

Trial Hearing
MLI-OTP-P-0547

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Tuesday, 26 October 2021
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:42] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:12](Interpretation) Court is in session. Good
15 morning to all.
16 Mr Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [9:32:22] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we are in open session.
21 PRESIDING JUDGE MINDUA: [9:32:45](Interpretation) Thank you very much, Mr
22 Courtroom Officer.
23 As every morning, we shall now deal with the introductions from the various teams.
24 The Office of the Prosecutor first, please. I can see it's Madam Prosecutor this
25 morning.

- 1 MS YAMAGUCHI: [9:33:00] Good morning, Mr President, your Honours. The
2 Prosecution is represented today by Gilles Dutertre and myself, Yayoi Yamaguchi.
- 3 PRESIDING JUDGE MINDUA: [9:33:14](Interpretation) Thank you very much,
4 Madam Prosecutor.
5 Now over to the Defence.
6 Counsel.
- 7 MS SUTHERLAND: [9:33:19] Good morning, Mr President, your Honours. The
8 Defence for Mr Al Hassan is today represented by Ms Melissa Lussier -- Beaulieu
9 Lussier, forgive me, Ms Sarah Marinier-Doucet, Ms Melinda Taylor, and myself,
10 Kirsty Sutherland.
- 11 PRESIDING JUDGE MINDUA: [9:33:40](Interpretation) Thank you very much,
12 Ms Sutherland.
13 I'm now turning to the Legal Representatives for Victims.
14 Maître.
- 15 MR LUVENGIKA: [9:33:47](Interpretation) Good morning, Mr President. Good
16 morning, your Honours. The victims are represented at this hearing by Madam
17 Prisque Dipanga and by myself, Fidel Nsita Luvengika. And I thank you.
- 18 PRESIDING JUDGE MINDUA: [9:33:59](Interpretation) Thank you very much,
19 Maître Nsita.
20 This morning, we shall start with the testimony of the Prosecution Witness P-0547.
21 I shall now turn to the witness.
22 Good morning, Madam Witness. Can you hear me well?
23 WITNESS: MLI-OTP-P-0547
24 (The witness speaks Songhai)
25 THE WITNESS: [9:34:23](Interpretation) Yes.

1 PRESIDING JUDGE MINDUA: [9:34:29](Interpretation) Very well.

2 On behalf of the Chamber, I would like to welcome you. You shall be testifying with
3 a view to assisting the Chamber in establishing the truth in the case of the Prosecutor
4 versus Mr Al Hassan.

5 Madam Witness, protective measures have been put in place with a view to making
6 sure that your identity is not revealed to the public. Every time that you need to
7 provide details that would run the risk of identifying you, we shall move into private
8 session in such a way, nobody, with the exception of those in the courtroom, will be
9 able to hear what you have to say.

10 I'd like to now administer your oath under Rule 66(1) of the Rules of Procedure and
11 Evidence.

12 So please repeat after me: I solemnly declare.

13 THE WITNESS: [9:36:34](Interpretation) I solemnly declare.

14 PRESIDING JUDGE MINDUA: [9:36:39](Interpretation) That I shall speak the truth.

15 THE WITNESS: [9:36:42](Interpretation) That I shall speak the truth.

16 PRESIDING JUDGE MINDUA: [9:36:47](Interpretation) The whole truth.

17 THE WITNESS: [9:36:54](Interpretation) The whole truth.

18 PRESIDING JUDGE MINDUA: [9:36:55](Interpretation) And nothing but the truth.

19 THE WITNESS: [9:37:09](Interpretation) And nothing but the truth.

20 PRESIDING JUDGE MINDUA: [9:37:11](Interpretation) Thank you very much,
21 Madam Witness. You are now under oath. The representatives of the VWU and
22 the representatives of the OTP have already told you what this means.

23 THE WITNESS: [9:37:47](Interpretation) Yes. Of course they explained it to me.

24 PRESIDING JUDGE MINDUA: [9:37:51](Interpretation) Very well.

25 I have a few practical pieces of advice to provide you with, with regard to your

1 addressing the Court. You need to bear in mind throughout your testimony that
2 everything that is said in this courtroom is transcribed by the court reporters and
3 simultaneously interpreted into a number of languages by interpreters.
4 It is therefore important to speak clearly and slowly and to observe pauses.
5 You should only start to speak once the person putting a question to you has finished
6 putting the question to you. So you shall start -- you shall first be questioned by the
7 Office of the Prosecutor, after which you shall be questioned by the Legal
8 Representatives of Victims and finally by the Defence.
9 So without any further ado, I'm going to hand over to Madam Prosecutor for her
10 questions.
11 Madam Prosecutor, please.
12 Interpretation, please, for madam -- for Madam Witness.
13 THE WITNESS: [9:40:04](Interpretation) Very well.
14 MS YAMAGUCHI: [9:40:21] Thank you, Mr President.
15 QUESTIONED BY MS YAMAGUCHI:
16 Q. [9:40:25] Good morning, Madam Witness.
17 How are you today?
18 A. [9:40:30] Good morning. I am well.
19 Q. [9:40:41] We already met last week. But for the record, my name is Yayoi
20 Yamaguchi, and I'll be asking you questions on behalf of the Prosecution today.
21 A. [9:41:10] Very well.
22 Q. [9:41:14] If any of my questions is not clear, please do not hesitate to let me
23 know, and I'll rephrase the question.
24 A. [9:41:35] Very well.
25 MS YAMAGUCHI: [9:41:39] Mr President, I would like to go to private session for

1 approximately five minutes to cover the personal background of the witness.

2 PRESIDING JUDGE MINDUA: [9:41:51](Interpretation) Yes, indeed,

3 Madam Prosecutor.

4 Mr Courtroom Officer, please.

5 (Private session at 9.41 a.m.)

6 THE COURT OFFICER: [9:41:58] We are in private session, Mr President.

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- 15 (Open session at 9.52 a.m.)
- 16 THE COURT OFFICER: [9:53:03] We are back in open session, Mr President.
- 17 PRESIDING JUDGE MINDUA: [9:53:08](Interpretation) Thank you very much,
- 18 Mr Courtroom Officer.
- 19 Madam Prosecutor.
- 20 MS YAMAGUCHI: [9:53:15] Thank you, Mr President.
- 21 Q. [9:53:17] Madam Witness, I would like to now ask you about what happened in
- 22 Timbuktu after the arrival of the armed groups.
- 23 First, are you able to -- sorry.
- 24 A. [9:53:33] Very well.
- 25 Q. [9:53:46] First, are you able to recall when armed groups came to Timbuktu?

1 A. [9:53:53] * One morning, I was at home when people invaded the entire city.
2 They were shooting in the air. And I came out of my house and asked what was
3 going on, and I was told that it was the camp that was under attack.
4 After that, I stayed there for a long time observing what was going on until I thought
5 to myself, well, I will -- I'll go to have a look for myself to see whether what they've
6 told me is true or not.
7 The camp was a little far afield from our house, but with everything that was going
8 on, I managed to get there. So I went towards the camp, and I found that the Malian
9 flag was no longer there, that it was in fact the MNLA flag that had taken its place.
10 Once I got there, I heard people saying "Allahu Akbar. Allahu Akbar." So I could
11 see the young Arabs. And I say "Arabs" because I could make the distinction
12 between Arabs and Tamasheqs.
13 So I could see some of them taking the refrigerators away from the soldiers' wives.
14 Others were taking meat from those refrigerators. And others, when they were
15 lifting these refrigerators, there was ice cream that fell out.
16 So I could see people who were taking away cartridges and others were shooting
17 cartridges into the air. And I thought to myself, I shall leave this place so that I do
18 not get hit by a stray bullet.
19 At that moment, there were other groups that arrived. And they had a black flag
20 with white writing on it. That was three days afterwards.
21 Q. [9:59:37] Thank you very much, Witness.
22 I would like to go back to certain aspects of what you have just told us.
23 First, do you remember when you heard the shots in the air when armed groups first
24 arrived? What time of the day I mean.
25 A. [10:00:24] It was in the morning around 9 o'clock, between 8 o'clock and

1 9 o'clock.

2 Q. [10:00:50] And you said you were told that it was the camp that was under
3 attack. Could you tell us which camp you were referring to.

4 A. [10:01:07] The guards' camp.

5 Q. [10:01:28] And what kind of guards were they?

6 A. [10:01:33] The -- the guards, the ones wearing uniforms.

7 Q. [10:02:15] Did they belong to Malian army?

8 A. [10:02:20] Yes, of course, the Malian army.

9 Q. [10:02:42] And who told you that the camp belonging to the Malian army was
10 being attacked?

11 A. [10:03:44] As they were firing into the air, I came out, and I found that many
12 people had stopped. And I was told that it was -- I was told that the camp had been
13 attacked. I went as well. There were people firing into the air. I went to see if it
14 was indeed the camp that had been attacked.

15 Q. [10:04:08] When you arrived at the military camp, did you see any other
16 civilians who also came to see what was happening?

17 A. [10:04:16] I saw people who were there, civilians. I saw many people who
18 were not wearing uniforms. And I did see many people there, young Arabs and
19 others. Many people were there but not anyone wearing a uniform. There
20 was -- there weren't even any people wearing uniforms.

21 Q. [10:05:27] Just to be clear, did you see any members of the Malian army when
22 you got to the camp at that point?

23 A. [10:05:37] No. No.

24 Q. [10:06:02] You said when you got to the camp, you could see young Arabs. I
25 know it's been a long time ago, but do you remember what type of clothing they were

1 wearing?

2 A. [10:06:16] Yes. They were wearing shirts and trousers, shirts and trousers.

3 Q. [10:06:52] And you mentioned that these young Arabs were shouting "Allahu
4 Akbar." Do you know what that means?

5 A. [10:07:17] I know. I know that it means God. That's what it means.

6 Q. [10:07:41] Besides that sentence, did you hear them speak anything else?

7 A. [10:07:54] No, I didn't hear anything else. What I could hear was others were
8 saying that the place now belonged to them, no other -- and they were the only
9 owners.

10 Q. [10:08:59] You said these were others who were saying that the place now
11 belonged to them. Do you recall who these people were?

12 A. [10:09:09] It was the young Arabs who were saying that. They were saying that
13 constantly.

14 Q. [10:10:01] And do you recall in which language they were saying that?

15 A. [10:10:06] Of course, yes. It wasn't just the young Arabs. There was the
16 Tuareg people as well and the Tamasheq. They were always saying to us, even if we
17 were just passing by, they had their weapons and they would say that the place
18 belonged to them and that we were slaves.

19 Q. [10:11:24] Just to understand clearly, did you hear these Tuareg people saying
20 that on the day when you went to the military camp? Or was it some other time?

21 A. [10:11:38] No. For the Tuareg people, that was said another day. But at the
22 camp, it was the young Arabs who were saying that. But there, you could see the
23 MNLA flag at the camp, so I knew that it was the -- I knew it was the MNLA flag.
24 They were Tamasheq. The MNLA were Tamasheq.

25 Q. [10:12:57] Could you describe the flag of MNLA.

1 A. [10:13:00] Well, I can say that I can describe -- I can't describe, because it was a
2 long time ago. Ever since the owners of the black flag came in, we no longer saw the
3 MNLA flags. But the MNLA flags, unless I'm mistaken -- well, I don't want to get it
4 wrong, but I think the flag was black or yellow or green. In any event, it was three
5 colours.

6 Q. [10:14:31] Thank you, Madam Witness.

7 Now, you mentioned that three days later there was other groups, there were other
8 groups who came who had a black flag with white writings. Do you know which
9 groups they belonged to?

10 A. [10:14:50] Well, we saw every -- all that we saw with the black flag -- well, the
11 black flag with the white lettering, we were told that that was the flag of the Islamists.

12 Q. [10:15:56] And do you know the name of groups these Islamists belonged to?

13 A. [10:16:16] I do know one name, a name that is Boko Haram.

14 How did I know that? Well, it was because at one point in time the city was invaded
15 and there were other groups who came in. And they said "Allah Akbar. Allah
16 Akbar." And when we went out to see, people said that they were Islamists, even
17 Boko Haram. * It was a friend who told me that a group that had just arrived was
18 Boko Haram and that it was at the request of the Islamists that they had come to help.
19 When they came in, they noticed that people were praying. The mosques -- they
20 went to the mosques, and that they saw that they were Muslims. And they came out
21 and they came to --

22 THE INTERPRETER: [10:19:03] Incomprehensible.

23 THE WITNESS: [10:19:06](Interpretation) -- and then they left the city. The way
24 that they came in a cortege to enter the city, in a cortege or a convoy. That's the same
25 way they left, in a convoy.

1 MS YAMAGUCHI: [10:19:37]

2 Q. [10:19:37] Madam Witness, part of your answer was not captured by the
3 interpreters. So after you said:

4 "When they came in, they noticed the people were praying. The mosques -- they
5 went to the mosques, and they saw that they were Muslims. And they came out and
6 they came to ..."

7 And the rest was not captured. Could you please repeat your answer on that point.

8 A. [10:21:05] I was saying that when the new people came in, we went out to see.

9 And it was a friend of mine who told me that they were Boko Haram. So they
10 noticed that people would leave to go for prayers and that they were called in to help
11 them with their fighting. And they said that they were there and they saw Muslims,
12 people who would go for prayers. Then they left. And then they came, they came
13 in a convoy, a series of vehicles one after another. And they left the city in the same
14 manner.

15 Now, where they went after, I really don't know.

16 Q. [10:22:41] So after Boko Haram left, who controlled the city?

17 A. [10:22:47] When Boko Haram left, the people whom we called the Islamists were
18 leading the country. They were referred to as the "Islamists".

19 Why do I say that? It's because they wore khaki-coloured clothing. They wore
20 khaki-coloured clothing and trousers that were turned up a bit, and vests. And they
21 would put -- vests with many, many pockets and they would put cartridges, that is to
22 say ammunition, in the vests.

23 Q. [10:24:44] In relation to the attack in the military camp, do you remember when
24 the Islamists arrived in Timbuktu?

25 A. [10:24:54] When the camp was attacked, in actual fact, myself, I did not see the

1 Islamists. It was later on. That's when we saw the Islamists with their flag, which
2 was black, with white writing on it.

3 Q. [10:25:54] Do you remember how many days after the attack at the military
4 camp that you saw the Islamists for the first time yourself?

5 A. [10:26:10] Three days. Three days after because we stayed in our houses
6 because we were really afraid of the MNLA people. We were really afraid of the
7 MNLA people.

8 Q. [10:27:20] And where were you when you first saw the Islamists?

9 A. [10:27:25] The first time that I saw the Islamists was in the second street in my
10 neighbourhood, the second street in my neighbourhood. That is where I saw the
11 Islamists.

12 Q. [10:28:08] And these Islamists you saw, were they on foot or on -- in a vehicle?

13 A. [10:28:18] They were in vehicles. They were vehicles with an open cab at the
14 back and you could see a lot of people sitting in the back. And in the cabin, there
15 were two or three people.

16 Q. [10:29:13] And was there any flag on that vehicle?

17 A. [10:29:21] Yes. There were flags on the vehicles, black flags with white
18 lettering.

19 Q. [10:29:54] I'd like to show you a still image from a video. The ERN is
20 MLI-OTP-0015-0495. And I'll broadcast it from evidence 2.

21 (Viewing of the video excerpt)

22 MS YAMAGUCHI: [10:30:46] For the record, the timestamp is 00:27:16:22.

23 Q. [10:30:57] Madam Witness, do you recognise this type of car?

24 A. [10:31:01] I haven't seen a vehicle on my screen here, but the vehicle that I'm
25 talking to you about was called "six".

1 Q. [10:32:02] Are you able to see the image now, Madam Witness?

2 A. [10:32:07] Yes, I can see the vehicle. And, yes, they did have that type of
3 vehicle. But there was another type of vehicle too, with just a single cabin, and that
4 was a -- a driver and a person sitting next to him who were together in the cabin.

5 Q. [10:33:05] Just to be clear, when you were referring to "they", do you mean the
6 Islamists?

7 A. [10:33:13] Yes. Of course they were Islamists.

8 Q. [10:33:33] And do you recognise the flag on this vehicle?

9 A. [10:33:38] Well, anyone we saw with that type of black flag with white
10 inscriptions, we would say that they were Islamists.

11 Q. [10:34:15] After the Islamists arrived, did the way of life in Timbuktu change in
12 some ways?

13 A. [10:34:22] After the arrival of the Islamists, Timbuktu completely changed.
14 Everything changed in Timbuktu. We could see people going past with their
15 trousers on and they were being told that they had to cut their trousers short because
16 that was not compliant with the Sharia.
17 We women also suffered a great deal because we were asked why we were not
18 completely covered, even if we were. We found them very tiresome. They were
19 very tiresome. They imposed something upon us that we were not familiar with
20 because we were not able to walk around with a boyfriend or with a brother and we
21 can't conduct any activities. And even if we did walk around the streets with a
22 brother of the same mother and father, we had to bring proof of this, that this person
23 was our brother.

24 Q. [10:37:48] You mentioned in French, "*Il nous ont trop fatigués*".

25 Just for us to understand fully what you mean, could you explain a little bit more in

1 detail what you meant.

2 A. [10:38:18] What I meant to say by that was that we suffered a great deal and we
3 were traumatised. Even our husbands were not able to go to work. Even when we
4 became ill, we couldn't have someone to take us to the hospital to seek treatment,
5 because even when we would transport or someone would transport a sick person,
6 they would ask why we had taken that sick person and what our relation to that sick
7 person was. And that's why people would refuse to do so.
8 Really, we suffered a great deal.

9 Q. [10:40:10] Thank you very much, Madam Witness.

10 Now, first in relation to women, you said -- you were asked why you were not
11 completely covered, "even if we were."

12 Could you explain the type of clothing Islamists require women to wear.

13 A. [10:42:00] Yes. We were asked to wear a burqa that was called abaya, while we
14 were wearing our saris as usual. But they came and they told us that we had to wear
15 the burqa. This is the kind of attire that came from Libya and from Algeria, too. It
16 is something that costs a lot of money and we were told to wear it, and we were in the
17 habit of wearing our saris. We would wear our wax clothing and our local clothing.

18 Q. [10:43:05] And how did you learn you were required to wear this type of
19 clothing called abayas? Who told you that?

20 A. [10:43:36] It was Mohamed Moussa who told us that. It was Mohamed Moussa
21 who told people that they had to wear abayas.

22 THE INTERPRETER: [10:44:09] Correction from the English booth: Hamed
23 Moussa.

24 THE WITNESS: [10:44:15](Interpretation) Because even if you were found to be
25 wearing clothes, saris and a veil, that is, we were told that we were not well enough

1 covered, even if these were long-sleeved saris and a veil, which is a total form of
2 coverage.

3 MS YAMAGUCHI: [10:44:42]

4 Q. [10:44:44] And when did that start? How long after the arrival of the Islamists
5 they started to impose these rules about how women should be dressed?

6 A. [10:45:38] Yes. This happened a short while after. It happened a long time
7 after, but they just started by saying one day that men wear short trousers and they
8 told people what to wear as well. They really put pressure on people and we
9 suffered a great deal.

10 Q. [10:46:17] Madam Witness, you mentioned in French: (Interpretation) "They
11 really put pressure on people."

12 (Speaks English) Could you explain a little bit what you mean by that.

13 A. [10:47:30] I said that because they had started walking around the streets asking
14 people to cover themselves up. And even at the market, they would go to the
15 market to say that to you. And if they found you buying something in the company
16 of a man, that was an issue, because those who went to the market all had whips in
17 their hands.

18 Q. [10:48:33] And what would they do with those whips if they found somebody
19 who did not respect the new rules?

20 A. [10:49:05] They would even whip the people who were respecting the rules.
21 And when you are hit with such a whip, you feel that there's a change in your body.

22 Q. [10:49:27] Did you see anyone whipped at the market yourself?

23 A. [10:49:58] Yes, I did see that at the market. Whipping people is nothing for
24 them. They were doing it at the market all the time.

25 Q. [10:50:25] Do you remember when you saw somebody whipped at the market,

1 more or less how many months or days after the arrival of the Islamists?

2 A. [10:51:16] With regard to the market, when they arrived, they imposed the
3 Sharia. And that's when it all started.

4 But flogging in public near the market, I remember two such cases.

5 Q. [10:51:45] Could you tell us about those two cases. Who were whipped, when
6 that happened.

7 A. [10:52:45] Yes. One such incident occurred at the Djinguereber square, and the
8 other at Yobou Tao square. But I was not personally present. When it happened,
9 the information was shared across the city and I was able to see one such incident on
10 the television, but the other I was not able to see.

11 Q. [10:53:29] Besides flogging, what happened, what the Islamists would do if they
12 found a woman who was not fully covered as they required?

13 A. [10:53:41] She would be taken to prison. Hamed Moussa opened a prison for
14 women at the BMS, inside the BMS. We knew that the BMS was a place where
15 money was kept until we saw that it had been transformed into a prison for women.

16 Q. [10:54:58] And how did you learn about this, that Hamed Moussa opened a
17 prison for women at the BMS?

18 A. [10:55:18] Quite simply because everything that they did was published
19 everywhere. Everything that they did they would publish.

20 Q. [10:55:49] Could you explain where they published these type of information.
21 Was it on - I don't know - TV, radio, papers?

22 A. [10:56:01] No, not on the television or in papers. It was at the market that they
23 would publish. Everything that was said at the market is amplified and repeated
24 everywhere. And at the market, there are all sorts of people. The market is also
25 near the BMS, whilst most of their group was at the BMS.

1 Q. [10:57:27] And who was publishing this information at the market?

2 A. [10:57:34] It was their agents who would go to the market. There were some
3 black people, there were people with red complexions, all types of people. But it
4 was those who were carrying the whips who would publish the message. There
5 were some Bambara, there were some Peuhl, and there were some Arabs. There was
6 a bit of everything.

7 Q. [10:59:02] You referred to "their agents." Could you tell us who you mean.

8 A. [10:59:21] Islamists. I said that because there were Tuaregs, Bambaras, Peuhls,
9 there were Arabs, and there were even some Songhai because some of them were
10 speaking Songhai.

11 Q. [10:59:57] Thank you, Madam Witness.

12 I see the time, Mr President. I think this is a good point to stop.

13 PRESIDING JUDGE MINDUA: [11:00:04](Interpretation) Yes, indeed,

14 Madam Prosecutor. It is 11 o'clock. We shall rise for half an hour and reconvene at
15 11.30.

16 The hearing is suspended.

17 THE COURT USHER: All rise.

18 (Recess taken at 11.00 a.m.)

19 (Upon resuming in open session at 11.30 a.m.)

20 THE COURT USHER: [11:30:10] All rise.

21 Please be seated.

22 PRESIDING JUDGE MINDUA: [11:30:27](Interpretation) The hearing shall now
23 resume, and the OTP may continue with examination-in-chief.

24 MS YAMAGUCHI: [11:30:41] Thank you, Mr President.

25 Q. [11:30:47] Madam Witness, just before we took the short break, you mentioned,

1 and I quote, that, "It was those who were carrying the whips who published the
2 message. There were some Bambara, there were some Peuhl, and there were Arabs."
3 And I'm referring to the transcript in English real-time at page 27, lines 2 to 4.

4 Madam Witness, did you see this happening yourself with your own eyes?

5 A. [11:31:28] Yes. I saw them. I saw them when I would go to the market to do
6 my shopping. They said that those who did wrong, we already have a prison for
7 them and we will -- they said that they would take them there.

8 Q. [11:32:42] The interpreter mentions that he did not hear I think the last part of
9 your answer. Madam Witness, could you repeat.

10 A. [11:33:28] I was saying that I saw them at the market. I would see them at the
11 market when I would go to do my shopping. I saw them not once or twice, more
12 than that. I saw them whipping people in the market. They reminded people of
13 the rules.

14 Q. [11:34:27] Madam Witness, when I asked what the Islamists would do if they
15 found a woman who was not fully covered as they required, you said she would be
16 taken to prison. And I'm referring to the transcript, real-time, page 21, line 4 to 8.
17 Do you know anyone who was indeed taken to the prison because she was not fully
18 covered?

19 PRESIDING JUDGE MINDUA: [11:35:43](Interpretation) Interpretation.

20 THE WITNESS: [11:35:52](Interpretation) Myself, I was taken to prison.

21 MS YAMAGUCHI: [11:36:06]

22 Q. [11:36:06] Could you describe in detail what happened at the moment of your
23 arrest.

24 A. [11:36:11] Yes, I can. One day, I was in front of the house. I was sweeping. I
25 saw some people coming by, and I quickly ran into the garden, and I didn't close the

1 door behind me. One of these people came out and he chased me into the garden of
2 my house. He said that he was going to take me with them. And I said, "What
3 have I done?" And he said that I wasn't covered up properly.
4 There was a long discussion, and then one of them had a whip, and he took it out.
5 He hit me once on the back with the whip and I had a mark, a scar on my back.
6 There was too much noise. I was behind my husband hiding, and he said that if I
7 didn't go, he would call for backup. And I said to myself that if I resisted, it would
8 be just the same as the -- as what the case that occurred in our street. It was one
9 evening when two young people were sitting out, an Islamist came up and said that
10 they were smoking.
11 They said, "No, we aren't smoking." And the fellow started to hit the Islamist.
12 When the gentleman hit him, they called for backup. And everything --
13 THE INTERPRETER: [11:39:56] Correction --
14 THE WITNESS: [11:39:58](Interpretation) -- everyone in -- and all the people that
15 they found in the street, they took them away. They spared no one. Old people,
16 men, women, they took everyone. There was one old man at the mosque. They
17 took him, too. If they came across any person in the street, they would put him in
18 the vehicle and take him away. That's when my husband asked me to go with them
19 because he did not want another case like what had happened in our street.
20 They took me to the BMS. It was the first time I had gone into the BMS.
21 MS YAMAGUCHI: [11:41:20]
22 Q. [11:41:21] Thank you, Madam Witness.
23 I'd like to come back to some details related to what you have just told us.
24 First, do you recall when your arrest happened, approximately?
25 THE COURT OFFICER: [11:41:50] Your Honours, we have lost the interpreters.

1 I'm informing my colleagues about it.

2 (Pause in proceedings)

3 THE COURT OFFICER: [11:43:21] Your Honours, the technicians are trying to
4 re-establish the connection as we speak.

5 PRESIDING JUDGE MINDUA: [11:43:27](Interpretation) Thank you very much,
6 court officer.

7 Well, there you go. We have the connection again.

8 Madam Prosecutor.

9 MS YAMAGUCHI: [11:43:55] Thank you, Mr President.

10 Q. [11:44:09] Just before the technical problem, you told us about the case of this
11 man who got arrested because -- because he was smoking.

12 Do you remember approximately how much time before your own arrest this incident
13 happened?

14 A. [11:44:28] Between the case of the gentleman and my own case, it wasn't so
15 much time. I don't want to get it wrong. I can't give you an exact time, but it
16 wasn't -- it wasn't long.

17 Q. [11:45:34] And your own incident, was this before, during, or after Ramadan
18 that year, if you recall?

19 A. [11:45:44] Somewhat slightly after Ramadan.

20 Q. [11:46:26] And do you remember what time of the --

21 THE INTERPRETER: [11:46:33] Message from the Songhaï court – interpreter.

22 Correction: Before, slightly before, the month of Ramadan.

23 Thank you, Mr President.

24 PRESIDING JUDGE MINDUA: [11:46:44](Interpretation) Very well. Thank you.

25 MS YAMAGUCHI: [11:46:53] Thank you.

1 Q. [11:46:55] Madam Witness, do you recall what time of the day your arrest
2 occurred?

3 A. [11:46:59] I was arrested in the middle of the day, midday.

4 Q. [11:47:32] Do you remember what you were wearing at that time?

5 A. [11:47:36] The clothing, well, I was wearing a dress and a veil that cost 250 CFA
6 francs.

7 THE INTERPRETER: [11:48:16] Correction: 2,500 CFA francs.

8 MS YAMAGUCHI: [11:48:29]

9 Q. [11:48:29] And you said you were in front of the house, you were sweeping, and
10 you saw some people coming by.

11 Were these people on foot or in a car?

12 A. [11:48:39] They were in a vehicle.

13 Q. [11:49:01] Do you remember what type of car they were driving?

14 A. [11:49:06] The vehicle that they were in was a vehicle that was all covered with a
15 roof. There was one part separate from where we were, one part separate from the
16 driver.

17 Q. [11:49:58] Was there any flag on the car?

18 A. [11:50:03] Yes. There was a vehicle --

19 THE INTERPRETER: [11:50:14] Correction --

20 THE WITNESS: [11:50:16](Interpretation) -- a flag on the vehicle, a black flag with
21 white lettering.

22 MS YAMAGUCHI: [11:50:29]

23 Q. [11:50:29] And just to be clear, was that the same type of flag as you had saw in
24 the screen still from the video earlier?

25 A. [11:50:51] Yes.

1 Q. [11:51:08] And you said after you saw them coming by, you quickly run into the
2 garden.

3 Could you tell us why you run?

4 A. [11:51:29] I fled because I was afraid of them. No one could see them and look
5 directly -- look at them and not run away.

6 Q. [11:52:19] Could you elaborate why they made you scared?

7 A. [11:52:25] They were frightening because each time we would see them,
8 they -- they would make problems or they would have a whip or they would have
9 weapons.

10 Q. [11:53:06] You said one of them chased after you.

11 Was he armed?

12 A. [11:53:12] He had a weapon and a whip.

13 Q. [11:53:36] Could you describe how the man looked like, what he wore or what
14 ethnicity he looked like.

15 A. [11:54:05] The ones who chased me, I couldn't tell you whether they were Arabs
16 or Tamasheq people, but I do know that they were not black-skinned. They all had
17 turbans on. We could only see their eyes, really. The clothing that they were
18 wearing was khaki coloured and short trousers.

19 Q. [11:55:07] It appears that there's a bit of discrepancy between the
20 French transcript and the English transcript.

21 Could you please clarify how many men chased after you into the garden of your
22 house.

23 A. [11:55:46] There were three of them. There were three of them. One spoke to
24 me first. And when I fled, the others came out of the vehicle and joined him.

25 Q. [11:56:11] And in which language did they speak to you?

1 A. [11:56:16] They spoke in Arabic.

2 Q. [11:56:32] You mentioned there was a long discussion.

3 Could you tell us what was discussed.

4 A. [11:56:41] They asked me to go with them. And I said, "I don't want to go with
5 you," because I hadn't done anything. So I wasn't going to go with them. They said
6 that they were going to take me with them, and what they decided was what was
7 going to happen. We had a long discussion, an argument, and -- and that's what
8 happened.

9 Q. [11:57:58] And you said after this long discussion, one of them took out a whip
10 and he hit you once on the back with the whip.

11 A. [11:58:27] Yes. I was opposite them, and one of them rushed up and whipped
12 me on the back until I got some scars on my back, marks.

13 Q. [11:58:59] Now, do you recall that you met with investigators from the ICC in
14 2017?

15 A. [11:59:08] Yes. I remember.

16 Q. [11:59:30] And during that meeting, they took a photo of your scar?

17 THE INTERPRETER: [11:59:49] Message from the Songhai booth: Could the
18 Prosecutor kindly repeat her question.

19 PRESIDING JUDGE MINDUA: [11:59:56](Interpretation) Madam Prosecutor, could
20 you please repeat your question.

21 MS YAMAGUCHI: [12:00:01] Yes.

22 Q. [12:00:02] During the meeting with the investigators from the ICC, do you
23 remember that they took a photo of your scar?

24 A. [12:00:11] Yes. They did indeed take a photograph.

25 Q. [12:00:38] Now, I would like to show you a photo. The ERN is

1 MLI-OTP-0039-0884. And it's under tab 2 in the court binder.

2 And, court officer, please do not broadcast this item to the public.

3 (Viewing of the video excerpt)

4 THE WITNESS: [12:01:27](Interpretation) Yes. This is a photograph of me.

5 MS YAMAGUCHI: [12:01:29]

6 Q. [12:01:30] Could you describe briefly which part of your body or what this
7 shows.

8 A. [12:01:35] This is the left-hand side of my back.

9 Q. [12:02:05] And do I understand correctly that in the area with the black scale is
10 where you have a scar?

11 A. [12:02:24] Yes.

12 Q. [12:02:41] Thank you, Madam Witness.

13 Now, you mentioned you were taken to the BMS.

14 Could you describe what the BMS is.

15 A. [12:02:57] The BMS is a bank, a place where money is kept. I used to pass in
16 front of the BMS, but I never entered to either deposit or withdraw money,
17 and -- until the day that I found myself in that place. And that was really the most
18 difficult day of my life to date, the most difficult day since my birth.

19 Q. [12:04:27] I'll ask in more detail what happened at the BMS. But first I'd like to
20 ask you, how they took you to the BMS.

21 Were you on foot or in a car?

22 A. [12:04:44] In a car.

23 Q. [12:05:06] Did you see any other individuals in the car?

24 A. [12:05:13] Yes. There were three people there, two of the same ages of myself,
25 and the other one was younger than all of us.

1 Q. [12:05:49] Sorry. I think my question may not have been clear or was not fully
2 translated.

3 I was asking what -- whether, in the car, which was used to transport you to the BMS,
4 whether you saw any other individuals.

5 A. [12:06:26] We left for the BMS in the vehicle with the Islamists.

6 Q. [12:06:44] You mentioned there were three Islamists who came into your -- who
7 chased after you.

8 Was there any other Islamists in the car?

9 A. [12:06:57] Yes. In the cabin, there were two up front. The one driving -- there
10 were two in the front.

11 Q. [12:07:40] Do you recall what they looked like?

12 A. [12:07:44] Those in front of us -- well, there was two in the cabin. I know that
13 they were light- or fair-skinned. They weren't black.

14 Q. [12:08:56] Were they armed?

15 A. [12:08:59] They were all armed.

16 Q. [12:09:04] Do you recall in which language they spoke? These two men in the
17 front of the car.

18 A. [12:09:11] Those in the front, well, I didn't hear them speak once I had got in the
19 car. I knew they were light-skinned because when they came, while I was sweeping,
20 I saw through the windows that they were light-skinned, and I raised my head to
21 have a look at them.

22 Q. [12:10:18] You already told us this was the most difficult day of your life.
23 But could you tell us what happened after you arrived at the BMS.

24 A. [12:10:32] I was taken into the BMS. I was made to -- to go into the BMS, and I
25 was taken to a little room where there was a mat on the floor. And the three people

1 that I found there, the one who was younger than us was crying. And we would
2 relieve ourselves on that mat, all of us who were in that room. It was a very small
3 space for the number of people who were there, and we stayed there until we heard
4 footsteps, somebody coming.

5 Q. [12:12:06] Madam Witness - sorry to interrupt - I would like to just first focus on
6 what happened when you arrived at the BMS. I'm sorry I was not clear.

7 Do you recall which entrance or door of the BMS you passed through when you were
8 taken inside the building?

9 A. [12:12:40] Yes, I do remember. It was a small door on the other side of the
10 BMS.

11 Q. [12:13:19] And what do you mean by "the other side of the BMS"?

12 A. [12:13:25] The BMS is located between two streets.

13 Q. [12:14:04] Was there a main entrance at the BMS?

14 A. [12:14:11] Yes.

15 Q. [12:14:27] And was that the entrance you passed when you were taken inside?

16 A. [12:14:33] When I was taken inside, I was -- I entered via a small door.

17 Q. [12:15:04] I would like to show you a photo. The ERN is MLI-OTP-0006-1873.
18 And it's under tab 6 in the court binder.

19 And, court officer, this can be broadcast to the public.

20 Madam Witness, can you see the image on your screen?

21 A. [12:15:45] (No interpretation)

22 Q. [12:15:58] And do you recognise the building in this photo?

23 A. [12:16:05] Yes, I can.

24 Yes. That is precisely the part at which I gained entrance.

25 Q. [12:16:23] I would like to show you another photo. The ERN is

1 MLI-OTP-0006-1877. And it's under tab 9 in the binder you have.

2 And, court officer, this can also be broadcast to the public.

3 Madam Witness, can you see the photo on your screen?

4 A. [12:17:13] Yes. I can see the image. This is on the way to Yobou Tao when
5 you go towards the camp, if you go straight ahead. This is where you find yourself
6 if you go towards the right.

7 Q. [12:18:08] And what is this building?

8 A. [12:18:14] This is the prison. This is the BMS. This is the prison here, and it's
9 behind.

10 Q. [12:18:42] And between the two photos, did you see the small door through
11 which you passed?

12 A. [12:18:48] Well, I was afraid of lying. I know that there was a door to the side
13 and that there's a door behind. This door here, is the very same door of which the
14 glass was broken by the lady who had a mental breakdown and who had been taken
15 there.

16 Q. [12:20:34] Could you mark the door you referred to on the copy of this photo.

17 A. [12:21:00] Yes. The door I'm speaking of is a metal door with panes,
18 windowpanes.

19 MS YAMAGUCHI: [12:21:30] If court officer can assist the witness to digitally mark
20 the location of the door, please.

21 THE COURT OFFICER: [12:22:20] Your Honours, if you could just give us a
22 moment to have it set up so as to mark it from this smartboard. Thank you.

23 Your Honours, the witness has marked the document, a hard-copy version of it. If
24 that's okay with your Honours, we can proceed to scan it and release it in eCourt.

25 PRESIDING JUDGE MINDUA: [12:24:04](Interpretation) Yes, Mr Courtroom Officer.

Trial Hearing
MLI-OTP-P-0547

(Open Session)

ICC-01/12-01/18

- 1 Please go ahead.
- 2 THE COURT OFFICER: [12:24:38] Your Honours, the document is on evidence 1
3 channel.
- 4 PRESIDING JUDGE MINDUA: [12:24:48](Interpretation) But has the witness
5 marked the door in question?
6 Mr Courtroom Officer, can you see the mark?
- 7 THE COURT OFFICER: [12:24:59] I'm afraid the witness may have to use a different
8 colour. I do not see the mark on the screen.
- 9 PRESIDING JUDGE MINDUA: [12:25:05](Interpretation) There we have it. There
10 is no mark.
11 There we are. It's very clear now.
12 So, Mr Courtroom Officer, could we please have a reference number.
- 13 THE COURT OFFICER: [12:26:07] Your Honours, the document will be assigned
14 MLI-REG-0001-0212.
- 15 PRESIDING JUDGE MINDUA: [12:26:16](Interpretation) Thank you very much,
16 Mr Courtroom Officer.
17 Madam Prosecutor.
- 18 MS YAMAGUCHI: [12:26:23] Thank you, Mr President.
- 19 Q. [12:26:31] Madam Witness, you said this door here is the very same door of
20 which the glass was broken by the lady who had a mental breakdown and who had
21 been taken there.
22 Now, did you go through the same door yourself when you were taken inside the
23 BMS?
- 24 A. [12:26:46] I entered via this very door.
- 25 Q. [12:27:20] And once you entered the building, did you see any people inside the

1 BMS?

2 A. [12:27:25] Yes. I saw some people there. In the prison itself, I found some
3 women and people who had come for them and who were arrested in another -- on
4 another -- in another place somewhat isolated.

5 Q. [12:28:14] You first said: "I saw some people there."

6 Which people are you referring to?

7 A. [12:28:31] It was the Islamists whom I saw there.

8 Q. [12:28:52] Do you remember how many approximately they were?

9 A. [12:28:57] Well, I can't lie. I do not know how many people there were there,
10 but I do know that there were people there.

11 Q. [12:29:26] And were these Islamists armed?

12 A. [12:29:32] Yes.

13 MS YAMAGUCHI: [12:29:50] Mr President, I see the time. I think this is -- this
14 might be an opportune time to adjourn for the day.

15 PRESIDING JUDGE MINDUA: [12:30:05](Interpretation) Yes, indeed,

16 Madam Prosecutor. It is half past 12.

17 We shall rise in order to allow those who wish to attend the funeral of our colleague,
18 Rocelyn Jimenez, to go and pay their last respects to her.

19 So on behalf of the Chamber and, personally, I would like to present my sincerest
20 condolences to the family, to the friends and colleagues of Rocelyn.

21 I'm now returning to the witness.

22 Madam Witness, we have reached the end of the hearing for today. Tomorrow you
23 shall continue your testimony because it is not yet over. Until then, please

24 remember that you are not allowed to speak to anybody at all about your testimony.

25 Interpretation, please.

- 1 THE WITNESS: [12:31:56](Interpretation) Okay.
- 2 PRESIDING JUDGE MINDUA: [12:31:57](Interpretation) You cannot speak either to
3 members of your family, to friends, or to anybody.
- 4 THE WITNESS: [12:32:13](Interpretation) I won't say anything to anyone.
- 5 PRESIDING JUDGE MINDUA: [12:32:16](Interpretation) Thank you very much.
6 So before rising, I would like to thank all the parties and participants, the court
7 reporters, the interpreters, the security guards, and our public. I wish you all an
8 agreeable afternoon and evening.
- 9 Court is adjourned.
- 10 THE COURT USHER: [12:32:41] All rise.
- 11 (The hearing ends in open session at 12.32 p.m.)