

Trial Hearing  
WITNESS: MLI-OTP-P-0636

(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, 16 March 2021  
10 (The hearing starts in open session at 9.33 a.m.)  
11 THE COURT USHER: [9:33:55] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:34:16](Interpretation) Court is in session.  
15 Good morning to all.  
16 Madam courtroom officer, could you please call the case.  
17 THE COURT OFFICER: [9:34:42](Interpretation) Good morning, Mr President,  
18 your Honours.  
19 The situation in Mali, in The Prosecutor versus Al Hassan Ag Abdoul Aziz Ag  
20 Mohamed Ag Mahmoud, case number ICC-01/12-01/18.  
21 And we are in open session.  
22 PRESIDING JUDGE MINDUA: [9:34:57](Interpretation) Thank you very  
23 much, courtroom officer.  
24 As always, we shall start with the appearances for the record. First and  
25 foremost, the Office of the Prosecutor.

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1 MR GARCIA: [9:35:15](Interpretation) Good morning, Mr President,  
2 your Honours. Once again for the Prosecution this morning, Mr Garcia,  
3 Raymond Sandoval to my left, and Mr Gilles Dutertre just behind me.  
4 Thank you.

5 PRESIDING JUDGE MINDUA: [9:35:24](Interpretation) Thank you very  
6 much, Mr Prosecutor.  
7 Now over to the Defence.

8 MS SUTHERLAND: [9:35:30] Good morning, Mr President, your Honours.  
9 The Defence for Mr Al Hassan is this morning represented by Ms Melinda  
10 Taylor, Ms Sarah Marinier-Doucet and myself, Kirsty Sutherland.

11 PRESIDING JUDGE MINDUA: [9:35:44](Interpretation) Thank you very  
12 much, Ms Sutherland.  
13 Now over to the Legal Representatives for Victims.

14 Maître Nsita.

15 MR LUVENGIKA: [9:35:52](Interpretation) Good morning, Mr President,  
16 good morning, your Honours. The victims in this hearing today are  
17 represented by Maître Nsita Luvengika. The team might change, but for the  
18 time being that's where it's at.

19 PRESIDING JUDGE MINDUA: [9:36:12](Interpretation) Thank you very  
20 much, Maître Nsita. I note that you are alone for the time being, but the  
21 composition of your team might change.

22 We shall continue this morning with the testimony of the 27th witness for the  
23 Prosecution, that is P-0636.

24 I shall now turn to Madam Witness.

25 Madam Witness, good morning, can you hear me?

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- 1 WITNESS: MLI-OTP-P-0636 (On former oath)
- 2 (The witness speaks Bambara)
- 3 (The witness gives evidence via video link)
- 4 THE WITNESS: [9:36:37](Interpretation) Yes, I can hear you. Good morning.
- 5 PRESIDING JUDGE MINDUA: [9:36:45](Interpretation) Good morning.
- 6 Thank you. I would like to, once again, welcome you.
- 7 THE WITNESS: [9:36:53](Interpretation) I am happy that that is the case.
- 8 PRESIDING JUDGE MINDUA: [9:36:56](Interpretation) I'd like to remind
- 9 you that you are still under oath and that you must speak the truth, the whole
- 10 truth and nothing but the truth.
- 11 THE WITNESS: [9:37:15](Interpretation) Yes, I have understood.
- 12 PRESIDING JUDGE MINDUA: [9:37:17](Interpretation) Thank you very
- 13 much. I would like to also remind you of my practical advice with regard to
- 14 addressing the Court.
- 15 THE WITNESS: [9:37:35](Interpretation) I have understood.
- 16 PRESIDING JUDGE MINDUA: [9:37:38](Interpretation) Please try to speak
- 17 slowly and clearly and, if possible, with brief answers.
- 18 THE WITNESS: [9:37:52](Interpretation) Yes, I have understood.
- 19 PRESIDING JUDGE MINDUA: [9:37:55](Interpretation) So this morning we
- 20 shall be starting with the cross-examination on the part of the Defence.
- 21 THE WITNESS: [9:38:09](Interpretation) I have understood.
- 22 PRESIDING JUDGE MINDUA: [9:38:13](Interpretation) The counsel for the
- 23 Defence will be putting questions to you and I'd like you to respond willingly
- 24 because it is her job to put questions to you.
- 25 THE WITNESS: [9:38:34](Interpretation) I have understood.

- 1 PRESIDING JUDGE MINDUA: [9:38:36](Interpretation) Thank you very  
2 much.  
3 Ms Sutherland, over to you.
- 4 MS SUTHERLAND: [9:38:39] Thank you, Mr President.
- 5 QUESTIONED BY MS SUTHERLAND:
- 6 Q. [9:38:42] Good morning, Madam Witness. Can you hear me?  
7 A. [9:38:47] Yes, good morning, I can hear you.
- 8 Q. [9:38:55] Just like my friend for the Prosecution, I have to look at you on  
9 this screen. That I am looking at you.
- 10 A. [9:39:11] I have understood.
- 11 Q. [9:39:19] So just to explain, I will be - as you've already been told - asking  
12 questions on behalf of the Defence. It is our role at this stage of the  
13 proceedings to test the evidence called by the Prosecution.
- 14 A. [9:39:53] I have understood.
- 15 Q. [9:39:57] This is a very important part of the process of determining what  
16 is true and the Defence has the right to investigate as we go along and we will  
17 then call witnesses later in the process.
- 18 A. [9:40:36] I understand.
- 19 Q. [9:40:42] But as has already been noted by the Prosecution and by the  
20 learned Judge, the most important thing for you to do is to tell the truth as best  
21 as you can remember.
- 22 A. [9:41:15] I understand.
- 23 Q. [9:41:20] Madam Witness, do you find it difficult to remember dates?  
24 A. [9:41:41] Somewhat.
- 25 Q. [9:41:50] And do you find it difficult to remember details?

1 A. [9:41:58] I do remember some details.

2 Q. [9:42:20] Do you accept that sometimes you might get some dates and  
3 times mixed up?

4 A. [9:42:33] Yes, that is unavoidable because these events occurred a long  
5 time ago.

6 Q. [9:42:58] And because it's been a long time since the events, do you accept  
7 that there might be some inaccuracies because you can't remember?

8 PRESIDING JUDGE MINDUA: [9:43:16](Interpretation) Ms Sutherland, the  
9 witness has already answered that question two or three times.

10 MS SUTHERLAND: [9:43:24] Thank you, Mr President.

11 Q. [9:43:27] Madam Witness, do different things prompt your memory?

12 A. [9:43:37] Yes.

13 Q. [9:43:48] Does that include being asked certain questions?

14 A. [9:44:04] Yes, if I do recall.

15 Q. [9:44:25] Madam Witness, yesterday Maître Nsita, who represents the  
16 victims in this case, asked you what motivated you to come to testify here.

17 And at transcript 71, that's the real-time transcript, page 70, lines 6 to 10, you  
18 responded ...

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

20 Q. [9:45:18] You responded:

21 "If I had the courage to come and testify about what happened, it's because I  
22 had people who proposed to help me because I was injured and alone, ..."

23 I'll pause for the interpreter.

24 "I couldn't get help and so people proposed to help me get reparations and  
25 that's how I accepted to testify."

- 1 A. [9:46:29] What do you mean? Please explain yourself.
- 2 Q. [9:46:34] Madam Witness, I was just reading back what you told the  
3 Court yesterday.
- 4 A. [9:46:55] Had I been well understood?
- 5 Q. [9:46:59] Yes, Madam Witness, I just have some more questions for you.
- 6 A. [9:47:15] Yes, which questions?
- 7 Q. [9:47:17] Who told you that you could get reparations?
- 8 A. [9:47:26] Well, did I say that yesterday? Did I speak about reparations?
- 9 Q. [9:47:49] Madam Witness, I just read you a direct quote in which you  
10 said:  
11 "I couldn't get help and so people proposed to help me get reparations and  
12 that's how I accepted to testify."
- 13 A. [9:48:26] Maybe you haven't understood me. If you like, I can come back  
14 on what I said.
- 15 Q. [9:48:39] Madam Witness, you told the Court yesterday that people  
16 proposed to help you get reparations. Who told you that?
- 17 PRESIDING JUDGE MINDUA: [9:48:54](Interpretation) Mr Prosecutor.
- 18 MR GARCIA: [9:48:56](Interpretation) I do apologise. Good morning, Mr  
19 President. I do apologise for interrupting so early on, but I'd just like to  
20 remind us of the profile of this witness, especially to the Defence. We've been  
21 putting this question quite a few times now. I think the best way of  
22 approaching it would be to put neutral questions - and, were we to put  
23 questions to her about reparations, we could put questions to the effect of  
24 whether this was something that was of interest to her or whether people  
25 spoke to her about - without referring specifically to what was said yesterday.

1 Or we could check with the witness whether she said something specific about  
2 reparations, but I think we should approach it with far more neutral questions  
3 with this witness.

4 MS SUTHERLAND: [9:49:44] This is a cross-examination. This is  
5 a cross-examination. She said this yesterday. It's not a trick question. I'm  
6 trying to ask who gave her information about reparations. I haven't asked the  
7 same question repeatedly. The witness has been asking me questions.

8 PRESIDING JUDGE MINDUA: [9:50:11](Interpretation) Ms Sutherland, I  
9 believe that the witness has suggested a solution. She says that you might put  
10 the question to her once more and that she can explain it to you. It might be  
11 a problem of interpretation. This is a legal term, reparations, I don't know  
12 how this was interpreted into Bambara, but we can see that there's a problem  
13 here.

14 So either you put an open question to her or you ask her to answer the same  
15 question as yesterday.

16 MS SUTHERLAND: [9:51:03]

17 Q. [9:51:04] Madam Witness, did anyone tell you that they could give you  
18 assistance?

19 A. [9:51:14] Well, that's not precisely what I said. What I did say was that  
20 when you are injured, if you find somebody who can assist you, it is of use.  
21 But what you said is not what I said yesterday. I didn't say that somebody  
22 had asked me to file a complaint with a view to obtaining reparations.

23 Q. [9:52:03] Who did you find who could assist you?

24 A. [9:52:20] After the war, there were associations that came to gather names  
25 and said that they could provide us with assistance, but we weren't told that

1 we would be given money or anything.

2 Q. [9:52:58] What did they -- well, did they give you anything for assistance?

3 A. [9:53:08] We were given absolutely nothing, and, to date, I was under the  
4 impression that that matter was over and done with.

5 Q. [9:53:32] Were these groups local groups?

6 A. [9:53:49] I do not know where they came from. I do not know whether  
7 those groups were local or not.

8 Q. [9:54:08] Do you know which languages they spoke?

9 A. [9:54:13] No, I do not understand their language.

10 Q. [9:54:27] You speak local languages to Timbuktu, do you not?

11 A. [9:54:35] Yes.

12 Q. [9:54:48] But they spoke other languages, is that correct?

13 A. [9:54:54] Yes.

14 Q. [9:55:02] Do you speak a little bit of French?

15 A. [9:55:09] Yes, I do get by in French.

16 Q. [9:55:21] Can you remember the names of any people who came to speak  
17 to you?

18 A. [9:55:37] No, I no longer recall -- or I do not recall their names.

19 Q. [9:55:56] Madam Witness, I'd like to refer you to your witness statement.

20 That's at Prosecution tab 1 and the number is MLI-OTP-0071-0314-R03 at  
21 page 0316, paragraph 15.

22 A. [9:56:51] I have understood.

23 Q. [9:56:54] Madam Witness, as a matter of procedure, I have to read the  
24 whole paragraph to you. It may take a little bit of time, but please be patient.

25 MS SUTHERLAND: [9:57:07] Mr President, because this is -- Mr President,



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1 because this is identifying, I have to ask for your leave to go into private

2 session briefly.

3 PRESIDING JUDGE MINDUA: [9:57:35](Interpretation) Madam courtroom

4 officer, private session, please.

5 (Private session at 9.57 a.m.)

6 THE COURT OFFICER: [9:57:42](Interpretation) We are in private session,

7 Mr President.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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9 (Open session at 10.59 a.m.)  
10 THE COURT OFFICER: [10:59:34](Interpretation) We are back into open  
11 session once again.  
12 PRESIDING JUDGE MINDUA: [10:59:39](Interpretation) Thank you very  
13 much, courtroom officer.  
14 So indeed, Ms Sutherland, we are going to rise for half an hour and reconvene  
15 at 11.30.  
16 I would like to tell you that you have already used one hour and six minutes  
17 and that you should be wrapping up in the next session.  
18 We shall suspend the hearing.  
19 The hearing is suspended.  
20 (Recess taken at 11.00 a.m.)  
21 (Upon resuming in open session at 11.31 a.m.)  
22 THE COURT USHER: [11:31:31] All rise.  
23 Please be seated.  
24 PRESIDING JUDGE MINDUA: [11:31:51](Interpretation) Court is in session.  
25 The Defence has the floor for the follow-up of the cross-examination.

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1 Ms Sutherland, you have the floor.

2 MS SUTHERLAND: [11:32:09] Thank you, Mr President.

3 Q. [11:32:14] Madam Witness, can you hear me?

4 A. [11:32:17] Yes, I can see you -- yes, I can hear you.

5 THE INTERPRETER: [11:33:03] The interpreters in Bamako cannot see the  
6 witness and the English interpreter cannot see the interpreters in Bamako.

7 THE BAMBARA-FRENCH INTERPRETER: (Interpretation) Thank you.

8 PRESIDING JUDGE MINDUA: [11:33:19](Interpretation) Everything's been  
9 resolved.

10 Ms Sutherland.

11 MS SUTHERLAND: [11:33:24]

12 Q. [11:33:26] Madam Witness, do you remember when you first heard about  
13 the Islamic police?

14 A. [11:33:55] Yes, I'd never heard it spoken of.

15 Q. [11:34:07] Madam Witness, can you clarify, you've just said, I'd -- I had  
16 never heard it spoken of. When did you first hear of it?

17 A. [11:34:22] I didn't know the Islamic police. It was only during the  
18 conflict that I heard the Islamic police being spoken of.

19 Q. [11:34:59] Madam Witness, can you tell us in as much detail as you  
20 remember how you heard it spoken of?

21 A. [11:35:11] I didn't know that the Islamic police existed, and I heard them  
22 spoken of in town.

23 Q. [11:35:48] When you say you heard it spoken of in town, who did you  
24 hear speaking about it?

25 A. [11:35:55] I heard about it in conversations about the Islamic police. I

1 didn't know they existed. But when I was taken to the Islamic police, that's  
2 when I really understood that they did exist.

3 Q. [11:36:41] Did you understand that it was the Islamic police when you  
4 went there?

5 A. [11:36:47] When I got there, I realised it was the Islamic police because of  
6 their flags and the signs that were there, and their flag doesn't correspond with  
7 our flag at all.

8 Q. [11:37:32] And when you say that you heard about it in conversations  
9 about the Islamic police, can you tell us who those conversations were with?

10 A. [11:37:47] I can't tell you exactly from who I heard it.

11 Q. [11:38:23] Are you able to tell --

12 A. [11:38:23] You know, in town, people talk about lots of different things,  
13 but when I arrived to the place, I realised it was the Islamic police.

14 Q. [11:38:39] When you say people in town talk about lots of different things,  
15 can you be more specific?

16 A. [11:38:48] You can't remember everybody you've spoken to.

17 Q. [11:39:17] Can you try to remember any of them?

18 A. [11:39:42] Frankly, I don't remember. I don't remember this. I don't  
19 think I'm able to recall it.

20 Q. [11:39:52] Do you remember discussing this with the Prosecution in your  
21 recent meeting with them?

22 A. [11:40:02] Yes, how? What -- what sort of words?

23 Q. [11:40:26] If I could ask you to turn to Defence tab 20, the reference being  
24 MLI-OTP-0077-4018-R01 at page 4021, that's paragraph 16.

25 Madam Witness, I'll read that for you:

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1 "The Witness is asked how she knew that the place where she was brought [...]  
2 was the headquarters of the Islamic Police. The Witness states that she did  
3 not know that it was the Islamic Police headquarters at the time when it  
4 happened but she found out afterwards. The Witness states that she found  
5 out through other people. She heard it through the chats of other people who  
6 had been subjected to violence by the Islamists."

7 A. [11:42:50] Yes.

8 Q. [11:42:52] So I'll ask you again: When did you hear about the Islamic  
9 police headquarters?

10 A. [11:43:03] I'd heard people talking about it when people talk to each other.  
11 I didn't know it was their HQ, but then afterwards when I got there, I then  
12 realised that it was their HQ.

13 Q. [11:43:40] Why did you tell the Prosecution that you did not know it was  
14 the Islamic police headquarters at the time that it happened?

15 MR GARCIA: [11:43:56](Interpretation) Your Honour, I'm sorry.

16 PRESIDING JUDGE MINDUA: [11:43:59](Interpretation) Yes, Prosecutor.

17 MR GARCIA: [11:44:00](Interpretation) It would seem to me that there's  
18 certain confusion. I don't know if this is an issue of translation, but I heard the  
19 response from the witness has just confirmed something. I understand that  
20 the answer -- there seems to be a certain confusion because the same question  
21 comes up. And, furthermore, when all this series of questions was introduced  
22 with the Prosecution, the answer of the witness's seemed quite confused.

23 On page 32, the question:

24 Do you remember having discussed with the Prosecution during your meeting  
25 with them?

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1 And the answer is:

2 "Yes, how? [...] What" type "of words?"

3 And then we go into the notes that were taken during the preparatory session,  
4 she's read an excerpt therefrom. There's -- there's a certain degree of  
5 confusion. I think we have to be clear. We always have to bear in mind the  
6 VWU's note. Explanations have to be very clear, what it's about, and, then  
7 afterwards, read the excerpt in a simple way.

8 And I think also the witness has already answered the question which the  
9 Defence is going back to.

10 PRESIDING JUDGE MINDUA: [11:45:21](Interpretation) Ms Sutherland, I'm  
11 totally in agreement with the Prosecutor because firstly, there are two  
12 problems: The first is that there's confusion between the interview with the  
13 members of the Prosecution team and afterwards with the witness's statement  
14 prior to what we have here.

15 So I'm looking at paragraph 16 and I understand paragraph 16. The witness  
16 didn't know the Islamic police HQ. She'd heard about it, and when she got  
17 there she understood, and that's what she's just said. She's answered it.

18 So please don't put the question again and let's move on, Ms Sutherland.

19 MS SUTHERLAND: [11:46:15] With respect, Mr President, that's not what  
20 paragraph 16 says. It says that she didn't know about -- that it was the Islamic  
21 police headquarters at the time that it happened, but she found out afterwards  
22 and that she found out through other people -- and that she heard about it  
23 through the chats of other people who'd been subjected to violence by the  
24 Islamists.

25 This directly contradicts what she's just told me. I'm giving her the

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1 opportunity to clarify what she's just told us and what she told the Prosecution.

2 PRESIDING JUDGE MINDUA: [11:47:03](Interpretation) I saw that there was  
3 a microphone which was still on.

4 I don't know what answer you're expecting from Madam Witness. She  
5 answered. And paragraph 16, I've got it in French. I wanted to -- I want you  
6 to ask the question one last time and you'll see that it's the same answer.

7 Please go ahead.

8 MS SUTHERLAND: [11:47:38]

9 Q. [11:47:38] Madam Witness, I'll read the paragraph again. This is from  
10 the preparation session you held with the Prosecutors I think two weeks ago.  
11 They write:

12 "The Witness is asked how she knew that the place where she was brought to  
13 was the headquarters of the Islamic Police. The Witness states that she did  
14 not know that it was the Islamic Police headquarters at the time when it  
15 happened but she found out afterwards."

16 THE COURT OFFICER: [11:48:07] Can we please make shorter sentence for  
17 the interpreter. Thank you.

18 MS SUTHERLAND: [11:48:38]

19 Q. [11:48:38] "The Witness states that she found out through other people.  
20 She heard it through the chats of other people who had been subjected to  
21 violence by the Islamists."

22 Is that an accurate reflection of what you told the Prosecution?

23 A. [11:49:44] As I said, I'd heard about it in conversations, I'd heard that the  
24 Islamic police was in town, and, when I got there, I understood that that was  
25 indeed the Islamic police.



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1 Q. [11:50:03] Madam Witness, that's not what I'm asking you. I'm asking if  
2 the paragraph just read to you is an accurate reflection of what you told the  
3 Prosecution a couple of weeks ago?

4 PRESIDING JUDGE MINDUA: [11:50:19](Interpretation) Prosecutor.

5 MR GARCIA: [11:50:20](Interpretation) I understand, your Honour, the  
6 question's already been answered on several occasions in different ways. The  
7 Chamber made it possible once more. The witness gave the answer. I think  
8 we've got all the necessary elements here.

9 PRESIDING JUDGE MINDUA: [11:50:41](Interpretation) Ms Sutherland, I  
10 agree with the Prosecutor, please go on to something else. The question has  
11 been answered by the witness.

12 MS SUTHERLAND: [11:50:50]

13 Q. [11:50:52] Madam Witness, have you told us something different today to  
14 what you told the Prosecution two weeks ago?

15 MR GARCIA: [11:51:04] (Interpretation) I object.

16 PRESIDING JUDGE MINDUA: [11:51:06](Interpretation) No, no.

17 Ms Sutherland, I've said that it's finished on this point.

18 MS SUTHERLAND: [11:51:20]

19 Q. [11:51:21] Madam Witness, yesterday - and the reference is transcript 71,  
20 page 22, lines 4 to 6, that's the real-time transcript - yesterday you described  
21 how when you were arrested, a man speaking Tamasheq said:

22 "Take this bedevilled child and take her and put her in that place where the  
23 mosquitoes are to be found."

24 A. [11:52:22] I didn't speak about a child in what I said.

25 Q. [11:52:28] Madam Witness, you described a man speaking Tamasheq who

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1 said:

2 "Take this bedevilled child and take her and put her in that place where the  
3 mosquitoes are to be found."

4 A. [11:52:44] You didn't understand me, please listen carefully. The  
5 bedevilled child or -- that you spoke about, who should be taken to the place  
6 where the mosquitoes are to be found, that's something I didn't speak about.

7 PRESIDING JUDGE MINDUA: [11:54:32](Interpretation) Madam Witness,  
8 when you were arrested - please interpret, please go ahead - one of the people  
9 who arrested you before putting you into the vehicle said something.

10 THE WITNESS: [11:55:17](Interpretation) Yes, somebody spoke.

11 PRESIDING JUDGE MINDUA: [11:55:20](Interpretation) Could you tell us  
12 what was said before you were put into the vehicle?

13 THE WITNESS: [11:55:27](Interpretation) He said to take this child from hell  
14 and take her to the mosquito sheets. And that's -- that happened then.

15 PRESIDING JUDGE MINDUA: [11:55:57](Interpretation) That's correct. In  
16 what language was it said?

17 THE INTERPRETER: [11:56:02] "To take this child to the place where the  
18 mosquitoes are and several days afterwards you will know why it was  
19 arrested."

20 THE WITNESS: [11:56:06](Interpretation) This was said in Tamasheq.

21 PRESIDING JUDGE MINDUA: [11:56:12](Interpretation) Thank you very  
22 much, Madam Witness.

23 MS SUTHERLAND: [11:56:43] Is there an issue in Bamako?

24 THE BAMBARA-FRENCH INTERPRETER: [11:56:50](Interpretation) No,  
25 there's no problem.

- 1 PRESIDING JUDGE MINDUA: [11:56:54](Interpretation) Please continue,  
2 Ms Sutherland.
- 3 MS SUTHERLAND: [11:56:58]
- 4 Q. [11:56:58] Madam Witness, in your statement to the Prosecution - and  
5 that's OTP tab 1, MLI-OTP-0071-0314-R03 at page 0319, that's paragraph  
6 28 - again, I will read it for you. Please wait patiently while it's interpreted.  
7 The statement says:  
8 "When we got to the police headquarters, their leader was sitting outside.  
9 Their leader did not accept that we address him directly. We had to turn our  
10 back to talk to him. The chief was a fair complexion. He had a long beard  
11 down to chest level. He was old. He had long hair, but the front of his head  
12 was bald. He spoke in Arabic. He told his people to bring me. He said:  
13 'Take this person destined for hell and put her in the place of mosquitoes.'  
14 There are certain words that I understand in Arabic, because we live with the  
15 Arabs in Timbuktu. I could also understand by the way he spoke. Even if I  
16 couldn't say these words, I can understand them. For example, I understood  
17 *jahanam*, which means 'hell' in Songhaï."
- 18 Madam Witness, is this referring to the same incident?
- 19 A. [12:00:57] I'm not going to lie about something that didn't happen.
- 20 Q. [12:01:29] I'm sorry, Madam Witness, I don't understand your last  
21 statement.
- 22 A. [12:01:38] Like what? Which answer?
- 23 Q. [12:01:55] You've just said, "I'm not going to lie about something that  
24 didn't happen." What didn't happen?
- 25 THE INTERPRETER: [12:02:20] The interpreter --

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1 THE BAMBARA-FRENCH INTERPRETER: [12:02:21](Interpretation) She  
2 says that she's not going to lie about something that was written -- something  
3 that she's said and that was written.

4 THE WITNESS: [12:02:41](Interpretation) I repeat: I am not going to lie,  
5 especially when it's going to be written down.

6 MS SUTHERLAND: [12:03:11]

7 Q. [12:03:13] Madam Witness, I'm asking you if these relate to the same  
8 incident that you described yesterday and you described to the Prosecution  
9 previously?

10 A. [12:03:30] There's no problem with that.

11 Q. [12:03:56] Can you answer yes or no. Were you describing the same  
12 incident?

13 PRESIDING JUDGE MINDUA: [12:04:12](Interpretation) Mr Prosecutor.

14 MR GARCIA: [12:04:13](Interpretation) Mr President, I was hesitating before  
15 interrupting. Of course, I do understand the difficulties arising, but to my  
16 mind one needs to be a little bit more specific. If we read through the last  
17 question, are we talking here about the same incident?

18 Maybe we need to go through that paragraph with a fine comb if we want to  
19 get somewhere.

20 PRESIDING JUDGE MINDUA: [12:04:43](Interpretation) Going through it  
21 with a fine comb, what do you mean?

22 MR GARCIA: [12:04:47](Interpretation) The question as it is put is so general  
23 that I do not believe -- I do not believe it is clear enough for the witness to be  
24 able to answer it in a manner that could assist us.

25 PRESIDING JUDGE MINDUA: [12:05:01](Interpretation) Yes, Ms Sutherland,

1 I believe that the witness is little bit confused with this question; so try and put  
2 it in a simpler manner, if possible, in a number of steps.

3 MS SUTHERLAND: [12:05:15]

4 Q. [12:05:16] Madam Witness, when a man said to you, "Take this person  
5 destined for hell and put her in the place of mosquitoes", did that happen only  
6 one time or more than once?

7 A. [12:05:31] This was told me on one occasion when I was arrested.

8 Q. [12:06:11] In which language was it told to you in?

9 A. [12:06:16] This was said to me in Tamasheq.

10 Q. [12:06:31] Madam Witness, do you remember going through your  
11 statement with the Prosecution a couple of weeks ago?

12 A. [12:07:02] Yes, I do remember.

13 Q. [12:07:29] I'm referring to that statement, which is OTP tab 1,

14 MLI-OTP-0071-0314-R03 at page 0319, which is paragraph 30. Madam  
15 Witness, do you remember being read:

16 "They took me to a small room, the door of which opened to the outside of the  
17 building."?

18 A. [12:08:15] I do remember.

19 THE COURT OFFICER: [12:08:46] Excuse me, I need to interrupt quickly. I  
20 need to put on the case record that some information has been reported from  
21 the court officer in the field regarding the accuracy of the interpretation in  
22 Bambara.

23 (Interpretation) I'm going to continue in French, and I do apologise, I'm going  
24 have to sit down in order to read the information out precisely.

25 PRESIDING JUDGE MINDUA: [12:09:17](Interpretation) Yes, please go

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1 ahead, Madam courtroom officer. What's going on?

2 THE COURT OFFICER: [12:09:22](Interpretation) For example -- I do

3 apologise, one moment.

4 When the witness said -- spoke about the statement made to the Office of the

5 Prosecutor, the interpretation did not interpret the Office of the Prosecutor, but

6 in Bambara it was said:

7 The statement that was made a few days ago or two weeks ago.

8 And there is another sentence that was reported to me. The witness said:

9 Take that person or those -- hell -- or those people from hell and we are going  
10 to send her to the mosquitoes for two days and then she will understand her  
11 mistake.

12 And the interpreter said:

13 Take this child from hell and go and lock her up.

14 I just needed to report this, Mr President.

15 PRESIDING JUDGE MINDUA: [12:10:28](Interpretation) Thank you very

16 much, madam courtroom officer.

17 I'm now addressing the interpreters at the remote location where the witness is  
18 to be found.

19 Now on occasion, we have had a number of discussions going on amongst the  
20 interpreters and it would seem to me that sometimes you are doubting your  
21 own interpretation. Now, with what the courtroom officer has just told us,  
22 there is cause for some questions to arrive. So please be mindful of what you  
23 are interpreting and be careful.

24 THE INTERPRETER: [12:11:07] Answer from the remote location --

25 THE BAMBARA-FRENCH INTERPRETER: [12:11:09](Interpretation) Very

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1 well.

2 PRESIDING JUDGE MINDUA: [12:11:11](Interpretation) Thank you very  
3 much. So we shall proceed.

4 THE WITNESS: [12:11:27](No Interpretation)

5 PRESIDING JUDGE MINDUA: [12:11:30](Interpretation) Does the  
6 witness -- does the witness need something?

7 THE COURT OFFICER: [12:11:51](Interpretation) I have received  
8 confirmation that all is well out at the remote location, that we can proceed.

9 PRESIDING JUDGE MINDUA: [12:12:01](Interpretation) Thank you very  
10 much.

11 Ms Sutherland, please proceed.

12 MS SUTHERLAND: [12:12:06] Mr President, bearing in mind the  
13 recommendations of VWU -- S, would it perhaps be appropriate to ask the  
14 witness if she would like a five- or 10-minute break?

15 PRESIDING JUDGE MINDUA: [12:12:28](Interpretation) Yes, very well,  
16 Ms Sutherland.

17 Madam Witness, would you like to take a brief break or not?

18 THE WITNESS: [12:12:38](Interpretation) Whatever is good for you.

19 PRESIDING JUDGE MINDUA: [12:12:50](Interpretation) So we shall move  
20 ahead.

21 Ms Sutherland, please.

22 MS SUTHERLAND: [12:12:54]

23 Q. [12:12:55] Madam Witness, we were just reading a paragraph from the  
24 statement that you gave to the Prosecution when you were interviewed by  
25 them a few years ago.

1 It says:

2 "They took me to a small room, the door of which opened to the outside of the  
3 building. They said they were going to keep me for three days and they were  
4 going to show me what I had never seen."

5 Do you remember this from going through your statement with the  
6 Prosecution in your more recent meeting?

7 A. [12:14:16] I did say that.

8 Q. [12:14:43] Did this mention of three days stick in your memory?

9 A. [12:14:52] I did say that, I'm not going to lie.

10 Q. [12:15:16] Madam Witness, in the same statement at paragraph 44, which  
11 is on page 0322, you say:

12 "I stayed there from early evening until the next day."

13 A. [12:15:57] Yes, I did say that.

14 Q. [12:16:01] And then you say:

15 "The next morning around 8 to 9 a.m., they freed me."

16 A. [12:16:29] I said the day after that, that is to say, the third day.

17 Q. [12:16:40] What did you mean by "the next day"?

18 A. [12:16:54] What, for example?

19 Q. [12:17:10] You've just agreed that you said:

20 "I stayed there from early evening until the next day."

21 MR GARCIA: [12:17:19](Interpretation) Mr President.

22 PRESIDING JUDGE MINDUA: [12:17:23](Interpretation) Mr Prosecutor.

23 MR GARCIA: [12:17:24](Interpretation) I'd just like to draw the Chamber's  
24 attention because I do know that the witness is still connected, I don't want to  
25 have her cut off again, but the witness has already answered the question with



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1 regard to whether it was the next day or not. And the answer's to be found at  
2 page 42, lines 26 and 27, where the witness specified - according to what I have  
3 understood what she meant - and subsequently the Defence comes back again  
4 to the initial question.

5 PRESIDING JUDGE MINDUA: [12:18:06](Interpretation) Yes, I can see at line  
6 26 that the witness had said:

7 "I said the day after that, that is to say, the third day." That is in the transcript  
8 in the French language, Ms Sutherland. We've already had the answer to that.

9 THE INTERPRETER: [12:18:34] Message from the English booth: the word  
10 "*soir lendemain*", in French, means, the day after the day after; so ultimately two  
11 days later.

12 MS SUTHERLAND: [12:18:49] I understand that there's a translation  
13 distinction.

14 MS SUTHERLAND:

15 Q. [12:18:59] Madam Witness, another witness in this case -- and the  
16 reference is Defence tab 17, MLI-OTP-0062-0670 at page 0676, paragraph 34,  
17 and this shouldn't be shown to the witness. Madam Witness, another witness  
18 in this case reports that you stayed one day in prison --

19 MR GARCIA: [12:19:45](No Interpretation)

20 THE INTERPRETER: [12:19:47] Overlapping speakers.

21 PRESIDING JUDGE MINDUA: [12:19:51](Interpretation) One minute, please.  
22 Mr Prosecutor.

23 MR GARCIA: [12:19:54](Interpretation) Mr President, I'm asking for the  
24 witness to be cut off, for the connection to be cut off to the witness because it is  
25 rather important.

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1 PRESIDING JUDGE MINDUA: [12:20:02](Interpretation) Madam courtroom  
2 officer, please cut the connection off to the witness.

3 THE COURT OFFICER: [12:20:12](Interpretation) The witness can no longer  
4 hear us, Mr President.

5 PRESIDING JUDGE MINDUA: [12:20:17](Interpretation) Thank you very  
6 much.

7 Mr Prosecutor.

8 MR GARCIA: [12:20:19](Interpretation) The manner in which this question  
9 has been presented is completely inappropriate, Mr President. Firstly,  
10 reference is made to the statement from --

11 THE INTERPRETER: [12:20:34] Mr Garcia is very far away from his  
12 microphone, the interpreter can't hear him properly. He needs to go closer to  
13 his microphone. Can't hear properly. Can't interpret.

14 MS SUTHERLAND: [12:20:48] The interpreters can't hear you, Mr Garcia.

15 MR GARCIA: [12:20:51](Interpretation) Can you hear me now?

16 THE INTERPRETER: [12:20:57] Yes, thank you.

17 MR GARCIA: [12:21:00](Interpretation) So essentially, Mr President, we're  
18 talking here about a statement from another witness. The manner in which  
19 things have been done here is completely inappropriate. Initially, one needs  
20 to ask the witness whether she knows that individual; that's the first step  
21 because if we go into the statement and we say such-and-such a person said  
22 such-and-such thing about you, that is not correct because it has not been  
23 shown that this is essentially about that witness that we're talking about.  
24 Now, if we want to cross-examine her on anything to be found in the statement  
25 of this third party, the first question would be to ask her whether she spoke to

1 that individual and whether the contents of said statement is correct.  
2 So a number of steps have been avoided, so -- when it has not yet been shown  
3 that she is talking about another witness; so the follow-up to this question that  
4 has been put will not be very useful as such because it hasn't been  
5 demonstrated.

6 PRESIDING JUDGE MINDUA: [12:22:12](Interpretation) Mr Sutherland.

7 MS SUTHERLAND: [12:22:13] Mr President, it's quite the contrary. We are  
8 prohibited from identifying the other witnesses in the case. The only way to  
9 get around that is to -- and, I'm perfectly entitled to confront her with evidence  
10 elsewhere in the case from other witnesses, this will impact the credibility or  
11 reinforce or undermine the credibility of either both witnesses or one witness  
12 or neither.

13 But it would be manifestly unfair not to have the opportunity to present  
14 contradictory evidence to this witness and give her the opportunity to respond.  
15 I am not allowed to disclose the identity; so proceeding in the way that my  
16 learned friend seeks to claim is the appropriate manner would put me in  
17 violation of the rules of this Court.

18 PRESIDING JUDGE MINDUA: [12:23:12](Interpretation) Mr Prosecutor, I can  
19 see that you're on your feet once again. I'm more in agreement with what the  
20 Defence has to say.

21 MR GARCIA: [12:23:21](Interpretation) Yes, we are up against a bit of a  
22 dilemma here. It depends on the manner in which the question is put. Of  
23 course the Defence has the right and should have the opportunity to confront  
24 the witness with this piece of information, but it should be done in a manner  
25 that is useful for the Chamber, furnishing details that are relevant.

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1 PRESIDING JUDGE MINDUA: [12:23:43](Interpretation) Ms Sutherland, we  
2 are entirely in agreement that you can test the witness with this statement,  
3 without making mention of its origin.

4 MS SUTHERLAND: [12:23:53] Thank you, Mr President. I understand that,  
5 according to paragraph 46 of the witness directions, I am to quote exactly what  
6 the witness says without identifying them. So that is what I am doing.

7 Is the link reconnected?

8 PRESIDING JUDGE MINDUA: [12:24:24](Interpretation) Madam courtroom  
9 officer.

10 THE COURT OFFICER: [12:24:26](Interpretation) The witness can now hear  
11 us, Mr President.

12 PRESIDING JUDGE MINDUA: [12:24:30](Interpretation) Thank you very  
13 much.

14 Ms Sutherland, please.

15 MS SUTHERLAND: [12:24:32]

16 Q. [12:24:32] Madam Witness, another witness in this case states that you  
17 stayed one day in prison from 9 a.m. in the morning to 1500 or 1600?

18 A. [12:24:52] Who is that witness?

19 Q. [12:25:11] I'm not allowed to disclose that to you.

20 MR GARCIA: (Overlapping speakers)

21 THE INTERPRETER: [12:25:23] Overlapping speakers.

22 PRESIDING JUDGE MINDUA: [12:25:26](Interpretation) Mr Prosecutor, I can  
23 see you're on your feet, what's going on?

24 MR GARCIA: [12:25:30](Interpretation) I do apologise. It is a little bit of  
25 a complicated situation. I understand that the Defence is doing its very best,

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1 but to my mind it would be relevant to ...

2 I don't know whether I can express myself freely with the witness hearing.

3 PRESIDING JUDGE MINDUA: [12:25:44](Interpretation) I would like to  
4 remind you that the witness can hear.

5 MR GARCIA: [12:25:47](Interpretation) Yes, Mr President, if I -- if the witness  
6 could be disconnected for a few moments so that I can speak freely, please.

7 PRESIDING JUDGE MINDUA: [12:25:57](Interpretation) Madam courtroom  
8 officer, could you please cut the witness off.

9 Now, in this specific instance, Mr Prosecutor, as the Defence reminded us, they  
10 have the right to put that question. But what I would suggest to  
11 Ms Sutherland is that -- how would I put it? That you summarise  
12 what? The substance of what you want to put to the witness and put the  
13 question correctly.

14 Mr Prosecutor, what did you want to say?

15 MR GARCIA: [12:26:27](Interpretation) Yes, Mr President, I am absolutely in  
16 agreement that the Defence should respect the conduct of proceedings, but  
17 in -- to say quite simply that this person, (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted) a nickname, a diminutive -- but it would be easier for the witness  
21 as well I think.

22 PRESIDING JUDGE MINDUA: [12:27:08](Interpretation) Ms Sutherland, do  
23 you accept the Prosecutor's suggestion?

24 MS SUTHERLAND: [12:27:12] The directions on the conduct of proceedings  
25 mandate that I simply state -- quote directly.

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- 1 (Counsel confer)
- 2 PRESIDING JUDGE MINDUA: [12:27:58](Interpretation) Please go ahead.
- 3 (Counsel confer)
- 4 PRESIDING JUDGE MINDUA: (No interpretation)
- 5 MR GARCIA: [12:28:36](Interpretation) Maybe we could go into private  
6 session simply with regard to this question because we might once again bring  
7 up the name of said witness.
- 8 PRESIDING JUDGE MINDUA: [12:28:46](Interpretation) You mean into  
9 private session?
- 10 MR GARCIA: [12:28:48](Interpretation) Yes, private session.
- 11 PRESIDING JUDGE MINDUA: [12:28:53](Interpretation) Yes, thank you very  
12 much.
- 13 Madam courtroom officer, private session, please.
- 14 THE INTERPRETER: [12:29:03] Message from the English booth interpreter:  
15 There are multiple overlapping speakers making interpretation extremely  
16 difficult.
- 17 (Private session at 12.29 p.m.)
- 18 THE COURT OFFICER: [12:29:08](Interpretation) We are in open (sic) session,  
19 Mr President, your Honours.
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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Trial Hearing  
WITNESS: MLI-OTP-P-0636

(Private Session)

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Trial Hearing  
WITNESS: MLI-OTP-P-0636

(Private Session)

ICC-01/12-01/18

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18 (Open session at 1.15 p.m.)

19 THE COURT OFFICER: [13:15:35](Interpretation) We are back in open  
20 session.

21 PRESIDING JUDGE MINDUA: [13:15:48](Interpretation) Thank you very  
22 much, Madam courtroom officer.

23 Now Mr Prosecutor, do you have any further questions to put?

24 MR GARCIA: [13:15:56](Interpretation) Mr President, your Honours, the  
25 Prosecution has no further questions.

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1 PRESIDING JUDGE MINDUA: [13:16:01](Interpretation) Thank you very  
2 much, Mr Prosecutor.

3 So of course nobody further requests to address the Court?

4 Very well.

5 Madam Witness, can you hear me?

6 THE WITNESS: [13:16:18](Interpretation) Yes, I can hear you.

7 PRESIDING JUDGE MINDUA: [13:16:22](Interpretation) Thank you very  
8 much.

9 So the Chamber would like to, once again, thank you for having -- assisting it  
10 in answering in a very clear manner and in a very courageous manner the  
11 questions that have been put to you.

12 Your testimony has now come to an end. So on behalf of my colleagues of the  
13 Chamber, I would like to wish you a very nice day and a lot of courage for the  
14 future.

15 THE WITNESS: [13:17:50](Interpretation) Very well, I understand.

16 PRESIDING JUDGE MINDUA: [13:17:54](Interpretation) Thank you very  
17 much.

18 (The witness is excused)

19 PRESIDING JUDGE MINDUA: [13:17:56](Interpretation)

20 Now I'd like to turn to the Office of the Prosecutor.

21 I believe that -- I have understood that your next witness, the 28th witness, will  
22 be 0639, and it's for the 29th of March, is that correct?

23 MR DUTERTRE: [13:18:23](Interpretation) Yes, indeed, Mr President. These  
24 are unforeseen circumstances that we have absolutely no control over. The  
25 Chamber and parties have been informed of the situation. I won't go into the

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1 details of one witness and the other witness was not available either. So we  
2 have tried to find alternative witnesses, but with the COVID issue and the  
3 scheduling, it's very difficult like that just off the wall to react in the current  
4 circumstances.

5 However, for the period after that, in the months of April and May and up to  
6 the 23rd of July, everything seems to be in place. There might be a day or two  
7 out, but otherwise everything is in place, unless there are last-minute surprises.  
8 So I would really to ask the Chamber to accept our apologies for this gap in the  
9 next few days, if you like.

10 PRESIDING JUDGE MINDUA: [13:19:19](Interpretation) Very well,

11 Mr Prosecutor, the Chamber is of course alive to the difficulties that we are  
12 encountering due to the COVID virus. Very well.

13 Now, all that remains for me to do is to thank the parties and participants for  
14 your exemplary work today in collaboration. I'd also like to express my  
15 gratitude to the court reporters, to the interpreters, and, without forgetting our  
16 security officers, without whom we could not work, and I'd like to thank them  
17 too. And I would like to thank our public, which is often very patient, and  
18 thank them as well.

19 So we shall adjourn and we shall reconvene on 29 March at 9.30 a.m.

20 Court is adjourned.

21 THE COURT USHER: [13:20:21] all rise.

22 (The hearing ends in open session at 1.20 p.m.)