

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(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  
7 Judge Kimberly Prost  
8 Trial Hearing - Courtroom 3  
9 Friday, 24 September 2021  
10 (The hearing starts in open session at 9.34 a.m.)  
11 THE COURT USHER: [9:34:07] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE MINDUA: [9:34:38](Interpretation) The hearing shall now  
15 commence.  
16 Good morning, everyone.  
17 Courtroom officer, please call case.  
18 THE COURT OFFICER: [9:34:50] Good morning, Mr President, your Honours.  
19 This is the situation in the Republic of Mali, in the case of The Prosecutor versus  
20 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference  
21 ICC-01/12-01/18.  
22 And for the record, we are in open session.  
23 PRESIDING JUDGE MINDUA: [9:35:14](Interpretation) Thank you very much,  
24 courtroom officer.  
25 As is the case every morning, we will now go ahead with the introductions, beginning

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 with the Office of the Prosecutor.

2 Madam Prosecutor.

3 MS LUPING: [9:35:28] Good morning, Mr President. Good morning your Honours.

4 Appearing on behalf of the Prosecution are the same team; myself, Dianne Luping;

5 Marie-Jeanne Sardachti. Mr Gilles Dutertre does pass on his apologies. He cannot

6 be with us this first session, but that he willing joining us in the second session this

7 morning. Thank you.

8 PRESIDING JUDGE MINDUA: [9:35:51](Interpretation) Thank you very much,

9 Ms Luping.

10 And now the Defence.

11 Counsel.

12 MS TAYLOR: [9:35:58] Good morning, Mr President. Good morning,

13 your Honours. Good morning to everyone in the courtroom and around

14 the courtroom.

15 The Defence for Mr Al Hassan is represented today by Ms Kirsty Sutherland,

16 Ms Molly Thomas, and myself, Melinda Taylor. Thank you very much.

17 PRESIDING JUDGE MINDUA: [9:36:14](Interpretation) Thank you very much,

18 Ms Taylor.

19 And now the Legal Representative of Victims.

20 Counsel.

21 MR KASSONGO: [9:36:23](Interpretation) Good morning, your Honours.

22 Good morning, everyone.

23 The victims are represented today by -- by Ms Prisque Dipanga and myself, Kassongo.

24 And we thank you, your Honour.

25 PRESIDING JUDGE MINDUA: [9:36:44](Interpretation) Thank you very much,

~~ICC-01/12-01/18-T-138-CONF-ENG-ET-24-09-2021-3/82-SZ-T~~

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 Mr Kassongo.

2 And, finally, the witness.

3 Good morning, Mr Witness. How are you today?

4 I would like to ask the courtroom officer to cut off the sound to the witness because  
5 we have some housekeeping matters to deal with.

6 Mr Courtroom --

7 THE COURT OFFICER: [9:37:16](Overlapping speakers) Your Honours, the sound  
8 at the VTC location has been cut off.

9 PRESIDING JUDGE MINDUA: [9:37:21](Interpretation) Thank you very much,  
10 Mr Courtroom Officer.

11 Now I would now like to invite the Defence to address the Bench. Ms Sutherland  
12 wishes to say something to the Bench, I believe. Is that correct?

13 MS SUTHERLAND: [9:37:41] Yes, Mr President. Thank you very much for your  
14 invitation.

15 May I ask that we move into private session, given the nature of the material to be  
16 discussed.

17 PRESIDING JUDGE MINDUA: [9:37:59](Interpretation) Private session, courtroom  
18 officer, if you could.

19 (Private session at 9.38 a.m.)

20 THE COURT OFFICER: [9:38:10] We're in private session, Mr President.

21 PRESIDING JUDGE MINDUA: [9:38:17](Interpretation) Ms Sutherland.

22 MS SUTHERLAND: [9:38:18] Thank you, Mr President.

23 Once again, I express my regret and apologise for neglecting to provide a complete  
24 and accurate reference during Wednesday's hearing. In the event that  
25 cross-examination had, of course, continued into the afternoon, the Defence would

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 have been in a position to furnish the Chamber with these.

2 I apologise again for inadvertently providing inaccurate references and for focusing  
3 on concluding the cross-examination before lunch.

4 Mr President, may I just ask, would you like me to read out the content of the  
5 references or just the references?

6 PRESIDING JUDGE MINDUA: [9:39:02](Interpretation) Just the references will be  
7 fine, just so that we don't spend too much time on this.

8 MS SUTHERLAND: [9:39:08] Thank you, Mr President.

9 The full relevant references are: Transcript -- edited transcript 125. And the French  
10 transcript, it's page 27, lines 1 to 3, and page 30, lines 12 to 20. And in the edited  
11 English transcript 125, it's page 27, lines 6 to 8, and page 31, lines 2 to 8, with support  
12 from the witness statement MLI-OTP-0059-0361-R04, at page 0371, paragraph 57.

13 Mr President, unless I can be of any further assistance, that concludes my provision of  
14 the relevant transcript references.

15 PRESIDING JUDGE MINDUA: [9:40:25](Interpretation) Thank you very much,  
16 Ms Sutherland.

17 The Chamber takes note of the explanations you have provided and accepts them as  
18 having been made in good faith. All the same, and I'm referring to the transcript,  
19 transcript 136, the statement by counsel to the effect that another witness said to this  
20 Court thi [REDACTED], that

21 statement was inaccurate and misleading. And for the Chamber [REDACTED]

22 [REDACTED]

23 As I have said, the Chamber accepts the explanation that you have provided. But  
24 the Chamber reminds you that it is of the utmost importance to ensure accuracy when  
25 making statements to a witness, in particular when quoting from the testimony of

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 other witnesses.

2 So there you have it. I hope that this is understood now and for the future.

3 The incident has now been dealt with.

4 Ms Sutherland, did you want to add something?

5 MS SUTHERLAND: [9:42:36] Just to thank you very much, Mr President. All of

6 that is extremely well noted, and I apologise again and express my deep regret.

7 My only other request is that I may be excused for the remainder of this hearing.

8 PRESIDING JUDGE MINDUA: [9:42:56](Interpretation) Indeed, you are excused,

9 and I wish you a good day.

10 Courtroom officer, please re-establish the sound link and we will go back into open

11 session.

12 (Open session at 9.43 a.m.)

13 THE COURT OFFICER: [9:43:28] Your Honours, we are in open session and

14 the sound has been re-established.

15 PRESIDING JUDGE MINDUA: [9:43:37](Interpretation) Thank you very much,

16 courtroom officer.

17 Now, Mr Witness, once again I turn to you. Can you hear me?

18 WITNESS: MLI-OTP-P-0641 (On former oath)

19 (The witness speaks Songhai)

20 (The witness gives evidence via video link)

21 THE WITNESS: [9:43:51](Interpretation) Yes.

22 PRESIDING JUDGE MINDUA: [9:43:57](Interpretation) Once again, on behalf of

23 the Chamber I would like to thank you for making yourself available and, once again,

24 I welcome you.

25 I would like to remind you that you are still under oath and you must tell the truth,

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 the whole truth and nothing but the truth.
- 2 THE WITNESS: [9:44:44](Interpretation) Yes.
- 3 PRESIDING JUDGE MINDUA: [9:44:46](Interpretation) And finally, I would like to
- 4 remind you of my practical instructions regarding taking -- the giving of testimony.
- 5 As you know, we must all speak slowly and clearly, and we should make some
- 6 breaks or pause during our testimony.
- 7 Without any further ado, I will hand over to the Office of the Prosecution for
- 8 continuation of their examination-in-chief.
- 9 Madam Prosecutor.
- 10 MS LUPING: [9:45:39] Thank you, Mr President.
- 11 QUESTIONED BY MS LUPING: (Continuing)
- 12 Q. [9:45:47] Good morning, Mr Witness.
- 13 A. [9:45:52] Good morning.
- 14 Q. [9:45:55] Now, Mr Witness, I'm going to take you back to something you said in
- 15 your testimony yesterday. That's at transcript, the French transcript, real-time
- 16 transcript, T-137. At page 16, lines -- first lines 6 to 8, I had asked you what was
- 17 the work of the police, and you had responded, and I quote: (Interpretation) "Well,
- 18 above all they handled everything that was forbidden under Sharia law. And
- 19 everything that religion prohibited."
- 20 (Speaks English) You then gave some examples. You gave an example, for example,
- 21 of (Interpretation) "men must wear short trousers," (Speaks English) and
- 22 (Interpretation) "women must not go out unless they are fully covered up."
- 23 (Speaks English) Mr Witness, to the best of your knowledge, were there any rules
- 24 regarding jewellery?
- 25 A. [9:48:33] Whose jewellery? I have no idea. The rules that they set, that's all

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 that I remember.

2 MS LUPING: [9:48:47] Mr President, could we briefly go into private session?

3 PRESIDING JUDGE MINDUA: [9:48:55](Interpretation) Indeed.

4 Private session, courtroom officer.

5 (Private session at 9.49 a.m.)

6 THE COURT OFFICER: [9:49:05] We're in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [9:49:12](Interpretation) Thank you very much.

8 Madam Prosecutor.

9 MS LUPING: [9:49:16]

10 Q. [9:49:17] Mr Witness, we are now in private session. And to remind you, that  
11 means nobody outside the courtroom can hear you.

12 Can I ask you if anything ever happened to you in relation to jewellery that you were  
13 wearing during the events in 2012 and 2013?

14 A. [9:50:26] Yes, it happened to me, myself. I was wearing a ring on my hand. I  
15 had a ring on my finger and when a police officer stopped me, [REDACTED] was his  
16 name.

17 Q. [9:50:58] And could you continue. Can you explain what happened when  
18 [REDACTED] stopped you.

19 A. [9:51:49] When he caught me he said -- well, he saw the ring that I had on my  
20 finger and he said, he said it was a talisman, so he took it. And that same man in  
21 2013, [REDACTED]

22 When he took off the ring, he said that the ring had no powers and that I should  
23 follow God only.

24 Q. [9:52:41] Thank you, Mr Witness. Have you finished describing the incident?  
25 Can I go back into public session? I don't want to interrupt you. Have you

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 finished?

2 A. [9:53:06] Yes.

3 MS LUPING: [9:53:10] Mr President, we can return to public session. Thank you.

4 PRESIDING JUDGE MINDUA: [9:53:15](Interpretation) Courtroom officer.

5 (Open session at 9.53 a.m.)

6 THE COURT OFFICER: [9:53:23] We are back in open session, Mr President.

7 PRESIDING JUDGE MINDUA: [9:53:30](Interpretation) Thank you very much.

8 Madam Prosecutor.

9 MS LUPING: [9:53:34] Thank you, Mr President.

10 Q. [9:53:36] Mr Witness, you were describing an incident involving a person who  
11 you described as "*un policier*".

12 Can you remember whether this was when the police were at the BMS or at the  
13 *gouvernorat*, to the best of your recollection?

14 A. [9:54:32] The police were at the BMS at that time.

15 Q. [9:54:38] Thank you. I'm now going to be changing topics. I will be showing  
16 some images to you. This will be displayed on courtroom channel, evidence channel  
17 2.

18 Mr Witness -- it can be shown to the public.

19 I'm just going to ask, Mr Witness, can you see this image in front of you?

20 A. [9:55:32] Yes.

21 Q. [09:55:33] I'm going to refer to the document. It's at tab 71 of the witness's  
22 binder and I would ask also that the court usher with the witness assist the witness  
23 also at opening his binder at tab 71. The ERN is MLI-OTP-0060-4390.

24 Mr Witness, do you have the binder in front of you and has the court usher assisted in  
25 making sure you have it in front of you?

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 A. [9:56:40] Yes, yes.

2 Q. [9:56:42] I'd now like to ask you to look at the building on the left of the  
3 photograph and can you confirm what that building is, please.

4 A. [9:57:11] Yes, I can see the building. This is --

5 Q. [9:57:12] And what is (Overlapping speakers)

6 THE INTERPRETER: [9:57:20] Overlapping.

7 The witness continues.

8 THE WITNESS: [9:57:25](Interpretation) This is the BMS.

9 MS LUPING: [9:57:29] Okay, I just note for the record that I do have a cursor on  
10 the building that I just asked the question about.

11 Mr President, I just want to ask two quick questions of the witness that will need to be  
12 asked in private session.

13 PRESIDING JUDGE MINDUA: [9:57:50](Interpretation) Courtroom officer, private  
14 session, please.

15 (Private session at 9.58 a.m.)

16 THE COURT OFFICER: [9:58:05] We're in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [9:58:10](Interpretation) Thank you very much.

18 Madam Prosecutor.

19 MS LUPING: [9:58:14] Thank you.

20 Q. [9:58:15] Mr Witness, yesterday you described a tree [REDACTED] Can  
21 you see the tree that you described in this image?

22 A. [9:58:50] Yes.

23 Q. [9:58:53] There are four trees in this image. I'm going to have my cursor on all  
24 four of them and I ask you to confirm whether it is the first, which is the one on  
25 the far right, the second, in the middle, the third in the middle, or the fourth on

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 the left of the image.

2 Could you confirm which tree it is, please?

3 A. [9:59:42] Okay.

4 Q. [9:59:45] Which tree is it? Is it number 1, number 2, number 3 or number 4?

5 A. [10:00:14] The fourth, the one between the building and the sign.

6 Q. [10:00:21] [REDACTED]

7 [REDACTED]?

8 A. [10:00:53] [REDACTED]

9 [REDACTED]

10 MS LUPING: [10:01:13] Mr President, we can return to public session, please.

11 PRESIDING JUDGE MINDUA: [10:01:20](Interpretation) Courtroom officer, if you  
12 could.

13 (Open session at 10.01 a.m.)

14 THE COURT OFFICER: [10:01:32] We are back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [10:01:38](Interpretation) Thank you very much,  
16 court officer.

17 Madam Prosecutor.

18 MS LUPING: [10:01:41] Thank you.

19 Q. [10:01:43] Mr Witness, I'm now going to be showing a very short video excerpt.

20 It can be played without sound. I'm playing it without sound, rather. The ERN is

21 MLI-OTP-0015-0495 and this can be broadcast to the public. I'm starting from  
22 timestamp 00:28:52:22.

23 Mr Witness, before I play the excerpt, I would ask if you can confirm if you recognise  
24 the building that we see in this image?

25 A. [10:02:50] Yes.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 Q. [10:02:53] And what is it?

2 A. [10:03:04] That's the police building.

3 Q. [10:03:12] And what is the other name for this building?

4 A. [10:03:24] The BMS.

5 Q. [10:03:27] I'm now going to be showing a very short clip.

6 (Viewing of the video excerpt)

7 MS LUPING: [10:03:44] I've now paused at 00:29:03:01.

8 Q. [10:03:52] Mr Witness, we see a person in this image in the bottom far right  
9 corner wearing a blue item of clothing, two items, two blue items of clothing, with  
10 what appears to be some white writing on the back. Do you know to what group  
11 this person belonged?

12 A. [10:04:52] They are officers of the police who wear those vests, the vests.  
13 There's Arabic and French writing on them.

14 MS LUPING: [10:05:11] Mr President, for the next very short clip I would request  
15 that we briefly go into private session.

16 PRESIDING JUDGE MINDUA: [10:05:23](Interpretation) Court officer, private  
17 session, please.

18 (Private session at 10.05 a.m.)

19 THE COURT OFFICER: [10:05:31] We're in private session, Mr President.

20 PRESIDING JUDGE MINDUA: [10:05:38](Interpretation) Thank you very much.  
21 Madam Prosecutor.

22 MS LUPING: [10:05:40] Thank you.

23 I'm just going to continue to play a very short clip.

24 (Viewing of the video excerpt)

25 MS LUPING:

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

- 1 Q. [10:05:50] I've stopped at timestamp 00:29:07:14.
- 2 Mr Witness, the tree that we see in front of us, do you recognise it?
- 3 A. [10:06:15] Yes.
- 4 Q. [10:06:16] What is it?
- 5 A. [10:06:33] What I can see is the tree.
- 6 Q. [10:06:40] I'm not sure if my -- my question was clear.
- 7 Do you recognise the tree?
- 8 A. [10:07:04] I recognise the tree.
- 9 Q. [10:07:09] Is this the same tree you identified in the photograph previously?
- 10 A. [10:07:24] Yes.
- 11 Q. [10:07:28] [REDACTED],
- 12 A. [10:07:48] Yes.
- 13 MS LUPING: [10:07:52] Mr President, we can return into open session.
- 14 PRESIDING JUDGE MINDUA: [10:07:59](Interpretation) Court officer.
- 15 (Open session at 10.08 a.m.)
- 16 THE COURT OFFICER: [10:08:07] We're back in open session, Mr President.
- 17 PRESIDING JUDGE MINDUA: [10:08:11](Interpretation) Thank you very much,
- 18 court officer.
- 19 Madam Prosecutor.
- 20 MS LUPING: [10:08:15] Thank you, Mr President.
- 21 Q. [10:08:18] Mr Witness, I'm now going to be showing you another extremely
- 22 short extract. Again, it can -- I'll be playing it without sound.
- 23 It can be displayed to the public. It's at tab 64 and the ERN is 0069-3805. And I'm
- 24 going to be playing -- apologies.
- 25 I'm just noting for the record I will start playing from 00:42.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 (Viewing of the video excerpt)

2 MS LUPING: [10:09:44] And I have stopped at 00:46.

3 Q. [10:09:49] Mr Witness, first of all, do you recognise the building?

4 A. [10:10:00] Yes.

5 Q. [10:10:02] Now, in this image we see two vehicles, one on the right and one on  
6 the left. Do you recognise either of the vehicles?

7 A. [10:10:36] One of the vehicles is a white Hilux and the other is a van.

8 Q. [10:10:49] And do you know who they belong to or who used these vehicles?

9 A. [10:11:13] Al Hassan worked with that vehicle there -- or with these vehicles  
10 there.

11 Q. [10:11:25] And I just want to clarify your response. You said you recognise  
12 the building. Could you just state for the record what is this building that we see.

13 A. [10:11:56] This is the bank which became the police station.

14 MS LUPING: [10:12:04] Mr President, I would ask for authorisation to briefly go into  
15 private session.

16 PRESIDING JUDGE MINDUA: [10:12:14](Interpretation) Court officer.

17 (Private session at 10.12 a.m.)

18 THE COURT OFFICER: [10:12:23] We're in private session, Mr President.

19 PRESIDING JUDGE MINDUA: [10:12:31](Interpretation) Thank you very much,  
20 court officer.

21 Prosecutor.

22 MS LUPING: [10:12:36] Yes.

23 Q. [10:12:38] Mr Witness, I refer to what you just stated at page 14, lines 20 to 21 of  
24 the French transcript, where you stated: (Interpretation) "These vehicles there, it is  
25 Al Hassan who works with them."

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 (Speaks English) Did you see Al Hassan use either of these vehicles with your own  
2 eyes?

3 A. [10:13:36] The van is the same as the one he uses. There are other people who  
4 go into it, but I would see him in it.

5 Q. [10:13:48] And in French it's referring to "*Le fourgonette, là*," at line 16, page 15:

6 (Interpretation) "It's he himself who uses it."

7 (Speaks English) Where were you when you saw him use the *fourgonette*? Where did  
8 you see him? Where were you when you saw him use the *fourgonette*?

9 A. [10:14:52] On various occasions. I met him on several occasions. He was  
10 often dropping people off. He would get off the vehicle himself. So he himself was  
11 using the vehicle.

12 Q. [10:15:08] Mr Witness, I'll ask you a follow-up question about that in public  
13 session, but I just first want to repeat my question. And I'm not sure if my question  
14 was clear.

15 When you saw Mr Al Hassan use the *fourgonette*, where, *où*, where precisely were  
16 you?

17 A. [10:16:13] In several locations, different locations [REDACTED]  
18 would see him get out of his vehicle. There were several different locations where I  
19 would see him getting down from the vehicle. I wasn't walking around with him to  
20 see him in it. But there were several places where I would see him in the vehicle.

21 Q. [10:16:40] Thank you, Mr Witness.

22 Now I'm going to ask to go back into public session. [REDACTED]

23 [REDACTED] I will ask  
24 about [REDACTED] locations that you saw when we go back into public session.

25 PRESIDING JUDGE MINDUA: [10:17:27](Interpretation) Court officer, open session,

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 please.

2 (Open session at 10.17 a.m.)

3 THE COURT OFFICER: [10:17:40] We're back in open session, Mr President.

4 PRESIDING JUDGE MINDUA: [10:17:45](Interpretation) Thank you very much,  
5 court officer.

6 Madam Prosecutor.

7 MS LUPING: [10:17:50] Thank you, Mr President.

8 Q. [10:17:53] Now, Mr Witness, you stated that you saw Mr Al Hassan use  
9 the *fourgonette*. And when I asked you precisely where you saw him use it, you said,  
10 and I quote, at page 16, lines 6 to 7: "In several places. Very often, I saw him get out  
11 of the vehicle."

12 (Speaks English) Now, my first question is, you've already given one example  
13 yesterday of seeing Mr Al Hassan and a person called Lamine get outside -- get out of  
14 the *fourgonette blanche* -- (Interpretation) white van (Speaks English) (Overlapping  
15 speakers) at the BMS when you describe what happened to a person that you know.  
16 Other than that time, did you see Mr Al Hassan come to the BMS with other people,  
17 arriving with other people in his vehicle?

18 A. [10:19:57] I don't remember. There were a lot of cases. I don't remember at  
19 the moment.

20 Q. [10:20:08] And when you say (Interpretation) "There are a lot of cases" (Speaks  
21 English) with reference to Mr Al Hassan arriving at the BMS with other people, was  
22 that when he was still based at the BMS or when he was at the *gouvernorat*?

23 A. [10:21:04] They were at the BMS. But the fact is that I don't remember well  
24 the people that were there.

25 Q. [10:21:20] Now, you described how a person that you know -- you described

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 the incident yesterday of a person that you know who was arrested and brought by  
2 Mr Al Hassan and a man named Lamine to the BMS in the *fourgonette blanche*  
3 (Interpretation) white van.

4 (Speaks English) To the best of your knowledge, do you recall if any of these other  
5 people that you saw him bring to BMS, if they had been arrested?

6 A. [10:22:30] I don't remember.

7 Q. [10:22:32] Mr Witness, I'm going to switch to a different topic now.

8 Yesterday you gave names of certain individuals that you said were part of  
9 the Ansar Dine group. Do you remember any of the foreigners amongst the group?  
10 And I will be more specific. Do you recall any from Europe?

11 A. [10:24:00] Yes, there's one who spoke English. I've forgotten his name. But  
12 there was another, Abou Hauss (phon). He was in France. He was a Sarakolé and  
13 he was in France.

14 Q. [10:24:37] Do you remember any other French national with the groups?

15 A. [10:25:04] Yes, his name is Abdoul Djalil.

16 Q. [10:25:15] And to the best of your knowledge, do you know what part of the  
17 groups Abdoul Djalil was working with?

18 A. [10:25:46] He was one of the soldiers. He was one of the soldiers.

19 Q. [10:25:57] Did you have any direct contact with Abdoul Djalil? Did you ever  
20 speak to him yourself?

21 A. [10:26:29] The first exchanges I had with Abdoul Djalil, that was on a Sunday.

22 [REDACTED] he said he had heard that the MNLA was raping people  
23 and doing that. And he -- but he said he had seen nothing of that.

24 [REDACTED]

25 [REDACTED] And then he became

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1                                   aders who carried out these transactions, and he would come

2

3       So he became a client of one of these traders so he could carry out his transactions and

4       he cam [REDACTED] That's it.   It continued like that.   And that's

5       finished.

6       Q.   [10:28:59] You stated: (Interpretation) "He said that he had heard that

7       the MNLA was raping people.   The MNLA was currently doing that and that -- this

8       and that, but as far as he was concerned, he had seen nothing of all that."

9       (Speaks English) Do you remember speaking to him about anything else about those  
10      first few days after the arrival of the groups?

11      PRESIDING JUDGE MINDUA:   [10:29:54](Interpretation) Ms Taylor.

12      MS TAYLOR:   [10:29:56] Thank you very much, Mr President.   Could the sound be  
13      cut off to the witness, just briefly.

14      PRESIDING JUDGE MINDUA:   [10:30:03](Interpretation) Court officer, please cut  
15      the sound.

16      THE COURT OFFICER:   [10:30:08] Your Honours, the sound has been cut off.

17      PRESIDING JUDGE MINDUA:   [10:30:13](Interpretation) Thank you very much,  
18      courtroom officer.

19      Ms Taylor.

20      MS TAYLOR:   [10:30:18] Thank you very much, Mr President.

21      Now, the Prosecution hasn't established yet when this conversation took place, and

22      I'm aware of the contents of his statement, which would suggest that it was not in

23      the first couple of days that this conversation took place.   Nor have they established

24      when the events he was referring to took place.

25      So I do believe that the Prosecution's question is itself not an accurate reflection of

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 what has been stated thus far, and there's no foundation for it. The Prosecution must  
2 first elicit the time of this conversation and then proceed henceforth.

3 Thank you.

4 PRESIDING JUDGE MINDUA: [10:31:03](Interpretation) Madam Prosecutor.

5 MS LUPING: [10:31:05] Mr President, the witness has already testified yesterday  
6 and explained that the MNLA arrived, and after that other groups arrived, including  
7 Ansar Dine. I would note that in his statement he did state that this discussion with  
8 this individual took place (Interpretation) "a few days after the arrival of the  
9 Islamists."

10 (Speaks English) What I can do, of course, is I can situate him first in time and ask if  
11 he can recall when this occurred precisely.

12 PRESIDING JUDGE MINDUA: [10:31:43](Interpretation) Yes. It would be better to  
13 try to specify the timeline or the temporal aspect.

14 Courtroom officer, sound with the witness, please.

15 THE COURT OFFICER: [10:32:10] Your Honours, the sound has been re-established.

16 PRESIDING JUDGE MINDUA: [10:32:17](Interpretation) Thank you very much.  
17 Madam Prosecutor.

18 MS LUPING: [10:32:24] Thank you, Mr President.

19 Q. [10:32:25] Now, Mr Witness, at page 18 of the French transcript, at lines 23 to 24,  
20 you stated: (Interpretation) "Abdoul Djalil, the first day that we talked to one another,  
21 it was a Sunday." (Speaks English) And you described the conversation that you had  
22 with him that first time.

23 My question is this: Do you recall when this conversation took place?

24 A. [10:33:40] It was the same day that the country fell.

25 Q. [10:33:56] And you've made reference to the MNLA. Do you remember how

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 long after the arrival of the groups in Timbuktu that you had this conversation with  
2 Abdoul Djalil, this first conversation?

3 A. [10:34:48] It was the first day that the city was attacked and the city was  
4 captured, so he came. [REDACTED]

5 [REDACTED] That was the first day.

6 Q. [10:35:08] Mr Witness, do you remember having any further discussion with  
7 Abdoul Djalil about the events after arrival of the groups in Timbuktu?

8 A. [10:35:47] No, I don't remember.

9 MS LUPING: [10:35:52] Mr President, your Honours, could I ask that the sound be  
10 cut to the witness.

11 PRESIDING JUDGE MINDUA: [10:36:03](Interpretation) Courtroom officer, please  
12 cut the sound to the witness.

13 THE COURT OFFICER: [10:36:06](Overlapping speakers) Your Honours, the sound  
14 has been cut off.

15 PRESIDING JUDGE MINDUA: [10:36:10](Interpretation) Thank you very much.  
16 Madam Prosecutor.

17 MS LUPING: [10:36:13] Thank you. Mr President, your Honours, I refer to  
18 paragraph 51 of the witness's statement, which is at tab 1 of the binder. I'll also put it  
19 up for the sake of the -- of your Honours.

20 And I would just read the relevant passage from paragraph 51 where the witness has  
21 described his first meeting with Abdoul Djalil, and he states: (Interpretation) "It was  
22 a few days after the arrival of the Islamists. At that time, he was saying that he had  
23 heard that the Islamists were committing sexual violence. To my surprise, he joined  
24 them after."

25 (Speaks English) Mr President, your Honours, under -- I refer to paragraph 45 of the

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 conduct of proceedings decision. I would submit that this is an exceptional reason to  
2 refresh the witness's memory.

3 At this stage he cannot recall having any further discussions. He has stated that this  
4 meeting with Abdoul Djalil occurred on the first day, whilst in his previous statement  
5 he said it was some days after the arrival of the Islamists.

6 I believe it would be worthwhile for determination of the truth to simply read this  
7 paragraph to the witness, ask him if it refreshes his memory and to ask him to clarify  
8 the response he's just given, to clarify whether or not he remembers the discussion  
9 with Abdoul Djalil.

10 PRESIDING JUDGE MINDUA: [10:38:14](Interpretation) Ms Taylor.

11 MS TAYLOR: [10:38:15] Thank you, Mr President. More and more, the principle of  
12 orality is being cast aside in favour of written statements that have not been  
13 submitted.

14 Now, once again, this witness has not stated that, as concerns this specific interaction,  
15 he cannot refer or remember the details. He's given very specific details as concerns  
16 this conversation.

17 Now, as concerns another conversation in paragraph 52, that's another -- that's  
18 another point. The Prosecution hasn't asked to refresh his memory in relation to that  
19 point. They've asked to refresh his memory because he has said MNLA rather than  
20 Islamists.

21 Now, as the Prosecution is well aware, the people in Timbuktu at the beginning of the  
22 April referred to both Ansar Dine and MNLA as Islamists. There's no indication that  
23 this witness cannot remember this account.

24 Now, I'm concerned that the Prosecution is using an exceptional procedure to try and  
25 introduce into evidence statements taken by Prosecutors which are not under oath.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 They're not before this Chamber. It's highly prejudicial to the Defence. And  
2 the search for the truth has to be conducted in a manner which is consistent with  
3 defence rights.  
4 Now, this witness is on the stand, albeit in a different location. He has given  
5 a complete answer. Not once did he say in that answer that he could not remember  
6 the specific details of that conversation.  
7 The only discrepancy that the Prosecutor has referred to is between "*quelques jours*"  
8 and "*le premier jours*", even though he also said that it was when the country fell,  
9 which could refer to the *coup d'état*.  
10 So here we do not have any basis for trying to refresh his memory with paragraph 51,  
11 particularly when this is a statement that has been read to the witness several times.  
12 There's been two witness preparation sessions with this witness, which is  
13 extraordinary in and of itself. This is a statement coming from 2019. It is not  
14 a situation which you had in the Yugoslav tribunal where you had a period of  
15 a decade.  
16 This witness is completely familiar with his statement. There is no threshold for  
17 reaching this. And we are concerned by the repeated use of this technique to try and  
18 create a particular narrative and particular a narrative which isn't even consistent  
19 with the other evidence in this case.

20 Thank you.

21 PRESIDING JUDGE MINDUA: [10:40:50](Interpretation) Very well, Ms Taylor.

22 I will now call upon the Prosecutor for her response.

23 MS LUPING: [10:41:00] Thank you, Mr President.

24 Your Honours, I would refer to page 21, lines 7 to 10, where I was specifically asking  
25 the witness if he recalled in his conversation speaking about anything else in relation

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 to the groups.

2 Apologies. I'm referring -- sorry, I'm referring to -- it's lines 15 to lines 18, where

3 I was asking if he recalled in that first meeting having any other conversations with

4 Abdoul Djalil about the events, and he stated: (Interpretation) "No, I don't

5 remember."

6 (Speaks English) So he has explicitly said, your Honours, he can't remember. And

7 this is the opportunity to refresh his memory. These aspects in the statement are

8 clearly relevant. He's here, he's able to testify, and he's able to explain what his

9 recollection is.

10 Secondly, the Prosecution would note -- this is on -- just a question of clarity and for

11 the record. This is not related to this point, Mr President.

12 PRESIDING JUDGE MINDUA: [10:42:13](Interpretation) Yes, yes, yes, that's fine.

13 The Chamber is sufficiently enlightened. The Chamber is sufficiently enlightened,

14 Ms Taylor. No, no, you're not going to respond again. This is dealt with. What

15 did you want to add?

16 MS TAYLOR: [10:42:29] Mr President, given that the Prosecution has given

17 a citation, we should be able to respond to that citation. That citation where he says

18 "*je ne me souviens pas*" refers to *d'autres conversations*.

19 If the Prosecutor wants to refer to paragraphs 52, 53, that's an entirely different subject.

20 There's no indication that he doesn't remember this conversation.

21 I am concerned, highly concerned about the approach we're taking in this case. This

22 raises huge issues of presumption of innocence and impartiality. It seems that we

23 are being -- using a procedure just to create and support a particular narrative that's

24 incriminating.

25 The search for the truth should be impartial. It shouldn't be designed just to confirm

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 a particular narrative of the Prosecution.

2 Now, the witness refreshing memory is problematic because it's highly leading.

3 That's why it's exceptional. And we don't have an exceptional circumstance.

4 Thank you.

5 PRESIDING JUDGE MINDUA: [10:43:29](Interpretation) Madam Prosecutor,

6 the witness has said that he doesn't remember. Doesn't remember what?

7 The conversation with Mr Abdoul Djalil or about -- he doesn't remember something  
8 else, because Ms Taylor is challenging this point.

9 MS LUPING: [10:43:48] Mr President, I am looking at the French, and now I'm  
10 uncertain whether or not my question was accurately put to the witness. I was  
11 asking him about the first meeting with Abdoul Djalil, if he recalled in that  
12 conversation anything else that was being discussed. It doesn't appear -- I'm now  
13 rereading this. It looks as if it may not have been interpreted correctly, or I may not  
14 have been sufficiently clear, to be fair. So I would propose to ask the witness one  
15 more time to ensure it's interpreted correctly, to clarify whether he does or does not  
16 recall other aspects of the conversation from that first meeting. That was certainly  
17 the intention of my first question.

18 So I can simply ask again the witness, does he recall from that first meeting with  
19 Abdoul Djalil any other aspects of that conversation. And that should deal with  
20 the objection.

21 PRESIDING JUDGE MINDUA: [10:44:46](Interpretation) There we have it.

22 Ms Taylor, that is enough. No more ping-pong. We are sufficiently enlightened.

23 This is a statement that goes back to 2019, but it is 246 paragraphs. The Chamber has  
24 a mandate to conduct the proceedings in an impartial manner, and we have to  
25 determine the truth in an impartial manner. Going by what Madam Prosecutor has

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 said, she has put the question. Because in paragraph 51, there is talk of the first  
2 meeting with Abdoul Djalil.  
3 Apparently, there were interpretation issues. So we were -- are going to give  
4 Madam Prosecutor an opportunity to put the question again, and this is in the interest  
5 of justice, to determine what the truth is. Even if the investigators of the OTP are not  
6 here to be cross-examined by you, the witness is here.

7 So I shall now call upon Madam Prosecutor to put the question once again in an open  
8 way, in an ...

9 Madam Taylor, that is the Chamber's decision. Kindly be seated.

10 MS TAYLOR: [10:46:15](Overlapping speakers) Mr President, if I may be heard  
11 briefly. If I may be heard briefly.

12 PRESIDING JUDGE MINDUA: [10:46:17](Interpretation) No, no.

13 MS TAYLOR: [10:46:18](Overlapping speakers) Because there's no translation issue,  
14 and that's a misrepresentation.

15 PRESIDING JUDGE MINDUA: [10:46:25](Interpretation) No, no, no, Ms Taylor.

16 Courtroom officer, re-establish the sound.

17 THE COURT OFFICER: [10:46:36] Your Honours, the sound has been re-established.

18 PRESIDING JUDGE MINDUA: [10:46:40](Interpretation) Thank you very much.

19 Madam Prosecutor, put your question one last time in an entirely clear fashion.

20 MS LUPING:

21 Q. [10:46:53] Mr Witness, my apologies. My last question to you was not  
22 sufficiently clear. I'm now referring to the first time you met with Abdoul Djalil and  
23 you spoke to him. You've described what you discussed at that first meeting in that  
24 first conversation.

25 My question is this: Other than what you have already explained he said to you that

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 first time, can you remember anything else he said to you?

2 A. [10:48:52] As I said, I don't really remember much. What I remember now is  
3 that the day that they were supposed to leave the town, his wife came [REDACTED]  
4 [REDACTED] that the --

5 THE INTERPRETER: [10:49:12] Inaudible.

6 THE WITNESS: [10:49:16](Interpretation) -- was supposed to come to Konna for  
7 the liberation and after there -- after the attacks. And [REDACTED]

8 [REDACTED]  
9 Other than that, I really don't know very much.

10 MS LUPING: [10:49:52]

11 Q. [10:49:52] Mr Witness, you're putting your hand up. Is there something you  
12 wanted to say?

13 THE INTERPRETER: [10:50:43] Silence.

14 THE WITNESS: [10:50:46](Interpretation) I hadn't finished. I wanted to add that  
15 they took the neighbour's servant. And when he came to ask -- when he intervened  
16 so that she be freed, they didn't agree. And he got angry. He threw his weapon to  
17 the ground, and his vest, and they took them. And then afterwards they let him go.

18 MS LUPING: [10:51:29]

19 Q. [10:51:30] Thank you, Mr Witness. I'm going to ask you questions about what  
20 you've just described a little bit later on. But before you do, I'm just going to be  
21 asking permission of the Presiding Judge to have the sound cut.

22 Mr President, could we have the sound cut to the witness.

23 PRESIDING JUDGE MINDUA: [10:51:49](Interpretation) Yes, exactly.

24 Court officer, if you could.

25 THE COURT OFFICER: [10:51:54] Your Honours, the sound has been cut off.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [10:52:00](Interpretation) Thank you.

2 Madam Prosecutor.

3 MS LUPING: [10:52:02] Thank you, Mr President, your Honours. I'm just noting  
4 that I have now asked the specific question regarding the first meeting with  
5 Abdoul Djalil, if there was anything else he could remember other than what he has  
6 already described. And his response in the French, at page 27, lines 28, to page 28,  
7 line 1: (Interpretation) "Well, as I said, I don't really remember." (Speaks English)  
8 And he then goes on to describe other events.

9 Mr President, your Honours, I would now seek authorisation to refresh the witness's  
10 memory regarding what he described concerning the details of that first conversation  
11 at paragraph 51 of his witness statement.

12 PRESIDING JUDGE MINDUA: [10:53:04](Interpretation) Ms Taylor.

13 MS TAYLOR: [10:53:07] Thank you, Mr President.

14 Now, the witness has now given us another account of a conversation. There's no  
15 indication that this witness does not recall what he told the investigators in 2019.

16 Now, the Prosecutor's question to him was unfair and confusing because to put to  
17 him "Is there anything else you remember?" presupposes that there are additional  
18 details that he left out, whereas, in fact, he provided all of the details that are in  
19 paragraph 51. The only difference is that he clarified, instead of Islamists, that it was  
20 MNLA. So of course it's confusing to a witness to presuppose that there are  
21 additional details.

22 Now, once again, we do not have on the stand a witness who can't recollect what was  
23 provided in the statement. He's referred to both these conversations. He's  
24 provided almost identical details.

25 PRESIDING JUDGE MINDUA: [10:54:05](Interpretation) Ms Taylor, that is not my

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 feeling. You say that the witness has just provided another account and you added  
2 that he provided all the information, all the details. But I rather have the impression  
3 that with the additional information he is remembering himself that some details are  
4 missing. And what's more, this is a meeting that happened a long time ago, so we  
5 have to give him an opportunity to refresh his memory. The Chamber will assess  
6 later on the weight to be given to the -- his testimony. But right now we have to  
7 determine the truth and we have to -- so I think we will be able to deal with this for  
8 once and for all.

9 Courtroom officer, re-establish the sound.

10 THE COURT OFFICER: [10:55:19] Your Honours, the sound has been re-established.

11 PRESIDING JUDGE MINDUA: [10:55:23](Interpretation) Thank you very much,  
12 courtroom officer.

13 Madam Prosecutor, please continue.

14 MS LUPING: [10:55:29] Thank you, Mr President.

15 Q. [10:55:32] Mr Witness, I'm now going to be showing on evidence channel  
16 2 - sorry, I'll just remove the other item of evidence - your prior statement that was  
17 also shown to you yesterday, so I won't be asking you again to confirm if it is your  
18 statement, as you've already seen it.

19 And I will refer to the ERN of the statement again, that is MLI-OTP-0072-0143. I'm  
20 going to be going to page 0153 of the statement at paragraph 51.

21 So I would ask that the statement itself not be transmitted publicly. And I am just  
22 referring to the one -- I'm going to read the entirety of the statement to you,

23 Mr Witness, and then I'll be asking you my question.

24 (Interpretation) "I knew a Frenchman, Abdoul Djalil, who was with them. The day  
25 he arrived in Timbuktu

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1

2 It was a few days after the arrival of the Islamists. At that time, he was saying that  
3 he had heard that the Islamists were committing sexual violence. To my surprise, he  
4 joined them after that time." End of quote.

5 (Speaks English) Mr Witness --

6 A. [10:58:16] Yes, that's right. You see, it's a good thing to write things down,  
7 because sometimes your mind doesn't remember everything. So yes, that's -- that's  
8 indeed the case.

9 Q. [10:58:35] So does this refresh your memory as to what he discussed with you?

10 A. [10:58:55] Yes.

11 Q. [10:58:58] And can you clarify what group or groups Abdoul Djalil said he  
12 heard were committing acts of sexual violence?

13 A. [10:59:51] In actual fact I didn't see it with my own eyes. People said that some  
14 people, but in actual fact I didn't see that with my own eyes. I heard that there was  
15 sexual violence, but I didn't see any.

16 MS LUPING: [11:00:14] Mr President, I do need to clarify this response. With your  
17 indulgence, may I have another two minutes just to make sure that we complete this  
18 line of questioning. It may be more confusing if I try to resume after the break.

19 PRESIDING JUDGE MINDUA: [11:00:32](Interpretation) Granted. Please  
20 continue.

21 MS LUPING: [11:00:38] Thank you, Mr President.

22 Q. [11:00:42] Mr Witness, I want to make sure my question is very clear for you.  
23 I'm asking you about what Abdoul Djalil said to you. I'm not asking yet what you  
24 saw with your own eyes.

25 Going back to what Abdoul Djalil said to you, can you remember what group or

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 groups he said were committing sexual violence?

2 A. [11:01:58] He said that it was the Islamists.

3 Q. [11:02:05] And, Mr Witness, I also have one follow-up question about the timing  
4 of this first meeting with Abdoul Djalil.

5 In your statement you said it was (Interpretation) "A few days after the arrival of the  
6 Islamists."

7 (Speaks English) However, before you said it was on the same day of the arrival of the  
8 Islamists.

9 Do you remember when it was that you had this first meeting with Abdoul Djalil?

10 A. [11:03:23] It was the time when the groups entered, when they came. He came  
11 on a Sunday [REDACTED]

12 [REDACTED]

13 Q. [11:03:49] And just so I understand your response, is that on the same day  
14 the groups arrived or after that? Because it's not clear.

15 A. [11:04:24] The same day. The same day that the country fell. Nobody knew  
16 who was who. It was on the same day.

17 MS LUPING: [11:04:35] Mr President, your Honours, I believe we can take our  
18 break.

19 PRESIDING JUDGE MINDUA: [11:04:44](Interpretation) Indeed.

20 It's now 11.04. We're going to stop for approximately 30 minutes and we will be  
21 back at 11.30.

22 Court is adjourned.

23 THE COURT USHER: [11:04:59] All rise.

24 (Recess taken at 11.05 a.m.)

25 (Upon resuming in open session at 11.31 a.m.)

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 THE COURT USHER: [11:31:48] All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE MINDUA: [11:32:16](Interpretation) Court is in session.
- 4 The Prosecutor has the floor to continue with the examination-in-chief. I also note
- 5 that there has been a change in the Prosecutor's team, is that not correct,
- 6 Madam Prosecutor.
- 7 MS LUPING: [11:32:35] Thank you, Mr President, your Honours.
- 8 I would like to note for the record, the presence of Mr Gilles Dutertre who has joined
- 9 our team this -- for the second session.
- 10 PRESIDING JUDGE MINDUA: [11:32:50](Interpretation) Thank you very much,
- 11 Madam Prosecutor. It's very important also for the record.
- 12 You have the floor to follow up with your cross-examination (sic).
- 13 MS LUPING: [11:33:02] Thank you, Mr President.
- 14 Q. [11:33:06] Mr Witness, just before the break you stated -- you described an
- 15 incident involving Abdoul Djalil. I'm going to refer to page 28, from lines 10 to 15.
- 16 And it's from the French transcript. And I quote:
- 17 (Interpretation) "I wanted to add, he got angry and he threw his weapon on the
- 18 ground. And his jacket, they took his jacket. Afterwards they left him."
- 19 (Speaks English) End of quote.
- 20 Mr Witness, could you explain who took the servant of the neighbour?
- 21 A. [11:35:31] It was the same people, the Islamists. If I remember right, Talha was
- 22 also there and he asked for her to be brought.
- 23 Q. [11:35:48] Do you remember the name of this servant who was brought by
- 24 the Islamists?
- 25 A. [11:36:11] No, I don't remember her name. But I do remember for whom she

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 was working.

2 MS LUPING: [11:36:26] Mr President, your Honours, I might just ask that one  
3 question about the name of the neighbour in closed session, please.

4 PRESIDING JUDGE MINDUA: [11:36:37](Interpretation) Indeed.  
5 Court officer.

6 (Private session at 11.36 a.m.)

7 THE COURT OFFICER: [11:36:49] We're in private session, Mr President.

8 PRESIDING JUDGE MINDUA: [11:36:54](Interpretation) Thank you very much,  
9 court officer.

10 Madam Prosecutor.

11 MS LUPING: [11:36:58]

12 Q. [11:36:59] Mr Witness, what is the name of that neighbour whose servant was  
13 taken?

14 THE INTERPRETER: [11:37:25] Message from the Songhai booth: Could  
15 the witness say the name again because we haven't understood it well.

16 PRESIDING JUDGE MINDUA: [11:37:37](Interpretation) Witness, please repeat  
17 the name you said.

18 THE WITNESS: [11:37:48](Interpretation [REDACTED])

19 PRESIDING JUDGE MINDUA: [11:38:01](Interpretation) Madam Prosecutor.

20 MS LUPING: [11:38:03] Yes, thank you.

21 Could I please ask the Songhai interpreter if he could please spell the name for  
22 the record.

23 THE INTERPRETER: [11:38:20] [REDACTED]

24 MS LUPING: [11:38:46] Mr President, I believe we can go back into open session.

25 PRESIDING JUDGE MINDUA: [11:38:59](Interpretation) Court officer.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 (Open session at 11.39 a.m.)

2 THE COURT OFFICER: [11:39:00] We are back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [11:39:07](Interpretation) Thank you very much,  
4 court officer.

5 Madam Prosecutor.

6 MS LUPING: [11:39:09] Thank you, Mr President.

7 Q. [11:39:12] Mr Witness, when you stated (Interpretation) "They took the servant  
8 of the neighbour." (Speaks English) (Overlapping speakers) Where did they take her  
9 to? Where was she brought to?

10 A. [11:39:45] They took her to the BMS.

11 Q. [11:39:53] And did you learn why she was brought to the BMS?

12 A. [11:40:23] According to the information I had, she didn't have her head covered  
13 or she wasn't well covered up when she went to get water from outside. That's  
14 the reason why they took her away.

15 Q. [11:40:47] And who did you hear that from?

16 A. [11:41:05] People who speak about it, like that.

17 Q. [11:41:13] Now, you stated, and this is at line 12 to 13: "*Il est venu pour demander*  
18 *intervenir pour sa libération, ils n'ont pas accepté.*"

19 (Speaks English) Who came to demand her liberation, her freedom?

20 A. [11:42:12] Firstly, it was the person for whom she worked for who came firstly.  
21 And when they refused, then it was her neighbour Abdoul Djalil who came.

22 Q. [11:42:29] And you said (Interpretation) "They did not accept."

23 (Speaks English) Who is "they"? Who didn't accept to free her?

24 A. [11:43:02] The people who were inside the house, the people who were there.  
25 We didn't go in to know who was whom. And who decided, it was them. Those

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 are the people.

2 Q. [11:43:23] Now, you stated:

3 (Interpretation) "He got angry and he threw his weapon to the ground and his vest."

4 (Speaks English) Who was "he"? Who threw his weapon and his vest?

5 A. [11:44:05] Abdoul Djalil is the person who threw them.

6 Q. [11:44:14] And after he threw these to the ground, can you describe what  
7 happened next?

8 A. [11:44:48] When he threw them to the ground, I think that one of the leaders  
9 named Talha was there and he asked those to bring him. And there were four  
10 people who left at the night-time.

11 Q. [11:45:10] Now, you said that the -- okay, I'm going to read what you said:

12 (Interpretation) "I think that one of their leaders named Talha was there and he asked  
13 that the person be brought. And there are four people who left."

14 The next two words are *l'amène*, in French, which would be the same.

15 (Speaks English) So who was taken away? When you said, "*on l'amène*," who was  
16 taken away?

17 A. [11:46:17] Abdoul Djalil. When you throw something down, he asks you to  
18 come. And that's the reason why four people took him and -- took him away. They  
19 followed him and took him away.

20 Q. [11:46:30] And do you know where he was taken to?

21 A. [11:47:06] They had this discussion in the house. When it took place, he left,  
22 and that's why they asked him to follow him in the road. And he went in  
23 the direction of Abaradjou and that's how they managed to catch him. Yes, it was in  
24 fact in front of the bank. He hadn't gone far. And that's how they came and they  
25 made him go into the bank.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 Q. [11:47:47] Now, Mr Witness, it may just have been an issue of misinterpretation.

2 But at one point it's stated: (Interpretation) "There was this discussion inside  
3 the house."

4 (Speaks English) And in another part it states: (Interpretation) "It was, in fact, in front  
5 of the bank."

6 (Speaks English) So, just to be clear, was it inside a house, or was this discussion in  
7 front of the bank?

8 A. [11:48:44] Yes. When we didn't understand, he got angry and he left.

9 MS LUPING: [11:48:59] Mr President, if I could just ask for permission to briefly go  
10 into private session.

11 PRESIDING JUDGE MINDUA: [11:49:10](No interpretation)

12 THE INTERPRETER: [11:49:11] In the previous answer, he said: "He got angry. It  
13 was outside." Adds the interpreter.

14 (Private session at 11.49 a.m.)

15 THE COURT OFFICER: [11:49:25] We're in private session, Mr President.

16 PRESIDING JUDGE MINDUA: [11:49:34](No interpretation)

17 MS LUPING: [11:49:36] Thank you, Mr President.

18 Q. [11:49:38] The first question I see -- I heard an answer in French that doesn't  
19 appear to have been captured in the record, but I'll just clarify it. You said:

20 (Interpretation) "He got angry. It was outside."

21 (Speaks English) So was this outside the bank?

22 A. [11:50:33] Yes, everything happened in front of the bank. They came and they  
23 had this discussion -- dispute. They got angry, and he threw the weapon to  
24 the ground. It happened in front of the bank.

25 Q. [11:50:53] And, Mr Witness, did you see this with your own eyes?

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 Abdoul Djalil getting angry and throwing these things in front of the bank, did you  
2 see this?

3 A. [11:51:22] Yes.

4 Q. [11:51:24] [REDACTED]

5 [REDACTED]?

6 A. [11:51:43] [REDACTED]

7 MS LUPING: [11:51:47] Mr President, I believe we can go back into open session  
8 now.

9 PRESIDING JUDGE MINDUA: [11:51:55](Interpretation) Indeed.  
10 Court officer.

11 (Open session at 11.52 a.m.)

12 THE COURT OFFICER: [11:52:10] We're back in open session, Mr President.

13 PRESIDING JUDGE MINDUA: [11:52:15](Interpretation) Thank you very much,  
14 court officer.

15 Madam Prosecutor.

16 MS LUPING: [11:52:18] Thank you, Mr President.

17 Q. [11:52:21] Mr Witness, did you ever speak to Abdoul Djalil about this incident?

18 A. [11:52:53] Yes, I think we had this conversation, but I don't really remember. I  
19 think he said these were people who didn't decide well on businesses or business or  
20 cases.

21 Q. [11:53:21] And did you learn why he was angry?

22 A. [11:53:45] He said it was because he was pursuing people to their home to catch  
23 them. He said that it didn't correspond with the law. It wasn't normal.

24 Q. [11:54:03] And when you said, "*Ils poursuivaient les gens jusque dans les domiciles*  
25 *pour les prendre*," who is "he"? Who was chasing people into their homes to get them?

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 A. [11:54:46] It was them. If you put police there and you ask them to apply laws,  
2 it's them. They are the ones.

3 Q. [11:54:57] And going back to your conversation with Abdoul Djalil, you said:  
4 (Interpretation) "He told me that these people were not people who decided well on  
5 matters or who ruled well on cases."

6 (Speaks English) What did you mean by "*ces gens-là*"? What people was he referring  
7 to, to the best of your knowledge?

8 A. [11:55:51] It was them, the Islamic police. Everybody said it, the Islamic police.

9 Q. [11:56:01] Now, Mr Witness, at page 28, at line 15, you said: (Interpretation)  
10 "After they left him. After they released him."

11 (Speaks English) Who was released?

12 A. [11:56:42] It was Abdoul Djalil, he was the person who they released after those  
13 days. And they had a dispute about that. So it was Abdoul Djalil who they  
14 released several days after, and then RFI spoke about it. They had a dispute about it.  
15 They argued about it.

16 Q. [11:57:08] When -- when you state, and this is at line 25, page 41 of the French  
17 transcript: (Interpretation) "They had an argument."

18 (Speaks English) What do you mean by that?

19 THE INTERPRETER: [11:57:34] Message from the Songhai booth: We haven't been  
20 able to follow what the Madam Prosecutor said.

21 PRESIDING JUDGE MINDUA: [11:57:43](Interpretation) Madam Prosecutor.

22 MS LUPING: [11:57:45] I will repeat that.

23 Q. [11:57:49] At page 41, line 25 of the French transcript, it is stated: (Interpretation)  
24 "They had an argument."

25 PRESIDING JUDGE MINDUA: [11:58:05](Interpretation) Ms Taylor.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 MS TAYLOR: [11:58:08] Thank you, Mr President. I do believe it's appropriate to  
2 read out the full sentence to the witness. We've just been read the last part of the  
3 sentence. And since the Prosecution is all about context, I do believe it's appropriate  
4 in this instance for them to read the sentence that was actually what the witness said.  
5 Thank you.

6 PRESIDING JUDGE MINDUA: [11:58:29](No interpretation).

7 MS LUPING: [11:58:37] No problem, Mr President.

8 THE INTERPRETER: [11:58:40] Could you read it in its entirety, said the President.

9 MS LUPING:

10 Q. [11:58:43] So, Mr Witness, I'm going to read the entirety, and that's at lines 23 to  
11 25, on page 41: (Interpretation) "Yes, it was Abdoul Djalil who they released several  
12 days after those events. Even RFI spoke about it. They had an argument or they  
13 had a dispute."  
14 (Speaks English) Could you explain what dispute you mean. You said, "*ils se sont*  
15 *disputés*." What did you mean by that?

16 A. [11:59:53] Yes, the argument -- or they said what they had done, he wasn't in  
17 agreement about that. And that's how they had a dispute. That's what we know  
18 about the case.

19 Q. [12:00:17] And just so we're clear, when you say (Interpretation) "He wasn't in  
20 agreement with that", (Speaks English) are you referring to Abdoul Djalil?

21 A. [12:00:42] Yes, it was Abdoul Djalil. That's who I'm speaking about.

22 Q. [12:00:49] Now, Mr Witness, I'm going to change topics now. And I'm going to  
23 refer to your transcript, the transcript of your evidence yesterday, so that's transcript  
24 T-137. It's the French real-time transcript. I'm referring to page 70. And first I  
25 refer to lines 25 to 27 where you stated: (Interpretation) "Yes, the woman was caught

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 with a man who was married, despite the fact that the woman herself was not  
2 married."

3 (Speaks English) And then before that, at lines 16 to 18, you stated, when I asked you  
4 for the name of this woman -- actually, I'll start from line 15. You stated:

5 (Interpretation) "Yes, I don't remember her name, but I, nevertheless, know that she  
6 was (inaudible) flogged next to the tree of the mosque of Sankoré."

7 (Speaks English) End of quote.

8 Now, Mr Witness, when you say that the woman was flogged, were you present at  
9 that flogging?

10 A. [12:03:05] Yes.

11 Q. [12:03:12] And to the best of your knowledge, do you know who flogged her?

12 A. [12:03:41] Yes, it was a Peulh person who was one of the Islamists. It was  
13 the Islamists who whipped him. It was a young Peulh man amongst them. He was  
14 the one who whipped -- who whipped her.

15 Q. [12:04:03] And you say the flogging was at Sankoré. Do you know who  
16 brought her to the place where she was flogged?

17 Mr Witness, you have your hand up. Is there something you want to say?

18 A. [12:04:54] Yes. He -- she was whipped at the *Artisanat* building, not in Sankoré.

19 Q. [12:05:23] Thank you for that clarification.

20 Do you know who brought her to the place where she was flogged?

21 A. [12:05:53] The police officers were the ones who whipped her. And as I told  
22 you, it was a Peulh man who whipped her. They brought her in a van.

23 MS LUPING: [12:06:05] Mr President, could we briefly go into private session for  
24 a question.

25 PRESIDING JUDGE MINDUA: [12:06:14](Interpretation) Courtroom officer, if you

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 could.

2 (Private session at 12.06 p.m.)

3 THE COURT OFFICER: [12:06:22] We're in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:06:27](Interpretation) Thank you very much.

5 Madam Prosecutor.

6 MS LUPING:

7 Q. [12:06:35] Mr Witness, did you see her being brought, or did you see her being  
8 taken by the police?

9 A. [12:07:11] Are you talking about the time that they took her or the time that they  
10 brought her to be whipped?

11 Q. [12:07:22] Starting first with when they first brought her. You described  
12 yesterday how she was brought to the BMS, and that is at page 70, transcript 137.  
13 You stated, and I quote, at lines 18 to 19: (Interpretation) "She was kept, kept at the  
14 ATM."

15 (Speaks English) So my first question would be: Did you see her being brought to  
16 the BMS where she was guarded at the *guichet automatique*?

17 A. [12:08:32] When they took her, we didn't know about that. It was the next day  
18 that people were saying that someone was inside.

19 Q. [12:08:46] And did you see her at the BMS?

20 A. [12:09:10] Yes, we saw her. Anyone who went by could have seen her. Even  
21 her sister went by to see her and spent a day there.

22 BY MS LUPING: [12:09:23] I'm just going to ask my final question in private session,  
23 your Honours.

24 Q. [12:09:28] Now, just to be clear, [REDACTED] ?

25 A. [12:10:10] Yes, I knew she was there and the sister came with some water. And

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 as well, they opened up the ATM room to give her the water. And people hid, you  
2 see, when other people came by, because they didn't want other people to know  
3 about it.

4 Q. [12:10:44] Mr Witness, I am just going to -- I'm not sure if my question was clear.  
5 I'm going to repeat the question.

6 [REDACTED] ?

7 A. [12:11:40] [REDACTED] And her sister -- when her sister came, she  
8 told me that her sister had been taken. In actual fact, when things like this happened  
9 to people, I refer not to go and see them. But there were people around the ATM  
10 room who wanted to actually see her.

11 Q. [12:12:07] [REDACTED]  
12 [REDACTED],

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

14 MS LUPING: [12:12:31] Mr President, I believe we can go back into open session.

15 PRESIDING JUDGE MINDUA: [12:12:38](Interpretation) Courtroom officer, if you  
16 could.

17 (Open session at 12.12 p.m.)

18 THE COURT OFFICER: [12:12:44] We're in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [12:12:49](Interpretation) Thank you very much.

20 Madam Prosecutor.

21 MS LUPING:

22 Q. [12:12:56] Now, Mr Witness, you've described how the sister of the woman who  
23 was being held at the BMS, that she came with water, and when people asked her, she  
24 said that her sister was there. Do you recall if this was before or after the woman  
25 was flogged?

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [12:13:32](Interpretation) Ms Taylor.

2 MS TAYLOR: [12:13:36] Thank you very much, Mr President. Can we cut off  
3 the sound to the witness?

4 PRESIDING JUDGE MINDUA: [12:13:46](Interpretation) Courtroom officer.

5 THE COURT OFFICER: [12:13:50] Your Honours, the sound has been cut off.

6 PRESIDING JUDGE MINDUA: [12:13:54](Interpretation) Thank you very much.  
7 Ms Taylor.

8 MS TAYLOR: [12:13:58] Thank you very much, Mr President. I think we have to be  
9 very cautious with the witnesses, who's being put various questions which can be  
10 confusing on the stand.

11 Now, I would have to go through the transcripts, but at least in his statement he has  
12 testified that this person that we're discussing was in the BMS and then taken to  
13 the prison before being flogged. [REDACTED]

14 [REDACTED]

15 Now, we're introducing an additional element here that we have no notice of, it's not  
16 in his statement, it's confusing, and it's highly unfair to suggest to the witness that this  
17 individual was taken back to the BMS when we have no evidential foundation for  
18 that point.

19 So I am concerned that we're being given a new case theory on the stand, of which we  
20 have no prior notice and there is no evidential foundation to put to the witness or to  
21 suggest to a suggestible witness that this individual may have been in the BMS after  
22 being flogged, particularly when he's given evidence that she was taken to the prison  
23 before being flogged.

24 So I am highly concerned by this line of questioning.

25 PRESIDING JUDGE MINDUA: [12:15:23](Interpretation) Ms Prosecutor, what is

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 your foundation for asserting that the lady was taken to the BMS?
- 2 MS LUPING: [12:15:34] Mr President, I believe, whereas I understand
- 3 Defence counsel's objection, it's a different objection. I don't think there is any
- 4 disagreement that the woman was first brought to the BMS.
- 5 As I understand it, counsel's concern is as to whether there's any suggestion that she
- 6 was there for any extended period of time, or there's a reference to her -- in his
- 7 statement to her being subsequently brought to a larger prison.
- 8 My question was simply, your Honours, to understand the timing. I'm not trying to
- 9 suggest or mislead this witness.
- 10 He has described something also new to the Prosecution, which, as Defence counsel's
- 11 fully aware, can happen when witnesses spontaneously testify about additional
- 12 details. He is describing information about a sister coming to visit the woman.
- 13 My question was simply to understand the timing as -- you know, to the best of his
- 14 knowledge. I'm not seeking to mislead him. I'm just wanting to understand
- 15 the timing.
- 16 I can also reformulate and ask, "Do you remember when this was?" I have no
- 17 problem reformulating.
- 18 MS TAYLOR: [12:16:51] The Defence would agree to that.
- 19 We have no problem with the question of timing. It's the suggestion that she might
- 20 have been taken to the BMS afterwards that we have a problem with.
- 21 PRESIDING JUDGE MINDUA: [12:17:08](Interpretation) Very well. We
- 22 understand one another. What is important to us is the testimony of the witness at
- 23 the hearing. So we will listen to what he has to say about the timeline.
- 24 Madam Prosecutor.
- 25 MS LUPING: [12:17:22] Thank you, Mr President.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [12:17:26](Interpretation) First of all, we have to
- 2 re-establish the sound.
- 3 THE COURT OFFICER: [12:17:32] Your Honours, the sound has been re-established.
- 4 PRESIDING JUDGE MINDUA: [12:17:34](Interpretation) Thank you very much.
- 5 Madam Prosecutor.
- 6 MS LUPING: [12:17:37] Thank you.
- 7 Q. [12:17:40] Mr Witness, you've described how the sister of the woman came to
- 8 the BMS with water. Do you remember when that was?
- 9 A. [12:18:33] It was the -- at night. It was the night that she was taken. And
- 10 when that happened no one knew about it. It was the next day that we found out.
- 11 And that was before she was whipped. People did not know when she was taken,
- 12 captured.
- 13 Q. [12:19:00] And now moving to a previous question I had for you. How do you
- 14 know that she was brought to the place of her flogging by the police? How do you
- 15 know that?
- 16 A. [12:19:52] I was at my workplace when I was told that they were taking
- 17 someone to be whipped. That's how I've heard about it. At that time the news was
- 18 travelling about the town a lot and anyone who was interested could go and see.
- 19 Q. [12:20:15] Now, Mr Witness, I'm now going to be showing you a video excerpt.
- 20 For the information of everybody I'll be showing it on evidence channel 2.
- 21 And for the information of the interpreters I'll first be playing it without sound but I
- 22 then will be requesting interpretation. And I'm going to give the references.
- 23 The video is at tab 14 and that is MLI-OTP-0072-0240. The transcript is at tab 15 and
- 24 the ERN is 0080-1440.
- 25 And the translation at tab 16 is at 0080-1444.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 I'll first be playing it without sound from the very beginning.

2 (Viewing of the video excerpt)

3 MS LUPING: [12:21:50] I've played the first second and the timestamp is 00:00:01:10.

4 Q. [12:22:04] Mr Witness, do you recognise this event?

5 A. [12:22:20] Yes.

6 Q. [12:22:22] And what is it?

7 A. [12:22:33] The woman that they whipped.

8 Q. [12:22:36] And do you recognise anybody else in this scene?

9 A. [12:23:03] Yes, I recognise the Peulh fellow and Lezi (phon) and Demba Demba  
10 who is filming.

11 Q. [12:23:22] Now you just said you recognise the Peulh. Could you explain what  
12 the Peulh is wearing.

13 A. [12:23:59] He is wearing white shoes -- correction: White socks, black shoes  
14 and green clothing. And he has a turban around his neck.

15 Q. [12:24:18] And just to make sure we're very clear as to who we're talking  
16 about - and I just note that I've gone back to the very beginning of this video - is he  
17 holding anything in his hand, the Peulh?

18 A. [12:24:42] He has a whip.

19 Q. [12:24:46] I'll now be playing this with sound and again I repeat I will be  
20 requesting interpretation. And I repeat the transcript is at tab 15, 0080-1440 and  
21 the translation at tab 16, 0080-1444.

22 THE COURT OFFICER: [12:25:12] Counsel, before we proceed to display the -- to  
23 play the video, if it's a confidential video, we may need to move into private session.

24 MS LUPING: [12:25:22] I believe if it could be -- it can be played but rather  
25 confidentially. But I can -- we can remain in public session. It just doesn't need to

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 be seen by the public.

2 THE COURT OFFICER: [12:25:34] In that case the sound will go out publicly.

3 MS LUPING: [12:25:42] I believe actually the sound can be transmitted publicly.

4 I don't think that will be a problem.

5 PRESIDING JUDGE MINDUA: [12:25:54](Interpretation) Madam Prosecutor, why  
6 should this video not be played outside the courtroom? Why can it not be disclosed  
7 to the public?

8 MS LUPING: [12:26:07] Mr President, perhaps we could -- if I could just  
9 explain -- and I will obviously leave it to your Honours' discretion, if I could explain  
10 briefly in private session what my reasoning was, with the sound cut to the witness.

11 PRESIDING JUDGE MINDUA: [12:26:28](Interpretation) Cut off the sound, please.  
12 Cut off the sound and we go into private session.

13 Private session, please, courtroom officer. Private session.

14 (Private session at 12.26 p.m.)

15 THE COURT OFFICER: [12:26:47] We're in private session, your Honours.

16 PRESIDING JUDGE MINDUA: [12:26:53](Interpretation) Thank you very much.

17 Now, Madam Prosecutor, the Chamber has -- is wondering why this video cannot be  
18 shown or disclosed. Do you have some reason?

19 MS LUPING: [12:27:09] Yes, Mr President, your Honours. The concern is that  
20 particular footage was -- I appreciate has been shown multiple times in various forms  
21 to other witnesses. [REDACTED]

22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]

25 whilst there would be no problem with the sound being heard, the concern is just

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 the nature of the footage itself [REDACTED]  
2 [REDACTED] That was the only concern. I'll obviously leave it to  
3 the discretion of your Honours as to whether you prefer us to simply show it in  
4 public.  
5 PRESIDING JUDGE MINDUA: [12:28:09](Interpretation) The Chamber shall briefly  
6 confer.  
7 (Trial Chamber confers)  
8 PRESIDING JUDGE MINDUA: [12:30:07](Interpretation) Madam Prosecutor,  
9 the Chamber is of the view that it can be disclosed to the public, obviously without  
10 mentionin [REDACTED] We are in agreement.  
11 Courtroom officer, open session, please, and please re-establish the sound.  
12 (Open session at 12.30 p.m.)  
13 THE COURT OFFICER: [12:30:42] Your Honours, we are back in open session and  
14 the sound has been re-established.  
15 PRESIDING JUDGE MINDUA: [12:30:49](Interpretation) Thank you very much,  
16 court officer.  
17 Madam Prosecutor.  
18 MS LUPING: [12:30:51] Thank you.  
19 Now, just to confirm that this video then is going to be played with sound and be  
20 transmitted publicly, the image and the sound.  
21 And I'm now going to ask -- repeat my request for the interpreters please to do  
22 the interpretation.  
23 (Viewing of the video excerpt)  
24 THE INTERPRETER: [12:31:37](Interpretation of the video excerpt)  
25 Translation 0080-1440:

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 "Hold on, hold on ... cover up.
- 2 Stop filming. Stop film. Stop ... do not film her, the woman is bared. Do not film
- 3 her. Do not film her.
- 4 Stop. Do not pull her, she is bared ... Do not put her, she is bared.
- 5 Get up, get up ...
- 6 Ow ... ow ...
- 7 Hajj, stop!
- 8 Okay, all right."
- 9 MS LUPING: [12:32:22] Mr Witness and your Honours, I have paused at 21 seconds
- 10 only just to explain to the interpreters, and this is my apology. The transcript and
- 11 translation we have is for one specific passage and that's from 1 minute 1 second. So
- 12 this footage we're seeing now doesn't correspond to that interpretation. And it's -- I
- 13 apologise for the confusion. I'm going to replay it. The part at the beginning will
- 14 not need to be translated. When I stop at 1 minute, I will then indicate to the
- 15 interpreters when the interpretation needs to begin.
- 16 And I'm starting again from the beginning.
- 17 (Viewing of the video excerpt)
- 18 MS LUPING: [12:33:35] I'm now pausing at 00:00:33:05.
- 19 Q. [12:33:41] Mr Witness, do you know what language the person is speaking?
- 20 A. [12:34:02] He's speaking Songhai.
- 21 Q. [12:34:04] And just very briefly, what was he stating?
- 22 A. [12:34:37] He said that this woman was taken because she's accused of adultery.
- 23 But she didn't accept it.
- 24 It's also said that even if she didn't do it, she's capable of doing so. So her sanction
- 25 would be to give her 95 whips.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Q. [12:35:25] I'm now going to continue playing this -- this video clip.

2 (Viewing of the video excerpt)

3 MS LUPING: [12:35:42] I'm now pausing at 00:00:41:19.

4 Q. Is this the same person, the Peulh that you described before that we see in this  
5 image?

6 A. [12:36:10] Yes.

7 Q. [12:36:10] I'm now going to continue playing this. And I just note for  
8 the record that the timestamp that we stopped at was 00:00:41:19.

9 PRESIDING JUDGE MINDUA: [12:36:23](Interpretation) Ms Taylor.

10 MS TAYLOR: [12:36:23] Thank you, Mr President. If we can just briefly cut off  
11 the sound to the witness.

12 PRESIDING JUDGE MINDUA: [12:36:31](Interpretation) Court officer, please cut  
13 the sound to the witness.

14 THE COURT OFFICER: [12:36:38] Your Honours, the sound has been cut off.

15 PRESIDING JUDGE MINDUA: [12:36:42](Interpretation) Thank you very much,  
16 court officer.

17 Ms Taylor.

18 MS TAYLOR: [12:36:44] Thank you, Mr President.

19 I wanted to not disrupt my colleague's line of questioning, but I am disturbed about  
20 the procedure that was just followed. The Prosecutor asked that the video not be  
21 interpreted, that the Songhai not be interpreted. The Prosecutor then asked  
22 the witness to provide his own interpretation of what's being said in this video. So  
23 effectively they're trying to use the witness as a quasi-interpreter. So I do believe  
24 that any account that has just been given by the witness of what was said in this video  
25 should be disregarded, or the witness -- the Prosecutor should ask for the actual

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 extract to be played and interpreted, because at this point in time we don't have a  
2 record of that -- an accurate record. And I do believe it's inappropriate to use  
3 the witness to provide his hearsay account - he is not a qualified interpreter - of was  
4 what was said, rather than actually having it interpreted by qualified persons.

5 Thank you.

6 PRESIDING JUDGE MINDUA: [12:37:54](Interpretation) First of all I am going to let  
7 the Prosecutor answer before giving my opinion.

8 Madam Prosecutor.

9 MS LUPING: [12:37:58] Thank you, Mr President. We have no problems whatever  
10 asking that the Songhai interpreter, who is indeed available, provide interpretation  
11 for the sound. We would be in agreement with that procedure. We simply leave it  
12 in the hands of your Honours.

13 PRESIDING JUDGE MINDUA: [12:38:15](Interpretation) Ms Taylor.

14 MS TAYLOR: [12:38:15] Thank you, Mr President. Alternatively, that part of the  
15 record can just be disregarded because I don't believe that the witness has any  
16 qualifications as an interpreter or any foundation providing -- for providing his own  
17 interpretation of that video.

18 PRESIDING JUDGE MINDUA: [12:38:37](Interpretation) I don't understand. Well,  
19 we're obviously going to ask the interpreters to translate, to interpret what's said.

20 But the Prosecutor -- did the Prosecutor ask the witness to interpret? It was rather to  
21 say if the witness was present, what he's seen, what he heard. But please go ahead,  
22 Ms Taylor.

23 MS TAYLOR: [12:39:03] No, Mr President, that wasn't what was being asked. I do  
24 believe -- and I can just find the record. In the English he's being asked very briefly  
25 what was he stating. So the witness was asked to recount exactly what we heard.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 So he wasn't being asked to provide his own recollection of the events, he was being  
2 asked to tell the Court what he just heard on the video, which he did in a summarised  
3 format which we have no idea whether it corresponds to the original. So that's not  
4 an appropriate question for the witness. He shouldn't be asked to mirror or mimic  
5 the video.

6 PRESIDING JUDGE MINDUA: [12:39:50](Interpretation) A last response,  
7 Madam Prosecutor.

8 MS LUPING: [12:39:52] Yes, just to -- just to explain, Mr President, your Honours.  
9 That was not the intention. What I had meant was to simply ask what the witness  
10 understood was, was being discussed or what was said. I hadn't intended that he be  
11 indeed a quasi-interpreter. I do leave it in your hands, as I said, to have a precise  
12 interpretation. The Songhai interpreter is here and he could be asked to interpret  
13 the sound. I've brought it back to the beginning.

14 PRESIDING JUDGE MINDUA: [12:40:24](Interpretation) Indeed, indeed. So we  
15 shall ask the interpreters to interpret what is said.  
16 Please go ahead.

17 MS LUPING: [12:40:35] I'm now playing it from the beginning.

18 PRESIDING JUDGE MINDUA: [12:40:40](Interpretation) Yes, court officer. Thank  
19 you very much.

20 Madam Prosecutor.

21 (Viewing of the video excerpt)

22 THE INTERPRETER: [12:41:05] Message from the English booth: Could  
23 the sections be shorter to enable the interpreters to do their job. Also it should be  
24 noted that normally interpreters don't interpret videos directly because of the poor  
25 sound quality.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 (Interpretation of the video excerpt)

2 "This was done because she committed adultery, but she refused. And the prophet,  
3 blessings be upon him, said, 'Are you married to the woman? Yes, I'm married to -- I  
4 married the woman. Yes.'"

5 "The woman was caught because she committed adultery, but she refused. And  
6 the prophet, peace be upon him, said, 'Are you married with the woman?' He said  
7 yes."

8 PRESIDING JUDGE MINDUA: [12:41:53](Interpretation) Madam Prosecutor.

9 MS LUPING: [12:41:55] I'm just noting, I just paused at 00:00:17:16. I'm noting  
10 the timestamps.

11 And I'll now continue playing again.

12 (Viewing of the video excerpt)

13 MS LUPING: [12:42:15] Pausing at 00:00:21:15.

14 THE INTERPRETER: [12:42:28](Interpretation of the video extract)

15 "We think that he's committed -- that she committed adultery, but she didn't  
16 recognise it. But the intention is the same as the -- the intention is the same as  
17 the action so she's going to receive 95 lashes."

18 MS LUPING: [12:42:46] I'm now continuing.

19 (Viewing of the video excerpt)

20 MS LUPING: [12:43:02] Paused at 00:00:32:15.

21 THE INTERPRETER: [12:43:16](Interpretation of the video excerpt)

22 "When there's the intention, it's as if the act was committed. That's the reason why  
23 she will be given 95 lashes."

24 MS LUPING: [12:43:32] I now continue.

25 (Viewing of the video excerpt)

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 MS LUPING: [12:43:38] And I'm playing onwards.

2 (Viewing of the video excerpt)

3 MS LUPING: [12:44:02] I'm pausing at 00:00:51:18.

4 PRESIDING JUDGE MINDUA: [12:44:14](Interpretation) Ms Taylor.

5 MS TAYLOR: [12:44:14] Mr President, I really wonder if these images should be

6 played publicly. I don't believe they have been with other witnesses.

7 MS LUPING: [12:44:27] Mr President, I leave this in your hands. I had originally

8 requested that they not be shown in public, but I leave it and defer to the Chamber's

9 decision on this.

10 MS TAYLOR: [12:44:40] There is an individual impacted by this.

11 And I'm not talking about my client, I'm talking about (Microphone not activated)

12 PRESIDING JUDGE MINDUA: [12:44:58](Interpretation) Yes, I think that

13 the Chamber has been sufficiently edified. We can stop the broadcast to the public.

14 THE COURT OFFICER: [12:45:23] Your Honours, the video will be played with

15 sound but without the image being broadcast.

16 PRESIDING JUDGE MINDUA: [12:45:35](Interpretation) Thank you very much,

17 court officer.

18 MS LUPING: [12:45:38] And I just note I had paused at 00:00:51:18 and I will

19 continue to play.

20 (Viewing of the video excerpt)

21 MS LUPING: [12:45:51] And I would just note for the interpreters' information that

22 we will be shortly coming to the excerpt that requires interpretation.

23 (Viewing of the video excerpt)

24 THE INTERPRETER: [12:46:10] Note from the English booth: I will be reading

25 the transcription and the translation, but I am not a Songhai interpreter, so I won't be

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 interpreting Songhai.

2 MS LUPING: [12:46:25] I just note for the record that I have gone back to 00:01:04:16.

3 And I just ask the witness.

4 Q. [12:46:39] Mr Witness, do you recognise the person on the left of the screen  
5 wearing a black turban?

6 A. [12:47:02] Yes. Khalid.

7 Q. [12:47:04] Is this the person that you referred to in yesterday's testimony as  
8 being amongst the individuals that you described were with the police at the BMS?

9 A. [12:47:28] Yes.

10 Q. [12:47:29] I'm going to continue playing now. And I noted that the English  
11 interpreter said that he will simply be reading the translation.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: [12:47:44](Interpretation of the video excerpt)

14 "Hold on, hold on ... cover up.

15 Stop ... filming. Stop filming. Stop ... do not film her, the woman is bared. Do not  
16 film her. Do not film her.

17 Stop. Do not pull her, she is bared ... Do not pull her, she is bared.

18 Get up, get up ...

19 Ow ... ow ... ow ...

20 Hajj, stop!

21 OK, all right."

22 MS LUPING: [12:48:09] Just pausing for the record. I've paused at 00:01:29:09.

23 Mr President, with your authorisation, I would like to briefly ask additional questions  
24 of this witness in private session. I won't be in private session for long.

25 PRESIDING JUDGE MINDUA: [12:48:49](Interpretation) Court officer, private

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 session, please.

2 (Private session at 12.48 p.m.)

3 THE COURT OFFICER: [12:48:56] We're in private session, Mr President.

4 PRESIDING JUDGE MINDUA: [12:48:59](Interpretation) Thank you very much,  
5 court officer.

6 Madam Prosecutor.

7 MS LUPING: [12:49:02] Thank you, Mr President.

8 Q. [12:49:04] Mr Witness, do you recognise this filmed footage that we just saw?

9 A. [12:49:21] Yes.

10 Q. [12:49:24] [REDACTED] ?

11 A. [12:49:39] Yes.

12 Q. [12:49:41] [REDACTED] ?

13 A. [12:50:08] Yes [REDACTED]

14 Q. [12:50:13] [REDACTED]

15 [REDACTED] ?

16 A. [12:50:43] [REDACTED]

17 [REDACTED]

18 MS LUPING: [12:51:07] Mr President, I believe we can return to public session.

19 PRESIDING JUDGE MINDUA: [12:51:14](Interpretation) I'm sorry, court officer,  
20 before going into open session, I think we have to redact the part of the video where  
21 the victim is undressed for the public. I think.

22 THE COURT OFFICER: [12:51:37] Your Honours, a redaction can be prepared.

23 PRESIDING JUDGE MINDUA: [12:51:44](Interpretation) Thank you very much,  
24 court officer.

25 We now go back into open session.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 (Open session at 12.51 p.m.)

2 THE COURT OFFICER: [12:51:51] We are back in open session, Mr President.

3 PRESIDING JUDGE MINDUA: [12:51:56](Interpretation) Thank you very much.

4 Madam Prosecutor.

5 MS LUPING: [12:52:00] Thank you, Mr President.

6 Q. [12:52:04] This next item, it can be broadcast publicly, it can be seen by  
7 the public. I'll not be playing any of the footage, I'm just going to simply be showing  
8 screenshots. The next item, which does not require any sound or interpretation, it is  
9 at tab 52, it is MLI-OTP-0018-0741. And I have stopped this video at 00:00:24:05.

10 Mr Witness, do you recognise this event?

11 A. [12:52:57] Yes.

12 Q. [12:53:01] And can you just briefly explain what is it?

13 A. [12:53:21] That's there where the woman was flogged, she was  
14 published -- punished in front of the *Artisanat*.

15 Q. [12:53:30] And is this -- is this the same event that we just saw on the other video  
16 footage just immediately preceding?

17 A. [12:54:03] Yes, it's the same thing. But it's sequential. They get out of the  
18 vehicle and then she's flogged afterwards.

19 Q. [12:54:15] And we see a person on the far left of this image - and I'm referring to  
20 the person dressed in green, and I have my arrow on this person - wearing a hat.

21 Do you know who this person is?

22 A. [12:55:04] Yellow turban? I'm sorry, could you go back.

23 Q. [12:55:08] Apologies, I moved my arrow. That's my fault. It's the person here,  
24 wearing a sort of a brown hat with green clothing.

25 A. [12:55:35] It's Demba Demba.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Q. [12:55:38] I'm going to be showing you another -- just simply a screenshot from  
2 another video. It can also be shown publicly. And it is MLI-OTP-0018-0742. And  
3 the screenshot is at 00:00:08:12. And I have the same question for you, Mr Witness.  
4 You see somebody now in the middle with the brown hat and the green clothing, who  
5 is that? I've got my arrow on this person.

6 A. [12:56:50] That's still Demba Demba.

7 Q. [12:56:54] Now I'm showing you a different screenshot, or, rather, I'm going to  
8 be showing a first few seconds of a different video. And that's MLI-OTP-0018-0408.  
9 I'll be playing without sound for -- of one second from the beginning.  
10 (Viewing of the video excerpt)

11 MS LUPING: [12:57:23] I've stopped at 00:00:01:21.

12 Q. [12:57:29] Mr Witness, do you recognise the vehicle that we see in this image?

13 A. [12:57:48] Yes, of course, it's the police van.

14 Q. [12:57:52] And just to be clear, is this the same event for the last footage that  
15 we've been watching, video footage, is this from the same event?

16 A. [12:58:16] The same.

17 Q. [12:58:22] Now, Mr Witness, we have about two minutes left before the break.  
18 You said that this woman was flogged for adultery. Do you know of anybody else  
19 who was flogged for adultery?

20 A. [12:59:11] The first couple. It was the first couple who suffered that. That was  
21 done in Sankoré.

22 MS LUPING: [12:59:33] I have one minute. I have a photograph I can show and  
23 ask a quick question or I can wait for the break. It's -- I leave it in your hands,  
24 Mr President.

25 It won't take long. It's just literally one photograph.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [12:59:50](Interpretation) Please go ahead,

2 Madam Prosecutor.

3 MS LUPING: [12:59:54]

4 Q. [12:59:55] Mr Witness, I have a photograph I have in front of you, it's from  
5 tab 69 of your binder. It's MLI-OTP-0018-2594. I want to ask you if you recognise  
6 anybody in this scene? I'll try to enlarge it.

7 A. [13:00:43] Yes. Hassan is there. And there's also the Burkina person. He's  
8 next to the woman. Al Hassan is next to the woman.

9 Q. [13:00:54] Now, Mr Witness, could you describe what Al Hassan is wearing.  
10 When you say he's next to the woman, can you describe what his clothing is?

11 A. [13:01:23] He's wearing a green turban and he's wearing para attire.

12 Q. [13:01:31] And just to be clear, where is he in relation to the woman precisely?

13 A. [13:01:59] It's as if he is behind the woman. That's how it looks where I am  
14 here. I don't know how to explain it.

15 Q. [13:02:09] Now, you've described him as having a green turban and that he is  
16 near her. I can see two people with green turbans. There's one on the left in  
17 the middle of the screen and there is one on the right. These appear to be the closest  
18 to the woman in this photograph.

19 Is it the first in the middle of the screen or the second that can be seen where it's only  
20 a partial view of this person here? Which is it, number 1 or number 2?

21 A. [13:02:55] The one where the arrow is.

22 Q. [13:03:02] I'm just going to note for the record that the arrow is on a person just  
23 immediately seen in front of the woman. I'm not sure if we can have that -- how we  
24 record it. If we can mark it. Anyway, it is just immediately before the person we  
25 see the head and a green turban and facing us.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Mr Witness, you also described a Burkinabé. Can you describe what he looks like.

2 And then we will -- this will be my last question.

3 A. [13:03:54] Yes, he's wearing -- he's wearing black shoes, white socks and a black  
4 turban.

5 Q. [13:04:07] Can I confirm that this is the person in the middle here who appears  
6 to be wearing a black turban?

7 A. [13:04:25] Yes.

8 Q. [13:04:28] I just note for the record that it's the person standing in the middle  
9 that we can see facing us with a black turban, black shoes, as described by  
10 the witness.

11 Thank you, Mr President. I have no further questions regarding this photograph.

12 PRESIDING JUDGE MINDUA: [13:04:52](Interpretation) Thank you very much.

13 THE COURT OFFICER: [13:05:02](Microphone not activated) Your Honours, just to  
14 inform counsel that we do have a printed version of the document she wishes to have  
15 the witness mark, if she still wishes to do so.

16 PRESIDING JUDGE MINDUA: [13:05:12](Interpretation) Please repeat, courtroom  
17 officer.

18 THE COURT OFFICER: [13:05:17](Overlapping speakers) Just to inform counsel  
19 that we have the printed version of the document she wished to have the witness  
20 mark, if that is something she wishes to do once more.

21 PRESIDING JUDGE MINDUA: [13:05:28](Interpretation) Well, in that case we will  
22 attribute a number, don't you think?

23 Madam Prosecutor, have you -- you have marked the photograph so we need to  
24 assign a number.

25 Mr Courtroom Officer, we don't need a reference number for this?

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 THE COURT OFFICER: [13:05:50] We would, but I don't think that the witness has  
2 marked the document yet.

3 MS LUPING: [13:05:57] Mr President, he hasn't marked it. I believe I've indicated  
4 it for the record. I can also, because I was the one putting the arrow on it, to save  
5 time, I could just note on a copy and provide it where the arrow was located, where I  
6 put the arrow. I'm just trying to save time.

7 But, in any event, the answer is very clear on the record, your Honours. He has not  
8 marked it on an image, it hasn't been provided to him. He does have a copy of it  
9 where he is. He can also be asked to put his marking on it.  
10 I leave it in your hands, Mr President.

11 PRESIDING JUDGE MINDUA: [13:06:45](Interpretation) Ms Taylor.

12 MS TAYLOR: [13:06:46] Mr President, if it assists, we don't dispute that he identified  
13 the person he -- okay, I'm going to reformulate this.

14 I'm not saying he identified the person, but I'm not disputing the location in the photo  
15 of the person that was identified. And the problem of him marking the photograph  
16 was -- would be that we'd have to go through this whole process again.

17 PRESIDING JUDGE MINDUA: [13:07:07](Interpretation) Well, since everyone is in  
18 agreement, I think it's clear on the record, so we do not have this noted by the witness  
19 again or to assign a number. Thank you very much for your cooperation.

20 It is seven minutes after one, we shall now suspend for our lunch break and we shall  
21 resume at 2.30.

22 The hearing is suspended.

23 THE COURT USHER: [13:07:35] All rise.

24 (Recess taken at 1.07 p.m.)

25 (Upon resuming in open session at 2.31 p.m.)

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 THE COURT USHER: [14:31:49] All rise.
- 2 Please be seated.
- 3 PRESIDING JUDGE MINDUA: [14:32:17](Interpretation) The hearing shall now
- 4 resume.
- 5 Before handing over to the Prosecution, I would like to issue a reminder.
- 6 Madam Prosecutor, you have nine hours in all. The court officer informs me that
- 7 you have used six hours and three minutes. So you have two hours and 57 minutes,
- 8 if my math is correct.
- 9 Is that correct? Yes, very well.
- 10 As I informed the Defence, it is not necessary to use up the entire two hours and
- 11 57 minutes. You can end earlier, and I believe you can do so, because you are
- 12 eliciting a great deal of detail from the witness.
- 13 For example, before the break there was a photograph that we looked at.
- 14 The witness said that there was a person beside the lady, and you asked what sort of
- 15 clothing that the man was wearing, and whether there was a black turban, and I saw
- 16 that the Defence was not as demanding as usual. So I think in such cases you can
- 17 move on and gain some time.
- 18 So that was the little piece of advice I wanted to offer to you.
- 19 Other than that, everything is going very well, and the Chamber is, indeed, quite
- 20 satisfied.
- 21 I would now like to hand over to you for continuation of the examination-in-chief.
- 22 MS LUPING: [14:34:11] Thank you, Mr President. Thank you, your Honours.
- 23 And I would like to confirm that, you know, this is duly noted. The Prosecution is
- 24 endeavouring to try to complete as quickly as possible its questioning of this witness.
- 25 You may have observed though that at times it is not as straightforward to be quick.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 I'm trying to do the best that I can in the situation, and I would remind the Chamber,  
2 too, of the advice that was given by VWS also in relation to this individual. So I am  
3 endeavouring to do my best. The Prosecution has also ensured that in line with  
4 the Chamber's instructions, even before this witness was called, that it's seeking to  
5 focus, obviously, clearly on the most pertinent aspects that this witness is able to  
6 provide.

7 As for the identification, your instructions are noted. When it concerns the accused,  
8 however, I have been trying to be as careful as possible in not being leading and to  
9 avoid objections, to avoid interventions or delays, actually, by having any  
10 unnecessary intervention. And that was the reason why I wanted to be extremely  
11 cautious when it comes to identification of the accused, but your comments on taken  
12 on board, Mr President.

13 PRESIDING JUDGE MINDUA: [14:35:37](Interpretation) Thank you very much for  
14 being so understanding.

15 I see that Ms Taylor has risen.  
16 Counsel.

17 MS TAYLOR: [14:35:45] Thank you, Mr President. If we can cut off the sound to  
18 the witness.

19 PRESIDING JUDGE MINDUA: [14:35:54](Interpretation) Courtroom officer, kindly  
20 cut off the sound.

21 THE COURT OFFICER: [14:35:59] Your Honours, the sound has been cut off.

22 PRESIDING JUDGE MINDUA: [14:36:04](Interpretation) Thank you very much.  
23 Ms Taylor.

24 MS TAYLOR: [14:36:07] Firstly, I don't think following an appropriate methodology  
25 has anything to do with interventions from the Defence.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Secondly, I am concerned that the Prosecutor just said in front of the witness that this  
2 concerned the identification of the accused. This suggests to the witness that he has  
3 correctly given the answer to a question. I think that was highly inappropriate for  
4 the Prosecutor to have done that in the presence of the witness.

5 Questions should be put to the witness, the witness should answer, but no description  
6 of those answers should ever be provided in the presence of the witness, particularly  
7 if the Prosecutor intends to go through further videos or photographs. So I am very  
8 concerned that that was done.

9 PRESIDING JUDGE MINDUA: [14:37:00](Interpretation) Well, let us say that we  
10 must be careful. The parties must be careful so as to not answer their own questions  
11 rather than the witness.

12 Madam Prosecutor, did you have something to say? Or, if not, we can re-establish  
13 the sound immediately.

14 MS LUPING: [14:37:29] Mr President, just briefly. It was simply to state that I was  
15 simply responding to the Chamber's instructions. I believe my comments were  
16 sufficiently general not to be signalling any kind of indication to the witness. I will  
17 obviously take care to avoid any kind of such comments in front of the witness. And  
18 I believe we could resume the questioning, with your leave, Mr President.

19 PRESIDING JUDGE MINDUA: [14:37:57](Interpretation) Thank you very much.  
20 Courtroom officer, if you could.

21 THE COURT OFFICER: [14:38:01] Your Honours, the sound has been re-established.

22 PRESIDING JUDGE MINDUA: [14:38:05](Interpretation) Thank you very much.  
23 Madam Prosecutor.

24 MS LUPING: [14:38:09] Thank you, Mr President.

25 Q. [14:38:12] Mr Witness, you have described a number of floggings that took place.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Did you learn of the flogging of a member of the group?

2 A. [14:39:09] Yes. The one that I heard about was about -- it was one of them.  
3 They had accused him of stealing some of their things, so they said they would whip  
4 him in public and cast him out of their ranks.

5 They removed him from the group and he was no longer with them.

6 They whipped him in public because he took something that belonged to the group,  
7 a group that he was a member of. So his punishment was to be whipped in public.

8 If it had been a theft from a private individual, they would have cut off his arm.

9 Q. [14:40:39] I'm now just wanting to clarify. Do you remember where this person  
10 who was a member of the group was flogged? Where was that flogging?

11 A. [14:41:13] In front of the *Artisanat* building by the monument.

12 Q. [14:41:22] And, Mr Witness, were you there on the day of that flogging?

13 A. [14:41:49] Yes. I was just going by at the same time as it happened. There  
14 were some people there and I had to stop and watch. And towards the end I went  
15 along my way.

16 Q. [14:42:09] And do you remember who was involved in the flogging of this man?

17 A. [14:42:40] There was a large crowd where he was. There was Bouca (sic), there  
18 was -- there was Talha, and there was Radwan as well.

19 MS LUPING: [14:43:04] I've just noticed that in the English we have a reference to  
20 a -- oh, no. It's been corrected now in the French as "Bocar". In the English it's  
21 stated as "Bouca".

22 Q. [14:43:19] Mr Witness, other than the -- these individuals you've  
23 mentioned - Bocar, Talha, Radwan - do you remember any other leaders being  
24 present on the day of this flogging?

25 A. [14:43:57] Yes. Al Hassan was there as well.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Q. [14:44:03] And just to get a sense of the timing of this event, do you remember  
2 where the police were based at the time of this flogging?

3 A. [14:44:37] The police, well it was still at the bank, at the BMS. That's where it  
4 was.

5 Q. [14:44:44] Mr Witness, I'm now going to show you some video footage. I'm  
6 going to be showing it on evidence channel 2. I won't be showing all of it. I'll just  
7 be showing precise excerpts from this. And I just want to note for the record that it's  
8 at tab 17. It's 0072-0241. It does not require any interpretation. I'm going to be  
9 playing it first from the start for the first five seconds.

10 THE COURT OFFICER: [14:45:37] My apologies to counsel. Would you kindly  
11 confirm the confidentiality and whether the sound can be played publicly.

12 MS LUPING: [14:45:44] My apologies to the court officer. Indeed, it can be  
13 transmitted to the public, and it can be played with sound, although no interpretation  
14 is required.

15 So I'm just starting again from the beginning, and I'll be playing first the first five  
16 seconds.

17 (Viewing of the video excerpt)

18 MS LUPING: [14:46:06] I've stopped at 05:12.

19 Q. [14:46:14] Mr Witness, do you recognise this event?

20 A. [14:46:24] Yes.

21 Q. [14:46:25] And what is it?

22 A. [14:46:40] It is the gentleman who was struck.

23 Q. [14:46:47] When you say, "It's the gentleman who was struck," is this the same  
24 person you were describing before who was a member of the group?

25 A. [14:47:09] Yes.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Q. [14:47:10] I'm now going to forward this to 4 minutes. Apologies. Forward it  
2 to 4:35. So it's 00:04:35:05. I'm going to be playing from here a few seconds.

3 (Viewing of the video excerpt)

4 MS LUPING: [14:47:53] I've paused at 00:04:43:21.

5 Q. [14:48:01] Mr Witness, do you recognise anybody in this particular screenshot  
6 I've taken now?

7 A. [14:48:25] Yes. Amongst them I recognise Radwan, Bocar and Hassan.

8 Q. [14:48:34] Starting first with Radwan, can you describe his clothing?

9 A. [14:48:56] Radwan, he has a red turban and a black boubou.

10 Q. [14:49:04] And can you describe Bocar, what he's -- what he's wearing. Sorry.

11 A. [14:49:29] Bocar is -- is wearing a black boubou and a green turban and vest.

12 Q. [14:49:45] And can you describe Al Hassan?

13 A. [14:50:05] He is more towards Radwan. He is wearing a black trouser and  
14 a yellowish boubou. But I really can't make it out all that well, all that clearly.

15 Q. [14:50:19] And just to be clear for the record, am I right that you're describing  
16 the people who are to the right of the person being flogged?

17 A. [14:50:46] Yes.

18 Q. [14:50:48] I'm now going to move on to a different excerpt from this video.

19 I've stopped at 00:06:02:24 and I'm now going to be playing for some seconds.

20 (Viewing of the video excerpt)

21 MS LUPING: [14:51:24] I've paused at 00:06:08:20.

22 Q. [14:51:31] Who is the person that we see hitting the man? Who is the person  
23 hitting the man?

24 A. [14:51:50] It's Bocar.

25 Q. [14:51:52] I'm now going to continue playing.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 (Viewing of the video excerpt)

2 MS LUPING: [14:52:11] I've now paused at 00:06:29:04.

3 Q. [14:52:18] You see a person standing immediately next to the man who's just  
4 been hit. Who is that?

5 A. [14:52:38] It's Hassan.

6 Q. [14:52:40] And in this image do you recognise anybody else?

7 A. [14:52:58] Akala is in front -- correction: Talha.

8 Q. [14:53:08] And can you describe what Talha is wearing so that we have  
9 the correct person?

10 A. [14:53:33] He's wearing white -- in red with a white turban.

11 Q. [14:53:42] And he's the person standing in the middle of the shot that I have my  
12 arrow on? He's in the middle of this scene?

13 A. [14:54:02] Yes.

14 MS LUPING: [14:54:05] Mr President, could I please ask briefly to go into private  
15 session for two additional questions.

16 PRESIDING JUDGE MINDUA: [14:54:14](Interpretation) Certainly.  
17 Courtroom officer.

18 (Private session at 2.54 p.m.)

19 THE COURT OFFICER: [14:54:25] We're in private session, Mr President.

20 PRESIDING JUDGE MINDUA: [14:54:30](Interpretation) Thank you very much.  
21 Madam Prosecutor.

22 MS LUPING: [14:54:32] Thank you, Mr President.

23 Q. [14:54:33] Mr Witness, do you remember having this video footage in your  
24 possession?

25 A. [14:54:53] Yes.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 Q. [14:54:55] And how did you get it?

2 A. [14:55:12] I got it -- people were sending it to one another, that's how I got it.

3 I didn't shoot it myself.

4 Q. [14:55:29] And, Mr Witness, isn't it correct that you gave this video footage to  
5 the Office of the Prosecutor?

6 A. [14:55:47] Yes.

7 Q. [14:55:57] Now, Mr Witness, I'm going to remove this from the screen. And I'm  
8 switching to a completely different topic now.

9 Mr Witness, you have mentioned a person called Mohamed Moussa and you have  
10 referred to his role -- or you've referred to the *Hesbah*. Do you remember who was  
11 the leader of the *Hesbah* before Mohamed Moussa.

12 A. [14:57:00] The one from *Hesbah* was Al Faqi at the time. Mohamed Al Faqi.

13 Q. [14:57:17] [REDACTED]

14 A. [14:57:48] [REDACTED]

15 [REDACTED]

16 MS LUPING: [14:58:11] Mr President, could I just briefly go into private session for  
17 additional questions following that.

18 PRESIDING JUDGE MINDUA: [14:58:20](Interpretation) Private session.

19 THE COURT OFFICER: [14:58:25](Overlapping speakers) Your Honours, we are in  
20 private session.

21 PRESIDING JUDGE MINDUA: [14:58:32](Interpretation) Go ahead,  
22 Madam Prosecutor.

23 MS LUPING: [14:58:35]

24 Q. [14:58:36] [REDACTED]

25 [REDACTED]

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

[REDACTED]

[REDACTED] (Speaks English) Could you (Overlapping speakers)

A. [14:59:19] Yes.

Q. [14:59:22] [REDACTED]

[REDACTED],

A. [15:00:14] Yes, the day it happened I was away. And when I came, I was told,

and I immediately went back to the office [REDACTED]

[REDACTED]

Q. [15:01:03] Mr Witness, I put my hand up to ask you to pause. Could you

continue, if there's anything else further you wanted to say.

THE INTERPRETER: [15:01:39] Message from the Songhai booth: We haven't

understood what the witness says well.

PRESIDING JUDGE MINDUA: [15:01:48](Interpretation) Witness, could you repeat

your answer, please.

THE WITNESS: [15:02:10](Interpretation) [REDACTED]

[REDACTED]

MS LUPING:

Q. [15:02:31] [REDACTED]

[REDACTED]?

A. [15:02:46] [REDACTED]

Q. [15:02:52] [REDACTED]

[REDACTED]

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 [REDACTED]  
2 A. [15:03:46] Yes. As I went there, I thought they were all working together, but  
3 he told me that there are different divisions. Each person have their task. He could  
4 do nothing about it. Other people had taken the decision, and that's how it went.  
5 He couldn't go and see the people who had taken the decision.

6 Q. [15:04:24] [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 A. [15:06:20] Yes. [REDACTED]  
10 [REDACTED]

11 THE INTERPRETER: [15:06:31] Corrects the witness.

12 THE WITNESS: [15:06:32](Interpretation) [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 THE INTERPRETER: [15:06:54] Message from the Songhai booth: We would like  
16 the witness to come back onto the last part of the answer because he was a bit long.

17 PRESIDING JUDGE MINDUA: [15:07:06](Interpretation) Witness, you've raised  
18 your hand. You wanted to say something?

19 THE WITNESS: [15:07:22](Interpretation) I wanted to say [REDACTED]  
20 [REDACTED]

21 PRESIDING JUDGE MINDUA: [15:07:29](Interpretation) Very well. Thank you  
22 very much.

23 Songhai booth, do you want the witness to continue with his answer?

24 THE INTERPRETER: [15:07:39](Interpretation) Just the last part, your Honour.

25 PRESIDING JUDGE MINDUA: [15:07:43](Interpretation) Witness, please could you

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 state the last part of your answer.

2 THE WITNESS: [15:08:26](Interpretation) I went to take [REDACTED]

3 [REDACTED] and then I found that he was very tired. And he

4 was sweating a lot. [REDACTED]

5 [REDACTED]

6 Rather [REDACTED]

7 [REDACTED]

8 it's because [REDACTED]

9 [REDACTED]

10 And it finished like that.

11 MS LUPING: [15:10:15] Before I ask you your next -- my next question, I want to

12 apologise to the Chamber for the interruption. I hadn't realised I had my phone here.

13 Apologies.

14 Q. [15:10:26] Mr Witness, what's the name [REDACTED] the one whose account  
15 you're describing?

16 A. [15:10:49] (No interpretation)

17 Q. [15:10:50] And what is the name [REDACTED]?

18 A. [15:11:01] [REDACTED] phon).

19 THE INTERPRETER: [15:11:06] And the previous name was [REDACTED]

20 [REDACTED]

21 MS LUPING:

22 Q. [15:11:24] I just note that in the English it's stated as [REDACTED] whilst in

23 the French it's stated as [REDACTED]

24 Could you repeat the name [REDACTED]

25 And I would then ask the Songhai interpreter to spell it for the record, please.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

- 1 A. [15:12:09] [REDACTED]
- 2 Q. [15:12:27] Now I'm going to ask a few of my questions back in public session. I  
3 would ask that you not repeat their names.
- 4 Mr President, with your leave, we could return to public session.
- 5 PRESIDING JUDGE MINDUA: [15:12:54](Interpretation) Please, court officer.  
6 (Open session at 3.13 p.m.)
- 7 THE COURT OFFICER: [15:13:06] We're in open session, Mr President.
- 8 PRESIDING JUDGE MINDUA: [15:13:14](Interpretation) Thank you very much.  
9 Madam Prosecutor.
- 10 MS LUPING: [15:13:22] Thank you.
- 11 Q. [15:13:24] Mr Witness, you were describing how Mohamed Moussa, that he had  
12 taken two people. Could you explain why Mohamed Moussa had taken these two  
13 people.
- 14 A. [15:14:01] He found them sitting down. He said they weren't covered enough.  
15 They were selling spices.
- 16 Q. [15:14:18] And when he took them, do you know where he brought them to?
- 17 A. [15:14:37] He took them to the bank. He made them go inside the ATM area,  
18 and then he closed it up.
- 19 Q. [15:15:16] I'm sorry, I believe the witness was continuing to speak, but we've  
20 had no interpretation.
- 21 THE INTERPRETER: [15:15:28] Your Honour, in fact, we -- if possible, could  
22 the witness pronounce well his remarks. And if he could back over what he said too.
- 23 PRESIDING JUDGE MINDUA: [15:15:43](Interpretation) Witness, the interpreters  
24 are asking you to repeat what you said and also to try and speak clearly. Please go  
25 ahead.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 THE WITNESS: [15:16:17](Interpretation) I said that when he took them, he put  
2 them in the ATM building. One of them had a child [REDACTED] so  
3 that the child could be fed, breastfed. And we found that they were -- they were  
4 very hot because the ATM was in glass and it was in the sun. It was very hot inside  
5 and they were sweating profusely.

6 The brother of one of the wives -- or one of the women arrived, the woman who had  
7 no child. [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] And that's it.

12 MS LUPING: [15:18:40]

13 Q. [15:18:41] Mr Witness, just to be clear, did you see these two women in  
14 the *guichet automatique*? Did you see them there with your own eyes?

15 A. [15:19:07] Yes, I saw it with my own eyes. I saw them with my own eyes.

16 THE INTERPRETER: [15:19:15] Corrects the interpreter.

17 MS LUPING: [15:19:20]

18 Q. [15:19:21] Mr Witness, other than these two women that you've just mentioned,  
19 can you remember other females that you saw being kept at the BMS with your own  
20 eyes?

21 A. [15:20:16] Yes, there was a woman who was caught and they locked her up and  
22 she had a crisis and she broke everything. She broke all the glass. And -- and she  
23 injured herself. And this was near Koïra Tao where she was caught. She hurt  
24 herself, she injured herself, and at the end it was her mother and sisters came to spend  
25 the night with her. And they took her to the hospital. And when she was taken

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 from the hospital, she was taken back there as well.

2 After that, a lot of people came to beg, but the wish wasn't granted. Abou Zeid came  
3 and he didn't accept. Abou Dzar came and put her in his vehicle to take her to  
4 the house.

5 He came, he didn't try and understand what was happening. They did everything.

6 They were the ones who had power. He came, he didn't even try to understand.

7 He opened the door and he took her and brought her back.

8 PRESIDING JUDGE MINDUA: [15:22:44](Interpretation) Yes, Witness.

9 THE WITNESS: [15:23:25](Interpretation) He came because he went to  
10 Hamed Moussa's house, so they didn't manage to get an agreement. And he said  
11 they are the ones who came here and they are the ones who recruited these people, so  
12 they have the force. And he took her to take her back to her house.

13 This isn't something that he explained to people, but that's how it was understood.

14 They had the force at that time.

15 MS LUPING: [15:24:18]

16 Q. [15:24:19] Mr Witness, have you finished your description?

17 A. [15:24:31] Yes, it's finished.

18 Q. [15:24:34] And this woman that you've been talking about, who you described  
19 having *une crise*, what is her name?

20 A. [15:25:11] Aza Abdou.

21 Q. [15:25:40] Now, you described -- you mention Abou Zeid, you said:

22 (Interpretation) "Abou Zeid came. He didn't accept that." (Speaks English) Who  
23 didn't accept?

24 A. [15:26:22] Abou Zeid, he went back there, he saw the woman. In fact, it was  
25 Hamed Moussa who didn't accept to release the woman.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 Q. [15:26:41] And you said that Abou Dzar came to take her home with his vehicle.

2 Mr Witness, did you see this woman at the BMS with your own eyes?

3 A. [15:27:26] Yes, I saw them with my own eyes. They weren't inside the BMS.

4 They were inside the ATM building. And even the mother and brother, they spent  
5 the night with her there.

6 Her older brother. So even her mother and her older brother spent the night with  
7 her there.

8 Q. [15:27:58] And the mother and the older brother, did you see them there at the  
9 BMS with your own eyes?

10 A. [15:28:33] Yes. They were sleeping outside. She was inside. And whenever  
11 she had one of these fits, for example, even when she -- she had to go to hospital, but  
12 even then, they locked her up again.

13 Q. [15:29:03] And when you say she came back from the hospital and they locked  
14 her up again, did you see her being brought back and locked up again with your own  
15 eyes?

16 A. [15:29:49] Yes, it was in the morning when we went to greet the mother that it  
17 was explained that she hadn't spent the night there. She was injured because she  
18 had been cut by the glass in different places on her body. The mother explained to  
19 us that she had spent the night there.

20 Q. [15:30:25] And, Mr Witness, did you learn why this woman was released?

21 A. [15:31:03] Yes. According to the information, what we were told is that it was  
22 Abou who went to Hamed Moussa for explanations. He went out and he himself  
23 was the one who opened the door and let the lady out and took her and her mother  
24 home.

25 The way that we saw it, we sensed that the woman was really angry. She was really

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 hurt. She had bandages all over her.

2 Q. [15:32:02] Mr Witness, have you finished with your explanation?

3 A. [15:32:14] Yes, that's all.

4 Q. [15:32:22] Now, other than this woman whose experience you've just described,  
5 can you remember the cases of other girls or women?

6 A. [15:33:02] I don't remember.

7 Q. [15:33:10] Mr Witness, do you know a person called [REDACTED]

8 A. [15:33:41] Yes, that's the old man whose child was taken beside the justice  
9 building, in the market beside the justice building.

10 Q. [15:33:56] You said his child was taken next to the justice, where was she taken  
11 to?

12 A. [15:34:28] Yes, she was taken to the BMS an [REDACTED]  
13 [REDACTED] she was working for someone beside the BMS -- no, beside the justice building  
14 and she was accused of not being properly covered up.

15 Q. [15:35:04] And do you know what happened to her, how she was released?

16 A. [15:35:47] He came to ask that she be freed and they said they were going to lock  
17 her up. They locked her up. Later they released her and ultimately he came and he  
18 bought some food to give to his daughter.

19 MS LUPING: [15:36:17] Mr President, could I ask if we just go briefly into private  
20 session.

21 PRESIDING JUDGE MINDUA: [15:36:27](Interpretation) Courtroom officer, if you  
22 could.

23 (Private session at 3.36 p.m.)

24 THE COURT OFFICER: [15:36:35] We're in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [15:36:39](Interpretation) Thank you very much.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 Madam Prosecutor.

2 MS LUPING: [15:36:44]

3 Q. [15:36:47]

4 [REDACTED] ?

5 A. [15:37:39] [REDACTED] they took her because they said

6 that she hadn't been covered up properly. And he went to beg them and they spent

7 the night there. And they even threatened. They threatened to lock her up. And

8 ultimately they let her go. It was only the next day that they let the daughter go.

9 MS LUPING: [15:38:13] And I believe we can now move back into public session,

10 Mr President.

11 PRESIDING JUDGE MINDUA: [15:38:21](Interpretation) Yes, indeed.

12 Courtroom officer, please.

13 (Open session at 3.38 p.m.)

14 THE COURT OFFICER: [15:38:37] We're back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [15:38:43](Interpretation) Thank you very much.

16 Madam Prosecutor.

17 MS LUPING: [15:38:46]

18 Q. [15:38:47] Mr Witness [REDACTED]

19 [REDACTED]

20 A. [15:39:27] [REDACTED]

21 [REDACTED]

22 [REDACTED] That's when we found out about it. It was in the morning of

23 the following day.

24 Q. [15:40:00] Now, Mr Witness, I apologise, I'm going to briefly go back to

25 the person that you called Aza, who you said had *une crise*. Do you know why she

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 had been arrested and detained at the BMS? Do you know why she was there?

2 A. [15:41:15] Yes, Aza, in the afternoon, late afternoon, they saw her doing  
3 the laundry outside and she was wearing sort of a tank top. And at dusk she was  
4 taken to the BMS. She had an epileptic fit actually.

5 Q. [15:41:48] Now, Mr Witness, just to the best of your recollection, and if you don't  
6 remember that's okay, but do you know roughly when, during the time the armed  
7 groups were in Timbuktu, roughly when this was?

8 A. [15:42:39] I don't know about that. I know about some things that happened,  
9 but I don't know about that.

10 Q. [15:42:51] Mr Witness, I think my question was probably a bit confusing. I'm  
11 going to reformulate my question.

12 Do you remember when Aza was being held at the BMS?

13 A. [15:43:34] Aza was taken at dusk and when the boss came they brought her back  
14 the next day.

15 THE INTERPRETER: [15:43:46] Correction: When the bosses, the leaders came,  
16 they brought her back the next day.

17 MS LUPING: [15:44:05]

18 Q. [15:44:05] Mr Witness, I'm going to move on.

19 Do you know a person called [REDACTED] I'm not sure if I'm pronouncing it correctly.  
20 I apologise if I'm not.

21 A. [15:44:43] That's in the month of Ramadan. The day of Ramadan itself.  
22 The celebration of Ramadan.

23 Q. [15:45:00] Mr Witness, I'm -- I'm talking about a person. Do you know -- do  
24 you know a person called [REDACTED] and do you know what happened to his daughter?

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 It's a question for the interpreters, we are not having any interpretation.

2 A. [15:46:42] [REDACTED] he came. His child had been taken. He came to Hamed  
3 Moussa [REDACTED] actually. He asked that his child be freed and that  
4 they take him in the child's place. He didn't agree. And Talha said, what's more, he  
5 insisted that he took both of them.

6 Q. [15:47:21] When you state that (Interpretation) "they did not agree",  
7 (Speaks English) who is "they"?

8 A. [15:48:17] When they learned that [REDACTED] had come, they intervened. They  
9 asked that she be allowed to go. They went to see Moussa. He insisted. He  
10 refused. And that's when they decided to take both. A member of the crisis  
11 committee came and intervened and he told -- well, there was Bocar, there was Kader,  
12 and Halle Ousmane as well.

13 MS LUPING: [15:49:15] Mr President, could I ask briefly to go into private session.

14 PRESIDING JUDGE MINDUA: [15:49:24](Interpretation) Courtroom officer.  
15 (Private session at 3.49 p.m.)

16 THE COURT OFFICER: [15:49:29] We're in private session, Mr President.

17 PRESIDING JUDGE MINDUA: [15:49:34](Interpretation) Thank you very much.  
18 Madam Prosecutor.

19 MS LUPING:

20 Q. [15:49:40] Mr Witness, how do you know all of this? Who told you?

21 A. [15:50:07] The people who knew about these things would come by. Even if  
22 you didn't know yourself, you would hear from others. People would repeat what  
23 they had heard. [REDACTED]

24 [REDACTED]

25 MS LUPING: [15:50:42] Mr President, I believe we can go back into public session.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [15:50:49](Interpretation) Yes, indeed.

2 Open session.

3 (Open session at 3.50 p.m.)

4 THE COURT OFFICER: [15:50:57] We're back in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [15:51:03](Interpretation) Thank you very much.

6 Madam Prosecutor.

7 MS LUPING:

8 Q. [15:51:08] Mr Witness, do you know a person called Matalla Arbi?

9 A. [15:51:34] Yes, I know Matalla Arbi.

10 Q. [15:51:37] What can you explain about what happened to him during  
11 the occupation in 2012 to 2013?

12 A. [15:52:17] His case was on the Friday at the market. That was the month when  
13 Hamed Moussa asked for the market to be closed on Fridays. And he, Matalla, he  
14 helps people. He carries their groceries and the like. He's not very mentally stable.  
15 When people left the mosque, they could hear people yelling and yelling. And

16 Kader Khali

17 [REDACTED]ust because -- well, if he's mentally unstable, then we'll lock him  
18 up and then he'll calm down.

19 Q. [15:53:40] And do you know if he was locked up?

20 A. [15:53:57] Yes, they took him and they locked him up in the ATM room in  
21 the bank.

22 MS LUPING: [15:54:22] Mr President, could I just ask one question in private  
23 session.

24 PRESIDING JUDGE MINDUA: [15:54:31](Interpretation) Private session, courtroom  
25 officer.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Private Session)

ICC-01/12-01/18

1 (Private session at 3.54 p.m.)

2 THE COURT OFFICER: [15:54:37] We're in private session, Mr President.

3 PRESIDING JUDGE MINDUA: [15:54:42](Interpretation) Thank you.

4 Madam Prosecutor.

5 MS LUPING:

6 Q. [15:54:46] Mr Witness, just to be clear [REDACTED]

7 [REDACTED] Who was that?

8 A. [15:55:11] [REDACTED] ne

9 wasn't stable mentally. [REDACTED] well that's a good  
10 thing if he's not mentally stable then.

11 MS LUPING: [15:55:52] Mr President, I believe we can go back into public session.

12 PRESIDING JUDGE MINDUA: [15:55:56](Interpretation) Open session, please.

13 (Open session at 3.56 p.m.)

14 THE COURT OFFICER: [15:56:04] We're back in open session, Mr President.

15 PRESIDING JUDGE MINDUA: [15:56:09](Interpretation) Thank you very much.

16 Madam Prosecutor.

17 MS LUPING:

18 Q. [15:56:13] Mr Witness, yesterday - and that's transcript T-137. It's the French  
19 real-time transcript - I was asking you for examples of people who had been arrested.

20 And at line [REDACTED] - lines 21 to 24, you stated: (Interpretation) "There was

21 one calle [REDACTED] they took his daughter. That was during the month of  
22 fasting. Hamed Moussa caught his daughter."

23 (Speaks English) Do you remember the name of the daughter?

24 A. [15:57:40] Yes. In actual fact, I couldn't give you the name, but you must realise

25 that [REDACTED] is the same thing. [REDACTED] is his family name and [REDACTED] is

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

1 his first name. So it's the same person. It's the same person. The same person.

2 Q. [15:57:59] Thank you for that clarification, Mr Witness.

3 Mr Witness, I'm now going to be changing topics.

4 We have two minutes. But I wanted to ask you, you -- you mentioned an  
5 organisation yesterday called ADVERMA. Could you describe what type of work  
6 ADVERMA does.

7 A. [16:00:03] ADVERMA is a group of people, an association.

8 MS LUPING: [16:00:19] Mr President, it is 4 o'clock. I can ask my follow-up  
9 questions about that on Monday, if you prefer to finish now, or ask the follow-up  
10 question. I can wait until Monday.

11 PRESIDING JUDGE MINDUA: [16:00:36](Interpretation) It is 4 p.m. indeed. I  
12 think we can end the hearing.

13 Mr Witness, I turn to you and address you. We have come to the end of today's  
14 hearing. I think you must realise that we have not finished your testimony. So we  
15 will resume on Monday, as usual, at 9.30.

16 THE WITNESS: [16:01:53](Interpretation) Will it finish on Monday?

17 PRESIDING JUDGE MINDUA: [16:01:58](Interpretation) Unfortunately not yet,  
18 Mr Witness. I'm sure that the Prosecutor will finish on Monday, and then we will  
19 begin with the Legal Representative of Victims and then the Defence. But I would  
20 imagine it will be ending relatively quickly.

21 On behalf of the judges of the Chamber, I thank you very much for your clear and  
22 specific replies, and for your patience.

23 THE WITNESS: [16:03:12](Interpretation) Okay. Thank you.

24 PRESIDING JUDGE MINDUA: [16:03:15](Interpretation) We will see one another  
25 on Monday.

Trial Hearing  
WITNESS: MLI-OTP-P-0641

(Open Session)

ICC-01/12-01/18

- 1 In the meantime, as I've already said in the past, you're not allowed to speak to
- 2 anyone whatsoever about your testimony.
- 3 THE WITNESS: [16:03:54](Interpretation) That is your way of working. As far as
- 4 I'm concerned, no one will know.
- 5 PRESIDING JUDGE MINDUA: [16:04:01](Interpretation) Exactly. Rest assured
- 6 that we will keep everything confidential on our side.
- 7 Before we adjourn, I would like to thank the parties and participants, the court
- 8 reporters and interpreters, the security officers and our public.
- 9 I wish everyone a very nice weekend, and we will see one another on Monday.
- 10 The hearing is adjourned.
- 11 THE COURT USHER: [16:04:29] All rise.
- 12 (The hearing ends in open session at 4.04 p.m.)