

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.

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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?

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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."

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- 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.

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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

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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 PRESIDING JUDGE MINDUA: [9:57:49](Interpretation) Thank you very
- 9 much.
- 10 Ms Sutherland.
- 11 MS SUTHERLAND: [9:57:52]
- 12 Q. [9:57:53] Madam Witness, I quote the statement:
- 13 "A person [REDACTED] a person [REDACTED] came to meet me in Timbuktu,
- 14 [REDACTED] would write down the names of
- 15 the victims and take the statements, but I don't know who she was working
- 16 for."
- 17 A. [9:58:47] Yes.
- 18 Q. [9:58:49] [REDACTED]
- 19 [REDACTED]"
- 20 A. [9:59:02] Yes.
- 21 Q. [9:59:03] "They spoke to each other. Afterwards, they asked me if what
- 22 [REDACTED] said was true about what had happened to me, and I confirmed
- 23 that this was the case."
- 24 A. [9:59:26] Yes.
- 25 Q. [9:59:27] "Another time, I saw [REDACTED]"

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- 1 A. [9:59:37] Yes.
- 2 Q. [9:59:39] "While I was in [REDACTED] and those with whom she
- 3 worked [REDACTED]"
- 4 A. [9:59:55] Yes.
- 5 Q. [9:59:57] "They called me [REDACTED] to tell what had happened
- 6 to me during the events and [REDACTED]"
- 7 A. [10:00:15] Yes.
- 8 Q. [10:00:18] "There [REDACTED] at the same
- 9 time, including a girl called" redacted "who had been forcibly married."
- 10 A. [10:00:40] Yes.
- 11 Q. [10:00:42] So, Madam Witness, I just have some questions arising.
- 12 A. [10:00:56] Yes.
- 13 Q. [10:00:57] When did you first meet [REDACTED]
- 14 A. [10:01:05] I don't remember. I don't remember what period it was.
- 15 Q. [10:01:28] Do you remember how you first met [REDACTED]
- 16 A. [10:01:33] Yes, these events happened a long time ago, but I don't
- 17 remember -- I don't remember that all well.
- 18 Q. [10:01:57] Are you able to tell us what you remember about how you first
- 19 met her?
- 20 A. [10:02:07] I just remember that we -- my name was -- that our names were
- 21 taken and we just gave statements with regards to what had happened to us.
- 22 Q. [10:02:43] Madam Witness, I'm asking about the first time that you met
- 23 [REDACTED] Did you give her a statement immediately?
- 24 A. [10:03:04] Yes, I told her what had happened to me. That was the reason
- 25 why I met her.

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- 1 Q. [10:03:30] Did you find her or did she find you?
- 2 A. [10:03:38] How? Tried to find how? I don't understand the question.
- 3 Q. [10:04:02] [REDACTED]?
- 4 A. [10:04:07] [REDACTED] It was their -- or it
- 5 was their project which came to see us, which came to our village.
- 6 Q. [10:04:38] Was this the [REDACTED] project that came to your village?
- 7 A. [10:04:45] Yes [REDACTED] project that we saw.
- 8 Q. [10:05:00] So you told us that she came to meet you in Timbuktu with
- 9 [REDACTED]?
- 10 A. [10:05:18] No, [REDACTED]
- 11 Q. [10:05:40] [REDACTED] about her? Are you able to tell us?
- 12 A. [10:05:52] People from th [REDACTED] project came to see us at home. We
- 13 hadn't met them before that. They were the people who came to see us.
- 14 Q. [10:06:31] Madam Witness, can you describe those people, please?
- 15 A. [10:06:38] [REDACTED] came with a [REDACTED] person, she came with a [REDACTED] person.
- 16 Q. [10:07:00] Was the -- excuse me. Was the [REDACTED] person a man or
- 17 a woman?
- 18 A. [10:07:10] It was a man. It appeared to be a man.
- 19 Q. [10:07:29] What language did they speak?
- 20 A. [10:07:36] He spoke a language which wasn't French, which I didn't
- 21 understand, bu [REDACTED] wrote things down.
- 22 Q. [10:08:08] And what language were you speaking [REDACTED]?
- 23 A. [10:08:14] We were speaking in Songhai.
- 24 Q. [10:08:27] Did she tell you what th [REDACTED] person was saying?
- 25 A. [10:08:33] No.

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1 Q. [10:08:48] Did she tell the [REDACTED] person what you were saying?

2 A. [10:08:54] We didn't speak the same language as the [REDACTED] man, unless
3 somebody was translating. So we couldn't communicate like that.

4 Q. [10:09:24] And was anybody --

5 THE INTERPRETER: [10:09:24] "Couldn't communicate with him", corrects
6 the --

7 MS SUTHERLAND:

8 Q. [10:09:27] Was anybody translating for him?

9 A. [10:09:33] No, there wasn't somebody who was translating for the [REDACTED]
10 man.

11 Q. [10:09:51] Why did you agree to meet [REDACTED]?

12 A. [10:10:14] Because we were injured; that's the reason why I accepted to
13 meet her.

14 Q. [10:10:28] Did they -- did you hope to get assistance from them?

15 A. [10:10:37] I wasn't expecting help, I didn't even know that anyone could
16 give us help. That's not something we were told.

17 Q. [10:11:02] Earlier you told us that if you were injured, you'd look for
18 assistance. Is that what you were looking for?

19 MR GARCIA: [10:11:29](Interpretation) I have an objection, your Honour.
20 So the question has -- well, the witness has already answered this question, this
21 was in the previous lines where it was put. And we also have to recall the
22 instructions of the VWU concerning confronting the witness. This was done
23 on several occasions and the witness has clearly replied with regards to this.

24 PRESIDING JUDGE MINDUA: [10:11:58](Interpretation) Ms Sutherland, I
25 agree with the Prosecutor, the witness has already answered. And

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1 furthermore, please remember what I said, there is also perhaps a legal
2 problem when it comes to legal terminology, because when the witness says
3 "help", it could be financial help, it could be judicial help. We don't know.
4 So these are terms which could lead to confusion. Whatever the case, she's
5 already replied so we can move on.

6 MS SUTHERLAND: [10:12:34]

7 Q. [10:12:36] Madam Witness, when you were speaking to [REDACTED] and the
8 [REDACTED] person, were members of your family present?

9 A. [10:12:48] I was there [REDACTED]

10 Q. [10:13:13] Do you know a person called [REDACTED]?

11 A. [10:13:37] [REDACTED]? No, I don't remember.

12 Q. [10:13:43] Could I ask you to turn to Defence tab 24.

13 The reference number is MLI-OTP-0071-0477-R01, at page 0479. Madam
14 Witness, can you see the document?

15 A. [10:14:57] Yes, I can see the document on the screen.

16 Q. [10:15:01] Do you recognise this document?

17 A. [10:15:06] (No interpretation)

18 PRESIDING JUDGE MINDUA: [10:15:16](Interpretation) Prosecutor.

19 MR GARCIA: [10:15:20](Interpretation) Just a procedural question so we
20 don't get lost here. I think she's just being shown the first page here, and I
21 understand the question is relevant, but she does have to be shown the entire
22 document so that the witness has the opportunity to look at it with regards to
23 an answer to this question.

24 PRESIDING JUDGE MINDUA: [10:15:41](Overlapping speakers) Maître
25 (Overlapping speakers)

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1 MS SUTHERLAND: [10:15:41](Overlapping speakers) my friend's
2 pre-empted me, I was about to ask.

3 *Madame la greffière ?*

4 PRESIDING JUDGE MINDUA: [10:15:54](Interpretation) Yes, Maître, please
5 go ahead.

6 MS SUTHERLAND: [10:15:58] Can the first page please be shown to the
7 witness.

8 Q. [10:16:21] Madam Witness, do you recognise this document? Have you
9 seen a document like it?

10 A. [10:16:30] Yes, even if I don't know it, I can see the document on the
11 screen. I can't really read what's said.

12 MS SUTHERLAND: [10:16:52] Well, if we could return to page 0479 --

13 THE INTERPRETER: [10:16:57] Correction --

14 THE WITNESS: [10:16:58](Interpretation) I can see very well.

15 MS SUTHERLAND: [10:17:00]

16 Q. [10:17:00] Madam witness, this is a document prepared by the
17 [REDACTED] people who spoke to you --

18 MR GARCIA: [10:17:18](Interpretation) I'm going to object, your Honour.

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

20 MR GARCIA: [10:17:22](Interpretation) Here, your Honour, this
21 objection - and I imagine the answer that is going to be - could we just
22 disconnect the connection to the witness for a few minutes? I'm going to be
23 brief. I think it's quite important.

24 PRESIDING JUDGE MINDUA: [10:17:41](Interpretation) Court officer, please
25 would you be so kind as to cut the connection with the witness.

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1 THE COURT OFFICER: [10:17:48](Interpretation) The transmission has been
2 cut, your Honour.

3 PRESIDING JUDGE MINDUA: [10:17:52](Interpretation) Thank you very
4 much.

5 Prosecutor, what is your objection.

6 MR GARCIA: [10:17:57](Interpretation) Well, we've just made the procedure
7 correctly to see if she recognises the document. She doesn't recognise the
8 document, obviously. I'd just like to show to the Chamber that this document
9 is not signed. If we have a look at pages 0478, 0470 (sic), 0481, if the Defence
10 intends to use this document in order to try to cross-examine the witness as if it
11 were a previous statement, then, first of all, the most important thing is to
12 establish that it is the statement that was given to a third party. That hasn't
13 been shown yet.

14 That is the essential part of this examination and, I can already see how we're
15 proceeding, I could have objected before, right at the start, but I didn't do that
16 because I wanted to see exactly how we were going to proceed. But I can
17 already see that in the Defence questioning, we are presuming that this here
18 are the words that she would have said to a third party.

19 And this was not demonstrated.

20 Now, when we look at this procedure - which, as far as I'm concerned, is
21 completely inappropriate given the profile of the witness - I would sincerely
22 say that this causes a lot of problems when it comes to establishing the truth.
23 So I firmly object to it.

24 PRESIDING JUDGE MINDUA: [10:19:28](Interpretation) Thank you very
25 much, Prosecutor.

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1 Ms Sutherland, the French version that I have in front of me has no signature
2 either. Now, you asked the witness and the witness said she didn't recognise
3 the document, perhaps because it's on the screen. But up to here, the witness
4 has not said that she recognises the document. There's no signature.

5 So what do you say about all that?

6 MS SUTHERLAND: [10:19:58] Well, we are not using this as a previous
7 statement. The lack of signature is of primary concern obviously, we're
8 exploring the methodology of the formation of this document. And we've
9 already got information which calls the methodology employed in the
10 formation of this document into serious question, we're exploring that further.
11 I am just checking, but my understanding is that the Prosecution may have
12 relied on this document in the confirmation of charges decision, so for them to
13 seek to combat it right now in this manner is wholly inappropriate.

14 And, I'll reiterate: We are not using it to confront her with what she said or is
15 alleged to have said in this document.

16 MR GARCIA: [10:20:50](Interpretation) Your Honour, two points: Firstly, it's
17 not the right person to question the methodology used with regards to this
18 document. It's the inappropriate person. Madam has come for a particular
19 reason: To say what happened to her. It's a precise reason.

20 My objection is with regard to the procedure and not about whether the
21 Prosecution is disavowing anything. It's very precise, my objection. The
22 procedure has to be followed to be fair to the witness.

23 MS SUTHERLAND: [10:21:29] My friend is twisting my words.

24 PRESIDING JUDGE MINDUA: [10:21:32](Interpretation) Let's try and move
25 on, make some progress. What would you have to say, Ms Sutherland?

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1 MS SUTHERLAND: [10:21:38](Microphone not activated) This document
2 purports to demonstrate that she was asked certain questions. I propose to
3 ask her whether she remembers being asked those questions. In my
4 submission, her answer to that will be important not -- not for her credibility,
5 but for the potential credibility of other witnesses in this case and the
6 methodologies employed.

7 PRESIDING JUDGE MINDUA: [10:22:06](Interpretation) Please put your
8 question rather than saying the paragraphs of the document.

9 Well, we cut the transmission, didn't we?

10 So please can we re-establish the connection?

11 So please put your question simply instead of reading the paragraphs of this
12 document.

13 THE COURT OFFICER: [10:22:39](Interpretation) The witness can hear us
14 now.

15 PRESIDING JUDGE MINDUA: [10:22:43](Interpretation) Thank you very
16 much, court officer.

17 Ms Sutherland.

18 MS SUTHERLAND: [10:22:47]

19 Q. [10:22:47] Madam Witness, do you remember people asking you whether
20 [REDACTED] during the occupation?

21 A. [10:22:57] Yes.

22 Q. [10:23:19] Were you asked that only once?

23 A. [10:23:25] I don't remember all that. I can't remember if it was once or
24 several times.

25 Q. [10:23:47] And do you remember what you told them?

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- 1 A. [10:23:54] Yes, I told them what happened by way of answer.
- 2 Q. [10:24:08] Did you feel that you needed to tell them that you had been
3 raped?
- 4 A. [10:24:31] Yes. When you've been raped, you have to say that.
- 5 Q. [10:24:50] And do you remember how you described that rape?
- 6 A. [10:24:58] Yes, I remember the way in which things happened at least.
- 7 Q. [10:25:20] And do you remember when you were raped, how close it was
8 to the -- for instance, how close it was to the arrival of jihadists or the
9 destruction of mausolea? Was it closer to the arrival of the jihadists?
- 10 A. [10:25:56] It was in the middle of the occupation.
- 11 Q. [10:26:21] Did you tell th [REDACTED] person or [REDACTED] that it was at the very
12 beginning of the occupation?
- 13 A. [10:26:34] Everything was done during the occupation of Timbuktu.
- 14 Q. [10:27:00] Yes, but did you tell the [REDACTED] person or [REDACTED] that it was at the
15 very beginning of that occupation?
- 16 A. [10:27:20] Yes -- how?
- 17 Q. [10:27:42] And, Madam Witness, do you remember them asking whether
18 you had been taken to the Islamic police?
- 19 MR GARCIA: [10:27:54](Interpretation) The question --
- 20 PRESIDING JUDGE MINDUA: [10:27:58](Interpretation) No, no, Prosecutor,
21 wait for me to give you the floor, please.
- 22 Now you have the floor, what is your objection?
- 23 MR GARCIA: [10:28:04](Interpretation) Thank you. I just note that in the
24 last answer there's a question. On page 19, in answer to the question, it says:
25 "Yes" and "how is it?" So I understand that we've gone to another question,

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1 but I think we have to have some light shed on that before going on to another
2 point.

3 MS SUTHERLAND: [10:28:35] I'm afraid on my transcript it doesn't say that,
4 it simply says "Yes."

5 PRESIDING JUDGE MINDUA: [10:28:45](Interpretation) In the transcript in
6 French that I'm reading it says ... The Prosecutor is right, Ms Sutherland.

7 MS SUTHERLAND: [10:29:06] I don't dispute it.

8 PRESIDING JUDGE MINDUA: [10:29:06](Interpretation) Would you like
9 clarification on this issue?

10 MS SUTHERLAND: [10:29:16] No, Mr President, I just need to see the French
11 transcript.

12 Q. [10:29:25] Madam Witness, you -- I asked you if you told the [REDACTED]
13 person or [REDACTED] that it was at the very beginning of that occupation and you
14 said "Yes", and then you said something else. Can I ask you to repeat your
15 question or your comment.

16 A. [10:29:52] I didn't add anything. I just explained how things went. I
17 didn't even know that something was going to come from that.

18 Q. [10:30:31] Thank you, Madam Witness. My next question was: Do you
19 remember the [REDACTED] person [REDACTED] anyone asking you whether you had been
20 taken to the Islamic police?

21 A. [10:30:53] I do not remember whether that question was put to me, but
22 what I do know is that I was taken to the Islamic police.

23 Q. [10:31:24] Did you tell these people about that?

24 A. [10:31:34] Which people?

25 Q. [10:31:48] [REDACTED] and the [REDACTED] person.

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1 A. [10:31:53] Yes, that's why they had come, I told them what had happened
2 to me.

3 Q. [10:32:09] Madam Witness, I need you to be as precise as you can. When
4 you say "that's why they had come," what do you mean?

5 A. [10:32:29] If people come to find out what happened in the town, you
6 need to tell them what happened.

7 Q. [10:33:02] And do you remember what you told them about going to the
8 Islamic police?

9 A. [10:33:10] What do you mean? Be more precise.

10 Q. [10:33:54] Did you tell them about going to the Islamic police?

11 A. [10:33:59] Yes, I did tell them, I had to.

12 Q. [10:34:11] And what did you tell them?

13 A. [10:34:14] I told them how things unfolded.

14 Q. [10:34:36] Did you tell them how long you had stayed at the Islamic
15 police?

16 A. [10:34:44] I believe so.

17 Q. [10:34:57] Did you tell them that you arrived in the morning and were
18 released late at night?

19 A. [10:35:04] No, that's not what I told them.

20 Q. [10:35:27] Thank you, Madam Witness. Returning to OTP tab 1, which is
21 your witness statement - and it's MLI-OTP-0071-0314-R03 at page 0316,
22 paragraph 15, it's the paragraph I read to you earlier - Madam Witness, in that
23 statement you told the Prosecution:

24 "They called me [REDACTED] to tell what had happened to me during
25 the events and [REDACTED]"

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- 1 A. [10:36:41] Yes.
- 2 Q. [10:36:44] How did you [REDACTED]?
- 3 A. [10:37:07] If yo [REDACTED]
- 4 [REDACTED] don't you?
- 5 Q. [10:37:24] That's the premise of my question: How did [REDACTED]?
- 6 A. [10:37:35] I came [REDACTED]
- 7 Q. [10:37:52] Was this [REDACTED],
- 8 A. [10:37:58] [REDACTED].
- 9 Q. [10:38:24] You mentioned in your statement:
- 10 "There [REDACTED] at the same time."
- 11 Did you [REDACTED]?
- 12 MR GARCIA: (No interpretation)
- 13 PRESIDING JUDGE MINDUA: [10:38:37](Interpretation) Mr Prosecutor.
- 14 MR GARCIA: [10:38:38](Interpretation) Could we please be very careful
- 15 because I have noted that there is a redaction at page 15. My learned friend is
- 16 obviously aware of what I'm talking about. Please tell the witness not to
- 17 mention names.
- 18 PRESIDING JUDGE MINDUA: [10:39:04](Interpretation) But we are in
- 19 private session, Madam courtroom officer, are we not?
- 20 THE COURT OFFICER: [10:39:11](Interpretation) Yes, indeed, Mr President, I
- 21 was just about to clarify that. We are currently in private session.
- 22 MR GARCIA: [10:39:16](Interpretation) Yes, I do agree. But this redaction is
- 23 part of a delayed disclosure, a disclosure that is to be made in the future -- at
- 24 paragraph 15, the name of an individual.
- 25 PRESIDING JUDGE MINDUA: [10:39:33](Interpretation) Yes, yes.

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1 MR GARCIA: [10:39:35](Interpretation) So I do not want the witness to make
2 reference to this person and that the order of the Chamber no longer applies.
3 So please advise the witness not to mention any names in the answers to the
4 question.

5 PRESIDING JUDGE MINDUA: [10:39:52](Interpretation) Ms Sutherland,
6 have you understood? This is a delayed disclosure.

7 MS SUTHERLAND: [10:40:00] Mr President, I'm extremely alive to that issue.
8 I'm not intending to ask for any identification. I will warn her. But rest
9 assured, I was -- was not aiming to go there.

10 MR GARCIA: [10:40:18](Overlapping speakers)

11 THE INTERPRETER: (Overlapping speakers)

12 PRESIDING JUDGE MINDUA: [10:40:23](Interpretation) So we need to warn
13 the witness.

14 MR GARCIA: [10:40:25](Interpretation) I do apologise, that is not precisely
15 what I wanted to say, is that inadvertently, in the witness -- we need to warn
16 the witness in the question not to mention names because of course in view of
17 the question that is put to her, inadvertently she might talk about it.

18 PRESIDING JUDGE MINDUA: [10:40:51](Interpretation) Ms Sutherland.

19 MS SUTHERLAND: [10:40:52] There is no need to labour the point. I
20 will -- I completely understand. I've agreed that I will warn her, I will do so
21 now.

22 PRESIDING JUDGE MINDUA: [10:41:03](Interpretation) Thank you very
23 much, Ms Sutherland. Please go ahead.

24 MS SUTHERLAND: [10:41:08]

25 Q. [10:41:10] Madam Witness, it's important -- or in your statement you

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1 stated:

2 "There [REDACTED] at the same time, including
3 a girl called [redacted] who had been forcibly married."

4 It's extremely important that you do not identify her to the Court today.

5 A. [10:42:05] Yes, I have understood.

6 Q. [10:42:09] So I repeat my question, you stated that:

7 [REDACTED] at the same time."

8 Did you [REDACTED]?

9 A. [10:42:25] I was [REDACTED] and th [REDACTED]
10 [REDACTED] so [REDACTED].

11 Q. [10:42:57] Was anyone [REDACTED]?

12 A. [10:43:02] What do you mean? To go where?

13 Q. [10:43:21] When you [REDACTED] was anybody [REDACTED]
14 you?

15 A. [10:43:28] Yes, somebody did [REDACTED] me because I didn't know
16 [REDACTED]

17 Q. [10:43:48] And who was that person?

18 A. [10:43:51] I do not know that person, it was the first time that I had seen
19 that person.

20 Q. [10:44:10] And where did [REDACTED]?

21 A. [10:44:15] They [REDACTED].

22 Q. [10:44:33] When you say [REDACTED] were yo [REDACTED] at
23 this point?

24 A. [10:44:41] No, we were not together. [REDACTED]

25 Q. [10:45:01] And when you met, did you tell each other why you were

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1 there?

2 A. [10:45:13] No, we didn't, but each one of us was there to talk about their
3 situation.

4 Q. [10:45:43] And who were you telling about the situation?

5 A. [10:45:57] Yes -- what?

6 Q. [10:46:11] Did you know who you were telling or talking to about the
7 situation?

8 A. [10:46:37] No, I do not know that individual.

9 Q. [10:46:45] Where did you go or did you go somewhere to tell -- to talk to
10 that person?

11 A. [10:46:55] [REDACTED] but I am not aware of
12 [REDACTED] I do not recall. [REDACTED]

13 Q. [10:47:27] Were personnel from an organisation with you?

14 A. [10:47:50] Yes, what kind of organisation?

15 Q. [10:48:01] Madam Witness, please tell us.

16 A. [10:48:06] You -- you mention an organisation, what kind of organisation
17 are you talking about?

18 Q. [10:48:28] Madam Witness, it may be an issue of translation, but you told
19 us that you [REDACTED] Were there people --

20 A. [10:48:57] Yes.

21 Q. [10:48:58] Were there people from a project with you?

22 A. [10:49:12] No.

23 Q. [10:49:21] When you referred [REDACTED] you mentioned [REDACTED]
24 [REDACTED]?

25 A. [10:49:44] No, I was alone. I [REDACTED]

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- 1 [REDACTED]
- 2 Q. [10:50:10] Did you know anybody [REDACTED]?
- 3 A. [10:50:17] Where I went to, I did not know anyone at all.
- 4 Q. [10:50:36] Did anybody help you to prepare before you went to [REDACTED]
- 5 [REDACTED]?
- 6 A. [10:50:47] Getting ready how? Or preparing how?
- 7 Q. [10:51:10] Did they talk to you about what had happened in the situation?
- 8 A. [10:51:26] What are you talking about with regard to what happened?
- 9 What are you -- what are you saying? What things?
- 10 Q. [10:51:43] When you [REDACTED] did anybody talk to you about the
- 11 situation before you went to [REDACTED]?
- 12 A. [10:51:54] No, I did not speak to anybody. Anyway, I do not remember.
- 13 Q. [10:52:17] Madam Witness, yesterday you told us that you were taken to
- 14 a one-storey building.
- 15 And the transcript reference is transcript 71, page 24, line 12.
- 16 A. [10:53:28] Yes, what I said is that I wasn't sure whether there was one
- 17 storey or not, but the place that I was taken to was a house on one level.
- 18 That's what I said.
- 19 Q. [10:53:45] Do you know which neighbourhood it is in?
- 20 A. [10:53:50] I do not know the neighbourhood, but whatever the case may
- 21 be, it was in town.
- 22 Q. [10:54:18] Madam Witness, do you go to the market?
- 23 A. [10:54:30] Yes, I do go to the market and I do go and buy things there.
- 24 Q. [10:54:45] And did you go to the market before the crisis?
- 25 A. [10:54:49] Yes, I used to go to the market.

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- 1 Q. [10:55:03] And do you go to different markets or just one?
- 2 PRESIDING JUDGE MINDUA: [10:55:20](Interpretation) Mr Prosecutor.
- 3 THE INTERPRETER: [10:55:22]Overlapping speakers.
- 4 THE WITNESS: [10:55:27](Interpretation) I only am aware of one market.
- 5 MR GARCIA: [10:55:31](Interpretation) Yes, that is essentially what I was
- 6 going to say, is that we don't know what market we're talking about, and then
- 7 we came back to other markets. So it might be difficult to know which market
- 8 we're talking about for the record.
- 9 PRESIDING JUDGE MINDUA: [10:55:54](Interpretation) Ms Sutherland.
- 10 MS SUTHERLAND: [10:55:58]
- 11 Q. [10:56:02] Which neighbourhood was the market that you go to in?
- 12 A. [10:56:10] Are you talking about Timbuktu [REDACTED]?
- 13 Q. [10:56:26] I'm talking about Timbuktu, Madam Witness.
- 14 A. [10:56:31] The market is to be found near the [REDACTED]
- 15 Q. [10:56:52] And did you walk there from your home?
- 16 A. [10:57:14] Yes, I would go to the market on foot.
- 17 Q. [10:57:18] Would you say that you know that neighbourhood quite well?
- 18 A. [10:57:34] Yes, I do know it a little bit because I don't walk around much, I
- 19 stay at home a lot.
- 20 Q. [10:57:59] Are you able to tell us where that house was in relation to the
- 21 route that you walked to get to the market?
- 22 A. [10:58:13] This house was in the town. But from where I am, I can't tell
- 23 you precisely where it was located.
- 24 Q. [10:58:49] Thank you, Madam Witness.
- 25 MS SUTHERLAND: [10:58:51] Mr President, I'm mindful of the time. This

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- 1 might be an appropriate point at which to break.
- 2 PRESIDING JUDGE MINDUA: [10:59:05](Interpretation) Yes, indeed,
- 3 Ms Sutherland.
- 4 Madam courtroom officer, we are in private session, are we not?
- 5 THE COURT OFFICER: [10:59:16](Interpretation) Yes, indeed we are in
- 6 private session, Mr President.
- 7 PRESIDING JUDGE MINDUA: [10:59:20](Interpretation) So we shall go back
- 8 into open session firstly, please.
- 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

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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.

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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 Songhai."

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,

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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.

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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

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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 of proceedings, but

17 in -- to say quite simply that this person, [REDACTED] was taken to prison

18 et cetera, et cetera, for it to be clear and so that we do not presume things

19 because of course the witness is called [REDACTED] -- and she has confirmed to us that

20 she did have 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 PRESIDING JUDGE MINDUA: [12:29:14](Interpretation) Thank you very

21 much.

22 (Counsel confer)

23 MS SUTHERLAND: [12:29:30] Am I understanding correctly that I should

24 read the paragraph without denoting [REDACTED] ?

25 PRESIDING JUDGE MINDUA: [12:29:48](Interpretation) We are in private

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- 1 session, so I do believe that you can read what is mentioned in the paragraph.
- 2 MS SUTHERLAND: [12:29:53](Overlapping speakers) We would then be
- 3 identifying (Overlapping speakers)
- 4 PRESIDING JUDGE MINDUA: [12:30:08](Interpretation) What does the
- 5 Prosecutor think?
- 6 MR GARCIA: [12:30:12](Interpretation) If you give me a moment,
- 7 Mr President, I'm just going to confer.
- 8 (Counsel confer)
- 9 THE INTERPRETER: [12:30:29] Prosecution microphone is on.
- 10 THE COURT OFFICER: [12:30:32] Prosecution, microphone was on.
- 11 MR GARCIA: [12:30:38](Interpretation) Quite simply, because I have -- of
- 12 course, there is the order from the Chamber and it might be better in order to
- 13 respect the Chamber's order that we start from the moment where it is said, "...
- 14 [REDACTED] ..." and then the entirety of the paragraph can be read out.
- 15 In this manner, we respect the Chamber's order, but it is quite important also
- 16 the entirety of the information should be given to the witness who will be in
- 17 a position to, I hope, answer more clearly.
- 18 PRESIDING JUDGE MINDUA: [12:31:16](Interpretation) It does seem
- 19 acceptable to me, Ms Sutherland.
- 20 MS SUTHERLAND: [12:31:22]
- 21 Q. [12:31:22] Madam Witness, the evidence from another witness in this case,
- 22 I will read it out to you slowly.
- 23 MS SUTHERLAND: [12:31:30] Oh, sorry, are we reconnected?
- 24 PRESIDING JUDGE MINDUA: [12:31:31] *Madame la greffière.*
- 25 THE COURT OFFICER: [12:31:47](Interpretation) The sound is back.

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1 PRESIDING JUDGE MINDUA: [12:31:50](Interpretation) Thank you very
2 much.

3 The connection has been re-established and we are still in private session.

4 MS SUTHERLAND: [12:32:00]

5 Q. [12:32:00] Please excuse my French, but this reads: (Interpretation) "...

6 [REDACTED] ... was once arrested and detained in the prison for women -- the
7 Islamist women."

8 A. [12:32:24] Could you please repeat.

9 THE INTERPRETER: [12:32:27] Not the witness. The interpreter at the
10 remote location --

11 THE BAMBARA-FRENCH INTERPRETER: [12:32:31](Interpretation) Could
12 you please repeat, we did not hear the beginning of your sentence.

13 MS MARINIER-DOUCET: [12:32:46](Interpretation) "That happened perhaps

14 [REDACTED] was wearing a scarf that covered her face,
15 but -- which covered her head, but didn't have long sleeves which covered her
16 hands. The Islamists found her in front of the door of her house and took her
17 to prison for that reason. She stayed one day in prison, from 9:00 in the
18 morning until 15:00 hours or 16:00 hours. [REDACTED] to her
19 and they freed - [REDACTED] and they freed her. They told [REDACTED]
20 that it was the last warning, the next time they would cut off her hands. [REDACTED]

21 [REDACTED] "

22 MS SUTHERLAND: [12:34:53]

23 Q. [12:34:55] Madam Witness, is this -- do you recognise yourself in this
24 description?

25 A. [12:35:17] So what was said here, perhaps it's in your own papers, but

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1 since we started, we didn't talk about the amputation of hands or of arms.

2 Perhaps it's in your papers over there.

3 Q. [12:35:59] We're not talking about amputation now. We're talking about
4 the time that you spent detained.

5 A. [12:36:43] That's perhaps in your papers. What I say is the truth. I can't
6 change it because you -- you have another statement somewhere else. I keep
7 to what I said. It is the truth.

8 Q. [12:37:14] Madam Witness, we may return to that, but moving on to more
9 recent times, [REDACTED]?

10 A. [12:37:32] I think that's it because when [REDACTED]
11 [REDACTED]

12 Q. [12:38:10] Madam Witness, are you still [REDACTED]
13 [REDACTED]?

14 A. [12:38:33] I'm [REDACTED]

15 Q. [12:38:55] Are you able to tell us when you [REDACTED]?

16 A. [12:39:02] After the conflict, that's when the [REDACTED] took place.

17 Q. [12:39:25] [REDACTED]

18 A. [12:39:31] Which period, for example?

19 Q. [12:39:49] Were you [REDACTED] before or after [REDACTED]?

20 A. [12:39:57] It was after [REDACTED] that the [REDACTED] took place.

21 Q. [12:40:19] [REDACTED] when you [REDACTED]?

22 A. [12:40:27] [REDACTED]
23 [REDACTED]

24 Q. [12:40:50] [REDACTED]
25 [REDACTED]?

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- 1 A. [12:41:01] No, from [REDACTED]
- 2 MR GARCIA: [12:41:28](Interpretation) Your Honour, I think we need to
3 clarify something because in the question of my colleague, there was a question
4 with regard to when [REDACTED] speaks about the
5 conflict and it could be become something which is important.
- 6 That's on page 51 (sic), line 9, 8 and 9:
- 7 "Could you tell us when you [REDACTED]?"
- 8 It was after the conflict tha [REDACTED] took place.
9 [REDACTED]?"
- 10 The witness then asked:
- 11 "Which period [...]?"
- 12 So we have to establish the period so we have a clear understanding of what
13 period we're talking about when -- the period Madam is referring to with
14 regard to the conflict.
- 15 PRESIDING JUDGE MINDUA: [12:42:21](Interpretation) Yes.
- 16 Ms Sutherland.
- 17 MS SUTHERLAND: [12:42:23] We were trying to establish her date of her
18 [REDACTED] We established the date [REDACTED] and, when she
19 was unclear, we established by reference to the dat [REDACTED]
- 20 There's no lack of clarity.
- 21 PRESIDING JUDGE MINDUA: [12:42:52](Interpretation) Prosecutor.
- 22 MR GARCIA: [12:42:53](Interpretation) There is a lack of clarity,
23 your Honour.
- 24 If we can disconnect the witness for a minute, your Honour, then I can explain.
- 25 PRESIDING JUDGE MINDUA: [12:43:05](Interpretation) Court officer.

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- 1 THE COURT OFFICER: [12:43:08](Interpretation) The witness can no longer
2 hear us, your Honour.
- 3 PRESIDING JUDGE MINDUA: [12:43:14](Interpretation) Thank you.
4 Prosecutor.
- 5 MR GARCIA: [12:43:16](Interpretation) So my colleague started the
6 cross-examination asking general questions to the witness. She confirmed
7 that she wasn't accurate when it came to dates, and, in the afternoon, she's
8 being put a date to see whether it was the month -- or whether it was 2015.
9 The witness answered in a particular way, and, there, she answers - and I'd ask
10 the Court to look at the answer - but now she's being put questions about the
11 divorce.
- 12 But going back to this question [REDACTED] and what's very
13 important - and I understand why the Defence doesn't want to go back to
14 it - because she is asked when the [REDACTED] took place and she says:
15 "[...] after [REDACTED] [...] the [REDACTED] took place.
16 [...] [REDACTED] when you [...] [REDACTED],
17 [...] not [...] [REDACTED].'
18 And, it's "After the conflict, [...]" that "the divorce took place."
19 So should we understand that -- or, if I understand [REDACTED]
20 conflict, or that's the question which remains where I'm concerned because I
21 don't see how afterwards - when there is an issue of the credibility of this
22 witness - if we look at her answer, which confirms a date in 2015, but when she
23 has said herself she's not good at dates.
- 24 And we can have -- why -- why, when we're able to clarify this situation, why
25 don't we do that?

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- 1 PRESIDING JUDGE MINDUA: [12:45:03](Interpretation) Ms Sutherland.
- 2 MS SUTHERLAND: [12:45:06] I really don't understand what it is that needs
- 3 to be clarified. I'm trying to ascertain when she [REDACTED] She's told us
- 4 it was after [REDACTED] It's perfectly reasonable to ask -- I mean, this
- 5 is a major event in her life. I'm asking he [REDACTED] the reference
- 6 to the conflict. I mean, after the conflict [REDACTED] we have
- 7 a -- we have a date [REDACTED] that she has confirmed multiple times.
- 8 I -- with respect to my learned friend, I think this an unnecessary obfuscation.
- 9 PRESIDING JUDGE MINDUA: [12:45:54](Interpretation) Yes. I think we
- 10 can continue, Ms Sutherland, because you are making an effort to establish all
- 11 the different phases.
- 12 Prosecutor, I think Ms Sutherland is right.
- 13 Ms Sutherland, please continue.
- 14 MS SUTHERLAND: [12:46:12]
- 15 Q. [12:46:13] Madam Witness, are you married now?
- 16 MS SUTHERLAND: [12:46:20] Oh, are we reconnected?
- 17 PRESIDING JUDGE MINDUA: [12:46:26](Interpretation) Court officer?
- 18 Could you look at the connection with the witness, please.
- 19 THE COURT OFFICER: [12:46:34](Interpretation) The sound -- the sound is
- 20 back, but the witness has expressed her wish to leave for a moment.
- 21 PRESIDING JUDGE MINDUA: [12:46:45](Interpretation) Very well, witness,
- 22 you can leave for a moment.
- 23 (Witness stands down)
- 24 THE COURT OFFICER: [12:47:13](Interpretation) Field interpreters, we can
- 25 hear you.

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1 (Pause in proceedings)

2 PRESIDING JUDGE MINDUA: [12:48:23](Interpretation) Ms Sutherland, the
3 witness is back.

4 MS SUTHERLAND: [12:48:30]

5 Q. [12:48:33] Madam Witness, ar [REDACTED] now?

6 A. [12:48:39] Yes.

7 Q. [12:48:50] And does [REDACTED] about what you say happened
8 to you?

9 A. [12:48:59] Wha [REDACTED] are you talking about?

10 Q. [12:49:22] Your [REDACTED],

11 THE INTERPRETER: [12:49:50] Message from the English booth: I can hardly
12 hear the interpretation into French, it's much more quiet than the interpretation
13 into Bambara.

14 Is it possible for somebody to notify this to the field interpreters, please?

15 THE COURT OFFICER: [12:50:06](Interpretation) Interpreter in the field,
16 could you go closer to the microphone. We can't hear you, only from
17 a distance.

18 THE WITNESS: [12:50:20](Interpretation) No, I didn't speak to her -- I didn't
19 speak to him about it --

20 THE INTERPRETER: [12:50:23] -- corrects the interpreter.

21 MS SUTHERLAND: [12:50:29]

22 Q. [12:50:30] Madam Witness, yesterday - and the transcript reference is 71,
23 page 71, line 23 to page 72, line 1, Madam Witness - yesterday you told us there
24 were people who helped me psychologically.

25 A. [12:51:06] Yes, I said that.

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1 Q. [12:51:07] How did people help you psychologically?

2 A. [12:51:12] People helped me because at that tim [REDACTED]

3 [REDACTED]

4 Q. [12:51:47] Who offered you the psychological help?

5 A. [12:51:57] Whatever the difficulties you're in, you try to find somebody
6 who you can trust so that that person can give you advice.

7 THE INTERPRETER: [12:52:31] The English interpreter adds that the witness
8 in the previous answer said --

9 THE WITNESS: [12:52:35](Interpretation) I wanted to do a foolish thing
10 because [REDACTED]

11 MS SUTHERLAND: [12:52:55]

12 Q. [12:52:55] Madam Witness, I'm not asking why you wanted psychological
13 help. I'm asking you who offered this to you?

14 A. [12:53:10] You can't know these people like that.

15 Q. [12:53:36] Can you explain to us how you received this psychological
16 assistance?

17 A. [12:53:48] Could you repeat, please.

18 Q. [12:53:56] Can you explain to us how you received this psychological
19 assistance?

20 A. [12:54:03] In what way are you speaking about?

21 Q. [12:54:26] For instance, did you speak to somebody alone? Did you
22 speak to somebody in a group? Did people give you advice? I'm asking
23 what form this assistance took?

24 A. [12:54:53] No, I didn't speak to a group -- or in a group.

25 Q. [12:55:28] Can you tell us what you did do?

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1 A. [12:55:32] I had a -- some -- there was somebody I knew [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] And when I returned, I reflected and I thought that that
5 person was right. This advice was good [REDACTED]

6 [REDACTED]

7 Q. [12:56:43] And when was this?

8 A. [12:56:47] At that time [REDACTED]

9 Q. [12:57:14] And can you tell us the name of the person who
10 suggested -- suggested [REDACTED]?

11 MR GARCIA: [12:57:32](Interpretation) Your Honour?

12 PRESIDING JUDGE MINDUA: [12:57:36](Interpretation) Prosecutor.

13 MR GARCIA: [12:57:37](Interpretation) I just would like to know the
14 relevance of this question with a view to finding the truth given what the
15 witness has said to us.

16 PRESIDING JUDGE MINDUA: [12:57:55](Interpretation) Ms Sutherland,
17 what is the relevance of this information?

18 MS SUTHERLAND: [12:58:00] We're interested in seeing who has been
19 interacting with the witness and who may have influenced what she tells us.

20 PRESIDING JUDGE MINDUA: [12:58:18](Interpretation) Please go ahead,
21 put your question.

22 MS SUTHERLAND: [12:58:22]

23 Q. [12:58:24] Madam Witness, are you able to tell us the name of the person
24 who advised you [REDACTED]?

25 A. [12:58:36] No, I can't give the name of the person.

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- 1 Q. [12:58:57] Do you recognise the name [REDACTED] ?
- 2 A. [12:59:11] Even if I know this person, I don't remember.
- 3 Q. [12:59:26] What about [REDACTED] ?
- 4 A. [12:59:33] [REDACTED] ? No, I don't know that person.
- 5 Q. [12:59:47] [REDACTED] ?
- 6 A. [12:59:59] who's that?
- 7 Q. [13:00:06] Do you know [REDACTED] ?
- 8 A. [13:00:15] Those names that you're providing me with, even if I did know
- 9 those people, I wouldn't remember. I don't remember this story.
- 10 Q. [13:00:37] Madam Witness, just my final questions, I ask you to turn to
- 11 Defence tab 20, that's MLI-OTP-0077-4018-R01, at page 4023, paragraph 32.
- 12 Madam Witness, in your recent meeting with the Prosecution, do you
- 13 remember being asked about some photographs?
- 14 A. [13:01:22] Yes, I do remember.
- 15 Q. [13:01:54] (Microphone not activated)
- 16 PRESIDING JUDGE MINDUA: [13:02:01](Interpretation) Microphone, please.
- 17 MS SUTHERLAND: [13:02:06] My apologies.
- 18 Q. [13:02:12] I'd like to show you photograph MLI-OTP-0048-0729.
- 19 Madam Witness, can you see the photograph?
- 20 A. [13:02:51] I can see the photograph.
- 21 Q. [13:03:01] And for the benefit of the judges, can you tell us whether you
- 22 recognise this building?
- 23 A. [13:03:08] I don't really recognise things or places from photographs, but
- 24 this place looks like the Islamists' place.
- 25 Q. [13:03:39] Madam Witness, do you remember what you said to the

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1 Prosecution when they showed you this photograph?

2 A. [13:03:46] Yes, I do remember.

3 Q. [13:04:09] What did you say to them?

4 A. [13:04:14] I was asked what that location was and I said that I don't really
 5 recognise places from photographs, but that it looked like the Islamists' place.

6 Q. [13:04:43] In fact, Madam Witness, I'm referring to

7 MLI-OTP-0077-4018-R01 at 4023, paragraph 32, the original paragraph. The
 8 Prosecution report that you said you do not remember this building. Is that
 9 correct?

10 A. [13:05:39] I do not recall because I don't recognise places by photograph.
 11 If I were physically in front of it, I might be in a position to recognise it, but
 12 from the photograph I am not able to.

13 Q. [13:06:10] Forgive me. Madam Witness, returning to Defence tab 22,
 14 which is MLI-OTP-0080-1831-R01, at page 1832 (sic), paragraph 3., Madam
 15 Witness, this reads -- this is a note from the Prosecution, which reads that you
 16 "[...] told [...] ██████ that she was worried, scared: "██████ j'ai peur".
 17 (Interpretation) '██████, I'm scared".

18 MR GARCIA: [13:07:24](No interpretation)(Overlapping speakers) *Un instant,*
 19 *un instant.*

20 PRESIDING JUDGE MINDUA: [13:07:25](Interpretation) Mr Prosecutor.

21 MR GARCIA: [13:07:26](Interpretation) I do believe that there's a mistake in
 22 the reading. First of all, it should be explained to the witness in a clear
 23 manner because it is not -- it is she, the witness, who said that to ██████ This
 24 should be mentioned and the full name should be given - ██████ should be
 25 given as the full name.

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1 So maybe somebody would have to read it out, but I do not want the witness to
2 be misled.

3 MS SUTHERLAND: [13:08:04] I was avoiding giving the witness's
4 pseudonym.

5 MR GARCIA: [13:08:13](Interpretation) It's the fact that you're using "she."

6 PRESIDING JUDGE MINDUA: [13:08:17](Interpretation) Please,
7 Mr Prosecutor, don't take the floor without me granting it to you; otherwise we
8 can't move forward.

9 Ms Sutherland.

10 MS SUTHERLAND: [13:08:25] I, in fact, said "you", so I hope that that can
11 be remedied.

12 PRESIDING JUDGE MINDUA: [13:08:35](Interpretation) Mr Prosecutor,
13 what did you want to say?

14 MR GARCIA: [13:08:40](Interpretation) Quite simply, Mr President, that
15 the -- it should be read out correctly. On the first occasion, my learned friend
16 from the Defence said [REDACTED] that she was worried, without making mention of
17 the fact that it was the witness who had made this statement to [REDACTED] It
18 was not [REDACTED] who was scared.

19 PRESIDING JUDGE MINDUA: [13:09:00](Interpretation) There we are,
20 Ms Sutherland, the Prosecutor's comment is relevant, so maybe your colleague
21 could read it out. Otherwise, bear in mind what the Prosecutor said.

22 MS SUTHERLAND: [13:09:17] It's in English.

23 PRESIDING JUDGE MINDUA: [13:09:24](Interpretation) Well, if it's in
24 English, that's fine. Please go ahead.

25 MS SUTHERLAND: [13:09:29] I am reading it exactly.

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1 Q. [13:09:30] You told [REDACTED] that you were worried, scared. [REDACTED] *j'ai*
2 *peur*".

3 A. [13:09:47] I did say that.

4 Q. [13:09:57] It then reads:

5 "When asked the reason," you "replied because we are talking about tribunal[s]
6 and judges," you are scared you "may be arrested and imprisoned."

7 THE INTERPRETER: [13:10:19] The interpreter at the remote location --

8 THE BAMBARA-FRENCH INTERPRETER: [13:10:22](Interpretation) I do
9 apologise, could you please repeat, but in a less lengthy manner.

10 MS SUTHERLAND: [13:10:33]

11 Q. [13:10:33] When asked the reason, you replied, "because we are talking
12 about tribunal[s] and judges."

13 A. [13:10:56] I did say that.

14 Q. [13:11:01] You are scared that you "may be arrested and imprisoned."?

15 A. [13:11:16] Imprisoned? In what way?

16 Q. [13:11:28] I'm finishing the quote:

17 [REDACTED] asked you what made you think like that.

18 A. [13:11:48] Yes.

19 Q. [13:11:50] And you responded: "because that's what tribunals and judges
20 do."

21 A. [13:11:59] Yes, I did say that.

22 Q. [13:12:16] Why were you worried about that?

23 A. [13:12:37] I was worried about that because since I was born, I had never
24 been before a figure of authority to speak. This is the first time.

25 Q. [13:13:02] Did you ever speak to a person of authority [REDACTED]?

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1 A. [13:13:24] No.

2 Q. [13:13:45] And Madam Witness, my final question, are you worried that if
3 you say something incorrect, you may get into trouble?

4 A. [13:14:08] No, I'm not afraid of saying anything.

5 Q. [13:14:36] Thank you very much for answering my questions, Madam
6 Witness.

7 A. [13:14:52] Thank you very much to you, too, for having put questions to
8 me.

9 MS SUTHERLAND: [13:14:57] Mr President, I have no further questions.

10 PRESIDING JUDGE MINDUA: [13:15:02](Interpretation) Very well, thank
11 you very much, Ms Sutherland. In total, you used two hours and 24 minutes.
12 There we are. That's very good.

13 So Madam courtroom officer, are we still in private session?

14 THE COURT OFFICER: [13:15:23](Interpretation) Yes, indeed, we are,
15 Mr President.

16 PRESIDING JUDGE MINDUA: [13:15:27](Interpretation) So we will be
17 moving back into open session, I believe.

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.)

23

24

25