

Trial Hearing
WITNESS: MLI-D28-P-0006

(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 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 12 October 2022
10 (The hearing starts in open session 9.33 a.m.)
11 THE COURT USHER: [9:33:09] All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE MINDUA: [9:33:41](Interpretation) The Court is once more in
14 session.
15 Good morning, everyone.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:33:50] 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: [9:34:10](Interpretation) Thank you very much,
22 court officer.
23 We will begin with the appearances. Office of the Prosecutor, Mr Prosecutor.
24 MR DUTERTRE: [9:34:24](Interpretation) Good morning, Mr President, good
25 morning, your Honours. The Prosecution is represented today by Mr Garcia,

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1 Mr Dutertre. And I would like to welcome everybody who is here in the room or
2 outside and is part of our debates, including the witness.

3 PRESIDING JUDGE MINDUA: [9:34:49](Interpretation) Thank you very much,
4 Mr Dutertre.

5 Defence, Ms Taylor.

6 MS TAYLOR: [9:34:54] Good morning, your Honours, good morning to everyone in
7 the courtroom and everyone assisting around the courtroom as well. The Defence
8 for Mr Al Hassan is represented today by Mr Maauloud Al Ansary, Maître Mohamed
9 Youssef and myself, Melinda Taylor. Thank you.

10 PRESIDING JUDGE MINDUA: [9:35:16](Interpretation) Thank you very much,
11 Ms Taylor.

12 And I would also like to say good morning to Mr Al Hassan.

13 The legal representatives for victims.

14 Counsel.

15 MR LUVENGIKA: [9:35:34](Interpretation) Good morning, your Honours, good
16 morning to my colleagues and to your teams. The victims are represented today by
17 myself Fidel Nsita Luvengika and Ms Prisque Biyéké Dipanga, who is my assistant.
18 Thank you.

19 PRESIDING JUDGE MINDUA: [9:35:57](Interpretation) Thank you very much,
20 Mr Nsita.

21 I turn now to the counsel for the witness under Rule 74.

22 MS CARILOU: [9:36:04] Good morning, Mr President, good morning, your
23 Honours. I'm Leto Cariolou, and I appear before you today as counsel for -- Rule 74
24 counsel for witness D-0006. Thank you.

25 PRESIDING JUDGE MINDUA: [9:36:25](Interpretation) Thank you very much, Ms

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1 Cariolou.

2 So this morning, as you say, we will be continuing to hear the Defence witness

3 D-0006.

4 And now, Mr Witness, good morning.

5 Mr Witness, can you hear me?

6 WITNESS: MLI-D28-P-0006 (Continuing)

7 (The witness speaks Tamasheq)

8 (The witness gives evidence via video link)

9 THE WITNESS: [9:36:49](Interpretation) I can hear you well.

10 PRESIDING JUDGE MINDUA: [9:36:54](Interpretation) Mr Witness, on behalf of
11 the Chamber, I welcome you here again. You are still under oath and you must
12 speak the truth, the whole truth and nothing but the truth.

13 THE WITNESS: [9:37:27] (Interpretation) If God is willing.

14 PRESIDING JUDGE MINDUA: [9:37:31](Interpretation) I would like you to bear in
15 mind the practical advice that I have already given you. Please speak clearly and at
16 a moderate speed in order to help the interpreters in their work.

17 So I think we can now straightaway hand over to the Prosecution for the continuation
18 and conclusion, I believe, of the cross-examination.

19 Prosecutor.

20 MR DUTERTRE: [9:38:25](Interpretation) The end will not be in my first question,
21 but hopefully it will not be too long.

22 Mr President, could we please move into private session please, sir.

23 PRESIDING JUDGE MINDUA: [9:38:44](Interpretation) Can we move into private
24 session, Madam Court Officer.

25 (Private session at 9.38 a.m.)

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- 1 THE COURT OFFICER: [9:38:54] We are in private session, Mr President.
- 2 PRESIDING JUDGE MINDUA: [9:39:01](Interpretation) Thank you very much,
- 3 court officer.
- 4 Prosecution.
- 5 MR DUTERTRE: [9:39:07](Interpretation) Thank you, Mr President.
- 6 QUESTIONED BY MR DUTERTRE: (Interpretation)(Continuing)
- 7 Q. [9:39:13] Good morning, Mr Witness. Can you see me and hear me well?
- 8 A. [9:39:30] I greet you this morning, thank you. I can see you well and I can hear
- 9 you well.
- 10 Q. [9:39:42] Thank you very much, Mr Witness.
- 11 So my first question, Mr Witness, is it true that you have the (Redacted)
- 12 A. [9:40:33] I am sorry for interrupting you. Indeed, (Redacted)
- 13 (Redacted), and some people (Redacted).
- 14 Q. [9:41:00] That's very clear, thank you very much. And Mr Witness, you have
- 15 (Redacted), is that
- 16 correct, Mr Witness?
- 17 A. [9:41:43] I'm not sure what you're asking me.
- 18 PRESIDING JUDGE MINDUA: [9:41:54](Interpretation) Ms Taylor.
- 19 MS TAYLOR: [9:41:55] Thank you, Mr President. It might assist my colleague to
- 20 know that the name was not said properly. So that might be where the confusion
- 21 lies.
- 22 PRESIDING JUDGE MINDUA: [9:42:08](Interpretation) Yes, Prosecution.
- 23 MR DUTERTRE: [9:42:12](Interpretation) I will repeat my question.
- 24 Q. [9:42:17] You have a (Redacted), do you not, Mr Witness?
- 25 A. [9:42:26] Yes, I have a (Redacted).

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- 1 Q. [9:42:30] And (Redacted) name is (Redacted), is that correct,
2 Mr Witness?
- 3 A. [9:42:43] That is the truth. That is clear.
- 4 Q. [9:42:51] (Redacted)
5 (Redacted), was he not, Mr Witness?
- 6 A. [9:43:27] That is not correct.
- 7 Q. [9:43:42] (Redacted)
8 (Redacted), Mr Witness? Is that what I should understand from what you're saying?
- 9 A. [9:43:58] Yes, that is indeed what I said. (Redacted)
10 (Redacted).
- 11 Q. [9:44:11] (Redacted)
12 (Redacted)
- 13 A. [9:44:32] (Redacted).
- 14 Q. [9:44:39] But -- we may come back to this, (Redacted)
15 (Redacted)
- 16 A. [9:45:45] Everything that happened in 2017 is not something I know about. I
17 have no information about that. (Redacted)
18 (Redacted)
- 19 Q. [9:46:05] Duly noted. I apologise if I pronounce it incorrectly, but do you know
20 somebody by the name of (Redacted) Do you, Mr Witness (Redacted)
- 21 A. [9:46:39] (Redacted)
- 22 Q. [9:46:44] (Redacted) relative of you and your (Redacted), is (Redacted) not,
23 Mr Witness?
- 24 A. [9:47:04] Yes, that is correct, (Redacted).
- 25 Q. [9:47:08] And if I understand correctly, (Redacted)- the (Redacted) of your

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- 1 (Redacted)- is the (Redacted), is that correct, Mr Witness?
- 2 A. [9:47:51] No, it's not like that.
- 3 Q. [9:47:54] Could you please explain the situation then to us because of course you
- 4 know it better than we do.
- 5 A. [9:48:10] If you would like to know it, then I will explain it to you.
- 6 Q. [9:48:14] Yes, please do.
- 7 A. [9:48:26] So the – the (Redacted).
- 8 Q. [9:48:39] I think there might have been a translation problem because I thought
- 9 that's what I said, but it's now clear.
- 10 So Mr Witness, (Redacted)
- 11 (Redacted) by the Malian authorities in (Redacted), is that correct?
- 12 A. [9:49:27] Yes, this is correct. (Redacted)
- 13 (Redacted).
- 14 Q. [9:49:43] We are in private session, so you're talking here about the (Redacted)
- 15 (Redacted), Mr Witness, is that correct?
- 16 A. [9:49:58] Yes, indeed, it was (Redacted).
- 17 Q. [9:50:06] We will come back to the *sécurité d'État*, Mr Witness - and I'm going to
- 18 speak slowly for the interpreters - yesterday, in the English transcript, T-206, on page
- 19 28, lines 6 to page 30, line 20, you talked about a movement involving -- well,
- 20 a protest by the detainees, and that would be at the end of 2017. Is that correct,
- 21 Mr Witness?
- 22 A. [9:51:42] (No interpretation)...
- 23 MR DUTERTRE: [9:51:50](Interpretation) There was no translation into French?
- 24 THE WITNESS: [9:51:57](Interpretation) That's right.
- 25 MR DUTERTRE: [9:51:59](Interpretation)

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1 Q. [9:51:59] And, in fact, more accurately, that was December 2017, was it not?

2 A. [9:52:41] It's good that you tell me when it was, but I don't know exactly when it
3 was. But as you say, it was towards the end of the year, the 9th, 10th or 11th month.

4 Q. [9:53:02] Yesterday, you talked about the arrival of Mr Al Hassan at the *sécurité*
5 *d'État* prison, Mr Witness. (Redacted)

6 (Redacted).

7 A. [9:53:57] (Redacted)

8 (Redacted)

9 Q. [9:54:20] (Redacted), yesterday, at transcript 206,
10 English transcript, page 41, line 19 to page 42, line 2, you told us that you (Redacted)
11 (Redacted).

12 Do you agree with me that we are not talking there about (Redacted), Mr Witness, are
13 we?

14 A. [9:55:36] I don't -- I can't tell you whether it was a (Redacted).

15 Q. [9:55:50] Yesterday, Mr Witness, transcript, English version, T-206, page 36, lines
16 15 to 17, you told us that (Redacted). So it was dark at
17 that time, was it not?

18 A. [9:57:14] Yes, that is (Redacted) at night, (Redacted)

19 PRESIDING JUDGE MINDUA: [9:57:32](Interpretation) Ms Taylor.

20 MS TAYLOR: [9:57:35] Thank you very much, Mr President. The reason why I am
21 rising is because in the question at page 8, lines 12 to 17, what was actually said in
22 Tamasheq was not a double negative but rather:

23 "Can you confirm that we're talking about (Redacted)."

24 So rather than it being it's (Redacted) that was put to the witness, it was put to the
25 witness:

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1 "Can you confirm that it was a (Redacted)?"

2 Now this can obviously be the subject of a transcript correction later, but I'm raising it
3 because it might inform any further questions.

4 PRESIDING JUDGE MINDUA: [9:58:33](Interpretation) Prosecutor, how are we
5 going to resolve that?

6 MR DUTERTRE: [9:58:41](Interpretation) I see Ms Taylor speaks Tamasheq as I
7 speak Arabic, but perhaps the simplest way is to put the question once again to the
8 witness.

9 PRESIDING JUDGE MINDUA: [9:58:55](Interpretation) Yes, indeed. Please do so.

10 MR DUTERTRE: [9:58:59](Interpretation)

11 Q. [9:58:59] Mr Witness, there may have been a problem of understanding. The
12 (Redacted), we are not talking about a (Redacted), are we?

13 A. [10:00:06] Yes. It was not a (Redacted). It was a (Redacted)-- it was a (Redacted)
14 hole. There were a (Redacted) initially, but -- (Redacted). (Redacted)
15 (Redacted)
16 (Redacted).

17 Q. [10:00:41] Thank you for this clarification, Mr Witness.

18 And if I recall correctly, yesterday, transcript 206, English, page 20, you described cell
19 6 as a small cell and there were 20 people, I think that's what you said yesterday.

20 A. [10:01:54] Yes, indeed, I said there were about 20 (Redacted). I also said it was
21 a small room, about 6 by 4 metres. (Redacted)
22 (Redacted).

23 Q. [10:02:11] Yes, indeed. You did say all that yesterday, Mr Witness.

24 My next question will be a bit longer, so I will take it slowly.

25 So Mr Witness, to summarise my questions. (Redacted)

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1 about (Redacted) people. (Redacted)

2 (Redacted)

3 (Redacted)

4 Is that your statement before the judges' bench today, Mr Witness?

5 A. [10:04:17] Yes, indeed. Yes, indeed, that is my statement before the
6 International Criminal Court today. Indeed, when someone comes in, if they're
7 a (Redacted) person, (Redacted)

8 (Redacted)

9 (Redacted) came in, (Redacted)

10 (Redacted).

11 Q. [10:05:51] I (Redacted)

12 (Redacted)

13 (Redacted).

14 THE INTERPRETER: [10:06:31] Interpreter correction, page 10 -- line 25: "[...] a
15 (Redacted) person [...]" Apologies.

16 THE WITNESS: [10:07:21](Interpretation) There are times when there is noise, others
17 when things are quiet. And since people don't see anyone trying to organise things
18 indoors, they -- inside the prison, they stay calm and they organise themselves as it
19 were.

20 MR DUTERTRE:[10:07:50](Interpretation)

21 Q. [10:07:51] But there is a cell -- there are other cells with people inside, are there
22 not?

23 PRESIDING JUDGE MINDUA: [10:08:00](Interpretation) Ms Taylor.

24 MS TAYLOR: [10:08:03] Thank you, Mr President. It was just to note that the
25 English translation is still coming through. I'll just pass that on in case it doesn't go

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1 through to the French interpretation. The English interpreters have mentioned that
2 there's a need for a greater space between questions and answers, and I think it's
3 important not to cut off the witness's answer. Thank you.

4 PRESIDING JUDGE MINDUA: [10:08:42](Interpretation) Thank you very much.
5 That's an important reminder to you, Mr Prosecutor.

6 MR DUTERTRE: [10:08:47](Interpretation) Yes, thank you. I would like to thank
7 the opposite counsel, Ms Taylor. Thank you.

8 Q. [10:09:02] Mr Witness, there were other cells in the *sécurité d'État* with people
9 inside. That does make a lot of noise, does it not, Mr Witness?

10 A. [10:09:54] So noise, indeed, it's normal for there to be noise in any place where
11 you have more than three people. It's highly probable that there's going to be noise
12 when people are gathered together. This often generates noise. And that's the
13 reason a woman can sometimes have a fight with her husband or her children.

14 Q. [10:10:22] So, Mr Witness, (Redacted)
15 in (Redacted)
16 isn't that right?

17 A. [10:11:27] What was said to (Redacted)- or (Redacted) metres away from
18 (Redacted)
19 (Redacted).

20 Q. [10:11:46] (Redacted)
21 (Redacted), isn't that right, Mr Witness?

22 THE INTERPRETER: [10:12:41] A message from the Tamasheq booth: Mr President,
23 could we please ask the witness to restate his answer and be a little more concise.

24 PRESIDING JUDGE MINDUA: [10:12:55](Interpretation) Mr Witness, could you
25 please repeat your answer and take breaks in order to allow for interpretation.

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1 Thank you.

2 THE WITNESS: [10:13:47](Interpretation) The *audition* cell has two doors. One is
3 towards the east, it is always closed and there's one towards the south, that one opens.
4 And that's the one that the people who are going to be questioned are taken in and
5 out of. (Redacted).

6 MR DUTERTRE: [10:14:24](Interpretation)

7 Q. [10:14:25] Mr Witness, I understand that to enter the room, the door has to be
8 open, but when there are people inside, that door is closed, isn't it, Mr Witness?

9 A. [10:14:57] Which cell are you talking about?

10 Q. [10:15:02] The *audition* cell.

11 A. [10:15:18] Yes, indeed. When people go in, the door is then closed, (Redacted)

12 (Redacted)

13 (Redacted).

14 Q. [10:15:43] So, Mr Witness, you also said - transcript T-206, in English, page 37,
15 lines 5 to 9 -- no, I apologise. You said that the next day, Al Hassan had been taken
16 out and that he'd been taken to where the vehicles were kept.

17 Mr Witness, do you not agree with me that (Redacted)

18 (Redacted)

19 A. [10:17:49] What you said is true, but what I said was, indeed, (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [10:18:11] But, Mr Witness, yesterday, you said, transcript ...

23 PRESIDING JUDGE MINDUA: [10:18:20](Interpretation) Ms Taylor, please.

24 MS TAYLOR: [10:18:23] Thank you, and I could be corrected, but I've been told that
25 the interpretation was still coming and Maître Dutertre interrupted it. So I do think

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1 it's important to wait for the interpretation to conclude as we've had quite a lengthy
2 answer and it's important that it all be reflected. Thank you.

3 PRESIDING JUDGE MINDUA: [10:18:49](Interpretation) Yes, so Mr Prosecutor,
4 since the Tamasheq interpretation is consecutive, it's hard perhaps for you to know
5 whether they've finished or not. Now the easiest pointer is to look at the Tamasheq
6 booth and see if their red light is on, microphone light, and you'll see if it's finished or
7 not.

8 MR DUTERTRE: [10:19:13](Interpretation) Yes, indeed, and they are in front of me,
9 so I have direct line of sight, that is true. I apologise and I'm sorry -- I apologise to
10 the interpreters. I was not careful.

11 So could the Tamasheq interpreters please finish the interpretation.

12 PRESIDING JUDGE MINDUA: [10:19:26](Interpretation) Tamasheq booth, please
13 could you go back to the witness statement.

14 THE WITNESS: [10:19:33](Interpretation) Yes, indeed, your assertion is true, and I
15 said that where -- the place where (Redacted), that is a place that is about (Redacted)
16 (Redacted)
17 (Redacted).

18 MR DUTERTRE: [10:19:58](Interpretation) So I do have a bit of reflection from the
19 ceiling lights, but I think that the translation is now complete.

20 Q. [10:20:05] So Mr Witness, yesterday, transcript 206, page 40, lines 18 to 20, you
21 said that the (Redacted) metres away. Today, you are saying (Redacted) metres. So
22 what is the correct version, Mr Witness?

23 PRESIDING JUDGE MINDUA: [10:20:49](Interpretation) Ms Taylor.

24 MS TAYLOR: [10:20:51] (Overlapping microphones)...I have been informed that
25 there were words missing from the last response, perhaps because it was interrupted,

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1 but when the witness said "(Redacted)

2 (Redacted).

3 So perhaps that could be clarified.

4 PRESIDING JUDGE MINDUA: [10:21:20](Interpretation) Well, Mr Prosecutor, I

5 received a handwritten note saying the same. So could you please restate your

6 question.

7 MR DUTERTRE: [10:21:27](Interpretation) Which one? I can put all the questions

8 that Ms Taylor will be using in the redirect, but I'll oblige.

9 PRESIDING JUDGE MINDUA: [10:21:42](Interpretation) Well, it seems that in the

10 interpretation, a part of the sentence was lost concerning the distance between where

11 the (Redacted).

12 MR DUTERTRE: [10:21:57](Interpretation) All right. I'll try and reformulate and

13 we'll see if that will meet the needs of the Court.

14 Q. [10:22:04] So Mr Witness, that location where (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 THE INTERPRETER: [10:23:33] Tamasheq booth: Mr President, could we ask the

19 witness to be concise in his relation of the facts, so that we can have all the

20 information.

21 PRESIDING JUDGE MINDUA: [10:23:43](Interpretation) Well, could you please

22 translate what has been said so far and we will see if anything is missing.

23 THE WITNESS: [10:23:52](Interpretation) (Redacted)

24 (Redacted)

25 (Redacted).

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1 PRESIDING JUDGE MINDUA: [10:24:16](Interpretation) So that's perfect.

2 Mr Al Ansary, do you agree with the interpretation?

3 MR AL ANSARY: [10:24:20](Overlapping microphones) *Oui, Monsieur le Président.*

4 PRESIDING JUDGE MINDUA: [10:24:22](Interpretation)

5 Fine, so that is resolved.

6 Over to you, Mr Prosecutor.

7 MR DUTERTRE: [10:24:28](Interpretation) Thank you, Mr President.

8 Q. [10:24:30] So Mr Witness, you will agree with me that through the (Redacted) your
9 door, you could not see what was happening (Redacted) metres away. Isn't that true,
10 Mr Witness? Also just across from you, there was the *audition* cell, isn't that right?

11 A. [10:25:39] No. I'll recall to you that I am under oath, and therefore all I can say
12 to you is what I can see (Redacted). I can only talk about those things that I can see
13 well.

14 Q. [10:26:04] So in reality, Mr Witness, what you know on this issue, all you know
15 is what you've heard. So you can only speak to things you've heard talked about,
16 isn't that right?

17 PRESIDING JUDGE MINDUA: [10:26:35](Interpretation) Ms Taylor, please.

18 MS TAYLOR: [10:26:38] I apologise, but I do believe it's an important addition. In
19 his last response, he added:

20 (Redacted)

21 So I do believe that it's fair for that to be clarified whether he said that before this
22 question - which is the opposite - is put to him.

23 PRESIDING JUDGE MINDUA: [10:26:59](Interpretation) Ms Taylor, I fear that
24 you've started your pleadings, so please let the witness speak and then you will -- we
25 will listen to his answers.

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1 MR DUTERTRE: [10:27:16](Interpretation) Well, I'm (indiscernible) every minute

2 (Overlapping microphones)

3 PRESIDING JUDGE MINDUA: [10:27:20](No interpretation)(Overlapping

4 microphones)

5 MR DUTERTRE: [10:27:22](Interpretation) I'm sorry --

6 PRESIDING JUDGE MINDUA: [10:27:23](Interpretation)(Overlapping

7 speakers) -- you cut me off.

8 Ms Taylor?

9 MS TAYLOR: [10:27:27] Mr President, just to be clear, I was not pleading. I was

10 drawing the attention of the Chamber to the fact that there were particular words that

11 were omitted from the response that was interpreted. So there was an entire phrase

12 that was not interpreted from his last response, and I do believe it was an important

13 phrase that directly informs any further questioning.

14 Now, again, we can ask for the transcripts to be corrected, but given that

15 Mr Duterte's question is predicated on the last answer, it might be helpful for that to

16 be clarified so that we don't proceed on a mistaken assumption.

17 PRESIDING JUDGE MINDUA: [10:28:18](Interpretation) All right, Ms Taylor, in

18 Latin there is the expression *in medio virtus*; so virtue is the middle road. Earlier, the

19 interpreter asked me if we could have the witness repeat and I said no, and I asked

20 Mr Al Ansary to confirm the translation.

21 So we can't start interrupting the witness asking him to repeat every time replacing

22 one word with another. When the witness is done, we let him answer. We ask our

23 interpreters -- our qualified interpreters to translate and we trust them as far as we

24 can. So please, if we could stay reasonable.

25 So Prosecutor, over to you.

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1 MR DUTERTRE: [10:29:12](Interpretation) Just a comment, Mr President. These
2 objections are becoming obstructive, so -- I mean, I don't mind taking a couple of
3 objections but not at every turn in the road. Another statement: My question is not
4 necessarily based on what the witness just said. I mean, to me, it's evident: (Redacted)
5 (Redacted)
6 am simply putting questions to him because he needs to answer for the accused.
7 So that's my line of questioning.

8 PRESIDING JUDGE MINDUA: [10:29:52](Interpretation) That is absolutely
9 understood. Please proceed.

10 MR DUTERTRE: [10:29:56](Interpretation)

11 Q. [10:29:58] Mr Witness, in (Redacted), you told the Defence that you did not know
12 (Redacted), is that correct?

13 Oh, I see that, in fact, we don't have your answer to the last question which was:
14 Everything you know on that question is the result of hearsay, isn't it?

15 A. [10:31:16] Yes. I did not give an answer because I didn't have the information
16 back to me. So the information you're talking about, this is -- this information
17 relating to (Redacted)

18 (Redacted)

19 (Redacted).

20 Q. [10:31:52] Mr Witness, I'm going to ask my question again because I -- your
21 reply doesn't seem to answer my question. It may be the way I put it.

22 (Redacted)

23 (Redacted)

24 A. [10:33:21] (Redacted)

25 (Redacted)

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1 Q. [10:33:33] I understand. I see. Mr Witness, in (Redacted), you told the Defence
2 for Mr Al Hassan (Redacted)?

3 A. [10:34:13] Yes.

4 Q. [10:34:19] For the Chamber, (Redacted), page 1 -- tab 1.

5 THE INTERPRETER: [10:34:40] The interpreter: Apologies.

6 MR DUTERTRE: [10:34:41] (Interpretation)

7 Q. [10:34:42] And page 0671. And there, it says, and I quote:

8 "Indeed, it was during the detention at (Redacted)

9 (Redacted)

10 I (Redacted)

11 (Redacted)

12 Mr Witness, in (Redacted), you did not tell the truth to the Defence, did you?

13 A. [10:36:45] The person sent to me, I thought it was somebody sent by (Redacted),
14 so I didn't want to tell them what I knew, and my counsel didn't advise me in that
15 way. So I didn't want to say anything. I wanted to keep my mouth shut, this being
16 the better option.

17 Q. [10:37:18] Mr Witness, who was it that sent you counsel, (Redacted)?

18 A. [10:37:52] I don't know. I don't know who sent him to me.

19 Q. [10:38:01] So if I understood correctly, Counsel (Redacted) appeared just
20 like that out of the blue and you spoke to him. You didn't try to find out who had
21 sent him?

22 A. [10:38:59] So I was seated, and when I was called to the room where I was told
23 that somebody wanted to speak to me, that was (Redacted). And that's
24 what he told me. What the others had spoken to. (Redacted)
25 (Redacted). I did not take

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1 everything he said for the truth.

2 Q. [10:39:37] (Redacted), is that correct, Mr Witness?

3 PRESIDING JUDGE MINDUA: [10:39:51](Interpretation) The witness had

4 temporarily disappeared, but he now is back with us.

5 MR DUTERTRE: [10:40:03](Interpretation)

6 Q. [10:40:03] I will put this again. (Redacted)

7 not, Mr Witness?

8 A. [10:40:25] That is not the name that I know.

9 Q. [10:40:30] Could you give us the name that you do know (Redacted),

10 Mr Witness.

11 A. [10:41:03] I know that his surname was (Redacted).

12 He's known by the name -- (Redacted).

13 Q. [10:41:20] So he had your number and he called you, is that correct?

14 A. [10:41:31] Yes, I was with him. He called the person that I was with and I went

15 with him to go to him.

16 Q. [10:41:56] Mr Witness, (Redacted), he -- did he not tell you that

17 (Redacted) was working for the Defence?

18 A. [10:42:52] No, he didn't say that. Even if he informed me, he didn't tell me that

19 it was wise to talk about what happened (Redacted). And this was in his

20 office with -- I was with (Redacted).

21 Q. [10:43:18] So if I understand you correctly, Mr Witness, you gave five pages of

22 a statement to an unknown person. Is that what you are testifying under oath to the

23 Court today?

24 A. [10:44:30] Yes, I did that because I didn't know the person, and so I did that so

25 that they would leave me in peace. I did it because I didn't know whether it was

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1 somebody from (Redacted).

2 PRESIDING JUDGE MINDUA: [10:44:58](Interpretation) Prosecutor, I understand
3 that it's difficult for you because you have to watch the Tamasheq interpreter and also
4 the interpreter working into English. It's easier for me because I can see English on
5 my right and Tamasheq on my left. But English is behind you, so quite often when
6 you start speaking in French, the interpreting into English has not finished. You
7 need to leave breaks because the English booth is currently suffering.

8 MR DUTERTRE: [10:45:37](Interpretation) I wouldn't want the English booth to be
9 suffering. No, not at all.

10 PRESIDING JUDGE MINDUA: [10:45:44](Interpretation) Thank you. Please
11 continue.

12 MR DUTERTRE: [10:45:46](Interpretation)

13 Q. [10:45:48] Mr Witness, you made a statement to (Redacted) and you came
14 back a few days later to put your thumb -- your thumbprint or your fingerprint to this
15 statement, is that correct?

16 A. [10:46:34] Yes, that is correct. I put my fingerprint on this and I spoke to
17 (Redacted).

18 Q. [10:46:55] So you made the statement and, a few days later, you came back and
19 appended your fingerprint to the statement. Is that correct?

20 A. [10:47:34] I'm not sure that I put a fingerprint, but I may have done so. But
21 simply I did speak (Redacted), but I don't know whether I put a fingerprint or
22 a signature.

23 Q. [10:47:54] Noted. And between the (Redacted) occasions, you didn't talk to
24 (Redacted) to find out who (Redacted) was? You didn't try to find out more about
25 him?

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1 A. [10:48:31] No, I didn't try to understand. No, I didn't try to understand
2 because I didn't understand. I wasn't sure. It was later that (Redacted) and I
3 apologised for this.

4 THE INTERPRETER: [10:49:08] "He" apologised.

5 MR DUTERTRE: [10:49:15](Interpretation)

6 Q. [10:49:17] Do you agree, Mr Witness, that in your statement to (Redacted) in
7 (Redacted), you didn't talk about (Redacted), is that correct?

8 A. [10:50:20] (Redacted)

9 (Redacted)

10 (Redacted).

11 Q. [10:50:45] Mr Witness, do you agree with me that you gave a statement to the
12 Defence in (Redacted), to be precise?

13 MS TAYLOR: [10:51:14] Mr President?

14 PRESIDING JUDGE MINDUA: [10:51:21] *Oui*.

15 MS TAYLOR: [10:51:23] Can the Prosecution please provide the reference for this.

16 PRESIDING JUDGE MINDUA: [10:51:27](Interpretation) Prosecutor.

17 MR DUTERTRE: [10:51:29](Interpretation) Yes, of course. There are redactions
18 which we've asked to have put out, but it's (Redacted) and it's tab 4. So in
19 paragraph 4, the final sentence is:

20 (Speaks English) "The (Redacted) time was in -- "

21 (Overlapping microphones)

22 *Expurgé*, (Speaks English) A1, code A1 --

23 "-- on (Redacted), in an interview with --"

24 Code A4 *expurgé*.

25 (Interpretation) We asked the Defence to take out the redactions or to give us these

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1 names in vain, but in any case, I can confirm that this exists and forms the basis for
2 my question.

3 PRESIDING JUDGE MINDUA: [10:52:49](Interpretation) Yes, Ms Taylor.

4 MS TAYLOR: [10:52:50] Thank you, Mr President. This paragraph refers to
5 meetings with the Defence. It does not refer to a statement being provided on
6 (Redacted).

7 PRESIDING JUDGE MINDUA: [10:53:09](Interpretation) Yes, Mr Prosecutor.

8 MR DUTERTRE: [10:53:16](Interpretation) For a meeting there are ideas, there are
9 words that are spoken. There are things that are put. That's what I'm getting to:
10 The words about (Redacted). He wasn't meeting
11 with the Defence of (Redacted). It was related to (Redacted)
12 (Redacted)

13 PRESIDING JUDGE MINDUA: [10:53:43](Interpretation) You are talking about
14 paragraph 4, Mr Prosecutor?

15 MR DUTERTRE: [10:53:48](Interpretation) Yes, the last sentence.

16 PRESIDING JUDGE MINDUA: [10:53:52](Interpretation) So Ms Taylor, I think there
17 is a reference here.
18 Ms Taylor.

19 MS TAYLOR: [10:53:58] Yes, indeed, Mr President. We don't reject the fact that
20 there is a reference to a meeting happening on (Redacted). But the
21 Prosecution needs to first establish a foundation for ascertaining whether there was in
22 fact a substantive interview on that date or not. They can't assume without
23 a foundation that the witness gave a statement on that date.

24 PRESIDING JUDGE MINDUA: [10:54:27](Interpretation) Yes, Prosecution.

25 MR DUTERTRE: [10:54:30](Interpretation) But I can talk about what the witness

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1 might have said to the Defence on that day, and I have asked for a communication
2 statement which I've not had.

3 PRESIDING JUDGE MINDUA: [10:54:45](Interpretation) I think at this stage of the
4 cross-examination, the Prosecutor can take this as a basis for his questioning.
5 Please proceed, Mr Prosecutor.

6 MR DUTERTRE: [10:54:59](Interpretation)

7 Q. [10:54:59] Mr Witness, you met the Defence for Mr Al Hassan in (Redacted),
8 that is correct, is it not?

9 It's in your statement of (Redacted).

10 A. [10:55:50] Yes. I met them in (Redacted), but I couldn't tell you the date.

11 Q. [10:55:59] And on that occasion, Mr Witness, you didn't speak about matters of
12 torture (Redacted), did you?

13 A. [10:56:39] No. I didn't discuss this subject with them, because I was still
14 following the same logic as with (Redacted), I didn't yet trust them.

15 Q. [10:56:55] Mr Witness, they explained to you that they were the lawyers for
16 Mr Al Hassan, (Redacted), did they not?

17 A. [10:57:36] They explained that they were lawyers for Mr Al Hassan, but I was
18 afraid that there was a question of treason. Because if somebody is being betrayed,
19 then you can say whatever you want -- or they can tell you whatever they want.

20 Q. [10:58:02] Did they also explain to you that what you said to them would be
21 confidential, Mr Witness? Did they not start with that?

22 A. [10:59:02] Yes, they did explain this to me. But from the start until now, I don't
23 know what is true because even now, I'm here for the Al Hassan case. But I -- I
24 still -- I'm not sure that I trust things.

25 Q. [10:59:28] Mr Witness, you didn't mention the question of torture against

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1 (Redacted)

2 (Redacted).

3 A. [11:00:31] No, it's not that I did not want to lie, but I was afraid I would be taken
4 in Mr Al Hassan's stead.

5 MR DUTERTRE: [11:00:46](Interpretation) Mr President, this would be a good time
6 to break. We are still in private session.

7 PRESIDING JUDGE MINDUA: [11:00:53](Interpretation) Yes, indeed. Court
8 officer, could we move into open session, please.

9 (Open session at 11.01 a.m.)

10 THE COURT OFFICER: [11:01:00] We are back in open session, Mr President.

11 PRESIDING JUDGE MINDUA: [11:01:09](Interpretation) Thank you very much,
12 court officer.

13 It is 11 o'clock. we will adjourn for 30 minutes. We will be back at 11.30.

14 This session is adjourned.

15 THE COURT USHER: [11:01:24] All rise.

16 (Recess taken at 11.01 a.m.)

17 (Upon resuming in open session at 11.34 a.m.)

18 THE COURT USHER: [11:34:53] All rise. Please be seated.

19 PRESIDING JUDGE MINDUA: [11:35:19](Interpretation) This Court is now back in
20 session.

21 The floor is to the Prosecutor for the remainder of your cross-examination.

22 MR DUTERTRE: [11:35:30](Interpretation) Thank you, Mr President. Ladies and
23 gentlemen, your Honours, I will endeavour to be as short as possible.

24 Q. [11:35:46] Mr Witness, welcome back. Can you hear me and see me correctly?

25 A. [11:35:54] Yes, I can. I can hear you and I can see you well.

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1 Q. [11:36:01] Now, I am going to switch to another topic, Mr Witness, and I want to
2 talk about the Islamic police in Timbuktu, in 2012.

3 Members of the Islamic police in 2012, in Timbuktu, were armed with the
4 Kalashnikovs, were they not, Mr Witness?

5 A. [11:36:52] Yes, indeed. Some were wearing the Kalashnikovs, others not.
6 They may have them and wear them, some may have them but not wear them.

7 THE INTERPRETER: [11:37:09] Correction: "Carry" them.

8 MR DUTERTRE: [11:37:14](Interpretation)

9 Q. [11:37:16] And some also had heavy weapons, didn't they?

10 A. [11:37:36] I did not see anyone carrying them amongst those who were walking.

11 Q. [11:38:00] Mr Witness, you have spoken to us about Adama. He was with
12 AQMI, wasn't he?

13 THE INTERPRETER: [11:38:15] "AQIM", in English.

14 THE WITNESS: [11:38:38] (Interpretation) Well, in any case he is not Malian. He's
15 perhaps from AQIM or Ansar Dine. Maybe those who are not Malian are the ones
16 that belonged to AQIM, but only God knows.

17 MR DUTERTRE: [11:39:04](Interpretation)

18 Q. [11:39:05] And you also talked about Khaled from the Islamic police. He was
19 with AQIM, you know that, don't you?

20 A. [11:39:39] Oh, well, I know that he's not a local. He's not from the territory, and
21 I think that's what you call the people from AQIM, but only God is sure.

22 MR DUTERTRE: [11:39:55](Interpretation) Could we briefly move into a private
23 session, Mr President.

24 PRESIDING JUDGE MINDUA: [11:40:01](Interpretation) Private session, please,
25 court officer.

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1 (Private session at 11.40 a.m.)

2 THE COURT OFFICER: [11:40:20] We are in private session, Mr President.

3 PRESIDING JUDGE MINDUA: [11:40:37](Interpretation) Thank you very much,

4 court officer.

5 Mr Prosecutor.

6 MR DUTERTRE: [11:40:42](Interpretation) Thank you, Mr President.

7 Q. [11:40:45] Mr Witness, you went over to (Redacted)

8 (Redacted)

9 A. [11:41:14] Yes, I did. I would go there to visit, to chat, to see what was going on

10 there, to wile away the time.

11 Q. [11:41:34] But, Mr Witness, help me to understand. (Redacted)

12 (Redacted)

13 (Redacted)

14 A. [11:42:53] No, I'm just a plain person, walking around who would go there,

15 doesn't have a specific problem, would go there to see what was happening.

16 (Redacted)

17 (Redacted)

18 Q. [11:43:29] Mr Witness, I'm referring to tab 26, document (Redacted)

19 and, more precisely, page 104. Right at the top, you said in (Redacted) to the Malian

20 (Redacted), and I'll quote, open quote:

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted). End of quote.

25 You did state that -- to the (Redacted)

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1 didn't you?

2 A. [11:46:22] Yes, it's true, I did make that statement (Redacted). In fact at
3 that time, I made that statement because -- because I understood that that's what they
4 wanted from me. At that time, I thought I'd come to the end of my life and that's
5 why I made that statement. But there was a statement that came after that one, the
6 (Redacted). At that time I thought (Redacted)
7 (Redacted).

8 Q. [11:47:08] Mr Witness, the reason that you made this statement to the (Redacted)
9 (Redacted), is the same reason that you went to (Redacted)
10 (Redacted), it's because it's the truth. (Redacted)
11 (Redacted)

12 A. [11:48:17] That is not true. What is more truthful than what I told (Redacted)
13 (Redacted). What I told the (Redacted), those who were
14 threatening me could not be true.

15 Q. [11:48:49] Mr Witness, in that same document, you said: (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)." End of quote.

19 That is what you stated to the (Redacted), isn't it?

20 A. [11:50:49] Yes, that's true. I did say that to the (Redacted). On the other
21 hand, I made that statement to the (Redacted) just in order to be able to get to the
22 (Redacted) to whom I would say the truth, and when I would be able to tell him the
23 truth, he would then do what was appropriate, (Redacted).

24 And if -- people would say that just to be able to get out of (Redacted) If -- in
25 fact, it's because I wasn't as smart as I was (Redacted). If I had been smart, I

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1 should have told them exactly that from the very beginning.

2 Q. [11:52:04] Mr Witness, you had no reason to lie about that precise detail, given

3 (Redacted)

4 A. [11:52:51] Well, I didn't say that, and I -- (Redacted)

5 (Redacted). I did not return because (Redacted)

6 (Redacted). I left because (Redacted)

7 (Redacted)

8 Q. [11:53:20] Mr Witness, according to your version, if you left Timbuktu, when the

9 Malian army came back, (Redacted). Isn't that

10 correct, Mr Witness?

11 A. [11:54:33] No, that's not true. I left Timbuktu like other people like me did.

12 Everybody knows that. The entire world knows that. They -- the people like me

13 are in the neighbouring countries. If the army only fought with or killed people

14 carrying weapons, we, the population, would have helped them.

15 Q. [11:55:15] Mr Witness, (Redacted)

16 (Redacted).

17 Mr President, I'm referring to (Redacted), tab 22.

18 The overleaf, tab 22.

19 THE COURT OFFICER: [11:56:03] (Overlapping microphones) ... at tab 24. So

20 could you please just verify the ERN number.

21 MR DUTERTRE: [11:56:17](Interpretation) (Redacted), second page.

22 Q. [11:56:43] So Mr Witness, you were still being (Redacted),

23 (Redacted) isn't that correct?

24 A. [11:57:40] I have no information and (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Q. [11:58:15] Indeed, Mr Witness, (Redacted)

4 (Redacted). But you have not been found (Redacted), is that

5 correct?

6 A. [11:59:18] Yes, that is true. But that does not pose -- the problem is not with me,

7 that's their problem. (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [11:59:48] I will now change topics. We have taken note of all of this. In 2012,

11 Mr Witness, in Timbuktu, (Redacted) at the Islamic prison, is that

12 correct?

13 THE INTERPRETER: [12:00:19] "To the police." Correction: "The Islamic police."

14 PRESIDING JUDGE MINDUA: [12:00:27](Interpretation) Mr Prosecutor, we are in

15 private session? We are in private session.

16 MR DUTERTRE: [12:00:30](Interpretation) We can move to open session, but I'm in

17 your hands, sir.

18 PRESIDING JUDGE MINDUA: [12:00:37](Interpretation) Court officer --

19 Ms Taylor.

20 MS TAYLOR: [12:00:39] Mr President, according to the highlighted summary, which

21 the Chamber approved, (Redacted)

22 (Redacted). So if it is a mere matter of the witness describing the Islamic police or

23 general matters, I guess that can be in open session, but if it is describing specific

24 complaints or interactions, that might be identifying.

25 PRESIDING JUDGE MINDUA: [12:01:10](Interpretation) Over to you,

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1 Mr Prosecutor.

2 MR DUTERTRE: [12:01:12](Interpretation) Well, I'm in your hands. I can ask the
3 question. I don't think that it will be identifying. We can perhaps work on
4 a case-by-case basis. This will favour the public session.

5 PRESIDING JUDGE MINDUA: [12:01:24](Interpretation) That's fine.

6 Court officer, could you please announce open session.

7 (Open session at 12.01 p.m.)

8 THE COURT OFFICER: [12:01:30] We are back in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [12:01:45](Interpretation) Thank you very much.

10 Prosecution.

11 MR DUTERTRE: [12:01:49](Interpretation) Thank you, Mr President.

12 Q. [12:01:50] I return to 2012 in Timbuktu, Mr Witness. You yourself went to
13 speak to Al Hassan at the Islamic police, did you not?

14 A. [12:02:33] How -- how do you mean, speak to him? I don't understand your
15 question.

16 Q. [12:02:41] I will reformulate, I apologise.

17 You went to the Islamic police to intro- -- to present yourself to Mr Al Hassan in 2012,
18 is that correct?

19 A. [12:03:28] No, that is not true. And if that took place, that's something I know
20 nothing about.

21 Q. [12:03:37] Mr Witness, I come back to the witness summary, MLI-D28-0006-9020.
22 I see that Ms Taylor is possibly going to repeat the same objection as yesterday which
23 was dealt with.

24 PRESIDING JUDGE MINDUA: [12:04:08](Interpretation) Ms Taylor.

25 MS TAYLOR: [12:04:09] Thank you, Mr President. It seems the Prosecutor is not

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1 a mind reader.

2 If the sound could be cut off to the witness or the interpretation could not be
3 transmitted.

4 PRESIDING JUDGE MINDUA: [12:04:25](Interpretation) Please, would the
5 Tamasheq booth not translate what Ms Taylor is going to say -- not translate for the
6 witness.

7 Ms Taylor, please.

8 MS TAYLOR: [12:04:41] Thank you, Mr President. Actually the witness did make
9 a correction to this and it was disclosed in the preparation log, where the witness
10 specified that the day (Redacted).

11 So that was a correction that was made. It's on page 2 of the prep log.

12 MR DUTERTRE: [12:05:22](Interpretation) Yes, Mr President, but there's no reason
13 why we can't question the witness on this statement, which he has made in two
14 documents presented by the Defence, one was 3035, and the other is 9021, and there
15 was no change. So we'd like to ask the question under oath.

16 PRESIDING JUDGE MINDUA: [12:05:50](Interpretation) Ms Taylor.

17 MS TAYLOR: [12:05:51] Thank you, Mr President. We have no objection to the
18 Prosecution asking this question in an open manner. But if they're going to refer to
19 a prior summary, and if they are going to assert that the witness said something, then,
20 out of fairness to the witness, when they refer to the summary, they should also refer
21 to the correction. I do believe that would be the process that's been followed in the
22 past and I do believe that's the fairest course of action.

23 PRESIDING JUDGE MINDUA: [12:06:27](Interpretation) Quite, Ms Taylor.

24 Absolutely. You are quite right. So please, would the Prosecution take that into
25 account.

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1 MR DUTERTRE: [12:06:38](Interpretation) The witness, under oath, can
2 give whatever explanation he wishes to the simple question that was asked or that
3 I -- a simple question that I was going to ask on the basis of what was said by the
4 Defence. And now Ms Taylor is intervening in our cross-examination.

5 PRESIDING JUDGE MINDUA: [12:07:03](Interpretation) It's not a statement by the
6 Defence. You mean, the witness statement. That is the objection by Ms Taylor.
7 Simply to be fair --

8 MR DUTERTRE: [12:07:20](Interpretation) I will address that, but Ms Taylor can
9 cover this in redirect if she so desires.

10 PRESIDING JUDGE MINDUA: [12:07:28](Interpretation) Please take account of that.

11 THE INTERPRETER: [12:07:30] And then there were overlapping speakers.

12 PRESIDING JUDGE MINDUA: [12:07:36](Interpretation) There just simply needs
13 a reference and then we move on.

14 MR DUTERTRE: [12:07:44](Interpretation) I can go under your control, Mr
15 President.

16 PRESIDING JUDGE MINDUA: [12:07:50](Interpretation) Tamasheq booth may now
17 translate, start translating again for the witness what will now come.

18 MR DUTERTRE: [12:07:58](Interpretation)

19 Q. [12:07:58] So in the witness summaries -- 0006-9020 and then 9021, paragraph 8.

20 MR DUTERTRE: [12:08:13](Interpretation) And that is tab 6 for the President on the
21 second page, paragraph 8.

22 PRESIDING JUDGE MINDUA: [12:08:23](Interpretation) Thank you very much,
23 Mr Prosecutor.

24 MR DUTERTRE: [12:08:26](Interpretation)

25 Q. [12:08:26] In paragraph 8, it says, and I will quote, in English:

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1 (Redacted)

2 (Redacted)

3 (Interpretation) End of quotation.

4 That is what you told the Defence, is it not, Mr Witness?

5 A. [12:10:17] No. And if I said that, then I don't recall.

6 MS TAYLOR: [12:10:24] Mr President, would it be possible to have the (Overlapping
7 microphones)

8 PRESIDING JUDGE MINDUA: [12:10:30] *Attendez, attendez, attendez* (Overlapping
9 microphones)

10 MS TAYLOR: [12:10:32] Would it be possible to have the --

11 PRESIDING JUDGE MINDUA: [12:10:33](No interpretation)(Overlapping
12 microphones)

13 MS TAYLOR: [12:10:34] *Oui, oui* --

14 (Overlapping microphones)

15 PRESIDING JUDGE MINDUA: [12:10:35](No interpretation)

16 MS TAYLOR: [12:10:31] *Non, non*, I would just like that the answer be given in
17 private session because I do believe there might be identifying information in the
18 answer.

19 PRESIDING JUDGE MINDUA: [12:10:43](Interpretation) Well, court officer, please
20 can we move to private session for the witness's answer.

21 (Private session at 12.11 p.m.)

22 THE COURT OFFICER: [12:11:04] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:11:11](Interpretation) Thank you very much,
24 court officer.

25 Can we have the interpretation, please.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0006

1 THE WITNESS: [12:11:16](Interpretation) If I said that, I don't recall. What I said,
2 somebody had (Redacted)
3 (Redacted), when I spoke to someone from the police, (Redacted) was there as an
4 interpreter. He was interpreting and that was the first time (Redacted).
5 That was our first meeting.

6 PRESIDING JUDGE MINDUA: [12:11:59](Interpretation) So there is no identifying
7 element there, I think we can go back into public session.

8 Ms Taylor.

9 MS TAYLOR: [12:12:05] Mr President, the circumstances of the (Redacted) were dealt
10 with in private session and they were also highlighted in our summary. Now, one
11 way of dealing with this in open session will be to do what the Defence did,
12 (Redacted) and that might facilitate the public discussion of issues. But this was
13 dealt with in private session. Thank you.

14 PRESIDING JUDGE MINDUA: [12:12:30](Interpretation) Prosecutor, we will give
15 a pseudonym.

16 MR DUTERTRE: [12:12:39](Interpretation) I don't need a pseudonym for the next
17 few questions, even though it refers back to what he's already said.

18 PRESIDING JUDGE MINDUA: [12:12:51](Interpretation) Public session please,
19 Madam Court Officer.

20 (Open session at 12.13 p.m.)

21 THE COURT OFFICER: [12:13:01] We are back in open session, Mr President.

22 PRESIDING JUDGE MINDUA: [12:13:05](Interpretation) Thank you very much,
23 Madam Court Officer.

24 Prosecution, please continue.

25 MR DUTERTRE: [12:13:18](Interpretation) Thank you, Mr President.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0006

1 Q. [12:13:19] Mr Witness, you know that Al Hassan did not only do translation, he
2 also beat people. You knew that, did you not?

3 A. [12:14:11] I do not know that. However, if Al Hassan works under the
4 authority of someone, then he will do what he is personally asked to do. That's the
5 way things work with us. If someone puts someone to work for them, then the
6 employee must execute what his employer asks him to do.

7 Q. [12:14:50] Mr Witness, in the witness summary, still at tab 6, you stated that you
8 followed what was happening and what was being discussed at the Islamic police.

9 In paragraph -- sorry, it's the second paragraph of paragraph 8, I quote:

10 (Speaks English) "MLI-D28-0006 would follow what was happening there" - *et on fait*
11 *référence à la Police islamique* - "and what was being discussed."

12 (Interpretation) Did you never hear that Al Hassan whipped people? So here in the
13 courtroom, is that the first time that you are hearing this?

14 A. [12:17:09] I didn't see that and I didn't hear that. At the police as well, the
15 police did not beat people. So with my own eyes, I never saw this. And I'm not
16 saying that Al Hassan did not whip or beat people. What I'm saying is that I never
17 saw this and I didn't hear this.

18 Q. [12:17:50] Thank you, Mr Witness. That was the last question of my
19 cross-examination.

20 And so Mr President, it's back to you.

21 Thank you very much for your explanations, Mr Witness.

22 PRESIDING JUDGE MINDUA: [12:18:07](Interpretation) Thank you very much,
23 Mr Prosecutor, for your cross-examination. You have been concise and kept to the

24 time.

25 I turn now to the legal representatives of victims.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0006

1 We have received your request, document 2341. Having heard now the
2 examination-in-chief and the cross-examination, do you still maintain your request?

3 Do you still wish to put questions to the witness, Maître Nsita?

4 MR LUVENGIKA: [12:18:50](Interpretation) Thank you very much for giving me
5 the floor, Mr President. I do have some questions for the witness, but it will not take
6 long. I just have two or three questions to clarify certain statements.

7 PRESIDING JUDGE MINDUA: [12:19:14](Interpretation) There are no objections; so
8 Maître Nsita, please proceed.

9 QUESTIONED BY MR LUVENGIKA: (Interpretation)

10 Q. [12:19:40] Good day, Mr Witness.

11 A. [12:19:49] I am very well. And you? How are you?

12 Q. [12:19:53] I'm also very well. Thank you very much. Please let me introduce
13 myself, I am Fidel Nsita. We haven't had the occasion to meet, I didn't have the
14 chance to meet you during the familiarisation. I am a lawyer of the victims of what
15 happened in Timbuktu in 2012.

16 A. [12:20:51] Yes.

17 MR LUVENGIKA: [12:20:57](Interpretation) Mr President, I think that all my
18 questions can be asked in public session. They are of a general nature.

19 Q. [12:21:13] And Mr Witness, to refresh your memory, these are statements that
20 you have made before this Court on Monday 10 October and I'm going to confine
21 myself to that day.

22 PRESIDING JUDGE MINDUA: [12:21:32](Interpretation) Very good, please proceed,
23 Maître Nsita. But a moment or two for the interpreter.

24 THE WITNESS: [12:21:54](Interpretation) Yes, that's fine.

25 MR LUVENGIKA: [12:21:55] (Interpretation)

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0006

1 Q. [12:21:57] Mr Witness, relating to your statements on -- your testimony on
2 Monday 10 October here, you said that when you went to the market, you saw
3 women, some of whom worked in restaurants and others sold produce. And this is
4 205, 33, lines 17 to 21.

5 A. [12:22:48] Yes.

6 Q. [12:22:49] Mr Witness, could you tell us whether these women that you saw at
7 the market obeyed the dress code imposed on the population by Ansar Dine or AQIM?
8 In other words, how were these women dressed?

9 A. [12:24:16] I will reply to you. In fact, the way that women are dressed
10 when -- Tamasheq women are women -- are those -- it's the clothing that was imposed
11 by Ansar Dine. But not all of Ansar Dine. Part of Ansar Dine. However, the
12 people who -- the women who work and -- they wear what they want. I -- they do
13 what -- the women work and they do what they want. Apologies, I was somewhat
14 lengthy.

15 Q. [12:25:10] I didn't quite understand your reply. Or maybe you didn't
16 understand me. Those who were working outside of the home, what were they
17 wearing when they were working?

18 A. [12:26:20] Traditionally, women in Timbuktu wear the same things as Tamasheq
19 woman. Also, the black women wear the same traditional clothing as Tamasheq
20 women, apart from the young ones. And it was after the -- the young girls were also
21 told to wear the same clothes as women. But there are other women who wear
22 different clothing.

23 Q. [12:27:01] Thank you very much, Mr Witness. Let me move now to another
24 question.

25 According to your statement on Monday, Mr Al Hassan, you said, was very much

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-D28-P-0006

1 appreciated by the population and you said that -- according to you, and I quote:

2 "If it is only for facts -- thanks to God and thanks to him, Mr Al Hassan, the situation

3 would have been much worse in Timbuktu."

4 So my question is, according to you, who or what would have made the situation

5 worse in Timbuktu? Would it have been the population of Timbuktu? Or the

6 groups -- Ansar Dine? And, why or how?

7 A. [12:29:33] Because I was a witness to a case where an Arab and a young black

8 women -- woman were taken to the police and it was said that the man had raped the

9 woman -- the young girl, and, Al Hassan, being well aware of how things happened

10 locally, he said, "No, that is not correct. In all Tamasheq and Arab families, they

11 have household help. Somebody who cooks, somebody -- a young person -- woman

12 to do the cleaning and by force, she had been violated. That's how things happen.

13 So this history, it was false, and she -- they should be let go."

14 THE INTERPRETER: [12:30:46] Apologies from the English booth: It was -- I don't

15 know whether it was "by force" or "false."

16 Perhaps the last part of the answer could be repeated.

17 PRESIDING JUDGE MINDUA: [12:31:14](Interpretation) Mr Nsita.

18 MR LUVENGIKA: [12:31:28](Interpretation) Mr President, I believe that the English

19 booth asked for the last part of the answer to be repeated by the Tamasheq booth for

20 clarity. Thank you.

21 PRESIDING JUDGE MINDUA: [12:31:42](Interpretation) Tamasheq booth: Could

22 you please repeat the last part of the witness's answer.

23 THE INTERPRETER: [12:31:56] Question to the President: Should I repeat

24 everything or just the last part?

25 PRESIDING JUDGE MINDUA: [12:32:02](Interpretation) Just the last part, please.

Trial Hearing

(Open Session)

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WITNESS: MLI-D28-P-0006

1 THE INTERPRETER: [12:32:08] From the Tamasheq:

2 "So Al Hassan said, "That's an untrue story, so please let them go."

3 PRESIDING JUDGE MINDUA: [12:32:22](Interpretation) Thank you very much.

4 That's enough, thank you very much.

5 Mr Nsita, please continue.

6 MR LUVENGIKA: [12:32:30](Interpretation)

7 Q. [12:32:30] So, Mr Witness, I understand that your answer focuses on one specific
8 event, but the words that I quoted back to you concern the more general situation in
9 Timbuktu, which was going to become worse, which did not happen, thanks to either
10 Al Hassan or to God. So you answered by referring to a specific fact and so that goes
11 beyond the bounds of the statement that you made earlier.

12 A. [12:34:40] Yes, I see, so let me explain another example. Al Hassan was a local,
13 so he is asking for the lies that some individuals are spreading about others. For
14 example, when Ansar Dine left and France came in, a number of people within the
15 population denounced -- that -- or made accusations against other elements of the
16 population, and their property is destroyed, or they may be killed, or their property
17 may be taken, and, at that time, Al Hassan prevented this sort of thing. When
18 someone went to try and take someone else's car, Al Hassan would come in and say:
19 "No, that's his car. I know this person, I have known him for a long time, I know
20 that's his car. Hands off his car. Leave it." So I'm describing this sort of thing.

21 Q. [12:36:06] I'll move on to another question. Transcript 205, page 52, line 12 to
22 28, through to page 23, lines 1 to 5, concerning marriage, you said, I quote:

23 "But at that time, many people came in and endeavoured to get people married in
24 order to get money."

25 My question is, who were those people who endeavoured to get people married?

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WITNESS: MLI-D28-P-0006

1 And how extensive was this activity of marriage making?

2 A. [12:38:14] Yes, indeed, in fact, there's an imam from Bellafarandi neighbourhood.

3 His name is Daoud, and he married his daughter to an element from Ansar Dine.

4 He did it himself. No one forced him. That's one example.

5 MR LUVENGIKA: [12:38:46](Interpretation) Thank you, Mr President, that will be it

6 for me and for my questioning.

7 Thank you very much, Mr Witness, for answering my questions.

8 PRESIDING JUDGE MINDUA: [12:38:58](Interpretation) Thank you very much,

9 Mr Nsita.

10 THE WITNESS: [12:39:04] (Interpretation) Thank you.

11 PRESIDING JUDGE MINDUA: [12:39:05](Interpretation) Thank you very much.

12 You held your promise, you were concise, you were clear.

13 So now I'm turning to the Defence.

14 I would like to ask you if you have any further questions. Ms Taylor?

15 MS TAYLOR: [12:39:19] Thank you, Mr President. I do have a few questions

16 arising from the examination of the victims' counsel.

17 PRESIDING JUDGE MINDUA: [12:39:36](Interpretation) Very well, Ms Taylor, over

18 to you.

19 MS TAYLOR: [12:39:44] Thank you very much, Mr President.

20 QUESTIONED BY MS TAYLOR:

21 Q. [12:39:48] Good afternoon now, Mr Witness. How are you?

22 A. [12:39:59] I'm very well. I'm not suffering from anything and I hope you are

23 well as well.

24 Q. [12:40:10] Thank you, Mr Witness. Now, at page 44, you said you witnessed

25 a particular incident where an Arab and a young black woman were taken to the

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(Open Session)

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1 police and you said:

2 "[...] it was said that the man had raped the woman [...]"

3 Mr Witness, did the woman say that or did the people bringing them say that?

4 A. [12:41:50] No, it was the population who came to complain, to say that they had
5 seen the man with the young girl and that he raped her, and is the population,
6 Koiratao -- the black population from Koiratao. And I'm not finished.

7 Q. [12:42:26] Please continue.

8 A. [12:43:08] And so the woman said, "No, no, no. I haven't been raped. I'm just
9 working at this man's place." And the man said, "No, I did not rape her. This
10 young girl works for me at -- in my home." And this is something common, women
11 working with some families, who gets a pay, especially in Tamasheq families, the
12 salary goes -- is around 15,000, 10,000, 5,000 francs a month. And the black families
13 also employ people if they wish, and this is also done here in Bamako.

14 Q. [12:44:03] Now Mr Witness, based on what you saw and heard at the time,
15 when Mr Al Hassan explained local customs, was he helping the police or helping the
16 two individuals?

17 MR DUTERTRE: [12:44:25] *Monsieur le Président.*

18 PRESIDING JUDGE MINDUA: [12:44:26] *Oui, Monsieur le Procureur.*

19 MR DUTERTRE: [12:44:27] (Interpretation) Objection, this is a leading question and
20 questions should be open.

21 PRESIDING JUDGE MINDUA: [12:44:35] (Interpretation) Ms Taylor, could you
22 please reformulate.

23 MS TAYLOR: [12:44:40] I will reformulate.

24 Q. [12:44:42] Mr Witness, are you -- can you tell us why Mr Al Hassan explained
25 this local history?

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- 1 PRESIDING JUDGE MINDUA: [12:44:58](Interpretation) Prosecutor.
- 2 MR DUTERTRE: [12:45:02](Interpretation) This calls for speculation, Mr President.
- 3 He cannot be in Mr Al Hassan's head and know what his thoughts were.
- 4 PRESIDING JUDGE MINDUA: [12:45:11](Interpretation) That's true, Ms Taylor.
- 5 You are calling for speculation on the part of the witness.
- 6 MS TAYLOR: [12:45:19] Mr President -- and Mr Duterte can't be in the witness's
- 7 head or feet as well, and I asked the witness if he was able to tell the judges if he is in
- 8 a position to know why Mr Al Hassan said this, he can say yes, he can say no. He
- 9 can tell us if he has a basis or not. So we have a witness on the stand who provided
- 10 this example in response to a question from the LRV about examples of Mr Al Hassan
- 11 helping the local population. So I do believe he can respond to this, given the
- 12 manner in which it was elicited.
- 13 MR DUTERTRE: [12:46:03] *Monsieur le Président.*
- 14 PRESIDING JUDGE MINDUA: [12:46:03](Interpretation) Right, well, I am trying to
- 15 reread the transcript in French.
- 16 MR DUTERTRE: [12:46:16](Interpretation) Page 48, lines 11 to 13: "Mr Witness,
- 17 could you tell us why Mr Al Hassan explained this local history."
- 18 The way it's formulated is speculative.
- 19 PRESIDING JUDGE MINDUA: [12:46:35](Interpretation) So Ms Taylor, would you
- 20 mind reformulating once again. Indeed, this does call for speculation.
- 21 MS TAYLOR: [12:46:43]
- 22 Q. [12:46:44] Mr Witness, at page 44, you were asked by the LRV to give examples
- 23 in response to your statement that the local population appreciated Mr Al Hassan.
- 24 Now did the Arab woman -- sorry, the Arab man and the black girl, did they
- 25 appreciate the actions of Mr Al Hassan based on what you saw at the time?

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1 MR DUTERTRE: [12:47:22] *Monsieur le Président.*

2 PRESIDING JUDGE MINDUA: [12:47:24](Interpretation) Mr Prosecutor, please, no.

3 The witness was able to know whether the two persons involved were satisfied by

4 Mr Al Hassan's reaction, that's possible. Is that what you are interrupting about?

5 MR DUTERTRE: [12:47:44](Interpretation) Well, the way it's formulated is

6 speculative, so we are going from speculation to speculation. Perhaps he can say

7 what he saw of their reaction, he can talk about facts, but knowing whether they

8 appreciated or not, I mean, that's completely speculation. He must say what he saw

9 with his eyes. He can't be asked for his opinion about what people thought or how

10 they reacted.

11 PRESIDING JUDGE MINDUA: [12:48:14](Interpretation) We are not asking the

12 witness for his opinion. The counsel asked the witness what he saw in the behaviour

13 of those involved. What the observed behaviour was; so let's let the witness answer.

14 Has the question been put in Tamasheq?

15 It has not.

16 Please go ahead, Tamasheq booth.

17 THE WITNESS: [12:49:48](Interpretation) They were happy, so were the members of

18 the population. People who know the local customs were happy and, for someone

19 who is not aware of the local customs, when they see a young woman going into

20 a man's house, this can be very serious.

21 MS TAYLOR: [12:50:20]

22 Q. [12:50:20] Mr Witness, I interrupted you. Did you have anything to add or was

23 that the end of your answer?

24 A. [12:50:43] No, I'm done. When you interrupted me, that was the end of what I

25 had to say.

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1 Q. [12:50:51] It's good timing.

2 MS TAYLOR: [12:50:53] Mr President, I don't have any further questions.

3 Thank you.

4 Thank you, Mr Witness.

5 PRESIDING JUDGE MINDUA: [12:51:07](Interpretation) Thank you very much,

6 Ms Taylor, for these additional questions.

7 And so now speaking to the witness.

8 Mr Witness, you have understood that this is the end of your deposition, this is the

9 end of today's session.

10 THE WITNESS: [12:51:44](Interpretation) Very well.

11 PRESIDING JUDGE MINDUA: [12:51:47](Interpretation) On behalf of the Chamber,

12 I would once again like to offer you our sincere thanks. Thank you for helping the

13 Chamber by answering in a clear and very patient manner the questions that were

14 put to you. Your statement is now completed, and I wish you all the best for your

15 future.

16 (The witness is excused)

17 PRESIDING JUDGE MINDUA: [12:52:49] (Interpretation) Very well. So as

18 concerns our next hearing, I think that will -- there are adjustments on the Defence

19 and the Registry side; so the parties, the participants, the public will all be informed

20 by email as is sometimes done.

21 Before we adjourn and end this session, as is customary, I would like to offer sincere

22 thanks to the parties, to the participants. I would like to express thanks as well to

23 the court reporters and to the interpreters, without forgetting to mention our security

24 officers and, lastly, I would like to thank our audience.

25 And I would like to wish an excellent day to one and all.

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(Open Session)

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- 1 This session is adjourned.
- 2 THE COURT USHER: [12:53:56] All rise.
- 3 (The hearing ends in open session at 12.53 p.m.)