:19] And when you say "he", are you referring to Mr D?

5 A. [12:27:23] Indeed.

6 Q. [12:27:24] Do you recall when this was in 2012?

7 A. [12:27:32] I wouldn't be able to give you precise dates. I don't remember. All
8 I know is that it happened during the occupation. That was when Al Hassan was
9 helping other people, but I said in my statement that at a specific time, it can be
10 verified. It's not the only case of where he helped people.

11 Q. [12:27:59] And this was when you were in (Redacted); is that correct?

12 A. [12:28:06] Indeed.

13 Q. [12:28:09] Now, and at this time, isn't it correct that Mr Al Hassan was the acting
14 commissaire of the Islamic police?

15 A. [12:28:26] I don't know exactly his post in the Islamic police. What I know is
16 that he was at the Islamic commissariat in Timbuktu and that a lot of people from
17 Timbuktu knew -- who knew him came to him to ask him to intercede in matters
18 during the occupation.

19 PRESIDING JUDGE MINDUA: [12:28:47](Interpretation) Mr Pestman.

20 MR PESTMAN: [12:28:49] I was going to object but the answer has been given, so ...

21 PRESIDING JUDGE MINDUA: [12:28:54](Interpretation) Very well. Thank you
22 very much. Let's move on.

23 Madam Prosecutor.

24 MS LUPING: [12:28:58]

25 Q. [12:28:59] And, Mr Witness, how did you know that Al Hassan was within the

1 *commissariat Islamique?*

2 A. [12:29:14] Madam, the information, that circulates. I'm from Timbuktu. Even
3 part of my family is in Timbuktu. I know everything that happens in Timbuktu,
4 from a day-to-day basis. That's my home. Through other people, communication
5 wasn't cut off. I was communicating with lots of people. Even with Al Hassan, I
6 tried lots of different communication with him until my line from Burkina was cut off,
7 and I took a Burkina telephone number.

8 Q. [12:29:51] And you've just described how Mr Al Hassan was able to intercede to
9 help this person, Mr D. Do you know what specific jobs he was doing with the
10 Islamic police?

11 A. [12:30:17] I just said in my last answer that I didn't know what his exact job was
12 or his duties. I knew he was at the police station. I didn't know how the police
13 station was structured. I never tried to find out what everyone was doing there.

14 PRESIDING JUDGE MINDUA: [12:30:35](Interpretation) Mr Pestman, you are
15 raising objection (Overlapping speakers)

16 THE INTERPRETER: [12:30:41] Overlapping.

17 MR PESTMAN: [12:30:42] He raised my objection. He said that the question was
18 already raised and asked and he answered the question already. I don't know how
19 my client manages to answer so quickly. He must be able to understand English.
20 The witness, sorry, yeah.

21 PRESIDING JUDGE MINDUA: [12:31:00] (Overlapping speakers)

22 THE WITNESS: [12:31:01](Interpretation) I do understand some English.

23 PRESIDING JUDGE MINDUA: [12:31:04](Interpretation) Obviously, repetitive
24 questions are not acceptable, Madam Prosecutor. Please continue.

25 MS LUPING: [12:31:12] Yes, Mr President. Understood.

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1 Now, Mr President, I do need to just briefly go into private session. Now, it depends
2 on what the witness's response is going to be. I believe it shouldn't take long, just for
3 the information of the -- the people in the public gallery. Possibly ten minutes, if I
4 don't need to be in there for a very long period of time. Depending on the responses.
5 If I could move into private session though.

6 PRESIDING JUDGE MINDUA: [12:31:50](Interpretation) You'll have to try to
7 shorten those questions, Madam Prosecutor.
8 Court officer, private session, please.

9 (Private session at 12.32 p.m.)

10 THE COURT OFFICER: [12:32:10] We're in private session, Mr President.

11 (Redacted)

12 (Redacted)

13 (Redacted)

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17 (Redacted)

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- 19 (Redacted)
- 20 (Redacted)
- 21 (Open session at 1.08 p.m.)
- 22 THE COURT OFFICER: [13:08:53] We're back in open session, Mr President.
- 23 PRESIDING JUDGE MINDUA: [13:08:56](Interpretation) Thank you very much,
- 24 court officer.
- 25 We're going to break for lunch and we will be back at 2.30.

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- 1 Court is suspended.
- 2 THE COURT USHER: All rise.
- 3 (Recess taken at 1.09 p.m.)
- 4 (Upon resuming in open session at 2.33 p.m.)
- 5 THE COURT USHER: [14:33:19] All rise.
- 6 Please be seated.
- 7 PRESIDING JUDGE MINDUA: [14:33:39](Interpretation) The hearing shall now
- 8 resume.
- 9 Good afternoon to all.
- 10 I shall hand over to the Office of the Prosecutor for the continuation of the
- 11 cross-examination of this witness.
- 12 Madam Prosecutor, please.
- 13 MS LUPING: [14:33:56] Thank you, Mr President.
- 14 Q. [14:33:58] Good afternoon, Mr Witness.
- 15 Mr Witness, just to go back to your testimony from this morning where -- and I'm
- 16 going to refer to -- it's the transcript of today, it's the French transcript, page 21,
- 17 lines 11 to 17, and also at page 22, lines 12 to 14.
- 18 Now, we're in public session, so I'm just going to explain that this is the account you
- 19 were giving related to a Madam M. So I'm not going to say her name. And you
- 20 stated, and I quote: (Interpretation) "She recounted how an Islamist presented him."
- 21 THE INTERPRETER: [14:34:58] Inaudible.
- 22 MS LUPING: [14:34:59](Interpretation) "She accepted."
- 23 Q. [14:35:02] (Speaks English) Now, first of all -- first of all, Mr Witness, was this
- 24 Ansar Dine? Is that the group to which you're referring to?
- 25 A. [14:35:20] I didn't understand the question. It -- the sound cut off here.

1 Q. [14:35:25] Can you hear me now?

2 A. [14:35:29] Yes.

3 Q. [14:35:31] I was referring to where you stated that Madam M had said she'd
4 been asked to marry an Islamist.

5 My question was: Is this the Ansar Dine group that he belonged to?

6 A. [14:35:50] To be honest, I do not know the groups. I don't know whether there
7 was one group or several.

8 As to the terminology that was used by individuals at the time, the -- as to the people
9 occupying Timbuktu at the time, well, they referred to them as the Islamists. I don't
10 know whether they were Ansar Dine or others. All we knew was that they were the
11 Islamists. They were part of the Islamists who were occupying Timbuktu.

12 Q. [14:36:20] Now, going further on in terms of what you stated, you stated:
13 (Interpretation) "And I myself wanted to put a question to her according to my
14 personal -- or professional instinct."

15 A. [14:36:40] Yes.

16 Q. [14:36:42] I'm not going to say what you described your job as being because
17 we're in public session, but I'm now going to continue on with this extract where you
18 stated: (Interpretation) "We often worked for the forced marriages and all of that.

19 Instinctively, I asked her, 'Are you certain that you wanted to, or were you forced?'"

20 (Speaks English) And then at the next page, lines 12 to 14, you stated: (Interpretation)
21 "On the contrary, we were worried about what she had experienced, and that's why
22 we were asking for the story."

23 (Speaks English) My first question is this, Mr Witness: Now, when you stated that
24 you work very often with forced marriages "*et tout cela*", could you elaborate on that.

25 Could you explain what you mean by that.

1 A. [14:38:04] Can I answer that?

2 PRESIDING JUDGE MINDUA: [14:38:07](Interpretation) Yes, go ahead.

3 THE WITNESS: [14:38:09](Interpretation) Very well.

4 Well, as I said, I am part of the humanitarian world, and we work with organisations
5 for -- who work on matters such as forced marriages, child labour, and the
6 sensitisation to malpractice or bad practice. This is part and parcel of my every day
7 professional world. And as such, I was interested to ascertain whether it was a
8 forced marriage or a marriage by consent. It was instinctive. I didn't think much
9 about it. I just wondered to myself, "That gentleman who came to marry you, did
10 you marry him voluntarily, or were you forced to do so?" And she answered that,
11 no, she did so willingly. Maybe for financial reasons, for financial comfort.

12 MS LUPING:

13 Q. [14:39:21] And in terms of her marriage to an Islamist, was this also a concern to
14 you, that it could be a forced marriage in that context, that she married a member of
15 that group?

16 A. [14:39:39] Well, I myself, if I were not worried, I would not have left Timbuktu.
17 It's new people, a new system coming in. I didn't know what it was about. I was
18 seeking information, and that is why I put the question to her, because it was not a
19 system that I was familiar with and nor am I today. I only came back subsequent or
20 after all that happened. So understand me, I don't know that.

21 Q. [14:40:15] And you also stated -- again, it's still at paragraph 28 of your
22 statement. You referred to the fact that he left the man that she married, left
23 Timbuktu when the group left Timbuktu and she was left with his child; is that
24 correct?

25 A. [14:40:40] That is precisely what she told us.

1 Q. [14:40:43] And just to clarify, sir, in terms of the different cultures within
2 Timbuktu, the norms in Timbuktu, would it be fair to say that that would not be
3 normal for your cultures in Timbuktu for a man to leave his wife and his child?
4 Would that be correct?

5 A. [14:41:11] Firstly, well, it's not a question of culture. This is a particular
6 situation, and we did not deem that those occupiers practiced our culture. They
7 practiced Islam. They were, how should I say, radical. So this is not part of our
8 culture.

9 In our culture, a man keeps his wife. He gives news to his family. He might travel
10 for a long time, but bear in mind, once he came. But in this case, she had no more
11 news from him. She didn't know whether he was still alive or ...

12 THE INTERPRETER: [14:41:49] The witness trails off.

13 MS LUPING: [14:41:52]

14 Q. [14:41:52] Now, you've mentioned that Madam M worked for a member of your
15 family and that she worked for him for a long time. Now, would it be correct to say
16 that she'd be aware of how close you are to Mr Al Hassan? Would that be right?

17 A. [14:42:18] She knew that because she knew me. She knew Al Hassan at my
18 house.

19 Q. [14:42:28] And, presumably, she'd have to know too that he belonged to the
20 Islamists, wouldn't that be correct?

21 A. [14:42:43] I suppose so, but it would be up to her to answer that. Not me.

22 Q. [14:42:50] Now, wouldn't it be fair to say that if she had been forcibly married,
23 you can't exclude the possibility she wouldn't tell you because she knows of your
24 relationship with Mr Al Hassan?

25 PRESIDING JUDGE MINDUA: [14:43:07](Interpretation) Mr Pestman.

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- 1 THE WITNESS: [14:43:12] (Overlapping speakers)
- 2 PRESIDING JUDGE MINDUA: [14:43:13](Interpretation) No, Mr Witness. When I
- 3 hit with my gavel, then you need to wait.
- 4 THE WITNESS: [14:43:19](Interpretation) Oh, I do apologise. I didn't hear.
- 5 PRESIDING JUDGE MINDUA: [14:43:23](Interpretation) Mr Pestman.
- 6 MR PESTMAN: [14:43:25] I don't think it's necessary to cut the feed to the witness.
- 7 So this is a speculative question. The witness has testified that Madam M, there was
- 8 not a forced marriage.
- 9 MS LUPING: [14:43:35] Mr President, the sound hasn't been cut off. I do believe
- 10 we have to wait for it to be cut off.
- 11 PRESIDING JUDGE MINDUA: [14:43:43](Interpretation) Wait, wait.
- 12 Madam Courtroom Officer, could you please cut off the feed to the witness.
- 13 THE INTERPRETER: [14:43:56] Message from the English booth: Could
- 14 Mr President please wait for the interpretation. Could a member of his team please
- 15 inform him. Thank you.
- 16 THE COURT OFFICER: [14:43:59] The audio connection to the witness has been
- 17 disconnected.
- 18 PRESIDING JUDGE MINDUA: [14:44:05](Interpretation) Thank you very much,
- 19 Madam Courtroom Officer.
- 20 MR PESTMAN: [14:44:09] Sorry. As I said, it was a hypothetical question and it
- 21 contradicts the statement already given by the witness who said that it was not a
- 22 forced marriage, according to Madam M.
- 23 PRESIDING JUDGE MINDUA: [14:44:27](Interpretation) Yes, Madam Prosecutor,
- 24 speculative questions, generally speaking, are forbidden. So what do you answer to
- 25 that?

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1 MS LUPING: [14:44:37] Mr President, the witness has stated or claimed that he'd
2 had an extremely close relationship with Madam M. He said that they considered
3 her to be like a member of the family, that he felt it was necessary for him to explore
4 with her exactly what the relationship was and the nature of that relationship and
5 whether it was a forced marriage.

6 Now, I'm simply asking the witness to clarify whether, indeed, it is a possibility, on
7 the basis of his relationship with Madam M, that she would not share this aspect of it
8 knowing that he's related to a member of Ansar Dine. I'm simply seeking to explore
9 the nature of his relationship with her and what she would or would not be willing to
10 share with him.

11 I do think it's relevant, and he's here, and he's able to respond. And I do believe this
12 witness is very articulate, intelligent and able to say whether he feels it's not
13 something he can respond to.

14 PRESIDING JUDGE MINDUA: [14:45:56](Interpretation) No, Mr Pestman.

15 Otherwise, this is going to become a ping-pong match. I think, in view of the
16 relations, the witness can answer the question.

17 Mr Witness --

18 Madam Courtroom Officer, could you please re-establish the connection.

19 THE COURT OFFICER: [14:46:18] The sound to the witness has been re-established,
20 Mr President.

21 PRESIDING JUDGE MINDUA: [14:46:24](Interpretation) Thank you very much,
22 Madam Courtroom Officer.

23 So, Mr Witness, you can answer, if you are able. Otherwise, it doesn't matter.

24 THE WITNESS: [14:46:33](Interpretation) Well, first of all, I'd like to apologise.

25 There is a little bit of a lag between Madam Prosecutor and the other. So that's

1 sometimes why I tend to disobey the rules. I do apologise.

2 PRESIDING JUDGE MINDUA: [14:46:50](Interpretation) That's -- no matter. I
3 have understood.

4 THE WITNESS: [14:46:52](Interpretation) Well, as I was saying, I can't answer
5 questions in the place of somebody else. I do not know what she thinks or what she
6 thinks or what she wants to say whilst she knows something else. I'm just speaking
7 about what I know personally and what are my personal opinions.

8 PRESIDING JUDGE MINDUA: [14:47:15](Interpretation) There we are, Madam
9 Prosecutor. Thank you very much. We have the answer.

10 MS LUPING: [14:47:19]

11 Q. [14:47:21] Thank you, Mr Witness.

12 Now, Mr Witness, looking at your statement, there is reference to an intermediary
13 being involved in your -- taking of your statement. I just wanted to ask you, without
14 giving me the name of that intermediary, you don't have to name him, but what was
15 his role in your interview?

16 A. [14:47:48] Which article of my statement, please?

17 Q. [14:47:53] It is --

18 A. [14:47:55] I mean, which paragraph.

19 Q. [14:47:57] I'm talking about people from the Defence team that were present in
20 the room with you when you gave the statement. There is one individual who
21 would have been a local Malian, who was in the room with you when you were
22 speaking to the Defence team. Without naming him, can you explain what his role
23 was in your interview with the Defence team.

24 A. [14:48:27] Ah, okay. I've just understood the question.

25 I was under the impression that he had more of a logistics role, in terms of serving as

1 a logistical relay for the Defence team.

2 Q. [14:48:40] And was he physically present in the room when you spoke to the
3 Defence?

4 A. [14:48:51] When I was signing the statement.

5 Q. [14:48:56] And when you spoke to the Defence team, was he physically present?
6 Did he hear you tell your story?

7 A. [14:49:08] I put a question to you. Which part are we talking about? I spoke
8 to the Defence on a number of occasions. Which moment in time are you referring
9 to?

10 Q. [14:49:18] At any point in time, was he present when you told him -- told the
11 Defence team your account that's recorded in your statement? Was he there at any
12 time?

13 A. [14:49:36] When I signed the statement, when we were correcting the statement,
14 he was present with me. There were just the two of us. And at the other end of the
15 line, there were members of the Defence team, and we were correcting as we went
16 along.

17 Q. [14:49:53] And to your -- best of your knowledge, are you aware of whether this
18 intermediary was involved with any other Defence witnesses in this case, if you're
19 aware of it?

20 A. [14:50:15] I apologise. When the Defence contacted me, they really belaboured
21 the matter of confidentiality. And I did not contact anybody. The Defence talked
22 about respecting confidentiality.

23 Q. [14:50:37] Can I ask you, have you ever discussed this case or your testimony
24 with (Redacted)

25 A. [14:50:49] No. No. I have not discussed it with anybody, my involvement in

1 this case, for very obvious reasons. For reasons of safety, I needed to intervene in a
2 very confidential manner, because I'm an exposed person out in the field, and I need
3 to be very careful that nobody knows that I had any interaction. They might get
4 annoyed. They might want to attack me for X, Y or Z reasons subsequent to my
5 statement. And that's why I really hold this confidentiality dear, and I do not talk to
6 anybody about it.

7 Q. [14:51:36] Now, Mr Witness, different topic, page 15, lines 3 to 5 and then lines 8
8 to 9. You stated - this is the English transcript - "Everything else is based on my own
9 experience, having lived with him. I know that he is very much a peace-loving
10 person, very calm." And, again, "He gave no sign of being a radical person." And
11 this is your comments, Mr Witness, in relation to Mr Al Hassan.

12 Now, Mr Witness, if I was to explain to you that Mr Al Hassan was involved in the
13 flogging of an individual accused of drinking alcohol as one example, would you still
14 maintain this position, that he's peace-loving and that he's not a radical?

15 A. [14:52:31] My opinion with regard to Al Hassan is based on my own experience,
16 as I said. I lived with him during a certain time, and my opinion remained valid
17 during the time that I lived with him. I don't know what became of him at a later
18 stage or what he did later on. I talked about what I know.

19 Q. [14:52:57] Thank you, Mr Witness.

20 Now, just, Mr President, your Honours, I just want to note for the record, and in
21 fairness to this witness so that he's aware and that your Honours are aware, I have to
22 apologise. There is -- in terms of the CDR records that I showed to the witness, the
23 problem is not the corruption of the Excel spreadsheet. I was referring to the
24 incorrect spreadsheet, I'm afraid. It is in the binder that is with everybody. It's at
25 tab 9. Just for the record, I'm going to note it. MLI-OTP-0020-0100.

1 At line 25, we have the phone number ending digits 913 where we have the name and
2 the occupation. And at line 441, we have the name and the occupation for the phone
3 number ending 111. At line 2759, we have the name and the occupation for the
4 number ending 444. And at line 2871, we have the name and the occupation for the
5 number ending 9999.

6 Your Honours, in the interest of time, I don't propose to show this to the witness, but I
7 do note that it correlates the information I was providing to him. And I just want to
8 clarify, with your leave, that that is sufficient.

9 PRESIDING JUDGE MINDUA: [14:54:29](Interpretation) Yes, indeed, Madam
10 Prosecutor. I had already said that that is sufficient, and the Defence has not raised
11 any objection. There we are.

12 And I'd like to tell you that you have run out of time, Madam Prosecutor.

13 MS LUPING: [14:54:44] Indeed. I have no further question, Mr President, and I
14 wish to thank the witness.

15 Thank you, Mr Witness.

16 THE WITNESS: [14:54:52](Interpretation) Thank you.

17 PRESIDING JUDGE MINDUA: [14:54:53](Interpretation) Thank you very much,
18 Madam Prosecutor, for your cross-examination and for your efficiency.

19 So I shall now turn to Maître Doumbia.

20 Maître Doumbia, are you there? I can see you.

21 MR DOUMBIA: [14:55:11](Interpretation) Yes, I am here, Mr President.

22 PRESIDING JUDGE MINDUA: [14:55:14](Interpretation) There we are.

23 So what do you say? Would you like to take the floor?

24 MR DOUMBIA: [14:55:20](Interpretation) Yes, I do have a number of questions for
25 this witness, with your leave.

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1 PRESIDING JUDGE MINDUA: [14:55:25](Interpretation) Yes, indeed. I do not see
2 any objections on the part of the parties.

3 Maître Doumbia, over to you.

4 MR DOUMBIA: [14:55:36](Interpretation) Thank you very much, Mr President.

5 QUESTIONED BY MR DOUMBIA: (Interpretation)

6 Q. [14:55:42] Mr Witness, good afternoon.

7 A. [14:55:45] Good afternoon.

8 Q. [14:55:47] I'd like to put a number of questions to you. And from the beginning,
9 I'd like to start with a number of statements or claims, and please correct me if I'm
10 mistaken.

11 Mr Witness, in your various statements, including that of today, I retained that

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE MINDUA: [14:56:44](Interpretation) Maître Doumbia, Maître
16 Doumbia, one minute, please.

17 We are in open session; is that correct, Madam Courtroom Officer?

18 THE COURT OFFICER: [14:56:55] That is correct, Mr President.

19 PRESIDING JUDGE MINDUA: [14:56:59](Interpretation) Maître Doumbia, I am
20 reminding you, be careful - we are in open session - when you mention certain
21 matters. Otherwise, you request private session.

22 MR DOUMBIA: [14:57:09](Interpretation) Yes, indeed. I do not believe that these
23 questions require a private session for the time being.

24 PRESIDING JUDGE MINDUA: [14:57:16](Interpretation) Very well. Please
25 continue. Thank you.

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1 MR DOUMBIA: [14:57:21](Interpretation) There we are.

2 Q. [14:57:22] Mr Witness, can you confirm that these various claims that I have just
3 made.

4 A. [14:57:32] Yes, of course, I can confirm.

5 Q. [14:57:35] (Redacted)

6 (Redacted)

7 A. [14:57:55] I can also confirm that.

8 Q. [14:57:59] Might one say, Mr Witness, that, in addition to your family ties, you
9 were, might one say, a friend of Mr Al Hassan.

10 A. [14:58:16] Yes, of course. He is a relative, a friend. We have things in
11 common.

12 Q. [14:58:24] Very well. Mr Witness, were I to put it to you that, as a friend and as
13 a relative, one could not hold it against you that you come and defend his cause
14 before this Court. What would you say to that?

15 A. [14:58:44] I would say that you want to concentrate on my friendship towards
16 Mr Al Hassan rather than the oath that I have taken.

17 Q. [14:58:56] (Overlapping speakers)

18 THE INTERPRETER: [14:58:57] Overlapping speakers. Overlapping speakers.

19 THE WITNESS: [14:59:01](Interpretation) I have come here of my own accord,
20 because I know that, for this Court to have all the information, (Redacted)
21 (Redacted). That

22 is why I have taken an oath. I have made statements that can be verified. I know
23 what I know about him because he is a relative of mine, he is a friend of mine,
24 (Redacted)

25 So I took an oath, in all honesty, and it's up to you to ascertain whether you believe

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1 what I've said or not.

2 PRESIDING JUDGE MINDUA: [14:59:41](Interpretation) Maître Doumbia, wait,
3 wait. I would like to remind both of you, Maître Doumbia and our witness, that you
4 are both speaking French, and you have a tendency of speaking immediately after
5 each other. So we have interpretation into a number of languages; Arabic, English,
6 Tamasheq, et cetera. So you need to observe pauses, please.

7 MR DOUMBIA: [15:00:16](Interpretation) Very well.

8 THE WITNESS: [15:00:17](Interpretation) Okay.

9 MR DOUMBIA: [15:00:19](Interpretation) I have noted, Mr President.

10 PRESIDING JUDGE MINDUA: [15:00:21](Interpretation) Thank you very much.
11 Please go on.

12 MR DOUMBIA: [15:00:26](Interpretation)

13 Q. [15:00:27] Mr Witness, I retain from your statements that you left Timbuktu
14 shortly before the town was occupied by the MNLA and that you only returned in
15 2013 after the occupation; is that correct?

16 A. [15:00:50] I can confirm that.

17 Q. [15:00:54] Mr Witness, we shall now be careful because we're going to be talking
18 about Madam M. So we shall not mention her name, and we shall thereby avoid
19 having to go into private session.

20 A. [15:01:23] Okay.

21 Q. [15:01:26] You presented in your statement, you presented Madam M as a
22 person who was close to you. Do you know other names of this person? But don't
23 say the name, if you know them.

24 A. [15:01:48] No. That's the only name that I know of that person.

25 Q. [15:01:55] Very well. Madam M is a person close to you, and you told us that

1 you're not sure that you know the name of her parents, even if you mentioned two
2 names, once again, that we're not going to mention.

3 Do you really know the members of her family?

4 A. [15:02:37] I know her brother and herself more than her parents, because I didn't
5 meet her parents, but she lived in the family of my older brother. She's almost a
6 member of my family. I also know her brother, but her father and mother, I hardly
7 know. I did not spend time with them.

8 Q. [15:03:08] Thank you very much, Witness.

9 In addition to what Madam M told you, as I understand it, you're not a witness of
10 circumstances surrounding her marriage with the Islamist, personally. That's the
11 case?

12 A. [15:03:40] Not at all. I was not a witness of anything. I do not know her story.
13 That's what -- I only know what she told her family and what she told me when we
14 were talking in the family.

15 Q. [15:04:04] And you said that this session, when you were talking in your family,
16 this happened in 2018, did it not?

17 A. [15:04:18] Correct.

18 Q. [15:04:21] And you stated on the -- on that occasion that there were members of
19 your family, such as your nieces' sisters, your wife, if I'm correct, also your mother
20 were there; is that correct?

21 A. [15:04:42] I didn't speak about my mother or wife. I spoke about my older
22 sister, her daughters and certain members of the family, who I don't
23 remember -- there were a lot of us. We were talking in the family on the occasion of
24 the arrival of my older sister in Timbuktu.

25 Q. [15:05:04] Perfect. Perfect.

1 And if I'm not wrong, you also said, I think an hour ago, it was through professional
2 instinct that you asked if there was consent to the marriage, and she answered that it
3 was, adding that the marriage was a good business for her given that she had
4 children who were born of another union; is that correct?

5 A. [15:05:51] Yes.

6 Q. [15:05:58] Now, you told us also, Witness, that the treatment of dossiers of
7 forced marriages was part of your daily work, was it not; is that correct?

8 A. [15:06:22] I'll make a correction. I would say the issue on forced -- of forced
9 marriages on the harmful practices, within the framework of our NGOs, in particular,
10 the NGO that I worked in, it is a *thématique* issue. It is a subject that I deal with. I
11 don't just deal with financial aspects, but it's not my field.

12 Q. [15:06:57] Very well. In saying that, in your statement, you said in paragraph
13 28 that you didn't know other cases of victims of forced marriages with Islamists
14 other than the sole case of Madam M, and that other cases that you might have heard
15 of came from rumours.

16 Is this knowledge that you've just spoken about of the subject, in your professional
17 life? Is it not a correction, as you said, of what you stated in paragraph 28 of your
18 statement?

19 A. [15:08:15] First of all, I would say, the subject matter that we deal with is not
20 victims of the occupation. We deal with cases which are current. That's the first
21 thing.

22 And, secondly, I didn't say there were no other cases, but I said, myself, I was not
23 aware of them. I didn't know of them. I didn't say that there weren't rumours or
24 other. But I said, me, personally, the only case that I can speak about before a court
25 is the case that I really know about. I don't want to start speaking about cases about

1 which I don't know the details.

2 Q. [15:09:05] Very well. Witness, you stated in paragraph 28 of your statement
3 that Madam M was a person who was close to you, a cleaner of your brother, and she
4 looks after his house. Have I understood that? Is that correct, this statement?

5 A. [15:09:48] That's exactly it, until recently. She's no longer looking after the
6 house because the house doesn't exist anymore.

7 Q. [15:10:00] So, Witness, with regard to your professional work, and also with
8 regard to your knowledge, your deep knowledge on the customs and the culture of
9 Timbuktu, is it easy for a woman to publicly speak about her private life, even in the
10 family circle?

11 A. [15:10:44] I can't reply in place of women, but what I stated happened. And
12 Madam M, who spoke about it, spoke about it with us because we were considered
13 members of her family. That's my only supposition that I can make.
14 As for the rest, I don't know what another woman would have done or speaking
15 about what happened to her during the period when everybody wasn't there. Is that
16 an intimate subject for her? That's something for you to judge. She didn't go into
17 all of her details, but what she did say, which I repeated, that did happen. She did
18 say that.

19 Q. [15:11:38] Thank you.

20 Witness, when it comes to stigma or reservations on the part of the family or society,
21 is that a reality for a woman who has been a victim of forced marriage or other forms
22 of sexual violence in Timbuktu?

23 A. [15:12:13] Well, I don't know if I would have to say all that, but forced marriage,
24 a long time before the cases we spoke about, was a practice in African societies. And
25 the family union was put above the life of the married persons. That was put above

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1 that. So it's the same society which has to stigmatise it, and they generally force the
2 woman to get married.

3 But in this specific case, it's completely different. It wasn't society. It's a case of
4 force majeure, which pushed myself to leave Timbuktu. And I'm not the only one.
5 Most of the people in Timbuktu went abroad or to somewhere else in the country.
6 But these cases of force majeure, there in Timbuktu, to the best of my knowledge, I
7 know women who are stigmatised today, or I know women who has been sidelined
8 because it, including Madam M herself, who I know. I don't know the others. I
9 don't know the precise cases, but I do know Madam M. She's neither stigmatised
10 nor rejected because of that.

11 Q. [15:13:42] So do you think that a woman who has been a victim of sexual
12 violence can freely and without fear, and without fear of stigmatisation, speak about
13 what happened to her publicly?

14 PRESIDING JUDGE MINDUA: [15:14:17](Interpretation) Mr Pestman.

15 MR PESTMAN: [15:14:20] I don't think it's necessary to cut the audio, but we can, of
16 course.

17 PRESIDING JUDGE MINDUA: [15:14:34](Interpretation) Court officer, please cut
18 the sound.

19 Court officer?

20 THE COURT OFFICER: [15:14:42] The sound to the witness has been disconnected,
21 Mr President.

22 PRESIDING JUDGE MINDUA: [15:14:55](Interpretation) Thank you.
23 Mr Pestman.

24 MR PESTMAN: [15:14:58] Yes. Thank you, Mr President.

25 This is a fact witness. It's not an expert. And it's also a speculative question. So I

1 would like this question to be withdrawn.

2 MR DOUMBIA: [15:15:24](Interpretation) Your Honour, I think that --

3 PRESIDING JUDGE MINDUA: [15:15:29](Interpretation) Maître Doumbia, very
4 well. I thought that it was the witness. Yes, but Mr Pestman is right. There we
5 have before us a fact witness. He has to tell us what he knows, what he has seen,
6 and heard himself, and not give scientific or academic opinion.

7 We are in agreement on that, are we not, Mr Doumbia?

8 MR DOUMBIA: [15:16:04](Interpretation) Well, I could agree, but there are certain
9 details that this witness has. Well, I don't see him as any witness. Firstly, this
10 witness is intellectual, an analyst. He knows very well Timbuktu. He knows the
11 customs of Timbuktu. He knows the culture of Timbuktu. And I put a simple
12 question to him. He answers it or not. But I would say, if in Timbuktu, a woman
13 who is a victim of sexual violence could express what happened to her publicly,
14 without fearing stigmatisation and without shame, I think that that's far from
15 speculation. But it's about the particular quality of this witness to be able to tell the
16 Chamber what he knows about this situation through his professional work.

17 PRESIDING JUDGE MINDUA: [15:17:33](Interpretation) Very well, Maître
18 Doumbia.

19 Mr Pestman, I think that the witness can answer the question, taking into account his
20 ethnicity, his life in Timbuktu, and his work. We will see if he's capable of
21 answering the question or not.

22 We'll re-establish the link.

23 Court officer.

24 THE COURT OFFICER: [15:18:09] The audio connection with the witness has been
25 re-established, Mr President.

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

3 So, Witness, you heard the question. Could you answer it.

4 THE WITNESS: [15:18:27](Interpretation) If I remember the question you
5 asked -- well, could you -- you repeated the question that you already put, asking my
6 opinion as to whether, if somebody who has undergone sexual violence had been
7 stigmatised, is it just my opinion, or are you talking about the case of Madam M?

8 PRESIDING JUDGE MINDUA: [15:18:50](Interpretation) I don't think that's exactly
9 the question.

10 Prosecutor, could you take up the question. Is that it?

11 I'm sorry. I'm sorry. It's not the Prosecutor.

12 Maître Doumbia. I'm sorry. Maître Doumbia, yes. Because as he summed up the
13 question, I'm not sure if that's it.

14 MR DOUMBIA: [15:19:15](Interpretation) No, not at all. The precise question
15 was ...

16 Q. [15:19:23] Witness, given your professional work and taking into account your
17 knowledge of the culture in Timbuktu, would a woman who was a victim of sexual
18 violence be able to speak about it freely, without fear and without shame, speak about
19 what happened to her in public?

20 PRESIDING JUDGE MINDUA: [15:20:01](Interpretation) That's indeed it, Witness.

21 THE WITNESS: [15:20:05](Interpretation) So I've understood the question. It's a
22 general question.

23 So, firstly, I would state that I made a clarification before continuing. I'm not a
24 specialist in sexual violence. (Redacted)

25 (Redacted) So I'm aware of the subject matter, but I'm not a specialist in it.

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1 That's the clarification that needs to be made.

2 And the second clarification that needs to be made is that, generally, in terms of my
3 personal experience of life, the women are ashamed of speaking in public even to say
4 something quite ordinary. And why? Because they have been raped or sexual
5 violence or -- these women could not speak about that in public, public in our culture.
6 When you talk about my knowledge of the culture, in my knowledge of the culture,
7 the women would not speak in public about such a case.

8 PRESIDING JUDGE MINDUA: [15:21:22](Interpretation) Thank you very much,
9 Witness.

10 MR DOUMBIA: [15:21:28](Interpretation)

11 Q. [15:21:28] Witness, I wanted to ask you, beyond everything that I heard, what
12 was the precise nature of your relation with -- and that of your family with Madam M?
13 Did you personally -- or were you personally a confidant for her? Or would she
14 usually speak to you about her private life when she was in the family sphere? Was
15 it common for her to do that, to talk about her private life and, above all, issues of this
16 type? So what was the precise nature of the relations that your family had with
17 Madam M?

18 PRESIDING JUDGE MINDUA: [15:22:38](Interpretation) Maître Doumbia, I fear
19 that this is becoming repetitive. Perhaps I'm going to allow the witness to
20 answer -- to answer a last time, and then we won't be coming back to that anymore.

21 MR DOUMBIA: [15:23:01] (Overlapping speakers)

22 THE WITNESS: [15:23:03](Interpretation) Very well. I said that Madam M, since
23 2000, was a cleaner in my older brother's house and -- or a housekeeper in my older
24 brother's house. And in my culture, she becomes a member of the family.

25 THE INTERPRETER: [15:23:24] Continues the witness.

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- 1 PRESIDING JUDGE MINDUA: [15:23:27](Interpretation) Maître Pestman.
- 2 MR PESTMAN: [15:23:29] I believe we're still in open session. It's getting more
- 3 specific. So would it be possible to go into private session?
- 4 PRESIDING JUDGE MINDUA: [15:23:43](Interpretation) Yes.
- 5 So we'll go into private session for this question, and then we'll finish with that.
- 6 Court officer, please take us into private session.
- 7 (Private session at 3.24 p.m.)
- 8 THE COURT OFFICER: [15:24:06] We are in private session, Mr President.
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Open session at 3.27 p.m.)
- 20 THE COURT OFFICER: [15:27:31] We are back in open session, Mr President.
- 21 PRESIDING JUDGE MINDUA: [15:27:36](Interpretation) Thank you very much.
- 22 Maître Doumbia.
- 23 MR DOUMBIA: [15:27:41](Interpretation) Thank you, your Honour.
- 24 Q. [15:27:43] Witness, I would -- just by way of curiosity, taking into account this
- 25 specific status that Madam M had, I'd like to ask how this family discussion started.

1 Do you remember exactly how this family debate came about? I'm not asking you to
2 go back on the content of the remarks, but I would just like to know how this
3 discussion came into being, how it started, if you remember.

4 A. [15:28:38] So, first of all, this was a reunion. I don't know -- I don't know about
5 all the details, but this was a discussion between women. My older sister was there,
6 my nieces, they were there, they were chatting, and then the men, next we heard it,
7 and we would intervene in case of need, but I don't have an idea of the chain of
8 events that led to this discussion occurring.

9 To tell the truth, I don't remember what started the discussion. But that wasn't the
10 most important part of the discussion. It was just one subject among others that we
11 discussed in the family.

12 Q. [15:29:34] Very well.

13 Your Honour, just one last question for the witness.

14 Witness, if I put it to you that everything that you said to this Chamber concerning
15 Madam M comes from information that the Defence has communicated to you, given
16 that you were a person close and a friend of and a relative of Al Hassan, to come and
17 make his cause better, to make it seem better, what would you say to that?

18 A. [15:30:35] I hope that the Court isn't going to rule on supposition. It has to rule
19 on facts, in the investigations, the mortality with regards to the information received.
20 If I thought that the Court would not believe something because of my family links
21 with Al Hassan, if I thought we wouldn't believe one word because of those links, I
22 wouldn't be here. I'm here because I believe in the Court and because I have a
23 family link with Al Hassan. They have to take into account facts that can be proved.
24 And if you put that to me, I would say, that doesn't hold water. If we go on this
25 basis, you have to go and find somebody who has nothing to do with the accused in

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1 order to testify.

2 No, I think that I've testified here because Al Hassan (Redacted) I'm the best
3 witness to know, so I'm here to do that. Not because he is a relative of mine.

4 MR DOUMBIA: [15:31:44](Interpretation) Your Honour, I have finished with this
5 question.

6 Witness, I would like to thank you most sincerely.

7 THE WITNESS: [15:31:54](Interpretation) Thank you very much, Maître.

8 PRESIDING JUDGE MINDUA: [15:31:56](Interpretation) Thank you, Maître
9 Doumbia, for your questions as legal representative of victims.

10 Now I shall turn towards the Defence to see if there are any additional questions.

11 Mr Pestman.

12 MR PESTMAN: [15:32:17] Thank you, Mr President. I have a couple of questions.
13 It won't take very long. We should definitely be ready before 4 o'clock.

14 PRESIDING JUDGE MINDUA: [15:32:36](Interpretation) Very well, Mr Pestman.
15 Over to you, please.

16 MR PESTMAN: [15:33:03] I had a question about the last question posed by counsel
17 for the victims. I would like to just read two lines. It's on page 111 in the English
18 transcript, line 18 to 21. Shall I just read it out so that it can be translated into French?
19 I noticed that the French transcript is not working.

20 PRESIDING JUDGE MINDUA: [15:33:50](Interpretation) Yes, indeed. Please read
21 it.

22 MR PESTMAN: [15:33:52] The question was: "Witness, if I put it to you that
23 everything that you said to this Chamber concerning Madam M comes from
24 information that the Defence has communicated to you ..."

25 QUESTIONED BY MR PESTMAN:

1 Q. [15:34:18] My question to you, Mr Witness, would be: Did the Defence instruct
2 you or communicated information to you about Madam M? Did somebody in the
3 Defence tell you what to tell the Court regarding Madam M?

4 A. [15:34:46] May I or ...

5 PRESIDING JUDGE MINDUA: [15:34:50](Interpretation) Yes, indeed, Mr Witness.
6 Please go ahead.

7 THE WITNESS: [15:34:53](Interpretation) I shall state that, no, no. I know that it is
8 not honest to say that the Defence gave me information. Do I need to be guided?
9 I'm saying what I think.

10 I have said what I know, and it can be verified by a number of people, what is more.
11 It was said within a group context. I know Madam M more than the Defence does.

12 MR PESTMAN: [15:35:37]

13 Q. [15:35:38] I have another question about a completely different topic, and it's in
14 response to something you said at the very beginning of your testimony. It's on
15 page 26, line 7, of the transcript. And, again, it's the English transcript. I will quote:
16 "The intellectuals, the higher level, before taking refuge, they were looking to find
17 work. Some managed, some didn't."

18 And then again on the same page --

19 PRESIDING JUDGE MINDUA: [15:36:28](Interpretation) Madam Prosecutor.

20 MS LUPING: [15:36:30] Mr President, your Honours, Defence counsel is citing
21 transcript references from the examination-in-chief, if I'm not wrong.

22 MR PESTMAN: [15:36:43] No, no, I'm not.

23 MS LUPING: [15:36:46] My apologies. I thought this was coming from the
24 examination-in-chief.

25 MR PESTMAN: [15:36:53] Just to --

1 PRESIDING JUDGE MINDUA: [15:37:00](Interpretation) Of course, we know that
2 the questions need to stem from the cross-examination, and Maître Pestman is saying
3 that, no, it is not the case. This is not transcript from the examination-in-chief.
4 Please go ahead.

5 MR PESTMAN: [15:37:15] Maybe I can give a little bit of context. It's in response to
6 questions about witness's move to (Redacted)

7 Q. [15:37:35] And on the same page, line 15, again, talking about your time your
8 arrival in (Redacted), you said, "They," the NGOs, "would employ intellectuals
9 who had the necessary competence to perform the work."

10 A. [15:38:02] (Overlapping speakers)

11 Q. [15:38:03] Mr Witness, do you remember these words?

12 A. [15:38:07] Yes, of course. I'm the one who said it.

13 Q. [15:38:11] Could you explain what the necessary competence were, what the
14 requirements were for a person to find a job with an NGO in (Redacted)

15 A. [15:38:30] Well, firstly, it wasn't only in (Redacted) I suppose that it was an
16 NGO policy to have people work amongst those refugees who came, those people
17 who had the relevant competencies. So those NGOs that were working within the
18 field of the health were trying to ascertain whether there were any nurses or any
19 ancillary nurse staff to use them. They wanted to know whether there were any
20 teachers present so that they could teach in the schools in the refugee camps. And in
21 each field in which an NGO was operating for refugees, the NGO would attempt to
22 ascertain whether, within the group of refugees, there were people who could work
23 within those fields, that would enable them to work within the community that they
24 were working for, and also it would be facilitated linguistically because this is a
25 country where Tamasheq is not spoken and Arabic is not spoken, and most of the

1 refugees were either Tamasheq or Arabs.

2 So if you want to do some wash, that is, sensitisation around hygiene issues, they
3 didn't need to recruit an interpreter. They used the refugees, because these were
4 people who could communicate with the community in question. That was in that
5 context that I was saying what I said. Otherwise, people would look for work
6 outside of those -- the field of refugees, and they would just apply normally, and they
7 would make ends meet. Because people needed to earn money, rather than make
8 the most of the aid that was earmarked for the refugees. That's how was.

9 Q. [15:40:38] Would it have been necessary to also speak French and write French
10 properly in order to work either in Ouagadougou or elsewhere?

11 A. [15:40:54] It would depend on the position. I would say that a guard does not
12 need to speak or write French in order to guard a -- a shop in a refugee camp. But to
13 occupy a position within a refugee camp itself, you would need to have some kind of
14 academic knowledge. And this would involve either French or English, English for
15 Anglophone countries, but mainly speaking, it's French.

16 Q. [15:41:37] Thank you, Mr Witness.

17 I would like to --

18 A. [15:41:43] Thank you.

19 Q. [15:41:44] -- read a couple of lines from the transcript, page 30, starting at line 21.
20 I'll start with the question as asked by the Prosecutor.

21 The Prosecutor said, I quote: "And were you not aware, Mr Witness, that the
22 group -- the group were imposing new rules, sharia law ..."

23 And then you, Mr Witness, answered: "Of course I knew."

24 PRESIDING JUDGE MINDUA: [15:42:29](Interpretation) Madam Prosecutor.

25 MS LUPING: [15:42:31] Mr President, I would just ask that if my question is being

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1 put to this witness, that the full question be read back to him. "... imposing new
2 rules, sharia law, according to their interpretation, during 2012?" It's just in fairness.
3 Otherwise, it could unwittingly mislead the witness. I'd just ask the full question be
4 read out.

5 PRESIDING JUDGE MINDUA: [15:43:00](Interpretation) Mr Pestman, I believe that
6 the Prosecutor is right.

7 MR PESTMAN: [15:43:05] I was just trying to leave out the bits which were not that
8 important. The important thing about this particular transcript -- part of the
9 transcript is not the question. It's the answer of the witness.

10 Q. [15:43:21] Talking about sharia law, the question was about sharia law. Your
11 answer, Mr Witness, was: "Of course I knew. That's one of the main reasons I
12 left. ... I did not want to submit to their rules."

13 Mr Witness, do you remember saying this?

14 A. [15:43:56] Of course.

15 Q. [15:43:58] Could we just put on the screen paragraph 20 of the statement, which
16 is on page 4184, under tab number 1.

17 And could you please have a look at paragraph 20. And I have a question
18 specifically regarding the second sentence of your statement, which starts with
19 (Interpretation) "I was afraid".

20 (Speaks English) In your statement, you say, Mr Witness, that you were afraid of a
21 conflict between MNLA and the army, and that for that reason you left quickly,
22 because you were afraid for that Malian army because of your light skin.

23 There seems to be a discrepancy between what you said in your statement and what
24 you said today in court.

25 PRESIDING JUDGE MINDUA: [15:45:48](Interpretation) Well, Madam Prosecutor

1 would like to say something. I don't know whether this discussion should be held
2 with the link intact to the witness.

3 MS LUPING: [15:45:58] No. I would ask that the sound be cut off before I make
4 my objection.

5 PRESIDING JUDGE MINDUA: [15:46:05](Interpretation) Yes, I thought that would
6 be the case.

7 Madam Courtroom Officer, could you please cut the link to the witness.

8 THE COURT OFFICER: [15:46:17] The sound to the witness has been disconnected,
9 Mr President.

10 PRESIDING JUDGE MINDUA: [15:46:25](Interpretation) So, Madam Prosecutor, I
11 believe that the objection you are raising, well, the Defence was --

12 THE INTERPRETER: [15:46:31] Overlapping speakers.

13 MS LUPING: [15:46:34] The objection is based on the way this is being characterised
14 for the witness. Now, in the Prosecution's submission, there may not be a
15 contradiction. The witness has in fact stated two reasons why he left.

16 On the one hand, he's saying in his statement he left quickly out of concerns in
17 relation to the conflict between the MNLR and the Malian government army.

18 On the other hand, during his testimony, when put a specific question about the
19 Islamists, about the imposition of new rules, he expressed spontaneously his concern
20 that that was part of the reason why he left.

21 Now, in the Prosecution's submission, there is no contradiction, number one. And,
22 number two, to put it as such to the witness is highly suggestive, highly leading and
23 suggests to the witness that he should retract an answer already clearly given and
24 given spontaneously.

25 And so I would object to the way this is being put to the witness. If there's going to

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1 be a question put, there can be a question put, but, in my submission, it should be
2 done in a very neutral, non-leading way, and certainly not suggesting there's any
3 contradiction with what he said previously, so as not to direct the witness as to how
4 he should respond.

5 PRESIDING JUDGE MINDUA: [15:47:53](Interpretation) Thank you, Madam
6 Prosecutor.

7 Mr Pestman, of course, we can all see here in paragraph 20 of the statement that the
8 witness was speaking about his fear of the battle between the MNLA and the
9 government army. But here in the hearing, he also talked about his fear of the new
10 rules. So please be careful with your question. I don't know how you're going to
11 put it, but keep it open in order to avoid influencing him, no?

12 We're going to re-establish the connection, Mr Pestman.

13 Madam Courtroom Officer, please.

14 THE COURT OFFICER: [15:48:49] The sound to the witness has been re-established,
15 Mr President.

16 PRESIDING JUDGE MINDUA: [15:48:54](Interpretation) Thank you very much,
17 Madam Courtroom Officer.

18 Mr Pestman.

19 MR PESTMAN: [15:49:03]

20 Q. [15:49:03] Mr Witness, I'll put it in a neutral -- as neutral way as I can. Could
21 you explain to the Court what made you leave Timbuktu in the beginning of 2012.

22 A. [15:49:24] Is it over to me?

23 PRESIDING JUDGE MINDUA: [15:49:25](Interpretation) Yes, indeed, Mr Witness.
24 Go ahead.

25 THE WITNESS: [15:49:29](Interpretation) Well, firstly, even though the Court might

1 like details -- well, I left when I did in order not to be in the middle of a conflict. I
2 couldn't know upfront what was going to unfold.
3 What I know was that everyone was running helter-skelter in Timbuktu. And even
4 part of the army was leaving. The authorities were leaving. Half of Timbuktu was
5 leaving helter-skelter. So I rather be amongst those fleeing, because we didn't know
6 who was coming.
7 So do not seek details. It was later on that I understood the details myself. All I
8 knew at the time was that Gao was taken and messages were being sent saying,
9 "We're coming." So everyone who didn't want to stay with their wife and children,
10 they left.
11 So my statement in this page cannot contain all of my opinions. It is a summary of
12 some of my opinions. I only gave some aspects. There are other aspects. And it
13 could not all hold in that one page. Thank you.

14 MR PESTMAN: [15:51:03]

15 Q. [15:51:03] Mr Witness, would it have been possible to leave Timbuktu at the
16 time without any money or without a car?

17 A. [15:51:19] Well, firstly, in Timbuktu, I don't believe that you can go anywhere
18 without a car or any money. So if you see that some people who didn't leave, it's not
19 because they didn't want to. It's because they didn't have the means to leave. All
20 those who did leave left because they had the means to do so.
21 We are in a world, and -- where we have money in our accounts. Even in Timbuktu,
22 we had access to it in Ouagadougou. So those who left already had a car. It wasn't
23 everyone who left.

24 Some members of our family, some relatives stayed at home in order to take care of
25 the rest of our property. So all of those details, you cannot understand. It was

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1 organised for some and less so for others. Some were running for their lives.

2 Soldiers ran away. State employees left under certain conditions. Others left on
3 foot with other individuals. People were running helter-skelter, and certain people
4 were in certain conditions.

5 Q. [15:52:44] I have one more question. On page 68, again, of the English
6 transcript, line 22, and I quote, if I may: "... I was working for an organisation that
7 worked for the ICR, I couldn't be in touch with someone who was known to be part of
8 the Islamic police station in Timbuktu."

9 Mr Witness, do you remember testifying to this account?

10 A. [15:53:41] Yes, I did say that.

11 Q. [15:53:47] Would -- and this is my last question. Would Mr Al Hassan, as a
12 member of the Islamic police, or as a former member of the Islamic police, would he
13 have been able to find a job either in Ouagadougou or in one of the camps?

14 PRESIDING JUDGE MINDUA: [15:54:12](Interpretation) Madam Prosecutor.

15 MS LUPING: [15:54:15] Mr President, I object to this question. First, it's highly
16 speculative. It's not for the witness to comment on what his job prospects might
17 have been specifically based on his background as a member of the Islamic police.
18 And, yes, I'd leave it at that.

19 PRESIDING JUDGE MINDUA: [15:54:43](Interpretation) Yes, Mr Pestman, I do
20 believe that this is speculation. The witness does not hail from Ouagadougou, is not
21 in a position to know about the job market there. And I think that they're going to
22 recruit a professional for that. So I think we need to put that question to one side. I
23 think you have finished now because you said --

24 THE INTERPRETER: [15:55:06] Overlapping speakers again.

25 PRESIDING JUDGE MINDUA: [15:55:12](Interpretation) Rephrase. We are

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1 bargaining here, are we not?

2 Please go ahead.

3 MR PESTMAN: [15:55:25]

4 Q. [15:55:26] Mr Witness, did you ever work in Ouagadougou while you were
5 there? Did you work with people that had links with, for example, Ansar Dine or
6 another Islamist organisation in Mali?

7 A. [15:55:51] I do not believe that it was even accepted. The -- I was working in
8 the humanitarian field, and the first criterion in that field is to be neutral. And what
9 is more, one should not be part of an Islamist or criminal organisation or anyone -- or
10 any organisation that was trafficking children or drugs. There is a code of conduct
11 that needs to be signed, a humanitarian code that needs to be signed before one can
12 seek employ. So, to my knowledge, it could not be visible. I was not in a position
13 to know.

14 Q. [15:56:39] Thank you, Mr Witness.

15 I have no further questions.

16 PRESIDING JUDGE MINDUA: [15:56:46](Interpretation) Thank you very much,
17 Mr Pestman, for your additional questions.

18 Madam Courtroom Officer, are we still in open session?

19 THE COURT OFFICER: [15:57:00] Yes, we are in open session, Mr President.

20 PRESIDING JUDGE MINDUA: [15:57:05](Interpretation) Very well. Thank you
21 very much.

22 Mr Witness, we have finished with the additional questions on the part of the Defence,
23 and as I said to you, probably the Chamber will have some questions for you.

24 So we have Judge Prost who would like to put a question to you.

25 Madam.

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1 JUDGE PROST: [15:57:31] Thank you, Mr President.

2 Mr Witness, you described in your statement, and we were just talking about it again,
3 your decision to leave Timbuktu and the various reasons for it. And you mentioned
4 in your statement that you had a discussion with your family, members of your
5 family at the time and decided to leave.

6 Can you recall if you had any discussions around that time with Mr Al Hassan about
7 the situation, about your concerns and -- or about your decision to leave Timbuktu?

8 THE WITNESS: [15:58:16](Interpretation) May I?

9 PRESIDING JUDGE MINDUA: [15:58:18](Interpretation) Yes, indeed. Please go
10 ahead.

11 THE WITNESS: [15:58:22](Interpretation) With regards to close family, my brothers
12 and myself and our wives and children, this close family took the decision to leave for
13 a number of reasons. I just talked about the reason of direct reprisal, because we did
14 not know whether it was going to be an occupation by the rebels and what they
15 would do, or whether it would be an occupation by the Islamists and what they
16 would do. We just didn't want to be exposed. We didn't want to expose our wives
17 and children in a town that would come under attack from one moment to the next.
18 Mr Al Hassan is not a direct relative. We did not live together. So I did not need to
19 consult him with regard to this decision. I did not speak to him about anything at all.
20 This was just a decision that concerned uniquely my direct family with which I was
21 living.

22 I don't know whether that answers your question or not.

23 JUDGE PROST: [15:59:36] Thank you very much, Mr Witness.

24 PRESIDING JUDGE MINDUA: [15:59:41](Interpretation) I thank Judge Prost for her
25 question.

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1 So I see that there is no more requests to address the Chamber, and I can see the same
2 for the Defence. So we have come now to the end of the witness's testimony.

3 Mr Witness, the Chamber would like to once again thank you very sincerely for
4 having assisted it in answering in a very clear and precise manner those questions
5 that have been put to you, also in a very patient manner. Your testimony has now
6 come to an end. So, once again, I'd like to thank you and wish you all the best for
7 your future.

8 (The witness is excused)

9 PRESIDING JUDGE MINDUA: [16:00:42] (Interpretation) Before we rise for today,
10 as always, I would like to express my gratitude to the parties and participants, to
11 Maître Doumbia who is following us from afar. I would also like to thank the court
12 reporters, the interpreters, our security guards, and of course our public in the gallery
13 and further afield.

14 I'd like to turn to the Defence now to ascertain from Ms Taylor, as I always do, what
15 comes next.

16 MS TAYLOR: [16:01:28] Thank you, Mr President.

17 I believe we'll be starting again on Tuesday.

18 PRESIDING JUDGE MINDUA: [16:01:36](Interpretation) Very well. Tuesday at
19 9.30 for the next Defence witness.

20 So we shall adjourn for today. Court is adjourned.

21 THE COURT USHER: [16:01:50] All rise.

22 (The hearing ends in open session at 4.01 p.m.)