

Trial Hearing
WITNESS: MLI-D28-P-0093

(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
5 Ag Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 3 November 2022
10 (The hearing starts in open session at 9.49 a.m.)
11 THE COURT USHER: [9:49:46] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:50:01](Interpretation) Court is in session.
15 Good morning, everyone.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:50:26] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:50:49](Interpretation) Thank you very much,
22 court officer.
23 Like every morning, we will move on to the appearances, beginning with the Office of
24 the Prosecutor.
25 You have the floor.

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1 MR DUTERTRE: [9:51:03](Interpretation) Good morning, Mr President. Good
2 morning, your Honours. The OTP this morning is made up of Madam Caroline
3 Leroy, Mr Lucio Garcia and myself. And I would like to greet the entire Chamber
4 and everyone contributing directly and indirectly to our session.

5 PRESIDING JUDGE MINDUA: [9:51:32](Interpretation) Thank you very much,
6 Mr Prosecutor.
7 Defence.

8 MS TAYLOR: [9:51:36] Good morning, Mr President. Good morning,
9 your Honours. Good morning to everyone in the courtroom and around courtroom.
10 The Defence for Mr Al Hassan is represented today by, behind me, we have Cécile
11 Lecolle, we have Leila Abid and we have Haneen Ghali and myself, Melinda Taylor.
12 Thank you very much.

13 PRESIDING JUDGE MINDUA: [9:51:57](Interpretation) Thank you very much,
14 Ms Taylor.
15 And I would like to also say good morning to Mr Al Hassan.
16 The Legal Representative of Victims, counsel.

17 MR LUVENGIKA: [9:52:12](Interpretation) Good morning, your Honours. The
18 victims are represented today by Madam Romane Tovia Vila and myself, Fidel Nsita
19 Luvengika. Thank you.

20 PRESIDING JUDGE MINDUA: [9:52:31](Interpretation) Thank you very much,
21 Mr Nsita.

22 And now the witness. Good morning, Mr Witness. Can you hear me?

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24 (The witness speaks French)

25 (The witness gives evidence via video link)

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1 THE WITNESS: [9:52:44](Interpretation) Good morning, your Honour. I can hear
2 you.

3 PRESIDING JUDGE MINDUA: [9:52:48](Interpretation) Thank you very much,
4 Mr Witness. On behalf of the Chamber, I would like to welcome you.

5 THE WITNESS: [9:52:57](Interpretation) Thank you.

6 PRESIDING JUDGE MINDUA: [9:53:00](Interpretation) You are going to testify in
7 order to help to determine the truth in the case of Mr Al Hassan.

8 THE WITNESS: [9:53:11](Interpretation) Very well.

9 PRESIDING JUDGE MINDUA: [9:53:14](Interpretation) Mr Witness, protection
10 measures have been taken so that your identity should not be revealed to the public.

11 THE WITNESS: [9:53:25](Interpretation) Thank you.

12 PRESIDING JUDGE MINDUA: [9:53:28](Interpretation) Each time that you may
13 give identifiable details, we will discuss that in private session.

14 THE WITNESS: [9:53:37](Interpretation) Very well.

15 PRESIDING JUDGE MINDUA: [9:53:40](Interpretation) That way, no one except
16 those who are in this courtroom will be able to hear you.

17 THE WITNESS: [9:53:50](Interpretation) Very well.

18 PRESIDING JUDGE MINDUA: [9:53:53](Interpretation) Mr Witness, now I will go
19 on to the solemn declaration subject to Article 66(1) on the Rules of Procedure and
20 Evidence. You have the document with the solemn declaration. Do you have it in
21 front of you?

22 THE WITNESS: [9:54:18](Interpretation) Yes.

23 PRESIDING JUDGE MINDUA: [9:54:20](Interpretation) Very well. I would like to
24 ask you to read out loud what is written on that document, please.

25 THE WITNESS: [9:54:35](Interpretation) I solemnly declare that I shall speak the

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1 truth, the whole truth and nothing but the truth.

2 PRESIDING JUDGE MINDUA: [9:54:55](Interpretation) Thank you very much,
3 Mr Witness.

4 THE WITNESS: [9:54:56](Interpretation) Thank you.

5 PRESIDING JUDGE MINDUA: [9:54:58](Interpretation) You are now under oath.
6 The VWU representatives as well as the Defence representatives have already
7 explained to you what that implies and so I will not come back to it.

8 THE WITNESS: [9:55:21](Interpretation) Thank you.

9 PRESIDING JUDGE MINDUA: [9:55:22](Interpretation) I have a few practical pieces
10 of information for you. Throughout your testimony, you should bear in mind that
11 everything that is said in this courtroom is transcribed by the court reporters and
12 simultaneously interpreted into several languages by the interpreters. It is therefore
13 important to speak clearly and slowly. You should only begin speaking when the
14 person questioning you has completed putting the question to you.

15 You will, first of all, be questioned by the Defence in the direct examination. And
16 then it will be the turn of the Office of the Prosecutor for the cross-examination. And
17 obviously, there will also be questions from the Legal Representatives of Victims, and
18 there maybe questions from the Chamber also, one never knows.

19 Now, without further ado, I will hand you over to the Defence for the commencement
20 of the direct examination.

21 THE WITNESS: [9:57:08](Interpretation) Thank you.

22 PRESIDING JUDGE MINDUA: [9:57:10](Interpretation) Thank you very much,
23 Mr Witness.

24 Ms Taylor, you have the floor.

25 MS TAYLOR: [9:57:17] Thank you very much, Mr President.

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1 QUESTIONED BY MS TAYLOR:

2 Q. [9:57:20] Good morning, Mr Witness. How are you today?

3 A. [9:57:28] Good morning, Madam. I'm doing fine.

4 Q. [9:57:32] My name is Melinda Taylor. We met briefly this morning and I'll be
5 putting questions to you.

6 A. [9:57:42] Very well.

7 Q. [9:57:45] As explained this morning, if I put up my hand, that is not a sign of
8 disrespect. It's just to ask you to pause for the interpreters.

9 A. [9:57:58] Very well, I've understood that.

10 MS TAYLOR: [9:58:02] Mr President, if we may go into private session, briefly.

11 PRESIDING JUDGE MINDUA: [9:58:10](Interpretation) Yes, indeed, Ms Taylor.

12 Court officer, private session, please.

13 (Private session at 9.58 a.m.)

14 THE COURT OFFICER: [9:58:22] We are in private session, Mr President.

15 (Redacted)

16 (Redacted)

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- 14 (Open session at 10.00 a.m.)
- 15 THE COURT OFFICER: [10:00:35] We are back in open session, Mr President.
- 16 PRESIDING JUDGE MINDUA: [10:00:41](Interpretation) Thank you very much,
- 17 court officer.
- 18 Ms Taylor.
- 19 MS TAYLOR: [10:00:44]
- 20 Q. [10:00:45] Now if we could bring up on to the screen, and not show to the public,
- 21 Defence tab 5. It's MLI-D28-0006-4212. And, Mr Witness, you should have a binder
- 22 of documents and this is the fifth document in that binder.
- 23 Now, Mr Witness, can you see a signature on this document?
- 24 A. [10:01:20] Yes, it is my signature. It is my signature.
- 25 Q. [10:01:25] Mr Witness, could you look at the bottom of each page and confirm to

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1 us whether you recognise your signature.

2 A. [10:01:56] It is my signature. It is my signature.

3 Q. [10:02:14] Mr Witness, just to be clear, did you see your signature on each page?

4 A. [10:02:23] Yes.

5 Q. [10:02:26] Now, Mr Witness, do you recall speaking to the Defence a couple of
6 weeks ago for what we call a preparation session?

7 A. [10:02:39] Yes.

8 Q. [10:02:41] And do you recall that this statement was read out to you in
9 Tamasheq?

10 A. [10:02:51] Yes.

11 Q. [10:02:54] And did you confirm that the contents of this statement were correct
12 during this session?

13 A. [10:03:08] Yes, indeed.

14 Q. [10:03:11] Now, Mr Witness, has anyone ever asked you to give evidence to this
15 Court that was not true?

16 A. [10:03:28] No.

17 Q. [10:03:31] Has anyone promised you anything in exchange for signing this
18 statement or testifying today?

19 A. [10:03:45] No.

20 Q. [10:03:48] Did any --

21 MR DUTERTRE: [10:03:51](Interpretation) Mr President?

22 PRESIDING JUDGE MINDUA: [10:03:52](No interpretation)

23 MR DUTERTRE: [10:03:55](Interpretation) The witness is far from the microphone
24 and we can barely hear his answers. And if he come closer to the microphone, we
25 can hear him better.

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1 THE INTERPRETER: [10:04:12] And the interpreters would like to confirm that.

2 PRESIDING JUDGE MINDUA: [10:04:15](Interpretation) Yes, indeed, Mr Witness,
3 please speak closer to the microphone.

4 THE WITNESS: [10:04:23](Interpretation) Yes, very well.

5 MS TAYLOR: [10:04:25]

6 Q. [10:04:26] Now, Mr Witness, did anyone pressure you or force you to sign this
7 statement?

8 A. [10:04:36] No.

9 Q. [10:04:39] Now, before you signed the statement, did you discuss the content of
10 your evidence with anyone outside of the Defence?

11 A. [10:04:59] No. No. No. No one.

12 Q. [10:05:04] Do you agree for the statement to be submitted into evidence?

13 A. [10:05:13] Yes.

14 Q. [10:05:16] Mr Witness, I have a few follow-up questions, but I'm going to keep
15 this as brief as possible. And we are in open session, so I'm going to show you
16 various images and I will just ask you not to give information that may identify
17 yourself. The first document I would like to be shown is tab 1. It's is
18 MLI-D28-0005-7853. If that can be shown on evidence 1 -- on evidence 2.

19 Mr Witness, can you see these images in front of you? You should also have a
20 document.

21 PRESIDING JUDGE MINDUA: [10:06:20](Interpretation) Madam Court Officer, the
22 witness has disappeared.

23 The technicians are working on it, so we will wait for a few moments.

24 (Pause in proceedings)

25 PRESIDING JUDGE MINDUA: [10:07:03](Interpretation) The witness is back on.

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1 Ms Taylor.

2 MS TAYLOR: [10:07:06] Thank you, Mr President.

3 Q. [10:07:09] Mr Witness, can you see the images at the top of the document?

4 A. [10:07:16] Yes.

5 Q. [10:07:17] And do you recognise this location?

6 A. [10:07:23] Yes.

7 Q. [10:07:25] Can you tell us what it is?

8 A. [10:07:29] It is a private pharmacy.

9 Q. [10:07:38] And what is the name of this private pharmacy?

10 A. [10:07:45] The Tinariwen pharmacy.

11 Q. [10:07:51] Now, Mr Witness, in your statement at paragraph 33, on page 4218,
12 you stated that: "Pharmacy Tinariwen of Bellaferandi was only opened after the
13 departure of the Islamists."

14 Is this the same pharmacy?

15 A. [10:08:11] The Tinariwen pharmacy, yes.

16 MS TAYLOR: [10:08:19] Mr President, if I could show another document in private
17 session?

18 PRESIDING JUDGE MINDUA: [10:08:26](Interpretation) Absolutely.

19 Court officer, private session, please.

20 (Private session at 10.08 a.m.)

21 THE COURT OFFICER: [10:08:38] We are in private session, Mr President.

22 (Redacted)

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12 (Open session at 10.21 a.m.)

13 THE COURT OFFICER: [10:21:07] We are back in open session, Mr President.

14 PRESIDING JUDGE MINDUA: [10:21:09](Interpretation) Thank you very much.

15 Ms Taylor.

16 MS TAYLOR: [10:21:11]

17 Q. [10:21:11] Now, Mr Witness, we are going to show you an extract from a video.

18 The extract should not be shown to the public. And I'm going to remind you that we

19 are in public, so not to give information that should identify you. It's tab 3,

20 MLI-D28-0006-3315. It's an extract from a video from June 2012 and the extract is at

21 13:10 minute mark.

22 Mr Witness, bearing in mind we are in open session, do you recognise the location?

23 A. [10:21:49] Yes, it is the regional hospital of Timbuktu.

24 Q. [10:21:59] And is this how it looked in 2012?

25 A. [10:22:06] Yes.

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1 THE INTERPRETER: And the interpreter added that it was the emergency door of
2 the hospital, for urgent cases.

3 MS TAYLOR: [10:22:15]

4 Q. [10:22:15] Mr Witness, can you see a sign in this photo?

5 A. [10:22:23] A red sign. A white sign, where there's the hospital, "the regional
6 hospital of Timbuktu", and there's red inside it. And that means it is banned -- you
7 are banned from bringing weapons into the hospital.

8 Q. [10:22:44] And was this sign put up in 2012 or before 2012?

9 A. [10:23:01] Before 2012.

10 Q. [10:23:03] And was this sign respected in 2012?

11 A. [10:23:18] In 2012, there was a time that the Islamists did go in with weapons,
12 but after that, there was an agreement when they got them not to enter with their
13 weapons. And after that, they no longer entered the hospital with their weapons.

14 Q. [10:23:36] We are going to a different screenshot. It's 56:19. Do you recognise
15 this individual?

16 A. [10:23:59] I -- yes, I do know him. He has passed.

17 Q. [10:24:06] Can you please tell us his name?

18 A. [10:24:13] Seydou Bassaloum is his name. He works in the regional hospital of
19 Timbuktu.

20 Q. [10:24:21] And can you tell us what his role was in 2012?

21 A. [10:24:31] In 2012, he worked for the hospital. Where there was a problem
22 between the officers and the Islamists -- when there was a problem between the
23 Islamists and others, then they would call him in order to find a solution, between the
24 Islamists and the health officials.

25 Q. [10:24:56] And, Mr Witness, do you know an individual called Kader Khalil?

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1 A. [10:25:06] Kader Khalil? Peace be to his soul -- may his soul rest in peace, yes.

2 He's also deceased.

3 Q. [10:25:17] Can you tell us what his position was before 2012?

4 A. [10:25:25] He was the director of Radio Bouctou.

5 Q. [10:25:36] Was he present in Timbuktu when the Islamists were present?

6 A. [10:25:46] Of course, he was present.

7 Q. [10:25:48] And when the Islamists were present, did Radio Bouctou continue to

8 broadcast or not?

9 A. [10:25:57] Yes, they continued to broadcast, of course.

10 Q. [10:26:03] And what type of information did they broadcast?

11 A. [10:26:12] Almost all information, all type of information. People would go to

12 Radio Bouctou, they would listen to it during the crisis. The Radio Bouctou was

13 there to calm the population that stayed. It was very much listened to during the

14 crisis in Timbuktu.

15 Q. [10:26:37] And was there any difference between the broadcasts that Radio

16 Bouctou sent out before 2012 as compared to the broadcasts they sent out in 2012?

17 A. [10:26:57] Like before the crisis, they played music. And during the crisis, the

18 Islamists told them to stop playing music. And you would have communiqués and

19 you would also have parts where they would play the Koran; that would be it.

20 Q. [10:27:16] Now, you have mentioned two differences. Apart from those two

21 differences, was there anything else or not?

22 A. [10:27:28] What do you mean by that? I haven't understood the question well.

23 Q. [10:27:32] I apologise, Mr Witness. You are right to correct me.

24 Mr Witness, you told us that in 2012 there was no music and that also there would be

25 communiqués -- sorry, there would be extracts of the Koran and you mentioned other

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1 broadcasts. Where the other broadcasts the same or different from before 2012?

2 A. [10:28:04] No, they weren't similar.

3 Q. [10:28:08] Mr Witness, can you explain what you mean.

4 A. [10:28:17] What I mean by that is, before the crisis, they played all different
5 types of music on Radio Bouctou. They would have debates. But during the crisis,
6 there was no music. There was only the Koran or there were communiqués or there
7 would be -- there would be parts where they would encourage the population to
8 remain. Or there would be other parts as well, perhaps comedy parts to get the
9 population to smile or to laugh.

10 Q. [10:28:56] And did Kader Khalil himself continue to give broadcasts during
11 2012?

12 A. [10:29:09] During 2012, he did make broadcasts, but there was a problem
13 between him and the Islamists at a particular time. So he left Timbuktu in order to
14 go to Bamako.

15 Q. [10:29:23] And did there continue to be news before that?

16 A. [10:29:35] Before the crisis, do you mean?

17 Q. [10:29:38] No, I apologise. Before that point?

18 A. [10:29:45] Before the crisis, of course they had broadcasts.

19 Q. [10:29:51] I apologise, Mr Witness, again. You mentioned the point of Kader
20 Khalil leaving. Before he left, was there news that was broadcast?

21 A. [10:30:09] During the crisis, the Islamists were in power. When you are in
22 power, there are certain things that you don't agree with. They spoke a lot about the
23 Islamists, and they said that they refused the population doing this and that. The
24 Islamists didn't like that. And in the end, there was an Islamist who took over on an
25 interim basis. And so the children and relatives told him to leave Timbuktu in order

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1 to go to Bamako and that is the reason why he left the radio station.

2 Q. [10:30:54] Thank you, Mr Witness. I have no further questions. Thank you for
3 your evidence.

4 PRESIDING JUDGE MINDUA: [10:31:08](Interpretation) Thank you very much,
5 Ms Taylor, for your examination-in-chief.

6 So I now turn towards the Office of the Prosecutor.

7 Prosecutor, what would you say?

8 MR DUTERTRE: [10:31:22](Interpretation) I would say that once the Defence has
9 finished its formalities, then we can start and I will prepare my bench.

10 PRESIDING JUDGE MINDUA: [10:31:37](Interpretation) Very good, Prosecutor.

11 So Ms Taylor, we have a part in the form of a witness statement and you asked
12 additional questions, so you have done a mixed process. That's what the Prosecutor
13 wants to speak about. So you asked the ritual questions to the witness.

14 MS TAYLOR: [10:31:58] Mr President, I believe I did so at the beginning. I asked
15 the witness if he agreed for his statement to be admitted into evidence. That's been
16 done. Perhaps the Prosecutor was distracted.

17 MR DUTERTRE: [10:32:11](Interpretation) I wasn't at all distracted.

18 PRESIDING JUDGE MINDUA: [10:32:14](Interpretation) Very well. It's accepted.
19 Prosecutor, the formalities have been met.

20 Ms Taylor has put the question as to whether the witness keeps to his statement,
21 whether it's correct, and the witness is available to you for the cross-examination.

22 MR DUTERTRE: [10:32:37](Interpretation) Thank you, your Honour. But with
23 regards to the formalities, I was thinking, without reopening the debate, that on
24 Facebook, it -- he cannot testify to the accuracy of the testimony.

25 PRESIDING JUDGE MINDUA: [10:32:52](Interpretation) It's not at the end that

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1 she's going to submit the evidence.

2 MR DUTERTRE: [10:33:05](Interpretation) Well, that's possible, but I'm already on
3 record in this regard. But she'll be able to prepare that herself.

4 PRESIDING JUDGE MINDUA: [10:33:11](Interpretation) Please go ahead.

5 MR DUTERTRE: [10:33:56](Interpretation) Your Honour, could I spend a few
6 moments in private session such that the witness will not be identified?

7 PRESIDING JUDGE MINDUA: [10:34:08](Interpretation) Indeed.

8 Court officer, please take us into private session.

9 (Private session at 10.34 a.m.)

10 THE COURT OFFICER: [10:34:25] We are in private session, Mr President.

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23 (Open session at 10.38 a.m.)

24 THE COURT OFFICER: [10:38:48] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:39:05](Interpretation) Thank you very much.

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1 Prosecutor.

2 MR DUTERTRE: [10:39:10](Interpretation) Thank you, your Honour.

3 Q. [10:39:14] Witness, could you help us, in Mali, the boxes of medicines and
4 notices, are they written in French or -- they're written in French, are they not?

5 A. [10:39:32] Yes. But some were in English as well. Others are in Arabic.

6 Q. [10:39:42] And most of the medicines -- the signs, what are they written in?

7 A. [10:39:50] French. French.

8 Q. [10:39:53] Just a point that I wanted to go over at a personal level. Do you have
9 any issues with regard to your eyesight? Do you need any type of aid?

10 A. [10:40:06] Well, I've got my glasses here, if there is a problem, but normally my
11 vision is fine.

12 Q. [10:40:12] Very well. And are these glasses to read or are they to see far away?

13 A. [10:40:20] Well, I don't see the pictures on the computer very well sometimes.

14 Q. [10:40:26] So it's for close vision that you need them?

15 A. [10:40:29] Yes.

16 MR DUTERTRE: [10:40:35](Interpretation) Your Honour, I would like to go into
17 private session again. It's about the timeline.

18 PRESIDING JUDGE MINDUA: [10:40:43](Interpretation) Please take us into private
19 session, court officer.

20 (Private session at 10.41 a.m.)

21 THE INTERPRETER: [10:41:01] Once again, could a pause be left before the witness
22 answers the question.

23 THE COURT OFFICER: [10:41:06] We are back in private session, Mr President.

24 (Redacted)

25 (Redacted)

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WITNESS: MLI-D28-P-0093

(Private Session)

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- 16 (Open session at 10.52 a.m.)
- 17 THE COURT OFFICER: [10:52:03] We are back in open session, Mr President.
- 18 PRESIDING JUDGE MINDUA: [10:52:08](Interpretation) Thank you very much,
- 19 court officer.
- 20 Mr Prosecutor.
- 21 MR DUTERTRE: [10:52:25](Interpretation)
- 22 Q. [10:52:25] Mr Witness, in 2012, in the Timbuktu hospital, there were a lot of
- 23 activities; is that correct?
- 24 A. [10:52:35] Yes.
- 25 PRESIDING JUDGE MINDUA: [10:52:40](Interpretation) Ms Taylor.

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1 MS TAYLOR: [10:52:41] Mr President, this line of questioning is identifying. I
2 don't believe it's an appropriate course of action to simply redact afterwards. It
3 defeats the purpose of having private versus public sessions. I'm aware that the
4 Prosecution is trying to comply with the Chamber's ruling, but this line of questions
5 continues to have a topic that in and of itself would require a private session. So
6 unless the Prosecution intends to move to a topic that doesn't require redactions, then
7 the topics that do require redactions should be in private session. Because
8 redactions won't cure the fact that there is transmission to the audience in the gallery.

9 PRESIDING JUDGE MINDUA: [10:53:28](Interpretation) Ms Taylor, when he asked
10 whether there were a lot of activities in the hospital, is that identifying? I do not
11 think so.

12 Mr Prosecutor.

13 MR DUTERTRE: [10:53:41](Interpretation) I am just trying to allude to those things,
14 Mr President. We can redact afterwards, but I'm trying to be careful. But there are
15 words that may be mentioned, but we are trying to be cautious.

16 PRESIDING JUDGE MINDUA: [10:54:06](Interpretation) Ms Taylor, we are going to
17 assess on a case-by-case basis.

18 If there a question that is really identifying, you can let us know.

19 Mr Prosecutor, please proceed.

20 MR DUTERTRE: [10:54:21](Interpretation) Thank you, Mr President.

21 Q. [10:54:24] Let me rephrase. Now, in that location that we were talking about,
22 Mr Witness, there were a lot of activities; is that correct?

23 A. [10:54:40] Yes.

24 Q. [10:54:48] And more so because the services there were free of charge; is that
25 correct, Mr Witness?

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1 A. [10:54:57] Yes. Yes.

2 Q. [10:54:59] And at that location, when people needed to write down something,
3 they did it in French. Is that correct?

4 A. [10:55:18] Yes, we used the French language. We were colonised by France.

5 Q. [10:55:28] And reports as well as files inside the hospital, they were in French,
6 correct?

7 A. [10:55:35] Yes. In French, yes.

8 Q. [10:55:39] To your knowledge, Mr Witness, it was Dr Maiga who was managing
9 the hospital; is that correct?

10 A. [10:55:52] Yes.

11 Q. [10:55:58] And he was in contact with the Islamists, wasn't he?

12 A. [10:56:05] Yes.

13 Q. [10:56:11] And he was in contact specifically with Abou Zeid, correct?

14 A. [10:56:20] Yes.

15 Q. [10:56:25] And to your knowledge, at that location, Dr Maiga updated the staff
16 about the decisions taken with the employees; is that correct?

17 A. [10:56:50] Yes. The employees were informed.

18 Q. [10:57:00] And if I understand correctly, it was Doctors Without Borders, MSF,
19 who paid the state employees who had remained as well as their own workers and
20 contract employees?

21 A. [10:57:29] Yes, particularly for those who had contracts. Otherwise, the others,
22 they motivated them.

23 Q. [10:57:40] What do you mean by "motivation"?

24 A. [10:57:49] Someone who had a contract was better paid than someone who was
25 simply motivated. Somebody who was motivated could receive 30,000, for example.

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1 Q. [10:58:03] In your statement, paragraph 37, you stated that: "MSF was in
2 charge of the hospital and paid the state employees as well as their own employees."
3 That was your statement; is that correct? That is the truth, isn't it?

4 PRESIDING JUDGE MINDUA: [10:58:42](Interpretation) Ms Taylor.

5 MS TAYLOR: [10:58:43] Mr President, if the Prosecution is referring to a specific
6 part of the statement, again, in accordance with the Decision on the Conduct of
7 Proceedings they should refer to the paragraph and they should either read out the
8 paragraph or give the witness an opportunity to read the paragraph. The witness
9 has the statement. He doesn't have to have it read to him. If the Prosecutor could
10 simply at least give the witness the opportunity to see what section he is referring to
11 and to read the context before being required to answer. That's the first point.

12 The second point is we consistently had not a lot of space between questions and
13 answers which means that I'm hearing the answer while the Prosecutor is speaking.
14 So, again, if the Prosecutor could have more pauses, that would be gratefully
15 appreciated.

16 MR DUTERTRE: [10:59:26](Interpretation) Mr President.

17 PRESIDING JUDGE MINDUA: [10:59:29](Interpretation) Yes, Mr Prosecutor. To
18 be fair to the witness, maybe we should give him the opportunity to read the
19 paragraph.

20 MR DUTERTRE: [10:59:44](Interpretation) First of all, the witness has already
21 answered yes.

22 Secondly, the Chamber knows the context and the witness knows the context and he
23 understands it. And there are time constraints also. We are trying to go fast, but if
24 it is not clear enough, we will allow that opportunity to read. Because the witness is
25 not looking at the transcript, but at the statement.

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- 1 PRESIDING JUDGE MINDUA: [11:00:31](Interpretation) I can see the witness
2 reading the statement.
3 Mr Witness, have you seen paragraph 37?
4 THE INTERPRETER: [11:00:48] From the interpreters: It's actually the witness who
5 most of the time is not observing a pause.
6 THE WITNESS: [11:00:57](Interpretation) Yes.
7 PRESIDING JUDGE MINDUA: [11:01:00](Interpretation) The Prosecutor asked you
8 a question.
9 THE WITNESS: [11:01:09](Interpretation) Yes, I read.
10 MR DUTERTRE: [11:01:16](Interpretation) Thank you, Mr President. So the
11 answer that was in the transcript is yes, absolutely. We can listen to that in the audio
12 later.
13 Q. [11:01:32] Mr Witness, it was MSF that provided most of the medications,
14 correct?
15 A. [11:01:38] Yes.
16 Q. [11:01:40] And so, Mr Witness, if, at the hospital, treatment was free of charge,
17 everything was free of charge, it was thanks to MSF, Doctors Without Borders. They
18 were the ones providing all those things, correct?
19 A. [11:02:02] Yes.
20 Q. [11:02:04] Are you able to confirm, Mr Witness, that it was the NGO ALIMA
21 which took responsibility for things in Niafunké and Diré?
22 A. [11:02:25] Yes, in Niafunké and Diré, that is correct.
23 Q. [11:02:45] (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

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6 Mr Witness, a short while ago you confirmed to us that you were not there 24/7 at the
7 hospital, so you agree with me that you did not see every single patient who came to
8 the Timbuktu hospital. Do you agree?

9 A. [11:04:41] Yes.

10 Q. [11:04:43] (Redacted)

11 (Redacted)

12 (Redacted)

13 A. [11:05:11] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. [11:05:46] Mr Witness, you confirmed a short a while ago that there were many
19 activities in the hospital in Timbuktu. You did not have the time to discuss all those
20 things, right?

21 A. [11:05:59] We were discussing everything, Mr Prosecutor, and there are no
22 secrets for us in Timbuktu. I took an oath and I am telling the truth here. Nothing
23 could be kept secret at the Timbuktu hospital. You cannot know that here, but I
24 know it. Nothing could be hidden.

25 Q. [11:06:26] Mr Witness, you agree with me that you could not have been able to

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1 read 100 per cent of the reports issued by the hospital; is that correct?

2 A. [11:06:39] I agree with that, counsel.

3 Q. [11:06:45] Furthermore, the relationship with each doctor is covered by the duty
4 of confidentiality; is that agreed?

5 A. [11:06:58] Yes.

6 PRESIDING JUDGE MINDUA: [11:07:00](Interpretation) The witness is no longer
7 with us. We are going to wait for a few moments.

8 (Pause in proceedings)

9 PRESIDING JUDGE MINDUA: [11:07:18](Interpretation) Please proceed,
10 Mr Prosecutor. The witness is back.

11 MR DUTERTRE: [11:07:26](Interpretation)

12 Q. [11:07:27] And the medical reports were confidential, Mr Witness, right?

13 A. [11:07:33] I agree with you there, too.

14 Q. [11:07:40] And you agree with me that there is -- it is difficult for a man to talk
15 about having been a victim of sexual violence; is that correct?

16 A. [11:08:00] I agree with you. But in the Timbuktu hospital, things were
17 different.

18 Q. [11:08:11] Mr Witness, it is even a taboo to talk about having been a victim of
19 sexual violence. One can be stigmatised; is that correct?

20 A. [11:08:25] That is true. In Timbuktu, we were the same people. We were all
21 parents and nothing was hidden.

22 Q. [11:08:36] Mr Witness, the hospital was guarded by armed Islamists; is that
23 correct?

24 A. [11:08:43] Timbuktu was secured by the Islamists.

25 Q. [11:08:49] So it is difficult for a woman victim of rape to come to a hospital

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1 guarded by Islamists who were armed; is that correct?

2 A. [11:09:08] The Islamists were helping us. They even gave us numbers to
3 contact them in time of crisis, but in Timbuktu, we did not hear people talk about
4 rapes. We did not hear about that at all.

5 Q. [11:09:33] Mr Witness, that was not my question. I asked you that it is difficult
6 for women who are victims of sexual violence to come to your hospital guarded by
7 armed Islamists; is that correct?

8 A. [11:09:53] The Islamists did not prevent anyone from coming to the hospital or
9 to ask them what they were doing. They were not also there every day. They were
10 there also when they were sick. Not every day.

11 Q. [11:10:17] Mr Witness, you said that the Islamists provided the security for the
12 hospital, right?

13 A. [11:10:22] I said that they were providing security for Timbuktu, that means the
14 hospital was included also.

15 PRESIDING JUDGE MINDUA: [11:10:32](Interpretation) Ms Taylor.

16 MS TAYLOR: [11:10:33] Thank you, Mr President. It's been very difficult to follow,
17 and the interpreter before has said it's the witness not pausing, but what I'm
18 constantly hearing is the Prosecutor speaking over the witness's answers. So I
19 would again request that there be a pause so that we can follow it properly. We do
20 have two French speakers. Irrespective of whether it is the Prosecutor who should
21 pause or the witness who should have a pause, there needs to be more pauses for us
22 to be able to follow it. Thank you.

23 PRESIDING JUDGE MINDUA: [11:11:14](Interpretation) Very well, Ms Taylor.

24 Mr Prosecutor, once again, you are reminded of that.

25 MR DUTERTRE: [11:11:25](Interpretation) Thank you, Mr President, for that

1 reminder. We will try.

2 Q. [11:11:35] Now, on that topic, I have one last question for you, Mr Witness.

3 There were Islamists in the hospital, right, who came to the hospital?

4 A. [11:11:57] Mr Prosecutor, the Islamists came there only to be consulted, only for
5 consultations.

6 Q. [11:12:08] And initially, they even came with their weapons, that is what you
7 said; is that correct?

8 A. [11:12:16] Absolutely, yes.

9 Q. [11:12:26] Mr Witness, I would like to move on to another topic and this is still
10 on page 4219, paragraph 42, in which you talk about a marriage. And you say, and I
11 quote, slowly:

12 "I remember women who got married to Islamists during the crisis. I knew the
13 brother of a woman from Bellafarandi who got married to one of them. She gave her
14 consent and her parents also accepted the marriage. She was in love with him.

15 (Redacted) family

16 but I no longer remember her first name."

17 Mr Witness, the first question - and I will ask the indulgence of the Chamber, maybe I
18 will go over by a few minutes, but it will not be very long - what is the name of that
19 Islamist who married this woman?

20 A. [11:14:22] I'm sorry, Mr Prosecutor, I do not know his name. But I know the
21 family and I know the girl.

22 Q. [11:14:39] But you do not know the first name of the girl, right?

23 A. [11:14:47] I do not know her first name, but I know the family very well. I even
24 know the location of their house.

25 Q. [11:14:56] You do not know her exact age of that girl, right?

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- 1 A. [11:15:05] I do not know her precise age.
- 2 Q. [11:15:10] Mr Witness, that means you really do not know that girl in real fact,
3 right?
- 4 A. [11:15:17] I know her very well. I know her family.
- 5 Q. [11:15:21] You don't know her name, you don't know her age, but you know her
6 very well. You were not present when the Islamists are supposed to have met with
7 the family of this girl, right?
- 8 A. [11:15:36] I was not present when they met with the family.
- 9 THE INTERPRETER: [11:15:45] The interpreter notes there was an inaudible
10 response at 11:15:24 in the French transcript, which was also not picked up by the
11 English interpreter.
- 12 MR DUTERTRE: [11:15:57](Interpretation)
- 13 Q. [11:15:57] The fact is, everything you know is what the brother of this girl told
14 you, right?
- 15 A. [11:16:07] It is not only what the brother said. Even the girl, she is still with her
16 husband right to this day.
- 17 Q. [11:16:25] Her husband abandoned her, right?
- 18 A. [11:16:27] It is true, he's not there. But for your information, two months ago
19 they say that he came to Timbuktu, but he left.
- 20 Q. [11:16:35] Who is that, Mr Witness?
- 21 A. [11:16:39] The population.
- 22 Q. [11:16:42] In 2012, in 2013, he left without taking his wife, did he not?
- 23 A. [11:16:47] Yes, he left without his wife.
- 24 Q. [11:16:49] And recently, he left without taking his wife?
- 25 A. [11:16:54] Indeed.

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1 MR DUTERTRE: [11:16:57](Interpretation) I have five or six questions on this issue,
2 your Honour, and afterwards, I've finished this subject. I am in your hands.

3 PRESIDING JUDGE MINDUA: [11:17:14](Interpretation) Okay, please finish this
4 subject.

5 MR DUTERTRE: [11:17:19](Interpretation)

6 Q. [11:17:20] Witness, the brother must have told you that the Islamists bore
7 a weapon when he asked for the hand of this girl from the parents; is that not the
8 case?

9 A. [11:17:39] Yes.

10 Q. [11:17:51] Now, you say that the brother was called (Redacted)
11 Witness, this is a very, very common first name, is it not?

12 A. [11:18:10] Yes.

13 Q. [11:18:13] And you also say that the name of the family of the young woman
14 was Traoré?

15 A. [11:18:29] Indeed.

16 Q. [11:18:30] This is a name which is also extremely common in --

17 THE INTERPRETER: [11:18:34] Overlapping speakers.

18 THE WITNESS: [11:18:36](Interpretation) Indeed.

19 PRESIDING JUDGE MINDUA: [11:18:41](Interpretation) Don't forget to leave
20 a break.

21 MR DUTERTRE: [11:18:53](Interpretation)

22 Q. [11:18:54] This is an extremely common name in Mali, is it not, Witness, Traoré,
23 where you get it everywhere?

24 A. [11:18:59] Yes, indeed. Yes, indeed.

25 Q. [11:19:01] And this alleged marriage happened in a town which was occupied

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1 by armed groups, was it not, Witness?

2 A. [11:19:10] Indeed, but only it was not forced.

3 Q. [11:19:16] And the Islamists, they would walk around with weapons in the
4 streets of Timbuktu, would they not?

5 A. [11:19:24] Yes.

6 MR DUTERTRE: [11:19:29](Interpretation) Your Honour, thank you for your
7 indulgence. We can have the break now.

8 PRESIDING JUDGE MINDUA: [11:19:42](Interpretation) Very well. Thank you
9 very much, Prosecutor.

10 So it is now 11:20. We are going to have a break for half an hour and we will back at
11 11:50.

12 The Court is suspended.

13 THE COURT USHER: [11:19:54] All rise.

14 (Recess taken at 11.19 a.m.)

15 (Upon resuming in open session at 11.54 a.m.)

16 THE COURT USHER: [11:54:07] All rise.

17 Please be seated.

18 PRESIDING JUDGE MINDUA: [11:54:28](Interpretation) Court is in session.

19 The Office of the Prosecutor has the floor to continue with the cross-examination.

20 Prosecutor.

21 MR DUTERTRE: [11:54:41](Interpretation) Thank you, your Honour.

22 Q. [11:54:50] Witness, if we change subject, I am going to go to page 15 of your
23 statement, 4215, paragraph 15, and you say: "I joined the Islamists above all who
24 visited the hospital. I above all interacted with the Islamists who joined the hospital.
25 I know the Islamic police and the security section. I never heard anyone speak about

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1 a section called the *Hesbah*."

2 That is MLI-D28-0006-4215. Paragraph 15.

3 Have you heard? Is there a problem?

4 A. [11:56:11] Yes, I heard it.

5 Q. [11:56:13] Witness, throughout the occupation for 10 months, your testimony
6 was that you never heard anyone speak about the *Hesbah* or of the centre.

7 A. [11:56:34] No, I haven't heard anybody speak about that centre, or the *Hesbah*.

8 Q. [11:56:44] Witness, we are in agreement that there were meetings with the
9 Islamists on the functioning of the hospital. That's something that we already said.

10 A. [11:56:53] Yes.

11 Q. [11:56:55] And for example, there was a meeting on the question of wearing the
12 veil at the hospital, was there not?

13 A. [11:57:05] Yes.

14 Q. [11:57:16] And you didn't hear that it was the *Hesbah* who were responsible for
15 this type of thing, Witness?

16 A. [11:57:24] I didn't hear that.

17 Q. [11:57:29] So it's -- you're finding about it now?

18 A. [11:57:34] Yes, it's today.

19 Q. [11:57:38] And you are also not aware that Abou Al Walid, who succeeded
20 Mohamed Moussa, came to present himself at the hospital when he took up his
21 functions in the hospital?

22 A. [11:58:07] No.

23 THE INTERPRETER: [11:58:13] When he took up his functions in the *Hesbah*,
24 corrects the interpreter.

25 MR DUTERTRE: [11:58:20](Interpretation)

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1 Q. [11:58:20] Today on page 37, lines 22 to 26, of the French transcript, you state:
2 "At the regional hospital of Timbuktu, during the crisis, we were very much in
3 solidarity with each other. We said everything to each other, whether you were in
4 emergencies or medicine or paediatrics, we were all together and we would tell each
5 other everything."

6 So you never heard that the *Hesbah* came to the hospital or that Abou Al Walid had
7 come to the hospital; is that your testimony?

8 A. [11:59:20] No, I didn't hear that.

9 Q. [11:59:25] Nobody stated the word "*Hesbah*" in front of you?

10 A. [11:59:29] No.

11 Q. [11:59:51] Witness --

12 A. [11:59:55] Yes.

13 Q. [11:59:55] -- you went to the BMS at least once, did you not?

14 A. [12:00:01] Yes.

15 Q. [12:00:01] Didn't you?

16 A. [12:00:02] Yes.

17 Q. [12:00:03] Could you speak, because you are nodding and it's not in the
18 transcript.

19 A. [12:00:09] I said yes.

20 Q. [12:00:12] And on that occasion also you didn't hear anybody hear speak about
21 the *Hesbah*?

22 A. [12:00:30] I didn't hear anybody speak about the *Hesbah*, I didn't hear that.

23 Q. [12:00:35] I see. I'm now going, Witness, to page 4217, paragraph 30 thereof,
24 where you state -- I'm not going to quote everything because it's a bit long, but you
25 state in the second sentence, and here I quote:

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1 "The Islamic police followed the same system of law as the normal authority
2 responsible for applying law -- the law." End of quote.

3 Witness, we have a police report from June 2012, the ERN is 0001-7514 by way of
4 reference, the translation 0034-0169. This report was already shown to the judges,
5 and it mentions clearly that torture was used to try to get an alcohol seller to speak in
6 Timbuktu in 2012. Now, Witness, a normal authority responsible for applying the
7 law does not torture, does it?

8 PRESIDING JUDGE MINDUA: [12:02:47](Interpretation) Yes, Ms Taylor.

9 MS TAYLOR: [12:02:50] Mr President, the Prosecutor has put a question to the
10 witness which is based on a document that has not been shown to the witness. The
11 Prosecution has not established any foundation to show the document to the witness,
12 and they've now asked the witness to just simply provide an opinion. Now, this is
13 an entirely inappropriate manner of proceeding.

14 The witness is here to testify on the basis of what he saw and what he heard in 2012,
15 and not to provide an opinion on things he hasn't seen and for which no foundation
16 has been provided to link to his testimony.

17 PRESIDING JUDGE MINDUA: [12:03:35](Interpretation) Prosecutor, how would
18 you answer that?

19 MR DUTERTRE: [12:03:39](Interpretation) Your Honour, I'm in cross-examination.
20 I don't need necessarily to show the document. And I don't think Madam Taylor
21 challenges its existence or the content therein. It's directly linked to a statement of
22 the witness. And I'm not giving an opinion in a sense, I'm making a proposal upon
23 which he can say yes or no.

24 THE INTERPRETER: [12:04:17] The interpreter points out there are lots of off-mic
25 noises.

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1 PRESIDING JUDGE MINDUA: [12:04:22](Interpretation) Perhaps the best way is to
2 put the question directly because in the statement, in paragraph 30 precisely, he says
3 that the population perceived that this system was normal. So maybe you should
4 put your question and then it will be replied to.

5 MR DUTERTRE: [12:04:49](Interpretation) Very well.

6 PRESIDING JUDGE MINDUA: [12:04:51](Interpretation) I see that Ms Taylor is on
7 her feet.

8 MS TAYLOR: [12:04:55] Thank you very much, Mr President. It might be that my
9 objection was not understood, but it's not a matter of giving this witness a proposition
10 and asking for his opinion. It's a matter of eliciting evidence about what he saw and
11 what he experienced in 2012.

12 Now, if the Prosecution wishes to ask the witness about what he saw, they can do so
13 and then they can ask follow-up questions. But they can't put a random proposition
14 based on a document the witness has not seen, for which they've established no
15 foundation to tie to his testimony and then ask him for an opinion. It has no
16 evidential or probative value.

17 Now, if the Prosecution wishes to establish whether he's aware of this incident, they
18 can do so and then ask follow-up questions, but they haven't got anywhere near that.

19 PRESIDING JUDGE MINDUA: [12:05:44](Interpretation) Ms Taylor, we have a basis
20 because there's paragraph 30 in the witness statement. The witness states that the
21 police applied normal methods. And the Prosecutor has his proposition which he is
22 putting to the witness, and that's not good for you. I'm not referring to the report
23 that the witness hasn't seen. Prosecutor.

24 MR DUTERTRE: [12:06:10](Interpretation) I will rephrase it in a general way,
25 your Honour.

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1 Q. [12:06:15] Witness --

2 A. [12:06:19] Yes.

3 Q. [12:06:20] You would agree that the use of torture is not a normal police method,
4 is it?

5 A. [12:06:29] Well, why the -- if the torturers torture thieves for the -- so that the
6 thieves see what they have been stolen --

7 Q. [12:06:47] Witness, that's not exactly what I said.

8 THE INTERPRETER: [12:06:48] The interpreter notes that there is a lot of distracting
9 sounds off mic.

10 MR DUTERTRE: [12:06:57](Interpretation)

11 Q. [12:06:57] Is it normal to use torture, Witness?

12 A. [12:06:59] No, it's not a normal method, I agree. But even in normal times, to
13 get the person to speak it is used.

14 Q. [12:07:22] Witness, adultery was forbidden during the occupation of Timbuktu
15 in 2012 to 2013, during the occupation by AQIM and Ansar Dine, was it not?

16 A. [12:07:37] Yes.

17 Q. [12:07:44] You are aware, Witness, that in June 2012, in Sankoré square, a couple
18 underwent flogging of 100 lashes each for adultery. You know that, do you not?

19 MR DUTERTRE: [12:08:11](Interpretation) We have lost the witness.

20 PRESIDING JUDGE MINDUA: [12:08:15](Interpretation) Court officer, the witness
21 has disappeared.

22 (Pause in proceedings)

23 PRESIDING JUDGE MINDUA: [12:08:42](Interpretation) The technicians are trying
24 to get our witness back. And I take this break to remind -- I take this break to

25 remind the Prosecutor that there is a need to observe breaks between the question and

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1 answer. That is what my colleague was alerting me to.

2 THE INTERPRETER: [12:09:16] The interpreter notes that the omnidirectional
3 microphones being used are picking up all the sound in the room which is creating
4 a lot of off-mic disturbance.

5 (Pause in proceedings)

6 PRESIDING JUDGE MINDUA: [12:10:17](Interpretation) Prosecutor, the witness
7 has returned, so please proceed.

8 MR DUTERTRE: [12:10:21](Interpretation) Thank you, your Honour.

9 Q. [12:10:23] Witness, do you want me to repeat the question or are you able to
10 remember it? If it is the case, could you answer it?

11 A. [12:10:31] Could you repeat it, please.

12 Q. [12:10:34] Are you aware, Witness, that in June 2012, in Sankoré square, a couple
13 was flogged each 100 lashes for adultery? You know that, do you not?

14 A. [12:10:55] Yes.

15 Q. [12:10:58] Were you there in person, Witness?

16 A. [12:11:11] No, I wasn't there in person.

17 Q. [12:11:15] Where were you, Witness?

18 A. [12:11:19] I was at work.

19 Q. [12:11:31] And you know that this couple was taken thereafter to the hospital,
20 do you not, Witness?

21 A. [12:11:38] Yes.

22 Q. [12:11:45] And you, Witness, everyone spoke about this event, didn't they, in
23 Timbuktu?

24 A. [12:11:58] Indeed.

25 Q. [12:12:07] And you know that the Islamic police were present at the time there,

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1 you know?

2 A. [12:12:20] I don't know if the Islamic police were present there or not.

3 Q. [12:12:24] But it was discussed with everybody, this flogging. You don't know
4 if the Islamic police were there?

5 A. [12:12:31] No, I don't know that.

6 Q. [12:12:40] There were also videos that were being sent around, were there not,
7 Witness?

8 A. [12:12:47] Videos of what?

9 Q. [12:12:50] Of the flogging in Place Sankoré in 2012?

10 A. [12:12:56] I haven't seen the videos.

11 Q. [12:12:57] You haven't seen the videos? Very well. And you, Witness, given
12 your profession -- your vocation, I would say, do you find it good to give 100 lashes
13 to a man and a woman?

14 A. [12:13:23] Well, in our law it's not normal.

15 Q. [12:13:36] And it causes great suffering, from the knowledge that you have, does
16 it not?

17 A. [12:13:44] Indeed.

18 Q. [12:13:57] Alcohol was banned by Ansar Dine and AQIM in Timbuktu in 2012,
19 was it not?

20 A. [12:14:06] Yes.

21 Q. [12:14:14] And you are aware that the Islamic police in Timbuktu beat people in
22 the streets who were drinking alcohol, didn't they?

23 A. [12:14:27] I didn't see that. People no longer drank alcohol in the streets since
24 the Islamists arrived.

25 Q. [12:14:38] So you never heard anybody speak about flogging of people, flogging

1 of people who had drunk alcohol in 2012 by the Islamic police?

2 A. [12:15:08] No, only adultery, I was aware of the adultery, yes. But where it
3 concerns drinking alcohol, no. I didn't see that.

4 Q. [12:15:26] So we agree that you did not know everything happening in the town,
5 correct?

6 A. [12:15:36] Mr Prosecutor, during the crisis, everything was known in Timbuktu.
7 We had *grins* and people talked about it, so everything was talked about.

8 Q. [12:15:55] I have understood you, Mr Witness. But you also heard about the
9 destruction of the mausoleums in June/July 2012, Mr Witness?

10 A. [12:16:21] Yes, I was very much touched by that.

11 Q. [12:16:27] That affected you because those mausoleums are important for the
12 people in Timbuktu, right?

13 A. [12:16:37] Yes.

14 Q. [12:16:39] Can you tell the Chamber whether -- why the mausoleums are so
15 important?

16 A. [12:16:51] The mausoleums in Timbuktu are holy places for all the inhabitants of
17 Timbuktu.

18 Q. [12:17:05] And you certainly know, Mr Witness, that the Islamic police were
19 present at the site of the destruction of some of those mausoleums?

20 A. [12:17:21] There were Islamists there who destroyed those mausoleums, but to
21 say that the police is -- the Islamic police was there, I cannot say. And even those
22 who did the destruction were not from Timbuktu also. I do not know where they
23 came from.

24 Q. [12:17:44] Mr Witness, a short while ago, page 54, T-35, lines 3 to 6, you just said:
25 "During the crisis everything was being said in Timbuktu. Everything that

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1 happened, we knew because we had *grins* and we met each other", et cetera.

2 So you did not hear that the Islamic police was present in the Sidi Mahmoud or Alpha
3 Moya cemeteries? You didn't hear about that?

4 A. [12:18:34] Yes.

5 Q. [12:18:56] Mr Witness, you talked about Adama. Is it correct, Mr Witness, that
6 he was relieved of his duties because of his -- of the complaints from the population,
7 that is, his duties as chief of police?

8 A. [12:19:17] Yes.

9 Q. [12:19:28] And it is because people complained that Adama chased after
10 a woman in his house and beat her up. Is that correct?

11 A. [12:19:48] That, I did not hear about. I really did not hear that.

12 Q. [12:19:54] It was not talked about in your *grin*?

13 A. [12:19:59] No.

14 Q. [12:20:13] I will go on to something else, Mr Witness. Page 4214, paragraph 14
15 in your statement, you say: "I knew Al Hassan before 2012 when he was working in
16 the Zorho pharmacy."

17 Mr Witness, you knew Al Hassan several years before 2012; is that correct?

18 A. [12:20:49] Yes.

19 Q. [12:20:55] And both of you are Tamasheq, correct?

20 A. [12:20:59] Yes.

21 MR DUTERTRE: [12:21:05](Interpretation) Can we go very briefly -- very quickly to
22 private session?

23 PRESIDING JUDGE MINDUA: [12:21:10](Interpretation) Very well.

24 Court officer, private session, please.

25 (Private session at 12.21 p.m.)

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1 THE COURT OFFICER: [12:21:23] We are in private session, Mr President.
2 (Redacted)
3 (Redacted)
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1 (Redacted)

2 (Redacted)

3 (Open session at 12.44 p.m.)

4 THE COURT OFFICER: [12:44:26] We are back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [12:44:36](Interpretation) Thank you very much,
6 court officer.

7 Mr Prosecutor.

8 MR DUTERTRE: [12:44:41](Interpretation)

9 Q. [12:44:43] Mr Witness, when you saw him two years ago, in 2020, both of you
10 talked about Mr Al Hassan, correct?

11 A. [12:44:59] No, God is my witness.

12 Q. [12:45:10] Both of you know Mr Al Hassan, but when you met, you never talked
13 about Mr Al Hassan?

14 A. [12:45:21] We never talked about Mr Al Hassan's case. Never.

15 MR DUTERTRE: [12:45:34](Interpretation) I have no further questions.

16 PRESIDING JUDGE MINDUA: [12:45:37](Interpretation) Thank you very much,
17 Mr Prosecutor, for your cross-examination and for your brevity.

18 Now I will turn to the Legal Representative of Victims and ask whether they still have
19 questions for the witness.

20 Maître Nsita.

21 MR LUVENGIKA: [12:45:59](Interpretation) Yes, thank you, your Honour, for
22 giving me the floor. I think that I would just have two small questions on two topics
23 in order to obtain some clarification from the witness. I won't be very long. I think
24 that I will have finished by the break.

25 PRESIDING JUDGE MINDUA: [12:46:23](Interpretation) Very well. There are no

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1 objections.

2 You have the floor, *Maître* Nsita, for your questions.

3 QUESTIONED BY MR LUVENGIKA: (Interpretation)

4 Q. [12:46:34] Good morning, Witness.

5 A. [12:46:36] Good morning.

6 Q. [12:46:38] My name is *Maître* Nsita. I'm the Legal Representative of Victims in
7 this case and I would like to put certain questions to you or at least on two issues,
8 agriculture and then I will come back to the issue of culture, Tamasheq culture, where
9 it comes to rape -- theft --

10 THE INTERPRETER: [12:47:09] Rape, corrects the interpreter.

11 MR LUVENGIKA: [12:47:15](Interpretation)

12 Q. [12:47:15] In your statement, a moment ago the Prosecutor put questions to you
13 on paragraph -- if my memory serves me well, paragraph 8. Paragraph 8, what you
14 said was -- or we've understood that you are from Timbuktu, that you have always
15 worked in Timbuktu as well as your parents. But in this paragraph, it states that
16 your mother, your wife and children came to Timbuktu. So I would like you to tell
17 us where did they come from when you say -- as you express it in paragraph 8, where
18 were they coming from?

19 A. [12:48:17] Thank you. In this part, there is a small mistake. I didn't say that
20 they had come. I said that they are in Timbuktu, I'm the one who came to Timbuktu.
21 I left Goundam to come to Timbuktu. But my relatives -- my parents, my children
22 are in Timbuktu or were in Timbuktu.

23 Q. [12:48:42] But right at the beginning of your examination-in-chief, you were
24 presented with a document and you confirmed the content, did you not?

25 A. [12:48:50] No, I didn't read this paragraph well.

1 Q. [12:48:52] Okay. So when you say that your parents are farmers, what do you
2 mean by -- or your relatives, what do you mean by "relatives"?

3 A. [12:49:08] The population of Timbuktu in one word, the primary work is that of
4 agriculture.

5 Q. [12:49:18] So in your family, your relatives, when you speak about your relatives,
6 who -- who are they for you?

7 A. [12:49:27] My relatives or my parents. My mother, my uncles, my wife, my
8 children, my older brothers, my older sisters. Those are my relatives. My parents,
9 my mother, my uncles, my wife, my children, my older sisters, my sisters. So
10 everybody practised agriculture.

11 Q. [12:49:54] And where did they practice this agriculture?

12 A. [12:49:56] Fourteen kilometres from Timbuktu.

13 Q. [12:50:01] That's towards the Niger River, is it not?

14 A. [12:50:05] Yes, indeed it is.

15 Q. [12:50:14] And what did they grow or cultivate?

16 A. [12:50:17] Rice. They grew rice and beans.

17 Q. [12:50:21] So this agriculture is different to what we would call *marâchage*?

18 A. [12:50:33] Yes.

19 Q. [12:50:41] In the northern region, in a general way, who cultivates rice in the
20 field? Is it men or women who grow rice?

21 A. [12:50:55] Men and women.

22 Q. [12:51:09] Did you know or do you know about the garden of peace?

23 A. [12:51:14] Yes, I know the garden of peace next to the flame of peace.

24 Q. [12:51:21] And what practice is it there?

25 A. [12:51:24] There, it's market gardening or vegetable growing. Salad, they're

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1 different vegetables that they grow. *Maraîchage*, in French, market gardening. So
2 tomatoes, onions, salads.

3 Q. [12:51:42] Well, as you are the son of a farmer or an arable farmer, you know
4 what -- in which period you plant rice and, in 2012, you know when the harvest is?
5 Could you tell the Chamber?

6 A. [12:52:00] Yes. So we are currently in this period where you carry out the
7 harvest. We're presently.

8 Q. [12:52:14] This is the period of planting or when you harvest it?

9 A. [12:52:20] The planting period. And then harvesting is in two months.

10 Q. [12:52:30] Okay. So it's two months. So if I go to -- so if I go to your
11 paragraph 9, and paragraph 20, now you speak about an abundance of food in
12 Timbuktu in 2012 because of the fuel and buses that the Islamists allegedly gave to
13 the farmers, but here you seem to say that the harvesting was in two months. And
14 how is that in your statement you claimed that in 2012, the market was inundated
15 with agricultural products because the Islamists had given fuel to the farmers?

16 A. [12:53:24] Yes, obviously, the period is also different. The Islamists didn't have
17 it (indiscernible), but they gave fuel to them. And the people speak about that until
18 today. They still speak about the period of the crisis, the abundance that there was
19 of rice, melons, watermelons. They still speak about that now.

20 Q. [12:53:54] Is it not an abundance after the period of occupation?

21 A. [12:54:05] This is something that is said. But in our religion we say it comes
22 from God. There's a lot of rain as well. That's it. There was a lot of rain.

23 Q. [12:54:20] Very well. I will go on to my second subject here.

24 So in answer to the question of the Prosecutor, you wanted to stress a specific aspect
25 in Timbuktu where it concerned the women being victims of sexual violence. You

1 said in other locations it was like that, but in Timbuktu, it was different. Could you
2 be more specific why the women in Timbuktu were not embarrassed to say or they
3 didn't want to say that they had been raped when a lot of women are reticent to say
4 that? But why are women in Timbuktu so specific that they shout from the rooftops
5 that they've been victims of rape?

6 A. [12:55:30] In Timbuktu, I never saw a woman cry out that she had been raped.
7 In Timbuktu, women are respected. Women are respected because -- also in the
8 family, it's rare to see a person from Timbuktu to cry out that she had been raped.
9 That's something that you don't see. You wouldn't see it. It's very difficult to see
10 that.

11 Q. [12:55:58] So what you're saying is that in your *grin* you couldn't have
12 conversations of that type about whether a woman had been raped because that
13 would not be said?

14 A. [12:56:09] What I wanted to say is that in the families as well, the members of
15 the family, they can release certain secrets, but they can keep things to themselves.
16 People were always together and they were always in solidarity with each other. If
17 something happens in my family, when I come to the *grin*, we try and debate it, we
18 speak about it or there a neighbour who is aware of it. So we give a lot of
19 information to each other.

20 Q. [12:56:38] Okay. Thank you, Witness.

21 MR LUVENGIKA: [12:56:41](Interpretation) Your Honour, I have no further
22 questions and that is where my cross-examination finishes.

23 PRESIDING JUDGE MINDUA: [12:56:51](Interpretation) Thank you very much,
24 *Maître* Nsita, for your question and thank you also for your concision or brevity.
25 We still have 25 minutes approximately. I turn to the Defence to see if there are

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1 additional questions.

2 Ms Taylor.

3 MS TAYLOR: [12:57:14] Thank you very much, Mr President. I do have some
4 questions arising from cross-examination. I believe this was in open session, so I'll
5 try to stay in open session --

6 PRESIDING JUDGE MINDUA: [12:57:25] Very well.

7 MS TAYLOR: [12:57:25] -- while warning the witness that we are in open session.

8 QUESTIONED BY MS TAYLOR:

9 Q. [12:57:33] Now, Mr Witness, at page 36 today, you were asked by the
10 Prosecution if it was thanks to MSF that everything was free of charge at the hospital.
11 Do you recall that?

12 A. [12:57:47] Yes, I remember that very well. But just -- it was also in complicity
13 with the Islamists, because the Islamists were there to ensure security as well. If
14 there wasn't security, then these medicines would have never been there and there
15 wouldn't have been MSF officials in Timbuktu, no.

16 Q. [12:58:17] Thank you for that clarification. Now, Mr Witness, at paragraph 21
17 of your statement you refer to the fact that there was no corruption when the Islamists
18 was there as concerns distribution of aid. You also mentioned the fact that it was not
19 necessary to pay the --

20 MR DUTERTRE: [12:58:31](Interpretation) Your Honour, your Honours?

21 PRESIDING JUDGE MINDUA: [12:58:35](Interpretation) Prosecutor.

22 MR DUTERTRE: [12:58:39](Interpretation) This question that Ms Taylor
23 doesn't -- isn't for the cross-examination. She can address whatever she wants to in
24 her examination-in-chief. So I don't think that now she can go into this point which
25 wasn't addressed in cross-examination which is in the written statement.

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1 PRESIDING JUDGE MINDUA: [12:59:03](Interpretation) Ms Taylor, I think that the
2 Prosecutor is right because in the cross-examination, they didn't speak about
3 corruption. So that's a new subject and you cannot -- you do not have the right to
4 evoke it now, so please drop it.

5 MS TAYLOR: [12:59:23] If I may be heard, Mr President. I actually hadn't put my
6 question. I was interrupted mid question, mid question, so I didn't actually have an
7 opportunity to formulate a question to which an objection could be made. My
8 question was directed again to what he said in cross-examination, where he was
9 saying it was thanks to the MSF that things were free. And my question following
10 on from that answer that he gave in cross-examination is whether the Islamists played
11 a role in ensuring free services through efforts made to eliminate corruption. That
12 does, I believe, stem from the question and answer put in cross-examination. And I
13 do believe we should be entitled to put questions on information that comes out in
14 cross-examination, if the Chamber is going to draw any inferences from this. So
15 either we have an opportunity to present our defence or we don't. And I
16 respectfully submit that we do have this opportunity in the rules and the statute and
17 that is what we are merely doing today.

18 PRESIDING JUDGE MINDUA: [13:00:42](Interpretation) Ms Taylor, the field or
19 scope for additional questions is directed by the rules. It's limited to questions
20 raised during the cross-examination. It's true, that the witness said, following the
21 question of the Prosecutor, that MSF gave medicine, they had paid the officials or civil
22 servants, et cetera. But there was no speak about corruption. So you can put your
23 question, but don't speak about corruption. Don't speak about its -- it's outside of
24 this question.
25 Prosecutor, I see you standing.

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1 MR DUTERTRE: [13:01:28](Interpretation) Yes, just to add one point, your Honour,
2 which is that Ms Taylor cannot suggest or put to the witness the answer by reading
3 the paragraph of the statement while it's also not something that comes from the
4 cross-examination.

5 PRESIDING JUDGE MINDUA: [13:01:44](Interpretation) Very well, Ms Taylor.

6 MS TAYLOR: [13:01:48] Thank you --

7 PRESIDING JUDGE MINDUA: [13:01:50](Interpretation) Please reformulate your
8 question and then we will move on.

9 MS TAYLOR: [13:01:57] Thank you very much, Mr President. I do believe we can
10 do this quickly.

11 Q. [13:01:58] Now, Mr Witness, you've just referred to the additional contribution
12 of the Islamists in the field of security. Were there other contributions made by the
13 Islamists to the functioning of the hospital and the provision of services?

14 PRESIDING JUDGE MINDUA: [13:02:20](Interpretation) Prosecutor?

15 MR DUTERTRE: [13:02:21](Interpretation) This is a new subject which Ms Taylor is
16 addressing now. She had an examination-in-chief. She made choices not to speak
17 about it. She cannot use re-examination - excuse the Anglicism - for -- to put
18 questions she didn't put in examination-in-chief with a way of questioning which is
19 potentially leading, which she would not have been able to use in
20 examination-in-chief in the first place.

21 PRESIDING JUDGE MINDUA: [13:02:53](Interpretation) Ms Taylor, I agree with the
22 Prosecutor, because when you asked were there other contributions from -- no, that is
23 outside of it there. So please reformulate or move on to something else.

24 MS TAYLOR: [13:03:04] Thank you, Mr President.

25 And thank you, Mr Prosecutor.

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1 Q. [13:03:07] Now, going back to your answer, Mr Witness, the answer you gave in
2 cross-examination, where you said it was thanks to the MSF that there were services
3 that were provided for free at the hospital, my question is, was it also thanks to the
4 Islamists or not?

5 A. [13:03:32](No interpretation)

6 MR DUTERTRE: [13:03:32](Interpretation) Your Honour, it might obstructive but it
7 has already been answered. Ms Taylor continues in the same line, despite the debate
8 we've just had.

9 MS TAYLOR: [13:03:49] Mr President, I have reformulated my question and I
10 received constant objections on different grounds. The first objection was that it was
11 in examination. Then it was not in examination but a new subject. I have now
12 asked a question which follows up directly from the question that was put in
13 cross-examination. It's not leading. He has two open opportunities to say yes or
14 not. He keeps trying to answer and each time he is not being given an opportunity
15 to answer.

16 It is my last question, and I would hope that the Chamber is interested in hearing the
17 response. I see the judges shaking heads which is concerning.

18 PRESIDING JUDGE MINDUA: [13:04:35](Interpretation) Please go ahead,
19 Ms Taylor. What did you say?

20 MS TAYLOR: [13:04:39] I'm sorry, I saw the judges shaking their head contrary, but
21 I would hope that I am allowed to elicit information that might assist the judges to
22 inform their assessment of the charges, and I do believe this question would. So the
23 witness is on the stand, he seems willing to answer. The question is, can I put this
24 question to him or not?

25 PRESIDING JUDGE MINDUA: [13:05:07](Interpretation) The Prosecutor's standing.

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1 Prosecutor.

2 MR DUTERTRE: [13:05:09](Interpretation) Yes, your Honour. The answer was
3 given in the French transcript, page 73, line 9 to 17.

4 PRESIDING JUDGE MINDUA: [13:05:17](Interpretation) What is his answer,
5 Prosecutor?

6 MR DUTERTRE: [13:05:19](Interpretation) So the question was --

7 "Mr Witness, the Prosecution asked you if it was thanks to MSF that everything was
8 free at the hospital. Do you remember this?

9 "Yes, I remember it very well. It was also in complicity with the Islamists also
10 because" - well, that's the -- the transcript isn't very clear - "there's also issues of
11 security. So it was there -- there were people with weapons to ensure security."

12 PRESIDING JUDGE MINDUA: [13:05:42](Interpretation) Ms Taylor --

13 MS TAYLOR: [13:05:44] Thank you. So as you can see --

14 PRESIDING JUDGE MINDUA: [13:05:49](Interpretation) We have the answer,
15 Ms Taylor. So it has already been asked and answered.

16 MS TAYLOR: [13:05:53] Thank you very much, Mr President. As you can see from
17 the transcript, I didn't actually put the question because the witness responded
18 himself to refer to the issue of security before I put the question. I asked him if he
19 remembered the Prosecutor's question. He said yes. He had a spontaneous
20 reference to security. From that point onwards, I have not been allowed to put
21 a single question to this witness. So I actually have not put a single question in
22 re-examination yet.

23 PRESIDING JUDGE MINDUA: [13:06:25](Interpretation) Well, we already have the
24 answers to the questions that you want to put. That's the reason why. So it's good,
25 it's finished.

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1 MS TAYLOR: [13:06:34] Is that your direction, Mr President, that I cannot put any
2 questions to this witness on that subject?

3 PRESIDING JUDGE MINDUA: [13:06:44](Interpretation) On the question which is
4 on the transcript and for which we have already the answer to, the witness has
5 already answered it.

6 MS TAYLOR: [13:06:52] Thank you, Mr President. We didn't have any further
7 questions. We had hoped to elicit information on that, but that will conclude our
8 re-examination during which we were not allowed to put a single question.
9 Thank you.

10 PRESIDING JUDGE MINDUA: [13:07:08](Interpretation) Thank you very much,
11 Ms Taylor, for your additional questions.

12 Witness, we are coming to the end of your testimony. On behalf of the Chamber, I
13 would like to thank you most sincerely for having answered calmly and in a clear
14 way and with a lot of patience, the questions that were put to you. Now that your
15 testimony has finished, I wish you all the best for the follow up and also success in
16 your career.

17 THE WITNESS: [13:07:59](Interpretation) Thank you.

18 (The witness is excused)

19 PRESIDING JUDGE MINDUA: [13:08:06](Interpretation) Before finishing the
20 session, as usual I would like to thank the parties and participants, the court reporters
21 and the interpreters, the security guards as well as our public in the gallery and afar,
22 as usual.

23 For the continuation of our hearings, the parties and participants will be informed by
24 email in the coming days. So for the moment in our timetable, we have Witness
25 D-0246 for Monday, 14 November, and probably also Tuesday, 15 November. Is that

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- 1 correct, Ms Taylor?
- 2 MS TAYLOR: [13:09:06] Yes, indeed, Mr President.
- 3 PRESIDING JUDGE MINDUA: [13:09:13](Interpretation) Thank you very much,
- 4 Ms Taylor.
- 5 I wish you all a very good day for what is left of it and see you next time.
- 6 We shall now finish the session. Court is adjourned.
- 7 THE COURT USHER: All rise.
- 8 (The hearing ends in open session at 1.09 p.m.)