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Trial Hearing
MLI-OTP-P-0608

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Monday, 1 November 2021
10 (The hearing starts in open session at 10.02 a.m.)
11 THE COURT USHER: [10:02:44] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA [10:02:56](Interpretation) Court is in session
15 Good morning to all and a very good beginning to this week.
16 Mr Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [10:03:21] 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: [10:03:40](Interpretation) Thank you very much,
22 Mr Courtroom Officer.
23 So now, as we do every morning, we are going to take the appearances.
24 Mr Prosecutor, please.
25 MR SANDOVAL: [10:03:56] Good morning, Mr President. Good morning,

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1 your Honours. I'm Raymond Sandoval, trial lawyer in the Office of the Prosecutor,
2 appearing with fellow trial lawyer, Dianne Luping. Senior trial lawyer, Gilles
3 Dutertre, wishes to convey his apologies for his inability to be present in the
4 courtroom this morning.

5 PRESIDING JUDGE MINDUA: [10:04:19](Interpretation) Thank you very much, Mr
6 Prosecutor.

7 Now over to the Defence.

8 Counsel.

9 MS TAYLOR: [10:04:20] Good morning, Mr President. Good morning
10 your Honours. Good morning to everyone in the courtroom and around the
11 courtroom. The Defence for Mr Al Hassan is represented today by Maître Julia
12 Basile and myself, Melinda Taylor. Thank you.

13 PRESIDING JUDGE MINDUA: [10:04:34](Interpretation) Thank you very much,
14 Ms Taylor.

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

16 Maître

17 MR KASSONGO: [10:04:43](Interpretation) Good morning, Mr President. Good
18 morning, your Honours. Good morning, everyone. And a very good beginning of
19 the week to all - to the Chamber and to all. The Legal Representatives of Victims
20 this morning, comprises Madam Prisque Dipanga, who is my assistant, and myself,
21 Mr Kassongo. We'd like to thank you very much.

22 PRESIDING JUDGE MINDUA: [10:05:09](Interpretation) Thank you very much,
23 Maître Kassongo.

24 This morning, we shall continue with the testimony of the Prosecution Witness P-0608.

25 So I shall now turn to Madam Witness.

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1 Good morning, Madam Witness. How are you?

2 WITNESS: MLI-OTP-P-0608 (On former oath)

3 (The witness speaks French)

4 (The witness gives evidence via video link)

5 THE WITNESS: [10:05:34](Interpretation) Good morning, Mr President. I am very
6 well. Thank you.

7 PRESIDING JUDGE MINDUA: [10:05:36](Interpretation) Thank you very much,
8 Madam Witness. The Chamber would like to very sincerely thank you for your
9 availability.

10 THE WITNESS [10:05:41](Interpretation) You are welcome

11 PRESIDING JUDGE MINDUA: [10:05:44](Interpretation) I'd like on behalf of the
12 Chamber once again to welcome you and remind you that you are still under oath,
13 and that you should speak the truth, the whole truth and nothing but the truth.

14 THE WITNESS: [10:05:56](Interpretation) Inshallah

15 PRESIDING JUDGE MINDUA: [10:06:02](Interpretation) And I'd like to remind you
16 that we all need to speak slowly, clearly and observe pauses.

17 Without further ado, I shall hand over to the Defence for the continuation and
18 conclusion of the cross-examination. Ms Taylor.

19 MS TAYLOR: [10:06:22] Thank you, Mr President.

20 QUESTIONED BY MS TAYLOR (Continuing)

21 Q. [10:06:26] Good morning, Madam Witness. How are you today?

22 A. [10:06:32] Good morning. I am well, *alhamdulillah*.

23 Q. [10:06:36] Now, Madam Witness, on Friday you described meeting a black man
24 who gave you a flier. And I'm going to quote from the transcript. It's transcript 154,
25 page 22, lines 11 to 17, you were asked:

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1 "Ms Witness, how did you know that this person was [...] Adama?

2 And your response was:

3 "I asked subsequently. I aske [REDACTED] of the people I found there. [REDACTED]

4 [REDACTED] and I asked the shop keepers and [REDACTED] too and they told me that the

5 black man, well, I'm not the first person [...] he gave that flier to. They said it was

6 Adama, a Senegalese man. There we are. Otherwise, he did not know him and I

7 [don't] know him at the time when he gave me that.

8 A. [10:07:44] I haven't really understood. I didn't understand the black man. On

9 what I said.

10 Q. [10:07:52] There may be errors in the transcript

11 But, Madam Witness, my question is: Did you meet this individual who gave you

12 the flier when you came back to Timbuktu [REDACTED]

13 A. [10:08:12] Yes, I did meet him when I came back. Well, I can't say it is a

14 meeting as such because it was very brief, and, after that, I just saw him when I was

15 leaving Timbuktu as well. So there were no relations as such between the two of us.

16 Nothing at all.

17 Q. [10:08:35] Now, Madam Witness, when you spoke to locals and they told you

18 about a person called Adama, did you hear that he was kind with the locals?

19 A. [10:08:56] Yes, I was told that. I told you that my sister - well, it was not much

20 luck that I had. Just a piece of paper. But there were some women who got clothes

21 and hijabs, because he gave out hijabs. But it was something that was just told to me.

22 I didn't see it myself and nor did I receive any clothes from him.

23 Q. [10:09:28] If I could bring up Defence tab 22. If it could be shown on evidence 1.

24 It [REDACTED] and it should not be shown to the public. It's going to be on

25 evidence 2, apparently.

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1 Mr President, may I ask a question in private session?

2 PRESIDING JUDGE MINDUA: [10:10:04](Interpretation) Yes, indeed.

3 Mr Courtroom Officer, private session, please.

4 (Private session at 10.10 a.m.)

5 THE COURT OFFICER: [10:10:15] We're in private session, Mr President.

6 PRESIDING JUDGE MINDUA: [10:10:19](Interpretation) Thank you very much,

7 Mr Courtroom Officer.

8 Ms Taylor.

9 MS TAYLOR:

10 Q. [10:10:27] Madam Witness, are you able to read what's on the screen

11 A. [10:10:34] There's nothing up on the screen.

12 Q. [10:10:43] Can you see something now?

13 A. [10:10:52] Well, it's somewhat small, but I can read it, yes.

14 MS TAYLOR: [10:10:57] Perhaps if the interpreters could read it out so we can
15 ensure that the witness has all the words.

16 THE INTERPRETER: [10:11:08] Sight translation:

17 "What has become

18 THE WITNESS: [10:11:11](Interpretation) I have read -- I have read it. I have seen
19 it. I have read what is written.

20 THE INTERPRETER: [10:11:17] Would counsel still like a sight translation?

21 MS TAYLOR: [10:11:20] Yes, please.

22

23

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1 End of sight translation.

2 PRESIDING JUDGE MINDUA: [10:11:41](Interpretation) Ms Taylor.

3 MS TAYLOR:

4 Q. [10:11:43] Madam Witne [REDACTED]

5 A. [10:11:46] Yes.

6 Q. [10:11:4 [REDACTED]

7 A. [10:11:52] [REDACTED]

8 Q. [10:11:57] Madam Witn [REDACTED] you

9 [REDACTED] spoke to locals about someone

10 called Adama

11 A. [10:12:12] I didn't understand. I didn't understand the question.

12 Q. [10:12:29] I apologise, Madam Witness.

13 [REDACTED] after you spoke to locals

14 about an individual called Adama?

15 A. [10:12:45] Yes. Yes, of course. [REDACTED]

16 [REDACTED] the day of the liberation of Timbuktu from the armed groups

17 Q. [10:13:08] Madam Witness, do you also rec [REDACTED] a person called

18 Adama - or Adam - sorry - who was Algerian?

19 A. [10:13:24] No. I remember another individual whom I saw, and I deduced that

20 he was an Algerian. I didn't know him. But, generally speaking, the Arabs from

21 Timbuktu and the Tamasheqs, we know them because I've been in Timbuktu a long

22 time. But that person, I saw him during the occupation when I returned to

23 Timbuktu [REDACTED] and it was he whom I call the Algerian. It's not Adama.

24 There's no confusion there.

25 The Algerian is a white person, a person who has whiter skin than our Arabs do,

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1 generally speaking, and he was quite fine featured.

2 I didn't know him. I just said that he was an Algerian. I was told that he was an
3 Algerian, but he's not somebody I know. I didn't know him.

4 Q. [10:14:37] If I could bring up Defence tab 3. It's [REDACTED] If that
5 could be shown.

6 And if we could scroll down to the paragraphs, starting with:

7 [REDACTED]

8 So it's on pag [REDACTED] (sic).

9 And, Madam Witness, can you read two - can you see two paragraphs there at the
10 top of this page?

11 A. [10:15:46] Yes, yes, I can see it.

12 MR SANDOVAL: [10:15:50] Mr President?

13 PRESIDING JUDGE MINDUA: [10:15:51](Interpretation) Yes, Mr Prosecutor.

14 MR SANDOVAL: [10:15:52] Mr President, before asking the witness about a specific
15 paragraph in this document, the witness should perhaps first be asked whether she
16 recognises the document or is familiar with, before proceeding to read out specific
17 portions thereof.

18 MS TAYLOR: [10:16:05] Certainly, Mr President.

19 PRESIDING JUDGE MINDUA: [10:16:13](Interpretation) Yes.

20 MS TAYLOR:

21 Q. [10:16:16] So if we could go to the first page. We can see - Madam Witness,
22 can you see the first page?

23 A. [10:16:41] No, I can't see a thing. There's nothing on the screen.

24 Q. [10:16:49] Can you see anything now?

25 A. [10:16:52] Yes.

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1 Q. [10:16:56] Can you see the titl [REDACTED]

2 A. [10:17:07] Yes.

3 Q. [10:17:07] And if we scroll down to the very bottom of this page, [REDACTED]

4 [REDACTED] If we can

5 A. [10:17:25] [REDACTED]

6 Q. [10:17:28] So if we can now go to page [REDACTED] (sic).

7 And, Madam Witness, can you see the first two paragraphs?

8 MR SANDOVAL: [10:17:47] Mr President?

9 PRESIDING JUDGE MINDUA: [10:17:49](Interpretation) Mr Prosecutor.

10 MR SANDOVAL: [10:17:50] Just for the record, I believe we're looking at page [REDACTED]

11 Not [REDACTED].

12 MS TAYLOR: [10:17:57] Yes, you're correct. Yes, it [REDACTED]

13 PRESIDING JUDGE MINDUA: [10:18:05](Interpretation) Indeed.

14 MS TAYLOR: [10:18:15] Madam Witness, can you see the second paragraph, which
15 starts with:

16 [REDACTED]
17 [REDACTED] (Overlapping speakers)

18 THE INTERPRETER: [10:18:24] The interpreter cannot find the section. Ah, yes,
19 she can.

20 THE WITNESS: [10:18:29](Interpretation) Yes, yes, I can - I can see that.

21 THE INTERPRETER: [10:18:34] And she mumbles.

22 MS TAYLOR:

23 Q. [10:18:40] Now, Madam Witne [REDACTED] 'Adam the Algerian'.

24 Is this the same person as Adama or a different person?

25 A. [10:18:49] No, it is not Adama. And I wonder even -- there really is confusion

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1 here. The Algerian was a very light-skinned person, whilst Adama is a black man.

2

3 it's not one in the same person.

4 Q. [10:19:22] No

5

6 Is this something that you heard when you came to Timbuktu?

7 A. [10:19:37] Yes, yes, of course. Yes.

8 But, really, this name "Adam", I don't know how it came to be here because Adama is

9 a black person and he's from Senegal. He's not an Algerian.

10 Q. [10:20:11] Now, on Friday, transcript 154, page 52, the Prosecution showed you

11 (sic) and I'll just read out from the

12 transcript It's lines 10 to 20.

13 It says: "[...] that we see on the first page, is this the

14

15 Answer:

16 Question

17 Answer:

18 [Question:

19 and will [...]

20 [Interpretation

21

22

23 Now, Madam Witness, you said that so

24 was this based on stories that you heard ?

25 A. [10:21:33] Yes, it's not just stories, because one does really meet the

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1 community, and I would gather testimony there. And Adama really had started by
2 being an Islamic policeman who was very heavy going - heavy with the women, and
3 then, subsequently, they changed their policy. And when the centre - the name was
4 changed, then the behaviour started to become softer.

5 These were the same people who arrested people, who hit people, and then they
6 changed their policy. They started giving people food. They started helping
7 people. They started giving women clothes. These are the same people.

8 [REDACTED]

9 [REDACTED] There we are.

10 Q. [10:22:45] Now, Madam Witness, at transcript 154, page 22, you said that when
11 you met this individual called Adama, you didn't know who he was. So when
12 people told you these accounts [REDACTED] is it correct that they didn't give you
13 a photo or specific description of the person they were talking about?

14 A. [10:23:12] As to a specific description to ascertain that it was a black person and
15 a Senegalese person, well, it was people who told me that he was Senegalese. He
16 didn't tell me himself. And since [REDACTED] I was aware that there was a person by
17 the name of Adama; that is true. But when he gave me the flier, I couldn't know that
18 it was him. And I was even surprised, and that's why I asked to ask - I asked
19 around me to find out who that person was. [REDACTED]
20 that's when I put two and two together.

21 And then, after the liberation, it was one person... It was people who changed
22 strategy towards the people. At the beginning, Adama was not good with the
23 population, but then subsequently he changed tack, he changed behaviour.
24 And somebody like Hamed Moussa, right till the bitter end, until he left, was the
25 Islamic commissioner. And I heard many stories about him. And it wasn't

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1 everything that I heard [REDACTED]

2 [REDACTED]

3 [REDACTED] Not at all. Not at all.

4 Q. [10:24:58] Now, Madam Witness, at transcript 154, page 77, lines 21, to page 78,
5 line 3, you were asked:

6 "[...] would you agree that there were many foreign chiefs of the Islamic group whose
7 names and positions were not known to the local people - local population?

8 Answer: "Yes. In reality that was true. The information would circulate, saying
9 that he might be this or that. But in reality the population did not have people on
10 the inside to know exactly who was what within the organisation and the
11 administration of the Salafists during the occupation.

12 So, Madam Witness, given these issues, is it correct that when you spoke to people in
13 [REDACTED] it was possible for them to make mistakes concerning the names of the
14 foreign-bearded ones?

15 A. [10:26:08] Yes, it is possible. It is possible. [REDACTED]

16 [REDACTED] yes, it is indeed possible. But one person or a person whom you've
17 heard -- so Adama, women who had problems with him, these are women who told
18 me that his name was Adama because they had experienced things with him. And
19 also, a relative of mine said that they had changed their behaviour, and rather than
20 giving people paper, they gave people clothes in Timbuktu. It was on the basis of
21 what people were saying and what I myself had experienced.

22 In January 2013, I thought that this Adama person was a good person, despite
23 everything, because I had not had personally a bad experience with him.

24 MS TAYLOR: [10:27:32] Mr President, I believe we can go into open session.

25 PRESIDING JUDGE MINDUA: [10:27:37](Interpretation) Mr Courtroom Officer,

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1 please.

2 (Open session at 10.27 a.m.)

3 THE COURT OFFICER: [10:27:43] We're back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [10:27:55](Interpretation) Thank you very much,
5 Mr Courtroom Officer.

6 Ms Taylor.

7 MS TAYLOR:

8 Q. [10:27:58] If I could bring up OTP tab 18, MLI-OTP-0022-0467.

9 Madam Witness, can you see that on your screen?

10 A [10:28:24] I can see it

11 Q. [10:28:33] Madam Witness, is it correct that when the Prosecution first showed
12 you this photo, you told them that you thought it was the person who gave you the
13 flier?

14 A. [10:28:47] Yes, that is what I said.

15 Q. [10:28:51] Now, last Friday, transcript 154, page 22, lines 19 to 23, you were
16 asked "Do you recall any other features of Adama? And you said: "No, I do not
17 recall. I do not really recall. Even today, if he was put before me, it's not certain I
18 would be able to recognise him.

19 Madam Witness, is it correct

20 A. [10:29:19] That is true. I do confirm.

21 Q. [10:29:22] Madam Witness, you can't be sure, can you, that the person you met
22 was actually Adama? Can you?

23 A. [10:29:30] This gentleman is the one I met in Timbuktu... As - as to whether this
24 gentleman is the one I met in Timbuktu and who gave me the flier, I can't say that. I
25 don't remember his face or anything, no.

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1 Q. [10:29:57] Now, Madam Witness, if we could bring up OTP tab 13. It's

2 MLI-OTP-0061-0044. It won't be shown to the public. Now, this is

3 a document -- Madam Witness, can you see this on your screen?

4 A. [10:30:31] Yes, I can see it. But on the screen, I can't read it. But I've also got it
5 on paper.

6 Q. [10:30:39] Excellent. Now, we're in open session. It's a document dated [REDACTED]

7 [REDACTED] That's correct?

8 A. [10:30:56] 2012, yes.

9 Q. [10:30:58] Yes, thank you for that clarification.

10 Now, can we scroll down to a sentence on the first page, starting with

11 [REDACTED]

12 Perhaps if we could enlarge it

13 Madam Witness, can you see this sentence?

14 A. [10:31:30] Yes

15 Q. [10:31:34] Does this refer to a prohibition on women going outside after 23 hours,
16 at night?

17 A. [10:31:45] Yes, that's what's written, yes.

18 Q. [10:31:54] And is that what you yourself heard at the time?

19 A. [10:32:00] No. It's with regard to the information that I gathered. But I wasn't
20 in Timbuktu at that time, and the prohibition of going out at night, that started when I
21 was there. And it was almost at dusk, without there being any reason to go out. If
22 they had no specific reason to go out, they had no right to go out.

23 Q. [10:32:39] Madam Witness, could you please read the last paragraph of the first
24 page, starting with the words (Interpretation) [REDACTED]

25 THE WITNESS: [10:32:56](Interpretation [REDACTED])

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2 MS TAYLOR:

3 Q. [10:33:07] I -- I apologise, Madam Witness. It was for you to read to yourself.

4 I apologise for that. I should have been more clear.

5 Could you read that last paragraph to yourself, simply because we are in open
6 session.

7 A. [10:33:19] Yes.

8 Very well. I've read it.

9 Q. [10:33:30] Now, Madam Witness, does this paragraph refer to a policy
10 concerning the veil that's related to a marketing campaign by Arabs?

11 A. [10:33:49]

12

13 And at the start, the first thing that was said was that wearing the veil was obligatory.

14 Which veil? It was the hijab, the complete black veil. And afterwards, there was
15 a - a lessening of the requirements, and then women could wear a light veil which
16 was sold.

17 That's the analysis that I made.

18 Q. [10:34:38] Madam Witness, did you hear about Hamed Moussa's wife selling
19 these types of clothes in the market?

20 A. [10:34:49] No. The women didn't -- no. That's - that's funny. It wasn't -- his
21 wife wasn't selling that. I know nothing about his wife. And I know that no
22 Tuareg women were selling anything at the market

23 Q. [10:35:16] Now, you've talked about a strict approach and a less strict approach.
24 Based on what you heard, was Hamed Moussa behind the stricter approach?

25 A. [10:35:32] I can't say that either. I really can't. I just don't know.

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- 1 Q. [10:35:47] [REDACTED]
2 [REDACTED]
3 If we could go into private session.
4 PRESIDING JUDGE MINDUA: [10:36:06](Interpretation) Indeed.
5 Court officer, private session, please.
6 (Private session at 10.36 a.m.)
7 THE COURT OFFICER: [10:36:12] We're in private session, Mr President.
8 PRESIDING JUDGE MINDUA: [10:36:20](Interpretation) Thank you very much,
9 court officer.
10 Ms Taylor.
11 MS TAYLOR: [10:36:25] Thank you, Mr President. I believe that there may be
12 a need for redactions
13 Q. [10:36:30] I apologise, Madam Witness. I'll put this question to you in private
14 session just to avoid any issues
15 Did you hear about there being a stricter approach to clothing being implemented at
16 the time [REDACTED]
17 A. [10:36:49] Yes. Yes. Of course.
18 Q. [10:37:03] If we could turn to p [REDACTED] 5. This
19 do you have that in front of you, Madam Witness?
20 Now Madam Witness, can you see [REDACTED] the market becoming the
21 hunting ground? The last sentence.
22 A. [10:37:52] Yes, yes, I've read it.
23 Q. [10:37: [REDACTED] to Hamed Moussa and the people working for
24 him at this time?
25 A. [10:38:04] [REDACTED] the Islamic police in the market. There were armed

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1 soldiers there, and they were the guards, the Islamic police. There were lots of them.
2 As soon as the market opened they would come. I saw them myself, other people
3 saw them too.
4 They looked - don't just look at the women, but you also have to respect on the
5 Friday the closing of the shops to go to pray. They also carry out inspections to see if
6 they are selling cigarettes or other prohibited items, and they also inspect the women.
7 It's like an inspection. Particularly, they are looking at the women - the clothing
8 women wear.

9 Q. [10:39:11] Now, Madam Witness, you've said that -- just now, this is what you
10 saw, but it's correct, isn't it, that you did not see a stricter approach when you were in
11 Timbuktu the first time? You only saw it when you came back [REDACTED]

12 A. [10:39:30] I haven't understood, really.

13 Q. [10:39:42] Madam Witness, you've referred to what you yourself saw. Is it
14 correct that you saw this stricter approach when you came back [REDACTED] and not
15 when you were in Timbuktu in the first days of the occupation?

16 MR SANDOVAL: [10:40:09] Objection, Mr President.

17 PRESIDING JUDGE MINDUA: [10:40:12](Interpretation) Yes, Prosecutor.

18 MR SANDOVAL: [10:40:13] Mr President, this question is misleading. It's -- I
19 believe it's - it's simplifying what the - what the witness has already stated.
20 The - the Defence counsel should refer specifically to what the witness has stated
21 rather than seeking to summarise.

22 PRESIDING JUDGE MINDUA: [10:40:32](Interpretation) Ms Taylor.

23 MS TAYLOR: [10:40:34] Mr President, I wasn't summarising. I was putting
24 a question to the witness.

25 PRESIDING JUDGE MINDUA: [10:40:43](Interpretation) Mr Prosecutor.

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1 MR SANDOVAL: [10:40:46] Mr President, just briefly. The entire approach of the
2 Defence counsel in reference to a stricter approach and a less strict approach has been
3 quite misleading. I believe the - the witness has never used those words in relation
4 to her - an approach in general. So if -- if the Defence counsel can be more - can be
5 clearer and more specific in relation to what she seeks to refer to.

6 MS TAYLOR: [10:41:15] I'll reformulate my question.

7 PRESIDING JUDGE MINDUA: [10:41:18](Interpretation) Indeed Please
8 reformulate.

9 MS TAYLOR:

10 Q. [10:41:21] Madam Witness, earlier, at page 17, you said: "I saw them myself
11 Were you referring to the period when you were back in Timbuktu [REDACTED] ?

12 MR SANDOVAL: [10:41:41] Could the Defence counsel specify the line numbers,
13 please.

14 PRESIDING JUDGE MINDUA [10:41:47](Interpretation) Prosecutor, I haven't given
15 you the floor. Please don't speak until I do because otherwise there are overlapping
16 speakers, and I don't -- I'm not able to hear what is said
17 What did you say, Prosecutor?

18 MR SANDOVAL: [10:42:03] I apologise -- I apologise, Mr President. The -- just to
19 point out if the Defence counsel could specify the line numbers. She merely referred
20 to the page of the transcript. Just for the clarity of the record and for everyone to be
21 able to follow easily, if the Defence counsel could specify the particular line numbers
22 that she's referring to.

23 MS TAYLOR: [10:42:25] (Overlapping speakers) Line 22.

24 PRESIDING JUDGE MINDUA: [10:42:26](Interpretation) Ms Taylor, if you be so
25 kind as to give a clarification.

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1 MS TAYLOR: [10:42:28] Line 22

2 THE WITNESS: [10:42:35](Interpretation) Can I answer now?

3 MS TAYLOR:

4 Q. Yes. Certainly, Madam Witness.

5 PRESIDING JUDGE MINDUA: [10:42:39](Interpretation) Please go ahead, Madam
6 Witness.

7 THE WITNESS: [10:42:43](Interpretation) Yes, it's important to say -- I have to
8 specify when I'm speaking about in my testimony. When I was able to say, "I saw
9 something," that was when I was in Timbuktu. [REDACTED]

10

11

12

13 [REDACTED] And afterwards - when I say "afterwards",
14 when I went to Timbuktu, I was able to see myself what happened.

15 I can't say that I saw something during a period when I wasn't in Timbuktu, however,
16 unless you want to say that my words are lies, then I understand, but then we can
17 go to the next question.

18 MS TAYLOR:

19 Q. [10:43:58] Madam Witness, I was simply trying to obtain clarity as to the period
20 that you're talking about when you say that you were in Timbuktu. Specifically,
21 were you speaking about when you were there [REDACTED]

22 A. [10:44:16] That's well understood When I speak - when I say, "I saw
23 something," there are things that I heard. For example, I said a moment ago, with
24 regards to the Senegalese person, and then there was a person who was being very
25 difficult with women, who was arresting women, flogging them, but I didn't see that

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1 in Timbuktu. And I would revise my opinion or my way of seeing that person when
2 I was there. [REDACTED]

3 Q. [10:44:58] Now, Madam Witness, I'd like to play a video. It's Defence tab 41,
4 [REDACTED] And we'll play the first
5 10 seconds without sound.

6 (Viewing of the video excerpt)

7 THE WITNESS: [10:45:26](Interpretation) It's good.

8 MS TAYLOR:

9 Q. [10:45:31] Can you see it, Madam Witness? We're going to play it without
10 sound for 10 seconds

11 A. [10:45:41] Yes.

12 (Viewing of the video excerpt)

13 THE WITNESS: [10:45:58](Interpretation) Yes.

14 MS TAYLOR:

15 Q. [10:45:59] Madam Witness, do you recognise this individual?

16 A. [10:46:05] Yes

17 Q. [10:46:07] Who is it?

18 A. [10:46:10] Mohamed Al Faqi.

19 Q. [10:46:14] So we will play it with sound. The Arabic transcription is Defence
20 tab 42. It's MLI-OTP-0031-0444. The French translation is Defence tab 31. It's
21 MLI-D28-0005-7250. And if we could have an interpretation as well. So we'll start
22 from the beginning. And we will play now. If the interpreters are ready, we will
23 play now.

24 (Viewing of the video excerpt)

25 THE INTERPRETER: [10:47:00] (Interpretation of video excerpt) "We the police

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1 asked women of the town to wear clothing in accordance with Sharia when they left
2 to go to work, when they left their houses to go to work. But unfortunately, we don't
3 have the means to make available dress in accordance with Sharia in its doctrinal
4 concept 100 per cent. The people do not have the means to obtain clothing in
5 accordance with Sharia, and that is why we have only asked women to wear
6 a covering object. That is to say, to wear what they have as a covering object. The
7 situation can be resumed as follows, if God so wishes, until such time as dress in
8 accordance with Sharia in its doctrinal concept is available. With regards to the
9 measures aiming to carry out controls in the streets, the issue depends on the
10 appearance or not of irregularities. That is to say, it's sometimes necessary that the
11 person in charge of Hesbah exercises a pressure, as it is sometimes necessary to
12 be -- provide for an allowance in accordance with the situation that there is in the
13 street.

14 MS TAYLOR:

15 Q. [10:49:05] Now, Madam Witness, at the end of this video

16 A. [10:49:07] Yes

17 Q. [10:49:08] - the person speaking refers to *Hesbah* or the morals brigade
18 sometimes exercising a pressure in connection with the dress code. Is this consistent
19 with what you heard and saw when you came to Timbuktu [REDACTED] that it was the
20 *Hesbah* or the morals brigade under Hamed Moussa that were responsible for this?

21 MR SANDOVAL: [10:49:39] Mr President.

22 PRESIDING JUDGE MINDUA: [10:49:40](Interpretation) Prosecutor.

23 MR SANDOVAL: [10:49:41] The Prosecution objects on the basis that the question
24 is - is a compound one. It - it combines several questions in one The Defence
25 counsel should -- should break it down, please.

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1 PRESIDING JUDGE MINDUA: [10:49:56](Interpretation) Ms Taylor

2 MS TAYLOR: [10:49:58] Mr President, it was only one question, but I'm happy to
3 reformulate.

4 PRESIDING JUDGE MINDUA: [10:50:08](Interpretation) Indeed.

5 MS TAYLOR:

6 Q. [10:50:09] Now, Madam Witness, at the end of this video, did you hear the
7 person speaking, say that it was the *Hesbah* who would sometimes exercise a pressure
8 in relation to the application of these rules?

9 A. [10:50:26] I heard it. I didn't hear the word "*Hesbah*". We understand them as
10 the Islamic police. And I heard the same term from his mouth. That's it.

11 Q. [10:50:45] Have you heard the phrase "the morals brigade" or "the morals police"?
12 Is that something you're familiar with?

13 A. [10:50:54] Yes. In the translation, yes.

14 Q. [10:51:11] Now, Madam Witness, when you came to Timbuktu [REDACTED]
15 [REDACTED] based on what you saw and heard, was it Hamed Moussa and the persons
16 working for Hamed Moussa who were applying these rules?

17 A. [10:51:32] Yes. What - as far what I saw, it was them.

18 Q. [10:51:43] Now, is it correct that the veil that women were asked to wear was
19 a traditional Timbuktu veil worn by Arab women?

20 A. [10:51:54] Yes, worn by Arab women. Even Songhai women wear it. I wear it.
21 And during the crisis as well, I also wore it.

22 Q. [10:52:15] And women were not required to wear gloves?

23 A. [10:52:20] At the start, they required it, but then things were - there was more
24 suppleness, and then it wasn't the case anymore. But there - there was a time when
25 they asked for the complete veil to be worn, and then that was dropped.

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1 The essential part was to be well dressed, and, above all, to wear the veil of Arab
2 women and that would do it.

3 Q. [10:53:01] Now, although black was advised, is it correct that women could still
4 wear coloured veils?

5 A. [10:53:12] Yes. Yes. The proof is that I have a well-coloured veil and I never
6 had a problem. It's orange and red. I -- I like those colours.

7 Q. [10:53:37] It's correct, isn't it, that apart from the flogging incident at the BMS
8 that you saw [REDACTED] and the couple that you saw being flogged on TV, you did
9 not know of any other cases of people being flogged?

10 A. [10:54:00] Yes I'm not aware of other cases, no

11 Q. [10:54:06] Now, on Friday, transcript 154, page 62, you spoke of a protest
12 conducted by Tuareg women who sold fish. And you mentioned at lines 19 to 22
13 that they took off their veils.

14 Did they also threaten to disrobe

15 A. [10:54:31] Yes, that's what they said. But I also have to state, I wasn't in
16 Timbuktu when that happened.

17 Q. [10:54:44] And did this take place in front of the BMS?

18 A. [10:54:52] No. It happened at the market where the women sell fish. And it
19 was when they wanted to demonstrate that they went in front of the BMS, when they
20 wanted to carry out their demonstration.

21 Q. [10:55:14] And was this protest led by someone called Tina?

22 A. [10:55:24] From what I heard, yes.

23 Q. [10:55:29] And did you hear that Tina was taken inside the BMS to discuss the
24 women's concerns?

25 A. [10:55:43] Yes.

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1 Q. [10:55:52] Now, as someone w [REDACTED] saw the ATM room, is
2 it correct that this room faces the street?

3 A. [10:56:12] That's correct.

4 Q. [10:56:16] So was it possible for people who lived or worked near the BMS to see
5 inside this ATM room?

6 A. [10:56:35] Yes, it's possible. It's quite clear. There are two doors. If the glass
7 door is not shut, then you can see inside. And when there are women inside, they
8 didn't close the window. So you could see that they were in there.

9 Q. [10:56:56] And this ATM room, it wasn't possible to access this room from inside
10 the bank, was it? It has a separate door

11 A. [10:57:08] Yes, it's not possible.

12 Q. [10:57:19] Now, on Friday, at transcript 154, page 34, you referred to meeting
13 a woman and you thought her name might be [REDACTED] and this woman told you
14 about her daughter.

15 Do you recall that?

16 A. [10:57:39] Yes, of course.

17 Q. [10:57:42] Is it correct that you were not told where the daughter was supposed
18 to have been taken in 2012?

19 A. [10:57:53] That's correct.

20 Q. [10:58:00] And you were told that the daughter was taken by Islamists?

21 A. [10:58:09] Yes.

22 Q. [10:58:13] You weren't told who

23 MR SANDOVAL: [10:58:21] Mr President.

24 THE WITNESS: [10:58:21](Interpretation) No.

25 PRESIDING JUDGE MINDUA: [10:58:24](Interpretation) Prosecutor.

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1 MR SANDOVAL: [10:58:25] Again, Mr President, if the Defence counsel could refer
2 specifically to - to what the witness said in the transcript. I believe it's page 32 of
3 transcript 154, lines 20 to 21

4 MS TAYLOR: [10:58:39] Mr President, I'm putting questions to the witness.

5 PRESIDING JUDGE MINDUA: [10:58:49](Interpretation) Yes Prosecutor, you are
6 referring to which question?

7 MR SANDOVAL: [10:58:52] Mr President

8 MS TAYLOR: [10:58:57] None of my questions -- if I could -- please, Mr President, if
9 I could just clarify. None of my questions relate to what she said. I was simply
10 refreshing the witness's memory that this is something she'd already spoken about,
11 and I'm then putting questions to her.

12 So the witness has answered on the basis of my questions, which we're entitled to do
13 in cross-examination. This isn't - there's no need for me to read out things which
14 I'm not putting to the witness.

15 PRESIDING JUDGE MINDUA: [10:59:29](Interpretation) Prosecutor, I rather agree
16 with Ms Taylor. Please be seated. We are going to move on.

17 MS TAYLOR:

18 Q. [10:59:41] Now, it's correct, isn't it, that you yourself did not meet this daughter?

19 A. [10:59:50] No, I didn't meet her.

20 Q. [10:59:53] And you didn't know the daughter either before or during 2012?

21 A. [11:00:00] Or even after. I never met her.

22 MS TAYLOR: [11:00:09] I have a few detailed questions on this, these questions
23 that should be put in private session or may I continue in open session?

24 PRESIDING JUDGE MINDUA: [11:00:27](Interpretation) We shall go into private
25 session, Ms Taylor.

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1 Court officer.

2 THE COURT OFFICER: [11:00:35] Your Honours, we are in private session. We
3 were in private session and remain in private session.

4 MS TAYLOR: [11:00:46] I apologise, then.

5 PRESIDING JUDGE MINDUA: [11:00:48](Interpretation) Very well.

6 Ms Taylor, please continue.

7 MS TAYLOR:

8 Q. [11:00:53] Now, at transcript 154, page 34, lines 11 to 13, you said that this
9 person was complaining a great deal about the lack of assistance; that she was
10 a member of an association of victims and she was complaining that no one was
11 helping the girl.

12 Now, did this person explain to you what type of assistance she was looking for

13 A. [11:01:23] Yes. She talked about the situation of her daughter who was no
14 longer going to school and who was psychologically affected.

15 Q. [11:01:44] And did she say what type of help she wanted with this?

16 A. [11:01:51] No, she didn't tell me.

17 Q. [11:01:59] Now, you said that she had mentioned that she was an association
18 of - she was a member of an association of victims. Did she tell you who this
19 association was?

20 A. [11:02:11] No. Nor did I ask. And I'm not a member of an association of
21 victims.

22 Q. [11:02:25] When you met he [REDACTED]

23 [REDACTED]

24 A. [11:02:34] No. [REDACTED]

25 [REDACTED]

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1 [REDACTED] that's when she first mentioned her case [REDACTED]

2 [REDACTED]

3 PRESIDING JUDGE MINDUA: [11:03:16](Interpretation) Ms Taylor, now, according
4 to our schedule, we should be breaking at 11 for the break, but I would like to know
5 how much longer you need to wrap up your cross-examination.

6 MS TAYLOR: [11:03:33] Mr President, I probably only got about seven questions to
7 go. So I think it might be in the interests of everyone if we just conclude, if that
8 would be amenable to the Chamber.

9 PRESIDING JUDGE MINDUA: [11:03:53](Interpretation) Very well. Then we shall
10 continue

11 MS TAYLOR:

12 Q. [11:03:56] Madam Witness, could you describe [REDACTED]

13 [REDACTED] ?

14 A. [11:04:05] No, really, I do not recall. I really don't recall. [REDACTED]

15 [REDACTED] in Bamako, Timbuktu; so I really can't
16 tell you. I can't

17 Q. [11:04:29] Now, you mentioned that this - this lady discussed what happened
18 to her daughter [REDACTED] Did other individuals do the same?

19 MR SANDOVAL: [11:04:41] Mr President?

20 PRESIDING JUDGE MINDUA: [11:04:46](Interpretation) Mr Prosecutor

21 MR SANDOVAL: [11:04:49] I believe the question is misleading. I don't believe
22 that the - that this individual described what happened to her daughter [REDACTED]

23 [REDACTED]

24 MS TAYLOR: [11:05:02] I have the reference.

25 PRESIDING JUDGE MINDUA: [11:05:07](Interpretation) Indeed.

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1 MS TAYLOR: [11:05:09] It's page 29, line 16. It says: "[...] she first mentioned her

2 cas [REDACTED]

3 Q. [11:05:22] Now, Madam Witness, you stated that this lady mentioned this case

4 [REDACTED] Did other individuals do the same?

5 A. [11:05:33] I said no.

6 Q. [11:05:37] Madam Witness, do you know an individual called [REDACTED]

7 A. [11:05:49] [REDACTED] yes.

8 Q. [11:05:59] A [REDACTED] ?

9 A. [11:06:02] Yes.

10 Q. [11:06:03] And to your knowledge, did she play a role in identifying and
11 assisting female victims from 2012?

12 A. [11:06:12] I do not know I do not know

13 MS TAYLOR: [11:06:22] Mr President, I don't have any further questions.

14 PRESIDING JUDGE MINDUA [11:06:28](Interpretation) Thank you very much,
15 Ms Taylor. You kept your word.

16 So I'm turning to the Office of the Prosecutor to ascertain whether there are any
17 further questions.

18 Mr Prosecutor, please.

19 MR SANDOVAL: [11:06:41] Mr President, we have no further questions.

20 PRESIDING JUDGE MINDUA: [11:06:45](Interpretation) Very well. Thank you
21 very much.

22 So it would seem to me that this marks the end of Madam Witness's testimony. So I
23 shall turn now to the witness.

24 Madam Witness, we have finally reached the end of your testimony. So, on behalf of
25 Chamber, I would like to very sincerely thank you for having assisted us in

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1 establishing the truth in the case concerning Mr Al Hassan. I am all the more
2 grateful for your availability and for the fact that you have answered the questions so
3 clearly.

4 As we are still in private session, Mr Courtroom Officer, let us now move into open
5 session, please.

6 (Open session at 11.07 a.m.)

7 THE COURT OFFICER: [11:08:00] We're back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [11:08:09](Interpretation) Thank you very much,
9 Mr Courtroom Officer.

10 So, Madam Witness, your testimony is now over. I wish you good luck and a great
11 deal of courage in the future.

12 (The witness is excused)

13 PRESIDING JUDGE MINDUA: [11:08:30](Interpretation) Now, before rising today, I
14 would like to thank all the parties and participants, our court reporters, our
15 interpreters, our security guards and our public.

16 Just one last point of detail. Mr Prosecutor, what happens next with regard to your
17 witnesses?

18 Madam Prosecutor.

19 MS LUPING: [11:09:11] Mr President, your Honours, as for the next witnesses, and,
20 as you would be aware, the Prosecution has sent an email. It is the subject of
21 litigation, I believe. There are some issues that have been raised.

22 What I can restate though is that the Prosecution is ready to proceed with Witness 642,
23 even from 4 November, if the Chamber was to agree with that proposal. But it is
24 a matter of some discussion, I believe.

25 PRESIDING JUDGE MINDUA: [11:09:39](Interpretation) Very well.

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- 1 Now, of course, the Chamber has received your written submissions and a decision
- 2 will be taken in this regard.
- 3 We shall now rise.
- 4 Court is adjourned.
- 5 THE COURT USHER: [11:09:54] All rise.
- 6 (The hearing ends in open session at 11.09 a.m.)