

Trial Hearing  
WITNESS: MLI-OTP-P-0984

(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 vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag  
5 Mahmoud - ICC-01/12-01/18  
6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and  
7 Judge Kimberly Prost  
8 Trial Hearing - Courtroom 3  
9 Thursday, 4 March 2021  
10 (The hearing starts in open session at 9.34 a.m.)  
11 THE COURT USHER: [9:34:12] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:34:30](Interpretation) Court is in session.  
15 Good morning to everybody.  
16 Court officer, please call the case.  
17 THE COURT OFFICER: [9:34:46] (Interpretation) Good morning, Mr President,  
18 your Honours.  
19 The situation in Mali, reference ICC-01/12-01/18.  
20 And we are in open session.  
21 PRESIDING JUDGE MINDUA: [9:35:04](Interpretation) Thank you.  
22 Now for the record, we will begin with appearances, starting with the Office of the  
23 Prosecutor.  
24 Madam Prosecutor, please.  
25 MS HUCK: [9:35:13](Interpretation) Good morning, Mr President, your Honours.

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1 Gilles Dutertre and myself, Florie Huck, are here appearing for the Prosecution this  
2 morning. Thank you.

3 PRESIDING JUDGE MINDUA: [9:35:23](Interpretation) Thank you, Madam  
4 Prosecutor.

5 Defence, please.

6 MS SUTHERLAND: [9:35:27] Good morning, Mr President, your Honours. The  
7 Defence for Al Hassan is today represented by Ms Melinda Taylor, Ms Molly Thomas  
8 and myself, Kirsty Sutherland.

9 PRESIDING JUDGE MINDUA: [9:35:40](Interpretation) Thank you very much,  
10 Ms Sutherland.

11 Now over to the Legal Representatives of Victims counsel.

12 MR LUVENGIKA: [9:35:47](Interpretation) Good morning, Mr President.  
13 Good morning, your Honours. The victims this morning are represented by  
14 Madam Claire Laplace and myself, Fidel Nsita Luvengika.

15 PRESIDING JUDGE MINDUA: [9:36:00](Interpretation) Thank you very much,  
16 Mr Nsita.

17 This morning we will continue with the testimony of the 25th Prosecution witness,  
18 that is Witness P-0984. I therefore now want to the turn to the witness.

19 Good morning, Witness. Do you hear me?

20 WITNESS: MLI-OTP-P-0984 (On former oath)

21 (The witness speaks Songhaï)

22 (The witness gives evidence via video link)

23 THE WITNESS: [9:36:35](Interpretation) Good morning. I can hear you clearly.

24 PRESIDING JUDGE MINDUA: [9:36:38](Interpretation) Thank you very much,  
25 Mr Witness. I want once again to welcome you. I would like to remind you that

1 you are still under oath to speak the truth, all the truth and nothing but the truth.

2 Let me also remind you of the practical advice that I gave you, namely, that you  
3 should speak slowly and clearly.

4 I will now give the floor to the Prosecutor to proceed with a continuation of her  
5 examination-in-chief.

6 MS HUCK: [9:37:46](Interpretation) Thank you, Mr President. We don't have any  
7 further questions in our examination-in-chief. Thank you.

8 PRESIDING JUDGE MINDUA: [9:37:55](Interpretation) Well, that's a surprise.  
9 So I would like to ask Mr Nsita whether counsel has any questions for the witness on  
10 the heels of the examination-in-chief.

11 MR LUVENGIKA: [9:38:17](Interpretation) Yes, Mr President. As usual, just one  
12 little question seeking clarification that I would like to put to the witness. And  
13 I think the Defence can take the entire day.

14 PRESIDING JUDGE MINDUA: [9:38:32](Interpretation) Well, you're right, but  
15 I would need to ask Ms Sutherland whether she has any objections, knowing that she  
16 has the whole day to herself.

17 MS SUTHERLAND: [9:38:44] Thank you, Mr President. No objection in principle,  
18 but of course we reserve the right pending hearing the question itself. Thank you.

19 PRESIDING JUDGE MINDUA: [9:38:56](Interpretation) Thank you very much,  
20 Ms Sutherland, for your understanding.

21 Now, Mr Nsita, the Chamber now authorises you to proceed as requested.

22 QUESTIONED BY MR LUVENGIKA: (Interpretation)

23 Q. [9:39:15] Good morning, Witness.

24 A. [9:39:16] Good morning.

25 (Redacted)

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15 (Redacted)

16 PRESIDING JUDGE MINDUA: [9:42:13] *Madame la Procureur*.

17 MS HUCK: [9:42:14](Interpretation) Maybe we should go into private session to  
18 provide this information.

19 PRESIDING JUDGE MINDUA: [9:42:21](Interpretation) I think so. I think so.

20 Private session, please, court officer.

21 (Private session at 9.42 a.m.)

22 THE COURT OFFICER: [9:42:33] (Interpretation) Mr President, we are in private  
23 session. (Redacted)

24 (Redacted)

25 (Redacted)

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- 19 (Open session at 9.51 a.m.)
- 20 THE COURT OFFICER: [9:51:46] (Interpretation) Mr President, your Honours, we're
- 21 in open session now.
- 22 PRESIDING JUDGE MINDUA: [9:51:50](Interpretation) Thank you, court officer.
- 23 Mr Witness, we are now in open session and the Defence will now conduct its
- 24 cross-examination. That is the job that the Defence does, so I urge you to answer
- 25 their questions carefully. Thank you.

- 1 THE WITNESS: [9:52:36](Interpretation) Very well.
- 2 PRESIDING JUDGE MINDUA: [9:52:37](Interpretation) Ms Sutherland, you have  
3 the floor.
- 4 MS SUTHERLAND: [9:52:39] Thank you very much, Mr President. I've had a  
5 number of technical difficulties this morning, but now I face a mechanical one and  
6 I was wondering if I could just grab the lectern.
- 7 PRESIDING JUDGE MINDUA: [9:53:00](Interpretation) Yes, Ms Sutherland, please  
8 proceed.
- 9 MS SUTHERLAND: [9:53:06] Thank you very much.
- 10 QUESTIONED BY MS SUTHERLAND:
- 11 Q. [9:53:13] Good morning, Mr Witness.
- 12 A. [9:53:23] Good morning.
- 13 Q. [9:53:24] I hope you can hear me clearly, but of course if you can't and if any  
14 question I ask is unclear, please just let me know.
- 15 A. [9:53:53] Very well.
- 16 Q. [9:53:55] Thank you. Mr Witness, could I ask you to turn to Defence bundle  
17 tab 4, which is MLI-OTP-0022-0471, and you should see a photograph.
- 18 A. [9:54:42] Okay.
- 19 Q. [9:54:44] Mr Witness, can you see the photograph?
- 20 A. [9:54:56] Yes, I can see it.
- 21 Q. [9:55:00] Mr Witness, do you remember being shown this photograph before?
- 22 A. [9:55:22] Yes, I remember seeing it before.
- 23 Q. [9:55:27] And who is the person in this photograph?
- 24 A. [9:55:52] That to me appears to be Al Hassan.
- 25 Q. [9:55:58] And do you confirm that this is the person who came to tell -- tell you

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- 1 to switch off your television?
- 2 MS HUCK: [9:56:12](Interpretation) Objection, Mr President.
- 3 PRESIDING JUDGE MINDUA: [9:56:15](Interpretation) Yes, Prosecutor.
- 4 MS HUCK: [9:56:16](Interpretation) Can we disconnect the link with the witness,  
5 please.
- 6 PRESIDING JUDGE MINDUA: [9:56:26](Interpretation) Court officer, please  
7 disconnect the link with the witness.
- 8 THE COURT OFFICER: [9:56:34] (Interpretation) The sound is switched off,  
9 Mr President.
- 10 PRESIDING JUDGE MINDUA: [9:56:36](Interpretation) Thank you very much.  
11 Prosecutor.
- 12 MS HUCK: [9:56:38](Interpretation) Defence has not established the source of this  
13 information and it wasn't raised yesterday in my examination, so we request that she  
14 proceed as ought to normally before presenting this information to the witness.
- 15 PRESIDING JUDGE MINDUA: [9:56:58](Interpretation) Yes, Madam Prosecutor,  
16 you're entirely right.  
17 Ms Sutherland.
- 18 MS SUTHERLAND: [9:57:03] Is the connection re-established?
- 19 THE COURT OFFICER: [9:57:17] (Interpretation) No, it's not.
- 20 MS SUTHERLAND: [9:57:19] Well, I can proceed to take the witness through his  
21 OTP statement, as requested.
- 22 PRESIDING JUDGE MINDUA: [9:57:39](Interpretation) If that would establish a  
23 basis, yes.  
24 Please, court officer, reconnect with the witness, please.
- 25 THE COURT OFFICER: [9:57:50] (Interpretation) The sound has been re-established,



1 Mr President, your Honours.

2 PRESIDING JUDGE MINDUA: [9:57:59](Interpretation) Thank you very much.

3 Ms Sutherland, please proceed.

4 MS SUTHERLAND: [9:58:03]

5 Q. [9:58:05] Mr Witness, if I could ask you to turn to the Prosecution tab 1, and that  
6 is your witness statement, and the number is MLI-OTP-0070-1598-R02 at page 1610,  
7 and the paragraph number is 57. Therein it states:

8 "The investigators told me that they were going to show me pictures of individuals.

9 They explained to me that they were going to show one picture at a time. They told  
10 me that each image had a unique registration number. They said that the series of  
11 images may or may not contain images of people I referred to in my statement. They  
12 told me to take the time to take a good look at the footage before commenting."

13 And in relation --

14 PRESIDING JUDGE MINDUA: [9:59:14](No interpretation)

15 MS SUTHERLAND: [9:59:24] My apologies to the interpreters.

16 PRESIDING JUDGE MINDUA: [9:59:49](Interpretation) Thank you. I believe that  
17 all parties have understood that the interpretation is being provided consecutively,  
18 not simultaneously. So please let's bear that in mind.

19 MS SUTHERLAND: [10:00:23] Is there Songhaï interpretation?

20 THE SONGHAÏ INTERPRETER: [10:00:34](Interpretation) Message from the  
21 Songhaï interpreters: Could the Presiding Judge please then recall that what the  
22 French booth has said is that the English should be slowed down, that counsel should  
23 slow down, and that all in the courtroom should be mindful of the fact that  
24 interpretation is being done consecutively. Thank you.

25 PRESIDING JUDGE MINDUA: [10:01:09](Interpretation) Ms Sutherland, please

1 proceed.

2 MS SUTHERLAND: [10:01:11] If I could ask the Songhai booth, do they wish for me  
3 to repeat the last paragraph?

4 THE SONGHAI INTERPRETER: [10:01:24](Interpretation) Yes, please.

5 MS SUTHERLAND: [10:01:26] Referring to Prosecution tab 1,

6 MLI-OTP-0070-1598-R02 at page 1610, paragraph 57:

7 "The investigators told me that they were going to show me pictures of individuals.

8 They explained to me that they were going to show one picture at a time. They told

9 me that each image had a unique registration number. They said that the series of

10 images may or may not contain images of people I referred to in my statement. They

11 told me to take the time to take a good look at the footage before commenting."

12 And in relation to photograph MLI-OTP-0022-0471, the statement reads:

13 "The person in the picture looks like Al Hassan. When he came for the television, it

14 was night; but he looked like this. His face was revealed and there was light.

15 When he drove by I couldn't make out his features well."

16 PRESIDING JUDGE MINDUA: [10:04:12](Interpretation) Madam Prosecutor.

17 MS HUCK: [10:04:13](Interpretation) Your Honour, the Defence read a translation of

18 the statement which was in -- originally in French. Her English was then translated

19 into French by the interpreter here and it's not exactly what it cites in the French

20 original, particularly the penultimate sentence. Perhaps it would be a good idea to

21 read the whole thing in French so that it goes from the original French to Songhai

22 without having been through the English version, which has a different

23 interpretation.

24 PRESIDING JUDGE MINDUA: [10:05:02](Interpretation) Very well. Because

25 during the translation things can indeed get lost and it may be different.

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- 1 Now who is going to read this, who is going to read the text in French?
- 2 THE INTERPRETER: [10:05:27] Message from the English booth: Please could the  
3 Prosecutor remove her mask when speaking.
- 4 MS SUTHERLAND: [10:05:34] Mr President, it seems to me, given that I've given  
5 the precise references and the interpreters have been provided with all of this material,  
6 that it would make sense for the interpreters to read directly from the text.
- 7 PRESIDING JUDGE MINDUA: [10:05:57](Interpretation) Very well. We have the  
8 text in the file. Ms Sutherland, you can give the exact reference to the French  
9 interpreters so that they can read the text, please.
- 10 MS SUTHERLAND: [10:06:13] For the benefit of the interpreters' booth, the  
11 reference is Prosecution tab 1, and the document is MLI-OTP-0070-1598-R02 at  
12 page 1610, and the paragraph number is 57. There's an introductory paragraph and  
13 then we'll go to the box which relates specifically to this photograph.
- 14 THE COURT OFFICER: [10:07:01] (Interpretation) I will also inform the Chamber  
15 that paragraph 57 is available on evidence channel 1.
- 16 PRESIDING JUDGE MINDUA: [10:07:19](Interpretation) Yes, it is. Please read the  
17 reference in the box relating to the document ending in 0471.
- 18 (Text read by the French interpreter)
- 19 THE WITNESS: [10:08:25](Interpretation) Very well.
- 20 MS SUTHERLAND: [10:08:27]
- 21 Q. [10:08:28] And, Mr Witness, you were shown this photograph again during the  
22 witness preparation session. And I refer now to Defence tab 10, the number is  
23 MLI-OTP-0077-3953, at page 3956, and at the first row in the last column.  
24 Has that been interpreted to the witness?  
25 So in that last --

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1 A. [10:10:27] Yes, I was shown this.

2 Q. [10:10:36] In the last column of the first row the comment reads:

3 "[The witness] viewed the image from the binder instead of [...] Webex due to  
4 technical problems. After the comment was read to him [the witness] stated he  
5 knew the person and it was the same person who came when they came that night for  
6 the television. [There was] No further clarification."

7 A. [10:11:44] Yes, I said that the photo you showed me resembled Al Hassan and  
8 that it was at nighttime.

9 Q. [10:12:03] Mr Witness, do you confirm that this is the person who came to tell  
10 you to switch off your television?

11 A. [10:12:38] Yes, as I said, he looks like Al Hassan. It was night. And if you  
12 look closely, it looks like Al Hassan.

13 Q. [10:12:56] Mr Witness, do you also confirm --

14 PRESIDING JUDGE MINDUA: [10:13:00](Interpretation) Mr Prosecutor.

15 MR DUTERTRE: [10:13:02](Interpretation) I don't want to interrupt, but could the  
16 Defence please explain a bit this story of a television. It's a little bit cryptic and I'm  
17 not sure here in the courtroom we're understanding what this refers to. It would  
18 perhaps be good to have questions on that topic.

19 PRESIDING JUDGE MINDUA: [10:13:33](Interpretation) Ms Sutherland.

20 MS SUTHERLAND: [10:13:33] The Prosecution asked me to establish the basis for  
21 showing that specific photograph. I have done that. I have gone through two  
22 documents that were Prosecution documents. The fact that the witness didn't -- the  
23 information about this was not elicited by the Prosecution yesterday is a matter for  
24 them. Now we are really -- I was hoping that we would have a relatively swift  
25 cross-examination. Now we're in the territory of being really dragged down by,

1 I would -- unnecessary objections.

2 PRESIDING JUDGE MINDUA: [10:14:17](Interpretation) Mr Prosecutor, I agree  
3 entirely with the Defence. If we've come to this television story, it's because you  
4 asked for the basis to be established.

5 Ms Sutherland, please do proceed.

6 MS SUTHERLAND: [10:14:32] Thank you, Mr President.

7 Q. [10:14:34] Mr Witness, do you confirm that you have never been to the BMS?

8 A. [10:15:04] I was never there. I never went to the BMS.

9 Q. [10:15:12] Mr Witness, yesterday you told us that you had never seen any public  
10 punishments; is that correct?

11 A. [10:15:49] That's true. I was never there. I never went to any of the places  
12 where they gave these punishments. Since -- from the time they arrived, I never  
13 went there.

14 Q. [10:16:13] Mr Witness, do you also confirm that you cannot read?

15 A. [10:16:33] I'm sorry?

16 Q. [10:16:35] Mr Witness, are you able to read?

17 A. [10:16:51] I am not able to read.

18 Q. [10:16:55] Mr Witness, can I ask you if you've been following these proceedings?

19 A. [10:17:36] Did you not understand what I said? I said I was never in any of the  
20 places where they do a trial, never.

21 Q. [10:17:56] Forgive me, Mr Witness. I was asking if you were following what  
22 was happening in these proceedings on television, for example, or through local  
23 gossip?

24 A. [10:18:42] I haven't seen this on the television. I haven't heard people talking  
25 about this.

1 Q. [10:18:58] Thank you. So yesterday in the real-time transcript, the reference is  
2 transcript 68, page 72, lines 17 to 24. And in case anything has been edited, the  
3 timestamp is 14:36:10.

4 Mr Witness, yesterday you stated:

5 "They once found a woman who was sitting with us and they arrested her and took  
6 her away. She had just come to visit us and she was not dressed correctly."

7 You were then asked by the Prosecutor: "And who arrested her?"

8 And you answered: "It was one of these people who arrested her, one of them who  
9 was known as Hamed Moussa. He was the person who arrested her."

10 A. [10:20:55] The girl was not sitting with us. She was being chased. She came  
11 towards us and that's when Hamed Moussa came to take her, when she was near us.

12 Q. [10:21:10] Mr Witness, is this the same incident that you described to the  
13 Prosecution in your interview with them in 2019?

14 PRESIDING JUDGE MINDUA: [10:21:55](Interpretation) Madam Prosecutor.

15 THE INTERPRETER: [10:22:02] Please could the Prosecutor be asked to remove her  
16 mask.

17 MS HUCK: [10:22:07](Interpretation) To be clearer for the witness, please could the  
18 Defence be asked to read the extract that she's referring to.

19 PRESIDING JUDGE MINDUA: [10:22:17](Interpretation) Ms Sutherland.

20 MS SUTHERLAND: [10:22:22] In -- I'm following proper procedure by establishing  
21 whether he remembers. And I have it coming. There's no need to interrupt right  
22 now.

23 And I would -- I think in case the message hasn't been delivered to my learned friend  
24 for the Prosecution, the interpreters are asking that she remove her mask when  
25 speaking.

- 1 PRESIDING JUDGE MINDUA: [10:22:51](Interpretation) Very well. In that case,  
2 please proceed.
- 3 MS SUTHERLAND: [10:22:55]
- 4 Q. [10:22:56] Mr Witness, is this the same incident that you described to the  
5 Prosecution in your interview in 2019?
- 6 A. [10:23:35] Yes, this is the same thing.
- 7 Q. [10:23:38] And do you claim that you recognised Hamed Moussa at the time?
- 8 A. [10:23:57] Hamed Moussa, yes, that was him.
- 9 Q. [10:24:06] Would you agree that your memory of events was better in 2019 or  
10 now?
- 11 A. [10:24:24] I'm sorry?
- 12 Q. [10:24:35] Was your memory -- was your memory of events better closer to the  
13 time or now?
- 14 A. [10:25:05] Are you saying my memories of the things today, or what?
- 15 Q. [10:25:17] Mr Witness, I'm asking if your memory of events is better closer to the  
16 time that they occurred or today?
- 17 A. [10:25:56] The things -- well, I recall what happened.
- 18 Q. [10:26:04] Okay. So turning to OTP tab 1, and document number is  
19 MLI-OTP-0070-1598-R02 at 1605, and the paragraph number is 37.  
20 This is originally in the French so I would ask that the interpreters read directly from  
21 that, but I will read my translation in English.
- 22 THE SONGHAI INTERPRETER: [10:27:04](Interpretation) Message from the  
23 Songhai cabin: Just to point out that we do not have this document.
- 24 PRESIDING JUDGE MINDUA: [10:27:16](Interpretation) Court officer, they don't  
25 have the documents there in the field, do they?

1 Thank you very much for this proposal.

2 Ms Sutherland, please read in the English and our interpreter will read the text as it is  
3 in French.

4 THE COURT OFFICER: (Interpretation) In the meantime, I have had confirmation  
5 that the document will be sent to the field.

6 PRESIDING JUDGE MINDUA: Thank you, courtroom officer.

7 Ms Sutherland.

8 MS SUTHERLAND: [10:27:58] The paragraph 37 reads:

9 (Redacted)

10 (Redacted). We asked her what was going on. She said she was

11 on the street next to us and they were asking her why she was not well covered.

12 Quickly, I saw a white tarpaulin-covered 4x4 van arriving, without a plate, which

13 stopped. Two criminals got out to arrest the woman. They didn't say anything.

14 They pulled the woman away and she shouted "Help." We didn't say anything.

15 What could we have done? The woman struggled, but pulling her, they put her in

16 the cabin of the vehicle. She found herself sitting between them at the front of the

17 4x4. They took her in the direction of Yobou Tao. I did not know her. I did not

18 know the two men. In any case, I could not have recognised them, they were

19 masked. They were of medium height in yellow boubous. One of the two was

20 armed. They weren't wearing the waistcoat I described earlier. It was long after

21 the groups arrived in Timbuktu."

22 And Mr --

23 A. [10:31:59] That is exactly how it happened as recorded. But we must also

24 understand that these people had different roles. Each individual had a specific role.

25 When it comes to attire, it is Hamed Moussa who handled the cases of women



1 who -- whose bodies were not entirely covered by their garments. That's how it was  
2 organised.

3 Q. [10:32:34] Mr Witness, if I can within the same document refer you to page 1609  
4 and that's paragraph 55. And in English that reads:

5 "The investigators asked me if I knew a person by the name of Mohamed Moussa. I  
6 just know that among the criminals, one of them was called Hamed Moussa. I don't  
7 know who he worked for. I've heard of him but I don't know him. I don't think  
8 I've seen them. People said he was arresting unveiled women. He had a mosque in  
9 Hammabangou, which was destroyed when the perpetrators left."

10 A. [10:34:51] Yes, that is what I said.

11 Q. [10:34:56] So, Mr Witness, you confirm that when you were interviewed by the  
12 Prosecution in 2009 (sic), you did not know who Hamed Moussa worked for; is that  
13 correct?

14 A. [10:35:45] I did not know that before. I did not know that he was working for  
15 those people. It is only later. It's now that I know that he was working for those  
16 people.

17 Q. [10:36:02] You said that people said he was arresting unveiled women. Who  
18 were these people?

19 A. [10:36:36] I'm referring to the people of Timbuktu, men, women and children,  
20 people of Timbuktu.

21 Q. [10:36:57] Mr Witness, are you telling us that your understanding of events has  
22 changed since you spoke to the Prosecution in 2019?

23 A. [10:37:39] Yes.

24 Q. [10:37:44] How has it changed? Why?

25 A. [10:38:02] What change are you talking about?

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1 Q. [10:38:09] I asked you if you agreed that your understanding of events has  
2 changed since you were interviewed by the Prosecution in 2019, and you agreed.  
3 I'm referring to that change.

4 PRESIDING JUDGE MINDUA: [10:38:50](Interpretation) Mr Prosecutor.

5 MR DUTERTRE: [10:38:52](Interpretation) Yes, Mr President, the first point is that  
6 questions have to be simple. Second, the question is quite general and vague when  
7 it makes reference to understanding of events. What is being referred to specifically?  
8 I think for reasons of fairness, the Defence should be more specific in their question.

9 PRESIDING JUDGE MINDUA: [10:39:26](Interpretation) Ms Sutherland, it is true  
10 that the question might be too broad for the witness when you refer to a change in  
11 understanding. So could you please be more specific.

12 MS SUTHERLAND: [10:39:50] Mr President, that's all -- I note all of that and I will  
13 do so.

14 But in the -- in the interim, would it be -- could we have your leave to allow  
15 Mr Al Hassan a short break from the courtroom?

16 PRESIDING JUDGE MINDUA: [10:40:18](Interpretation) Granted. He can leave  
17 the courtroom for a few minutes.

18 We will suspend the session for a few moments.

19 (Pause in proceedings)

20 PRESIDING JUDGE MINDUA: [10:42:38](Interpretation) Ms Sutherland, I believe  
21 we can proceed now.

22 MS SUTHERLAND: [10:42:44] Mr President, I believe -- ah, Mr Nsita is returning.

23 Q. [10:43:05] Mr Witness, in 2019 you've agreed that you did not know  
24 Hamed -- who Hamed Moussa worked for.

25 You also told us -- told the Prosecution in 2009 (sic):

1 "I've heard of him but don't know him. I don't think I've seen him."

2 And just now, and the transcript reference is 69, page 21, lines 6 to 12, you stated:

3 "I did not know that before. I did not know that he was working for those people.

4 It is only later. It's now that I know [...] he was working for those people."

5 I asked you: "You said that people said he was arresting unveiled women. Who  
6 were these people?"

7 And you said: "I'm referring to the people of Timbuktu, men, women and children,  
8 people of Timbuktu."

9 A. [10:45:17] Yes.

10 Q. [10:45:19] Do you agree that your understanding of Hamed Moussa's role has  
11 changed since 2019?

12 A. [10:46:23] Hamed Moussa's job is what I told you. And that job didn't change  
13 until they left the town. He was the one who took care of those cases until they left  
14 the city.

15 Q. [10:46:40] When did you learn this?

16 A. [10:47:15] What I said happened a long time ago, from the time they entered  
17 Timbuktu. That was his role from the very time they got into the city of Timbuktu  
18 and until they left. That was the role he played from the time they came -- they  
19 arrived in Timbuktu.

20 Q. [10:47:42] In 2019 you said, "I don't know who he worked for", and now you're  
21 saying that this was the role he had the whole time. When did you learn that this  
22 was his role?

23 PRESIDING JUDGE MINDUA: [10:48:06](Interpretation) Mr Prosecutor.

24 MR DUTERTRE: [10:48:07](Interpretation) The question has been asked and

25 answered. The witness has provided the answer he has. And I think that we can

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1 move on to another topic now.

2 MS SUTHERLAND: [10:48:18] I disagree that the witness has provided an answer.

3 PRESIDING JUDGE MINDUA: [10:48:27] I was waiting for the interpretation for  
4 you.

5 (Interpretation) I really do not agree with you because -- I agree with Ms Sutherland  
6 because she has asked a question about what he knew and now she wants to find out  
7 since when he has -- he became aware of these things and how his understanding  
8 may have changed. That's the difference.

9 So, Ms Sutherland, please proceed. Try to clarify and let's see where we go from  
10 here.

11 MS SUTHERLAND: [10:49:14]

12 Q. [10:49:15] Mr Witness, are you able to tell us exactly when you learnt the  
13 information that you've given us, that Mohamed Moussa was -- had the role that you  
14 have -- sorry, I'll rephrase.

15 You told the Prosecution one thing in 2019 and you told us something different  
16 yesterday. When did you learn that Hamed Moussa was present at that event?

17 A. [10:51:07] What I wanted to say is that that exact -- that was Hamed Moussa's  
18 job. Since they arrived in Timbuktu, he was the one in charge of the cases of people  
19 who were poorly attired or dressed. And everybody was aware of that, everybody  
20 knew that.

21 (Redacted)

22 and the real-time transcript reference is transcript 68, page 85, lines 19 to 21.

23 PRESIDING JUDGE MINDUA: [10:52:05](Interpretation) Madam Prosecutor.

24 MS HUCK: [10:52:09](Interpretation) I am sorry, Mr President, but the information  
25 relating to that period was given in private session yesterday.

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- 1 PRESIDING JUDGE MINDUA: [10:52:20](Interpretation) Court officer, private  
2 session, please.  
3 (Private session at 10.52 a.m.)  
4 THE COURT OFFICER: [10:52:28] (Interpretation) We are in private session,  
5 Mr President.  
6 (Redacted)  
7 (Redacted)  
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- 1 (Open session at 11.00 a.m.)
- 2 THE COURT OFFICER: [11:00:13] (Interpretation) We are back in open session,  
3 Mr President.
- 4 PRESIDING JUDGE MINDUA: [11:00:17](Interpretation) Thank you very much,  
5 court officer.
- 6 We shall suspend for half an hour and resume at 11.30.
- 7 The hearing is suspended.
- 8 THE COURT USHER: [11:00:27] All rise.
- 9 (Recess taken at 11.00 a.m.)
- 10 (Upon resuming in open session at 11.33 a.m.)
- 11 THE COURT USHER: [11:33:56] All rise.
- 12 Please be seated.
- 13 PRESIDING JUDGE MINDUA: [11:34:17](Interpretation) The Court is once more in  
14 session.
- 15 Defence, you have the floor in order to continue the cross-examination.
- 16 Ms Sutherland.
- 17 MS SUTHERLAND: [11:34:34] Mr President, with your leave, I would need to make  
18 a very small oral application and I would ask that we do so in private session. And  
19 cut the feed to the witness as well, please.
- 20 PRESIDING JUDGE MINDUA: [11:34:56](Interpretation) Court officer, could you  
21 please cut the connection.
- 22 THE COURT OFFICER: [11:35:03](Interpretation) The connection has been cut. But  
23 I also need to move to private session.
- 24 PRESIDING JUDGE MINDUA: [11:35:17](Interpretation) Do you want a private  
25 session, Ms Sutherland?

- 1 MS SUTHERLAND: [11:35:21] It may not be necessary, in fact, Mr President.
- 2 PRESIDING JUDGE MINDUA: [11:35:30](Interpretation) Very well. You have the  
3 floor, Ms Sutherland.
- 4 MS SUTHERLAND: [11:35:33] Mr President, it's come -- and your Honours, it's  
5 come to our attention that a phrase is being used to refer both to the Defence and to  
6 armed groups. And I understand the phrase - and forgive me, I obviously don't  
7 speak Songhai - it's *yodika idam goy foutou*, which translates as *malfaiteur*.
- 8 Mr President, of course I don't need to labour the importance of all officers of the  
9 Court in respecting the presumption of innocence, but our concern is that this is being  
10 disseminated to the public and of course to the witness. And for that reason,  
11 I would ask if we could identify a more neutral term to be used.
- 12 PRESIDING JUDGE MINDUA: [11:36:43](Interpretation) This expression *malfaiteur*  
13 was used to designate whom in particular?
- 14 MS SUTHERLAND: [11:36:52] Both the Defence and the armed groups.
- 15 PRESIDING JUDGE MINDUA: [11:37:00](Interpretation) Thank you,  
16 Ms Sutherland.
- 17 Obviously this is a very serious problem because, as we are all aware, any accused is  
18 presumed innocent until a regularly constituted court has gone through the  
19 procedure and has reached the decision of guilt. Therefore, this Chamber cannot  
20 tolerate the use of such an expression, we are very much opposed to it, and a neutral  
21 term should be used.
- 22 I would draw the attention to interpreters who have used this expression - I hadn't  
23 actually heard it - not to use it again and to use a more appropriate term. Of course,  
24 in the witness statement the term *malfaiteur* is used. That's been used by the witness.  
25 It's his opinion. That cannot be the opinion of the party, the participants or the



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1 interpreters. We absolutely wish to ensure that this does not happen in the future.

2 So I think everyone is now aware, Ms Sutherland, and you can proceed.

3 MS SUTHERLAND: [11:38:56] Thank you, Mr President.

4 Q. [11:39:01] Mr Witness -- sorry, the witness is still not connected, I believe.

5 PRESIDING JUDGE MINDUA: [11:39:11](Interpretation) Court officer, if you could  
6 please re-established the connection.

7 THE COURT OFFICER: [11:39:19](Interpretation) The connection has been  
8 re-established.

9 PRESIDING JUDGE MINDUA: [11:39:21](Interpretation) Thank you very much.  
10 Ms Sutherland.

11 MS SUTHERLAND: [11:39:24] Thank you.

12 Q. [11:39:26] Mr Witness, yesterday, and the transcript reference is transcript 68,  
13 page 65, lines 19 to 23.

14 Mr Witness, yesterday you said: "The chief of the Islamic police was Al Hassan. It  
15 was the chief, Al Hassan."

16 A. [11:40:08] Yes.

17 Q. [11:40:11] Mr Witness, I'd like to refer back to the interview you gave with the  
18 Prosecution in 2019.

19 And the reference is Prosecution tab 1, MLI-OTP-0070-1598-R02 at page 1607 and  
20 that's paragraph 47.

21 For complete clarity, I would ask if it's possible for the French interpreters to read this  
22 paragraph and we can hear the English translation. I don't want to get anything  
23 inaccurate.

24 PRESIDING JUDGE MINDUA: [11:41:18](Interpretation) Ms Sutherland, is that  
25 your opinion, you want the French booth to read the text?

- 1 MS SUTHERLAND: [11:41:27] With your leave, Mr President.
- 2 PRESIDING JUDGE MINDUA: [11:41:33](Interpretation) Please go ahead and try  
3 and keep pauses for our Songhai friends.
- 4 THE FRENCH INTERPRETER: (No interpretation)
- 5 PRESIDING JUDGE MINDUA: [11:42:09](Interpretation) Mr Prosecutor.
- 6 MR DUTERTRE: [11:42:10](Interpretation) In this paragraph there is an element that  
7 might be identifying. If you count from the bottom, the fourth line from the bottom.  
8 I would just like to draw the Court's attention to that.
- 9 PRESIDING JUDGE MINDUA: [11:42:36](Interpretation) In that case we will read  
10 this paragraph in private session.  
11 Private session, please, court officer.  
12 (Private session at 11.42 a.m.)
- 13 THE COURT OFFICER: [11:42:51](Interpretation) We are in private session, your  
14 Honours.  
15 (Redacted)  
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11 (Open session at 12.26 p.m.)  
12 THE COURT OFFICER: [12:26:49](Interpretation) We're in open session,  
13 Mr President.  
14 PRESIDING JUDGE MINDUA: [12:26:56](Interpretation) Thank you very much.  
15 Ms Sutherland, please.  
16 MS SUTHERLAND: [12:27:00] Mr President --  
17 Q. [12:27:03] Mr Witness, in your interview with the Prosecution, do you remember  
18 them explaining the meaning of victim status in these proceedings?  
19 A. [12:27:58] Yes, they explained that to me. They made me to understand that.  
20 Q. [12:28:08] Mr Witness, I'll read the relevant paragraph, it's  
21 MLI-OTP-0070-1598-R02, that's Prosecution tab 1 at page 1613 and it's paragraph  
22 number 58.  
23 The first sentence is: "It was explained to me that the persons who were awarded  
24 victim status by the judges would be allowed to participate in the hearings and could  
25 possibly be compensated."

1 And the next sentence: "I have been informed of the existence and role of the  
2 Victims Participation and Reparations Section, as well as the procedure to be followed  
3 in submitting a request for victim status and I consent to my personal data being  
4 communicated to them."

5 Mr Witness, are you looking for compensation?

6 A. [12:31:37] Yes, yes, indeed. That is part of why I decided to do this because we  
7 were part of this, that's what I want.

8 Q. [12:32:16] Mr Witness, thank you very much.

9 MS SUTHERLAND: [12:32:18] Mr President, your Honours, I have no further  
10 questions. I would like to take this opportunity, however, to thank the interpreters  
11 for their forbearance.

12 PRESIDING JUDGE MINDUA: [12:32:35](Interpretation) Thank you, Ms Sutherland.  
13 Does that mean you've completed your cross-examination?

14 MS SUTHERLAND: [12:32:41] Yes, Mr President.

15 PRESIDING JUDGE MINDUA: [12:32:47](Interpretation) Thank you very much.

16 So, court officer, are we in private session?

17 THE COURT OFFICER: [12:33:01](Interpretation) We are currently in public session,  
18 your Honour.

19 PRESIDING JUDGE MINDUA: [12:33:05](Interpretation) I turn to the Prosecution.  
20 Madam Prosecutor.

21 MS HUCK: [12:33:10](Interpretation) No, we have no further questions.

22 PRESIDING JUDGE MINDUA: [12:33:14](Interpretation) Very well. I see that  
23 nobody wishes to take the floor at this stage and so I will turn to our witness.

24 Mr Witness, this brings us to the end of your testimony. The Chamber would like  
25 once more to thank you for having assisted us by replying very clearly to the

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1 questions put to you. The Chamber would like to thank you for your willingness to  
2 participate and we wish you the very best for the future.

3 THE WITNESS: [12:34:42](No interpretation)

4 PRESIDING JUDGE MINDUA: [12:34:47](Interpretation) Thank you.

5 I turn now to the parties and participants, to thank everybody for the perfect  
6 cooperation. I would like to thank the court reporters and the interpreters. The  
7 work has been particularly difficult today. And of course I would also like to  
8 express my thanks to the security officers and the public.

9 I would like to wish everyone a very good afternoon, asking you of course to return  
10 tomorrow at 9.30 for the 26th Prosecution witness.

11 So the hearing will now be adjourned. The hearing is adjourned.

12 THE COURT USHER: [12:35:52] All rise.

13 (The hearing ends in open session at 12.35 p.m.)