

Trial Hearing  
WITNESS: MLI-OTP-P-0160

(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 Judge  
7 Kimberly Prost  
8 Trial Hearing - Courtroom 3  
9 Tuesday, 2 March 2021  
10 (The hearing starts in open session at 9.33 a.m.)  
11 THE COURT USHER: [9:33:11] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:33:42](Interpretation) The hearing is now open.  
15 Good morning, everybody.  
16 Court officer, please call the case.  
17 THE COURT OFFICER: [9:33:54](Interpretation) Good morning, your Honours.  
18 Situation in the Republic of Mali, The Prosecutor versus Al Hassan Ag Abdoul Aziz  
19 Ag Mohamed Ag Mahmoud, ICC-01/12-01/18.  
20 And we are in public session.  
21 PRESIDING JUDGE MINDUA: [9:34:13](Interpretation) Thank you, court officer.  
22 As usual, we will start with the introductions.  
23 Prosecutor, please. Madam Prosecutor.  
24 MS YAMAGUCHI: [9:34:23] Good morning, Mr President, your Honours.  
25 Today the Prosecution is represented by Lucio Garcia on my left, Gilles Dutertre on

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1 my back, and myself Yayoi Yamaguchi.

2 PRESIDING JUDGE MINDUA: [9:34:43](Interpretation) Thank you very much,  
3 Madam Prosecutor.

4 I turn now to the Defence.

5 MS TAYLOR: [9:34:49] Good morning, Mr President. Good morning,  
6 your Honours. Good morning to everyone inside and outside the courtroom.  
7 The Defence for Mr Al Hassan is represented today by Dolly Chahla and myself  
8 Melinda Taylor. Thank you.

9 PRESIDING JUDGE MINDUA: [9:35:04](Interpretation) Thank you, Ms Taylor.  
10 And the Legal Representatives for Victims.

11 MR LUVENGIKA: [9:35:15](Interpretation) Good morning, your Honours.  
12 The victims are represented today by Ms Claire Laplace and myself Maître Nsita  
13 Luvengika. Thank you.

14 PRESIDING JUDGE MINDUA: [9:35:32](Interpretation) Thank you, Maître Nsita.  
15 This morning we will continue hearing the 24th Prosecution Witness P-0160. So I  
16 turn to the witness.

17 Good morning, Mr Witness, can you hear me?

18 WITNESS: MLI-OTP-P-0160 (On former oath)

19 (The witness speaks French)

20 (The witness gives evidence via video link)

21 THE WITNESS: [9:36:00](Interpretation) Yes, I can hear you very well, your Honour.

22 PRESIDING JUDGE MINDUA: [9:36:04](Interpretation) Thank you very much,  
23 Mr Witness.

24 We would once again like to welcome you here and also to thank you for your  
25 cooperation. I would like to remind you that you are still under oath and I would

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1 also remind you of my practical advice with regard to speaking in the courtroom.

2 Thank you.

3 So we are still in the examination-in-chief and therefore I give the floor to

4 the Prosecution.

5 Madam Prosecutor.

6 MS YAMAGUCHI: [9:36:53](Overlapping speakers) Thank you very much, Mr

7 President.

8 QUESTIONED BY MS YAMAGUCHI: (Continuing)

9 Q. Good morning, Mr Witness.

10 A. (No interpretation)

11 Q. I would just like to start with a few clarification questions regarding what you

12 have told us yesterday. Yesterday you indicated that for project B you used a form

13 that was slightly different from what was used in project A. And I'm referring to the

14 transcript from yesterday, P -- page 56 --

15 PRESIDING JUDGE MINDUA: [9:37:35](No interpretation)

16 MS YAMAGUCHI: [9:37:43] My microphone is on.

17 PRESIDING JUDGE MINDUA: [9:37:47](Interpretation) There was a problem with

18 interpretation.

19 THE COURT OFFICER: [9:38:00](Interpretation) The problem seems to have been

20 resolved, your Honour.

21 PRESIDING JUDGE MINDUA: [9:38:04](Interpretation) Thank you very much,

22 court officer.

23 Madam Prosecutor, you have the floor.

24 MS YAMAGUCHI: [9:38:10] Thank you, Mr President.

25 Q. [9:38:17] Mr Witness, I will repeat what I have just said. So I would like to start

1 with some clarification questions regarding what you told us yesterday.

2 First, you indicated that for project B you used a form that was slightly different from  
3 what was used in project A. And I'm referring to transcript number 66, page 56, line  
4 2 to 11.

5 Now please turn to tab 3 of your binder.

6 The ERN of the document is MLI-OTP-0039-0920. And Madam Court Officer, please  
7 do not broadcast this document.

8 Mr Witness, do you have the document in front of you under tab 3?

9 A. [9:39:49] I have the document.

10 Q. [9:39:51] You confirmed yesterday that this was a report you produced in  
11 the context of project B. Now please turn to page 12, which corresponds to the ERN  
12 0039-0931.

13 Do you recognise --

14 A. [9:40:20] I have the page.

15 Q. [9:40:23] Do you recognise this document?

16 A. [9:40:30] Yes, indeed I do.

17 Q. [9:40:32] Could you please explain to us what it is.

18 A. [9:40:45] Madam Prosecutor, in order to be able to interview the people, we  
19 have these two forms, the witness (sic) form and the witness form. And these forms  
20 were used for all the people we heard. And then we filled in the forms according to  
21 the different wording. And the main aim was to construct a profile of the victim  
22 with the additional information of the gender of the victim, status, location by  
23 address, and then finally to see what type of offence was involved, the description of  
24 the violence suffered.

25 And for the victim we also mention whether the victim had been taken care of or not.

1 And then you will also have the victim -- the witness form, which is slightly different  
2 from the victim form and this confirms whether the witness had knowledge of  
3 the victim's situation.

4 So we worked with these forms for some of the people whom we interviewed.

5 Q. [9:42:58] Thank you, Mr Witness. There was a bit of confusion in  
6 the interpretation, so could you please just clarify which one is the witness form; on  
7 the right or the left?

8 A. [9:43:22] On my right, where it says "*fiche du témoin*", that is the witness form.

9 Q. [9:43:33] And what is the form on the left?

10 A. [9:43:44] The one on the left is used only for people who we have met as victims.

11 Q. [9:44:00] Now focusing on the left form for the victim you've met, could you  
12 please briefly describe any -- the differences in comparison with the form used in  
13 project A?

14 A. [9:44:28] The main difference relates to the description of the violence suffered,  
15 because the witness will give a description of the facts, which is different from  
16 the victim. Very often we noted that there was a difference between the statement  
17 made by the victim and that of the witness. And the victim/witness -- the victim  
18 form was 20 per cent -- sorry, the witness, there were only 20 per cent of them  
19 compared with all the victim forms. So, in other words, we had very few witnesses  
20 who could actually describe the violence to the victim because they were there -- they  
21 were there, therefore they could provide a witness statement to the state of the victim  
22 in relation to the violence suffered.

23 Q. [9:45:58] Thank you very much, Mr Witness.

24 Now, yesterday you told us about a victim of rape who was initially reluctant to tell  
25 you about the rape part of her victimisation. And you mentioned that this victim

- 1 mentioned the name of the perpetrator and the fact that he had red skin.
- 2 And I'm referring to the transcript from yesterday at page 64, line 24 to 25.
- 3 Could you please just clarify what you meant by having red skin.
- 4 A. [9:46:53] It's the colour of the skin.
- 5 Q. [9:47:01] Is that colour of skin usually associated with certain ethnic groups?
- 6 A. [9:47:19] Yes.
- 7 Q. [9:47:22] Could you tell us which groups they are.
- 8 A. [9:47:35] Generally speaking, the Arab and Tuareg communities are described
- 9 that way.
- 10 Q. [9:47:48] Thank you. I have just one more clarification question in relation to
- 11 your testimony yesterday. Yesterday you mentioned that not all rape victims were
- 12 raped in prison, others were also raped at the base.
- 13 And I'm referring to transcript page 76, line 4 to 5.
- 14 Now, were victims you met able to describe where this base had been located?
- 15 A. [9:48:30] This base was a former hotel which was located behind the market in
- 16 Timbuktu.
- 17 Q. [9:48:47] Do you recall the name of the market?
- 18 A. [9:49:01] The market was the small market, Yobou Tchiné, in Timbuktu.
- 19 Q. [9:49:13] Could you please spell the name of the market?
- 20 A. [9:49:19] Y-O-B-O-U, that means "market" in the local language. And *Tchiné*
- 21 means "small", T-C-H-I-N-É.
- 22 Q. [9:49:54] Thank you, Mr Witness. Now I would like to go back to the category
- 23 of crimes we were discussing the last -- at the end of yesterday's session, which is
- 24 arbitrary arrest and imprisonment. So please bring back -- look at your report under
- 25 tab 3 of your binder. The ERN again is 0039-0920. We saw -- we can see that you

1 documented 50 cases under this category. Now, did you meet or hear of other  
2 victims of arbitrary arrest and imprisonment in Timbuktu?

3 A. [9:51:05] Other than these cases, we met no one else, to be quite clear.

4 Q. [9:51:12] Did you hear of other cases or be informed about other cases in respect  
5 of victims you did not meet?

6 A. [9:51:38] No. We worked on the basis of people who had been identified as  
7 having had their rights violated, but we were not focusing on everything we were  
8 told. In other words, people who were identified as having had their rights violated  
9 were the ones that we met.

10 Q. [9:52:17] Thank you, Mr Witness.

11 Now I would like to turn to another category: Floggings, physical assault, and  
12 threats.

13 Please look at page 8 of the report, which corresponds to the ERN 0039-0927.

14 So from this page to the next page there is a summary relating to the category of  
15 floggings, physical assault, and threats. And according to this summary, almost all  
16 victims interviewed reported having suffered floggings. Now, do you recall what  
17 were the common reasons for which these victims were flogged?

18 A. [9:53:26] Flogging followed non-compliance with measures imposed by  
19 the Islamic police.

20 Q. [9:53:44] Could you give us some specific examples?

21 A. [9:53:55] I said in my statement yesterday that the Islamic police had instituted  
22 a dress code and had -- also had restricted certain activities for women, in particular,  
23 a woman had to be completely covered and, further, she also had to wear gloves and  
24 socks. And any woman who did not respect these measures was flogged.

25 Other cases were women carrying out commercial activities on the small level, such

1 as selling cosmetics. Or a woman walking around with goods for sale, that was also  
2 prohibited. In principle, a woman trading in any way -- because, generally speaking,  
3 in our community, when people trade they prefer to do it in the street in front of their  
4 homes and any activity of that type spotted by the Islamic police meant that  
5 the woman would be flogged. And that was the lowest form of punishment by  
6 the police.

7 Q. [9:55:51] Thank you very much, Mr Witness.

8 Now, this summary also mentions that the name of two alleged perpetrators were  
9 frequently mentioned by victims interviewed, and that is Demba Demba and  
10 Amadou Mossa. Do you recall hearing these names from victims of floggings?

11 A. [9:56:24] Yes, as being the representatives of those who gave orders -- those in  
12 charge of those who gave orders.

13 Q. [9:56:44] Now, apart from the 27 cases documented in this report, did you meet  
14 or hear of other cases of floggings in Timbuktu?

15 A. [9:57:09] We were indeed told that there were a lot of other cases, but we did not  
16 meet those people.

17 Q. [9:57:25] I would like to move on to another category of psychological and  
18 emotional violence. In the table on page 8 of the report, which corresponds to ERN  
19 0039-0927, it is indicated that 27 cases of this nature were documented by your project.  
20 Could you please briefly explain what type of cases were included under this  
21 category.

22 A. [9:58:14] Well, I could mention elements of testimony mentioning threats  
23 relating to certain activities which women were involved in and were immediately  
24 arrested, and a slap being given to a small girl in front of her mother when her father  
25 had just been removed. The little girl did not accept the slap and she leapt onto



1 the perpetrator to bite him and the mother went towards her daughter to hold her  
2 back and, unfortunately, she was insulted and that is something that, that has stayed  
3 with her, it very much affected her.

4 Q. [9:59:40] When you say "very much affected her", do you mean affected the girl  
5 or the mother? If you could please clarify.

6 A. [9:59:55] The mother was affected psychologically.

7 Q. [10:00:02] And you mentioned that the father was removed. Could you please  
8 explain what you meant?

9 A. [10:00:26] When there was the liberation in January, the armed groups tried to  
10 reoccupy the area and, once they had arrived back in the city under fire, there was  
11 a confrontation with the regular army and at that point, following these altercations,  
12 confrontations with the regular army, some people were targeted as having been  
13 accomplices of the army or the armed groups. This man had been identified, as such.  
14 They came to collect him at his home and took him away, and when she saw her  
15 father being taken away, the daughter reacted in that way. That's just an  
16 explanation of why the daughter reacted in that way towards these members of  
17 the armed group.

18 Q. [10:01:45] Thank you, Mr Witness.

19 Now I would like to move on to yet another category, which is appropriation and  
20 destruction of goods. In the table on the page -- on page 8 of the report, again which  
21 corresponds to the ERN 0039-0927, it is indicated that seven cases of appropriation  
22 and destruction of goods were documented by your project. Again, could you  
23 please briefly describe what type of cases were included under this category?

24 A. [10:02:33] The first case was those women -- applied to those women who had  
25 been seen at the market who were illegally dressed, as it were, or dressed in such

1 a -- in such a manner that they did not respect Islamic or Islamist habits. So  
2 everything that they were selling was taken away. They were dispossessed of their  
3 goods and taken away to be flogged. So that woman, that specific woman lost  
4 everything that she had and lost all of the goods that she was selling at the market.  
5 The other case was a transport vehicle that was moving from one locality to come  
6 back to Timbuktu that was stopped and the occupiers of the vehicle were told to  
7 alight and they were searched, all of their goods were taken out of the vehicle and  
8 the vehicle was set alight. And then they were taken back to Timbuktu and thrown  
9 in prison.

10 So those are the two cases to explain to you somewhat what this category of human  
11 rights violations applies to.

12 Q. [10:04:09] And do you recall approximately when those two cases took place?

13 A. [10:04:28] The victims said that it was during the year 2012. But as to  
14 the precise date, I would have to refer to the form.

15 Q. [10:04:43] Thank you, Mr Witness.

16 I would like to turn to my final topic, which is the impact of the crimes on victims in  
17 Timbuktu.

18 Now, you've told us about a number of crimes committed by the Islamists, or  
19 so-called Islamists, that you and your team documented in the -- in the context of both  
20 project A and B, and you have already told us some specific cases you still recall. Is  
21 there any additional case which you -- left a particular impression on you because of  
22 the extensive impact on the victim?

23 A. [10:05:38] Thank you, Madam Prosecutor. I would admit to you that this work  
24 which enabled me to gather data did have an effect on me and it affected me  
25 psychologically by mere virtue of the fact that I could not follow up by providing

1 continual assistance to these individuals that I met with.

2 It is true that in my work I was not supposed to feel empathy, but I did ask myself

3 a lot of questions how -- as to how I could help these women, how I could obtain

4 reparation for them, how I could help these women no longer think about what they

5 had endured. Also men, because there's not only women we're talking about. How

6 could I help these people recuperate their civil rights, their political rights, their

7 economic rights?

8 On a personal level, I did ask myself a lot of questions: Should I leave those children

9 whose legitimate father was absent? These children certainly did not have any

10 future as to the presence of two parents. How could one help these families? How

11 could one help these persons who had been affected to reinsert, to rejoin society and

12 really enjoy their rights to the full?

13 Now, in the face of all these questions without answers, I asked my organisation if I

14 could find or we could find the means to follow up on this, find further funds and

15 provide assistance and accompany these individuals that we had met with.

16 Unfortunately, this was not the case and we remained for a few years and then I

17 thought to myself that this does not serve me any purpose to remain in this

18 organisation and continue to provide assistance to these people for whom I could

19 really not provide any assistance at all.

20 So that is what I have to say on the matter, Madam Prosecutor.

21 Q. [10:08:18] Thank you, Mr Witness.

22 Now, based on what you heard from victims you met and what you personally

23 observed in the context of your work in Timbuktu, could you please tell us what

24 impact, if any, these crimes committed by the Islamist groups had on the population

25 of Timbuktu in general.

1 A. [10:08:55] The first impact would be continual impoverishment, because there  
2 was a restriction upon activities. The second form of impact would be the lack of  
3 security for individuals, because with the acceptance -- with the exception of the  
4 Islamic police, there was no state administration, there were no basic state services,  
5 there was no orientation as -- in terms of accompanying people in their search for  
6 human rights.

7 Now, in addition to the limitation and restriction upon activities in terms of  
8 economics, the other impact was the loss -- the loss of rights.

9 So those are fundamentally the two forms of impact that I felt when working in  
10 those -- with those communities in Timbuktu.

11 Q. [10:10:04] And when you visited Timbuktu after the occupation ended, were  
12 you able to observe the impact remaining -- was there any still remaining impact on  
13 the population you could observe?

14 A. [10:10:37] Yes, because the population was in a state that was a little bit difficult  
15 to comprehend. Because despite the end of the occupation, with the return of some  
16 security forces and some forms of administration, the population had lost confidence  
17 and that is why it was a little bit difficult for the new authorities to bring  
18 the population back to a state of confidence amongst its -- those it administered. So  
19 the -- they felt a little bit freed of the occupation of the Islamist groups. However,  
20 they did not feel confident in true terms.

21 Q. [10:11:34] Thank you very much, Mr Witness.

22 That concludes my questions.

23 PRESIDING JUDGE MINDUA: [10:11:52](Interpretation) Thank you very much,  
24 Madam Prosecutor. I understand, therefore, that you have finished with your  
25 examination-in-chief; that is correct?

- 1 MS YAMAGUCHI: [10:12:06] Yes, Mr President.
- 2 PRESIDING JUDGE MINDUA: [10:12:17](Interpretation) Thank you very much.
- 3 So I note that, in total, you have used four hours and 46 minutes. Of course, this will
- 4 have an impact for what happens later, but I can see on the side of the Legal
- 5 Representatives for Victims that there are preparations afoot. So I will ask you
- 6 the usual question, Maître Nsita, would you like to address the Court after the end of
- 7 the examination-in-chief?
- 8 MR LUVENGIKA: [10:12:58](Interpretation) Yes, thank you, Mr President, for
- 9 allowing me to address the Court.
- 10 As you know, my interventions are not as lengthy as they might be. Madam
- 11 Prosecutor has really broached these subjects very well from the victims' standpoint.
- 12 I would just like to hark back to a specific category of victims for which I would like
- 13 to obtain some additional clarification or elements from the witness, because the NGO
- 14 did have a programme on that subject.
- 15 PRESIDING JUDGE MINDUA: [10:13:44](Interpretation) Yes, thank you very much,
- 16 Maître Nsita.
- 17 So, of course, the traditional question to the Defence. Ms Taylor, do you have any
- 18 objections to raise?
- 19 MS TAYLOR: [10:13:56] Not in principle, Mr President.
- 20 PRESIDING JUDGE MINDUA: [10:14:08](Interpretation) Thank you very much,
- 21 Ms Taylor.
- 22 Now, the Chamber is entirely in agreement with the Legal Representatives putting
- 23 questions to the witness.
- 24 Mr Witness, Mr Witness, I would like to draw your attention to the fact that
- 25 Maître Nsita will be putting questions to you now for the Legal Representatives for

1 Victims.

2 Maître Nsita, please, over to you.

3 MR LUVENGIKA: [10:14:48](No interpretation)

4 PRESIDING JUDGE MINDUA: [10:15:06](Interpretation) Mr Witness, when you say  
5 something, doesn't just nod, please say something into the microphone.

6 THE WITNESS: [10:15:14](Interpretation) Yes, Mr President.

7 QUESTIONED BY MR LUVENGIKA:

8 Q. [10:15:19] Mr Witness, I wanted to ask you to explain in general terms to  
9 the Chamber the issues associated with children who were victims, those I consider to  
10 be victims, in terms of rape and forced marriage. The NGO had a support and  
11 finance programme for children who had issues. Now, did the NGO take under its  
12 wings -- under its wing all those children who had been victim of rape and forced  
13 marriage?

14 A. [10:16:07] Thank you, Legal Representative for Victims. Now, in clear,  
15 the NGO did not have any finance for supporting children. Through both projects A  
16 and project B, the mission of the NGO was to identify and to classify the types of  
17 human rights violations and to provide orientation.

18 When we realised that we were up against such cases of children who were born out  
19 of rape and forced marriage, we then introduced a parallel activity of support for  
20 those families. And it was in or within this context that there was a distribution of  
21 culinary kits - and this is different for other victims, different from other  
22 victims - culinary kits and also money, 25,000 francs per family as a form of support  
23 for those children. And thirdly, we aimed at assisting the mothers in conducting  
24 administrative acts associated with those children.

25 These activities were introduced within a programme that did not have as its mission

1 the support of -- the aim of supporting those children who were victims.

2 Q. [10:18:01] Yes, Mr Witness, but could you explain to us what you mean by  
3 administrative acts associated with these children?

4 A. [10:18:17] By "administrative acts" we mean obtaining judgments associated  
5 with birth certificates.

6 Q. [10:18:30] Of course, when you were in charge of this project, these children  
7 were only mere babies. Do you know how these children were considered by  
8 the community, how the community saw them?

9 A. [10:18:52] We didn't work in those terms with regard to the community itself.  
10 But we worked on the basis of how those children were considered within the context  
11 of their family. First of all, the women were ashamed, they were ashamed of going  
12 out in the company of those children because those children were born out of  
13 relationships with members of armed groups who had left, and the mothers were  
14 ashamed of the fact that they could be picked out or seen to be different in colour  
15 from their mothers. And the mothers also were somewhat stressed by virtue of the  
16 fact that they did not have the financial means and it was difficult for them to go and  
17 find those financial means elsewhere to fulfil the needs of those children. So it was  
18 really stigmatisation that made them feel stressed.

19 Q. [10:20:11] Very well. Thank you very much.

20 MR LUVENGIKA: And thank you, Mr President, that concludes my questioning.

21 PRESIDING JUDGE MINDUA: [10:20:19](Interpretation) Thank you very much,  
22 Maître Nsita.

23 Now I am turning to the Defence for the cross-examination.

24 Ms Taylor.

25 MS TAYLOR: [10:20:37] Thank you, Mr President. If we may just have a couple of

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1 minutes to distribute the binders to the interpreters and to the, to the Bench.

2 PRESIDING JUDGE MINDUA: [10:20:51](Interpretation) Of course, yes, Ms Taylor.

3 Please go ahead.

4 MS TAYLOR: I apologise. I had assumed with the timing that we would go up to  
5 the break.

6 PRESIDING JUDGE MINDUA: [10:21:24](Interpretation) Ah, I understand better  
7 now. Are you saying that you want to take a break now?

8 MS TAYLOR: [10:21:30] No, Mr President. I had assumed that the Prosecution  
9 would take longer and that we would be able to distribute the binders during  
10 the break. So I apologise for that.

11 PRESIDING JUDGE MINDUA: [10:21:42](Interpretation) No problem at all,  
12 Ms Taylor.

13 Please go ahead with the distribution of the binders.

14 (Pause in proceedings)

15 QUESTIONED BY MS TAYLOR:

16 Q. [10:22:28] Good morning, Mr Witness. My name is Melinda Taylor and we met  
17 briefly during the courtesy meeting yesterday. I'm the counsel for Mr Al Hassan and  
18 I'll be putting questions to you today.

19 A. [10:22:47] Thank you.

20 MS TAYLOR: [10:22:49] Mr President, with your leave, I have a very small amount  
21 of questions which are identifying, if I could start with those before going into open  
22 session.

23 PRESIDING JUDGE MINDUA: [10:23:03](Interpretation) Madam Courtroom Officer,  
24 private session, please.

25 (Private session at 10.23 a.m.)



1 THE COURT OFFICER: [10:23:14](Interpretation) We are in private session,  
2 your Honours.  
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16 (Open session at 10.33 a.m.)

17 THE COURT OFFICER: [10:33:14](Interpretation) We are in open session,

18 Mr President.

19 PRESIDING JUDGE MINDUA: [10:33:17](Interpretation) Thank you very much.

20 Ms Taylor, please.

21 MS TAYLOR: [10:33:23]

22 Q. [10:33:23] Now, Mr Witness, I'm going to ask you some questions about this  
23 report. It won't be shown to the public. And just to remind you that we are in open  
24 session.

25 Now, Mr Witness, do you know which areas the data was collected in?

1 A. [10:33:59] I do remember that this study was conducted in the regions of Gao  
2 and Timbuktu.

3 Q. [10:34:15] Do you know if it was possible to collect data from refugee camps in  
4 Mauritania or Nigeria?

5 A. [10:34:35] I recall that during this study there was talk of looking at refugee  
6 camps in Burkina and Niger to collect data.

7 Q. [10:35:03] If I could just turn to page 7282 of the report.  
8 Can you see that on your screen, Mr Witness?

9 A. [10:35:33] Not yet.

10 MS TAYLOR: [10:35:35] If page 7282 could be brought up.

11 THE COURT OFFICER: [10:35:44] It's currently displayed on evidence channel 1  
12 and broadcast to the witness, confidentially, of course.

13 MS TAYLOR: [10:35:54]

14 Q. [10:35:54] Now, Mr Witness, can you see the limitations to the study?

15 A. [10:36:10] I'm afraid I can't read it like that.

16 MS TAYLOR: [10:36:13] Would it be possible to zoom in on the third paragraph on  
17 the page, otherwise I can read it out.

18 Q. [10:36:31] Now, Mr Witness, is it correct that due to security issues it wasn't  
19 possible to collect data from refugee camps in Mauritania or Nigeria or Kidal?

20 A. [10:36:50] Niger.

21 Q. [10:37:54] Mr Witness, are you in a position to confirm whether it is correct that  
22 it was not possible to undertake investigations in either the refugee camps in  
23 Mauritania or Niger or Kidal region?

24 A. [10:38:18] I confirm this for reasons of security.

25 Q. [10:38:26] And would that have been a general issue faced by NGOs collecting

1 data at the time?

2 A. [10:38:42] Yes, Counsel, absolutely.

3 Q. [10:38:46] And was the data collected through discussion groups?

4 A. [10:39:00] Yes, indeed that was the case.

5 Q. [10:39:05] And was data also collected by liaising with leaders and influential  
6 people in the community?

7 A. [10:39:24] Yes, during individual meetings.

8 Q. [10:39:30] Do you know who selected these leaders and influential people?

9 A. [10:39:51] Once a data collection area is identified, we knew that they were  
10 people with resources who could aid us to get information from the community, in  
11 particular, thinking of village heads and other people with resources identified for  
12 these localities.

13 Q. [10:40:29] In terms of having links to the community, would it have been helpful  
14 to have people who had links to the victim community?

15 A. [10:40:49] Yes, I can remember that.

16 Q. [10:40:54] And was it in these individual meetings that the data collectors would  
17 obtain information about the political or cultural context?

18 A. [10:41:19] Yes, because these people had been identified and targeted to  
19 facilitate our work. So it was under their advice and authorisation. Sometimes  
20 they came to the field with us and there we met with the community.

21 Q. [10:41:50] If we could just bring up page 7281 onto the screen.

22 And, Mr Witness, if you could confirm to me when you can see it.

23 Are you able to read the figures at the top of the page, Mr Witness?

24 A. [10:42:22] If one could zoom in a little bit more, please.

25 Yes, now I can.

1 Q. [10:42:32] Now, the figures at the top show the composition of the discussion  
2 groups. Would you agree that the composition was mainly, predominantly  
3 Songhai?

4 A. [10:42:54] Yes, because that is the -- they make up the majority of the community  
5 located there.

6 Q. [10:43:06] And the next highest represented was the Tuareg noir with  
7 43 per cent; is that what you recall?

8 A. [10:43:20] Yes, indeed.

9 Q. [10:43:25] And was it also the case that the Arab community and the Tuareg  
10 community, the Tuareg blanc or mixte, were represented in very small numbers?

11 A. [10:43:46] Yes, Counsel, that was the case.

12 Q. [10:43:55] Now, are you familiar with any accounts from white Tuaregs of  
13 retaliation occurring after 2013?

14 A. [10:44:20] Yes, Counsel.

15 Q. [10:44:23] Can you explain what you know about this, what you heard.

16 A. [10:44:37] Thank you. During our community meetings, we heard certain  
17 testimonies which we transcribed into the report and which we reported on. I recall  
18 that at a place about 40 kilometres from Gao, in the community, they as Tuareg -- as  
19 white Tuaregs explained that they were not part of the movement. They did not  
20 bear arms, they did not leave, so they were not part of this event.

21 I recall a man whose picture is actually in our report, he explained to us that there  
22 would be one thing he would never ever forget and that was the murder of his wife.  
23 When she was shot, he -- as soon as we met him, he told us at what time he used to  
24 take tea with his wife and now he's just left with his daughter. And that -- that was  
25 very shocking. And he was a white Tuareg. So that is one of the elements that we

1 heard as bearing witness to the events during our field study.

2 MS TAYLOR: [10:46:53] Mr President, I've noted that the LRV have left  
3 the courtroom. I'm happy to have a break now, if that would be more convenient, or  
4 I can continue.

5 PRESIDING JUDGE MINDUA: [10:47:11](Interpretation) No, Ms Taylor, do  
6 continue, he will return immediately.

7 MS TAYLOR: [10:47:19] If we could bring up page 7287 onto the screen.  
8 If you could scroll down.

9 Q. [10:47:50] Now, the report has at this page an account of a white Tuareg in  
10 the region of Timbuktu, and it says: (Interpretation) "This crisis is a nightmare for  
11 me. During the previous crisis I lost my father and my young brother. They were  
12 arrested and executed here because we didn't flee. I pardoned them that because it  
13 was an error. But this crisis has spared nobody. It has upset everything."  
14 (Speaks English) Based on what you yourself heard, was it also the case that members  
15 of the Tuareg community had been subjected to reprisals or attacks before 2012?

16 A. [10:48:55] Counsel, I would say that it wasn't all the white Tuaregs who joined  
17 the armed groups, and that is why we were lucky enough to meet some white  
18 Tuaregs who stayed and who did not participate in the armed movement. And for  
19 that reason they were victims just like other communities were. That's something  
20 that needs to be made clear.

21 PRESIDING JUDGE MINDUA: [10:49:40](Interpretation) Ms Taylor, I would like to  
22 point out to you that Mr Nsita is back and also it can be noted in the record.  
23 Please proceed.

24 MS TAYLOR: [10:49:57]

25 Q. [10:49:57] Now, for these white Tuaregs that stayed, was security an issue for

1 them, were they concerned about attacks and reprisals in 2012?

2 A. [10:50:16] Yes, indeed, I agree.

3 Q. [10:50:29] Would you agree that, for this community as -- and other  
4 communities, ethnicity and skin colour became a source of discrimination in 2013 and  
5 onwards?

6 A. [10:50:57] Yes, Counsel.

7 Q. [10:51:00] And there was a stigma of being associated with being an Arab or  
8 being associated with Arabs or Tuaregs?

9 A. [10:51:31] Yes, Counsel.

10 Q. [10:51:35] Do you recall if one of the issues faced during these discussion groups  
11 was that participants would make broad generalisations concerning ethnic groups?

12 A. [10:52:05] The statements were part of the considerable element of the reality of  
13 the movement, it was that 80 per cent of the armed groups at the time who were in  
14 occupation were from a clearly identified community, the Tuaregs and the Arabs,  
15 white Tuaregs and Arabs. So there were black communities also associated with  
16 them, so they were together with the white communities. So the stigmatisation had  
17 a reason with regard to the category of the community. So at that time there was  
18 a vast divide in terms of trust between the white communities and the black  
19 communities and even for -- even though the white communities who stayed were  
20 stigmatised because most of the armed groups consisted of Arabs and white Tuaregs,  
21 others who were not involved in the movement were, nevertheless, stigmatised. I  
22 think that is the best way I can describe it.

23 Q. [10:53:43] If I could turn to page 7291 of the report.

24 And if it could be scrolled down.

25 A. [10:54:51] Yes, I can see it.



- 1 Q. [10:54:54] Now, is it correct that in these discussion groups people would  
2 identify groups by particular ethnicities, that you had a kind of a war of colours?
- 3 A. [10:55:20] Yes.
- 4 Q. [10:55:23] And is it correct that they would, for example, automatically associate  
5 Tuaregs with the MNLA or Ansar Dine?
- 6 A. [10:55:41] Very much so, Counsel.
- 7 Q. [10:55:45] And Arabs with MUJAO or AQIM?
- 8 A. [10:55:56] Indeed.
- 9 Q. [10:55:58] Based on what you heard, is it correct that there were Arab groups  
10 around Timbuktu who were aligned with the Malian army and then the MNLA?
- 11 A. [10:56:27] This is information which I paid attention to because it needed to be  
12 verified. Even if this information was circulating, I was very wary of it because it  
13 was not necessarily evident. I had no evidence.
- 14 Q. [10:57:03] Now, on the same page it says, and this is starting with "*Parmi les*  
15 *participants*", it says:  
16 "For some of the interviewees it follows from this that these ethnic groups are  
17 the cause of the suffering inflicted on local populations when those armed groups  
18 controlled the three regions of northern Mali. 'We are afraid of the white Tamasheq,  
19 we even close our doors if we see them coming, because we don't even want to speak  
20 to them anymore.'"  
21 This is a Songhaï woman in a village in the Timbuktu region.  
22 Now, would this conclusion in the report mean that the participants would blame  
23 whichever group was in control of the area at the time the violation occurred?
- 24 A. [10:58:08] Yes, indeed, because it was the group that occupied with weapons.
- 25 Q. [10:58:18] And on the same page it says:

1 (Interpretation) "Amongst the participants to the individual interviews who  
2 mentioned that their social relations are average or poor, six of ten affirmed that they  
3 had a problem with a whole ethnic group rather than with certain individuals.  
4 The difficulty of distinguishing the degrees of responsibility and the propensity of  
5 expressing judgments relating to a whole group is a clear -- clearly shows the fragility  
6 of the social makeup."

7 A. [10:59:10] Yes, I can confirm that.

8 Q. [10:59:11] Would it also mean that if the victim did not know the identity of the  
9 perpetrator, they would be likely to name the group they associated with the ethnicity  
10 of the perpetrator?

11 A. [10:59:36] Yes, in most cases, yes.

12 Q. [10:59:45] Now, Mr Witness, given the risks of retaliations against Tuaregs and  
13 Arabs that existed this time, would you accept that it would have been difficult for  
14 victims or witnesses to speak positively about Ansar Dine in 2013 and onwards?

15 A. [11:00:22] The victims know the facts they went through. So there was  
16 the matter of the personal identification of the victim, but the ethnic group was not in  
17 doubt and the act committed was suffered by the victim and could be described by  
18 the victim. So I think that people did not make errors about ethnic -- ethnicity, but it  
19 was difficult to identify individual assailants or individuals who had violated their  
20 human rights.

21 MS TAYLOR: [11:01:13] Mr President, looking at the clock, would now be a good  
22 time for a break?

23 PRESIDING JUDGE MINDUA: [11:01:22](Interpretation) Yes, that's quite correct.  
24 It is time to take our break. We will now take a half an hour break, starting again  
25 at 11.30.

Trial Hearing  
WITNESS: MLI-OTP-P-0160

(Open Session)

ICC-01/12-01/18

1 The hearing is suspended.

2 THE COURT USHER: [11:01:37] All rise.

3 (Recess taken at 11.01 a.m.)

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

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

6 Please be seated.

7 PRESIDING JUDGE MINDUA: [11:31:45](Interpretation) Court is in session once

8 again.

9 The Defence is still questioning and we shall continue with the cross-examination on

10 the part of the Defence.

11 I just wanted to make sure that the witness is present. He is indeed.

12 Ms Taylor, over to you.

13 MS TAYLOR: [11:32:06]

14 Q. [11:32:07] Good morning, Mr Witness. Can you confirm that you can hear me

15 okay?

16 A. [11:32:17] I can confirm indeed, Counsel.

17 Q. [11:32:21] Thank you. Now, before the break we were discussing this issue of

18 generalisation. Would you accept that this issue of generalisations may have led

19 some victims that you spoke to to exaggerate what happened in 2012?

20 PRESIDING JUDGE MINDUA: [11:33:01](Interpretation) Madam Prosecutor, you're

21 on your feet.

22 MS YAMAGUCHI: [11:33:04] We object to this question because it is speculative.

23 The Defence is asking -- the Defence -- maybe the witness should be asked to

24 remove -- or the feed for the witness should be cut so we can discuss this in -- without

25 his presence.

- 1 PRESIDING JUDGE MINDUA: [11:33:27](Interpretation) Madam Courtroom Officer,  
2 could you please cut off the feed to the witness.
- 3 THE COURT OFFICER: [11:33:38](Interpretation) It has been confirmed out in  
4 the field that the sound has been cut off. We can continue.
- 5 PRESIDING JUDGE MINDUA: [11:33:44](Interpretation) Thank you very much.  
6 Madam Prosecutor.
- 7 MS YAMAGUCHI: [11:33:45] Thank you, Mr President. The question posed by  
8 the Defence is not clear and it is asking the witness to speculate about what some of  
9 the victims he met may have done or not.
- 10 PRESIDING JUDGE MINDUA: [11:34:03](Interpretation) Very well.  
11 Ms Taylor, what do you have to say to that?
- 12 MS TAYLOR: [11:34:07] Thank you, Mr President. I'm happy to reformulate, but  
13 this is a witness who is testifying about what he heard from victims and he did testify  
14 yesterday that he took steps to verify the reliability of the accounts that he heard. So  
15 this question is directly targeted at that issue specifically, whether he could assess  
16 whether victims or witnesses were exaggerating accounts.
- 17 PRESIDING JUDGE MINDUA: [11:34:38](Interpretation) Madam Prosecutor.
- 18 MS YAMAGUCHI: [11:34:40](Overlapping speakers) Thank you, Mr President.  
19 We would then ask the Defence to indeed reformulate the question so it is based -- it  
20 is targeted on what the witness has heard from the victims directly.
- 21 PRESIDING JUDGE MINDUA: [11:34:57](Interpretation) I do believe that you can  
22 rephrase your question, but what you said seems correct to me, that the witness has  
23 made observations and that he is in a position to say what he has heard and what he  
24 did with regard to all of the graphs that we went through earlier.  
25 So we have established or re-established the connection -- or we shall re-establish

1 the connection, please, Madam Courtroom Officer.

2 It is the connection that we should indeed be re-establishing, is it not, not the lights?

3 THE COURT OFFICER: [11:35:46](Interpretation) I can indeed confirm that

4 the sound has been re-established.

5 PRESIDING JUDGE MINDUA: [11:35:50](Interpretation) Thank you very much.

6 So please go ahead, Ms Taylor.

7 MS TAYLOR: [11:35:53]

8 Q. [11:35:54] Mr Witness, when you met with victims in Timbuktu, did you have  
9 the impression that certain victims exaggerated what occurred in 2012?

10 A. [11:36:14] Thank you, Counsel. As part of the mandate of our mission our duty  
11 and responsibility was to gather information and consult data, but not to make an  
12 interpretation of what people might consider as generalisations, that -- there was no  
13 nexus for us. As I said, we needed to report what the victims told us and transcribe  
14 this on form and compile a databank that we placed at the disposal of organisations.  
15 But it was not our job to interpret this data.

16 Q. [11:36:57] Now, Mr Witness, yesterday you testified, this is transcript 66 at  
17 page 86, that "Income-generating activities are the day-to-day activities that women  
18 engaged in to make some money. For example, doing hairdressing which was  
19 forbidden. At the time, no woman was allowed to wear braids. No woman was to  
20 appear barefoot or have their hands uncovered without gloves. No woman was  
21 allowed to sell any cosmetics. No woman was allowed to engage in any activities  
22 that would mean they would be walking in the street. No selling. Nothing like that.  
23 A woman on her own could do nothing" like this -- "like that. So these activities  
24 were prohibited and thus the power of women was restricted. They were simply not  
25 allowed to carry out any activity that would allow them to earn any kind of money."

1 Mr Witness, was this based on information you received from victims?

2 A. [11:38:18] Thank you, Counsel.

3 I believe that I have provided an explanation when I was asked for it with regard to  
4 what we mean by "income-generating activities". And I explained what I  
5 understood to mean by principles and measures imposed by the Islamic police. And  
6 it was within that context that I provide the explanation. Because this is not borne  
7 out in the forms, but it was during the meetings or interviews that the victims and  
8 people that we met with explained to us precisely what went on. And I would like  
9 to specify that.

10 Q. [11:39:07] Mr Witness, when you say "during meetings", was it during  
11 discussion groups?

12 A. [11:39:26] The discussion groups were in the context of the study that you are  
13 referring to through the report that you have presented. But in addition to those  
14 discussion groups, we organised individual interviews in the context of this study.

15 MS TAYLOR: [11:39:52] I'd like to play a video. If we could play it without sound  
16 and it won't be transmitted to the public. It's Defence tab 25, it's MLI-OTP-0018-0483.  
17 And it will be shown on evidence channel 2.

18 (Viewing of the video excerpt)

19 MS TAYLOR: [11:41:04]

20 Q. [11:41:05] Mr Witness, do you recognise the location?

21 A. [11:41:15] I do believe that it is one of the roads in the centre of the town of  
22 the Timbuktu market.

23 Q. [11:41:28] And what colour was the clothing worn by the women?

24 A. [11:41:43] They were wearing veils from what I could see, light pink in colour.

25 Q. [11:41:54] So they were wearing colours, not black clothing; that's correct?

- 1 A. [11:42:06] Indeed.
- 2 Q. [11:42:09] And they weren't wearing gloves, were they?
- 3 A. [11:42:17] No.
- 4 Q. [11:42:21] And the women walking on the street weren't being stopped by  
5 the police, were they?
- 6 A. [11:42:37] Counsel, I do not know when that film was filmed and by whom, so  
7 I'm not in a position to say.
- 8 MS TAYLOR: [11:42:49] If I could show another video, it's Defence tab 24,  
9 MLI-OTP-0018-0056. And if we could again show it without sound and not transmit  
10 it publicly.
- 11 (Viewing of the video excerpt)
- 12 MS TAYLOR: [11:44:17]
- 13 Q. [11:44:17] Mr Witness, do you recognise the location?
- 14 A. [11:44:25] Yes. Once again, this is in Timbuktu city.
- 15 Q. [11:44:33] And did you see women handing out food at a market?
- 16 A. [11:44:51] Indeed.
- 17 Q. [11:44:54] And is it correct that they were wearing coloured clothing?
- 18 A. [11:45:07] Yes, Counsel.
- 19 Q. [11:45:11] And is it correct that they weren't wearing gloves?
- 20 A. [11:45:25] Correct.
- 21 Q. [11:45:30] Mr Witness, if I was to put it to you that these videos were filmed in  
22 2012, would you agree that because you were not present in 2012 it was difficult for  
23 you to know if victims were exaggerating or giving you incorrect information?
- 24 A. [11:46:10] To provide you with an assessment of the images, I would say, well,  
25 what time specifically, at what moment in 2012? Were these images filmed while

1 the armed groups were walking around armed as Islamic police? And, you know, I  
2 find this a little bit confusing.

3 The manner in which the victims told us their story - and I'm not interpreting  
4 here - they endured human rights violations for specific and -- specific reasons that  
5 they told us. Now to go beyond that and interpret whether it is true or false, because  
6 either the town was calm or it was -- it was under force or it was suffering under  
7 the measures of the restraints, I can't tell you that.

8 What we did was gather data. But as to assess whether there was an exaggeration or  
9 not, we didn't put ourselves in that position, we just noted down the statements and  
10 then we assessed them at our level.

11 Thank you, Counsel.

12 Q. [11:47:50] Now, Mr Witness, I'd like to go back to the report that I was  
13 discussing with you previously. During the discussion groups that took place in  
14 connection with that report, is it correct that most participants were of the view that  
15 disputes and redress should fall within the domain of religious authorities based on  
16 the Koran?

17 A. [11:48:46] As I said yesterday in my testimony, during the occupation  
18 the measures and principles were applied according to an interpretation of Islam. So  
19 there were some members of the population who went along with this form of  
20 interpretation and others who did not see it as such. And that is why, of those  
21 groups that we met with, they clearly told us that these were people who were  
22 bearing weapons and who were asking for a certain interpretation of the Koran.  
23 That is what transpired from those group discussions.

24 MS TAYLOR: [11:49:45] If we could bring up, again from the same report, page 7296  
25 onto the screen. I'm just finding the first page reference. It is MLI-D28-0004-7277



1 and the page is 7296.

2 Q. [11:50:19] And, Mr Witness, if you could confirm to me when you can see that  
3 on your screen.

4 A. [11:50:30] Not yet.

5 THE COURT OFFICER: [11:50:44] It's now on evidence channel 1, for everyone.

6 MS TAYLOR: [11:50:48] If it could be zoomed in so that the witness can read it.

7 THE INTERPRETER: [11:51:07] From the interpreters: Could we please know  
8 the tab in the binder, please.

9 MS TAYLOR: [11:51:13] I believe it's tab 7.

10 THE INTERPRETER: [11:51:16] Thank you.

11 THE WITNESS: [11:51:33](Interpretation) Yes, I can see it now.

12 MS TAYLOR: [11:51:37]

13 Q. [11:51:37] And, Mr Witness, can you see the summary that starts under  
14 "*Encadré 3*"?

15 A. [11:51:56] Which paragraph are we talking about?

16 Q. [11:52:00] It's the text in the box. And it starts with "*Les résultats de l'enquête*".

17 A. [11:52:23] I can see.

18 Q. [11:52:24] And it ends with the quote starting with "*Chez les personnes âgées*". If  
19 you could confirm when you've read that, Mr Witness.

20 A. [11:52:36] I can see, yes.

21 Q. [11:52:39] So, Mr Witness, is it correct that during these discussion groups  
22 the majority of participants indicated that they were in favour of resolving disputes  
23 through traditional justice or religious justice?

24 A. [11:53:12] I am in agreement with that, because at the north of the country  
25 the mechanism of traditional justice is of very great importance for all

1 the communities. Whatever the nature or degree of the conflict, people prefer to  
2 resolve matters through the traditional mechanism rather than go through  
3 the tribunal. So resolving disputes or conflicts is always an area for discussion and  
4 mediation at a community level. That was their wish, rather than instituting  
5 proceedings. So I can confirm this, that this is a reality within the region of the north,  
6 with a great deal of consideration given over to traditional methods of achieving  
7 justice.

8 Q. [11:54:30] And is it correct that these traditional leaders would rely upon  
9 the Koran as a basis for resolving disputes?

10 A. [11:54:50] Not only on -- upon the Koran, that is an extreme, but they would  
11 base themselves on traditional practices and the life in the community. But if one  
12 were to refer to the Koran, it was because one was taking it to an extreme, but not in  
13 general cases.

14 Q. [11:55:13] Mr Witness, you said that it was taking it to an extreme, but if you  
15 could look at the sentence starting with "*Les chefs traditionnels gèrent les conflits sous*  
16 *l'arbre à 'palabre', à l'amiable, tandis que les chefs religieux se basent sur les versets du*  
17 *Coran.*"

18 So is it not correct that this study states that religious leaders would rely upon  
19 the Koran and not just in extreme cases?

20 A. [11:55:57] If we take into consideration the structures and functions of  
21 the authorities at a regional level, one must make a distinction between  
22 the -- the religious council or the *cadi*, which is the extreme religious authority based  
23 on the Koran. It is only at the level of the *cadi*. And within the region of the north,  
24 if one refers to the *cadi*, it is because it is very necessary and the situation is not an  
25 easy one and one needs to consult it. Otherwise, people prefer to resolve disputes

1 either with or among the group of elders or within -- with -- but the *cadi* is really -- is  
2 the extreme and that is what is referring to the Koran.

3 MS TAYLOR: [11:57:09] Mr President, may I have your permission to ask a couple  
4 of questions in private session that are identifying as concerns the witness?

5 PRESIDING JUDGE MINDUA: [11:57:19](Interpretation) Of course.

6 Madam Courtroom Officer, private session, please.

7 (Private session at 11.57 a.m.)

8 THE COURT OFFICER: [11:57:31](Interpretation) We are in private session,

9 Mr President.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Open session at 12.01 p.m.)

13 THE COURT OFFICER: [12:01:18](Interpretation) We are back in public session,  
14 your Honour.

15 PRESIDING JUDGE MINDUA: [12:01:22](Interpretation) Thank you very much.  
16 Ms Taylor.

17 MS TAYLOR: [12:01:25]

18 Q. [12:01:25] Now, Mr Witness, we're in open session so I'll just remind you of that,  
19 not to mention the names of specific organisations.

20 Now, based on your work with the organisations we've been discussing, did you  
21 identify any barriers as concerns the ability and willingness of communities in  
22 the north to make use of formal judicial systems?

23 A. [12:02:10] Well, the work we were there to do, really in that where there is no  
24 place for that question. We were there to meet the victims and to ask them how,  
25 who and why things happened.

1 If you talk about the need to regulate their decision -- to regulate their situation,  
2 traditional or new, then that's not really within that framework. That was not a part  
3 of the work that we were doing in Timbuktu.

4 MS TAYLOR: [12:03:03] Mr President, I believe I'll have to ask the questions in  
5 private session to be clearer as to what I'm referring to.

6 PRESIDING JUDGE MINDUA: [12:03:16](Interpretation) Courtroom officer, private  
7 session, please.

8 (Private session at 12.03 p.m.)

9 THE COURT OFFICER: [12:03:29] We are in private session, Mr President.

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- 18 (Open session at 12.18 p.m.)
- 19 (Redacted)
- 20 THE COURT OFFICER: [12:18:13](Interpretation) We are now in public session.
- 21 PRESIDING JUDGE MINDUA: [12:18:18](Interpretation) Ms Taylor, we are in
- 22 public session.
- 23 THE COURT OFFICER: [12:18:26] (Overlapping speakers) redacted version of the
- 24 document the Defence would like to use, we have R01 and R02, for clarifications.
- 25 Thank you.

1 MS TAYLOR: [12:18:32] R02.

2 THE COURT OFFICER: [12:18:36] R02. Thank you very much.

3 MS TAYLOR: [12:18:40]

4 Q. [12:18:41] Now, Mr Witness, I'm going to read some sentences from your  
5 statement and then ask you questions. And this is paragraph 93 and this concerns  
6 the individual we were just discussing:

7 "His hand was amputated publicly. During the interview with him, we asked if he  
8 would like to pursue this legally but he said that all he wanted was that the person  
9 who cut his hand off would have his hand cut off too. I had to refer to his *fiche*  
10 *individuelle* to see that the incident took place on 15 May 2012 and that the young man  
11 was 22 years old. I recognised this case in my files because I remember the name  
12 Dédéou Maïga. I do not have a code for him, and this is because he did not want to  
13 pursue legal proceedings."

14 Mr Witness, do you recall this case now?

15 A. [12:19:59] Yes, I do, Counsel.

16 Q. [12:20:03] So is it correct that you didn't have a code for him because he didn't  
17 want to pursue legal proceedings?

18 A. [12:20:35] Well, that happened in the context that when we met the victim there  
19 would be -- when we met victims there would be a code. And I do remember  
20 having met this person.

21 Q. [12:20:54] Mr Witness, according to this part of your statement, you told  
22 the Prosecution that you did not have a code because he did not wish to pursue legal  
23 proceedings; is that correct?

24 A. [12:21:22] If that is what is written here, then that is what I said. But,  
25 Mr Dédéou, Mr Maïga wanted the person who cut his hand off to suffer the same

1 thing by way of justice.

2 Q. [12:21:46] So would it be correct he wanted a form of justice that was similar to  
3 Sharia law?

4 A. [12:22:01] Yes, indeed.

5 Q. [12:22:08] Now, Mr Witness -- I believe we can go into open session -- oh, we are  
6 in open session. I apologise.

7 Now --

8 PRESIDING JUDGE MINDUA: [12:22:18](Interpretation) We are in open session,  
9 Ms Taylor.

10 MS TAYLOR: [12:22:21]

11 Q. [12:22:22] Now, Mr Witness, in your work for different organisations, did you  
12 receive any information or reports concerning the trafficking of women or forced  
13 prostitution in the north of Mali, either before 2012 or after 2013?

14 A. [12:22:56] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 MS TAYLOR: [12:23:44] Mr President, may I go briefly into private session?

20 PRESIDING JUDGE MINDUA: [12:23:55](Interpretation) Court officer, private  
21 session, please.

22 (Private session at 12.24 p.m.)

23 THE COURT OFFICER: [12:24:03](Interpretation) We are in private session,  
24 your Honour.

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10 (Open session at 12.24 p.m.)

11 THE COURT OFFICER: [12:24:50](Interpretation) We are back in public session,  
12 your Honour, and if I am authorised, I can redact the part in question.

13 PRESIDING JUDGE MINDUA: [12:25:07](Interpretation) Yes. Thank you very  
14 much.

15 Ms Taylor.

16 MS TAYLOR: [12:25:10]

17 Q. [12:25:11] Now, Mr Witness, after 2012 did you hear of any reports alleging that  
18 international peacekeepers had engaged in sexual assault or exploitation of women?

19 PRESIDING JUDGE MINDUA: [12:25:43](Interpretation) Prosecution.

20 MS YAMAGUCHI: [12:25:45] We would like to object to this question because  
21 we cannot see any relevance to the charges in this case.

22 PRESIDING JUDGE MINDUA: [12:26:01](Interpretation) Ms Taylor, what is your  
23 reply?

24 MS TAYLOR: [12:26:05] Would it be possible to cut the feed to the witness.

25 PRESIDING JUDGE MINDUA: [12:26:13](Interpretation) Court officer, could you

1 please cut the communication. Thank you.

2 THE COURT OFFICER: [12:26:21](Interpretation) The communication is cut. We  
3 can continue.

4 PRESIDING JUDGE MINDUA: [12:26:28](Interpretation) Thank you very much,  
5 court officer.

6 Ms Taylor.

7 MS TAYLOR: [12:26:32] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE MINDUA: [12:27:28](Interpretation) Ms Taylor, I haven't  
17 understood. What sort of time frame are we in? Are we talking about the period of  
18 the conflict or are you going before that or are you referring to the period thereafter?

19 MS TAYLOR: [12:27:45] The period, Mr President, is between 2011 and 2015.

20 The accounts were collected in 2015 and it's the position of the witness that sometimes  
21 witnesses or victims were not able to identify the perpetrator or did not identify  
22 the perpetrator. So the purpose of this line of questioning is to identify whether any  
23 other violations were committed in or around these areas that may have given rise to  
24 the same violations or the same type of violations.

25 PRESIDING JUDGE MINDUA: [12:28:24](Interpretation) Do you see

1 the Prosecution is going to object because we are going beyond the time frame for  
2 the charges? But I will give the Prosecution the floor.

3 MR GARCIA: [12:28:38](Interpretation) Thank you. Firstly, I still don't understand  
4 after the Defence's lengthy explanation between the questions to be asked to  
5 the witness and the charges. But the Defence wants to ask questions of that time,  
6 there needs to be a basis for that. We are talking about people who were not  
7 mentioned in this dossier at all, so we are going beyond the limits and we may create  
8 confusion within the mind of the witness who is here for a specific reason.

9 PRESIDING JUDGE MINDUA: [12:29:22](Interpretation) Ms Taylor, if you wish to  
10 ask questions going beyond our time frame, then please establish the basis therefore.  
11 If not, please would you return to the time frame which links to the charges. Thank  
12 you.

13 MS TAYLOR: [12:29:41] Thank you, Mr President. If I can reply briefly. Firstly, I  
14 only have two questions I wish to put to witness on this issue.  
15 Secondly, this point is directed specifically to the fact that he has stated that witnesses  
16 were not always able to give dates or time periods as to when violations occurred.  
17 So the point is not whether these violations occurred at the time of the charges, but  
18 whether these violations might have been swept into the documentation project that  
19 he was involved in.

20 That is a relevant time period, it's a documentation project time period.

21 MR GARCIA: [12:30:18](No interpretation)

22 PRESIDING JUDGE MINDUA: [12:30:24](Interpretation) Prosecution, for the last  
23 time.

24 MR GARCIA: [12:30:28](Interpretation) Then one should put a clear precise  
25 question to ask him whether there were other cases which came up, so it clearly and

1 precisely -- there is no point in beating around the bush here.

2 PRESIDING JUDGE MINDUA: [12:30:45](Interpretation) Ms Taylor, I agree with  
3 the way the Prosecution has put it.

4 So we will re-establish the connection and you can put your question again.

5 Court officer.

6 THE COURT OFFICER: [12:31:10](Interpretation) The link has been re-established.

7 PRESIDING JUDGE MINDUA: [12:31:16](Interpretation) Thank you very much,  
8 courtroom officer.

9 Ms Taylor, please.

10 MS TAYLOR: [12:31:20]

11 Q. [12:31:21] If we could bring up Defence tab 8, that's MLI-D28-0004-7209.

12 Mr Witness, this is an article, it's in English, but it's from the time period during  
13 which you were documenting violations.

14 When you were engaged in this documentation process, did you hear of allegations  
15 that international peacekeepers, such as Chadian forces, had engaged in sexual  
16 assault or exploitation of women?

17 And I can read the first paragraph on this page, since it's in English:

18 "Now that Gao, a remote but critical outpost in northern Mali, has been a hub of  
19 military personnel -- Mali Army, French troops and UN peacekeepers -- to fend off  
20 terrorist incursions, it is also a simmering spot for sexual assaults and intimidation of  
21 women who live there. These acts are committed in the shadows of some Gao  
22 residences in public areas and in brothels, say aid workers and journalists who have  
23 spent time in the city.  
24 Few women who endure some treatment want to report the threats or violations to  
25 officials in Gao for fear of retribution and out of humiliation."

1 Mr Witness, were you aware of these allegations?

2 A. [12:33:22] I can confirm that I was aware of these facts.

3 Q. [12:33:29] And do you know if these women were able to obtain a remedy from  
4 the United Nations or from the countries associated with the peacekeeping forces?

5 MR GARCIA: [12:33:41](Interpretation) I am objecting to this.

6 PRESIDING JUDGE MINDUA: [12:33:47](Interpretation) Mr Prosecutor.

7 MR GARCIA: [12:33:49](Interpretation) If we look at the last question, your Honour,  
8 I think we're going -- we're going out of the framework of what concerns us here.  
9 We're asking here whether there has been reparation. We're not talking about  
10 whether this is the aim of the Defence's questioning. We're coming completely out  
11 of the scope here.

12 PRESIDING JUDGE MINDUA: [12:34:09](Interpretation) Ms Taylor.

13 MS TAYLOR: [12:34:12] I don't understand that objection, but, to put it simply,  
14 the witness has said that he's aware of these allegations. I'm simply asking if he's  
15 aware whether organisations such as those he was involved in are aware if these  
16 women obtained assistance or a remedy from the United Nations or from Chad.

17 PRESIDING JUDGE MINDUA: [12:34:42](Interpretation) The Prosecutor is opposed  
18 to you talking about reparations. You can just ask the witness whether he's aware of  
19 crimes committed by organisations and we can stop at that.

20 MS TAYLOR: [12:34:53] Mr President, may I -- if we're putting aside reparations,  
21 may I ask if he knows whether these victims received any form of assistance in terms  
22 of financial assistance or psychological assistance from the groups allegedly  
23 responsible?

24 PRESIDING JUDGE MINDUA: [12:35:14](Interpretation) Yes, I will accept that  
25 phrasing of the question.



1 Please go ahead.

2 THE WITNESS: [12:35:27](Interpretation) Counsel, can I answer?

3 MS TAYLOR: [12:35:30]

4 Q. [12:35:32] Yes, please.

5 A. [12:35:34] I can confirm that at the time of the facts, we came into possession of  
6 information and evidence and the organisation tried to meet up with the victim to  
7 hear what they had to say and to hear them describe the facts and, if possible, tell us  
8 who the perpetrators were. Even if, generally speaking, the people were in the know  
9 that these were the perpetrators whose names had been given.

10 But unfortunately, this was objected to because there was a convention in existence in  
11 the framework of the peace corps, the MINUSMA, who said that there could no -- be  
12 no -- we had to abandon this entirely because it was not supposed to go before  
13 the Malian courts but, rather, before the courts of the country of origin of  
14 the perpetrators.

15 So, with the objection that had been raised and the difficulties that we encountered,  
16 then we withdrew from the management of those cases. I was aware, I was seized of  
17 this, but we started to try and do something about it, but it was taken away from me.  
18 That's what I can say about it.

19 Q. [12:37:11] Mr Witness, are you familiar with *decret 2015* -- or 2015-0858 of  
20 31 December 2015 concerning the indemnisation of victims for 2012 events?

21 And if we can bring up on to your screen, it's Defence tab 11, MLI-D28-0004-7240.

22 Are you able to see this on your screen, Mr Witness?

23 THE COURT OFFICER: [12:38:02] No, we are currently processing it. Thank you.

24 MS TAYLOR: [12:38:44]

25 Q. [12:38:45] Mr Witness, this was -- this law was confined to the events of 2012; is

1 that correct?

2 A. [12:39:08] Counsel -- if you will allow, counsel, I can give you some information  
3 with regard to the law.

4 Q. [12:39:28] Yes, Mr Witness.

5 A. [12:39:36] (Redacted)

6 (Redacted)

7 (Redacted)

8 It is specific to a category of individuals and it does not take into account the victims  
9 for whom we identified human rights violations. And you can verify this, that there  
10 were complaints that the application -- the law was not applied and human rights  
11 organisations produced an outcry, saying that the law is restrictive in nature, and we  
12 were asked -- we asked for it to be reviewed, for it to apply to all of the victims in  
13 the north of Mali. Otherwise we know that this is a law that confers a specific  
14 category of victims of the *coup d'état* in 2012. That is what I can say about this law.

15 Q. [12:41:19] Mr Witness, you've said that this is restrictive and it only applies to  
16 specific categories of individuals. Which categories of individuals did it apply to?

17 A. [12:41:37] Specifically those people who were victims of the *coup d'état*.

18 Q. [12:41:45] Did it also apply to victims of rebel groups?

19 A. [12:42:02] Were it to come about that rebel groups did take part in the *coup d'état*,  
20 then yes. But the important thing for us was for this law to be generalised to cover  
21 also the armed groups and the armed forces of the north and those people who had  
22 been affected by the crisis in general, not specifically.

23 Q. [12:42:30] Is it correct that this law would not apply to victims of the Malian  
24 army?

25 A. [12:42:47] I wouldn't be in a position to say.

1 Q. [12:42:54] Based on what you know of this law, to get compensation under  
2 the law, was it necessary to have a medical certificate?

3 A. [12:43:18] Counsel, these are details that I am not aware of.

4 Counsel, please, quite simply, in addition to the law there are methods of application  
5 that I am just not aware of.

6 MS TAYLOR: [12:43:47] Mr President, I have a few identifying questions, if I could  
7 put them to the witness.

8 PRESIDING JUDGE MINDUA: [12:43:56](Interpretation) Madam Courtroom Officer,  
9 private session, please.

10 (Private session at 12.44 p.m.)

11 THE COURT OFFICER: [12:44:08](Interpretation) We are in private session,

12 Mr President.

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22 (Open session at 12.52 p.m.)

23 THE COURT OFFICER: [12:52:56](Interpretation) We are in open session,

24 Mr President.

25 PRESIDING JUDGE MINDUA: [12:53:03](Interpretation) Thank you very much.

1 Ms Taylor, please.

2 MS TAYLOR: [12:53:06]

3 Q. [12:53:06] Now, Mr Witness, again I'd like to remind you that we're in open  
4 session, so I would ask you not to give the names of any organisations.

5 Now, when you met with the ICC Prosecution, you were working for a different  
6 organisation. But is it correct you still had access to the files concerning project A  
7 and project B?

8 A. [12:53:38] No.

9 Q. [12:53:44] So, Mr Witness, is it your case that you did not give these files to  
10 the Prosecution during this interview? Or some of these files, to be clear.

11 A. [12:54:11] (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) who then authorised that we provide

16 electronic copies at -- to the Office of the Prosecutor. And when I was granted

17 the authorisation by the executive director, because I was the only contact with

18 the Office of the Prosecutor even though I didn't work within the organisation

19 anymore, I then went to get those -- or went to find those electronic documents to

20 place them at the disposal of the OTP.

21 But since I left the organisation, I myself no longer have the right to have access to

22 said documents and give them to whomsoever. Thank you, counsel.

23 Q. [12:55:31] Did you read the content of these files during your interview with  
24 the Prosecution?

25 A. [12:55:51] The files were in electronic version, so I did not have the time to read

1 through them again. These were forms that were from the organisation and -- and  
2 my duty was to hand them over to the OTP. I did not read through them again.

3 Q. [12:56:19] If I could just turn to your statement, that's Prosecution tab 1,  
4 MLI-OTP-0046-8685 at 8698.

5 If that could be brought up on to the screen.

6 And, Mr Witness, if you could turn to paragraphs 55 and 56 of your statement and  
7 where -- it's in English, so I'll see if I can read out the relevant section.

8 Mr President, may I read this in private session? Or if the interpreters -- well, no.

9 Because the witness can't read English, it's only fair that I read it to him or otherwise  
10 if I could leave out the name of the organisation with your permission.

11 PRESIDING JUDGE MINDUA: [12:57:27](Interpretation) Yes, indeed.

12 Madam Courtroom Officer, we are in --

13 THE COURT OFFICER: [12:57:31](Interpretation) We are currently in open session.

14 PRESIDING JUDGE MINDUA: [12:57:33](Interpretation) So we are going to move  
15 into private session for us to read through said paragraph.

16 (Private session at 12.57 p.m.)

17 THE COURT OFFICER: [12:57:48](Interpretation) We are in private session,

18 Mr President, your Honours.

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1 (Open session at 1.01 p.m.)

2 THE COURT OFFICER: [13:01:01](Interpretation) We are in open session,

3 Mr President.

4 PRESIDING JUDGE MINDUA: [13:01:05](Interpretation) Thank you very much,

5 madam courtroom officer.

6 It is 1 p.m., we shall rise now for an hour and a half for luncheon and we shall

7 reconvene at 2.30 this afternoon.

8 Court is suspended.

9 THE COURT USHER: [13:01:24] All rise.

10 (Recess taken at 1.01 p.m.)

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

12 THE COURT USHER: [14:30:44] All rise.

13 Please be seated.

14 PRESIDING JUDGE MINDUA: [14:31:12](Interpretation) Court is in session once

15 again. We shall continue with the cross-examination on the part of the Defence.

16 Ms Taylor, over to you.

17 MS TAYLOR: [14:31:30]

18 Q. [14:31:31] Good afternoon, Mr Witness. How are you?

19 A. [14:31:46] Good afternoon. I'm all right.

20 Q. [14:31:52] Now, before the break I read out two paragraphs from your statement,

21 that was paragraph 55 and 56. Do you remember those paragraphs or should I read

22 it out again. I don't think it's possible to show it on the transcript.

23 A. [14:32:20] I can remember, counsel.

24 PRESIDING JUDGE MINDUA: [14:32:24](Interpretation) Madam Prosecutor.

25 MS YAMAGUCHI: [14:32:26] Thank you, Mr President. And I'm sorry to interrupt,

1 but we would like to point out that there is another paragraph in his statement  
2 relating to the material this witness brought to the interview with the investigators in  
3 2017. We would like to suggest that for the fairness to the witness, that particular  
4 paragraph should also be read out to him. This is paragraph 62.

5 PRESIDING JUDGE MINDUA: [14:33:00](Interpretation) Ms Taylor.

6 MS TAYLOR: [14:33:03] Mr President, I was also planning on reading paragraph 63  
7 until the first line of paragraph 64, which address the same issue, but I was going to  
8 put him questions regarding paragraph 55 and 56 first, but I can read them all out.

9 PRESIDING JUDGE MINDUA: [14:33:26](Interpretation) Please proceed according  
10 to your method, Ms Taylor.

11 MS TAYLOR: [14:33:32]

12 Q. [14:33:32] Now, Mr Witness, these paragraphs concerned electric files that you  
13 had with you at the time of the Prosecution interview. Is it correct that you read  
14 these files during the interview so that you could recall the details of the cases you  
15 worked on?

16 A. [14:34:06] Yes, indeed.

17 Q. [14:34:11] So would it be correct that these files formed the basis for some of  
18 your responses to the Prosecution?

19 A. [14:34:33] Precisely.

20 Q. [14:34:38] Is it correct that you did not provide all of these files to  
21 the Prosecution at the end of the interview?

22 A. [14:34:53] Correct.

23 Q. [14:34:58] And did you continue to have these files after (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted) and after that the hard disk was wiped and all of the data on  
5 the little key was done away with.

6 MS TAYLOR: [14:36:05] Mr President, with your permission may we go into private  
7 session?

8 PRESIDING JUDGE MINDUA: [14:36:13](Interpretation) Courtroom officer, private  
9 session, please.

10 (Private session at 2.36 p.m.)

11 THE COURT OFFICER: [14:36:26](Interpretation) We are in private session

12 Mr President, your Honours.

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22 (Open session at 2.43 p.m.)

23 THE COURT OFFICER: [14:43:34](Interpretation) We are in open session,

24 Mr President.

25 PRESIDING JUDGE MINDUA: [14:43:37](Interpretation) Thank you very much.

1 Ms Taylor.

2 MS TAYLOR: [14:43:43]

3 Q. [14:43:44] Now, Mr Witness, without giving the name of the organisation, just  
4 referring to project A and project B. Now, during your testimony you referred to  
5 notebooks that were used during project A to write down victim accounts. Where  
6 are the notebooks stored?

7 And please let me know if you prefer to answer this in private session.

8 A. [14:44:26] To my knowledge, those notebooks are to be found at WILDAF.

9 MS TAYLOR: [14:44:36] Mr President, if we could go into private session.

10 PRESIDING JUDGE MINDUA: [14:44:42](Interpretation) Madam courtroom officer,  
11 please, private session.

12 (Private session at 2.44 p.m.)

13 THE COURT OFFICER: [14:44:52](Interpretation) Mr President, we are in private  
14 session.

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3 (Open session at 2.58 p.m.)

4 THE COURT OFFICER: [14:58:13] We are in open session.

5 PRESIDING JUDGE MINDUA: [14:58:20](Interpretation) Thank you very much.

6 Ms Taylor.

7 MS TAYLOR: [14:58:24]

8 Q. [14:58:25] Mr Witness, yesterday at transcript 66, page 22, you testified that you  
9 were informed of a first case of sexual slavery and you met that person in Bamako  
10 subsequent to the first piece of information given by the other NGO. And this victim  
11 that you met was surprised because this was a first occasion she was identifying  
12 herself as a victim.

13 Mr Witness, my question is: If this was the first occasion this individual was  
14 identifying herself as a victim, how did the other NGO know that this woman was  
15 a victim of sexual slavery?

16 A. [14:59:32] Okay, counsel, I think that I said that we were approached by  
17 the organisation to take a victim under our wing, without going into any details.  
18 The organisation did not tell us the state of victimisation of the girl -- or, rather,  
19 the woman, excuse me. The organisation just told us that there was a case, a victim,  
20 who needed our assistance and our care. And when -- it was when we met  
21 the person on the first occasion we talked a little, got to know each other so that she  
22 could understand to what extent we were intervening, in what capacity and so we  
23 could have access to her account.  
24 It was during her statement that we realised the effectiveness of the description of the  
25 events. But these events were not related to us by any other organisation or any

1 other person before we met with her.

2 Q. [15:00:59] Now, Mr Witness, you met her in February 2013 with two female  
3 colleagues. Did you then interview her subsequently alone?

4 A. [15:01:24] Yes. In our office.

5 Q. [15:01:31] Now, yesterday you testified about checking whether the information  
6 you heard was reliable. What checks did you take with this witness?

7 A. [15:02:00] We checked reliability by trying to see that the information on  
8 the notes and in the form agreed. And we then went on to invite the person who  
9 was being received to listen carefully to the material that was on the form on  
10 the statement. And then she -- the person went on to recognise and validate that  
11 information. So that, for me, is what I refer to as relevance of the information that  
12 was gathered.

13 Q. [15:02:50] Now you testified that she spoke to you in Bamana. Is it correct that  
14 it's quite rare for people from Timbuktu to speak Bamana?

15 PRESIDING JUDGE MINDUA: [15:03:06](No interpretation)

16 MS YAMAGUCHI: [15:03:09] Mr President, in accordance with the directions on  
17 the conduct of proceedings, if the Defence could please just refer to specific page and  
18 line numbers of the passages she's paraphrasing.

19 MS TAYLOR: [15:03:26] I'm happy to give the page.

20 PRESIDING JUDGE MINDUA: [15:03:35](No interpretation)

21 MS TAYLOR: [15:03:36] It's transcript 66, page 24.

22 Q. Mr Witness, is it correct that it's quite rare for people from Timbuktu to speak  
23 Bamana?

24 A. [15:03:59] That is not correct, counsel. About 80 per cent of the population of  
25 Timbuktu would understand and speak Bamana, and this can be cross-checked.

1 Q. [15:04:16] Now yesterday you mention that she was stopped by the Islamic  
2 police. Is it correct that you didn't mention the Islamic police when the Prosecution  
3 interviewed you in 2017?

4 A. [15:04:48] Counsel, I -- well, maybe the question that was put to me did not refer  
5 to the Islamic police. But I believe that on the forms and in various other documents,  
6 I wonder whether this is what was mentioned in the questions that were put to me as  
7 to the identity or ethnicity of the persons involved. But on the forms and in  
8 the reports that I made available to the investigators, the expression "Islamic police" is  
9 used properly.

10 Q. [15:05:38] Mr Witness, let's bring up that form.  
11 This is Prosecution tab 4 and it's not to be shown to the public. MLI-OTP-0049-0752.

12 A. [15:06:38] I have the document.

13 Q. [15:06:41] Are you able to see the entire file?

14 A. [15:06:53] Yes, counsel.

15 Q. [15:06:55] Now this file doesn't refer to the Islamic police, does it?

16 A. [15:07:17] No, counsel.

17 Q. [15:07:21] And it doesn't refer to Islamists either, does it?

18 A. [15:07:37] Thank you, counsel. However, the difference is that this is entitled  
19 as "identification form for victims" and yesterday I said there were two forms. This  
20 is the first one. When it comes to project A, there is a second form -- for project B,  
21 rather, and that form contains reference to ethnicity and belonging to an armed group  
22 in reference to the attackers. Yesterday what I said is that we had two forms,  
23 the first one is the identification form which is different from the second form, which  
24 mentions the various donors and implementing partners of the project.  
25 So this one does not deal with ethnicity, this form does not deal with ethnicity nor

1 with any knowledge of the authors or perpetrators. But on the other form, yes, and  
2 that's the difference between the two forms.

3 Q. [15:08:57] Now, Mr Witness, it's correct, isn't it, that you didn't give the project B  
4 forms to the Prosecution?

5 A. [15:09:20] Obviously not.

6 Q. [15:09:25] Mr Witness, for you, is the Islamic police and Islamists  
7 interchangeable? Does it mean the same thing?

8 A. [15:09:52] I do not know which document points out any difference between  
9 the two. But as far as I am concerned, since it's the Islamists who implemented  
10 the police, there is a difference to be made between Islamists who are not of the police  
11 and Islamists who belong to the Islamist police.

12 Q. [15:10:15] What is the difference?

13 A. [15:10:28] The word Islamist was used to refer to the entire armed group, but  
14 within that armed group there were persons who were in charge of implementing  
15 police measures and they were different from the others who were in charge of the  
16 checkpoints or -- of the administration. They had a headquarters and -- at which  
17 there were one or two persons in charge of the police, and then there were other  
18 people who went around the town on a regular basis to implement policing measures.  
19 And my understanding of those two is that the one is different from the other.

20 Q. [15:11:24] Do you consider the MNLA to be an Islamist group?

21 A. [15:11:43] Counsel, your question is somewhat difficult because, you see,  
22 the purpose or the goal of all the groups was to occupy and implement certain  
23 measures based on Islamist rules and principles. So when you ask me today  
24 whether the MNLA is an Islamist group, I think that's somewhat difficult, a difficult  
25 question for me to answer because I don't know what answer I can provide clearly.

1 What I know is that as organised armed groups, there were MNLA, Ansar Dine,  
2 AQMI and other groups. And so when you ask me whether the MNLA was an  
3 Islamist group, I don't know what answer to give you.

4 Q. [15:12:47] Now yesterday at transcript 66, page 27, you testified that this victim  
5 told you that she was travelling between Bintagoungou and Douentza. Did you  
6 check which armed group was in charge or in control of this route at the time of the  
7 event?

8 A. [15:13:24] That was not part of my mission. It was not part of my duties and  
9 it's not in the report.

10 Q. [15:13:33] Did you tell the Prosecution that the incident occurred in  
11 December 2012?

12 A. [15:13:53] Incident December 2012? Which incident?

13 Q. [15:14:02] With this -- the incident concerning this lady, this -- the sexual slavery  
14 incident.

15 A. [15:14:18] Based on the information on the form, I think that -- well, with your  
16 leave, can I consult the form, can I take a look at the form, please?

17 Q. [15:14:33] You may, but I believe that according to your statement you may have  
18 consulted the plan -- project B form, and I can refer you to the relevant paragraph of  
19 your statement if that would assist.

20 MS TAYLOR: [15:15:29] Mr President, I believe I would have to read this out in  
21 private session, with your permission.

22 PRESIDING JUDGE MINDUA: [15:15:41](No interpretation)

23 (Private session at 3.15 p.m.)

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2 (Open session at 3.52 p.m.)

3 THE COURT OFFICER: [15:52:18](Interpretation) We are back in open session,  
4 Mr President, your Honours.

5 PRESIDING JUDGE MINDUA: [15:52:24](Interpretation) Thank you very much.  
6 Ms Taylor.

7 MS TAYLOR: [15:52:29]

8 Q. [15:52:29] Now, Mr Witness, you've talked about the criteria you used for  
9 appointing these fixers. Did you have any guidelines for identifying whether they  
10 might have a conflict of interest?

11 A. [15:53:00] To my knowledge, it is true that by ethical standards professionally  
12 speaking, one can ever attain a zero risk level. But one does try to set aside those  
13 situations of conflict of interest.

14 To my mind, all the individuals that we met with were, according to certain  
15 indications of choice, were indeed people who had been victims. Of course,  
16 materially speaking it was difficult to prove it, because 2012 was a long time ago.  
17 But we made the effort to target those individuals that we were dealing with.  
18 So as to conflict of interest, to say that there was none, I would say that even if there  
19 was, it was at an extremely reduced proportion. One cannot say that there is zero  
20 risk, but very, very minimal numbers. And I was not aware of it, and throughout  
21 my entire duration of coordinating the investigation I was not aware.

22 Q. [15:54:27] Did you take any steps to check if these fixers had affiliations with  
23 persons who were responsible for human rights abuses?

24 A. [15:54:57] With difficulty, but when taking stock during preparatory meetings,  
25 we made sure that these individuals had no link with the perpetrators, because these

1 individuals were called to Bamako. It was their choice to come and follow training,  
2 advice, et cetera. And these practices in terms of conduct for the A project were  
3 enforced by the office here in Bamako, so before putting them on the road with  
4 the tools for investigating, if you like.

5 So that is how we went about things methodologically speaking, to make sure that  
6 a link of conflict of interest or a link of belonging to a given group was -- was  
7 impossible, put to one side.

8 Q. [15:56:11] Now, before putting them on the road, how did you know who  
9 the perpetrators were?

10 A. [15:56:31] Well, we knew that from the general information received the human  
11 rights violations had occurred during the crisis. So from our point of view, we  
12 needed to go out in the field and ascertain in concrete terms who the victims of the  
13 crisis were and describe the cases and ascertain who the perpetrators were. But we  
14 couldn't upfront say who the perpetrators were, but when going out into the field  
15 they were able to ascertain who the perpetrators actually were. Otherwise,  
16 beforehand we were not in the know.

17 Q. [15:57:22] Did you verify whether any of the fixers were actively involved in  
18 political parties?

19 A. [15:57:51] I did not verify that, but I do believe that their commitment and  
20 determination was proof in itself of their not belonging to any political party. And I  
21 think that throughout their work out in the field this was confirmed, because at the  
22 time there was so much to do that political activity was not the subject at hand in  
23 2013.

24 MS TAYLOR: [15:58:29] Mr President, with your permission, may I ask three  
25 questions in private session before we close for the day?

- 1 PRESIDING JUDGE MINDUA: [15:58:42](Interpretation) Madam courtroom officer,  
2 private session, please.  
3 (Private session at 3.58 p.m.)  
4 THE COURT OFFICER: [15:58:55](Interpretation) We are in private session,  
5 Mr President.  
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18 (Open session at 4.03 p.m.)

19 THE COURT OFFICER: [16:03:29](Interpretation) We are back in open session,

20 Mr President, your Honours.

21 PRESIDING JUDGE MINDUA: [16:03:33](Interpretation) Thank you, court officer.

22 Mr Witness, I would like to turn to you now and, as you have understood, we have  
23 come to the end of today's hearing. Unfortunately, your testimony is not yet  
24 concluded.

25 Let me on behalf of the Chamber thank you once again for providing very clear

1 answers to the questions that were put to you and you did so, may I say, with great  
2 clarity and courtesy. I therefore invite you to come back tomorrow at 9.30 for  
3 the next phase in your testimony. And as you already know, you are forbidden from  
4 discussing your testimony with anyone whosoever.  
5 Thank you very much, Mr Witness.  
6 And now I turn to the parties and participants and, once again, I thank all of you for  
7 your excellent cooperation.  
8 I want to thank the court reporters and the interpreters for the work they continue to  
9 do. I also express my thanks to our security officers and to the public and I wish you  
10 all a very pleasant evening.  
11 See you all tomorrow morning.  
12 The hearing is adjourned.  
13 THE COURT USHER: [16:05:19] All rise.  
14 (The hearing ends in open session at 4.05 p.m.)