

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(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 1
- 9 Tuesday, 1 December 2020
- 10 (The hearing starts in open session at 9.31 a.m.)
- 11 THE COURT USHER: [9:31:51] All rise.
- 12 The International Criminal Court is now in session.
- 13 Please be seated.
- 14 PRESIDING JUDGE MINDUA: [9:32:17](Interpretation) Court is in session.
- 15 Good morning to all.
- 16 Madam courtroom officer, could you please call the case.
- 17 THE COURT OFFICER: [9:32:27] Thank you, Mr President.
- 18 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
- 19 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
- 20 And for the record, we are in open session.
- 21 PRESIDING JUDGE MINDUA: [9:32:47](Interpretation) Thank you very much.
- 22 As usual, we shall now take the appearances, starting with the office of the
- 23 Prosecutor.
- 24 Madam Prosecutor.
- 25 MS LUPING: [9:32:59] Good morning, Mr President, good morning, your Honours.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 The composition of the Prosecution team this morning is the same as yesterday,  
2 except that Ms Nelly Corbin is not with us this morning. She will be joining us in  
3 the second session. Thank you.

4 PRESIDING JUDGE MINDUA: [9:33:17](Interpretation) Thank you very much.  
5 Now it's over to the Defence.

6 Ms Taylor.

7 MS TAYLOR: [9:33:21] Good morning, Mr President. Good morning,  
8 your Honours. Good morning, everyone in the courtroom. The Defence for  
9 Mr Al Hassan is represented by Ms Dolly Chahla and myself, Melinda Taylor.  
10 And we would like to express our gratitude to the Chamber for allowing  
11 Mr Al Hassan to participate by video link today.

12 Thank you.

13 PRESIDING JUDGE MINDUA: [9:33:50](Interpretation) Thank you very much,  
14 Ms Taylor.

15 And you do well to mention this, because the accused is not in the courtroom with us  
16 this morning.

17 Now over to the Legal Representatives for Victims. Mr Nsita.

18 MR LUVENGIKA: [9:34:02](Interpretation) Good morning, Mr President, good  
19 morning, your Honours. The Legal Representatives for Victims are represented  
20 today by Madam Claire Laplace and myself, Mr Fidel Nsita Luvengika. Thank you.

21 PRESIDING JUDGE MINDUA: [9:34:15](Interpretation) Thank you very much,  
22 Mr Nsita.

23 This morning we shall continue with the testimony of the 18th Prosecution witness,  
24 Witness P-0557. I'm going to now turn to the witness.

25 Good morning, Mr Witness, can you hear me?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

- 1 WITNESS: MLI-OTP-P-0557 (On former oath)
- 2 (The witness speaks Songhai)
- 3 THE WITNESS: [9:34:42](Interpretation) Good morning, I can hear you.
- 4 PRESIDING JUDGE MINDUA: [9:34:48](Interpretation) Thank you very much.
- 5 I would like to once again welcome you and thank you for your availability as well.
- 6 I would like to remind you that you are still under oath and that you should speak
- 7 the truth, the whole truth and nothing but the truth.
- 8 I would also like to remind you of my practical advice with regard to when you
- 9 address the Court.
- 10 Without further ado, I will now hand over to Madam Prosecutor for the continuation
- 11 of her examination-in-chief of this witness.
- 12 Madam Prosecutor, please.
- 13 MS LUPING: [9:35:59] Thank you, Mr President.
- 14 QUESTIONED BY MS LUPING: (Continuing)
- 15 Q. [9:36:03] Good morning, Mr Witness.
- 16 A. [9:36:10] Good morning.
- 17 Q. [9:36:16] Mr Witness, just an explanation for you and the interpreter. I'm going
- 18 to now be quoting various things that you said yesterday during your testimony and
- 19 then I'll be asking you some specific questions. I ask that you wait for my actual
- 20 question before responding.
- 21 A. [9:37:00] Very well.
- 22 MS LUPING: [9:37:03] Mr President, the next questions I'll be asking are identifying.
- 23 With your leave, if we could please move into private session.
- 24 PRESIDING JUDGE MINDUA: [9:37:16](Interpretation) Madam courtroom officer,
- 25 private session, please.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 (Private session at 9.37 a.m.)

2 THE COURT OFFICER: [9:37:27] We're in private session, Mr President.

3 PRESIDING JUDGE MINDUA: [9:37:34](Interpretation) Thank you very much.

4 Madam Prosecutor.

5 MS LUPING: [9:37:40]

6 Q. [9:37:41] So, Mr Witness, you testified yesterday about events when you were

7 arrested and taken to the BMS. I'm now going to quote you before I ask my

8 questions.

9 Quotation: "... the next day they asked me questions. They found out that I had  
10 a child with that woman prior to marriage." End of quote.

11 My first question, what is the name of "that woman"?

12 A. [9:39:31] The woman is called [REDACTED] In fact, she's called [REDACTED]

13 Q. [9:39:42] And you referred to a child that you had with [REDACTED] prior to  
14 marriage. Is that the oldest child that you had with her in 2012?

15 A. [9:40:21] Indeed, that is the first child that I had with her.

16 Q. [9:40:30] I'm now going to quote another passage.

17 Again, this is whilst you were being held in the BMS, you went on to state, and I  
18 quote:

19 "Every day they brought the woman, and it was on the third day that they took us for  
20 trial, or judgment." End of quote.

21 My first question is this, when you say "they brought the woman", where were they  
22 bringing her every day?

23 A. [9:42:01] In fact, it was the Ansar Dine people who would go and get her from  
24 her home and bring her to the office and then they would take her back again.

25 Q. [9:42:16] And how do you know that?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [9:42:39] I could see what was going on through the window and then,  
2 afterwards, when we were released, we talked about it.

3 THE INTERPRETER: Correction: Through the glass, not the window. Through  
4 the glass.

5 MS LUPING: [9:43:10]

6 Q. [9:43:10] And during this time that you were being held, when you say -- sorry,  
7 I'm going to rephrase that question.

8 You said you could see through the glass. What could you see?

9 A. [9:43:53] Through the glass, I could see who was coming and going. But they  
10 couldn't see me.

11 Q. [9:44:08] And during the time you were held, did you see [REDACTED] or not?

12 A. [9:44:32] Yes, I did see her, but we did not speak.

13 Q. [9:44:49] When was it that you saw her? Which day?

14 A. [9:45:29] When we were taken initially to be flogged and between that time and  
15 when we saw each other properly, three days elapsed. It was three days later, after  
16 we were taken to be flogged, it was three days later when we were taken to hospital  
17 that we saw each other.

18 Q. [9:45:56] And when you said you saw [REDACTED] through the glass, what day  
19 was that?

20 THE INTERPRETER: [9:46:41] Message from the Songhai interpreters:

21 Mr President, with your leave, could the witness please repeat what he just said.

22 PRESIDING JUDGE MINDUA: [9:46:51](Interpretation) Mr Witness, could you  
23 please repeat your answer.

24 THE WITNESS: [9:47:18](Interpretation) Well, it was at nighttime that I was taken  
25 and it was the next day that she was taken there. And the day after that also she was

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 taken there.

2 MS LUPING: [9:47:44] I'm not sure whether my question is being interpreted

3 correctly. So I'm just going to repeat it.

4 Q. [9:47:52] Did you see [REDACTED] through the glass where you were held? And if  
5 so, what day?

6 A. [9:48:32] Well, I wouldn't be able to tell you the specific date. It's just that on  
7 the night that I was taken, I saw her the next day that she had been brought. And on  
8 the following day, I also saw that she had been brought.

9 Q. [9:48:51] I'm now going to quote a different part of what you said yesterday  
10 before I ask you a series of questions.

11 Quotation: "... on the third day they took us for trial, or the judgment." End of quote.

12 My first question is, where did they take you for this trial or judgment?

13 A. [9:50:15] For the judgment we were taken to the Chechecha neighbourhood, to  
14 a hotel, and that is where people are judged or tried.

15 Q. [9:50:43] And you say you were taken to a hotel. Do you know the name of the  
16 owner of that hotel?

17 A. [9:51:14] The hotel belongs to a white lady by the name of Hawa.

18 Q. [9:51:30] For my next question, you say "they took us". Were you with  
19 [REDACTED] when you were taken to this place?

20 A. [9:52:05] No, I was taken alone. It was after that that they took [REDACTED] there,  
21 but I was not present.

22 Q. [9:52:19] My next question, this hotel that you say you were brought to, can you  
23 describe where inside the hotel you were brought?

24 A. [9:53:15] I was taken upstairs in the hotel to a room where there was a carpet. I  
25 sat -- I was told to be seated in the centre of that carpet and they sat down around me.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [9:53:34] And who was seated around you?

2 A. [9:54:07] I do not know the names of those seated around me. It was just one  
3 person I knew amongst them. But they were Ansar Dine people.

4 Q. [9:54:23] And what was the name of the person that you recognised?

5 A. [9:54:47] The person I recognised in their midst was Houka Houka. And what  
6 is more, he was the judge.

7 Q. [9:54:59] And how do you know Houka Houka?

8 A. [9:55:27] I knew Houka Houka from before, when he had come by our fields.  
9 Often, he would give us watermelon and he would --

10 THE INTERPRETER: [9:55:45] End of answer unintelligible. Continuation of answer.

11 THE WITNESS: [9:56:02](Interpretation) And what I'm saying is that they would  
12 come in their vehicles and we would give them watermelon. And in turn, they  
13 would give us tea and sugar.

14 MS LUPING: [9:56:25]

15 Q. [9:56:25] And before Ansar Dine arrived, do you know what job he did?

16 A. [9:56:59] Before Ansar Dine came, I really don't know what job he did. All I  
17 know is that he would come by our fields and give us -- and we would give him  
18 watermelon, and that he was in Timbuktu before the arrival of Ansar Dine.

19 Q. [9:57:26] And can you describe him.

20 A. [9:57:36] He is a tall man. He has a mark on his face. And I would say that,  
21 generally speaking, he wears a chocolate-coloured turban and a white boubou.

22 Q. [9:58:18] And what is his ethnicity?

23 A. [9:58:38] Tamasheq, and it is Tamasheq that he speaks.

24 Q. [9:58:52] And do you know how old he was at the time?

25 A. [9:59:13] I didn't -- I do not know the age that he had at that time, but I do know

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 that he is an older person.

2 Q. [9:59:29] And when you said you were judged he was the judge, what do you  
3 mean by that?

4 A. [10:00:16] Well, I say that because he was the one who judged me. He was  
5 the one who read the Koran the first, second and third page, and at the third page is  
6 written that anyone who has a child out of wedlock is to be flogged until blood runs.

7 Q. [10:00:48] And when Houka Houka was reading from the Koran in this way,  
8 what language was he speaking?

9 A. [10:01:16] He read the Koran and, when he was reading it, there was someone  
10 next to him translating it into Songhai.

11 Q. [10:01:44] And other than Houka Houka, did anybody else read passages from  
12 the Koran to you?

13 A. [10:02:10] No, nobody else, it was just he who read it.

14 Q. [10:02:19] And did Houka Houka say anything else to you?

15 A. [10:02:53] No, I don't recall him saying anything else to me. But he was  
16 speaking in Arabic and the other person was explaining what he said in Songhai.

17 Q. [10:03:15] And other than Houka Houka, did anybody else present speak to you,  
18 or say anything?

19 A. [10:04:06] Yes, it was until the evening, up to the evening where we were to  
20 celebrate the marriage at the woman's house, and then somebody else spoke.

21 Q. [10:04:33] Just to clarify, I'm talking about what was said to you at the place you  
22 were judged. Did this happen at the place where you were judged?

23 A. [10:05:03] No, no, no.

24 Q. [10:05:20] And at this judgment, did you have a lawyer to represent you?

25 A. [10:05:43] No, no, no, no, no, no.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 Q. [10:05:50] And did they tell you what the evidence was against you?
- 2 A. [10:06:32] Yes, after they took me, I explained to them the reason why they took
- 3 me, but after that they didn't say anything anymore.
- 4 Q. [10:06:54] And at the judgment, did they ask you to give any information?
- 5 A. [10:07:30] Oh, yes, they asked me whether I knew anybody else who had done
- 6 the same thing as we had, and I answered that I didn't know anybody else, I wasn't
- 7 aware of anybody else who had done that.
- 8 Q. [10:07:50] And when you said that you were not aware of anybody else who had
- 9 done that, were you telling the truth?
- 10 A. [10:08:15] No, I didn't say the truth. But I didn't want this to happen to
- 11 anybody else.
- 12 Q. [10:08:41] And did they ask you to give any information about you and
- 13 Zeinabou?
- 14 A. [10:09:06] No, no.
- 15 Q. [10:09:12] Could you call witnesses in your defence?
- 16 A. [10:09:35] I haven't understood.
- 17 Q. [10:09:40] Could you bring witnesses to talk on your behalf?
- 18 A. [10:10:07] No, I couldn't bring witnesses. And besides, at that time,
- 19 who -- nobody could ask. Even if you could have asked for witnesses, who would
- 20 have accepted to be a witness on my behalf?
- 21 Q. [10:10:33] And when you said "nobody could ask", why is that?
- 22 A. [10:10:52] The -- these -- these were people who -- well, once you've been taken,
- 23 it's finished, nobody can ask for your -- for any news of you. And even if somebody
- 24 did try to do so, there would be no news given to them.
- 25 Q. [10:11:44] And when you say "once you've been taken, it's finished", what do

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 you mean by that?

2 A. [10:12:29] That is because, well, I mean this is my own case, but I'd seen  
3 the example of two sisters who wanted to come and see me, but that wasn't accepted.  
4 And nobody else took the initiative to do so.

5 Q. [10:12:52] And during this time you were being judged, was anybody with you  
6 at this hearing?

7 A. [10:13:20] How do you mean somebody else? Do you mean somebody from  
8 the family?

9 Q. [10:13:25] Yes, any friends, any family. Was anybody allowed to accompany  
10 you?

11 A. [10:13:53] No, there was nobody there from -- there was nobody else, nobody  
12 from my family. And they were the only people who were there.

13 Q. [10:14:11] And whilst this judgment was happening, did you notice if any notes  
14 were being taken of what was being said?

15 A. [10:14:53] I didn't see anybody writing things down. But there was somebody  
16 that I saw who was dressed all in white, with a turban that was also white, you could  
17 only see his eyes.

18 Q. [10:15:23] And what is it that you saw that this person dressed all in white, what  
19 did you see him do?

20 A. [10:15:59] The person in white with a chocolate turban, he had the Koran.

21 Q. [10:16:25] And during or after this judgment, were you asked to sign any  
22 document?

23 A. [10:16:53] No, I was not given anything to sign.

24 Q. [10:17:00] When you were brought from the BMS to this place where you were  
25 judged, who brought you there?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [10:17:39] When I was taken from -- to the BMS there was a man called Boubacar,  
2 he took me there.

3 Q. [10:18:00] One additional question about the judgment. Were you able to  
4 appeal this decision that was made about you?

5 A. [10:18:45] No, I didn't have the option to say that I wasn't in agreement or to  
6 contest it, because their decision is, is final. What they decide, that's what they do.

7 PRESIDING JUDGE MINDUA: [10:19:04](Interpretation) Before we move on to  
8 something else, Prosecution, I would like to ask a question for clarification.

9 Mr Witness, you said that you had no witnesses, there was nobody from your family  
10 there, no friends that could accompany you. You had no lawyer and Judge  
11 Houka Houka didn't ask for any information about you. So, my question is whether  
12 you actually spoke during your trial?

13 THE WITNESS: [10:20:15](Interpretation) Yes, I did speak. I spoke on the day after  
14 I was apprehended. I spoke to Sanda and Moussa and Adama.

15 PRESIDING JUDGE MINDUA: [10:20:45](Interpretation) I'm talking about your  
16 trial before Judge Houka Houka. Did you speak at that moment?

17 THE WITNESS: [10:21:24](Interpretation) No, at the judgment I didn't speak. I just  
18 read the book -- I was -- the book was read to me and then it was interpreted into  
19 Songhai and then I was taken and taken from that place.

20 PRESIDING JUDGE MINDUA: [10:21:45](Interpretation) Thank you very much.  
21 Prosecution.

22 MS LUPING: [10:21:52]

23 Q. [10:21:53] And you've mentioned a person called Boubacar. How do you know  
24 him?

25 A. [10:22:34] Boubacar, I heard his name, it was the day when the men I spoke to

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 about -- when I told you about the incident where the person's trouser were cut short  
2 and who had his bracelet taken away. And I know what he's called, that's what I  
3 hear in the town.

4 Q. [10:23:09] And what group did he belong to?

5 A. [10:23:23] He was with the people of Ansar Dine.

6 Q. [10:23:29] Can you describe him.

7 A. [10:23:41] I'm sorry, I didn't understand.

8 Q. [10:23:43] What does he look like?

9 A. [10:24:02] He's big, but he's not particularly fat.

10 Q. [10:24:20] And what ethnicity is he?

11 A. [10:24:31] I don't know that.

12 Q. [10:24:46] After you were judged, what happened next?

13 A. [10:25:35] After the judgment, I was taken away and Boubacar asked that I be hit  
14 with a camel whip. That's three whips and that has six heads, that's what they  
15 whipped me with.

16 Q. [10:26:05] And you say that after the judgment you were taken away, where  
17 were you taken? Where was the first place you were taken?

18 A. [10:26:26] After the judgment, I was taken to Sankoré.

19 Q. [10:26:41] And were you taken directly to Sankoré?

20 A. [10:26:57] Yes, I was.

21 Q. [10:27:23] And you said that Boubacar asked that you be whipped with a camel  
22 whip. Who was he talking to when he said that you should be whipped with  
23 a camel whip?

24 A. [10:28:05] He said that to the people who were there, but I don't know the names  
25 of all these people, but these were the people who were near him.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [10:28:19] And where was this discussion with Boubacar about the whip?

2 A. [10:28:48] The conversation with -- about the whip with Boubacar took place in  
3 Sankoré.

4 Q. [10:29:10] And after you were judged, and brought to be flogged, how much  
5 time was there between the time you were told what was going to happen and you  
6 were brought for flogging? How long did you have to wait?

7 A. [10:30:08] How can I know how much time passed? I don't know how to  
8 explain it. I was afraid at that time. I wasn't aware of the passing of time in that  
9 way.

10 Q. [10:30:24] Did you have to wait for some time or did it happen straightaway?

11 A. [10:30:59] \*Yes, it happened on the same day, \*when people had finished  
12 speaking, I was taken there, they \*spoke for a while \*and then I was taken \*away and  
13 flogged.

14 Q. [10:31:16] And who \*spoke for a while?

15 A. [10:32:03] Yes, it was \*Boubacar who \*told them to whip me with \*a camel whip  
16 and then \*somebody spoke over a loudspeaker in Arabic and to call upon  
17 the population.

18 Q. [10:32:33] Did you ever go back to the BMS at any stage?

19 PRESIDING JUDGE MINDUA: [10:32:45](No interpretation)

20 MS TAYLOR: [10:32:47] I would ask that the witness leave the room for my  
21 objection or that there be no translation.

22 PRESIDING JUDGE MINDUA: [10:33:02](Interpretation) Madam courtroom officer,  
23 can we cut off the interpretation to the witness. I think that if Ms Taylor speaks  
24 (Overlapping speakers)

25 THE INTERPRETER: [10:33:12] Overlapping speakers.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 THE COURT OFFICER: [10:33:14](Overlapping speakers)
- 2 PRESIDING JUDGE MINDUA: [10:33:27](Interpretation) Fine, madam courtroom
- 3 officer.
- 4 Ms Taylor, please.
- 5 MS TAYLOR: [10:33:32] Ms Luping has now asked the witness the same thing in
- 6 various formations regarding whether he was taken from the hotel to place Sankoré
- 7 and the time that elapsed. The question that she has now put to him is highly
- 8 leading and is trying essentially to ask the same thing again, to elicit something that
- 9 the witness hasn't said.
- 10 It's not appropriate to try and re-open this issue, given that the witness has said
- 11 multiple times that he was judged and taken to place Sankoré and he's not able to
- 12 give a precise amount of time.
- 13 There's nothing in the record about being taken to the BMS at this point. To suggest
- 14 that he was would be leading.
- 15 PRESIDING JUDGE MINDUA: [10:34:33](Interpretation) Madam Prosecutor, with
- 16 regard to the passing of time, I do not believe that the witness had really understood
- 17 the question correctly. I am in agreement with Ms Tay -- with you, with you. I'm
- 18 in agreement with you.
- 19 As regards returning to the BMS, I believe that Ms Taylor is correct.
- 20 How can you explain your question, Madam Prosecutor?
- 21 MS LUPING: [10:34:56] Mr President, I'm not suggesting any particular time period
- 22 in which he may have returned to the BMS. I'm simply stating we know he was at
- 23 the BMS. We know he was taken to the tribunal. And now I'm asking if at any
- 24 stage he was brought back to the BMS. He can simply state, no, I wasn't, or I was
- 25 brought at another point in time.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 I have not suggested any response as to whether he was brought there or not. I'm  
2 not indicating any time period either.

3 PRESIDING JUDGE MINDUA: [10:35:39](Interpretation) It is the mention of the  
4 BMS that gives the impression that this is a leading question. Maybe you could have  
5 put the question in a more open manner.

6 Please put your question, or rephrase, rather.

7 MS LUPING: [10:36:04]

8 Q. [10:36:04] Mr Witness, after you were judged, besides place Sankoré, besides  
9 place Sankoré, was there any other place you were brought to by members of  
10 Ansar Dine?

11 PRESIDING JUDGE MINDUA: [10:36:47](Interpretation) Ms Taylor.

12 MS TAYLOR: [10:36:48] Mr President, again I would ask the translation to be cut off.

13 PRESIDING JUDGE MINDUA: [10:36:56](Interpretation) Madam courtroom officer,  
14 please.

15 THE COURT OFFICER: [10:36:58](Interpretation) Message to the Songhai  
16 interpreters: Please do not interpret what Ms Taylor has to say.

17 PRESIDING JUDGE MINDUA: [10:37:07](Interpretation) Ms Taylor, please.

18 MS TAYLOR: [10:37:08] Thank you, Mr President. Page 15 of the transcript,

19 I believe lines 8 to 9, the question was "Were you taken directly to Sankoré?"

20 The answer was, "Yes, I was."

21 This is asked and answered. The witness has already said that he was taken directly  
22 to place Sankoré.

23 PRESIDING JUDGE MINDUA: [10:37:34](Interpretation) No, Ms Taylor. This time  
24 it was afterwards, not before. It was after the execution of the sentence. How were  
25 you taken, I think that this is a question that is fine.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Madam Prosecutor, please proceed.

2 MS LUPING: [10:37:54]

3 Q. [10:37:55] Mr Witness, do you need me to repeat my question?

4 A. [10:38:09] Yes, can you please repeat.

5 Q. [10:38:12] After you were judged, besides place Sankoré --

6 PRESIDING JUDGE MINDUA: [10:38:24](Interpretation) No, Ms Taylor, let's try  
7 and move forward.

8 MS TAYLOR: [10:38:29] You were saying after the execution of the sentence. This  
9 is now going back to the judgment again. So I think the question, if it's  
10 the Prosecution's case that they are dealing with a time scenario after the execution of  
11 the sentence, then that's the question that should be posed, otherwise it is asked and  
12 answered because the witness did say "After the judgment, I went directly to place  
13 Sankoré."

14 PRESIDING JUDGE MINDUA: [10:39:00](Interpretation) Madam Prosecutor, you  
15 were going to put your question with regard to the unfolding of events after  
16 the execution of the sentence.

17 MS LUPING: [10:39:16] Mr President, my apologies, I misunderstood the question  
18 that you were allowing me. I understood it was after the judgment rather than  
19 the sentence. I will come to that later on.

20 PRESIDING JUDGE MINDUA: [10:39:35](Interpretation) No, Ms Taylor, please take  
21 a seat.

22 Madam Prosecutor, let's continue, let's proceed, after the execution of the sentence.

23 MS LUPING: [10:39:46] I will first ask some questions relating to Sankoré,  
24 Mr President.

25 PRESIDING JUDGE MINDUA: [10:39:55](Interpretation) Please go ahead.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MS LUPING: [10:39:56]

2 Q. [10:39:57] Mr Witness, you stated that you were taken to Sankoré where you  
3 were flogged. My question is this, who brought you?

4 A. [10:40:36] It was the Ansar Dine people who flogged me there. There were  
5 four of them. Each of them gave me 25 lashings.

6 Q. [10:40:56] And who brought you to Sankoré?

7 A. [10:41:09] It was Boubacar who took me in a vehicle to Sankoré.

8 Q. [10:41:21] Where is Sankoré?

9 A. [10:41:58] Sankoré is a neighbourhood. It's the name of a neighbourhood  
10 where there is a wasteland next to a tarmacked road. That is where I was taken.  
11 And upon arrival, they closed all the exits and entrances with their vehicles. There  
12 were people standing all around and that is where things unfolded.

13 Q. [10:42:39] And where in Sankoré were you brought?

14 A. [10:43:33] This is Sankoré, Sankoré is a neighbourhood. And I was taken to  
15 a large wasteland which is next to a mosque, which is also called Sankoré. When we  
16 arrived, they closed off the four quarters of the square --

17 THE INTERPRETER: [10:44:03] Unintelligible.

18 MS LUPING: [10:44:13]

19 Q. [10:44:17] I just note, just for the information for the record, in the English it says  
20 "unintelligible". But in the French it says: And it is there that they beat me, or  
21 whipped me.

22 Mr Witness, you have stated that there were people standing all around. Who were  
23 these people that were standing around?

24 A. [10:45:36] Yes, there were lots of people there. The population of the town.  
25 And some of them even hailed from my neighbourhood and I recognised them.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [10:45:53] And how did you feel when you saw these people?

2 A. [10:46:09] The truth be told, I was afraid and I was ashamed. This was the first  
3 time I was seeing this. I had never seen this be done to somebody before.

4 Q. [10:46:39] And when you arrived at Sankoré, did anybody from Ansar Dine say  
5 anything to you when you arrived?

6 A. [10:47:20] Yes, when I arrived there were lots of people there. The people who  
7 flogged me were four in number, and each of them gave me 25 lashings.

8 Q. [10:47:37] But before you were flogged and when you arrived at Sankoré, did  
9 anybody from Ansar Dine speak to you?

10 A. [10:48:17] Anyone of Ansar Dine asking me something? No, I do not recall.

11 Q. [10:48:28] I'm not sure if I was misinterpreted. I didn't -- that wasn't my  
12 question. I wasn't saying if anybody asked you something. Did somebody speak to  
13 you, did they speak to you when you arrived?

14 A. [10:49:22] No, I don't know. I don't remember anyone talking to me.

15 Q. [10:49:30] Can you describe what you were wearing on the day of your  
16 flogging?

17 A. [10:50:11] On the day I was flogged, I was wearing a yellow shirt with black on  
18 the shoulders.

19 THE INTERPRETER: [10:50:31] The witness says: I would like to come back on  
20 that.

21 THE WITNESS: [10:50:38](Interpretation) I said that the day that I was flogged I was  
22 wearing a, a shirt, a polo shirt, with black on the shoulders.

23 MS LUPING:

24 Q. [10:51:24] And you said that you were flogged by four different people. Did  
25 you see that with your own eyes?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [10:52:21] I did not see that at the location, but I noted it when I was taken in  
2 the vehicle. It was after, when we had left, after we had -- I had been flogged, when  
3 I came back from the hospital, I saw [REDACTED] and the people who had flogged me.

4 Q. [10:52:55] And you said that you did not see that at the location. Can you  
5 explain why it is that you could not see that at the location?

6 A. [10:53:19] I could not see this because my head was covered with the yellow  
7 shirt.

8 Q. [10:53:48] And who told you to put the yellow shirt over your head?

9 A. [10:54:16] Nobody asked me. It was when I arrived, the person dressed all in  
10 black with a black turban, took it and put it on my head.

11 Q. [10:54:36] And your upper body, was it naked or did you have something else  
12 on?

13 A. [10:54:57] Yes, I was wearing a polo or a tank top that had black on  
14 the shoulders. That was underneath the shirt.

15 Q. [10:55:21] And this tank top, do you remember what colour it was?

16 A. [10:55:40] Yes, the tank top that was under the shirt was white, and that was  
17 where there was black on the shoulders.

18 Q. [10:56:10] And after the yellow shirt was put over your head, what happened  
19 next?

20 A. [10:56:35] After that, I was just flogged. That's what happened afterwards.  
21 I was told to sit down first and then I was told to stand, and then after that I was  
22 flogged.

23 Q. [10:56:58] And could you hear anything?

24 A. [10:57:19] At that moment I couldn't hear anything, I couldn't hear a thing.

25 Q. [10:57:37] And you said you were flogged, where on your body were you

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 flogged?

2 A. [10:58:08] I was flogged from my shoulders to my feet.

3 Q. [10:58:16] And did you ever see the whip that was used to flog you?

4 A. [10:58:34] Yes, I did see the whip, I saw it.

5 Q. [10:58:39] When did you see the whip?

6 A. [10:59:04] I saw the whip first when I got out of the vehicle. And also when  
7 the woman was being flogged I saw it.

8 Q. [10:59:18] And did you see who was holding that whip?

9 A. [10:59:32] I do not recall who was holding the whip.

10 Q. [10:59:45] And can you describe the whip?

11 A. [11:00:19] The, the whip, well, it was bent.

12 THE INTERPRETER: [11:00:30] Could the Songhai interpreter please repeat what he  
13 just said. Unclear.

14 MS LUPING: [11:00:39]

15 Q. [11:00:40] Mr Witness, the interpreter said that he couldn't hear your response.  
16 Could you please repeat it.

17 A. [11:01:12] I said that there were three whips that had been bent in two and tied  
18 together, which means that there were in fact six ends or endings to the whip.

19 MS LUPING: [11:01:38] Mr President, I just notice the time. This may be an  
20 opportune moment to break. I will obviously have further questions.

21 PRESIDING JUDGE MINDUA: [11:01:51](Interpretation) You are quite right,  
22 Madam Prosecutor.

23 Court officer, could we please return to public session.

24 (Open session at 11.02 a.m.)

25 THE COURT OFFICER: [11:02:06] We are in open session, Mr President.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [11:02:14](Interpretation) Thank you very much,  
2 court officer.

3 We will now suspend the hearing for half an hour. We will start again at 11.30.

4 The hearing is suspended.

5 THE COURT USHER: [11:02:28] All rise.

6 (Recess taken at 11.02 a.m.)

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

8 THE COURT USHER: [11:31:36] All rise.

9 Please be seated.

10 PRESIDING JUDGE MINDUA: [11:32:00](Interpretation) The Court is once more in  
11 session.

12 Before giving the floor to the Prosecution, I would like to refer to a communication for  
13 her.

14 The Chamber notes that, during the previous session, we were primarily in private  
15 session and the Chamber would like to remind the Prosecution the obligation to  
16 organise the examination in such a way that we can spend the majority of our time in  
17 public session.

18 The Chamber also notes that yesterday it accorded the Prosecutor -- agreed to  
19 the Prosecutor's request to have two additional hours for the examination of this  
20 witness. The Chamber would remind the Prosecutor that one hour and 55 minutes  
21 still remain. You will not be given a single minute more and, therefore, would  
22 request the Prosecutor to organise her time appropriately.

23 Thank you.

24 The floor is yours, Madam Prosecutor.

25 MS LUPING: [11:33:41] Thank you, Mr President. And that is understood. And

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 the Prosecution is grateful for that additional time.
- 2 I would just note for the record too that my colleague Ms Nelly Corbin has rejoined us
- 3 and is in the courtroom with the Prosecution team.
- 4 Mr President, fully understand the need to return, as much as possible, to public
- 5 session, and I would note that there are a number of exhibits that I do believe that can
- 6 be shown in public session. Unfortunately, for my current follow-up questions
- 7 regarding the witness's account, the ones that are left are highly identifying. So I
- 8 would ask that we return to private session to simply first elicit this identifying
- 9 information before returning to public.
- 10 PRESIDING JUDGE MINDUA: [11:34:45](Interpretation) Court officer, private
- 11 session, please.
- 12 (Private session at 11.34 a.m.)
- 13 THE COURT OFFICER: [11:34:57] We are in private session, Mr President.
- 14 PRESIDING JUDGE MINDUA: [11:35:04](Interpretation) Thank you very much.
- 15 Prosecution.
- 16 MS LUPING: [11:35:06]
- 17 Q. [11:35:08] Mr Witness, I'm going to first quote you on something you stated
- 18 yesterday before asking my question.
- 19 Quote, "They hit me, they hit the woman," end of quote.
- 20 My question is, who was the woman they hit?
- 21 A. [11:36:01] The woman was [REDACTED] that's [REDACTED] but we call her [REDACTED]
- 22 Q. [11:36:10] I'm also now going to quote you again before asking my -- a series of
- 23 questions.
- 24 You describe the flogging and then you state, "... they put us in [the] ambulance to
- 25 take us to the hospital." End of quote.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 My first question was, who was with you in the ambulance?

2 A. [11:37:07] The ambulance, there were two people, the driver and a woman who  
3 was a doctor.

4 Q. [11:37:18] And when you were treated at the hospital, you said that you  
5 received 10 tablets. Can you explain what the 10 tablets were?

6 A. [11:37:58] I don't know exactly what they were, but they were tablets that looked  
7 like Paracetamol and we were told to take them because that would help the marks  
8 that had been left on the body.

9 Q. [11:38:22] And who treated you at the hospital?

10 A. [11:38:33] The person -- man who we found at the hospital spoke like the people  
11 in Gao and I think that's where he was from.

12 Q. [11:38:58] And you just said that it was to help the marks that had been left on  
13 the body, where were these marks?

14 A. [11:39:42] The marks were all over my body, my shoulders, by back, my thighs.  
15 They were everywhere.

16 Q. [11:39:56] And what were the marks from?

17 A. [11:40:28] I had been beaten and these marks were where the blood had  
18 coagulated where I'd been hit. And after we went --

19 THE INTERPRETER: Inaudible.

20 THE WITNESS: (Interpretation) -- it was -- the blood was removed.

21 THE INTERPRETER: [11:40:56] Sorry, there was a passage there that wasn't clear in  
22 the French.

23 MS LUPING: [11:41:05]

24 Q. [11:41:05] Mr Witness, there's part of what you said that hasn't been captured.  
25 It says "after we went -- inaudible -- it was -- the blood was removed." Could you

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 repeat your response.

2 A. [11:42:10] When we left where we'd been whipped, with the coagulated blood,  
3 we were taken to the therapist who used a traditional method of removing the blood.

4 Q. [11:42:39] And was this the same day of the flogging, or was it another day?

5 A. [11:43:13] It was not the same day, it was a few days later that I saw this person,  
6 because things were not healing.

7 Q. [11:43:31] Now, you have said that "these marks were where the blood had  
8 coagulated where I had been hit."

9 My question is, do you still have any of these marks left on you?

10 A. [11:44:18] Yes. There are still some scars.

11 Q. [11:44:28] And where are those scars that you still have?

12 A. [11:45:14] I've got some on my shoulders and on my back, and also around my

13 [REDACTED]

14 Q. [11:45:38] Now, Mr Witness, you said -- I'm going to quote you, this is from  
15 today's transcript: "When I came back from hospital, I saw [REDACTED] and the people  
16 who had flogged me." End of quote.

17 My question is where, where did you see this on TV? Which house were you in?

18 A. [11:46:36] I saw them at home, with family.

19 Q. [11:46:48] And who brought you home?

20 A. [11:47:10] The ambulance took me back home.

21 Q. [11:47:13] And who was in that ambulance with you when you were brought  
22 back home?

23 A. [11:47:37] In the ambulance, I was with the woman, the driver and another  
24 woman.

25 Q. [11:47:50] Mr Witness, you're in private session, who is "the woman"?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 A. [11:48:08] The other woman, that was my wife, [REDACTED]
- 2 Q. [11:48:15] And can you recall what you saw on TV?
- 3 A. [11:48:36] Yes, I do remember.
- 4 Q. [11:48:38] Can you please describe what you saw.
- 5 A. [11:49:28] On television I saw the public, and then I saw men with weapons and
- 6 I also saw the people who were doing the beating. I saw the woman, too.
- 7 And there was also an interpreter who was interpreting what they were saying. I
- 8 saw him too.
- 9 Q. [11:50:08] And again, who was the woman that you're referring to?
- 10 A. [11:50:25] [REDACTED] my wife.
- 11 Q. [11:50:32] You said you saw the people who were doing the beating. Can you
- 12 recall who was doing the beating?
- 13 A. [11:51:09] I saw on the pictures the people doing the beating, and there was one
- 14 whom I recognised. But the other three, I don't know them. But I did see their
- 15 faces.
- 16 Q. [11:51:29] And who was the one you recognised?
- 17 A. [11:51:51] The, the one I recognised was the Marka.
- 18 Q. [11:51:59] And who was the Marka?
- 19 A. [11:52:13] I'm sorry?
- 20 Q. [11:52:15] You said you recognised the Marka. What does "Marka" mean?
- 21 A. [11:52:39] The Marka is an ethnic group that we refer to as "Marka" and it was
- 22 this person who was speaking.
- 23 Q. [11:52:56] And you say you recognised him. Where did you see him before?
- 24 A. [11:53:24] I saw him on the town and I saw him around, and I saw him with
- 25 those people.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [11:53:38](No interpretation)

2 MS LUPING: [11:53:44] Mr President, the concern that the Prosecution has is that  
3 the individuals who were involved in the beating of this person may also be -- may  
4 also identify the witness himself. This event was well known, it was highly  
5 published and publicised. And our concern is that if we reveal who were part of the  
6 group that flogged him, putting all of this information together, especially what we'll  
7 be showing later on, may identify him.

8 PRESIDING JUDGE MINDUA: [11:54:13](Interpretation) Yes, okay, please proceed.

9 MS LUPING: [11:54:21]

10 Q. [11:54:21] Now, Mr Witness, I'm going to quote you from yesterday's transcript.

11 I'm going to quote you, and then I'll ask you a question. You said, and I quote:

12 "In the evening they came back, they said that you have to get married. If you don't  
13 get married, each of you will be imprisoned for two years." End of quote.

14 My question is this, who said that to you?

15 A. [11:55:17] It was Houka Houka told me that. Houka Houka.

16 Q. [11:55:23] And where were you when Houka Houka said that to you?

17 A. [11:55:44] And that was the time when they came for the celebration of  
18 the marriage, that that's when they told me that.

19 Q. [11:56:03] And you said yesterday, and I quote you:

20 "They carried out the marriage, and then they left." End of quote.

21 Who carried out the marriage?

22 A. [11:56:28] It was Houka Houka and Adama and the third person, but I don't  
23 know who that was.

24 Q. [11:56:42] And you say they carried out the marriage. Who attended that  
25 marriage?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [11:57:10] The celebration of the marriage, there was [REDACTED] uncle and my  
2 own uncle as well.

3 Q. [11:57:20] And did you have a celebration after that marriage, with friends?

4 A. [11:57:38] No. No, we didn't.

5 Q. [11:57:41] I am now going to quote another passage from your testimony  
6 yesterday. Quote:

7 "When that finished, I called my uncle and I gave 85,000 for a new marriage in  
8 the mosque --" Sorry, you corrected it to 80,000. End of quote.

9 My question is, why did you ask for a new marriage?

10 A. [11:58:39] I asked a new marriage because the way that was done, it was  
11 a danger that it wouldn't be a customary, proper marriage. That's why I called my  
12 uncle, so that he would rearrange that at the mosque.

13 Q. [11:59:04] And why was it not a customary, traditional marriage?

14 A. [11:59:27] I'm sorry?

15 Q. [11:59:30] And why, in your opinion, was this not a customary, traditional  
16 marriage?

17 A. [12:00:28] I saw that in other marriages, there was a dowry which was 15,000  
18 francs, but I -- there was also a reading at other marriages and I didn't have that.

19 And that's why. And, in truth, I felt that it wasn't really the real thing.

20 Q. [12:01:06] Now, Mr Witness, after the marriage was celebrated, did any of  
21 the Islamists visit you again?

22 A. [12:01:58] Yes, they would come on occasion. And they would come with tea  
23 and sugar so that we can have tea together. And they even asked me if I would not  
24 want to join their group. I didn't answer them. And they took their tea and they  
25 left.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [12:02:24] Now, Mr Witness, you said in yesterday's testimony that you paid I  
2 think 15,000 or 20,000 in the end for the dowry. My question is this, who paid for  
3 the dowry?

4 A. [12:03:02] I was the one who paid that.

5 Q. [12:03:06] And did you ever get your money back for that? Did anybody pay  
6 for that money, reimburse you for that?

7 A. [12:03:31] No, nobody ever reimbursed me the money that I gave.

8 Q. [12:03:40] And did anybody ever speak to you from the Islamists about  
9 the money that you paid.

10 A. [12:04:30] No. In the evening, after having been flogged, they came back to  
11 the house in the evening with some money that they offered me. I refused. And it  
12 was one of my elder sisters who took that money.

13 Q. [12:04:48] And when you say they came back in the evening and they offered  
14 you money, who is "they"?

15 A. [12:05:22] I am talking about the Islamists. One of them was Sanda and he was  
16 accompanied by another individual that was his brother. And in the end they even  
17 took the phone of my sister and they beeped a number on that phone and they said  
18 that that number would be called -- or that number would call me back for me to be  
19 able to explain to them entirely what had happened.

20 Q. [12:06:23] And did they say who would be calling you on that phone?

21 A. [12:06:51] They just told me that somebody else would call me. And when that  
22 person did call me, he presented or introduced himself as somebody from [REDACTED]

23 MS LUPING: [12:07:31] Mr President, I will now be asking to go into public, but I  
24 would like to remind the witness:

25 I'm going to be showing you now some images and I would ask that you not reveal

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 your name or the identities of anybody who was involved in your flogging.
- 2 If we could now go into public session.
- 3 PRESIDING JUDGE MINDUA: [12:08:01](Interpretation) Madam courtroom officer,
- 4 could we go into open session, please.
- 5 THE WITNESS: [12:08:19](Interpretation) Very well.
- 6 (Open session at 12.08 p.m.)
- 7 THE COURT OFFICER: [12:08:27] We are in open session, Mr President.
- 8 PRESIDING JUDGE MINDUA: [12:08:35](Interpretation) Thank you very much.
- 9 Madam Prosecutor.
- 10 MS LUPING: [12:08:38] Mr President, with your leave, the Prosecution would like to
- 11 show these images. They are confidential, so they should not be seen by the public,
- 12 but I can ask my questions in public session.
- 13 PRESIDING JUDGE MINDUA: [12:08:57](Interpretation) Madam courtroom officer.
- 14 THE COURT OFFICER: [12:08:58] Please go ahead and will you please indicate to
- 15 the Registry if you intend to play the document yourself or if our help will be
- 16 required?
- 17 MS LUPING: [12:09:06] Yes, court officer. The Prosecution would like to show
- 18 the images itself, please.
- 19 THE COURT OFFICER: [12:09:15] The document will be then displayed on
- 20 the evidence 2 channel.
- 21 MS LUPING: [12:09:19] And the first document is at tab 14, it's MLI-OTP-0046-9035.
- 22 Q. [12:09:40] Mr Witness, can you see the document in front of you? Nobody else
- 23 outside should be able to see it, but can you see it?
- 24 A. [12:10:07] Yes, I can see it.
- 25 Q. [12:10:08] Who is it?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

- 1 A. [12:10:22] It is me.
- 2 Q. [12:10:24] And what do we see?
- 3 A. [12:10:39] I can see the scars that I bear on my body.
- 4 Q. [12:10:45] And are these the scars that you described before?
- 5 A. [12:10:59] Yes, that is correct.
- 6 Q. [12:11:05] I'm now going to show another image. That's at tab 15 and the last
- 7 four digits are 9036.
- 8 A. [12:11:30] Yes, that is what I have just seen.
- 9 Q. [12:11:42] And when you say "that is what I have just seen", are these the scars
- 10 that you described before?
- 11 A. [12:12:10] These are the same that I have already seen.
- 12 Q. [12:12:16] And is this still you?
- 13 A. [12:12:28] Yes.
- 14 Q. [12:12:30] I now turn to tab 18, and the ERN ends 9039, from the same series.
- 15 Mr Witness, can you see this image in front of you?
- 16 A. [12:13:04] Yes, I can see it and this is me.
- 17 Q. [12:13:11] And what do we see on your back there?
- 18 A. [12:13:35] Yes, these are the scars. These are part of the scars.
- 19 Q. [12:13:50] And now turning to the next document at tab 20, same series, ERN
- 20 series, ending now 9041.
- 21 Who is this?
- 22 A. [12:14:18] This is me.
- 23 Q. [12:14:22] And what do we see?
- 24 A. [12:14:37] These are wounds and some of these scars.
- 25 Q. [12:14:42] Turning now to tab 21, same MLI ERN series, ending 9042.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

- 1 What is this?
- 2 A. [12:15:17] Still some of the scars.
- 3 Q. [12:15:21] And is this still you?
- 4 A. [12:15:30] Yes.
- 5 Q. [12:15:33] Now turning to tab 22, the ERN ending 9043.
- 6 And what do we see?
- 7 A. [12:16:21] Yes, this is me.
- 8 Q. [12:16:26] And what do we see on your lower back?
- 9 A. [12:16:42] Still some of the scars.
- 10 Q. [12:16:50] And now for the last photograph, that's at tab 23, and the ERN ends
- 11 9044.
- 12 What do we see?
- 13 A. [12:17:11] It's still me and these are still some of the scars.
- 14 Q. [12:17:29] I am now going to show you a different document. This time it's
- 15 a video.
- 16 It can be played without sound and with no interpretation. It's at tab 57. The ERN
- 17 is MLI-OTP-0018-0242.
- 18 We'll be playing from the start and we'll be stopping at approximately after the first
- 19 seven seconds.
- 20 (Viewing of the video excerpt)
- 21 MS LUPING: [12:18:39] For the record, we stopped at 00:00:07:08.
- 22 Q. [12:18:46] Mr Witness, do you recognise this place?
- 23 A. [12:19:02] This is the justice.
- 24 Q. [12:19:12] And can you explain what is the justice?
- 25 A. [12:19:31] The justice is where people are judged.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 Q. [12:19:44] And is this where you were judged?

2 A. [12:19:57] Yes, this is where I was judged.

3 Q. [12:20:06] Now I'm turning to a different video clip. This is at tab 76 -- sorry,

4 I'll let my colleague finish playing the rest of it.

5 (Viewing of the video excerpt)

6 MS LUPING: [12:20:20] So the rest was played to the very end. And now turning

7 to the next item, tab 76, that's MLI-OTP-0018-0249. We're going to start from

8 the beginning and there's no sound, no sound and no interpretation needed.

9 (Viewing of the video excerpt)

10 MS LUPING:

11 Q. [12:20:48] Mr Witness, first of all, do you recognise this place?

12 A. [12:21:01] Yes, of course, I do know that location.

13 Q. [12:21:04] And what is it?

14 A. [12:21:11] This is still the justice. This is upstairs, where judgment is carried  
15 out.

16 Q. [12:21:31] And my colleague just played the first two seconds, it stopped at

17 00:00:02:13. Do you recognise anybody in this scene?

18 A. [12:21:58] The one holding the Koran in his hands is Houka Houka. And

19 the one next to him is the one who was translating to me what Houka Houka was

20 saying in Songhai. He is wearing a white attire and a white turban. And the other

21 one was the one who was typing on the computer and he was one of those who

22 flogged me. I saw that on the television.

23 Q. [12:22:59] And starting with Houka Houka, could you describe -- you said he's

24 the one -- sorry, you said he's the one who is reading from the Koran.

25 Is that the person in the middle of this image?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 A. [12:23:27] Yes, he's the one in the middle wearing the chocolate-coloured turban.

2 Q. [12:23:45] And I'm not going to repeat what you said about the other person  
3 who is on the computer, as we'll be redacting that, requesting that that be redacted.

4 But could you just confirm what colour clothing he's wearing in this image?

5 A. [12:24:26] He is wearing a white attire with a chocolate-coloured turban.

6 Q. [12:24:39] I don't know if there was a misinterpretation. My question was not  
7 about Houka Houka, who you've already identified. My question is about  
8 the person who is on a computer. He's wearing dark clothing. Is that the person to  
9 whom you were referring before? The other person?

10 A. [12:25:35] Yes, he's wearing a black boubou, a black pair of trousers and a black  
11 turban. And I couldn't see his eyes. And also, he was one of those people who  
12 flogged me. I saw that on the television.

13 Q. [12:25:58] Mr Witness, the rest of this is now going to be shown to you.

14 (Viewing of the video excerpt)

15 MS LUPING:

16 Q. [12:26:06] And I'll just ask if you can say whether you recognise anybody else?

17 A. [12:26:39] Yes, I can see them, but I don't know their names. I don't know their  
18 ethnicity. The one who is wearing black is the one who was working on  
19 the computer.

20 MS LUPING: [12:27:00] Mr President, in priority, I would like to show some other  
21 videos, but these particular ones will need to be shown, I believe, in private session.

22 PRESIDING JUDGE MINDUA: [12:27:15](Interpretation) Private session, please,  
23 madam courtroom officer.

24 (Private session at 12.27 p.m.)

25 THE COURT OFFICER: [12:27:29] We are in private session.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [12:27:35](Interpretation) Many thanks.

2 Madam Prosecutor.

3 MS LUPING: [12:27:37] We are now going to be showing a short video excerpt from

4 tab 49, that's [REDACTED] again without sound and without interpretation.

5 My colleague will be playing from 00:04:29:21 through to 00:06:02:00.

6 (Viewing of the video excerpt)

7 MS LUPING: [12:29:44]

8 Q. [12:29:44] Mr Witness, do you recognise this event?

9 A. [12:29:57] Of course.

10 Q. [12:29:59] And what is it?

11 A. [12:30:15] This is the day when I was to be flogged.

12 Q. [12:30:22] And where is it?

13 A. [12:30:32] This took place in Sankoré.

14 Q. [12:30:37] And did you recognise anybody?

15 A. [12:30:52] I didn't understand.

16 Q. [12:30:54] Did you recognise anybody?

17 A. [12:31:08] There are a lot of people here that I know.

18 Q. [12:31:11] And can you list them.

19 A. [12:31:59] Amongst all the civilians, there are people whose names I know, some

20 whom I don't know. There are some Islamists. So there are people whose names I

21 do know and people whose names I don't.

22 MS LUPING: [12:32:18] Mr President, I see the time. I will be asking more

23 questions about this video, but as there are, say, five discrete timestamps I will be

24 replaying to the witness from this, I propose that it be done after lunch.

25 PRESIDING JUDGE MINDUA: [12:32:39](Interpretation) You are right, Madam

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 Prosecutor.
- 2 Madam courtroom officer, open session, please.
- 3 (Open session at 12.32 p.m.)
- 4 THE COURT OFFICER: [12:32:56] We're in open session, Mr President.
- 5 PRESIDING JUDGE MINDUA: [12:33:03](Interpretation) Thank you very much,
- 6 courtroom officer.
- 7 We shall now suspend the hearing for the luncheon break, for an hour, and we shall
- 8 reconvene at half past 1.
- 9 Court is suspended.
- 10 THE COURT USHER: [12:33:22] All rise.
- 11 (Recess taken at 12.33 p.m.)
- 12 (Upon resuming in open session at 1.30 p.m.)
- 13 THE COURT USHER: [13:30:27] All rise.
- 14 Please be seated.
- 15 PRESIDING JUDGE MINDUA: [13:30:57](Interpretation) The Court is in session.
- 16 Madam Prosecution, you have the floor to continue with your examination.
- 17 MS LUPING: [13:31:07] Thank you, Mr President.
- 18 And to continue with the same video that we saw before, I would request that we
- 19 return to private session.
- 20 PRESIDING JUDGE MINDUA: [13:31:24](Interpretation) Court officer, private
- 21 session, please.
- 22 (Private session at 1.31 p.m.)
- 23 THE COURT OFFICER: [13:31:35] We are in private session, Mr President.
- 24 PRESIDING JUDGE MINDUA: [13:31:42](Interpretation) Thank you.
- 25 Madam Prosecutor.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MS LUPING: [13:31:44] Thank you, Mr President.

2 It is, as I said, it's the same video that we were displaying just before the break, so  
3 that's [REDACTED] and the first timestamp is at 00:04:47:08.

4 Q. Mr Witness, do you recognise anybody in this scene?

5 THE INTERPRETER: [13:32:29] There's a problem. We don't hear anything  
6 anymore, says the interpreter in Songhai.

7 THE COURT OFFICER: [13:32:55] Message to the French booth: Could you please  
8 deactivate your microphone because we could not hear our colleague from  
9 the Songhai booth.

10 And in the meantime, to our colleague, could you please repeat the answer of the  
11 witness. Thank you.

12 THE INTERPRETER: [13:33:27] We don't -- we can't hear you anymore. Could you  
13 please repeat.

14 PRESIDING JUDGE MINDUA: (Interpretation) There seems to be a problem with  
15 the Songhai sound.

16 THE COURT OFFICER: [13:33:36](Overlapping speakers) Mrs Prosecutor, could  
17 you please repeat your question.

18 (Overlapping speakers) the microphone.

19 Thank you.

20 MS LUPING:

21 Q. [13:33:45] Do you recognise anybody in this scene?

22 A. [13:34:20] Yes, I recognise those images. The one in blue is Daoud. And  
23 the other is the one who's interpreting what he is saying.

24 Q. [13:34:39] And can you confirm who is Daoud?

25 A. [13:35:15] As I said, Daoud is the other one who's interpreting and the other one

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 who's making the announcement. He the imam in Timbuktu.

2 Q. [13:35:27] And the imam of which mosque?

3 A. [13:35:42] The imam of the mosque of Bellafarandi.

4 Q. [13:35:56] And I'm now going to ask my colleague to move to timestamp

5 04:56:15 -- sorry, 56:18.

6 Mr Witness, do you recognise this vehicle?

7 A. [13:36:27] Yes, I recognise it. It's the ambulance who brought us to the hospital.

8 Q. [13:36:32] And my colleague will now take us to timestamp 05:22:06.

9 And do you recognise anybody in this scene, Mr Witness?

10 A. [13:37:03] Yes, there I see my wife, [REDACTED] The one they are flogging is

11 [REDACTED]

12 Q. [13:37:16] And just to clarify, is that the woman kneeling on the ground?

13 A. [13:37:35] Yes.

14 Q. [13:37:37] And in this scene, do you recognise any of the Islamists?

15 A. [13:38:02] Yes, I see two individuals which I recognise, but I don't know their

16 names.

17 Q. [13:38:11] Can you indicate the first one you recognise and say what he's

18 wearing?

19 A. [13:38:42] The one in black, he is part of the people who flogged me and I think

20 he was also in the tribunal. The other on the other side, wearing white, and who has

21 something grey, he's also part of the group that flogged me. I think that is Marka,

22 whom I've already mentioned.

23 Q. [13:39:31] Can you please indicate which one he is, because there are three other

24 figures there. Is it the one in the middle or the one on the far right?

25 A. [13:40:09] He's the one that's on the right.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [13:40:15] My colleague will now move to timestamp 05:45:18:

2 Mr Witness, do you recognise anybody in this scene?

3 A. [13:40:45] The one in the middle is myself. And then the one in black is one of  
4 those who flogged me.

5 Q. [13:40:56] We will now turn to another video excerpt, that's at tab 54,

6 [REDACTED] It will be -- a short excerpt will be played without sound and  
7 no interpretation is necessary. It will first be played from timestamp 00:04:33:21  
8 until 00:04:41:14.

9 (Viewing of the video excerpt)

10 MS LUPING: [13:42:01]

11 Q. [13:42:01] Do you recognise this event, Mr Witness?

12 A. [13:42:15] Yes, of course I do.

13 Q. [13:42:17] And what is it?

14 A. [13:42:35] I'm there, I was put there. And then I was being flogged and those  
15 are -- those people there you see are amongst the ones who flogged me.

16 Q. [13:42:47] I'm now going to replay 00:04:33:21 until 00:04:35:10.

17 (Viewing of the video excerpt)

18 MS LUPING: [13:43:06] And I'm going to get my colleague to go back to 04:35:10.  
19 04:35:14, in fact.

20 Q. [13:43:25] Mr Witness, do you recognise the person with the whip in his hand?

21 A. [13:43:41] Yes. The one with the whip, I recognise him. I know him from  
22 before the crisis, because he used to come with tourists to a restaurant where I was  
23 working.

24 Q. [13:44:17] And who is he?

25 A. [13:44:28] I don't know his name. But according to other people, it's apparently

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 the one who destroyed the mausoleums --

2 Q. [13:44:56] I'm now going --

3 A. [13:44:56] -- and is now in prison.

4 MS LUPING: [13:44:59] I'm now going to move on to another video clip, a short one  
5 at tab 69. That's MLI-OTP-0018-0246. For the information of the interpreters, we  
6 would like interpretation for this after playing with sound. You'll find them at tabs  
7 70 and 71, the transcript and translation. The translation is 0078-1877. It's a very  
8 short clip.

9 Before playing with sound, we will be playing it without sound first, before my  
10 learned friend gets up. We are not going to be playing it with sound for  
11 the beginning. I'm just giving the transcript reference for the information of the  
12 interpreters.

13 PRESIDING JUDGE MINDUA: [13:45:41](Interpretation) Ms Taylor.

14 MS TAYLOR: [13:45:42] That's not the basis of my objection. This is actually -- and  
15 I would like to cut off the sound here to the witness, the translation.

16 THE COURT OFFICER: [13:45:56] Message to the Songhai booth: Please do not  
17 interpret Ms Taylor's submission. Thank you.

18 PRESIDING JUDGE MINDUA: [13:46:07](Interpretation) Ms Taylor.

19 MS TAYLOR: [13:46:08] Thank you very much, Mr President.

20 As the Prosecution is aware, [REDACTED]

21 [REDACTED]

22 [REDACTED] It has not, therefore, been  
23 authenticated.

24 As the Chamber is aware, [REDACTED]

25 [REDACTED]

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 [REDACTED] At that point in time,  
2 we did not do that with these videos because the Prosecution had not tendered them  
3 through the witness.

4 Now there's a clear element of prejudice if the Prosecution were to rely upon  
5 witnesses -- sorry, videos that have not been authenticated by a witness who could

6 [REDACTED] A video that may never be authenticated.

7 Now, the Prosecution has been aware of this objection. They have a series of videos  
8 available to them [REDACTED] so they're in a very good  
9 position to use that evidence. We therefore submit that they should not be allowed  
10 to use videos with this witness that can never be authenticated at this point.

11 PRESIDING JUDGE MINDUA: [13:48:03](Interpretation) Madam Prosecutor.

12 MS LUPING: [13:48:04] Mr President, your Honours, the Prosecution would  
13 disagree that this witness is not in a position to authenticate the materials. I refer to  
14 paragraph 58 of the conduct of proceedings decision, in which it's clearly stated that  
15 in terms of establishing relevance of showing the materials, first of all, that  
16 the witness simply indicates whether they have personal knowledge of the making of  
17 the recording or its contents.

18 In our submission, your Honours, and according to the established practice of  
19 this Court before other Chambers, it is appropriate for other witnesses, if they do  
20 have personal knowledge of a content of a video to be in a position not only to  
21 comment upon it, but also to authenticate it.

22 PRESIDING JUDGE MINDUA: [13:48:59](No interpretation)

23 MS TAYLOR: [13:49:00] Thank you, Mr President.

24 There's a clear distinction here. As you can see from this video, the witness's head is  
25 covered. He's not testifying on the basis of what he saw at the time of this video.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 He's testifying on the basis of videos that he watched afterwards.  
2 The decision on the conduct of the proceedings also relates to the procedure used for  
3 showing a video to a witness and is subject to the caveat that showing a video to  
4 a witness does not in itself authenticate the video. The Prosecution has an  
5 independent obligation to authenticate the video from someone who has knowledge  
6 of the means or manner in which the video was created.

7 This witness can't attest to that issue. And because the Prosecution did not put this  
8 [REDACTED] It's thus not the same as you  
9 have -- a situation where you have a witness, you can show them a video, and you  
10 can then admit that video through a later witness. That can't happen with these  
11 videos.

12 Now, the Prosecution has a range of materials available to it, it also had a vast  
13 amount of time during which [REDACTED] We're now prejudiced because we  
14 can [REDACTED] of this video. The  
15 Prosecution should therefore use [REDACTED] and [REDACTED] which  
16 we did have the ability to address these issues.

17 PRESIDING JUDGE MINDUA: [13:50:39](Interpretation) Ms Taylor, was this not  
18 [REDACTED] I don't think that's correct. I think [REDACTED] seen this  
19 video.

20 MS TAYLOR: [13:50:49] Mr President, as you may recall, the Defence set out a series  
21 of videos in an email which [REDACTED] There were similar videos  
22 [REDACTED] so it's our submission that the particular videos that were shown to  
23 that witness can now be played. But the ones that were not shown to that witness  
24 should not be played, because of that element of prejudice that we can no longer raise  
25 these issues with the witness.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MS LUPING: [13:51:12] Mr President, if I may comment further.

2 If the Chamber --

3 PRESIDING JUDGE MINDUA: [13:51:22](Interpretation) Ms Taylor, this witness is

4 not the one who made this video, but it can comment on the context, on the -- what is

5 happening, because there is some relevance.

6 Did you follow the interpretation? So that's my position. The witness can comment

7 on the content. The Chamber will assess later on what we will do with that

8 information.

9 Madam Prosecutor, please continue.

10 MS LUPING: [13:51:59] Thank you, Mr President. We will now initially be

11 showing this clip without sound, so my colleague will play the first second without

12 sound.

13 (Viewing of the video excerpt)

14 MS LUPING: [13:52:22]

15 Q. [13:52:23] Mr Witness, do you recognise this scene?

16 A. [13:52:42] Yes.

17 Q. [13:52:43] And what is it?

18 A. [13:53:12] I see myself. And the one with the white shoes is Marka, whom I

19 already mentioned. And the other is [REDACTED] my wife.

20 MS LUPING: [13:53:32] I would now ask that the full excerpt, which is 21 seconds be

21 played, this time with sound, as the witness has recognised the scene. And I repeat

22 again, for the sake of the interpreters, this is at tab 71, the translation is

23 MLI-OTP-0078-1877. My colleague will start from the beginning and will first be

24 stopping at -- briefly at 10 seconds, but if we could have interpretation before it is

25 stopped at 10 seconds.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 (Viewing of the video excerpt)

2 MS LUPING: [13:54:37] We stopped at 10 seconds, so 00:10:12. I just want to ask  
3 a question of the interpreters because I did not hear any interpretation in my  
4 headphone set.

5 THE INTERPRETER: [13:54:51] The English interpreter didn't interpret, sorry.

6 MS LUPING: [13:54:59] We will repeat this exercise again. I would ask again, I  
7 repeat, this is with sound and with interpretation needed. The translation is at  
8 MLI-OTP-0078-1877, that's at tab 71 of your binders. I would ask for interpretation  
9 please. We are going to start again from zero seconds and I would request  
10 interpretation.

11 (Viewing of the video excerpt)

12 THE INTERPRETER: [13:55:32](Interpretation of the video excerpt)

13 Hit, hit, go and hit him. Go, go, do it strongly. And his feet. And his back.

14 MS LUPING: [13:55:46]

15 Q. [13:55:47] Mr Witness, at this timestamp, 10 seconds, do you recognise anybody  
16 in this scene? And if so, who?

17 A. [13:56:35] The one that is wearing white, with -- is me. And then there's also  
18 Marka. He's wearing a black turban.

19 MS LUPING: [13:56:57] And now I'm going to ask my colleague to continue to play,  
20 but just as a reminder to the -- a reminder to the interpreters, if you could please  
21 continue to provide a translation. I'll get her to start again from 10 seconds, if you  
22 could please provide the interpretation.

23 (Viewing of the video excerpt)

24 THE INTERPRETER: [13:57:36](Interpretation of the video excerpt)

25 Hit, hit him. Hit. Go on, go on.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MS LUPING: [13:57:42] And we've now paused at 17:11.

2 Q. Do you recognise anybody in this scene?

3 A. [13:58:18] As I said, I recognise the one in black. That's the one who I talked  
4 about before. And the one with the white vest is me.

5 MS LUPING: [13:58:32] And before my colleague replays the rest, a reminder to  
6 the interpreters that I would like the rest of this clip to have interpretation, starting  
7 from 17:11 till the end and with interpretation, please.

8 (Viewing of the video excerpt)

9 THE INTERPRETER: [13:58:54](Interpretation of the video excerpt) Hit him. Go  
10 below.

11 MS LUPING: [13:59:02] Now we will move to the next clip. That's at tab 72,  
12 0018-0247. This will have no sound and no interpretation is needed for this one.  
13 We will play first the first second without sound.

14 (Viewing of the video excerpt)

15 MS LUPING: [13:59:39]

16 Q. [13:59:41] And you recognise this scene?

17 A. [14:00:04] Yes, that's what I just told you. The person who is in black and  
18 the person in -- there's one in the middle, that's me.

19 Q. [14:00:14] And I'm going to get my colleague to now take us to timestamp  
20 00:00:15:15.

21 And now, do you recognise anybody in this scene?

22 A. [14:00:46] Among the people I can see, I can recognise myself, but I don't  
23 recognise the other people in this scene.

24 Q. [14:01:00] And where is this?

25 A. [14:01:10] Yes, that's in Sankoré. In the square that I spoke to you about.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MS LUPING: [14:01:25] I'm now going to move to another video excerpt. That's at  
2 tab 60, 0018-0243. I will first play without sound for the first second and after that  
3 with interpretation. I would ask that the interpreters turn to tab 62 for  
4 the translation, that's at 0078-9939, but first we will play the first second without  
5 sound.

6 (Viewing of the video excerpt)

7 MS LUPING: [14:02:04]

8 Q. [14:02:05] Mr Witness, do you recognise this event?

9 A. [14:02:35] Yes, I recognise it. David is the person who's -- the one's who's in the  
10 turban and who's holding the microphone and he's speaking. And the other one is  
11 his interpreter. The other one is David. They were also -- he was also one of the  
12 people who flogged me.

13 MS LUPING: [14:03:00] And now we will go back to the beginning. I ask now that  
14 before my colleague plays with sound, before, if the interpreters could be ready to  
15 translate.

16 My colleague will now play through till the end, with sound.

17 (Viewing of the video excerpt)

18 THE INTERPRETER: [14:03:17](Interpretation of the video excerpt)

19 If you believe in Allah and in the final day and that a group of believers are  
20 participating in their punishment.

21 MS LUPING: [14:03:39] We now move to the next item, that's at tab 81, 0018-0252.

22 We'll be playing this without sound.

23 (Viewing of the video excerpt)

24 MS LUPING: [14:04:18]

25 Q. [14:04:19] Mr Witness, do you recognise anybody in this scene?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 A. [14:04:57] The person who is wearing a shirt with long sleeves, that's Mahi.
- 2 The other one is David. He's one of the people who flogged me. And there's also
- 3 another one called Benya.
- 4 THE INTERPRETER: [14:05:32] Inaudible.
- 5 THE WITNESS: [14:05:37](Interpretation) What I said was that the person who is in
- 6 a shirt with long sleeves is Mahi. The one with a camera is Benya. And the other is
- 7 called David, the person who is the -- doing the interpreting into Arabic.
- 8 MS LUPING:
- 9 Q. [14:06:23] Mr Witness, I just want to clarify a name that I have in the English
- 10 transcript at page 54, line 14, a reference to a person called "Daoud", but now it's been
- 11 translated as "David".
- 12 Can you please confirm is the name Daoud or David?
- 13 A. [14:06:59] It's David. You said David.
- 14 THE INTERPRETER: [14:07:16] Could the interpreter repeat because the English
- 15 interpreter didn't hear the difference between the two names.
- 16 MS LUPING: [14:07:36] The English interpreter has requested that the Songhai
- 17 interpreter repeat the name because he could not hear the difference.
- 18 Could I, Mr President, request, that the Songhai interpreters simply spell the name.
- 19 As you know, I can't ask the witness to spell it, but if the interpreter, the Songhai
- 20 interpreter could spell the name for the record.
- 21 PRESIDING JUDGE MINDUA: [14:08:05](Interpretation) Yes, Songhai interpreters,
- 22 do you follow?
- 23 THE INTERPRETER: [14:08:08] Message from the Songhai booth: Your Honour,
- 24 with your leave, could we ask the witness to go back over the names once more, if
- 25 you would be so kind.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [14:08:22](Interpretation) Madam Prosecutor, could  
2 you ask the question to the witness again on the subject of the names.  
3 And then I'll take this opportunity to point out, Prosecutor, that in the transcript in  
4 French, page 53, it's marked that David was one of the people who carried out  
5 the flogging.  
6 What does that mean? Was he one of them because he was an interpreter or because  
7 he actually participated in it?  
8 If we could have some light shed on that from the witness, please.  
9 MS LUPING: [14:08:57] Mr President, actually, seeing the French, it looks as if  
10 the witness has been interpreted as saying: The person was called Daoud. It's you  
11 who is saying David.  
12 So, with due, respect, Mr President, I believe we can now move on on that point.  
13 And on your second point, I do not believe that - at least it's been captured in the  
14 English - the witness was not saying that the interpreter was called David. So with  
15 your leave, I would just move on to my next question.  
16 PRESIDING JUDGE MINDUA: [14:09:31](Interpretation) Madam Prosecutor, I'm  
17 not the one who introduced the word David into the transcript. It was there before.  
18 In the French transcript, if you look at page 53, in French.  
19 MS LUPING: [14:09:48] Just to (Overlapping speakers)  
20 PRESIDING JUDGE MINDUA: [14:09:50](Interpretation) Please go ahead.  
21 MS LUPING: [14:09:51] Just to clarify, Mr President, what I meant is that is what  
22 the witness is saying. I wasn't suggesting that you used the word David. I was just  
23 simply referring to what the witness is interpreted as having said.  
24 I will now ask that we go into public session for the next following exhibits that I'll be  
25 showing.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

- 1 PRESIDING JUDGE MINDUA: [14:10:19](Interpretation) Open session, if you  
2 would be so kind, court officer.  
3 (Open session at 2.10 p.m.)  
4 THE COURT OFFICER: [14:10:31] We are in open session, Mr President.  
5 PRESIDING JUDGE MINDUA: [14:10:40](Interpretation) Thank you very much.  
6 Prosecutor.  
7 MS LUPING: [14:10:43] We'll now be showing a series of photographs. I turn first  
8 to MLI-OTP-0022-0465.  
9 THE COURT OFFICER: [14:11:15] Madam Prosecutor, could you please indicate  
10 the level of confidentiality, please.  
11 MS LUPING: [14:11:20] I think this image could be seen publicly.  
12 Q. [14:11:33] Mr Witness, who is this person, do you recognise him?  
13 A. [14:11:47] Yes, I recognise him. It's Houka Houka.  
14 Q. [14:11:52] And I turn now to the next image to be shown. And that is at  
15 MLI-OTP-0022-0473. This can also be seen publicly.  
16 Mr Witness, who is this person?  
17 A. [14:12:22] That is Sanda.  
18 Q. [14:12:26] I will now have another photograph to show you. That's at  
19 MLI-OTP-0022-0471.  
20 Mr Witness, who is this person?  
21 A. [14:13:02] That is the person I spoke to you before, with the name Marka, who  
22 was one of the people who flogged me.  
23 Q. [14:13:18] And turning now to another photograph, that's at  
24 MLI-OTP-0022-0480.  
25 Do you recognise this person?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [14:13:47] That's Talha. They told me that his name -- they told me that his  
2 name was Talha.

3 Q. [14:14:02] And I'm now going to ask that a different photograph be brought in  
4 front of the witness. That's MLI-OTP-0022-0488.

5 Do you recognise this person?

6 A. [14:14:36] That's Boubacar -- Boubacar.

7 Q. [14:14:38] I'm now going to ask that another photo be brought before the witness,  
8 that's MLI-OTP-0022-0478.

9 Mr Witness, do you recognise this person?

10 A. [14:15:13] Yes. I saw that person, but I didn't see him afterwards anymore.

11 Q. [14:15:21] And where did you see this person?

12 A. [14:15:34] Yes, I said I saw him in Timbuktu.

13 MS LUPING: [14:15:39] Mr President, I would ask that the following images be  
14 shown in private session as they may identify the witness.

15 PRESIDING JUDGE MINDUA: [14:15:51](Interpretation) Court officer.

16 (Private session at 2.16 p.m.)

17 THE COURT OFFICER: [14:16:04] We are in private session, Mr President.

18 PRESIDING JUDGE MINDUA: [14:16:12](Interpretation) Thank you very much.

19 MS LUPING: [14:16:14] I will ask my colleague now to bring up photograph

20 MLI-OTP-0022-0487.

21 Q. [14:16:32] Do you recognise this person?

22 A. [14:16:41] This is the person that I spoke to you about. He came with Sanda  
23 and they proposed money to me and gave me the telephone number.

24 Q. [14:17:12] I will ask that another image now be shown to the witness. That's  
25 MLI-OTP-0022-0475.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Do you recognise this person?

2 A. [14:17:38] Yes, that is one of the people who flogged me. I don't know his  
3 name. He came with camels to transport tourists to the restaurant where I was  
4 working.

5 Q. [14:18:07] And we will now show another photo to the witness. That's  
6 MLI-OTP-0022-0484.

7 Do you recognise this person?

8 A. [14:18:33] I don't know the person, nor ethnic group. But I think that he may  
9 be one of the people who flogged me.

10 Q. [14:18:45] I will now show another photo to the witness. That's  
11 MLI-OTP-0022-0468.

12 Do you recognise this person?

13 A. [14:19:11] That's Omar.

14 Q. [14:19:13] And what is Omar's full name?

15 A. [14:19:34] He was called Omar Ould Hamaha. That's what he was called.

16 Q. [14:19:41] Is this the same Omar that you saw when you said you arrived at the  
17 BMS? This is on your -- this is what you -- when you mentioned an Omar yesterday  
18 in your testimony. Is this the same person?

19 A. [14:20:08] Yes, yes, it's the same Omar.

20 Q. [14:20:13] And did you ever see this person outside of Timbuktu?

21 A. [14:21:00] Yes, I saw him once when in Al Khalil, in the Algerian border with  
22 Mali where [REDACTED] lived. And one day I came to ask [REDACTED] if there  
23 could be somebody to cook in the kitchen and [REDACTED] proposed doing so.  
24 And that was when I finished in the kitchen that I noticed that it was them and they  
25 did that to me.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [14:21:32] And did you learn what Omar was doing in this place?

2 A. [14:22:05] What I heard there was that they sent people to Timbuktu in vehicles,  
3 and they had meetings so that they could go there -- so that they could take Konna.

4 Q. [14:22:26] I'd now like to move to a different photograph and that's  
5 MLI-OTP-0012-1844.

6 Mr Witness, do you recognise this person?

7 A. [14:22:53] That's Demba Demba.

8 Q. [14:23:02] Is this the same Demba Demba that you have mentioned in your  
9 testimony before?

10 A. [14:23:20] Yes, that's him.

11 Q. [14:23:26] Now I'll ask my colleague to move the photograph -- remove  
12 the photograph.

13 Now, Mr Witness, you have testified that you were flogged and so was [REDACTED]  
14 Did you ever learn of anybody else flogged for the same reason as you? For having  
15 a relationship with someone they were not married to.

16 A. [14:24:33] We know a lot of people who had children outside marriage. I can't  
17 even count them all up. But we never --

18 THE INTERPRETER: [14:24:49] The interpreter didn't catch the last bit.

19 THE WITNESS: [14:24:51](Interpretation) We don't -- we never found out if people  
20 underwent the same fate as we did.

21 MS LUPING: [14:25:03]

22 Q. [14:25:03] And do you know of anybody else who was flogged, who was  
23 punished by flogging? It doesn't have to be the same reason as you.

24 A. [14:25:33] Punished, in way what? I haven't understood.

25 Q. [14:25:38] Do you know anybody else who was punished by flogging in

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Timbuktu?

2 A. [14:26:07] Yes, yes, I know people who were flogged.

3 Q. [14:26:11] And can you name them and how you know them.

4 A. [14:26:37] Yes. There was Fadi, who was flogged. There's Kalakala (phon)  
5 and my wife and myself and other people. But I don't remember others. There was  
6 Fadi Halili.

7 Q. [14:27:08] And you said a name Kalala (phon), who was Kalala?

8 A. [14:27:33] Kalakala is a young man in Timbuktu. His father's called Male  
9 Amadou (phon).

10 Q. [14:27:42] And do you know why he was flogged?

11 A. [14:28:03] He was flogged because he had trousers which were long and also he  
12 was wearing a bracelet.

13 Q. [14:28:14] Now, moving to a different topic, Mr Witness, you explained that you  
14 had a conversation with a [REDACTED] Besides that journalist, do you  
15 recall speaking to any other people about your experiences in 2012?

16 A. [14:29:24] Yes, I spoke to people. I spoke to three or four groups. I don't  
17 remember them all.

18 Q. [14:29:40] And which are the groups that you remember?

19 A. [14:30:15] Yes, where I am at the moment, I don't remember all the people I  
20 spoke to. But I spoke to four groups.

21 Q. [14:30:33] Mr Witness, for my last questions I'm going to ask to go into public  
22 session. I would ask that you remember not to say your name or why, the reason  
23 why you were flogged.

24 A. [14:31:09] Fine.

25 PRESIDING JUDGE MINDUA: [14:31:12](Interpretation) Madam Prosecutor, we

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 have moved into public session, you only have 10 minutes maximum left.

2 Public session, please.

3 (Open session at 2.31 p.m.)

4 THE COURT OFFICER: [14:31:31] We are in open session, Mr President.

5 PRESIDING JUDGE MINDUA: [14:31:35](Interpretation) Thank you very much.

6 Madam Prosecutor.

7 MS LUPING: [14:31:40]

8 Q. [14:31:41] Mr Witness, we are in public session, which means people outside can  
9 hear you.

10 Now, you've testified about the fact that you were flogged. Can you explain to  
11 the judges what impact on your life this flogging has had on you?

12 A. [14:33:19] It's really difficult to describe, because it hurt me so much. I've never  
13 experienced that and I try not to talk about that. It's really something which hurt me  
14 deep down inside. When I want to be with my friends, I find it difficult sometimes  
15 to be with them. And sometimes they reject me.

16 MS LUPING: [14:34:12] And a brief follow-up question, Mr President, in private  
17 session, I believe, as it might identify him.

18 PRESIDING JUDGE MINDUA: [14:34:27](Interpretation) Private session, please,  
19 court officer.

20 (Private session at 2.34 p.m.)

21 THE COURT OFFICER: [14:34:36] We are in private session, Mr President.

22 PRESIDING JUDGE MINDUA: [14:34:43](Interpretation) Thank you.

23 Madam Prosecutor.

24 MS LUPING: [14:34:45]

25 Q. [14:34:46] Mr Witness, when you say that sometimes your friends reject you,

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 what do you mean by that?

2 A. [14:35:38] When I said that when I'm with friends and -- and they've never  
3 experienced something like that, my parents have never seen something like that, no  
4 one has ever seen something like that, like my flogging.

5 Q. [14:36:04] And did this affect your relationships with your family at all?

6 A. [14:36:44] Yes, the family and relationships I had with my family were not  
7 the same after the incident.

8 Q. [14:36:58] And can you explain what you mean by that?

9 A. [14:37:41] I can't really explain, but what I see is that there was a big change  
10 vis-à-vis before and after.

11 Q. [14:37:58] And what about your relations with your neighbours?

12 A. [14:38:36] My neighbours and friends, it's even worse. Because my family  
13 maybe try to distance themselves a bit, but it's very difficult. I can't find the words  
14 to describe how I was treated after the events.

15 Q. [14:39:03] Thank you very much, Mr Witness. I have no further questions for  
16 you.

17 PRESIDING JUDGE MINDUA: [14:39:22](Interpretation) Thank you, Madam  
18 Prosecutor.

19 We will now move back to an open session.

20 (Open session at 2.39 p.m.)

21 THE COURT OFFICER: [14:39:36] We are back in open session, Mr President.

22 PRESIDING JUDGE MINDUA: [14:39:44](Interpretation) Thank you, court officer.

23 So we have completed the Prosecution's questions. I now turn to the representative  
24 for the victims.

25 Mr Nsita, we have received your submissions. Do you wish to question the witness?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 MR LUVENGIKA: [14:40:12](Interpretation) My Lord, yes. I would like some  
2 clarification. I won't take a long time. I have only very short questions, unless I  
3 need to have an additional question from that.

4 PRESIDING JUDGE MINDUA: [14:40:29](Interpretation) Very well.  
5 Objections from the OTP, neither from the Defence.

6 MS TAYLOR: [14:40:47] Mr President, just for the record, it will depend on  
7 the question, as per usual. Thank you.

8 PRESIDING JUDGE MINDUA: [14:40:56](Interpretation) Fine.  
9 Mr Nsita, you have the floor.

10 MR LUVENGIKA: [14:41:02](Interpretation) Thank you, Mr President, your Lords.

11 QUESTIONED BY MR LUVENGIKA:

12 Q. [14:41:10] Good day, Mr Witness.

13 A. [14:41:14] Good day.

14 Q. [14:41:18] When you heard from the President, I am here to represent victims  
15 because of the events which happened in Timbuktu. In principle, we are three  
16 lawyers. You know one of them, Mr Kassongo, but there's also Seydou Doumbia,  
17 who unfortunately can't be here today, so it is I who represent the victim on this  
18 particular occasion.

19 PRESIDING JUDGE MINDUA: [14:42:18](Interpretation) Madam court officer.

20 THE COURT OFFICER: [14:42:19](Interpretation) Thank you. I'd like to tell  
21 the party concerned that you should put your microphone off when you're not  
22 speaking and the witness is speaking.

23 MR LUVENGIKA: [14:42:32](No interpretation)

24 THE INTERPRETER: [14:42:34] The representative for the victims apologises.

25 MR LUVENGIKA: [14:42:38](Interpretation)

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [14:42:39] Mr Witness, I have two questions I'd like to put to you, but I think it  
2 might be more prudent to go into private session.

3 PRESIDING JUDGE MINDUA: [14:42:49](Interpretation) Private session, please,  
4 court officer.

5 (Private session at 2.42 p.m.)

6 THE COURT OFFICER: [14:42:58] We are in private session, Mr President.

7 PRESIDING JUDGE MINDUA: [14:43:05](Interpretation) Thank you.

8 Mr Nsita.

9 MR LUVENGIKA: [14:43:10](Interpretation)

10 Q. [14:43:11] Mr Witness, today when answering the question of the Prosecution on  
11 page 23, line 19 to 22, and I quote, you responded by saying you were flogged. And  
12 then Madam Prosecutor asked you the question "Did you hear anything?" And your  
13 reply was to say, "No, at that moment I didn't hear anything." And then you said  
14 the same thing, "I didn't hear anything at that moment."

15 Could you explain to the judges what you mean when you said "at that moment"  
16 when you were flogging and you didn't hear anything. What did you feel? What  
17 did you want to -- what did you mean by saying that?

18 A. [14:45:07] When I was being flogged, I only felt pain. And the sound of the  
19 whip.

20 Q. [14:45:22] Thank you, Mr Witness.

21 My last question is a statement that you made just now, just before  
22 Madam Prosecutor closed her examination, and it regards your marriage. You said  
23 that: It was then that I married. It was after the flogging that I married.  
24 Why did you want to stress that? Why did you want to say that it was after  
25 the flogging that you married?

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [14:46:31] I haven't fully understood.

2 Q. [14:46:38] (Microphone not activated) That's to say, I'd like to know what you  
3 felt, and also of your family, after the flogging. And you answered, amongst all  
4 the other elements of your answer, that: It was on that moment that I married.  
5 I would like to know that this marriage, which is a marriage to a person you loved,  
6 why did you say it in the way you expressed it?

7 PRESIDING JUDGE MINDUA: [14:47:20](Interpretation) Ms Taylor.

8 MS TAYLOR: [14:47:21] Thank you, Mr President. Could the representative for  
9 victims give the page and line reference.

10 MR LUVENGIKA: [14:47:33](Microphone not activated)

11 PRESIDING JUDGE MINDUA: [14:47:36](Interpretation) Microphone, please.

12 MR LUVENGIKA: [14:47:38](Interpretation) Page 62, line 9 and 10.

13 PRESIDING JUDGE MINDUA: [14:48:16](Interpretation) Ms Taylor, can the witness  
14 answer, please?

15 MS TAYLOR: [14:48:24] Unfortunately, we're still trying to find it in the French.  
16 But we would ask that the LRV use exact quotes and not paraphrase and be very  
17 careful with how it is phrased, because this is a dual status victim, so obviously  
18 the questions do need to be open.

19 PRESIDING JUDGE MINDUA: [14:48:56](Interpretation) There you go.

20 Mr Nsita, I think you've heard the comment, so proceed.

21 MR LUVENGIKA: [14:49:07](Interpretation) I think that this witness has a dual  
22 status, both as a victim, amongst other things, means that it is more important to  
23 understand than if he was just -- I don't know if I have to repeat the question or not.

24 THE INTERPRETER: [14:49:28] Yes, says the Songhai interpreter, please repeat  
25 the question.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MR LUVENGIKA: [14:49:33](Interpretation)

2 Q. [14:49:34] Just now, before the end of the examination by the Prosecution,  
3 the Prosecutor asked you what you felt in your family and amongst your friends  
4 because of the flogging, because of the punishment which you were subjected to.  
5 I would like the interpretation to go ahead before I continue.

6 So you continued to say that at that moment you got married. And my question is,  
7 why this expression that you got married, that that was during -- after the flogging  
8 that you got married? Wasn't something positive for you to marry  
9 your -- the woman you loved?

10 A. [14:51:17] When I said that, it was not because I don't love that person, but I do.  
11 And I wanted to marry her. But not at that particular moment.

12 Q. [14:51:58] Thank you, Mr Witness.

13 Mr President, I have no further questions.

14 PRESIDING JUDGE MINDUA: [14:52:05](Interpretation) Thank you, Mr Nsita, you  
15 have kept your word.

16 Court officer, open session, please.

17 (Open session at 2.52 p.m.)

18 THE COURT OFFICER: [14:52:24] We are in open session, Mr President.

19 PRESIDING JUDGE MINDUA: [14:52:32](Interpretation) Thank you, court officer.

20 Ms Taylor, normally you should start your cross-examination, because you still have  
21 eight minutes. Before I understand that's not what you intend to do; is that correct?

22 MS TAYLOR: [14:52:56] Thank you, Mr President. I do believe the Chamber ruled  
23 on this yesterday and already clarified we'd be starting. Thank you.

24 PRESIDING JUDGE MINDUA: [14:53:10](Interpretation) Very well. That's  
25 precisely what I thought.

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 I have a question for you, Ms Taylor. Today, your client participated via a video link.  
2 Since we are going to start again on Thursday, 3 December, I would like to know  
3 whether on Thursday and on Friday we will follow the same procedure with a video  
4 link as regards your client?

5 MS TAYLOR: [14:53:52] Thank you, Mr President.

6 There's two issues. And I would have to consult with my client before giving  
7 a definitive answer. One is, given the situation at the detention unit, my client does  
8 prefer to participate from the detention unit so as not to put anyone at risk. But, at  
9 the same time, from a defence perspective, it's obviously better for us to consult with  
10 him in person. So what we would like to know is, if he were to participate via video  
11 link on Thursday and Friday, could arrangements be made for us to be able to visit  
12 him at the detention unit after the end of the hearing so that we can still consult with  
13 him in person? Because we do get much more meaningful instructions when we can  
14 see him in person. So, in that way, we could still preserve the issue of health, while  
15 at the same time enabling the Defence to obtain instructions in the middle of  
16 cross-examination.

17 I do believe that sometimes in exceptional cases they have allowed visitors to visit at  
18 a later time during the day. So, if that could be facilitated, that would enable this to  
19 happen. Thank you.

20 PRESIDING JUDGE MINDUA: [14:55:16](Interpretation) Very well.

21 For the moment, I can't really answer that. We will consider it.

22 Mr Witness, you've seen me discuss with the Defence as regards the examination.

23 That means you must still be patient because you're going to be questioned by  
24 the Defence.

25 The Chamber has decided that the cross-examination will start on Thursday, because

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 there's no hearing tomorrow. So, on Thursday we'll start, and probably on Friday as  
2 well.

3 In the meantime, the Chamber would like to thank you for having answered with  
4 clarity all the questions put to you.

5 On Thursday morning, we will continue with your testimony. Until that time, do  
6 not forget that you are not allowed to speak about your testimony with anyone  
7 whatsoever, no member of your family, no friends, if you happen to have contact  
8 with them today and tomorrow.

9 Have you understood that?

10 THE WITNESS: [14:57:58](Interpretation) Yes, I have understood.

11 PRESIDING JUDGE MINDUA: [14:58:02](Interpretation) Thank you, Mr Witness.

12 We're going to wind up for today, so I'd like to thank all the parties and participants.

13 I'd also like to thank the interpreters and the court clerks. I extend my thanks to  
14 the security officers and of course to the public.

15 I wish you all a good evening. And as I just have said already, we will resume  
16 the hearing on Thursday at 9.30.

17 The session is adjourned.

18 THE COURT USHER: [14:58:48] All rise.

19 (The hearing ends in open session at 2.58 p.m.)

20 CORRECTIONS REPORT

21 The following corrections, marked with an asterisk and not included in the  
22 audio-visual recording of the hearing, are brought into the transcript.

23 Page 13 lines 11-13

24 "It happened on the same day, once we had finished. I was taken there. The chatted  
25 for a while. I was taken out of the car and taken away."

Trial Hearing  
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

- 1 Is corrected to "Yes, it happened on the same day, when people had finished
- 2 speaking, I was taken there, they spoke for a while and then I was taken away and
- 3 flogged."
- 4 Page 13 line 14
- 5 "And who chatted for a while?" Is corrected to "And who spoke for a while?"
- 6 Page 13 lines 15-17
- 7 "Yes, it was they who had told them to whip me with the camel's whip. And then,
- 8 there was another person who had a microphone to explain things in Arabic and to
- 9 call upon the population." Is corrected to
- 10 "Yes, it was Boubacar who told them to whip me with a camel whip and then
- 11 somebody spoke over a loudspeaker in Arabic to call upon the population."