

Trial Hearing
WITNESS: MLI-D28-0502

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 2 June 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:50] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:12](Interpretation) Court is in session.
15 Good morning to all.
16 Madam Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:33:35] Good morning, Mr President.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:56](Interpretation) Thank you very much,
22 Madam Courtroom Officer.
23 Now, as we do every morning, we shall be taking the appearances, starting with the
24 Office of the Prosecutor, please.
25 MS LUPING: [9:34:10] Good morning, Mr President. Good morning,

1 your Honours. There is a slight change in our team this morning. There is myself,
2 Dianne Luping, Mr Gilles Dutertre, Romina Beqiri, Charlotte Luijben, as well as Yayoi
3 Yamaguchi. Thank you.

4 PRESIDING JUDGE MINDUA: [9:34:33](Interpretation) Thank you very much,
5 Madam Prosecutor Luping.

6 Now turning to the Defence. Counsel.

7 MS PRADHAN: [9:34:39] Good morning, Mr President. Good morning,
8 your Honours.

9 On behalf of Mr Al Hassan, we have Ms Melissa Lussier, Ms Amina Fahmy, Ms
10 Melinda Taylor, Ms Leila Abid and myself, Alka Pradhan. Thank you.

11 PRESIDING JUDGE MINDUA: [9:35:06](Interpretation) Thank you very much, Ms
12 Pradhan.

13 So I would like to note for the record that your client, Mr Al Hassan, the accused, is
14 not in the courtroom on authorisation of the Chamber.

15 Now I'm turning to the Legal Representatives for the Victims. Counsel.

16 MR KASSONGO: [9:35:25](Interpretation) Thank you, Mr President. Good
17 morning, your Honours, and good morning to everyone. Good morning,
18 Mr Witness.

19 The Legal Representatives of Victims -- I am assisted by Madam Carla Boglioli and
20 Mademoiselle Anouk Kermiche and myself, Maître Kassongo. And we'd like to
21 thank you all as a team.

22 PRESIDING JUDGE MINDUA: [9:35:54](Interpretation) Thank you,
23 Maître Kassongo.

24 Now let me turn to the witness. For the record, I would like to point out this is
25 Defence witness, Dr Morgan, D-0502.

1 Good morning, Mr Witness. How are you this morning?

2 WITNESS: MLI-D28-0502 (On former oath)

3 (The witness speaks English)

4 THE WITNESS: [9:36:15] Good morning, Mr President. I'm fine. Thank you very
5 much.

6 PRESIDING JUDGE MINDUA: [9:36:22](Interpretation) Very well. Thank you
7 very much.

8 Mr Witness, I would like to once again, on behalf of the Chamber, welcome you and
9 remind you that you are still under oath, and that you should speak the truth, the
10 whole truth and nothing but the truth.

11 I would also like to remind you of my practical pieces of advice with regard to
12 addressing the Chamber; namely, that you need to observe pauses between question
13 and answer, especially since you are speaking the same language as most of the
14 representatives of the parties.

15 This morning, we shall be continuing with your testimony with the continuation of
16 the cross-examination on the part of the OTP.

17 Madam Prosecutor Luping, over to you, please.

18 MS LUPING: [9:37:26] Thank you, Mr President.

19 QUESTIONED BY MS LUPING: (Continuing)

20 Q. [9:37:30] And good morning, Dr Morgan.

21 A. [9:37:34] Good morning.

22 Q. [9:37:37] Now, I do have some questions for you to begin with from some of
23 your testimony from yesterday and I'm going to refer to -- first of all, though, to your
24 report. So if you could look at tab 33 of your binder, and I'm going to ask that you
25 turn to page 4252. So I'm going to just note for the record, that is MLI-D28-0006-4240,

1 and turning to page 4252. And I'm just going to refer to yesterday's transcript. So
2 that's transcript 179, at page 36, line 17 to page 38, lines 22.

3 Now, you were referred to this passage or these passages from your report. I
4 apologise, actually, it's at the bottom of page 4251, page 12 on your -- in your
5 page numbering, Dr Morgan.

6 A. [9:38:41] Yes, I have page 12.

7 Q. [9:38:43] Fantastic. And you were -- and you were asked about a particular
8 passage from your report, which states that:

9 "[...] the information in the records indicates that this witness" - that's referring to
10 Mr Al Hassan - "experienced distressing alterations in mood, cognition and memory
11 secondary to his exposure to uncontrollable stress."

12 You go on to say:

13 "[...] he has been sick and suffered from depression; he has headaches: [...] his mental
14 state has been such that he cannot do much; [and] worries that he can be tortured at
15 any moment."

16 Now, you go on to confirm that these conclusions followed your review of the OTP
17 interview transcripts, and you also state, that:

18 "[...] these are the examples that I was able to see in the record that would indicate he
19 appears to be suffering in the way that is seen in other people suffer who have been
20 exposed to uncontrollable stress."

21 Now, I'm just going to pause there, Dr Morgan.

22 Now, isn't it correct, Dr Morgan, that you never personally met with either the
23 accused or the Prosecution witness P-626? Is that correct?

24 A. [9:40:07] It is correct. I've -- I've never met Mr Al Hassan or P-0626.

25 Q. [9:40:16] And did you ask to have access to either of them?

1 A. [9:40:21] My understanding, I think in my early conversations with attorney
2 Taylor, is that they were not asking me to do a direct evaluation. My understanding
3 was that they'd already had him evaluated by a doctor. So I was never asked to
4 examine him directly.

5 Q. [9:40:44] But, Dr Morgan, bearing in mind the questions that you were asked to
6 consider, including the potential impact of potential uncontrollable stress, did it
7 concern you as an objective and a neutral expert that you were not able to assess
8 either the accused or witness 626 for yourself to be able to conclude for yourself what
9 impact, if any, any of the alleged stressors, including trauma, might have on them?

10 A. [9:41:21] With respect to assessing uncontrollable stress, the evidence in the
11 record was sufficient without examining either witness.
12 With respect to concluding the extent to which they may or may not meet diagnostic
13 criteria for a mental illness of some sort, it would be best to have a direct evaluation of
14 the person. The symptoms that I mentioned that are in the record, to me, were
15 sufficient to raise a significant question with respect to the presence of a mental illness
16 or psychological distress.

17 So I was comfortable saying that these symptoms that I refer to really suggest the
18 likelihood that there is a condition that is present, but without examining him directly,
19 I would not be able to confirm whether he did meet clinical diagnostic criteria.

20 As I said yesterday, I -- once I did see later, the psychological evaluation, I found it
21 clinically compelling.

22 But for myself, what I state here is that this raises a significant likelihood that this is
23 what's going on.

24 Q. [9:43:04] And would it be correct to say that, in terms of the pool of relevant
25 information that you would need also to make any such assessment, would be

1 medical records? Would that be correct?

2 A. [9:43:21] For certain questions, medical records can be very helpful.

3 With respect to thinking about the impact of trauma or uncontrollable stress, a person
4 may or may not have a medical condition.

5 Ultimately, if someone is diagnosed with a formal diagnosis of depression, having
6 medical records can be useful in order to make sure that it -- that their low mood is
7 not due to significant medical issues, such as a hormone dysfunction or cancer.

8 Q. [9:44:04] And were you aware that there are medical records related to the
9 accused, Mr Al Hassan, including of meetings that he had with a psychologist at the
10 ICC's detention facility? Were you made aware of that?

11 A. [9:44:23] I was aware. After seeing -- after preparing my report, I was aware
12 that there are those -- that those records are available.

13 Q. [9:44:36] Thank you. But then, just to be clear, at the time of writing your
14 report, you were not informed or made aware of this, is that correct?

15 A. [9:44:44] That is correct.

16 Q. [9:44:47] And did the Defence ever explain to you why you were not provided
17 with any of these medical records?

18 A. [9:44:56] What I recall from my conversations with them was that for me to
19 assess the psychological issues that they asked me about, whether there was an issue
20 about the circumstances in which they were detained, or the processes involved as
21 evidenced in the record. It wasn't necessary for me to see medical records at that
22 time. But I don't -- I don't recall them being offered and I don't recall rejecting them.
23 I -- but -- yeah.

24 Q. [9:45:37] Now, I'm going to turn to another part of your testimony from
25 yesterday, and that is where you were asked to refer to the circumstances related to

1 witness 626. And that's at page 60, line 16 to page 62, line 15 of yesterday's
2 transcript.
3 And you're listing various factors related to 626. And I'm going to read the passage
4 where you're explaining what you meant. And you state:
5 "[...] what I intended to lay out were the kinds of stressors that P-0626 was
6 experiencing and how these create a condition of uncontrollable stress. After
7 showing these elements of uncontrollable stress, I then move on to describe how we
8 expect the exposure to uncontrollable stress to affect the decision-making and recall in
9 P-[0]626."

10 Now, you are then referred to specific symptoms and they're listed from page 61,
11 lines 1 to 6.

12 "The relevant psychiatric symptoms recorded are low mood, mental gaps gazing at
13 empty space with mouth open, i.e., psychological dissociation, loss of consciousness,
14 fits of mind, worrying about his family. It is also noted that he sleeps 50 per cent of
15 the time."

16 You then go on to refer to the fact that no testing was done. You're asked about
17 types of testing that could be done. You provide your views, and then you go on to
18 state, and I quote:

19 "In addition [...] we might give a person psychological testing, tests that are more
20 standardised, in order to assess the severity of their condition or the type of
21 condition."

22 Now, isn't it correct, Dr Morgan, that you've made these various conclusions only on
23 the basis of the ICC testimony transcripts that you've read? Is that correct?

24 A. [9:48:03] With respect to what is in my report, yes, these are based on the ICC
25 transcripts, which is within the range of what we do in forensic psychiatry.

1 Q. [9:48:16] And you've already confirmed, you never assessed him in person.

2 Am I correct that you also never accessed or were provided or requested access to any
3 of his medical records? Is that correct?

4 A. [9:48:34] I did not -- I did not have his medical records. These are not required
5 though for establishing what would be evidence for exposure to uncontrollable stress,
6 and given the uniform ways that humans respond to this stress, it would be unlikely
7 that he would not exhibit such symptoms. In other words, we know for sure that
8 when exposed to uncontrollable stress, so many humans report these kinds of things.
9 The likelihood is very high that these are valid indicators that something is wrong
10 psychologically.

11 Q. [9:49:22] Now, I've just referred to the various psychiatric symptoms that you
12 noted. Now, as I understand your testimony you've just provided in relation to the
13 accused's assessment, wouldn't it be correct, however, that you wouldn't be able to
14 make any kind of final diagnosis relating to the psychiatric condition of 626 without
15 a form of an in-person assessment or proper access to his records?

16 A. [9:49:50] I would agree with you, yes.

17 Q. [9:49:53] And you noted as well that he was never tested to assess the severity of
18 his condition or the type of his alleged condition. Am I also correct that you never
19 got the doctor's report from the person who did meet with him?

20 A. [9:50:12] I've not -- I've not seen a doctor's report regarding P-0626. That's
21 correct.

22 Q. [9:50:20] Could you explain why you didn't request from the Defence that they
23 approach the Prosecution to seek access to any types of records of this kind.

24 A. [9:50:30] As I mentioned, for most of the psychiatric consequences to
25 uncontrollable stress, the presence of a medical ailment doesn't usually account for

1 why and how people are responding in their cognition or their mood or their affect.

2 So it is helpful to see medical records when considering a differential diagnosis, but it

3 is not essential to establishing whether or not there is the high probability of

4 a psychiatric consequence to someone's experience.

5 Q. [9:51:16] But -- sorry, I didn't mean to interrupt you. And I need to remember

6 to respect the pause. But moving beyond the probabilities, Dr Morgan, you were

7 also asked to assess the issue of the impact of potential uncontrollable stress on these

8 two individuals; isn't that correct?

9 A. [9:51:45] That is correct.

10 Q. [9:51:48] And so just focusing on that aspect of what you were asked to do,

11 wouldn't it be right that -- it would be preferable that you had access both to the

12 individuals and their records, isn't that correct?

13 A. [9:52:02] As I said yesterday, I like all the information I'm allowed to have.

14 However, in -- we do know that the ubiquitous nature of -- the ubiquitous impact of

15 uncontrollable stress in humans is so well documented that there's a very tiny chance

16 that the indicators that are seen in the -- in the transcripts, there's a -- there's a very

17 tiny probability that those aren't useful in -- in -- as indicators that there is a

18 psychological issue.

19 But I always like to have as much information as people are able to give me when

20 doing an evaluation, yes.

21 Q. [9:52:52] And I understand also from your witness preparation log, you were

22 given access to some of the audiotapes of the interview of the accused with the OTP.

23 And am I right that this is the first time only in witness preparation that you were

24 given access to those audiotapes?

25 A. [9:53:09] I was given audiotapes to listen to because I had read one of the other

1 doctor's reports indicating that he had reached a conclusion based on listening to the
2 sound of Mr Al Hassan's voice. And yes, it was the first time, once I'd learned that,
3 that I was -- I was given tapes to listen to as well.

4 Q. [9:53:34] And, Dr Morgan, were you aware that you were not given access to all
5 of those audiotapes, including the tapes that -- the doctor that you're referring, that
6 would be Dr Lamothe was given access to, that you were only given partial access?
7 Did you know that?

8 A. [9:53:51] I did. And it was perfectly fine, and I will say why. It is not within
9 the standard of practice and it is not scientifically valid to listen to someone speaking
10 and make a determination about their psychiatric status. That field is entirely
11 experimental, and, when done, it is only done through using highly sophisticated
12 computer-language processing systems that measure the tenor, the pitch, the
13 frequency and then the distribution of pauses and spaces in the voice that are not
14 detectable by a human listening to another person.

15 So I listened to several tapes to see what the doctor may have been hearing, but as
16 a methodology for evaluating people, it's completely invalid, and it would have
17 wasted the Court's money for me to listen to more than two or three audiotapes
18 because it's an invalid methodology for evaluating a person's condition.

19 Q. [9:54:58] I'm pausing, Dr Morgan, for the transcript.

20 But isn't it correct that when you are assessing a person, if you can't have access to
21 them - as you confirmed as well, from your experience in dealing with PTSD
22 patients - that it is important to understand the tone. Not just what they say, but
23 how they say it. And I mean for an understanding not necessarily to make
24 a diagnosis of their symptoms, but understanding of that person and the whole
25 context, having the full picture.

1 A. [9:55:41] Hypothetically, yes, but in reality, neither I or the other doctor, I
2 believe, speak Arabic. So if I follow your suggestion, one would have to argue Mr Al
3 Hassan should be only evaluated by an Arabic-speaking psychiatrist and psychologist.
4 The other conclusion would be, is that translations are invalid, which, I hope, is not
5 true, as I sit here in court and we listen to translations. So I relied on the accuracy of
6 the translations provided to me and I think my reasonable assumption is that they are
7 valid indicators of what he had to say.

8 But I would agree with you. It's -- it's -- when evaluating an individual and sitting in
9 a room with them, I can often have a more precise sense of the way their mind is
10 working and the way they're feeling, which may come across through the way they
11 gesture or the way they speak.

12 Q. [9:57:05] And in your report, you also speak about the dynamic of the
13 interactions between the OTP investigators, for example, and the accused and you've
14 also referred to issues related to learned helplessness as one aspect. Isn't it also
15 relevant to understand the full dynamic of that interaction by hearing, for example,
16 the way they may be laughing with one another?

17 Now, these are not audiotapes that you received, in fact, from the bundle you were
18 provided by the Defence, but isn't it important for you to understand the dynamic,
19 which you also focused on in your report, to understand the full context of that by
20 having access to those types of records?

21 A. [9:58:16] I think hearing a more complete picture might affect my opinion.
22 With respect to people who have been exposed to trauma or who have learned
23 helplessness, they can have moments of levity in relationships with people. It
24 doesn't mean that the underlying dynamic of being more compliant and suggestible is
25 not present, but it might change my view. I can't say because I -- I haven't listened to

1 them.

2 Q. [9:58:51] And just to follow-up on your comment about the Arabic. Now the
3 fact also remains, isn't -- there -- there was a French interpreter, you'd be able to
4 follow what the witness was actually stating, but is it also correct you don't really
5 need an interpreter to understand the dynamic of laughter between individuals?
6 There's no interpretation required for that, is there?

7 A. [9:59:21] Well, I would agree in some context, no, there's no interpretation
8 required if people are enjoying something positive and -- and laughing. That would
9 be human, so ...

10 Q. [9:59:34] Right. I'm now going to ask if the court officer could pull up
11 a document for us. And that's at tab 76, Dr Morgan, of your binder. And that's
12 MLI-D28-0003-1334.

13 THE COURT OFFICER: [9:59:56] Could counsel please indicate whether this can be
14 displayed publicly.

15 MS LUPING: [10:00:02] Apologies. There should be -- I would say displayed on
16 a confidential basis, please, because it does have names of individuals that shouldn't
17 be broadcast publicly.

18 Q. [10:00:10] Now, just whilst that's being brought up, Dr Morgan, I just want to
19 explain the context. Now this is a document that has been signed by the ICC's
20 doctor, Registry doctor, on arrival of the accused at the ICC in 2018.

21 So it's following his departure and then arrival from Mali in 2018.

22 Now, if we look there, you will see that it refers to the accused. It states when he's
23 arrived, and it states:

24 "[...] and I declare him [...] to be physically and mentally fit after air transport."

25 Now, wouldn't it have been relevant for you to have had access to these types of

1 document and this particular document, a physician's statement as to his condition?

2 A. [10:01:09] I may have misunderstood you earlier. I have seen this document.
3 When you asked me about prior medical records, I understood you to be referring to
4 a history of medical records for Mr Al Hassan, so I apologise. I have seen the fitness
5 record for transportation.

6 Q. [10:01:32] All right. I may missed -- have missed that. And did you reference
7 that in your report, that you've had access to this and seen it? Did you reference it at
8 all? Because -- and if you did, could you please indicate where in your report you
9 referenced it?

10 A. [10:01:47] I believe I saw these after my report had been prepared. But when I
11 look at the document now, I recognise that I have seen this document, but this was
12 after I had prepared my report.

13 Q. [10:02:00] All right. Well, just to be clear, I'll be showing you a series of
14 documents, Dr Morgan, and my question is related to what you saw at the time of
15 writing your report. So my question remains, wouldn't it have been relevant for you
16 to have this -- this type of document, including the rest of the documents I'll be
17 showing you, for the purposes of your assessment?

18 A. [10:02:23] Not necessarily and I'll say why. The purpose of an evaluation like
19 this of fitness for transportation or movement is typically quite general, medically
20 speaking and psychologically speaking, and it would not be unusual for a medical
21 document to say for the mental status or the psychological viewpoint that a person is
22 fine. We see this very frequently in the hospital when patients have gone to other
23 departments. Under the psychological section, they may not mention the diagnosis
24 at all because it hasn't been on their mind to do something detailed.

25 So these kinds of documents are most useful to me if they do indicate a psychological

1 issue. But when they do not, it's not evidence that there is no psychological issue
2 going on when it comes from a non-psychologist or a non-psychiatrist.

3 Q. [10:03:30] I'm now going to turn to another record, and I'd ask the court officer,
4 please, to pull up from tab -- it's tab 65, Dr Morgan, in your binder. That's
5 MLI-D28-0003-1378. It's only one page. I'm just going to wait for it to go up for the
6 sake of the interpreters.

7 Now, you have the entirety of the report, Dr Morgan, in front of you; also, on the
8 screen if it gets a bit fiddly, to pull it out in your hard copy binder. But I'm going to
9 read a specific passage:

10 "Memory and concentration problems were the second item on the list. The subject
11 also previously came up for discussion and is a matter of concern."

12 I'm sorry, I should have announced this needs to be confidential. It can't be
13 broadcast publicly because it has the name of the ICC physician.

14 "Of note is that the client no longer remembers what was discussed during the
15 previous session. The client was also unable to remember a single item from his list
16 off the top of his head. The client said that even when he consciously tries to
17 remember something, he is likely to have forgotten it in two hours' time. The client
18 had difficulty concentrating during a conversation. When the client watches a film
19 or reads a book, he is often unable to recall what just happened. According to him,
20 he already experienced these problems before his current detention, since around the
21 age of 30 when he married, which marked the end of his youth (and his youthful
22 behaviour). Because the complaints do not appear related to his current detention or
23 to any possible symptom of some other psychological disorder, the psychologist
24 thinks it may be attention-deficit hyperactivity disorder, a persistent pattern of
25 inattention." End of quote.

1 Now, I'm now going to -- before I ask a question about this, Dr Morgan, I'm going to
2 show one more record and then I will be asking questions about both.
3 I'd ask that the court officer please bring up the document from tab 79. This is
4 a report that you have read, Dr Morgan. This is a report of Dr Lamothe. And it's at
5 MLI-OTP-0078-7832. It's at page 7837.
6 If we could -- court usher, if we could scroll down. And we stop there, please.
7 Thank you.
8 Now you -- I know that you understand French, Dr Morgan, so I'm not going to read
9 the entirety of this paragraph, but I will ask that you read from Katherine Porterfield.
10 I will read it.
11 "Katherine Porterfield (Interpretation) *notes on page 11 of her report *clinical
12 elements that she identifies *as a dissociative state with the *repetitive presence *of an
13 apparent detachment *that she associates with the monotony of the speech and the
14 yawning (which is not reported to cause particular physical pain). But this
15 "dissociative state" seems to be more of an attentional detachment and does not
16 prevent Mr Al Hassan from continuing the interview without memory problems or
17 emotional feedback. The memory difficulties (memory "interruption" according to
18 Katherine Porterfield) are alluded to by Mr Al Hassan as family trait, having always
19 *constituted an element of his mother's and his functioning. *Again, the
20 neuropsychological evaluation of executive functions and memory was not provided
21 to us in detail, but we can note a very important element at the clinical level, namely
22 that he *accepts his difficulties without *worry or perplexity."
23 (Speaks English) End of quote.
24 Now my first question is this, Dr Morgan: Isn't it correct that these alternative
25 records regarding alternative causes of problems, if any, regarding Mr Al Hassan's

1 memory related to his background history, all predating his detention in Mali, are
2 relevant to your assessment for the purposes of the writing of your report?

3 A. [10:09:22] This kind of information about what's in a person's background is
4 relative insofar as it helps me understand if they are an even more fragile person than
5 the average individual exposed to uncontrollable stress. In other words, if he has
6 a pre-existing psychological condition, whether it's attention deficit disorder or some
7 other memory issue, we know, based on the scientific literature on pre-existing
8 conditions, that they render people more vulnerable when subsequently exposed to
9 trauma and things like uncontrollable stress. Because of this, this type of
10 information is very useful to me if I have been asked to then recommend a treatment
11 plan, what might be done for the person or if someone is asking me to assess to what
12 degree some symptoms they are reporting are due to a trauma or due to something
13 early in their life experience.

14 So in that way, this information is very useful in some ways, but not specifically
15 relevant to what I was asked to provide an opinion about.

16 Q. [10:11:05] Now, Dr Morgan, I'm going to come to that, actually, what you were
17 asked to specifically write for your report, and -- but am I correct that in terms of
18 these alleged instances of what you've described as "uncontrollable stress," that you're
19 relying on the accused's account of what he claims happened to him, and isn't it right,
20 if he's not telling the truth about what happened to him in Mali, that this actually
21 does impact on your conclusions? Isn't that right?

22 A. [10:11:46] Well, the psychologist is relying on what he said and so is the doctor,
23 so you're asking me does -- are we all incorrect? I would then say then he may not
24 even have a pre-existing condition.

25 So I don't know how to answer your question in the sense that I have assumed that it

1 has been accepted about the conditions at Bamako. They are very similar to other
2 reports that we know about harsh conditions of confinement. So I had no reason to
3 doubt the possibility that the types of stressors that are reported in the file were
4 factually incorrect. If they are true, they represent very significant uncontrollable
5 stress.

6 Q. [10:12:38] Well, I can clarify the Prosecution's position, Dr Morgan, which is we
7 don't accept it's just simply a truthful account, in particular in terms of the very severe
8 accounts. I'm not going to repeat them in this courtroom so that I can avoid going
9 into private session, but we do not accept that it's an entirely truthful account.
10 My question, though, if I could repeat it, for the purposes of your report, you're
11 relying on the fact that these are accurate accounts; is that correct?

12 A. [10:13:11] The assumption that I took in preparing the report is that the events
13 that are described or something very nearly like them have occurred.

14 Q. [10:13:23] I'd like to first ask the court officer to call up another document. And
15 that's at tab 64, and that's MLI-D28-0003-1376 at page 1376. It should not be
16 broadcast to the public.

17 I will read just one extract. And Dr Morgan, again, you have access to the entirety of
18 it. And I'm going to read just one -- one passage.

19 "When asked, the client said that it was not the first time that he has recounted the
20 events, including the instances of torture. He has spoken about them to the Red
21 Cross and to his lawyer. When he talks about it, a weight is lifted off his shoulders.
22 However, his account is not always believed." End of quote.

23 Now, again, just to -- bearing in mind as an objective expert, you were asked to look
24 at the potential impact on Mr Al Hassan's memories, wouldn't it be right that this
25 type of record is also relevant to your assessment?

- 1 A. [10:14:51] This type of record can be helpful. One point of ambiguity in this is
2 when the statement is made, "However, his account is not always believed", it's
3 unclear if that is the psychologist expressing their personal opinion or whether or not
4 Mr Hassan is reporting that when he tells people what's happened to him, his
5 perception is that he is not always believed. And either statement could be true.
6 The doctor may not believe him, which still is not a measure of whether or not the
7 events did or did not happen. If other people don't believe him, this can be
8 a common experience of victims of trauma, where some people believe them and
9 some people don't.
- 10 So, I don't -- I wouldn't consider that information useful. Clinically what would be
11 useful here is that he is apparently -- reportedly the psychologist says when he is able
12 to talk about his experience, there seems to be some psychological benefit that he feels
13 slightly better.
- 14 In my experience, this can happen. Some people feel worse when they talk about
15 their traumatic events; other people will feel relief that they finally have someone to
16 whom they can say what's happened to them and that can be comforting to them in
17 some way.
- 18 Q. [10:16:36] Well, I'm going to refer you to another report, Dr Morgan. And I
19 will leave the Chamber to assess how they interpret this document. I believe that
20 that goes to the Chamber's own assessment. But wouldn't it be right, as an objective
21 and neutral expert, if you're asked to look at the potential impact of what's alleged to
22 be uncontrollable stress on his condition, that you should also be considering what
23 might be alternative causes for what are potential symptoms that you are
24 considering?
- 25 A. [10:17:13] It -- it is useful to consider alternative causes and I do consider those

1 things. However, sometimes the absence of evidence is not helpful. I have not seen
2 any evidence showing that the types of things that he has reported in fact have not
3 occurred. If there is evidence that I would be given that would say that, then I as
4 a forensic psychiatrist, would, in my mind, consider alternative causes to the various
5 types of symptoms.

6 So when we think about uncontrollable stress, we know both from clinical and
7 research data the likely impact of it on humans. And this is what I was looking at in
8 the record. In forensic psychiatry we do recognise that any time there is litigation or
9 a criminal issue, that we do have to consider a person may not be entirely truthful in
10 what they say. So I would agree with you, we -- I try and -- and my colleagues try,
11 and this is what I train my students in, to think about the other possibilities. But my
12 understanding when I was writing the report was to provide an opinion about the
13 possible impact of the conditions as they were reported and -- and so that's what I did.
14 I was not asked to explore other categories.

15 Q. [10:19:14] Thank you, Dr Morgan.

16 I'm now going to ask that the court officer bring a document up that's at page -- sorry,
17 tab 80 of your binder. You've already read it before. This is the panel of experts'
18 report and that's MLI-OTP-0080-5766. And I refer to page 34 and it's paragraph 231.
19 So if the court officer goes to the far left, you'll see page, you can just type in page 34
20 and you'll find it. 34. And that's page 5799, paragraph 231.

21 Oh, apologies, then it's the next page. My apologies. All right.

22 I'm just going to -- you have the entirety in front of you, Dr Morgan, but I'm going to
23 read just one passage.

24 "It is quite evident that the mental health of an accused can be related to the charges
25 brought against him, for example intense feelings of guilt or facing the charges,

1 realizing the dimension of the consequences of the acts. (This is a different issue
2 from fitness to plead.) In response, the individual might recruit coping and survival
3 strategies in order to deal with a significant level of incoherence, and so require
4 measures to assure his well-being. In the case of Al Hassan, his sense of betrayal and
5 despair could be the result of realizing the consequences of an alleged involvement in
6 criminal acts, without being trauma-related."

7 Now, I'd like to stop there for one moment, Dr Morgan, because we were just talking
8 then about the issue of considering alternative causes.

9 Now, isn't it correct that you cannot exclude the possibility that there may be other
10 causes of stress experienced by Mr Al Hassan, such as this?

11 A. [10:21:46] There could be. In my experience, even if people have been involved
12 in a criminal act, they may suffer a mental illness from the act in which they were
13 involved. So the psychological symptoms a person has could be related to other
14 experiences or other acts. I mean, the committee is engaging, at this point, in the
15 possibilities to consider, they did not, as far as I can tell, administer any of the known
16 instruments for assessing malingering or faking psychiatric symptoms, so it remains
17 a speculation.

18 But I think that the way that they're speculating about the different possibilities is
19 what a reasonable clinician would do to try and consider possibilities to see which
20 avenues may have evidence to support them.

21 Q. [10:22:54] Well, I think we'll leave the Chamber, Dr Morgan, to decide
22 what -- what is a basis for speculation or otherwise.

23 A. [10:23:03] I would respectfully disagree. As a professional in psychiatry, I am
24 qualified to comment on how my peers in my field consider illness. I leave legal
25 decisions and thinking about that to legal experts, but this is in my realm of expertise

1 to comment on. So I -- I just find your comment uncertain in my mind. I don't
2 know what you are implying. But I would disagree with you if you are implying
3 that this is open to any interpretation from someone without training in psychiatry or
4 psychology.

5 Q. [10:23:43] Well, again, I leave that really for the Judges' assessment. It's not
6 my -- my place to comment. It really is for them to decide, and I would also reiterate
7 that it's for the Judges to decide ultimately on what amounts to speculation or
8 otherwise as they are the fact-finders.

9 I would ask the court officer, please, to bring up your report. And that's at tab 33,
10 MLI-D28-0006-4240. And I'd like to focus, Dr Morgan, on the questions that you
11 were asked, and first looking at page 4241 and question 1. I'm just going to read the
12 text of the question -- oh, can you find it, Dr Morgan? It's at tab 33. That should be
13 your second binder, binder 2. And you've got it in front of the screen in front of you
14 as well, that's helpful. I am also of the type who likes to read the hard copy.

15 You've got it?

16 A. [10:24:55] I have it now. (Overlapping speakers)

17 Q. [10:24:55] You have it, okay.

18 A. [10:24:56] It was buried under the other stack.

19 Q. [10:24:59] No problem. Turn to page 2 of your report. So that's page 4241.

20 A. [10:25:03] Yes.

21 Q. [10:25:03] Looking at question 1. And the question as posed:

22 "What can be stated within a medical certainty that can be stated about the effects of
23 the conditions under which P-0398" - that's Mr Al Hassan - "and P-0626 were held and
24 interrogated and questioned, as concerns the information produced during sessions
25 with the ICC Prosecution?"

1 Now, Dr Morgan, would you agree as an objective and a neutral expert that this is not
2 an open-ended neutral question, that here there is an assumption that the allegations
3 made, first of all, about the conditions of the detention are true and that the
4 impact -- that there was an impact of the conditions of detention during sessions with
5 the ICC Prosecution?

6 A. [10:26:08] I would agree with the first part of the assumption that the
7 information I was given was accurately providing information about the conditions.
8 I disagree slightly with the second assumption in that an impact may be neutral, it
9 may be positive or it may be negative.

10 So my understanding of the question put to me was, given these conditions within
11 my world of expertise, what are the known consequences of these types of conditions,
12 if any?

13 And so that is what I endeavoured to answer in my report; that the conditions meet
14 criteria for what we would call "uncontrollable stress", the effects of which extend in
15 time or across many settings to include the times that these individuals would meet
16 with OTP.

17 In other words, the impact of uncontrollable stress does not vanish when an
18 individual leaves their cell and meets with another team. The impact of
19 uncontrollable stress is pervasive and colours each meeting the person is in.

20 Q. [10:27:36] Well, again, I will leave that to the assessment of the Chamber in
21 terms of the nature of the question, and they'll be able to assess your response
22 accordingly.

23 Turning to question 2, and that's at page 4242 or page 3 of your report, Dr Morgan.

24 Now, we have a question, and I'm going to read the question:

25 "What are the factors intrinsic to the process of being interviewed by the ICC

1 Prosecution team that may have affected the validity of the information provided by
2 the witnesses?"

3 Now, again, isn't it correct that this isn't an objective open-ended question, is it?

4 You're being asked to indicate what are the factors that you can find during the
5 interview that may have affected the validity of the information; isn't that right?

6 A. [10:28:38] That's correct.

7 Q. [10:28:38] And I just note at page 4254 at your report where you state:

8 "In [...] response to Question 1, I addressed the factors" -- I believe that's a typo, it
9 should read question 2.

10 "I addressed the factors extrinsic to the process of being interviewed by the ICC

11 Prosecution [...] In this section I will focus on factors intrinsic to the [...] interview
12 process -things done by the [...] interview team- that may have adversely affected the
13 validity of the information provided by Witnesses [P-0]626 and [P-0]398."

14 And similarly yesterday, during your testimony at page 47, lines 8 to 9, you stated:

15 "This process of questioning, when I read it, because I was asked to evaluate aspects
16 of the interviewing process that might contribute to contaminating the information
17 [...]"

18 Now, isn't it right that this is not an objective neutral question? You're only being
19 asked to look at factors that adversely affect the validity of the information, you're not
20 asked to highlight other aspects of the information that might show otherwise?

21 A. [10:29:57] Based on my research in the literature, this is correct. The only valid
22 scientific process of evaluating memory at this time is to identify the factors that
23 impair the validity of memory, since we do not have a scientific methodology for
24 identifying what is true memory. So the question is biased in that way, but biased
25 naturally as a result of the nature of our science.

1 Based on my research, we can say when there is a likelihood that factors are present
2 that will potentially affect the validity of a memory, but we cannot identify what will
3 be an indicator that a memory is true. Then -- that's where the science is at this point,
4 so the only professional way I can provide an opinion to the team asking me this
5 question, is to address what we know scientifically and to address the indicators of
6 what may have affected the validity of the information provided.

7 Q. [10:31:14] Were you not concerned, Dr Morgan, though, as an objective expert,
8 that by only being directed to focus on the negative that you may -- not deliberately
9 so, but may unwittingly omit certain aspects of the interview process that provides
10 a proper context of the real dynamic between the investigators and the accused, for
11 example?

12 A. [10:31:45] Is that a rhetorical question?

13 Q. [10:31:47] No, it's a question that I'd genuinely like you to respond to?

14 A. [10:31:53] Well, I think I've answered it. The most objective manner that we
15 can approach statements that are provided scientifically is to identify the factors that
16 are known to degrade validity. The rest of the material does not provide any
17 scientific evidence as to its validity or lack of validity, so when we see indicators that
18 can degrade validity, we can say this is something we know. But as we say in
19 science, you don't know what you don't know, but we can focus on identifying what
20 we know is not true or the thing that does have an impact on something. So in our
21 science of studying memory, we're very good at, "Now I ..." -- understanding how,
22 when humans tell a story, or when they're being interrogated or interviewed, we
23 know some elements that affect that validity. We don't know scientifically a great
24 deal about the elements that would render it true.

25 So I limited my discussion and my focus in my report on what we know from science,

1 which is to say there are many aspects we don't know about what may prove that an
2 account is true without external data. But, no, this is the objective approach to the
3 question based on what we know in science.

4 Q. [10:33:32] Well, I'd like to just focus on one example from your report, Dr
5 Morgan. This is going to take a bit of time because I'm going to be showing you
6 various transcripts because I want to look at what you did review in this context.
7 And I'd ask you to turn, please, to page 4257 of your report.

8 So I'd just note for the court usher it's the same document that we had before. Sorry,
9 I should have mentioned when I don't want it to be removed.

10 So if you turn to page 4257, and at the very top, here we have -- we have one of the
11 examples here, is with respect to 398, that's the accused:

12 " [...] 398's statements about his involvement in the alleged flogging involving
13 a step-brother and sister [...] both illustrate ways in which eyewitness memory
14 evolves when exposed to questions, photo/video materials."

15 And you've referred to dates of interviews of 6 October 27, 6 December 27, and 5 to 8
16 March 2018.

17 If we could scroll down, please.

18 You provide an explicit reference, for example, to MLI-OTP-0062-1143. I will be
19 asking the court officer to bring that up in a moment, but not yet because I want to
20 read more passages from the report first. You explicitly refer to this, you say:

21 "The questions put to him by the interviewers contain assumptions of
22 involvement" - and you give this transcript reference here, as an example - "and
23 a photo to argue for a precise date of the events; he indicates this is not so; they insist
24 the documents are the reality [...]."

25 You then go on to state:

1 "The overarching pattern is one that we know creates misinformation errors and false
2 memories: Witnesses who are uncertain or who do not remember ([P-0]398 states
3 this repeatedly) are presented with photos or with videos or with documents which
4 contain a psychological "hook" (for example a photograph of the witness or
5 a signature or something they can identify) and these are directly paired with the
6 event about which one wishes the person to "remember" or to confess to participating
7 in."

8 Now, if we could scroll down a little bit further.

9 Now you refer to other extracts that were shown to you yesterday by the Defence
10 counsel, and you state:

11 "In these, the witness' uncertainty and lack of memory is used by [the] interrogator to
12 insist he guess about events; extrapolate his presence at an event based on his
13 signature on a document, show him photos they say he has seen before but about
14 which he has no memory, and use these to link him to active involvement in events."

15 THE INTERPRETER: [10:37:20] Message from the interpretation booth: Could
16 counsel please slow down, especially when reading. Thank you.

17 MS LUPING: [10:37:26] My apologies to the interpreters.

18 Q. [10:37:30] Now, I'm going to ask you, Dr Morgan, about those conclusions, but
19 first, I'd like you to look at different transcript excerpts. And the first
20 expert -- excerpt is -- I will just find the reference. I see actually I have only the -- the
21 Defence tab number, but I can use the Defence tab number. It's also in our binders,
22 but the Defence tab number is tab 114. And for the court usher, that's
23 MLI-OTP-0062-1143, and that's pages 1159, 1160.

24 Now, this is not one of the extracts you were shown yesterday. I just wanted, just for
25 the sake of completeness, look at this extract, as this is the one that you specifically

1 cited in the body of your report. And that's at page 1159. And that is from 514.
2 Now, Dr Morgan, you speak French, because I want to look at both pages. Actually,
3 I'd like you to have a chance to read both pages. I would ask that the interpreters
4 read -- sorry -- to interpret what they see on the screen rather than me reading to
5 avoid delaying the process.

6 Mr President, is that all right with you?

7 Sorry. Mr President, I just wanted to -- to save time.

8 PRESIDING JUDGE MINDUA: [10:39:33](Interpretation) Yes, indeed.

9 MS LUPING: [10:39:38] Just a note for the interpreters. I'll be asking to read the
10 whole of page 1159, from line 514 through to lines 547 and onwards; from page 1160,
11 lines 548 through to 581. If that could be interpreted, please.

12 PRESIDING JUDGE MINDUA: [10:39:56] (No interpretation)

13 THE INTERPRETER: [10:40:15](Interpretation)

14 "Ah! It is not necessary that the accused come on the same day and the report be
15 drafted on the same day and transferred to the court. It is not -- the date is not -- it is
16 not necessarily on the same day.

17 Interpreter: One should not look or concentrate on the date, otherwise you will
18 make mistakes.

19 Interviewer: Okay. Just with regard to the date, yesterday we saw an example of
20 floggings that took place at a specific date according to decisions as well, and an
21 article -- a press article giving the same dates for those floggings. So the dates are
22 quite precise therefore.

23 Interpreter: Ah! That is important. Could you repeat that, please.

24 Interviewer: We saw yesterday that cases of floggings indicated at a precise date.
25 The photos taken show that it took place on that very day. And the decision

1 concerning, for example, the man who had raped his half-sister corresponded to the
2 correct date, the date of the execution of the sentence. Therefore, the floggings.

3 That was also verified, and a press article also indicated the correct dates.

4 Interviewer: Just to illustrate that the dates are also quite indicative of what
5 happened in reality.

6 Maybe that you have not understood me.

7 Interviewer: Please, explain a bit further."

8 The interpreter is waiting for the court officer to bring up the next page. Thank you
9 so much.

10 "I am talking about the police report that has or was sent to the court and the
11 judgment of the court. I mean that the -- that judgment that bears that very same
12 date.

13 Interviewer: Mm-hmm.

14 Interpreter: That is to say the date of the judgment.

15 Interviewer: Mm-hmm.

16 Interpreter: That accused, there is a possibility that he had already spent a good
17 period of time in prison.

18 Interviewer: Yeah, no.

19 Interpreter: That's what I wanted to clarify.

20 Interviewer: Very well. It is in fact this part that is very clear. And, in fact, we
21 had already seen and you had already said in the past that that individual who had
22 been arrested, that is to say, Ibrahim Ben HUSSEIN, had already spent approximately
23 two months in prison.

24 Interpreter: That is true.

25 Interviewer: So that is clear.

1 My colleague wants to ask you something. Just seeking clarification.

2 In fact, you are saying that there is an investigation that is conducted by the police,
3 but the record of this investigation is submitted a lot later."

4 Interpreter is waiting for the next page.

5 MS LUPING: [10:43:47] I think we don't need to continue, because I'm just asking
6 that we read out the extracts cited by the expert in his report. And he cited, in fact,
7 lines 518 to 580.

8 Q. [10:44:04] So, Dr Morgan, just looking at this one particular extract -- you've
9 seen the other extracts yesterday as well. Now, just focusing on this particular
10 extract that was just read out, now am I correct that in this passage, the investigators
11 are not asking the accused about his presence or his physical involvement in this
12 flogging incident in this particular excerpt? And here, they're discussing the
13 potential date or timing of the transfer of case to the Islamic tribunal, is that correct?

14 A. [10:44:41] With respect to thinking about factors that can create a false memory,
15 this is a process of inserting the information and creating a narrative for him as the
16 questions and the statements are made. That's what this example is meant to show,
17 where things are being reframed by the interpreter in stating what has happened,
18 rather than it coming from the person being interviewed.

19 So this is an example of how a narrative is inserted by the questioner to the person
20 whom they're going to elicit a memory from.

21 Q. [10:45:24] I'd like now for us to turn to a different interview transcript. Now, I
22 just note that the various examples that you gave, Dr Morgan, it would be correct to
23 say that they only came from the March 2018 interview process, isn't that right?

24 A. [10:45:40] The ones that I indicated in the report, yes. I thought those were
25 illustrative of the process.

1 Q. [10:45:47] Right. Well, I'm now going to be asking that we look at the
2 interview process from, first, 6 October 2017. And that's at tab 50 of your binder.
3 And for the court usher, that's MLI-OTP-0051-0967.
4 Now, just to remind you, Dr Morgan, because I know you've read the transcript, but
5 as a reminder, to provide you with context, first, we have at page -- I'm going to be
6 asking the court usher to bring up, first, page 0986, from lines 637. 986, from line
7 637.
8 But as a reminder, Dr Morgan, of the context, in the earlier page, there's a very long
9 extract, from page 975, line 257 to page 986, line 363, as you recall, the interpreters
10 showed to Mr Al Hassan a video, MLI-OTP-0018-0963, in which he himself can be
11 seen as one of two people flogging an individual with a whip, and he's being asked
12 questions about the incident.
13 And then after he describes what happened at this other incident, the interviewer,
14 here, at line 637, asks:
15 (Interpretation) "Very well. Do you recall any other cases where you yourself took
16 part in this type of punishment?"
17 Response: "I took part in a case of flogging after that one, the flogging of an
18 individual who had committed adultery.
19 Interviewer: Very well.
20 Interpreter: At the same location.
21 Interviewer: At the same location? And do you recall that case? Who was there?
22 Who were the individuals concerned? You are not obliged to say anything. It is
23 your right to not answer something that might incriminate you, all right? I've
24 already told you, we are here to seek the truth, and when you said yourself -- when I
25 put the question to you, you are free to answer.

1 Interpreter: That's true.

2 Interviewer: You say that this is another case that occurred or took place at the same
3 location, a case of adultery, is that correct?

4 Interpreter: I believe so, yes.

5 Interviewer: Very well. Do you recall approximately what it was all about?

6 Interpreter: Adultery.

7 Interviewer: And it was -- well, who did it concern? Which individuals?

8 A number of individuals?"

9 Response: "One individual, a man who committed adultery with his sister."

10 (Speaks English) Now, I'm not going to read, Dr Morgan, the remaining pages. It
11 goes on for several pages. He goes on in some detail, Mr Al Hassan, providing
12 details to the investigators about this case of the man who committed adultery, as
13 they termed it, with his half-sister, and provides a very detailed exchange. And it
14 goes on from page 988 to page 990. And the accused provides various details about
15 the case, including, at line 683:

16 (Interpretation) "A child was born out of this sexual relationship."

17 (Speaks English) Now, my first question is this, Dr Morgan: Isn't it right that in this
18 passage - so this the first interview where the accused himself mentions the flogging
19 of a man accused of having sex with his half-sister - that here we see that the accused
20 gave this as an example of another flogging in which he was involved? Is that
21 correct?

22 A. [10:50:58] That's what he says in the transcript, yes.

23 Q. [10:51:03] Now, wouldn't you agree that this excerpt is relevant to your
24 assessment? You described what you thought of various exchanges that took place
25 one year later, but isn't this instance where the accused mentions this case himself,

1 isn't that relevant to your assessment?

2 A. [10:51:25] It's relevant insofar as looking at it in terms of a process. Details are
3 not an indicator -- I apologise, I will wait.

4 PRESIDING JUDGE MINDUA: (Interpretation) Ms Pradhan.

5 MS PRADHAN: [10:51:46] I'm sorry for the interruption, Mr President. And I'm
6 sorry to interrupt, Dr Morgan. I -- I do just object to the characterisation of the date
7 of this document as "one year later". It was not, in fact, one year later as we've seen.
8 It was October 2017. And the comparison was with an excerpt from March 2018. I
9 think the distance in time may be important, and so I just ask that that clarification be
10 made, please.

11 PRESIDING JUDGE MINDUA: [10:52:25](Interpretation) Madam Prosecutor.

12 MS LUPING: [10:52:26] Mr President, I really don't think there's any issue of any
13 kind of lack of clarity for the expert. I can make it clear. It's in the body of
14 Dr Morgan's own report that the relevant dates of the interviews are 6 October 2017,
15 December 2017, and March 2018. I'd already asked Dr Morgan about the dates
16 previously. I'm simply making a reference to the fact that we had the 2017 interview,
17 and the following year, that it's 2018.

18 But, Dr Morgan, just to be clear, I'm talking 2017 to 2018.

19 PRESIDING JUDGE MINDUA: [10:53:17](Interpretation) Yes, it was very important
20 to specify that: December 2017, March 2018. It's in the record.

21 Yes, please continue, Madam Prosecutor.

22 MS LUPING: [10:53:29] Thank you.

23 Q. [10:53:30] Now, Dr Morgan, you were interrupted part way through your
24 response. You stated: "It's relevant insofar as looking at it in terms of a process.

25 Details are not an indicator ..."

1 Please continue.

2 A. [10:53:49] I was going to conclude my sentence by saying, having detail in an
3 account is not an indicator as to whether or not the account is genuine or not. In
4 memory, we know memory can be detailed, it can be vague. The level -- if it has
5 detail, it doesn't tell us whether or not the account is genuine or -- or not.

6 Q. [10:54:16] Now, Dr Morgan, you chose the incident of the flogging of the man of
7 his half-sister, am I correct, to demonstrate an example of what you describe of
8 creating misinformation errors, false memories, using photos and videos as a
9 psychological hook.

10 Now isn't it correct though, that when Mr Al Hassan first raised this example himself,
11 no photographs, no videos relating to this event were used? He himself, when asked
12 if he was aware of any -- if he could explain if there were any other incidents,
13 confirmed this flogging incident.

14 A. [10:55:03] This does not occur in a vacuum. He does bring it up, but it is well
15 within the context of what is being set up by the interviewers in terms of the topic.

16 Q. [10:55:17] Now, this exchange though, Dr Morgan, am I correct to say that this
17 is --

18 PRESIDING JUDGE MINDUA: [10:55:24](Interpretation) Madam Prosecutor, could
19 you please observe some pauses. Thank you.

20 MS LUPING: [10:55:33] Apologies.

21 Q. [10:55:35] Is it correct, Dr Morgan though, that this particular passage is relevant
22 to an assessment of the exchanges between the investigators and Mr Al Hassan about
23 this incident?

24 A. [10:55:57] I believe it's relevant as it demonstrates how the exchanges occur.

25 Q. [10:56:05] And it's correct, is it not, that you have made no reference to this prior

1 exchange in your report?

2 A. [10:56:12] In the report I did not, that's correct.

3 Q. [10:56:18] Now, you have mentioned in support of your various assertions

4 about the nature of the dynamic between the OTP investigators and Mr Al Hassan,

5 you have mentioned -- or referenced transcript MLI-OTP-0062-1058 and

6 MLI-OTP-0062-1084, and the various -- the relevant excerpts were shown to you by

7 Defence counsel yesterday and you commented on those exchanges.

8 Now you referred to a photograph shown in March 2018, and that's

9 MLI-OTP-0018-2595 and, again, this is part of the incident related to your

10 explanations of the dynamic about the flogging of the man with his half-sister.

11 Now first of all, Dr Morgan, were you provided with a copy of the photograph? Did

12 you see the photograph yourself?

13 A. [10:57:44] I have not seen the photograph myself. I derived that from the

14 transcript.

15 Q. [10:57:51] All right. Well, I just want to observe for the record this photograph

16 is of a woman being flogged. And it's the Prosecution's case - I don't believe the

17 Defence will disagree - that this does not relate to the flogging of the man or his

18 half-sister. That's just to explain the context to you.

19 I also want to just note for context, this particular photograph was shown first on 6

20 October 27, and the reference is at page 971, from lines 26.

21 And when the photograph is shown and Mr Al Hassan is asked about it, he's asked,

22 Who is present? And he refers to himself. He identifies himself in the photograph.

23 And this is at page 973. After describing other individuals, he states at line 205:

24 (Interpretation) "I am on the other side."

25 (Speaks English) Now, again, Dr Morgan, isn't it relevant for your assessment of the

1 interview process in March 2018 that the accused himself, when shown the photo and
2 asked to identify who's present, he identifies himself. Isn't it relevant to -- if you are
3 going to use this as an example, that you cite this passage or this interview transcript
4 in your report?

5 A. [10:59:59] Not necessarily. Exposing people to photographs of an event that is
6 related in theme or topic contributes to the creation of false accounts. I know this
7 directly from research and from working with patients. So the presence of
8 a photograph may be of the specific incident or not. What I -- what I'm illustrating
9 in the document is that this process of questioning and then showing photographs is
10 the very process by which we contaminate memory recall in individuals.
11 And the photograph may be thematically related. It may not be in reference to the
12 incident itself, and then the person may recall additional information about another
13 event that may not be true, because the questioning is paired with the photo related to
14 a similar theme.

15 So it's that process that's going on that I'm trying to illustrate in the report, which you
16 can miss on the surface of it. But the bigger picture process is pairing the statements
17 with images and then discovering there's additional recall on the part of the person
18 being questioned.

19 Q. [11:01:21] But just in terms of looking at --

20 PRESIDING JUDGE MINDUA: [11:01:34](Interpretation) Madam Prosecutor, not
21 only did you not respect the pause, but also it's time. It's one minute past 11. We're
22 going to rise for half an hour and we shall reconvene at 11.30.

23 The hearing is suspended.

24 THE COURT USHER: All rise.

25 (Recess taken at 11.01 a.m.)

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

2 THE COURT USHER: [11:34:28] All rise.

3 Please be seated.

4 PRESIDING JUDGE MINDUA: [11:34:46](Interpretation) Court is in session.

5 The Office of the Prosecutor still has the floor to continue with its cross-examination.

6 Prosecutor Luping, I would remind you that you have 40 minutes left. Thank you.

7 MS LUPING: [11:35:07] Thank you, Mr President.

8 Q. [11:35:09] Good afternoon again, Dr Morgan.

9 Oh, it's still morning, in fact. Good morning still.

10 A. [11:35:16] Good morning.

11 Q. [11:35:17] Now, Dr Morgan, I just want to refer to a specific passage just prior to
12 the break, and I was asking you about the issue of the extract showing an exchange
13 between the OTP investigators and Mr Al Hassan, where he himself, when asked if he
14 had been involved in any other flogging, states and describes the incident involving
15 the man and the half-sister. Do you recall that?

16 A. [11:35:55] Yes, I do.

17 Q. [11:35:56] And I'm just turning to your responses here, Dr Morgan. It's at
18 page 38, lines 21, to page 39, line 2, where I stated:

19 "Is it correct, Dr Morgan though, that this particular passage is relevant to an
20 assessment of the exchanges between the investigators and Mr Al Hassan about this
21 incident?"

22 Your response: "I believe it's relevant as it demonstrates how the exchanges occur."

23 And then I asked: "And it's correct, is it not, that you have made no reference to this
24 prior exchange in your report?"

25 And at line 3, you stated: "In the report I did not, that's correct."

1 Now, Dr Morgan, my question is this: Isn't it correct that for the Chamber to be able
2 to fairly assess your conclusions regarding this exchange, your conclusions in your
3 written report, that it would be important for the Chamber to have a complete picture
4 of these exchanges and for you to have included a reference to this interview extract
5 in the body of your report?

6 A. [11:37:23] No, not necessarily. The examples in the report are meant to convey
7 a process of interaction. So in the big picture, the process of interviewing him,
8 showing him material and this resulting in more detail, is a pattern that is seen over
9 and over and over again in the record.
10 A specific -- I did not feel it was necessary to give the examples of every single time
11 this occurred. I trust people to be able to recognise this pattern. This pattern is
12 important because it has been something for now over nine years, and certainly seven
13 years - at least in the United States with investigators - the recommendation has been
14 that they not do this, because there is a risk for contaminating eyewitness recall.
15 So in my report I focus in different passages on different kinds of processes that occur.
16 Some were doubt, the pattern is there's doubt, there's exposure to information, and
17 then there is a more detailed recall. Other passages show that there are questions
18 that entail in them the narrative that is supposed to be accepted as true.
19 But I did not in my report identify every single occasion on this. There were time
20 constraints, and, again, I do trust people to be able to evaluate the principle and then
21 see and judge for yourselves if you see this pattern. This was meant to be illustrative
22 of a pattern, not -- my report was not meant to detail every single instance or
23 occurrence.

24 Q. [11:39:32] But just so I understand your testimony correctly then, Dr Morgan,
25 what you're saying is that you do not consider it relevant for the Chamber's

1 assessments of your conclusion that you include or make reference or deal in any way
2 or address in the body of your report, the first instance -- I'm not talking about
3 various extracts, I'm talking about the very first instance that Mr Al Hassan stated
4 that he was involved in the incident of the flogging of the man?

5 A. [11:40:06] I'm saying that people can read this information and assess it and if
6 they understand my report, if I've been clear about the pattern, it is for you to see to
7 which degree the pattern applies.

8 So the material in the transcripts I believe is relevant and important, but not all
9 passages of the transcripts are necessary to make a point. As part of what we do in
10 teaching and training, we hope people will recognise the example and be able to
11 follow the pattern.

12 Q. [11:40:43] Thank you, Dr Morgan. I will leave that for the Chamber to assess
13 your response and the importance or otherwise of the transcript.

14 I have no further questions for you. Thank you.

15 PRESIDING JUDGE MINDUA: [11:40:59](Interpretation) Maître Pradhan.

16 MS PRADHAN: [11:41:01] Mr Prosecutor, I was just going to object to this. This is
17 now the third or fourth time that my colleague has followed a response to
18 a question -- from the expert to a question that she posed and recharacterised it,
19 which is essentially testifying. And so that is my objection, although I understand
20 that her -- she's now finished.

21 PRESIDING JUDGE MINDUA: [11:41:28](Interpretation) Madam Prosecutor, would
22 you like to answer?

23 MS LUPING: [11:41:32] Very briefly. I do disagree that I'm recharacterising what
24 the expert is -- is stating, and I will leave it at that.

25 PRESIDING JUDGE MINDUA: [11:41:43](Interpretation) Very well.

1 Maître Pradhan, the Chamber will assess this.

2 Now, Madam Prosecutor, I understand that you have finished with your
3 cross-examination.

4 MS LUPING: [11:41:55] Yes, that's correct, Mr President. I have no further
5 questions.

6 And thank you, Dr Morgan.

7 THE WITNESS: [11:42:01] Thank you.

8 PRESIDING JUDGE MINDUA: [11:42:06](Interpretation) Thank you, Madam
9 Prosecutor Luping, for your cross-examination.

10 I now turn towards the Legal Representative of Victims,

11 Maître Kassongo, you asked to take the floor. So having listened to the two parties,
12 what do you think?

13 MR KASSONGO: [11:42:24](Interpretation) Thank you very much, your Honour,
14 your Honours.

15 The legal representatives wish to ask questions to the witness -- taking into account
16 the way the examination-in-chief went by the Defence and the cross-examination of
17 the Prosecution, which has just finished, we do not wish to intervene to ask questions
18 to the witness. Nevertheless, with your leave, we would like to thank the witness for
19 his intervention. And the entire team thanks the Chamber for the offer -- for the
20 opportunity that was granted to us.

21 PRESIDING JUDGE MINDUA: [11:43:12](Interpretation) Thank you very much,
22 Maître Kassongo.

23 So, once again, I turn towards the Defence.

24 Maître Pradhan, do you wish to ask additional questions to the witness.

25 MS PRADHAN: [11:43:24] Yes, Mr President, I do have some additional questions

1 for the witness, if that's -- if that's all right.

2 PRESIDING JUDGE MINDUA: [11:43:33](Interpretation) Very well. You have the
3 floor, Maître Pradhan.

4 MS PRADHAN: [11:43:36] Thank you, Mr President.

5 QUESTIONED BY MS PRADHAN:

6 Q. [11:43:49] Good morning again, Dr Morgan.

7 A. [11:43:51] Good morning.

8 Q. [11:43:52] It's been a very long morning, but here we are, we're still in the
9 morning as my learned colleague pointed out.

10 Dr Morgan, I am going to ask you just a few questions based on your answers to my
11 learned colleague from the Prosecution.

12 The first thing I'd like to do, if I may, is I'd like to -- I'm going to ask the court officer
13 to pull up Defence tab 3, and that's MLI-D28-0006-3352.

14 And you should have that on the screen in front of you, Dr Morgan. And I do have
15 a couple -- I do have a question just before that to orientate you.

16 Yesterday, you were asked -- and I'm referring to transcript 179, at page 123, lines 3
17 through 15. You were asked about what information was disclosed to you by the
18 Defence. And you stated, beginning at line 7, that:

19 "[...] they would give me the context of who was interviewing whom and when it
20 occurred. And the other assistance I got, as I mentioned before, is the coding of the
21 files. [...] there were different systems being used for the numbers on them, and I
22 had [asked]" -- I had -- excuse me -- "I had been -- I asked for their help in figuring out
23 how to align all of the numbers so that I knew the master list could match the earlier
24 file that I viewed."

25 Do you recall saying that yesterday, Dr Morgan?

1 A. [11:45:33] I do.

2 Q. [11:45:34] Okay. Great.

3 And now you have tab 3 in front of you, is that correct?

4 A. [11:45:37] I do, on the screen, yes.

5 Q. [11:45:39] Great. And if -- if we could just scroll up for a minute on that.

6 Thank you so much.

7 And you see date on that is 22 December 2021, Dr Morgan.

8 A. [11:45:54] I do.

9 Q. [11:45:55] Okay. Do you recall receiving this email on that day or about that
10 day? I know it's the Christmas holiday, but ...

11 A. [11:45:58] I do now. I think after the pandemic, I lose track of specific dates,
12 but I do remember the call. I didn't remember it was December 22.

13 Q. [11:46:10] Of course. And so you see here the accounting of the information
14 that was set up for you, which includes the transcripts of in-court testimony of
15 Prosecution Witness 626, the transcripts of the interviews between ICC Prosecution
16 and our client, Mr Al Hassan, some information about where the two were detained
17 at the time of their interviews, and then a paragraph below, stating:

18 "In terms of other potential materials:

19 "• for P-[0]626, he was examined by an inhouse ICC Prosecution doctor who flew to
20 Bamako for the second round of interviews. We have this report. We also have the
21 interview records. The interview transcripts and medical records are not in evidence,
22 but I did cite some relevant extracts during his in-court testimony (i.e the transcripts
23 which are in your dropbox folder)."

24 And then you see just below that, it says:

25 "• for Mr Al Hassan - there are no medical [records] of our client dating from when

1 he was held in the State security facility."

2 And then some more information about the physical examination he was given,
3 followed by the more detailed medical and psychological records after his transfer to
4 The Hague.

5 And do you see there, where it says:

6 "We can update the dropbox folder with any of the above materials [...] you consider
7 relevant to your expertise."

8 Do you see that, Dr Morgan?

9 A. [11:48:00] I do.

10 Q. [11:48:00] Thank you. And now, I'd just like to -- can I ask you, you know,
11 where it says:

12 "[...] I did cite some relevant extracts during his in-court testimony," and this is with
13 regard to P-626.

14 Do you recall reviewing those transcripts?

15 A. [11:48:27] I believe these are the transcripts that are in English with P-0626. If
16 those are the transcripts, then, yes, I remember reviewing those.

17 Q. [11:48:39] That's correct. And, actually, we can pull up -- if -- if it's possible to
18 pull up transcript 144, please, from October 2021.

19 THE COURT OFFICER: [11:49:11] One moment, counsel. We will pull up the
20 transcript in a moment.

21 MS PRADHAN: [11:49:16] Of course. Thank you.

22 And if we could just stay on the first page for a second. Thank you.

23 Q. [11:49:45] Dr Morgan, do you have that transcript in front you?

24 A. [11:49:50] I do, on the screen, yes.

25 Q. [11:49:52] Perfect. Thank you.

1 And do you recall whether or not you may have reviewed this transcript?

2 A. [11:49:57] I believe that I have, yes.

3 Q. [11:50:00] And could I please scroll to pages -- page 18, please, of the transcript.

4 Oh, excuse me. I apologise. This transcript should not be shown to the public. I
5 believe it was conducted in private session.

6 Right. And beginning on the previous page, sorry. Thank you. And if we might
7 just scroll up. Thank you so much.

8 So beginning at the bottom of page 17 there, you see it states: "[Q.] I'm going to turn
9 to Defence tab 47, [...] this is the report prepared by -- "

10 A Prosecution -- a doctor working with the ICC Prosecution.

11 "Now, I'm going to --"

12 Sorry, I'm just trying to see the next page.

13 "-- refer specifically to the sections that concern the information that you provided,
14 since this is not a report that's been drafted by you."

15 And then there are, over the next page - if you don't mind reviewing the next page or
16 two, because I don't want to read it all out - could you confirm, Dr Morgan, that
17 you -- that this particular transcript is one that you reviewed.

18 And you can let us know when we need to scroll down.

19 A. [11:51:47] I'm ready to scroll down.

20 And then ready to scroll down.

21 I'm ready to scroll down.

22 I'm ready to continue. Good.

23 I'm ready to scroll down.

24 I'm ready to scroll down.

25 Q. [11:52:43] And I believe the next -- the next following full page should be

1 sufficient, the bottom of -- to the bottom of page 20. Thank you.

2 A. [11:52:51] I'm ready.

3 I'm ready to scroll down.

4 I'm ready to scroll down.

5 Yes, I -- I have seen this document and read it.

6 Q. [11:53:19] Thank you, Dr Morgan.

7 And thank you for the court officers for indulging.

8 Dr Morgan, if you will turn to tab 5 -- Defence tab 5, which is your report. I'll wait
9 for a moment. I nearly broke my binder again, a minute ago, so I'm aware of how it
10 can take a minute to get to the document.

11 A. [11:53:59] I'm at tab 5.

12 Q. [11:54:00] Perfect. And for the record, again, this is tab 5, Defence tab 5. It's
13 MLI-D28-0006-4240, and I'm looking at 4252.

14 It's page 13, Dr Morgan, of your report.

15 A. [11:54:34] I am on page 13.

16 Q. [11:54:35] Great. And do you see the paragraph beginning "Witness P-[0]626",
17 the paragraphs there, where you cite the transcript, including one of the transcripts
18 that you just looked at?

19 A. [11:54:52] Yes, I do.

20 Q. [11:54:54] Okay. So, Dr Morgan, in your opinion, did you have -- in order to
21 come to the conclusions that you reached regarding P-626 in your report, in your
22 professional opinion, did you have sufficient information regarding his medical and
23 psychological state from those transcripts and the -- from that testimonial transcript
24 and the additional interview transcripts that you were able to review?

25 A. [11:55:28] I did. I had enough evidence to -- to say within a reasonable degree

1 of medical certainty that there were significant -- there was a significant clinical issue
2 likely going on.

3 As I previously stated, to be even more precise about it, I would have wanted more
4 information, but these data were sufficient from a physician's standpoint to
5 reasonably take the conclusion, there is a psychological concern about mental illness
6 or a side effect of uncontrollable stress.

7 Q. [11:56:07] And just to clarify, you -- you state in your report, halfway through
8 that last paragraph on the same page, there's a sentence beginning:
9 "According to the record no testing was performed during this visit with the Doctor"
10 by P-626. And I don't want to recharacterise your testimony, so I'll just ask you
11 again. What testing would have been helpful when you say you -- you would have
12 liked to see additional information, what testing would have been helpful at that
13 time?

14 A. [11:56:48] I believe that testing at that time would have been helpful to assess
15 perhaps the degree to which he may have been suffering from depression, a clinical
16 depression. There are some tests that are very useful at exploring in more detail the
17 thoughts a person is having, the impact on their appetite, their mood, their sleep in
18 more detail, their level of energy. Those kinds of symptoms are useful for -- from
19 a physician's standpoint to make an assessment about whether or not medications
20 may be necessary.

21 With respect to anxiety, there are specific tests about anxiety and about
22 post-traumatic stress that can give a sense of how much and how often a person is
23 experiencing symptoms, and this degree of specificity or specific information can be
24 very useful in considering the degree to which a person needs psychological
25 treatment or medical attention.

1 Finally, tests of memory, specific testing that can assess if a person is having trouble
2 in their memory due to an attention problem, like we discussed earlier this morning
3 about attention deficit disorder, or an attention -- a memory problem that is not due
4 to an attention issue, but a retention of memory issue or a recall, those kinds of tests
5 are very useful in making specific diagnoses.

6 So that's what I was referring to in this, that in the absence of those tests, I couldn't
7 say what kind of treatment might -- might be necessary or what level of intervention
8 would be needed. But from the symptoms that were listed and given, those are
9 sufficient to conclude that things are not normal and that there is a high likelihood of
10 a clinical illness that is present. But beyond that, I couldn't be more precise.

11 Q. [11:59:42] And -- thank you, Dr Morgan. And in the absence of such testing,
12 the information -- you don't have additional records, the information that you have
13 was the information that you reviewed from the transcripts. Is that correct?

14 A. [12:00:02] That is correct.

15 Q. [12:00:05] Thank you. Now Dr Morgan, you were also asked yesterday about
16 your -- whether or not you had considered predisposing factors, and I'm referring
17 now to transcript 179 at page 116, where you state at lines 2 to 10:

18 "[I] became --"

19 I believe there are a couple of typos, I'll try to talk around them. It says:

20 "[I] became aware of them after writing the report, but at the time of the report, no I
21 was not aware of any predisposing factors."

22 And -- yes. And so if you recall, Dr Morgan, we spoke yesterday about the second
23 group of materials you were given in May 2022, which included the expert reports of,
24 as you've testified, Dr Porterfield, Dr Cohen, Dr Lamothe and the panel of experts.

25 Do you recall that?

1 A. [12:01:19] I do.

2 Q. [12:01:20] Okay. And were you able to review those reports independently?

3 A. [12:01:25] Yes, I was.

4 Q. [12:01:31] Did those reports, to your recollection -- and I'm happy to turn to
5 them should you need refreshing, but did those reports, to your recollection, contain
6 information about predisposing factors?

7 A. [12:01:44] Yes, they did.

8 Q. [12:01:47] Okay. And just to be very clear - because there is a court rule that
9 allows you to -- offers you the opportunity to change your opinion once you've
10 tendered it in your report - I want to just repeat a question that I asked you, which is,
11 did any of the information in those reports when you were able to review them
12 change your opinion about the conclusions that you reached in your report?

13 A. [12:02:17] The information in those reports supported my concern that there was
14 mental illness going on. The detail was so much more about exposure to stress,
15 pre-existing exposure to trauma and more detail about specific symptoms.

16 Those -- those data, to me, supported the idea that he likely suffers from significant
17 psychiatric illness, such as post-traumatic stress disorder, but more broadly, like
18 many people who have been exposed to uncontrollable stress, also experiences pain
19 and headaches.

20 So the information did not substantively change my view, but it supported and
21 increased my conviction that there is a psychiatric illness present in him.

22 Q. [12:03:25] And Dr Morgan, today, this morning -- earlier this morning, I'm
23 referring to page 5 of today's transcript, around line 19, you said that the reports, and
24 I believe with respect to Dr Porterfield's report, were clinically compelling. Could
25 you explain what you meant by that?

1 A. [12:04:00] Yes, I can. When I read another physician's report, a psychologist's
2 or a psychiatrist's report, I look for whether or not there is sufficient detail in
3 information that would help me reasonably arrive at a diagnostic idea, an idea about
4 what kind of ailment the person has. In the report I said it was -- I said it was
5 compelling in my testimony from a clinical standpoint because she was able to
6 describe events from his life, his responses to them, and provided an assessment of
7 how those symptoms were being manifested.

8 So as another psychiatrist or psychologist reading the report, a mental health
9 professional, I -- what I found compelling was a level of information that would help
10 me think about whether or not there was illness and what it was most likely due to
11 and what course of treatment considerations we might think about. So it's a more
12 formal way of saying, I thought it was a good report. I think that, as I said earlier,
13 the reason -- I don't know the reasons why some standardised psychological tests
14 were not done, I suspect it's because there may not be good normative data as a
15 reference group. But in the material that's there, I thought it was very professionally
16 done and -- and did not seem to have gaps in things that were explored.

17 Q. [12:06:04] Thank you, Dr Morgan. I'm -- I'm just trying to make sure that we
18 don't step on the interpreters, with great respect to the interpreters.
19 I'd like to just return briefly to the questions that you were asked about your review
20 of documents, if I may. So I don't -- would you like me to pull up the email again or
21 is it --

22 A. [12:06:48] Oh, no, I'm fine. I erroneously anticipated you were going to ask me
23 to look up something so -- it's fine, I can listen.

24 Q. [12:06:56] No, not at all. Do you recall -- so that email discussed, if you recall,
25 the provision to you of a number of documents. Do you recall if -- any issues that

1 you had following the provision of those documents with the review of those
2 documents?

3 A. [12:07:15] I don't recall a specific issue in reviewing the documents. I do recall
4 asking just how to orientate in my mind a bigger picture because I have never read
5 anything about what occurred in Mali or in Timbuktu, I hadn't seen or read things
6 from the news, so I do remember asking the scope of records, like where does this
7 story begin and just to place in context, sort of what the documents were.

8 Q. [12:07:56] Sure. Do you recall around -- do you recall having a conversation
9 with the Defence around January 2022 about that chronology issue?

10 A. [12:08:10] I do.

11 Q. [12:08:10] And do you recall receiving indices in early January which contained
12 the document dates and MLI numbers so that you could review the documents in
13 chronological order?

14 A. [12:08:25] Yes, I do.

15 Q. [12:08:31] Okay. And just for the record, I'd like to pull up -- with the Court's
16 indulgence.

17 (Counsel confers)

18 MS PRADHAN: [12:08:37] I apologise, we don't have tab numbers. These are the
19 three documents that were submitted yesterday, your Honours. But if we could pull
20 up briefly, the record cite is MLI-D28-006 -- 0006-5256.

21 Q. [12:09:14] Let me know when that's visible to you.

22 A. [12:09:18] It's visible to me.

23 Q. [12:09:19] Great. And Dr Morgan, do you recognise -- have you seen this
24 document before?

25 A. [12:09:27] Yes, I have.

1 Q. [12:09:29] Okay. And do you recognise this as one of the indices that you were
2 provided?

3 A. [12:09:34] Yes, I do.

4 Q. [12:09:35] Thank you.

5 And then could we also pull up, please, MLI-D28-0006-5250.

6 Let me know when you have that in front of you, Dr Morgan.

7 A. [12:10:15] It is now in front of me.

8 Q. [12:10:19] Thank you. And do you recognise this document?

9 A. [12:10:22] Yes, I do.

10 Q. [12:10:24] And is this a second index that you were provided?

11 A. [12:10:27] Yes, it is.

12 Q. [12:10:30] Thank you. And can I ask, are these indices what you were referring
13 to when you stated yesterday that the Defence, quote, provided "context [about] who
14 was interviewing whom and when it occurred"?

15 A. [12:10:44] Yes.

16 Q. [12:10:46] Dr Morgan -- Dr Morgan, who determined which examples from the
17 documents you've reviewed would be included in your report?

18 A. [12:11:09] I did.

19 Q. [12:11:11] And did you include those examples in the initial draft of your
20 report?

21 A. [12:11:19] As I initially drafted the report, these are the examples that I had in
22 them. As the report was completed, I had to change the numbers to make sure they
23 matched the Court, but these are the examples that were in my original report, they
24 have not changed. I thought they were illustrative. But the change in the report
25 was making sure they aligned with the proper identifying numbers.

1 Q. [12:11:47] And regarding the changes to the numbers, do you recall the Defence
2 asking for your permission to convert line references in your initial draft from the
3 examples you found to MLI references?

4 A. [12:12:15] I do.

5 Q. [12:12:19] At any point, sir, did the Defence make any substantive suggestions to
6 add or change your report?

7 A. [12:12:28] No.

8 Q. [12:12:30] At any point from the beginning of the process in December 2021, did
9 the Defence suggest to you, in your mind, what conclusions should be in your report?

10 A. [12:12:47] No, they didn't.

11 Q. [12:12:54] Now, Dr Morgan, you've testified as to having been an expert witness
12 a number of times before; is that correct?

13 A. [12:13:17] Yes, that's correct.

14 Q. [12:13:19] Have you previously provided expert reports without conducting
15 in-person examinations of the subject?

16 A. [12:13:32] Yes, that has been necessary at certain times in the past, and I've done
17 reports in which it was not possible to interview the person in question.

18 Q. [12:13:45] And in your opinion -- in your expertise as a forensic psychiatrist, was
19 it sufficient to review the volume of transcripts and available medical records that
20 you did for this evaluation with your conclusions regarding P-626 and Mr Al Hassan?

21 A. [12:14:23] I believe that it was. In my -- my standard practice is, I will tell
22 whoever has retained me whether I do or don't believe I have received sufficient
23 information to answer a question that I've been asked. I felt I had sufficient
24 information in this circumstance in order to proceed with a report.

25 But if I didn't feel that way, I would not write a report. It's part of the ethical

1 guidelines in my profession. I'm obligated to tell any court or any attorney who
2 retains me what I feel I need in order to answer the question, and if I don't feel it's
3 sufficient, it's -- it's inappropriate for me to give a report and so I don't -- I don't do
4 that. I would let people know. And in this case, I felt I had sufficient information
5 to provide you a report.

6 Q. [12:15:34] Thank you, Dr Morgan.

7 Returning briefly to the question of predisposing factors, you discussed with my
8 colleague this morning a document contained, I believe, at OTP tab 65.

9 That's -- excuse me, I think that's the OTP tab. I believe the record reference is
10 MLI-D28-0003-1378. And we can pull that up just -- I know there were a lot of
11 documents brought up this morning, we'll pull it up to refresh your memory.

12 A. [12:16:26] Thank you.

13 Q. [12:16:27] Of course. And you recall being asked about this document?

14 A. [12:16:29] Yes, I do.

15 Q. [12:16:32] And there was an excerpt read to you regarding memory and
16 concentration problems experienced by Mr Al Hassan. Do you recall that?

17 A. [12:16:43] I do.

18 Q. [12:16:44] Okay. Now, if you -- if you could look at your report at -- that's tab 5.

19 And here I'm going back to MLI-D28-0006-4240 at page 4257. And I'll just -- there's
20 just one line I really want to read to you from that and that's at the bottom of the
21 page in the last paragraph. You state, I quote:

22 "This process - of using a witness's lack of memory or uncertainty against them in
23 order to get them to agree with the interrogator is explicit in" -- and then you offer
24 a number of record cites.

25 "In these, the witness' uncertainty and lack of memory is used by the interrogator to

1 insist he guess about events; extrapolate his presence at an event based on his
2 signature on a document, show him photos they say he has seen before but about
3 which he has no memory, and use these to link him to active involvement in events."
4 And you continue in that paragraph to discuss this process that you are describing.
5 My question is simply this, Dr Morgan, when you were -- when you were -- read in
6 that previous document about Mr Al Hassan's memory and concentration problems
7 and the speculation that those problems may have had different sources, different
8 origins, does the existence or the origin of those memory problems affect your
9 conclusion regarding the process you identified at page 18 of your report?

10 A. [12:19:00] It does not. I would have the same concern if a person was detained
11 by the police who had low intelligence and memory issues or depression and memory
12 issues, even if they'd never been detained in a prison setting. An individual who has
13 difficulty remembering and tracking information is more vulnerable regardless of the
14 ideology of why they don't remember things. There's something more vulnerable to
15 this technique. We are all vulnerable to this process, but people who don't have
16 good memory processing are more vulnerable -- more vulnerable to this process.

17 Q. [12:20:03] And Dr Morgan, you were asked -- we've spoken a bit both yesterday
18 and today about the example you provide in your report regarding a specific flogging
19 incident and -- if you recall that from this morning?

20 A. [12:20:31] Yes, I do.

21 Q. [12:20:32] Okay. Now, the -- my learned colleague showed you a document
22 from October 2017. That's OTP tab 50. And I'd like to pull it up, if possible, please.
23 It's MLI-OTP-0051-0967. And I will just note that my colleague began reading this
24 transcript at page 0987, and there was a statement this morning - I believe it's at
25 page 37 of the transcript beginning at line 15 to page 38, line 3 - that Mr Al Hassan

1 had not been shown photos or videos prior to his own statement that he --

2 PRESIDING JUDGE MINDUA: [12:21:50](Interpretation) Madam Prosecutor.

3 MS LUPING: [12:21:52] Mr President, your Honours, I do believe that that is not
4 a full and accurate explanation of the extract that was shown to the witness. Before
5 this extract was shown, it was also stated to the witness the context that a video in
6 which Mr Al Hassan had identified himself as being one of the individuals flogging
7 somebody else had been shown and then the context was put, the follow-up question
8 was: Have you been involved in any other flogging?

9 Now, I understand that Defence counsel's referring to a specific part, but put it in full
10 context, this witness had been referred to a video that had been shown, had been told
11 the circumstances. And to be very clear, in the passage that's about to be cited, I was
12 referring to the fact that no photo or video related to the specific event had been
13 shown and the witness was able to provide his responses and he provided his
14 response.

15 But I would not want to induce either the Chamber or the witness into error.

16 MS PRADHAN: [12:23:11] Thank you to my learned colleague. I do actually
17 appreciate that contextualisation because that offers some shorthand.

18 PRESIDING JUDGE MINDUA: [12:23:21](Interpretation) Ms Pradhan, I hadn't
19 followed you because I was still listening to the interpretation.

20 Very well. I think it has been resolved now.

21 MS PRADHAN: [12:23:40] Yes, I apologise, Mr President. Sorry.

22 Q. [12:23:43] I would like to turn your attention on that document to -- if we
23 could -- if we could move to page 0971 beginning at line 126.

24 It says: (Interpretation) "I'm going to show you an image. At this juncture, I'm just
25 going to show you an excerpt, a photo extracted from a video.

1 (Speaks English) And we can scroll down, please, to the next page.

2 And beginning at the top:

3 (Interpretation) "I'm just showing you the image at this stage therefore, the
4 photographic image. I'm moving towards you to be certain that you can see it
5 clearly. It is a fixed image, so this is a photograph extracted from a video. Have
6 you already seen these images?"

7 (Speaks English) And Mr Al Hassan replies:

8 (Interpretation) "Before this? No."

9 (Speaks English) Okay. And questioning then commences regarding what is seen in
10 those images.

11 Do you recall reviewing the totality of this transcript, Dr Morgan, in the course of
12 your review?

13 A. [12:25:45] Yes, I do.

14 Q. [12:25:46] Okay. And you've already testified as to your conclusion that
15 Mr Al Hassan had been subjected to factors contributing to uncontrollable stress.
16 When you said this morning that this -- these extracts read to you by my colleague
17 and contained in this transcript are relevant as part of a process, right, could you be
18 more specific as to what process you were discussing, to which process you were
19 referring?

20 A. [12:26:27] I was referring to the -- the term "process", in the way that I use it,
21 refers to the conditions and the flow of interactions with people. This is a condition
22 in which the person being questioned is still detained, but being interviewed by the
23 investigation team.

24 And as I've already said, in my field, we know the impact of uncontrollable stress
25 promotes increased compliance and suggestibility in people. Even when they're no

1 longer in their cell or if they're being interrogated by the police, they can be meeting
2 with someone else, this process of beginning in the interview by asking someone
3 questions or showing them material, and slowly watching an evolving dynamic of
4 where they finally remember things, is a process that is known to corrupt what
5 people have to say, in the sense that it can result in false memories and false
6 confessions.

7 So I'm referring to the big -- the larger picture and I think -- I would encourage the
8 Court in reading the interview, to understand sort of my point of view about it, is that
9 each individual part has to be seen in the bigger picture. And the pattern that struck
10 me over and over again as I read the transcripts was a very similar pattern, where
11 there were more than just open-ended questions. They were questions that provide
12 information or material is shown to the person, and the big picture pattern is that
13 there seems to be always more detail at the end of the interview with -- with the
14 individual than is initially present at the beginning.

15 So that's what I'm referring to as the "process". And sometimes it's not immediately
16 apparent if we only look at a tiny segment of the interview. But what we have
17 learned about interviewing and influencing memory is, we have to take the entire
18 dynamic into consideration if we are concerned about whether or not factors may
19 have negatively influenced what we learn in an interview.

20 So that's what I tried to refer to as "process", I'm not always as articulate as I would
21 like to be.

22 Q. [12:29:42] And so the transcript in front of you now is from October 2017;
23 whereas the example that we -- that you were kind enough to explain in some detail
24 yesterday is from March 2018. When you talk about a process, is the March 2018 the
25 example then? Sort of a cog or a continuation of that process?

1 PRESIDING JUDGE MINDUA: [12:30:22](Interpretation) Madam Prosecutor.

2 MS LUPING: [12:30:25] Objection, Mr President. I mean, the witness is quite
3 capable of being able to respond to an open-ended question in this regard. He could
4 simply be asked to -- well, anyway, my objection is that it simply should be
5 reformulated. I believe it's unnecessarily -- unnecessary to provide a leading
6 question in this context.

7 PRESIDING JUDGE MINDUA: [12:30:52](Interpretation) Ms Pradhan, could you
8 please rephrase.

9 MS PRADHAN: [12:30:56] Of course.

10 Q. [12:31:00] Dr Morgan, can I ask, in your review of the March 2018 transcript,
11 how does that impact this process you describe?

12 A. [12:31:15] In my view, it is part of -- it is part of a larger process. So this
13 process that I'm describing, I believe occurs throughout the time frame when
14 meetings are occurring, given that the witness is still in confinement.
15 So from an uncontrollable stress and the influence on people standpoint, we would
16 consider this as all one -- one process. Whether or not there are meetings that feel
17 nonthreatening that occur in that environment, this process is ongoing throughout
18 that experience and that time frame.

19 Q. [12:32:19] Now, this morning, I believe at page 18 of the transcript, you were
20 asked about the importance of assessing the veracity of Mr Al Hassan's account. Do
21 you recall that?

22 A. [12:32:50] Yes.

23 Q. [12:32:52] Okay. Now -- and there was rather a lengthy representation from
24 my colleague regarding OTP's position on that, which I don't believe I need to repeat.
25 I'd like to pull up Defence tab 124, if I may. That's MLI-OTP-0069-1728. I think we

1 can pull that up on screen, Dr Morgan, which might be easier for you.

2 And I'd like to turn to page 1751. Beginning -- excuse me, I should ask you,

3 Dr Morgan, do you recall having seen this document before?

4 A. [12:34:01] Yes, I have seen this document before.

5 Q. [12:34:04] Thank you. I'd like to begin at line 740, where -- oh, I believe that
6 this should not be shown to the public. Thank you.

7 Where the OTP interviewer says:

8 (Interpretation) "... you are in a hostile environment. But you have to be careful also
9 with people who are with you in the cell. Never mention, never that you have
10 spoken with investigators from the International Criminal Court."

11 (Speaks English) Mr Al Hassan responds:

12 (Interpretation) "Very well."

13 (Speaks English) And the interviewer again says: (Interpretation) "It's confidential, it
14 is for your security."

15 (Speaks English) And the interviewer continues to say: (Interpretation) "Because
16 afterwards, these people, you don't know what's going to happen, they could have
17 their cell changed. And maybe they would speak somewhere else. ... that could
18 even put your family in danger."

19 (Speaks English) Now, Dr Morgan, without speculating regarding what the OTP's
20 position is on the veracity of Mr Al Hassan's fears, what would the impact of these
21 statements be on his own conception of his fear in your opinion?

22 A. [12:35:58] From studies of victims who have suffered uncontrollable stress in
23 detained -- or suffered from torture, we know from studies of individuals like this
24 that a fear for their safety, and especially a fear for their family's safety, are very
25 significant stressors.

1 One of the larger scientific reports that was done on victims of detainment-related
2 uncontrollable stress that came out of a research group from Croatia following the
3 war experience, shows that the stressors that were most likely to cause psychological
4 distress in the individuals were of mainly three types: a fear for one's family; a fear
5 that or an inability to have access for personal hygiene to toilets or to water; and fears
6 for one's physical safety.

7 In those studies it was a bit counterintuitive, but those are the data that we know, so
8 my --

9 PRESIDING JUDGE MINDUA: [12:37:46](Interpretation) Madam Prosecutor.

10 MS LUPING: [12:37:48] Mr President, your Honours, I'm just concerned that this
11 appears to be a repeat of the examination-in-chief. I didn't want to interrupt
12 Dr Morgan.

13 I apologise, I didn't mean to interrupt you.

14 But looking again at the question and the response, I don't actually understand how
15 or why it's necessary to ask a question that was already covered, get a response that
16 was very detailed already in examination-in-chief.

17 I'd just simply ask that how this also relates to the -- the cross-examination, because
18 obviously re-examination must relate directly to the cross-examination. It appeared
19 at one point as if it did, but then the question asked was actually simply a repeat of an
20 examination-in-chief question.

21 PRESIDING JUDGE MINDUA: [12:38:37](Interpretation) Maître Pradhan, I don't
22 think that I have to give you the floor for this objection because the Chamber agrees
23 that this question has already been put during the examination-in-chief. And I even
24 made notes during your examination-in-chief and you've asked this question again.

25 And so it doesn't come within the framework of the cross-examination that's in our

1 rules of proceedings, so please move on.

2 MS PRADHAN: [12:39:09] Certainly, Mr President. Although -- so my question
3 relates directly to my learned colleague's representation regarding -- which, in my
4 view, was extraneous, but regarding OTP's current position on the veracity of
5 Mr Al Hassan's statements.

6 Those aside, there were statements made to him in the room, and I don't believe I
7 actually read all of these statements yesterday. But my question is specifically the
8 impact of their repetition to them which is slightly different.

9 And so my question I guess if I -- I can reformulate the question, which is --

10 PRESIDING JUDGE MINDUA: [12:39:55](Interpretation) Please do.

11 MS PRADHAN: [12:39:57] Sure.

12 Q. [12:39:59] What -- Dr Morgan, you've identified -- you've testified that
13 Mr Al Hassan was -- again, was subjected to certain factors contributing to
14 uncontrollable stress.

15 Would these statements by the OTP have reinforced existing stressors or have created
16 a new stressor?

17 PRESIDING JUDGE MINDUA: [12:40:42](Interpretation) Maître Pradhan, it's the
18 same question. I think you have no further questions, do you? It's the same
19 question. The Chamber doesn't accept it.

20 MS PRADHAN: [12:40:51] I have a few more questions on a different topic, if I may.
21 I'm happy to move on. Thank you.

22 Q. [12:41:01] The -- I'd like to show you -- actually, Court's indulgence, one
23 moment, please.

24 PRESIDING JUDGE MINDUA: [12:41:20](Interpretation) Please go ahead.

25 (Counsel confers)

1 MS PRADHAN: [12:42:30] Thank you very much for the Court's indulgence. I
2 appreciate it.

3 Q. [12:42:42] We're almost there, Dr Morgan.

4 My question is: You were asked this morning about access to medical records and
5 treatment records of Mr Al Hassan and P-626. And in your expertise as a forensic
6 psychiatrist, as an expert in memory, is there treatment that can cure the -- the
7 conditions that you have identified in your report relating to changes in memory?

8 PRESIDING JUDGE MINDUA: [12:43:22](Interpretation) Madam Prosecutor.

9 MS LUPING: [12:43:24] Mr President, I would just like more clarity. I find the
10 question rather unclear. The witness is being asked to provide an opinion on
11 whether there's treatment for conditions identified relating to changes in memory. I
12 would ask, first of all, if there is clarity -- for clarity as to what conditions precisely
13 she's referring to.

14 PRESIDING JUDGE MINDUA: [12:44:00](Interpretation) Indeed, Madam
15 Prosecutor.

16 Maître Pradhan, please, could you be more clear. Thank you.

17 MS PRADHAN: [12:44:09] Certainly.

18 Q. [12:44:12] Dr Morgan, if you could move to page 19 of your report.

19 And for the record, that's MLI-D28-0006-4240, and we're looking at page 4258, please.
20 Let me know when you have that in front of you.

21 A. [12:44:39] I have it in front of me.

22 Q. [12:44:42] Perfect. Thank you.

23 Around the middle of the page, there's a paragraph beginning "P-[0]398". Do you
24 see that paragraph?

25 A. [12:44:53] I do.

1 Q. [12:44:54] And there's a sentence beginning:

2 "As a result, it is within a reasonable degree of medical and scientific certainty that
3 his" - Mr Al Hassan's - "memory as reported to the investigators is not accurate or
4 reliable."

5 Now, you've testified as a forensic psychiatrist that you have -- that you have
6 conducted tests and studies of memory on thousands of subjects, is that correct, sir?

7 A. [12:45:24] That is correct.

8 Q. [12:45:25] Okay. And are there treatments or are there procedures by which
9 that conclusion that you report -- that his memory, as reported to the investigators, is
10 not accurate or reliable could be cured?

11 PRESIDING JUDGE MINDUA: [12:45:44](Interpretation) Madam Prosecutor.

12 MS LUPING: [12:45:49] Mr President, your Honours, my objection is a different one
13 now. This is a question that could and should have been asked during
14 examination-in-chief. I refer to the Conduct of Proceedings decision. Questions
15 must strictly relate to issues that, you know, arose only in cross-examination. This
16 should have been apparent. This should have been a question put then. And you
17 can't have another attempt at this late stage.

18 PRESIDING JUDGE MINDUA: [12:46:18](Interpretation) Maître Pradhan, you are
19 asking our expert witness if there is treatment to remedy a deficient memory, and this
20 is a question that you should have put during your examination-in-chief. It's not
21 part of the cross-examination. So please move on.

22 MS PRADHAN: [12:46:40] Mr President, I would like to note that my colleague
23 asked about treatment --

24 PRESIDING JUDGE MINDUA: [12:46:45](Interpretation) No, no. No, no. If you
25 wish to argue -- the Chamber's already decided.

1 MS PRADHAN: [12:46:59] All right.

2 Q. [12:47:00] Dr Morgan, I'd like to just turn you, finally -- hopefully finally, to
3 Defence tab 139. I think -- yes. And that's MLI-OTP -- and I think we can pull it for
4 you. It might be easier, if that's all right. MLI-OTP-0080-5766.

5 Do you recall having seen this document?

6 A. [12:47:40] I do.

7 Q. [12:47:42] And this is the panel of experts' report that you reviewed, is that
8 correct?

9 A. [12:47:49] Yes, that is correct.

10 Q. [12:47:51] All right. If we could just move to page 5785. We're looking at
11 paragraph 125. And this should not be shown -- I believe this should not be shown
12 to the public, right?

13 No. This can be shown to the public. I apologise.

14 And it states here, at paragraph 125, that --

15 PRESIDING JUDGE MINDUA: [12:48:31](Interpretation) Yes, Madam Prosecutor.

16 MS LUPING: [12:48:34] It's just a question, Mr President. It's just that this -- this
17 particular report was appended to a Registry report, which I believe is still
18 a confidential document. So I'm not certain in fact that it is appropriate for this to be
19 seen publicly. But the -- the Chamber will be able to confirm.

20 MS PRADHAN: [12:48:51] It's been made public.

21 PRESIDING JUDGE MINDUA: [12:49:05](Interpretation) We seem to be in
22 agreement that it's public.

23 Okay. Please go ahead.

24 MS PRADHAN: [12:49:08] Thank you, Mr President.

25 Q. [12:49:12] And my question to you relates to the questions that you were asked

1 again this morning about the importance of assessing Mr Al Hassan's veracity in his
2 allegations of -- or his details that he provided about his treatment. And it states
3 here, at paragraph 125:

4 "He did not appear to be prone to exaggeration explored."

5 Is -- do you recall -- first of all, do you recall reading this detail when you reviewed
6 this report?

7 A. [12:49:49] I do.

8 Q. [12:49:51] And is that statement by the Chamber's panel of experts regarding
9 Mr Al Hassan's, I guess, nonappearance to be prone to exaggeration, is that relevant
10 to your assessment of -- or your conclusions regarding his psychiatric state?

11 A. [12:50:14] This kind of a statement conveys to me as a clinician that they did not
12 feel a certain way about -- about him, and is a way of communicating that there
13 wasn't a concern about him exaggerating.

14 So when I -- when I read that, that appears to be a statement made by a clinical team
15 saying they did not feel that way; so I would take it into consideration for my opinion.

16 Q. [12:50:52] Thank you.

17 That concludes my questions. Thank you, Dr Morgan,

18 And thank you to the Chamber.

19 A. [12:51:08] Thank you.

20 PRESIDING JUDGE MINDUA: [12:51:14](Interpretation) Thank you very much,
21 Maître Pradhan, for finishing your cross-examination and for your additional
22 questions.

23 I don't understand why the Prosecutor is standing. Normally, you have no further
24 right to the floor.

25 What would you wish to say?

1 MS LUPING: [12:51:33] Mr President, I'm just wanting to ask a question to clarify
2 for the record. It could be that Defence counsel misspoke, but at page 51, lines 5 to
3 19, it's been drawn to my attention that Defence counsel referred -- when speaking
4 about witness 626, stated that Dr Morgan had access to transcripts from that
5 testimonial transcript and the additional interview transcripts.
6 So it's just a question for clarity. Because as I understand Dr Morgan's testimony,
7 and from his report and from every material we've been provided, that he didn't have
8 access to any OTP interview transcripts, only the testimony transcripts. Again, it
9 may be that Defence counsel simply misspoke. I just wanted it clarified for the
10 record. That's all.

11 PRESIDING JUDGE MINDUA: [12:52:40](Interpretation) Indeed, Madam
12 Prosecutor.

13 Maître Pradhan, you have the floor.

14 MS PRADHAN: [12:52:43] Certainly. Just to clarify that,
15 Mr -- excuse me -- Dr Morgan had access to the full transcripts from P-626's testimony.
16 He did not have access to the interview transcripts because they had not been entered
17 into evidence and so he could not rely on them to create his report.

18 PRESIDING JUDGE MINDUA: [12:53:08](Interpretation) Very well. Thank you.
19 That's fine.

20 We are therefore coming to the end of this testimony. I'm now going to address the
21 witness.

22 Dr Morgan, the Chamber would once again like to thank you most sincerely for
23 having aided the Chamber by answering in a very professional, precise and careful
24 way the questions that were put to you. Your testimony has now come to an end.
25 So on behalf of the Chamber, I would like to wish you all the best in your scientific

1 research and in your teaching activities.

2 THE WITNESS: [12:54:08] Thank you, Mr President and your Honours. It was
3 a privilege to be able to speak with you and let you know what I think, so thank you
4 for your time.

5 PRESIDING JUDGE MINDUA: [12:54:21](Interpretation) Thank you very much,
6 Dr Morgan.

7 (The witness is excused)

8 PRESIDING JUDGE MINDUA: [12:54:25](Interpretation) So I now turn towards the
9 Defence. In principle, we continue tomorrow at 9.30, with your next witness, is that
10 correct? Ms Taylor, yes?

11 MS TAYLOR: [12:54:43] No, Mr President. We're sitting next Tuesday with D-512.

12 PRESIDING JUDGE MINDUA: [12:54:45](Interpretation) Very well. Thank you
13 very much for this clarification.

14 So before adjourning the session, I would like to thank all the parties and participants,
15 as well as our court reporters, our interpreters, our security guards and, of course, our
16 public who are faithfully sitting in the gallery, as from afar, I wish them a very good
17 day and we will see you next week.

18 Court is adjourned.

19 THE COURT USHER: [12:55:28] All rise.

20 (The hearing ends in open session at 12.55 p.m.)