

Trial Hearing
WITNESS: MLI-OTP-P-0065

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 1
9 Friday, 20 November 2020
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:54] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:21](Interpretation) Court is in session.
15 Good morning to everybody.
16 Madam courtroom officer, could you please call the case.
17 THE COURT OFFICER: [9:33:33] Thank you, Mr President.
18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference 01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:55](Interpretation) Thank you very much,
22 courtroom officer.
23 Now, for the record, we shall go through the appearances, starting with the Office of
24 the Prosecutor.
25 Mr Prosecutor, please.

1 MR DUTERTRE: [9:34:09](Interpretation) Good morning, Mr President. Good
2 morning, your Honours. Good morning, Mr Witness. Good morning, everyone.
3 The Prosecution is still represented by Madam Coquillaud, Mr Garcia, and myself,
4 Mr Gilles Dutertre. Thank you.

5 PRESIDING JUDGE MINDUA: [9:34:30](Interpretation) Thank you very much,
6 Mr Prosecutor.
7 Defence. Ms Sutherland, please.

8 MS SUTHERLAND: [9:34:32] Good morning, Mr President, your Honours.
9 The Defence for Mr Al Hassan is today represented by Ms Melinda Taylor,
10 Ms Molly Thomas, Ms Dolly Chahla and myself, Ms Kirsty Sutherland.

11 PRESIDING JUDGE MINDUA: [9:34:52](Interpretation) Thank you very much,
12 Ms Sutherland.
13 Legal Representatives for Victims, Mr Nsita.

14 MR LUVENGIKA: [9:34:58](Interpretation) Good morning, Mr President,
15 your Honours.
16 The victims this morning are represented by Madam Claire Laplace and myself,
17 Mr Fidel Nsita Luvengika. Thank you.

18 PRESIDING JUDGE MINDUA: [9:35:15](Interpretation) Thank you very much,
19 Mr Nsita.
20 We shall continue today with the testimony of the 16th Prosecution Witness, P-0065,
21 and I hope that today we shall be finishing with his testimony.
22 Good morning, Mr Witness, can you hear me?

23 WITNESS: MLI-OTP-P-0065 (On former oath)
24 (The witness speaks Arabic)

25 THE WITNESS: [9:35:43](Interpretation) Good morning. I hear you very clearly.

1 PRESIDING JUDGE MINDUA: [9:35:50](Interpretation) Thank you very much,
2 Mr Witness.

3 The Chamber would like to welcome you once again and once again express its
4 gratitude for your availability. I would like to remind you that you are still under
5 oath and that you must speak the truth, the whole truth and nothing but the truth.
6 I would also like to remind you of my advice with regard to addressing the Court.
7 Now, without further ado, I shall hand over to the Defence.

8 Ms Sutherland, you have an hour maximum. Thank you.

9 MS SUTHERLAND: [9:36:30] Thank you very much, your Honour. I hope very
10 much that we will use less than that.

11 I am also happy to report that I can ask the first few questions in open session.

12 Unfortunately, due to the nature of the remaining questions, it's likely that
13 the witness will feel unable to answer fully unless we go into private session.

14 Again, I will do my utmost to ensure that that is kept as brief as possible.

15 QUESTIONED BY MS SUTHERLAND:

16 Q. [9:37:04] Good morning, Mr Witness. Thank you very much for all of the time
17 that you spent giving evidence to this Court. I know that we are all extremely
18 grateful.

19 Referring to transcript 39, page 40, line 23 to page 41, line 2, you told us you "knew
20 the name in full since 2012, but in more recent times when I tried to remember
21 the name in full, I couldn't. My memory did not serve me well. But the media
22 helped me afterwards. So it's not now that I have learnt the name. I already knew,
23 but I recalled it more at the beginning of the trial."

24 Since clearly you were following the media coverage of this trial, could you explain to
25 us which parts of the proceedings you were following?

1 A. [9:38:15] The question is not clear.

2 Q. [9:38:21] My apologies, Mr Witness. It's clear from what you told us that
3 you've been following these proceedings in the media. Could you please clarify
4 which parts of the proceedings you have been following?

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12 Q. [9:39:42] Thank you very much for the -- such a clear answer.

13 Your Honours, I'm afraid I'm going to have to ask your permission to go into private
14 session.

15 PRESIDING JUDGE MINDUA: [9:39:59](Interpretation) Madam courtroom officer,
16 private session, please.

17 (Private session at 9.40 a.m.)

18 THE COURT OFFICER: [9:40:11] We are in private session, Mr President.

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16 (Open session at 10.25 a.m.)

17 THE COURT OFFICER: [10:25:08] We're in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [10:25:15](Interpretation) Thank you.

19 The Defence has finished its cross-examination. I'd like to thank Ms Sutherland for
20 having kept her word. It was less than an hour.

21 Now it is up to the OTP, if they wish to put any further questions.

22 MR DUTERTRE: [10:25:52](Interpretation) My lords, no additional questions on
23 the questions that I've put and the methods, so we do not have any further questions
24 at this point.

25 PRESIDING JUDGE MINDUA: [10:26:05](Interpretation) Thank you, Mr Prosecutor.

1 We are winning a lot of time in this case.

2 I look at my colleagues to see if we have any questions. As I said yesterday, I don't
3 want to ask any questions, but I ask Judge Prost.

4 Judge Prost.

5 JUDGE PROST: [10:26:26] Thank you.

6 Mr Witness, I'm going to speak slowly and in English to help the interpreters who
7 assist us with the different languages.

8 I'm going to ask my first question in public session, but then I will have to move to
9 private session briefly to put a few questions to you on matters which could identify
10 you.

11 Don't hesitate in answering this question, though, if you have any need to go into
12 private, please, please let me know.

13 And this question actually follows on well from what you were just discussing, just
14 mentioned.

15 Mr Witness, in various parts of your testimony you have mentioned this concept of
16 national projects and those more interested in national projects even within, within
17 Ansar Dine. And you've told us that, in your view, Mr Al Hassan had a national
18 project. You said: I always found he was a person who didn't have outside projects.
19 He thought that he was carrying out a revolution, an internal revolution.

20 And I'm interested in hearing a bit more detail from you on that point, what you
21 meant by that and what you understood to be his, his concept of an internal
22 revolution.

23 THE WITNESS: [10:28:06](Interpretation) Thank you. I will try to be concise, but
24 also to mention details and to follow a clear logical order.

25 The Tuareg revolution started in the '60s, in 1963 precisely, and that revolution was

1 the beginning. As I previously said, the Tuaregs were banned from everything,
2 recruitment in the army, civil service, even access to certain fields of discipline,
3 education, and even from education at all -- in some parts of the country.
4 The 1963 revolution, there was an armed revolution, but it was quenched in Kidal
5 almost in the form of a genocide and that has ended the revolution. Afterwards,
6 some people emigrated to Libya, got trained and launched a war in the '90s and it's
7 called the war of the '90s.
8 The Malian army tried to follow the same thing that was done in the '60s, which is to
9 do racial killings and genocidal acts, but there were open borders and there was
10 a refugee agency that received the refugees and everyone fled from the Malian army,
11 and the only people who remained were armed people who were not easy to kill or to
12 neutralise.
13 There was another revolution in 2006 or 2007 led by Colonel Hassan Fagaga. This
14 revolution was -- given that the agreement of the '90s granted a quota for the people
15 of northern Mali, not only the Tuaregs, to enlist in the army or to be recruited in
16 the army at some points, but every year the quota for northern Mali comes but is
17 already filled with people from the south.
18 The revolution of the '90s ended with a mediation by Gaddafi. One of the leaders of
19 that revolution, Ibrahim Ag Bahanga, continued fighting for the cause, along with
20 other activists preparing for another revolution, and that is how different movements
21 were created. The goal of all of which was to get the rights of the northern people in
22 general, and the Tuaregs in particular, to take those rights from the Malian
23 government. The government forced the -- a blockade on the Tuareg areas. There
24 were no roads. There were no networks of communication. Goods that were sold
25 for \$10 in Bamako - there were very rough roads in the desert to take the transport

1 merchandise to northern Mali - those goods would reach northern Mali and be sold
2 for double price. There were no schools. There were no hospitals. There wasn't
3 the minimum of what you can call a decent life for the Tuareg communities.
4 In 2011, or at the end of 2011, many Tuaregs came back from Libya, arrived from
5 Libya. These people said that instead of getting into an agreement with the Malian
6 army granting us some rights and depriving us of some other rights, why don't we
7 take our independence from Mali.
8 So they formed the National Movement for the Liberation of Azawad and they tried
9 to launch the war for independence and they proclaimed the independence of
10 Azawad. At the same time, jihadist groups got involved and said: We don't want
11 independence only. We want Sharia to be the law.
12 These groups took control of the cities and kicked out the MNLA.
13 Here, the tribes were puzzled and wondered: What do we do? Do we leave our
14 lands and leave it to Al-Qaeda?
15 Iyad made a suggestion: We are Ansar Dine. We have a section within the group
16 that is taking care of national or patriotic projects, but as far as Al-Qaeda is concerned,
17 that's me. I'm the one responsible.
18 The tribal leaders saw that that is a solution. They thought that joining
19 the non-extremist section within Ansar Dine was a solution. So they were convinced
20 that they were taking advantage of this Al-Qaeda situation so that Al-Qaeda doesn't
21 dominate them.
22 But Al-Qaeda also thought that on its end. They thought they were using them as
23 a cover while achieving their objectives.
24 I hope this was an easy explanation.
25 JUDGE PROST: [10:33:34] Thank you, Mr Witness. That was very clear and I take

1 it that, with respect to Mr Al Hassan, he fell within that, that project, that nationalistic
2 aspect you've just described?

3 THE WITNESS: [10:33:57](Interpretation) Yes. For example, the Al-Qaeda group,
4 each one within Al-Qaeda had a *nom de guerre* and did not use their real names, but
5 this was not the case with Al Hassan. When we talk about the execution of *hudud*
6 punishments, you see that all of those who belonged to the extremist section cover
7 their faces, and we never saw Al Hassan trying to cover his face.
8 So these are illustrations that we can look at. Even a non-expert can conclude
9 the same thing. But as far as what I, what I said, I said it based on my conviction, my
10 expert knowledge and on my interest in being fair. As I previously said, I am here to
11 cooperate with the Court, to make the truth clear, and I'm not here to side with any
12 party against another party. And I'm saying all I know without premeditation and
13 without any other considerations.

14 JUDGE PROST: [10:35:14] Thank you very much, Mr Witness.

15 That is indeed very clear from what you have said.

16 At this point I believe I'll need to go into private session.

17 PRESIDING JUDGE MINDUA: [10:35:29](Interpretation) Madam courtroom officer,
18 private session, please.

19 (Private session at 10.35 a.m.)

20 THE COURT OFFICER: [10:35:49] We are in private session.

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- 9 (Open session at 10.59 a.m.)
- 10 THE COURT OFFICER: [10:59:52] We are back in open session.
- 11 PRESIDING JUDGE MINDUA: [11:00:01](Interpretation) Thank you very much,
- 12 courtroom officer.
- 13 There we are. So it is 11 o'clock sharp. We are going to rise for half an hour and we
- 14 shall reconvene at 11.30 with the questions from the Chamber. It will be
- 15 Judge Akane's turn.
- 16 The hearing is suspended.
- 17 THE COURT USHER: [11:00:26] All rise.
- 18 (Recess taken at 11.00 a.m.)
- 19 (Upon resuming in open session at 11.31 a.m.)
- 20 THE COURT USHER: [11:31:40] All rise.
- 21 Please be seated.
- 22 PRESIDING JUDGE MINDUA: [11:31:59](Interpretation) The Court is in session.
- 23 We will continue with our hearing of the 16th witness of the Prosecution, and it is
- 24 the Judges' turn to ask questions, so I turn to Judge Akane for her questions.
- 25 JUDGE AKANE: [11:32:18] Thank you.

1 Mr Witness, I will ask you a series of questions about several aspects of the case
2 which were discussed in the context of your testimony. I will ask you several
3 questions in open session first, and then move to private session in order to protect
4 your identity.

5 Thank you for your patience and answers.

6 If you want to move to private session to provide a more detailed answer or explain
7 specific circumstances, please don't hesitate to indicate this to the Chamber.

8 I'll start with the questions in open session.

9 Mr Witness, you explained on several occasions the impact of the presence of
10 the armed groups for the population of Timbuktu. You mentioned negative impacts
11 as well as positive ones.

12 Now, could you explain again what you consider to be positive impacts.

13 THE WITNESS: [11:33:50](Interpretation) First of all, when the Islamist groups
14 arrived in Timbuktu, Timbuktu was in chaos. There were the Arab militias and
15 the MNLA members who entered the city, and so there was a total lack of rule of law
16 and total lack of order and of system. Every person with an arm could do whatever
17 they want. People were frightened.

18 When the Islamists entered the city, there became a clear rule of law and total equality
19 and a complete feeling of security, because no one could aggress another person, no
20 one's property or assets could be stolen.

21 These are parts of the positive aspects of their presence in Timbuktu.

22 JUDGE AKANE: [11:35:05] Thank you.

23 You said that hospital, electricity and water continued to be available and that
24 electricity and water were free at that time. Who or what organisation pays for
25 the utilities cost and the hospital fee at that time?

1 THE WITNESS: [11:35:43](Interpretation) There was the ICRC organisation of
2 Geneva and there were contributions by Doctors Without Borders and other
3 organisations.

4 JUDGE AKANE: [11:36:09] How about the water supply and the electricity?

5 THE WITNESS: [11:36:20](Interpretation) Water and electricity, when it comes to
6 those two, Ansar Dine has assigned people who had some experience before or
7 knowledge to oversee the supply of those utilities. They also received financial
8 support from those organisations to purchase fuel and to purchase change parts, as
9 far as I remember.

10 JUDGE AKANE: [11:36:52] Thank you very much.

11 Please tell us about the economic impact on the population of Timbuktu during what
12 some people call the occupation by the armed group. You said that most of the
13 population composed of merchants disappeared. My question is, what do you mean
14 by that?

15 THE WITNESS: [11:37:31](Interpretation) At the beginning of the events, when
16 the National Movement for the Liberation of Azawad in Timbuktu was besieged and
17 skirmishes erupted everywhere, the inhabitants of Timbuktu started fleeing the city
18 for fear of war. And after the control of Arab militias and the departure of the
19 Malian army and the situation of panic that accompanied that situation, everyone
20 who could leave the city did emigrate out of the city.

21 Timbuktu's economy relies on commerce and also on livestock, but only in a simple
22 or in a smaller way. I could say that Timbuktu's economy relies primarily on
23 commerce and tourism. With the coming of Islamist groups, there was no tourism.
24 No one would dare to come to Timbuktu as a tourist because revenue from tourists is
25 from western tourists who were not allowed to come to Timbuktu.

1 As to commerce, commerce depends on people's purchasing power, and people's
2 purchasing power depends on people with regular wages, people on a payroll.
3 Those who are part of that category can buy goods from merchants. The state was
4 absent and the banks were absent and people had no more purchasing power because
5 people no longer had wages.

6 The only thing that remained, I mean there were poor people who had -- who lived
7 on a daily income and that did activate the economic life, but these also could not
8 work anymore. So the only purchaser that remained was the Islamist groups. And
9 this was detrimental to the city's economy, where families relied on annual touristic
10 activity for their annual incomes.

11 JUDGE AKANE: [11:39:54] Thank you very much for your explanation.

12 And based on what you heard or saw, besides the economic consequences you
13 already mentioned now, what were, according to you, the negative impacts on
14 the presence of these armed groups for the population?

15 THE WITNESS: [11:40:29](Interpretation) Look, there are impacts. There is
16 the economic impact, the negative one, which is what I mentioned. Other negative
17 impacts were that the locals felt they were under the authority of foreigners who were
18 controlling them in their own country, and they felt powerless on their own land. So
19 this was a psychological impact. To see a foreigner imposing his terms and you
20 having no right to object, and all you could do is to, is to accommodate your life and
21 your system of living to that person's interpretation of Islamic Sharia, while you are
22 a Muslim and hold a different interpretation which you think is right, but that other
23 person with a force of arms can impose their interpretation.

24 The other impact also of a psychological nature concerned those with a Sufist
25 ideology. If you mention a shrine or if you mention the name of a saint in vain, that

1 has a very negative impact on people with such an ideology. Let alone someone
2 who demolishes these shrines, because these believers in Sufism hold the saints
3 so -- in very high regard to the extent of holiness, and they saw these shrines being
4 demolished and were not able to act on that in any way.

5 JUDGE AKANE: [11:42:33] Thank you very much. I would like to move on
6 another question. You said several times that Judge Houka Houka was a judge of
7 the Islamic court throughout the period when the armed grouped allegedly occupied
8 Timbuktu in 2012.

9 My question is, do you know what was the profession or occupation of Judge
10 Houka Houka before the armed group took over Timbuktu in 2012?

11 THE WITNESS: [11:43:18](Interpretation) I don't know what he -- what work he
12 used to do. All I know is that he was a man of -- who had a knowledge of Sharia and
13 who taught Sharia. This is how he was socially regarded. And he used to settle
14 disputes if people ask him, what does Sharia say on this or that particular matter.
15 As to whether he had a formal job, that I don't know about. And, as far as I know,
16 he continues until now to carry out his role, which is, if someone has a question on
17 what Sharia says about a particular matter, that person could come to him and he
18 would tell him Sharia says the following about that matter.

19 JUDGE AKANE: [11:44:19] Thank you very much, very good.

20 I will move on to another question. (Redacted)

21 (Redacted)

22 (Redacted) If

23 yes, can you tell the Chamber about it.

24 THE WITNESS: [11:45:09](Interpretation) I do not have clear examples about that.

25 I cannot cite -- I cannot give a clear and detailed answer on that in answer to your

1 question, unfortunately.

2 JUDGE AKANE: [11:45:25] Very well.

3 Mr Witness, in the context of your oral testimony, you said you were willing to
4 explain to the Chamber why, quote, "the sons of Timbuktu joined the jihadist groups,"
5 unquote, referring to, quote, "the organisational aspect of Al-Qaeda and these
6 groups." Unquote.

7 My question is, could you elaborate on this, please.

8 THE WITNESS: [11:46:11](Interpretation) Look, as I previously said, recruitment,
9 military recruitment is open and all armed groups need additional members.

10 The economic factor and the social factor played an important role in some people
11 joining Ansar Dine. Some people could not afford what to eat on a daily basis for
12 their families. So when joining Ansar Dine, I don't think there were regular wages.

13 I don't know if there were, but there were monthly sums given to some people. So
14 some people were in a situation that forced them to earn a living and to earn -- to
15 bring food to their children. Some people were also afraid, so if the person is told
16 "come and join us", he would feel that that gives him a sense of security, knowing that
17 this is temporary only.

18 Some people played a role in revolutions and in other movements, and when those
19 movements became weak, their tribal leaders told them not to stay in camps like
20 women and children but should be men standing in the battlefield, regardless of the
21 name or the umbrella under which they would be, but to serve the interests of the
22 tribe anyway and to protect the members of the tribes.

23 Regarding the difference between Al-Qaeda and Ansar Dine, Al-Qaeda has a global
24 project and that project is targeting western interests. That is their primary goal first
25 and foremost everywhere, and especially in the African Sahel region, and in this case

1 we're talking about Al-Qaeda in the Islamic Maghreb. As to those holding a national
2 project, they wanted to gain rights -- to take rights from the Malian government with
3 a force of arms as they did in the '90s.

4 JUDGE AKANE: [11:48:59] Thank you very much. It's very clear.

5 Now I'd like to move into private. Dear, Presiding Judge, could you kindly ask
6 the court officer to move into private session.

7 PRESIDING JUDGE MINDUA: [11:49:17](Interpretation) Court officer, please can
8 we move into private session.

9 (Private session at 11.49 a.m.)

10 THE COURT OFFICER: [11:49:32] We're in private session, Mr President.

11 (Redacted)

12 (Redacted)

13 (Redacted)

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(Open session at 12.00 p.m.)

1 THE COURT OFFICER: [12:00:41] We are in open session, Mr President.

2 PRESIDING JUDGE MINDUA: [12:00:49](Interpretation) Thank you very much,
3 courtroom officer.

4 Now, the Chamber has finished putting its questions to the witness.

5 I'm turning now to the Defence to see whether Ms Taylor would like to address
6 the Court once again.

7 MS TAYLOR: [12:01:07] Yes, thank you very much, Mr President.

8 I apologise for standing up before. I thought the witness was about to be dismissed
9 so I apologise to Judge Akane on that moment.

10 But, yes, we would like to put some additional questions to the witness. And

11 I believe we should be able to finish by 12.30. I just need to put the rostrum up.

12 QUESTIONED BY MS TAYLOR:

13 Q. [12:01:51] Good afternoon, Mr Witness, and thank you very much for bearing
14 with us over what has been quite a long few weeks. We are very grateful, as my
15 colleague Ms Sutherland mentioned.

16 Now, Mr Witness, I would just firstly like to clarify a few issues. And I do believe
17 we can do this in open session.

18 Now, Judge Prost mentioned to you a quote where you had indicated that you
19 thought that Mr Al Hassan was carrying on an internal revolution. This might be
20 a matter of translation or terminology, but by saying that he was "carrying on" a
21 revolution, would it be correct to say that you weren't suggesting that Mr Al Hassan
22 was himself carrying on a revolution but, rather, he was caught up with something
23 that was occurring?

24 A. [12:03:05] That's what I believe.

25 Q. [12:03:06] And that he had been pressured to join the wing of Ansar Dine that

1 was aligned to this national project of ensuring safety and security in Azawad?

2 PRESIDING JUDGE MINDUA: [12:03:28](Interpretation) Mr Prosecutor.

3 MR DUTERTRE: [12:03:30](Interpretation) Could we know where this question
4 comes from? Is it a question or is it a commentary on the part of the Defence?

5 PRESIDING JUDGE MINDUA: [12:03:41](Interpretation) Which question are you
6 referring to?

7 MR DUTERTRE: [12:03:45](Interpretation) As to whether pressure was exerted or
8 not.

9 PRESIDING JUDGE MINDUA: [12:03:49](Interpretation) Yes. Ms Taylor, we are in
10 the context of your questions, your additional questions, which shall remain within
11 the limitations of the questions put by the Prosecution or by the Chamber. You're
12 not going to develop new elements. So the Prosecutor would like to know where
13 this is coming from.

14 MS TAYLOR: [12:04:14] It's coming directly from the question put to him by
15 Judge Prost. And I think the problem is that the Prosecutor thinks that there's no
16 question mark at the end of what I said.

17 In any case, I can move on. But for my next questions, I will need to be in private
18 session.

19 PRESIDING JUDGE MINDUA: [12:04:45](Interpretation) Madam courtroom officer,
20 private session, please.

21 (Private session at 12.04 p.m.)

22 THE COURT OFFICER: [12:05:00] We are in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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21 (Open session at 12.34 p.m.)

22 THE COURT OFFICER: [12:34:24] We are back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [12:34:31](Interpretation) Thank you.

24 Ms Taylor.

25 MS TAYLOR: [12:34:34]

1 Q. [12:34:34] Mr Witness, at transcript 44, page 67, lines 17 to 24, you testified,
2 firstly:
3 "I do not believe that the armed group offered medicine or free medical treatment, but
4 they did bring their support to the hospital and to water and electricity for free."
5 And then at transcript 44, page 70, lines 24 to 25, and page 71, lines 1 to 7, after I
6 showed you something that you had posted in December 2012, you said:
7 "... if your question is the following, as to whether hospitals in Timbuktu in 2012 was
8 free, the answer is yes, everything was free, including water and electricity and
9 medical treatment."

10 A. [12:35:39] That is true, everything was free, indeed. But these are two different
11 questions. When you say was everything free, that's something else, that's different
12 from a question on who funds that.

13 Q. [12:35:55] Yes, Mr Witness. Now, given that you said that Ansar Dine
14 supported the hospital, did their support to the hospital and to these facilities
15 contribute to the existence of free treatment?

16 A. [12:36:17] Yes. I can add even more to that. There were other -- there was
17 other aid, not just aid concerning hospitals. And as far as I know, these aids,
18 the money was spent appropriately. There was no corruption, there was no
19 misspending. And that's what made it possible to cover the costs in the city.

20 Q. [12:37:00] And would it be correct that if Ansar Dine hadn't supported
21 the hospital or hadn't contributed to these services, these organisations would not
22 have been able to provide the funding that made these services free?

23 PRESIDING JUDGE MINDUA: [12:37:20](Interpretation) Mr Prosecutor.

24 MR DUTERTRE: [12:37:23](Interpretation) I do apologise to object once again, but
25 this is purely speculative.

1 PRESIDING JUDGE MINDUA: [12:37:36](Interpretation) Yes, Ms Taylor. You are
2 trying to draw conclusions and have them validated by the witness. It is speculation.
3 What the witness has said, we've heard. But what you're doing is speculative.

4 MS TAYLOR: [12:38:01]

5 Q. [12:38:01] Mr Witness, based on what you saw and heard in 2012, and your
6 interactions, did -- if Ansar Dine had not been present in Timbuktu, would
7 the services have been free?

8 A. [12:38:32] No.

9 PRESIDING JUDGE MINDUA: [12:38:35](Interpretation) Prosecutor, the witness
10 can answer that question.

11 THE WITNESS: [12:38:43](Interpretation) No. And I also think that, if my memory
12 serves me well, at some times the aid would stop. I don't know much about
13 the hospital, but I know about water, electricity, because that's what I also needed on
14 a daily basis, water, electricity. And I think sometimes it was Ansar Dine who, who
15 provided the necessary supply, fuel for the water and electricity plants, even in
16 the absence of a -- of funding by the ICRC. And given my knowledge of Ansar Dine,
17 Al-Qaeda, and of the other armed groups as well as, I know that Ansar Dine's
18 management was better than any other organisation, especially its management of
19 water and electricity.

20 MS TAYLOR: [12:39:59]

21 Q. [12:40:00] Now, Mr Witness, in response to a question from Judge Akane, you
22 referred to the psychological impact of the presence of foreigners. Would it be
23 correct that this psychological impact was felt by everyone in Timbuktu, including
24 locals, with Ansar Dine?

25 A. [12:40:28] Yes. This psychological impact was felt by even the local members

1 who were part of Ansar Dine. Everyone felt this. I felt it myself. I felt powerless
2 many times. I felt powerless in the face of a foreigner who was doing something and
3 who was forcing me to do as he wished.

4 Q. [12:41:01] Thank you, Mr Witness.

5 I have no final questions -- further questions.

6 PRESIDING JUDGE MINDUA: [12:41:07](Interpretation) Thank you very much,
7 Ms Taylor.

8 We have completed the additional questions of the Defence and no one else wants to
9 speak.

10 Madam courtroom officer, we are still in public session, are we not?

11 Mr Witness, we now reach the point where you've completed your testimony, finally.

12 The Chamber once again wants to thank you most sincerely for your assistance and
13 for your clear answers to the questions put to you by parties and participants. You
14 were very patient, you've been here for several weeks already, and I am very grateful
15 for having been available.

16 And I'd also like to thank you for your contributions in helping us seek the truth.

17 You've been called upon by the Prosecution and you've done your best to answer all
18 questions. So, for all those reasons, I would like to send our thanks to you, our
19 deepest gratitude. Now you can return home and continue to your normal activities.

20 To the parties, I'd like to remind you the procedure as regards to submitting exhibits
21 to the file for this witness.

22 Our next hearing is for Wednesday, 25 November, with your 17th witness.

23 MR DUTERTRE: [12:43:34](Interpretation) That is correct, my lord.

24 PRESIDING JUDGE MINDUA: [12:43:38](Interpretation) Very well.

25 Ms Taylor.

1 MS TAYLOR: [12:43:43] Mr President, I would just like to note that today we expect
2 to receive the report of the Registry on the situation in the detention unit. Now we
3 imagine that that will impact --

4 PRESIDING JUDGE MINDUA: [12:43:57](Interpretation) In that case, I will usher
5 out of the witness.

6 Court officer, would you kindly accompany the witness.

7 (The witness is excused)

8 PRESIDING JUDGE MINDUA: [12:44:31](Interpretation) The witness has left.

9 Ms Taylor, you have the floor.

10 MS TAYLOR: [12:44:36] Thank you very much, Mr President.

11 As the Chamber is aware, Mr Al Hassan has been required to participate via video
12 link and we have not been able to meet him in person. This has a significant impact
13 on defence preparation and it deviates from the principles established at the
14 beginning of this trial, which established that we should be able to meet him in
15 person and that he should be present in the courtroom.

16 As of this point in time, we have no indication from the Registry as to when this
17 situation will end. We face constant uncertainty as to the health of our client, which
18 in itself generates a significant degree of stress for the defendant. We intend to
19 submit an application to the Chamber as concerns these issues because we do
20 respectfully submit that they have a clear impact on the scheduling of future
21 witnesses, in particular witnesses for which we have not had the opportunity to meet
22 with the client in person and go through sensitive issues concerning
23 cross-examination strategy. We should not be prejudiced because of COVID, but
24 that is what happening.

25 So whilst it might be too late for some of the witnesses coming next week, we do

1 believe that this should be taken into account as concerns the feasibility and
2 suitability of scheduling the witness afterwards.

3 PRESIDING JUDGE MINDUA: [12:46:13](Interpretation) Prosecution, would you
4 like to say something on this matter?

5 MR DUTERTRE: [12:46:23](Interpretation) No. We don't really have much
6 information. But it is true that the Defence must have ample time to prepare. And
7 then we'll also need to see what we can do with the various witnesses.

8 PRESIDING JUDGE MINDUA: [12:46:49](Interpretation) Thank you very much.
9 Ms Taylor, yesterday you had contact with Mr Al Hassan, with your client?

10 MS TAYLOR: [12:47:09] Mr President, what was the question? I don't think it came
11 through. Did I have contact with my client?

12 PRESIDING JUDGE MINDUA: [12:47:16](Interpretation) Yes. Because you said
13 about difficulties of communicating with your client.

14 MS TAYLOR: [12:47:23] Yes, Mr President, and we have raised this repeatedly and
15 in detail. Our ability to communicate and consult with him by the phone is
16 significantly reduced, as are concerns our availability to meet with him in person, to
17 go through videos with him in person, to review statements with him in person.
18 A telephone call cannot replace in-person consultations. It simply can't. We try,
19 but it doesn't.

20 Thank you.

21 PRESIDING JUDGE MINDUA: [12:47:55](Interpretation) Very well.

22 The Chamber is most anxious to assist you so you have your privileged contact with
23 your client.

24 At the same time, the Chamber has been informed that there have been incidents
25 because of COVID in the detention centre. Once again, clear instructions will be

1 given to the Registry so that you can have communications with Mr Al Hassan so that
2 you can prepare properly for his defence.
3 That's all I can say for the moment.
4 Well, we will fix the programme as we have discussed, and based on the information
5 we receive we will review the situation.
6 So we will see each other on Wednesday at 9.30, here in this courtroom, for the 17th
7 witness of the Prosecution.
8 Once again, I'd like to thank parties and participants for their cooperation, exemplary
9 contribution. I'd like to thank the court clerks and the interpreters for their work,
10 which is not always very easy. And I'd like to thank the security officers and our
11 public.
12 I wish you all a good weekend. Take care and keep in good health.
13 The audience is adjourned.
14 THE COURT USHER: All rise.
15 (The hearing ends in open session at 12.49 p.m.)