

Trial Hearing
MLI-OTP-P-0538

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Judge Antoine Kesia-Mbe Mindua, Presiding, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 2 December 2021
10 (The hearing starts in open session at 11.15 a.m.)
11 THE COURT USHER: [11:15:15] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [11:15:35](Interpretation) The Court is in session.
15 Good morning to all.
16 Madam Courtroom Officer, could you please call the case.
17 THE COURT OFFICER: [11:16:04](Interpretation) Good morning, Mr President,
18 your Honours.
19 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
20 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, reference to the case, ICC-01/12-01/18.
21 And we are in open session.
22 PRESIDING JUDGE MINDUA: [11:16:22](Interpretation) Thank you very much,
23 indeed, Madam Courtroom Officer.
24 Now, as usual, we shall start with the appearances, and the Office of the Prosecutor,
25 first, please.

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1 Madam Prosecutor.

2 MS LUPING: [11:16:35] Good morning, Mr President. Good morning,
3 your Honours.

4 Appearing on the behalf of the Prosecution are the same team; Claudine Umurungi,
5 Marie-Jeanne Sardachti, and myself, Dianne Luping.

6 PRESIDING JUDGE MINDUA: [11:16:48](Interpretation) Thank you very much,
7 Madam Prosecutor Ms Luping.

8 Now I'm turning to Defence counsel.

9 MR EDWARDS: [11:16:57] Good morning, your Honours.

10 Defending Mr Al Hassan this morning, the same appearances as yesterday. Maître
11 Melinda Taylor, behind me. Next to me, Maître Sarah Marinier-Doucet. And
12 joining us is Madam Dolly Chahla and myself, Iain Edwards.

13 PRESIDING JUDGE MINDUA: [11:17:21](Interpretation) Thank you very much,
14 indeed, Mr Edwards.

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

16 MR LUVENGIKA: [11:17:27](Interpretation) Good morning, Mr President. Good
17 morning, your Honours.

18 The victims are represented at this hearing by Madam Prisque Dipanga Biyéké and by
19 myself, Maître Fidel Nsita Luvengika. And I thank you.

20 PRESIDING JUDGE MINDUA: [11:17:41](Interpretation) Thank you very much,
21 indeed, Maître Nsita.

22 So this morning, we shall be continuing with the testimony of Prosecution Witness
23 P-0538. We are starting with a delay of more than an hour and a half. This delay
24 can be put down to technical issues out in the field. So it cannot be blamed upon
25 either the Chamber or the parties.

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1 Now, in view of this delay, we shall be starting our hearing now, at 11:15, and we
2 shall continue until quarter past 1. We shall now have two hours of hearing,
3 therefore. Then we shall have our lunch break -- a shortened lunch break of one
4 hour, and we shall reconvene at 2.15 this afternoon. We shall then see how things
5 progress.

6 I would like to ask Mr Edwards to do his utmost in order to make sure that we can
7 finish with this witness today - in view of the fact that we have all noted that she is
8 tired - to not say something else.

9 Now, Mr Edwards, I believe I have understood that the Defence has made a request
10 for the addition of three documents, is that correct?

11 MR EDWARDS: [11:19:21] That's right, your Honour. In fact, it's six with the
12 translations.

13 PRESIDING JUDGE MINDUA: [11:19:30](Interpretation) Yes, indeed, naturally. In
14 substance, it's three, but with the translations, it's six.

15 No objections on the part of the Prosecution, if I understand correctly.

16 MS LUPING: [11:19:44] That is correct, Mr President, your Honours. The
17 Prosecution has no objection. And I have, on behalf of the Prosecution, also sent
18 certain communications to the Chamber this morning.

19 PRESIDING JUDGE MINDUA: [11:19:57](Interpretation) Yes, indeed, that is true.

20 I just wanted to make sure that everyone was on the same page.

21 So, Mr Edwards, these items have been admitted, therefore.

22 So I'm turning now to Madam Witness.

23 Madam Witness, good morning. How are you?

24 WITNESS: MLI-OTP-P-0538 (On former oath)

25 (The witness speaks Songhai)

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1 (The witness gives evidence via video link)

2 THE WITNESS: [11:20:18](Interpretation) Good morning. I am well.

3 PRESIDING JUDGE MINDUA: [11:20:25](Interpretation) On behalf of the Chamber,

4 I would like to once again thank you and bid you welcome.

5 I would like to remind you that you are still under oath and that you should speak the

6 truth, the whole truth and nothing but the truth.

7 I would also like to remind you of my practical advice; namely, that we should all

8 speak slowly, clearly and observe pauses. The Chamber is well aware of the fact that

9 you are tired and everything will be done in order to make sure that your testimony

10 finishes today.

11 So once again, I would ask you to answer the Defence questions with goodwill and

12 clarity as you have always done.

13 Without further ado, I'm now handing over to Mr Edwards for the continuation of the

14 cross-examination.

15 MR EDWARDS: [11:22:21] Thank you, your Honour.

16 QUESTIONED BY MR EDWARDS: (Continuing)

17 Q. [11:22:27] Good morning, Madam Witness. Can you hear and see me?

18 A. [11:22:33] Yes, good morning. I can hear you.

19 Q. [11:22:35] Thank you.

20 MR EDWARDS: [11:22:37] Your Honour, returning to a document that I was asking

21 the witness about yesterday, it's at Prosecution tab 7, MLI-OTP-0035-0138. And in

22 conversation with the Registry earlier on this morning, I think the document is teed

23 up and ready to be broadcast straightaway. It's page 2 of this document that I'm

24 interested in.

25 Q. [11:23:12] Madam Witness, I'd like to ask you about when the man asked to

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1 marry you and what your father's reaction to that request was. Okay?

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3

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7 (Speaks English) Madam Witness, is that still your evidence? That your father
8 categorically refused the request for your hand?

9 A. [11:25:33] Yes, that is correct.

10 Q. [11:25:36] When you -- I've got a couple of general matters I want to canvass
11 with you about your interviews with [REDACTED], when you gave your
12 accounts to [REDACTED] you understood that you were not discussing
13 trivial matters, correct?

14 A. [11:26:53] Yes.

15 Q. [11:26:56] You were discussing matters of forced marriage, of rape, serious
16 matters. And you understood that these were serious matters, correct?

17 A. [11:27:47] Yes, these are serious acts because to date, I still am scarred by these
18 serious acts against my person, and every time that I see that or note it, it hurts me.

19 Q. [11:28:13] And for that reason you understood that it was very important to give
20 as accurate an account [REDACTED] as possible.

21 A. [11:28:51] Yes.

22 Q. [11:28:53] And you also understood that it was important for you to tell the
23 truth [REDACTED] right?

24 A. [11:29:20] Yes.

25 Q. [11:29:21] And did you do your best to give as accurate as complete as truthful

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1 an account as you could?

2 A. [11:30:09] Yes.

3 Q. [11:30:12] In your evidence over the last couple of days, answering questions
4 from the Prosecution, you spoke of your imprisonment at the place where justice is
5 rendered.

6 A. [11:30:46] Yes.

7 Q. [11:30:49] And you've spoken of the fact that you were forced to sleep with
8 a man who married you and to sleep with his friends.

9 A. [11:31:30] Yes.

10 Q. [11:31:33] And I imagine that these aspects of your account must have been the
11 worst things that you suffered during the time the armed groups occupied Timbuktu.
12 Is that right?

13 A. [11:32:19] Yes.

14 Q. [11:32:22] You also spoke of [REDACTED] That must
15 have been one of the worst things your family suffered during the time the armed
16 groups occupied Timbuktu.

17 A. [11:33:10] Yes.

18 Q. [11:33:13] Compared to those matters, [REDACTED] I suspect, is
19 relatively -- well, it's certainly far less serious. Would you agree?

20 A. [11:33:57] Yes.

21 Q. [11:34:00] Can you confirm to the judges today, please, that in neither of your
22 statements [REDACTED] do you talk about your imprisonment at the place
23 where justice was rendered?

24 A. [11:34:59] I was in the habit of saying that in my statement, namely, that I was
25 imprisoned.

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1 Q. [11:35:15] Madam Witness, you talk about being held at -- or -- yes, being held at
2 the house, I won't say where it was because we all know where that was, but the
3 house that was owned by the man who married you.

4 PRESIDING JUDGE MINDUA: [11:35:53](Interpretation) Madam Prosecutor.

5 MS LUPING: [11:35:55] I would just ask that this not be interpreted to the witness.

6 But just for -- to ensure for accuracy, the witness has not confirmed that the house was
7 actually owned by this man.

8 PRESIDING JUDGE MINDUA: [11:36:14](Interpretation) One minute, please.

9 Mr Edwards, you're getting to your feet once again, but Madam Prosecutor hasn't
10 finished. Would you like to add something?

11 MR EDWARDS: [11:36:25] No, no. It's just to -- to repeat the point that I've made
12 in the past, that our understanding is that the witness understands French. So I just
13 want to make sure that there is no transmission of the debates in any language to the
14 witness.

15 PRESIDING JUDGE MINDUA: [11:36:48](Interpretation) Well, you are the one who
16 has established the fact that the witness understands French.

17 But maybe we should cut off the link with the witness, Madam Courtroom Officer, so
18 that the Prosecutor can speak to us freely.

19 THE COURT OFFICER: [11:37:09](Interpretation) The sound has now been cut off,
20 Mr President.

21 PRESIDING JUDGE MINDUA: [11:37:11](Interpretation) Madam Prosecutor.

22 MS LUPING: [11:37:12] Thank you, Mr President.

23 It's just that it hasn't been established that the man who married the witness owned
24 the house at where he was living. It is not -- as far as -- unless the -- unless counsel
25 can provide us the precise reference where she said, "It was the man's house that he

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1 belonged -- that he actually owned," that's quite different to -- I mean, it was his house
2 in the sense that's where he's living, but we don't have evidence that he owned the
3 house. And we know, indeed, that the Islamists were occupying houses of residents,
4 and she may or may not be able to confirm who owned it. She may or may not even
5 know that. But that hasn't actually been established.

6 PRESIDING JUDGE MINDUA: [11:38:04](Interpretation) Mr Edwards, I'm in entire
7 agreement with Madam Prosecutor. I see that you are too.

8 MR EDWARDS: [11:38:11] Yes, your Honour, I don't care whether he owns the
9 house or not. It was his house, the house where he was living. If -- perhaps I'll
10 rephrase the question to make that clear.

11 PRESIDING JUDGE MINDUA: [11:38:24](Interpretation) We shall re-establish the
12 link with the witness.

13 Madam Courtroom Officer, please.

14 THE COURT OFFICER: [11:38:33] (Interpretation) Mr President, the witness can
15 now hear us.

16 PRESIDING JUDGE MINDUA: [11:38:38](Interpretation) Thank you very much,
17 Madam Courtroom Officer.

18 Mr Edwards, please.

19 MR EDWARDS: [11:38:43] Thank you, your Honour.

20 Q. [11:38:44] Madam Witness, in your first statement [REDACTED] you
21 say the following -- I'm now going to speak in French:

22 (Interpretation) "I was living with him in a house located next to ..."

23 (Speaks English) I'm not -- with your Honour's leave, I'm not going to say the names
24 so that we can stay in public session.

25 (Interpretation) "We were the only inhabitants."

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1 (Speaks English) So, Madam Witness, you (Overlapping speakers)
2 (Speaks English) And [REDACTED] you also make
3 reference to having had to stay at that same house with the man who married you.
4 All right? We accept that.
5 My point is -- well, translate that, first, please.
6 What you don't say is that you were imprisoned in a far more formal sense at the
7 place where justice was rendered. I just want you to confirm that you don't talk
8 about that in either of your statements [REDACTED]
9 PRESIDING JUDGE MINDUA: [11:41:05](Interpretation) Madam Prosecutor?
10 MS LUPING: [11:41:07] Mr President, I would ask that the sound be cut off to the
11 witness before I respond -- before I make my objection.
12 PRESIDING JUDGE MINDUA: [11:41:17](Interpretation) Madam Courtroom Officer,
13 please cut off the sound to the witness.
14 THE COURT OFFICER: [11:41:22](Interpretation) It has been done, Mr President,
15 your Honours.
16 PRESIDING JUDGE MINDUA: [11:41:26](Interpretation) Thank you very much.
17 Madam Prosecutor.
18 MS LUPING: [11:41:29] Mr President, your Honours, an almost -- this has been
19 asked and answered. An almost identical question was put to the witness. She
20 explained as far as she's concerned that when she gave statements, she would provide
21 this information.
22 I would also note that, in fairness also to this witness, what hasn't been read to
23 her - and as we all know, she can't read - what's also stated in the first document:
24 (Interpretation) "During the marriage that lasted eight months, I was subjected to
25 torture at a given moment in time."

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1 (Speaks English) End of quote.

2 Now, we also know that these various interviews were a very short duration. One of
3 them for only one hour. For all these reasons, it is -- the witness has been asked,
4 she's answered. The situation is, as far as she's concerned, that she provided this
5 information.

6 Now, your Honours will be able to assess her answers. You have the documentation.
7 You know the time periods she had. But asking her repeatedly in this complex way
8 when she can't actually read, in fairness, what's put in front of her, is not fair to the
9 witness. And we would ask that we move to a different topic.

10 PRESIDING JUDGE MINDUA: [11:42:58](Interpretation) Well, we should rather
11 give Mr Edwards the opportunity to reformulate his questions and then we shall see.
12 Madam Courtroom Officer, could you please re-establish the link.

13 THE COURT OFFICER: [11:43:20](Interpretation) The sound has been re-established,
14 Mr President.

15 PRESIDING JUDGE MINDUA: [11:43:26](Interpretation) Thank you very much,
16 Madam Courtroom Officer.
17 Mr Edwards?

18 MR EDWARDS: [11:43:31] Your Honour, if given the --

19 PRESIDING JUDGE MINDUA: [11:43:37](Interpretation) Mr Edwards, the sound
20 has been re-established with the witness. Please go ahead.

21 MR EDWARDS: [11:43:42] Yes, I was just going to say that, out of fairness to the
22 witness who can't read, perhaps if my friend is in a position to concede the point that
23 I'm making, that in these documents, in these interviews, the witness does not
24 mention "imprisonment" at the place where justice is rendered. We can move on
25 much faster. So let's just see how fair this process is going to be.

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1 PRESIDING JUDGE MINDUA: [11:44:24](Interpretation) Madam Prosecutor, we
2 have already re-established the link. We're not going to start the discussion again.

3 THE INTERPRETER: [11:44:34] Overlapping speakers.

4 MS LUPING: [11:44:35] Thank you, Mr President. I will be careful this morning
5 because I know the sound has been re-established.

6 My point is simple. I believe the question's been asked and answered, and I would
7 simply note that if anything is going to be said, it should be read.

8 Now I had already, when the sound was cut off, read a specific passage from this
9 document and in that context, I don't believe it's appropriate for the Prosecution to
10 make any such concession. Your Honours can make your own assessment as to
11 what was meant by the sentence I read out.

12 But, no, the Prosecution will not confirm that.

13 MR EDWARDS: [11:45:09] That's a great shame.

14 PRESIDING JUDGE MINDUA: [11:45:12](Interpretation) Yes, indeed.

15 Let's move forward, Mr Edwards.

16 MR EDWARDS: [11:45:37]

17 Q. [11:45:38] Did you, Madam Witness, say, during either of your accounts to the
18 [REDACTED] that you had been forced to sleep with multiple men?

19 A. [11:46:15] Yes, I said that.

20 Q. [11:46:18] Page 3 of the document which is on the screen, please. Actually, no.

21 Let's -- sorry, page 2. Page 2. Top of the page, please. Yes. Can we just
22 scroll -- scroll down a little bit so that the response ... that's it. Thank you.

23 You're asked a question, Madam:

24 (Interpretation) "To which group belong -- did the alleged rapist belong to?"

25 (Speaks English) In your answer then you talk about the rapist in the singular, as one

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1 person. You don't talk about "rapists", plural.

2 Madam Witness, why didn't you say [REDACTED] when asked that question, "I had
3 been forced to sleep with more than one man"?

4 A. [11:49:48] I'm not going to tell a lie. Each time I went to [REDACTED] I always said
5 that it was with the Islamists that I had had problems with. I never mentioned
6 Ansar Dine or AQMI. The person who wrote, the person wrote incorrect. All the
7 problems were with the Islamists.

8 Q. [11:50:27] I understand your answer, Madam Witness, but it's not an answer to
9 the question I asked you.

10 The question I asked you was, when given the opportunity to talk about the rapist,
11 you answer in the singular. You talk about "a" rapist.

12 Translate that, please.

13 A. [11:51:35] The day they took me to his place, I said that only one person raped
14 me. But the day I was taken to their place of justice for detention, that's
15 when -- that's where I was gang raped.

16 Q. [11:51:56] Page 3 of the same document, please. Towards the bottom of the
17 page.

18 A little later on, you're asked the following question [REDACTED] It's about six to
19 seven lines from the bottom. Thank you.

20 Translate that.

21 Question [REDACTED]

22 (Interpretation) "The acts of violence and abuses, the rapes and the looting, were they
23 done only to women?"

24 (Speaks English) And your answer is this:

25 (Interpretation) "The acts of violence and abuse, the rapes, the looting, the stoning of

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1 people, the cutting off of hands were done to the people of Timbuktu."

2 (Speaks English) Madam Witness, I suggest that that was the perfect opportunity for
3 you to say, "And I was an eyewitness to women being forced to sleep by multiple
4 men."

5 What do you have to say about that?

6 PRESIDING JUDGE MINDUA: [11:54:49](Interpretation) Madam Prosecutor.

7 MS LUPING: [11:54:51] Mr President, could I please ask that the sound be cut off to
8 the witness for my objection.

9 PRESIDING JUDGE MINDUA: [11:54:58](Interpretation) Court officer, cut the
10 sound to the witness.

11 THE COURT OFFICER: [11:55:02](Interpretation) The witness can no longer hear us.

12 PRESIDING JUDGE MINDUA: [11:55:08](Interpretation) Thank you very much,
13 court officer.

14 Madam Prosecutor.

15 MS LUPING: [11:55:12] Mr President, my objection is that this is both argumentative
16 and unfair to the witness. In fact, the precise question being put at this point in time
17 [REDACTED] relates, in general, to the treatment of the population and to
18 women in general and she explains what happened in relation to the population in
19 Timbuktu.

20 And, similarly, I didn't object originally, but she explained quite clearly already that
21 when ... You have the response -- the previous passage shown by Defence counsel,
22 she's responding about the specific rapes by the man who married her and not about
23 the rapes when she's in detention. And she's provided a very clear explanation
24 about this, your Honours.

25 And, again, I would repeat that this is an interview that took

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1 approximately -- apparently one hour, and we don't know -- according to her, we
2 don't know exactly what was summarised and whether this is word for word or not.
3 But in fairness to the witness, this is argumentative and inappropriate.
4 PRESIDING JUDGE MINDUA: [11:56:23](Interpretation) Mr Edwards, you've heard
5 the Prosecution's objection. Indeed, it seems to me as well that the witness is
6 answering the questions put to her [REDACTED] So what you are suggesting is
7 really at the limit of argumentative.
8 How do you respond to that?
9 MR EDWARDS: [11:57:00] Your Honour, I don't accept that it's argumentative. I
10 am trying to be fair to the witness by putting to her a proposition and giving her the
11 opportunity to respond to that proposition. I'm not -- I am attempting to be the
12 opposite of unfair. That's the first point.
13 The second point is, for the Prosecution to say this was an interview that only lasted
14 one hour or whatever, a limited amount of time, well, that's a complete red herring.
15 I don't know how that's going to be translated into French.
16 But that is a -- that is a fallacious argument.
17 It may be that the interview lasted an hour as a matter of fact. There's no evidence
18 that the interview was limited [REDACTED] to only an hour. If it lasted only an hour,
19 that may well be because the witness only answered questions for an hour or only
20 gave answers to questions and it lasted an hour.
21 There's no suggestion that there was a guillotine on the amount of time she could
22 provide her -- her account. So it's, with respect, something of a nonsense argument.
23 But it's not argumentative. I'm giving the opportunity to the witness to explain
24 precisely why she doesn't talk about the most serious incident that occurred during
25 the course of the occupation of Timbuktu. She talks about other things, but not the

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1 most obvious thing that she was given an opportunity to speak about.

2 PRESIDING JUDGE MINDUA: [11:58:52](Interpretation) Very well.

3 You've put the question to the witness. Let us listen to the answer, and then we

4 move forward. We shall listen to the witness's answer, and then we'll see.

5 Court officer, please re-establish the sound link.

6 THE COURT OFFICER: [11:59:14](Interpretation) The audio link has been

7 re-established.

8 PRESIDING JUDGE MINDUA: [11:59:21](Interpretation) Thank you very much.

9 THE WITNESS: [12:00:15](Interpretation) I told them that -- ever since the beginning,

10 I've told them that those events happened [REDACTED] And since 2012, many things I've

11 forgotten because of my age. I was very young. So some things I've forgotten.

12 But everything I remem- -- everything I remember, I have given, be it true or false. If

13 I remember something, I've said it.

14 PRESIDING JUDGE MINDUA: [12:00:51](Interpretation) Mr Edwards, we have

15 heard the answer. We can move on.

16 MR EDWARDS: [12:01:00]

17 Q. [12:01:01] Yesterday, Madam Witness, you told us that you spoke to a white

18 man [REDACTED]

19 It's page 20 of the English transcript from yesterday, your Honour.

20 When you gave your account to the white man [REDACTED] did you understand

21 the importance of giving as full, complete and accurate an account as possible?

22 A. [12:02:39] All in all, everything that happened -- that I remember, I've said all of

23 it because these are events that happened [REDACTED] I've said what I remember. What

24 I can't remember, I can't tell you about.

25 MR EDWARDS: [12:03:02] Your Honour, I should have said earlier, this is at tab 5 of

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1 the Prosecution bundle of documents. The ERN is MLI-OTP-0071-0406. And I'm
2 going to ask a few preliminary questions, but in the meantime, perhaps, Madam
3 Registrar can find page 3 of this document and get it ready on the screen.

4 Q. [12:03:40] You see, Madam Witness, this document is important because it's the
5 first record we have of your account; so I'm going to ask you a few questions about
6 this account to the gentleman [REDACTED] All right?

7 Now, Madam Witness, let me tell you from the beginning that there's no dispute that
8 you didn't sign this document and it may well be the case that it wasn't read back to
9 you at the time.

10 Can that be translated, please.

11 I think it's right, though, isn't it, we've already established that you were nevertheless
12 assisted by an interpreter who spoke Songhai, remember?

13 A. [12:05:49] No. I didn't.

14 MR EDWARDS: [12:05:57] Can we go into private session please, just for a second.

15 PRESIDING JUDGE MINDUA: [12:06:03](Interpretation) Quite so.

16 Private session, please, courtroom officer.

17 (Private session at 12.06 p.m.)

18 THE COURT OFFICER: [12:06:19](Interpretation) We are in private session.

19 PRESIDING JUDGE MINDUA: [12:06:22](Interpretation) Thank you. Mr Edwards.

20 MR EDWARDS: [12:06:25]

21 Q. [12:06:26] Madam Witness, you remember that yesterday I was asking you
22 about an interpreter [REDACTED] who helped you provide
23 a statement to the white people.

24 A. [12:07:09] Yes.

25 Q. [12:07:12] And that's right, isn't it, [REDACTED] was your interpreter when you were

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1 speaking with the white people?

2 A. [12:07:44] It is possible, because the discussions I had with the people, there
3 were many people speaking Songhai. I don't know whether it was her or not.

4 MR EDWARDS: [12:08:06] Yes. Can we go back into public session.

5 PRESIDING JUDGE MINDUA: [12:08:12](Interpretation) Public session, please.

6 (Open session at 12.08 p.m.)

7 THE COURT OFFICER: [12:08:19](Interpretation) We are once again in open
8 session.

9 PRESIDING JUDGE MINDUA: [12:08:28](Interpretation) Thank you.

10 Mr (Overlapping speakers)

11 MR EDWARDS: [12:08:32]

12 Q. [12:08:33] You remember that last week, the [REDACTED] document - your statement
13 given to the white people [REDACTED] - was read back to you by the Prosecutor?

14 A. [12:09:08] Yes.

15 Q. [12:09:10] Now, in this account you talk about how two men came to your house
16 and asked for your hand. I'm going to read out -- it's the third paragraph down.

17 And I'm going to speak in French, I'm afraid.

18 (Interpretation) "It was only a few hours later, around six or seven in the evening, that
19 two men came back. One of them was an Arab man from Timbuktu whom I
20 recognised. His name was ..."

21 (Speaks English) The name of the man that you've told us married you.

22 (Interpretation) "He was the second man who wanted to marry me. I refused.

23 But ..."

24 (Speaks English) And then you speak about the man who you say married you.

25 (Interpretation) [REDACTED]

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1 [REDACTED] If you refuse to marry him, I will denounce him."

2 (Speaks English) And then the man who, you say, married you (Interpretation) "was
3 also serving as translator between the Islamists, who spoke only Tamasheq, and us.
4 We only -- we spoke Songhai."

5 (Speaks English) My question is this, Madam, is it true that the man who married you
6 came to your house with a second person, [REDACTED] to ask for your hand?

7 A. [12:14:09] I never said that the first time he came with people. I said the first
8 time he came alone. And later, when he came -- when the Islamists came in, he came
9 back with some of his friends, other Islamists, to say that he wanted my hand in
10 marriage. Other -- I never said that he came the first time with another person. My
11 father even said that [REDACTED] that he was a bandit. So he didn't
12 want -- he was not (Overlapping speakers)

13 Q. [12:14:57] Exactly. So that's the correction that you made to the Prosecution
14 when the statement was read back to you last week.

15 A. [12:15:45] No. The week went by, and I was not presented with this document.
16 Everything that needed changing, I changed. But this document was not presented to
17 me last week.

18 Q. [12:16:00] Well, I accept that it might be difficult for you to remember, but I
19 don't think there's going to be any dispute between the Defence and the Prosecution
20 that, indeed, the document was shown to you and you made a number of corrections.
21 Allow me to give one example that might jog your memory. You wanted to correct
22 that part of your statement where you said that the man who eventually did marry
23 you acted as the interpreter between the Islamists, who only spoke Tamasheq, and
24 you, who spoke Songhai. And you said -- you corrected that. You corrected that to
25 say that the man that married you was not an interpreter, and you actually said

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1 Houka Houka was the person who acted as an interpreter.

2 Do you remember saying that to the (Overlapping speakers)

3 A. [12:18:42] The man in question didn't even speak to me. It was Houka Houka
4 who talked to me with regard to him.

5 Q. [12:18:54] Now, tell us a little about that. When did Houka Houka speak to
6 you?

7 A. [12:19:29] Houka Houka spoke to me on the day when we were supposed to talk
8 about the divorce paper. The day -- that was the day that Houka Houka spoke to me.
9 Houka Houka spoke amongst ourselves.

10 Q. [12:19:47] So Houka Houka was acting as some sort of an interpreter during the
11 divorce proceedings?

12 THE INTERPRETER: [12:19:59] Message from the English booth: Could counsel
13 please observe a pause? Thank you.

14 MR EDWARDS: [12:20:05] *Excusez-moi.*

15 THE WITNESS: [12:20:17](Interpretation) Houka Houka was the judge. He's the
16 one who judges.

17 MR EDWARDS: [12:20:30] Your Honour, forgive me. The next few questions are
18 going to be a little delicate to deal with in public. Can we move into private session,
19 for just a few minutes.

20 PRESIDING JUDGE MINDUA: [12:20:43](Interpretation) Madam Courtroom Officer,
21 private session, please.

22 (Private session at 12.20 p.m.)

23 THE COURT OFFICER: [12:20:50](Interpretation) We are in private session, Mr
24 President.

25 PRESIDING JUDGE MINDUA: [12:20:57](Interpretation) Thank you very much.

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1 Mr Edwards.

2 MR EDWARDS: [12:21:00] Thank you very much, your Honour.

3 Q. [12:21:02] If we can please scroll up -- sorry, scroll down, rather. Yes, thank
4 you very much.

5 It's the fifth paragraph down as we see from the screen.

6 Madam Witness, you said this to the people from [REDACTED]:

7 THE INTERPRETER: [12:21:41] Sight translation:

8 (Interpretation) [REDACTED] took me to his house [REDACTED]

9 [REDACTED] I don't even know his name."

10 End of sight translation.

11 MR EDWARDS: [12:22:37]

12 Q. [12:22:38] Now, Madam Witness, assuming that when you speak of [REDACTED]

13 [REDACTED], you, in fact, mean [REDACTED] but when you speak about the "*chez lui*",
14 you're talking about the house he was living in, right?

15 A. [12:23:57] As to the question -- when I was asked, "Where's [REDACTED] located?"

16 I said it was near [REDACTED] That's what I said. And the person who was
17 interpreting didn't understand what I was saying.

18 The name of the location is [REDACTED]

19 Q. [12:24:21] The point is that you're talking about the house occupied by the
20 person who married you, right? [REDACTED]

21 A. [12:25:05] [REDACTED] In
22 fact, it's one in the same neighbourhood.

23 Q. [12:25:14] In the statement - and I'm not going to ask you questions about
24 it - you describe your escape to [REDACTED]

25 A. [12:25:43] Yes.

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1 Q. [12:25:44] And in fairness to you, you also speak about the fact that [REDACTED]
2 [REDACTED], and that that is what caused you to return to
3 Timbuktu. And then you say this -- scroll down to the final paragraph on the screen,
4 please.

5 THE INTERPRETER: [12:26:42] Sight translation:
6 (Interpretation) "When I came home, I went to my family. They came, more than six
7 people -- soldiers strong in order to forcibly take me back. I said that I didn't want to.
8 But they forcibly took me back to the house of the [REDACTED] whom locked me up for
9 me not to run away, and he beat me. Every time he wanted to touch me, I would cry.
10 I would shriek, but he would beat me in order to shut me up."

11 (Speaks English) Now, assuming that when you refer to the [REDACTED] you are
12 referring to [REDACTED] But my question is the following, when you refer to the home
13 of the [REDACTED] you're referring to the house that the man who married you was
14 living in. The house next [REDACTED] Is that correct?

15 A. [12:29:37] Yes.

16 Q. [12:29:40] A little further down, please. It's the sixth paragraph.

17 PRESIDING JUDGE MINDUA: [12:29:53](Interpretation) Mr Edwards, are we still
18 to remain in private session?

19 MR EDWARDS: [12:29:57] Yes, absolutely, your Honour. Thank you very much.
20 We can go into public session.

21 PRESIDING JUDGE MINDUA: [12:30:10](Interpretation) Madam Courtroom Officer,
22 open session, please.

23 (Open session at 12.30 p.m.)

24 THE COURT OFFICER: [12:30:17](Interpretation) We are in open session, Mr
25 President.

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1 PRESIDING JUDGE MINDUA: [12:30:25](Interpretation) Thank you very much,
2 Madam Courtroom Officer.

3 Mr Edwards, please.

4 MR EDWARDS: [12:30:30] Thank you, your Honour.

5 Could we turn to the next page. It's page 4 of the document. And what I'd like to
6 do, please, is ask the Registrar to scroll down to about -- about a third of the way
7 down the page. Yes. Thank you.

8 Q. [12:30:49] Now, you told the man from -- or your interviewer [REDACTED]
9 the following:

10 THE INTERPRETER: [12:31:16] Sight translation:

11 (Interpretation) "The marriage lasted six months in all. But during the last four
12 months, the Islamic judge had us come back all the time in order to negotiate with the
13 husband, to oblige me to come back to his house."

14 (Speaks English) Let me pause there for a moment. Is that right, what you told your
15 interviewer [REDACTED] in the last four months, the Islamic judge made you come
16 back on multiple occasions?

17 A. [12:32:57] Yes, that is true.

18 Q. [12:32:58] And the Islamic judge was Houka Houka, I suspect.

19 THE INTERPRETER: [12:33:24] Message from the Songhai booth: We didn't hear
20 Madam Witness's response.

21 MR EDWARDS: [12:33:31]

22 Q. [12:33:32] Madam Witness, could you please repeat your answer.

23 A. [12:33:43] I said "yes".

24 Q. [12:33:49] Thank you.

25 And where you say that the marriage lasted six months in total, do you think that

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1 might be right? You told us another time that it was eight months, but do you think
2 it might have been six months, in fact?

3 A. [12:34:37] Yes, it is what you see in the documents. That is the truth, unless I
4 am mistaken.

5 Q. [12:34:50] We then come to the important part of what you say to the
6 interviewer.

7 THE INTERPRETER: [12:34:57] Correction from the English booth. She says: Yes,
8 it's six months.

9 Sight translation: "But at least during that duration, I was no longer at his house but
10 in my house with my father, in a family surroundings. But they constantly harassed
11 us, having us come to the tribunal in an attempt to convince us."

12 MR EDWARDS: [12:35:48]

13 Q. [12:35:49] And that's right, isn't it, for the last four months of your marriage, you
14 were able to live at home with your parents?

15 A. [12:35:59] Yes.

16 Q. [12:36:17] You were able to live with your parents at their home right up to the
17 time divorce was pronounced?

18 Could you please give your answer, Madam Witness.

19 A. [12:37:23] What did you say? I didn't understand.

20 Q. [12:37:26] I'll repeat my question.

21 You were able to live with your parents at their home right up to the time divorce was
22 pronounced?

23 A. [12:38:16] I wasn't at home until the divorce. I was detained at their house. [REDACTED]

24 [REDACTED] No, I remained detained at their house until the
25 divorce.

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1 Q. [12:38:35] Please explain to the judges why then you say that, "At least for the
2 four last months of my marriage, I was able to live at home with my parent -- with my
3 father, with my family."

4 A. [12:39:47] No. I said that all my brothers had fled. They had left. And I said
5 that I wasn't going to abandon my father, and that's how I came to stay. Otherwise, I
6 stayed until the judgment. Until the judgment, I was with them.

7 Q. [12:40:08] With your parents -- at your parents' home, correct?

8 MR EDWARDS: [12:40:23] Your Honour, would the witness please be allowed to
9 answer.

10 THE WITNESS: [12:40:44](Interpretation) With my father, my mother and my
11 step-mother. We were the ones who were there.

12 PRESIDING JUDGE MINDUA: [12:40:55](Interpretation) Madam Prosecutor.

13 MS LUPING: [12:40:57] Mr President, could I ask that the sound be cut off to the
14 witness, please.

15 PRESIDING JUDGE MINDUA: [12:41:02](Interpretation) Madam Courtroom Officer,
16 could you please cut off the feed to the witness.

17 THE COURT OFFICER: [12:41:09](Interpretation) The feed has been cut off, Mr
18 President, your Honours.

19 PRESIDING JUDGE MINDUA: [12:41:02] (No interpretation) (Overlapping
20 speakers)

21 MS LUPING: [12:41:13] Mr President, I'm concerned that the time periods are not
22 being made sufficiently clear to the witness. She has, however, already responded
23 very clearly that it's the time period right up to the moment of the divorce -- that she
24 was being detained at that time period. That she was with her parents in the family
25 home is something she's also stating and that is clear.

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1 But the concern also from the Prosecution, Mr President, your Honours, is that we
2 would ask Defence counsel to also be very careful, that when he puts certain aspects
3 or parts of this unsigned document to the witness, he not simply assert to the witness
4 that this is what she said. I mean, this -- that is simply unfair, your Honours. And
5 this is why I stand, because I haven't intervened up to this moment, but for most of
6 the passages now, Defence counsel has said repeatedly, "And this is what you said.
7 Please explain why you said that," when Defence counsel said from the very
8 beginning, as we're all aware, she hasn't signed and it -- she has said also during the
9 examination-in-chief it wasn't read back to her.

10 So, for all these reasons, your Honours, I would just ask that we move to a different
11 topic. This is getting confusing and, perhaps, unclear to the witness and she's
12 already answered clearly on this point.

13 PRESIDING JUDGE MINDUA: [12:42:48](Interpretation) Well, Mr Edwards, what
14 do you say to that? Because I can see that this document dates back to 26 February
15 2015. And in addition, you have already said that it was not signed and that it came
16 from an NGO that questioned the witness.

17 So, in view of all of this, do you not think that your questions are rather affirmative
18 and that you are belabouring a point?

19 MR EDWARDS: [12:43:21] The reason I'm insisting, your Honour, is that this is the
20 first account -- the first written account that we have of the version of events of this
21 witness.

22 On the face of it, this statement is entirely inconsistent with a later account by which
23 the witness says that she was detained up until the time of her divorce.

24 We were all here during her evidence. We were all here as she answered my learned
25 friend's questions on -- well, it was yesterday, wasn't it. And for my learned friend

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1 to suggest that the timing is unclear, it's my submission that the timing is perfectly
2 clear: for the last four months of the marriage; that is why I put it to her out of
3 fairness, so that she could be located in time.

4 Now, what I'm doing now, is, I am seeking to explore these previous -- this previous
5 wholly inconsistent statement in order to test whether this witness is a witness of
6 truth on this point. And I don't think there is, with great respect, anything
7 enormously controversial in the principle that I am entitled to explore this matter.

8 PRESIDING JUDGE MINDUA: [12:45:22](Interpretation) Madam Prosecutor.

9 MS LUPING: [12:45:24] Mr President, the point is simply that it's been asked, it's
10 been answered, and we are not -- we are concerned with the manner in which it's so
11 categorically indicated to the witness that this is what she said. That is all. It's just
12 a question of fairness to this witness.

13 The Prosecution is not suggesting for one moment that there shouldn't be an ability to
14 seek to put so-called any -- so-called inconsistencies or contradictions. The
15 Prosecution would disagree, in fact, that there are such contradictions and disagrees
16 with the categorisation provided by Defence that this is a wholly inconsistent account
17 in 2015 as recorded here, as compared with her testimony.

18 But it's a question of fairness, your Honours. It's the way the questions are being
19 articulated that is of concern and the fact that the witness has provided very clear
20 responses, and it appears as if we keep going over the same topic.

21 That is the issue.

22 PRESIDING JUDGE MINDUA: [12:46:27](Interpretation) Mr Edwards, I have
23 already said this document dates to 2015. It has not been signed, this -- the first
24 version we have in writing of this account. I think that for the time being the
25 Chamber has been sufficiently edified. I don't know what you are going to gain with

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1 any additional questioning. We can move on to something else.

2 MR EDWARDS: [12:47:01] Can I make one point? The basis of this -- the basis of
3 this document, we don't -- we haven't been served with a signed version, but a signed
4 version of this document was submitted [REDACTED]

5 [REDACTED] We just haven't been served with it yet.

6 PRESIDING JUDGE MINDUA: [12:47:33](Interpretation) This is the first time that
7 the Chamber has heard any such thing.

8 MS LUPING: [12:47:38] Mr President, I'm -- I'm as confused as your Honours are.
9 The Prosecution has disclosed whatever is in its possession. We simply do not have
10 any such additional documentation that is signed from this witness. The
11 Prosecution can confirm that what it has, has been disclosed.

12 PRESIDING JUDGE MINDUA: [12:48:02](Interpretation) There you have it. The
13 OTP and the Chamber are not informed of any signed version. I think we have been
14 sufficiently enlightened.

15 You may move on to something else.

16 MR EDWARDS: [12:48:16] With your Honours' leave, can I just -- I'm anxious to get
17 on the record that this document was read back to the witness a week ago and that
18 she was given an opportunity to make corrections or comments on this document,
19 and, that, in respect of this portion that I am relying on, no corrections were made.

20 The relevance of that is as follows ...

21 Perhaps I can just finish my point?

22 The Prosecution makes enormous play of the fact that a document wasn't signed or
23 read back - and it may be the case that in 2015, or whenever it was, it wasn't. The
24 point is, it was read back and the witness was given an opportunity to make
25 corrections about 10 or so days ago.

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1 Where the witness does not take up the opportunity to make corrections at any time,
2 whether in 2015 or 2021, then, in my submission, we're entitled to assume that she has
3 no correction to make.

4 In other words, after the process of witness preparation and the reading back of this
5 document in 2021, we are in exactly the same position as the witness would have been
6 in 2015, if she had been asked to sign the document.

7 PRESIDING JUDGE MINDUA: [12:50:03](Interpretation) Very well, counsel.

8 Madam Prosecutor, the Defence is saying that this document was shown to the
9 witness about 10 days ago and the witness was asked to make any necessary
10 corrections and that was not done.

11 MS LUPING: [12:50:23] Mr President, now, obviously, it's open to Defence counsel
12 to indicate what or wasn't read back to her. But to assert that therefore no
13 corrections were necessary to be made, the Prosecution would submit goes too far.
14 As Defence counsel is aware, there are at least approximately three or four instances
15 in the same witness preparation note or log, including one instance after this
16 document was read to the witness, where the Prosecution had to remind the witness
17 of the importance of making corrections.

18 So whilst Defence counsel may put a certain suggestion to her, it is important, in our
19 submission, your Honours, that it's also made a matter of record that the Prosecution
20 had to remind the witness of the importance of making corrections, even after this
21 document was read to her.

22 And, in fairness to the witness, she's not a lawyer. Right? She's a layperson. And
23 the issue of the importance of making corrections will not be necessarily as well
24 appreciated as it is or should be. And, for that reason, if this proposition is put to
25 her, the Prosecution would simply ask that it also be made a matter of record that

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- 1 there was a reminder to the witness that needed to be made on more than one
2 occasion - it was three or four times - including, after the document was read to her.
3 PRESIDING JUDGE MINDUA: [12:51:59](Interpretation) Very well. Very well.
4 Thank you very much, Madam Prosecutor.
5 Mr Edwards, we shall now end this discussion. You have explained your viewpoint.
6 The Prosecution has responded saying that it is true that the document was shown to
7 the witness about 10 days ago, the witness was reminded to make any necessary
8 changes, but perhaps the witness did not understand the importance of that
9 reminder.
10 And what is more, the witness is not a lawyer.
11 So I'm starting to fear, both for the Defence and the OTP, that we are presenting
12 arguments and these are conclusions that you will present at the appropriate time.
13 This Chamber is sufficiently edified, and we would like you to move on.
14 MR EDWARDS: [12:52:58] Tab 1 of the Prosecution bundle, please, your Honour.
15 This is MLI-OTP-0039-0072-R04.
16 PRESIDING JUDGE MINDUA: [12:53:21](Interpretation) Court officer, do we still
17 have the witness with us via audio link?
18 THE COURT OFFICER: [12:53:28](Interpretation) The audio feed has been cut off.
19 Shall I restore it?
20 PRESIDING JUDGE MINDUA: [12:53:45](Interpretation) Yes.
21 THE COURT OFFICER: [12:53:49] The sound feed has been (Overlapping speakers)
22 PRESIDING JUDGE MINDUA: [12:53:50](No interpretation) (Overlapping speakers)
23 *Merci beaucoup.*
24 Maître Edwards.
25 MR EDWARDS: [12:53:52] Thank you. Page 1, bottom of the page.

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1 Q. [12:53:53] Madam Witness, I'm going to ask you some questions about
2 the statement that you gave to the Prosecution on -- [REDACTED]

3 [REDACTED]

4 This, of course, is not for public broadcast, your Honour.

5 Is that your signature at the bottom of page 1?

6 A. [12:54:55] Yes.

7 Q. [12:54:55] Page 15, please.

8 THE COURT OFFICER: [12:55:05] Could we have the ERN page number. Thank you.

9 MR EDWARDS: [12:55:09] MLI-OTP-0039-0085. Sorry, 86.

10 Q. [12:55:30] Is that your signature, Madam Witness?

11 A. [12:55:47] Yes.

12 Q. [12:55:48] And before signing, was the following read out to you:

13 (Interpretation) "This statement was read to me in Songhai and is true, to the best of
14 my knowledge and to the best of my recollection. I gave this statement of my own
15 free will, and I understand that it may be used as part of legal proceedings before the
16 International Criminal Court, and I may be called to testify before said Court."

17 (Speaks English) Do you remember that being read out to you, Madam Witness?

18 A. [12:57:55] No, I don't remember that. Even if it was read to me, I don't
19 remember.

20 MR EDWARDS: [12:58:01] I see the time. Could Mr Al Hassan please be granted
21 leave to absent himself to pray, just for a few moments?

22 PRESIDING JUDGE MINDUA: [12:58:19](Interpretation) Certainly.

23 Mr Al Hassan is excused to leave the courtroom and pray.

24 (Mr Al Hassan exits the courtroom)

25 MR EDWARDS: [12:58:34] Okay.

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1 Q. [12:58:36] You don't remember this being read out to you, but now that it has
2 just been read out to you by me, can you tell us whether you understand that
3 declaration?

4 A. [12:59:15] Yes.

5 Q. [12:59:16] And when it was read back to you -- sorry. When the -- when the
6 entire statement was read back to you, were you given the opportunity to make
7 corrections?

8 A. [13:00:10] I didn't change anything, except where it's mentioned that the name
9 of my husband was [REDACTED] and I said his name was [REDACTED]

10 Q. [13:00:28] Just so that you understand --

11 MR EDWARDS: [13:00:37] Sorry. Can we go into private session, please.

12 PRESIDING JUDGE MINDUA: [13:00:43](Interpretation) Certainly.

13 Court officer, private session.

14 (Private session at 1.00 p.m.)

15 THE COURT OFFICER: [13:00:52](Interpretation) We are in private session.

16 PRESIDING JUDGE MINDUA: [13:00:58](Interpretation) Thank you.

17 Mr Edwards.

18 MR EDWARDS: [13:01:00] Thank you, your Honour.

19 Q. [13:01:01] Madam Witness, I'm talking about the statement that you gave to the
20 Prosecutor of this Court. Do you remember giving your statement to [REDACTED]
21 and also present was a woman that you know, [REDACTED] This was in
22 [REDACTED] Are you with me?

23 A. [13:02:18] Yes.

24 Q. [13:02:19] So you now are clear in your mind about the statement I'm going to
25 be asking you about?

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1 A. [13:02:45] Yes.

2 Q. [13:02:47] When this statement was read back to you before it was signed, you
3 were given opportunities to correct any errors in the statement, weren't you?

4 THE INTERPRETER: [13:03:33] Message from the Songhai booth: Your Honour,
5 could the witness be requested to repeat her answer.

6 PRESIDING JUDGE MINDUA: [13:03:43](Interpretation) Madam Witness, please
7 repeat your answer.

8 THE WITNESS: [13:03:54](Interpretation) Yes, you -- you have to repeat so that I can
9 understand.

10 MR EDWARDS: [13:04:00]

11 Q. [13:04:00] Before you signed the statement, it was read back to you, correct?

12 A. [13:04:24] I don't know whether they read it to me or not.

13 Q. [13:04:29] Well, Madam Witness, so that you understand, it is absolutely
14 common practice for the Prosecution to read back statements that they've taken from
15 witnesses so that they have the opportunity to make corrections.

16 PRESIDING JUDGE MINDUA: [13:05:06](Interpretation) Court officer, cut the
17 audio feed to the witness.

18 THE COURT OFFICER: [13:05:15](Interpretation) The witness cannot hear us.

19 PRESIDING JUDGE MINDUA: [13:05:18](Interpretation) Thank you.

20 Mr Edwards, of course, you are an excellent lawyer, but that is not the case for our
21 witness. Not only is she not a lawyer, but also she's illiterate. So your

22 question -- your repetitive questioning about whether she has been read the statement
23 and so on and so forth, she has answered.

24 You need to cut to the chase, and she will answer and the Chamber shall make its
25 assessments. Agreed?

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1 Yes, there we have it.

2 Court officer, please re-establish the audio feed.

3 THE COURT OFFICER: [13:06:06](Interpretation) The sound has been
4 re-established.

5 PRESIDING JUDGE MINDUA: [13:06:11](Interpretation) Thank you very much.

6 Mr Edwards.

7 MR EDWARDS: [13:06:23]

8 Q. [13:06:24] The English transcript from Tuesday of this week, page 10. Madam
9 Witness, you told us a couple of days ago that there was four groups that took over
10 and stayed to occupy Timbuktu. They were distinguishable by the clothes they wore.
11 That's what you told us, yes?

12 A. [13:07:28] Yes. Yes.

13 Q. [13:07:30] Paragraph 18 of the statement, please. MLI-OTP-0039-0075.

14 Madam Witness, in your statement you say the following:

15 (Interpretation) "There were other groups who came one after another, and they had
16 different names."

17 MR EDWARDS: [13:08:42] Your Honour, I note we're in private session. We don't
18 need to be.

19 PRESIDING JUDGE MINDUA: [13:08:50](Interpretation) We are going back into
20 open session, Mr Edwards?

21 Very well.

22 Courtroom officer, if you could.

23 (Open session at 1.09 p.m.)

24 THE COURT OFFICER: [13:09:07] (Interpretation) We are in back open session,
25 your Honours.

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- 1 PRESIDING JUDGE MINDUA: [13:09:13](Interpretation) Thank you.
- 2 Mr Edwards.
- 3 MR EDWARDS: [13:09:19]
- 4 Q. [13:09:20](Interpretation) "There was the MNLA and Ansar Dine, but also other
- 5 groups whose names I don't know. They all wore the same clothing. There was
- 6 only a flag that distinguished them from one another."
- 7 (Speaks English) I'll pause there for a moment.
- 8 Isn't that the truth of the matter, Witness? That all these groups wore more or less
- 9 the same -- more or less the same clothes, the same colours, and that they were
- 10 essentially indistinguishable?
- 11 MS LUPING: [13:10:30] Mr President?
- 12 PRESIDING JUDGE MINDUA: [13:10:32](Interpretation) Yes, Madam Prosecutor?
- 13 MS LUPING: [13:10:35] Can I ask that the sound be off to the witness, please?
- 14 PRESIDING JUDGE MINDUA: [13:10:44](Interpretation) Madam Court Officer,
- 15 kindly cut the feed to the witness.
- 16 THE COURT OFFICER: [13:10:51](Interpretation) Done.
- 17 PRESIDING JUDGE MINDUA: [13:10:53](Interpretation) Thank you.
- 18 Madam Prosecutor.
- 19 MS LUPING: [13:10:55] Mr President, your Honours, the Prosecution objects to the
- 20 manner in which this question is being formulated. It's been formulated as if it's the
- 21 truth, as if it's a statement that is correct and not in dispute and it may simply induce
- 22 the witness into error.
- 23 The Prosecution submits she simply be asked if this is accurate or not, rather than
- 24 stating it as the truth, which will merely -- potentially lead her to be more confused.
- 25 PRESIDING JUDGE MINDUA: [13:11:42](Interpretation) Mr Edwards, perhaps

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1 rephrase.

2 MR EDWARDS: [13:11:48] Yes.

3 Q. [13:11:53] Is it the case, Madam Witness --

4 PRESIDING JUDGE MINDUA: [13:12:03](Interpretation) Court officer, I think we
5 should re-establish the feed.

6 THE COURT OFFICER: [13:12:08](Interpretation) The witness can now hear us.

7 PRESIDING JUDGE MINDUA: [13:12:15](Interpretation) Thank you.

8 Mr Edwards.

9 MR EDWARDS: [13:12:18]

10 Q. [13:12:19] Is it the case that, in fact, all of these groups wore similar clothing,
11 similar colours and as a result, it was very difficult to distinguish between them?

12 MS LUPING: [13:12:40] Objection, Mr President.

13 Again, I have to ask that the sound be cut off to the witness.

14 PRESIDING JUDGE MINDUA: [13:12:53](Interpretation) Court officer, please cut
15 the audio feed.

16 THE COURT OFFICER: [13:12:59](Interpretation) The feed has been cut.

17 PRESIDING JUDGE MINDUA: [13:13:02](No interpretation) (Overlapping speakers)
18 *Madame la Procureur.*

19 MS LUPING: [13:13:05] Mr President, your Honours, I repeat my objection. The
20 question is almost identical to how it was phrased before. The Prosecution does not
21 agree that the MNLA uniform was similar or the same.

22 Now whether or not the witness may be in error in relation to that is another issue,
23 but the Prosecution does not agree that the MNLA wore similar uniforms as a matter
24 of fact. Now, when this proposition is put to the witness, it is not fair to the witness
25 and it may lead or induce her into error to say, "Isn't it the case that they all wore

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- 1 similar clothing," when we know she's -- we're referring here also to the MNLA.
- 2 Now on this, the Prosecution would insist that, in fairness to the witness - and not to
- 3 induce her into error or any further error - that the Defence counsel reformulate the
- 4 question and to simply ask her what she stated in a prior statement, whether she
- 5 believes that is accurate or correct or not.
- 6 But it shouldn't be stated as an accurate fact because we know that it is not.
- 7 Thank you.
- 8 PRESIDING JUDGE MINDUA: [13:14:23](Interpretation) Mr Edwards, your
- 9 response to the Prosecution's (Overlapping speakers)
- 10 MR EDWARDS: [13:14:26] The objection of the Prosecution is completely
- 11 inappropriate. We don't care if it's the Prosecution case that the MNLA were there at
- 12 the time. Our case is that the MNLA were. It is our case, and, I'm simply putting to
- 13 the witness what she has written in her statement.
- 14 I have not suggested to the witness that it is agreed between the Prosecution and the
- 15 Defence that these groups all wore the same clothes, same colours and so on and so
- 16 forth. It's not correct to suggest that I make that suggestion. And, consequently, it's
- 17 not correct to suggest that there's any risk that this is going to induce error on the part
- 18 of the witness.
- 19 I have asked ...
- 20 I haven't finished.
- 21 I have asked --
- 22 PRESIDING JUDGE MINDUA: [13:15:28](Interpretation) Go ahead.
- 23 MR EDWARDS: [13:15:29] I've asked the witness a question. I haven't put it as
- 24 a statement. I have asked the witness a question, or I've tried to, following my
- 25 learned friend's last objection. And the witness can simply say, Yes, it's true or Yes,

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1 it's not true or No, it's not true. I fail to see where the difficulty is.

2 PRESIDING JUDGE MINDUA: [13:16:00](Interpretation) For the sake of the court
3 record, I wish to put it on the record that Mr Al Hassan is back in the courtroom.

4 (Mr Al Hassan enters the courtroom)

5 PRESIDING JUDGE MINDUA: [13:16:15](Interpretation) Now, I have the
6 impression that the Prosecution's objection is to the affirmative tone of your question,
7 when you say the same clothing for all the armed groups. Is that correct?

8 MS LUPING: [13:16:22] Exactly, Mr President.

9 What -- I'm going to repeat the question that's been put to this witness -- witness, as
10 it's been translated in French: (Interpretation) "Is it true that in reality they all wore
11 clothing that was similar in colour as well?"

12 (Speaks English) Now, we've had -- in fact, it says -- it's stated here, the word "*en*
13 *réalité*" twice. And the point is, this may induce the witness into error, to believe that
14 this is an uncontested fact.

15 The Prosecution repeats its request that is be reformulated and not be stated that it's
16 a reality that the clothing and the flags resembled each other. It's not agreed to.

17 And whether or not the Defence agrees with the Prosecution's case is irrelevant.

18 PRESIDING JUDGE MINDUA: [13:17:14](Interpretation) I was waiting for the
19 interpretation in French. That is correct.

20 Mr Edwards, I am in agreement with Madam Prosecutor. One should not be making
21 this affirmation. And, also, there was not an agreement between the two of you, as
22 Madam Prosecutor said. And it has not yet been ruled upon by the Chamber as to
23 the fact that it was the same uniform, the same clothing et cetera.

24 So please reformulate your question, and then we can move forward.

25 MR EDWARDS: [13:17:55] Can the sound be re-established, please.

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- 1 PRESIDING JUDGE MINDUA: [13:18:06](Interpretation) There we are.
- 2 Madam Courtroom Officer, could you please re-establish the link and we'll have one
- 3 further question. Then we'll rise.
- 4 THE COURT OFFICER: [13:18:21](Interpretation) The witness can now hear us, Mr
- 5 President.
- 6 PRESIDING JUDGE MINDUA: [13:18:28](Interpretation) Thank you very much.
- 7 Mr Edwards, please.
- 8 MR EDWARDS:
- 9 Q. [13:18:30] Madam Witness, do you agree that these different groups wore the
- 10 same clothing and that it was difficult to distinguish between them?
- 11 PRESIDING JUDGE MINDUA: [13:19:15](Interpretation) Madam Prosecutor, I do
- 12 believe that the question has been put correctly now. So ...
- 13 Could Madam Witness please answer the question.
- 14 Please answer, Madam Witness.
- 15 THE WITNESS: [13:19:39](Interpretation) I said that the uniforms were not identical.
- 16 It was the flags that were identical. And the flags were different, however, by virtue
- 17 of the writing on them.
- 18 MR EDWARDS: [13:20:04] Okay. Maybe I'll pick this up after lunch.
- 19 PRESIDING JUDGE MINDUA: [13:20:15](Interpretation) Very well.
- 20 Madam Courtroom Officer, we are in open session, are we not?
- 21 THE COURT OFFICER: [13:20:23](Interpretation) Yes, indeed, Mr President.
- 22 PRESIDING JUDGE MINDUA: [13:20:26](Interpretation) Very well.
- 23 So it is 20 past 1. We shall rise for approximately one hour, and we shall reconvene
- 24 at 2.20. There we are.
- 25 Court is suspended.

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- 1 THE COURT USHER: [13:20:41] All rise.
- 2 (Recess taken at 1.20 p.m.)
- 3 (Upon resuming in open session at 2.22 p.m.)
- 4 THE COURT USHER: [14:22:03] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE MINDUA: [14:22:22](Interpretation) The Court is in session
- 7 once again.
- 8 Over to the Defence for the continuation of the cross-examination.
- 9 Mr Edwards.
- 10 MR EDWARDS: [14:22:41] Thank you.
- 11 Q. [14:22:44] Madam Witness, the -- the man who married you, you don't know if
- 12 he was married to anyone else, do you?
- 13 A. [14:23:00] No.
- 14 Q. [14:23:09] And you don't know if he had any children, do you?
- 15 A. [14:23:17] No.
- 16 Q. [14:23:24] Paragraph 55.
- 17 And I apologise to the Registrar. I think I misled her about a document I wanted to
- 18 refer to.
- 19 Could we please bring up your statement, [REDACTED] MLI-OTP-0039-0072. I
- 20 think it was the document that we had up just before the break. And what I'm
- 21 interested in, please, is paragraph 55 (Overlapping speakers)
- 22 Madam Witness, you say the following --
- 23 PRESIDING JUDGE MINDUA: [14:24:32](Interpretation) We need to observe
- 24 pauses to enable the interpreters to do their job correctly, Mr Edwards.
- 25 MR EDWARDS: [14:24:41] Yes. My apologies to the interpreters.

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1 Q. [14:24:56] Madam Witness, page -- at paragraph 55 of your statement to the
2 Prosecution, you say the following about the individuals who forcibly had -- who
3 forcibly slept with you. You say this:
4 (Interpretation) "They belonged to the MNLA group. I know that they belonged to
5 the MNLA because of their flag and their uniform."
6 (Speaks English) Let me pause there for (Overlapping speakers)
7 (Interpretation) "Their flag is a white flag with black lettering, and their uniform is of
8 the same colour as the interpreter's trousers."
9 (Speaks English) Madam Witness, unfortunately, the record doesn't show what the
10 colour of the interpreter's trousers were. But is it right that you were able to identify
11 these individuals as being MNLA because of, amongst other things, their uniform, the
12 colour of their uniform?

13 A. [14:28:07] Yes, that's true.

14 Q. [14:28:09] Paragraph 58, please. It's on the next page, 0084.

15 I'll read the whole paragraph to you, in fairness.

16 I don't know if that's been translated by the Songhai interpreters?

17 (Pause in proceedings)

18 MR EDWARDS: [14:29:17] Okay. Thank you.

19 Your Honour, the record states that paragraph 58 of the document has been
20 translated - it seems - by the Songhai booth.

21 Can I just have confirmation from the Songhai booth that that's the case?

22 THE INTERPRETER: [14:29:47] Message from the Songhai booth: Mr President,
23 we have just announced that paragraph 58 will be read.

24 MR EDWARDS: [14:29:59] Your Honour, for the English and French transcript, I
25 probably need to read it into the record, yes.

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1 (Interpretation)"[...] I knew which group some of them belonged to, but for others I
2 did not. The man to whom I had been forcibly married wanted to marry me and
3 was part of the MNLA group. They were distinguishable by their flags.
4 Nevertheless, with regard to the flags I remember the colour, the writing but I do not
5 remember any further details."

6 Q. [14:31:14] So my question, Madam Witness, is, is this: You were able to
7 identify the man who married you as a member of the MNLA group, is that right?

8 A. [14:31:53] Yes.

9 MR EDWARDS: [14:31:55] Thank you.

10 Your Honour, can we go into private session for just a few moments.

11 PRESIDING JUDGE MINDUA: [14:32:02](Interpretation) Madam Courtroom Officer,
12 private session please.

13 (Private session at 2.32 p.m.)

14 THE COURT OFFICER: [14:32:06](Interpretation) We are in private session, Mr
15 President, your Honours.

16 PRESIDING JUDGE MINDUA: [14:32:13](Interpretation) Thank you very much,
17 indeed.

18 Mr Edwards.

19 MR EDWARDS: [14:32:20]

20 Q. [14:32:21] Madam Witness, do you know what [REDACTED] means in Arabic,
21 literally?

22 A. [14:32:51] Well, I don't know. People said that the name [REDACTED] referred to
23 a person, [REDACTED] person.

24 Q. [14:33:07] Yes. That -- that's certainly the information that we have as well.
25 And you told us in your -- in your evidence from yesterday that he was -- he was

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- 1 [REDACTED]
- 2 [REDACTED] at the time, right?
- 3 A. [14:34:16] I said [REDACTED]
- 4 Q. [14:34:26] I -- yes. I understood your evidence yesterday to be that [REDACTED]
- 5 [REDACTED] or did I misunderstand that?
- 6 Is that right, Madam Witness?
- 7 A. [14:35:20] Yes, that's what I told you.
- 8 Q. [14:35:23] Yes.
- 9 MR EDWARDS: [14:35:25] For the record, your Honour, page 8 from yesterday's
- 10 transcript.
- 11 Q. [14:35:30] Apart from the man who married you, [REDACTED] who married
- 12 you, did you know anyone else of that name or of that nickname?
- 13 A. [14:36:08] No.
- 14 Q. [14:36:12] So based on your experience, [REDACTED] Would
- 15 that be fair?
- 16 A. [14:36:50] I don't know. I just came to know him under that name.
- 17 Q. [14:36:57] And the [REDACTED] who married you, was he from [REDACTED]
- 18 [REDACTED] as far as you know?
- 19 A. [14:37:24] Yes.
- 20 MR EDWARDS: [14:37:26] Your Honour, could we please have up on the
- 21 screen - it's the document at tab 7 of the Defence bundle - MLI-OTP-0009-0054.
- 22 Q. [14:38:01] Now, Madam Witness, I'm just going to put this document into some
- 23 sort of context for you, right? I don't suggest that you've seen it before. It's a note
- 24 of an investigation [REDACTED]
- 25 [REDACTED] And it relates to an investigation in which three individuals were

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1 arrested by the gendarmerie and interviewed on suspicion of treason, terrorism,
2 attacking the security of the state.
3 And if I could ask for the document to be -- or if we can scroll down a little bit. I just
4 want the Court to see what the name of one of the individuals arrested was. One of
5 the three men was called [REDACTED]
6 Could you translate that, please.
7 Can we now turn to the next page -- reference 0055, and I want to focus on the -- just
8 the top of the page, please. I'm just going to read what's written for you, Madam.
9 Can that be translated, please.
10 So I'll read it, in French:
11 THE INTERPRETER: [14:41:07] Sight translation:
12 (Interpretation) "My name is [REDACTED] of age
13 approximately, born in approximately [REDACTED] in Timbuktu, son of [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 MR EDWARDS: [14:41:38] I'll pause there.
17 Q. [14:42:23] Madam Witness, do you accept that that -- those details are consistent
18 with the details of the [REDACTED] who you married?
19 PRESIDING JUDGE MINDUA: [14:42:41](Interpretation) Madam Prosecutor?
20 MS LUPING: [14:42:43] Mr President, I would ask -- I would ask that the sound be
21 cut off to the witness, please. I have an objection.
22 PRESIDING JUDGE MINDUA: [14:42:56](Interpretation) Madam Courtroom Officer,
23 could you please cut off the feed to the witness.
24 THE COURT OFFICER: [14:43:05](No interpretation) *Le son est coupé, Monsieur le*
25 *Président.*

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- 1 PRESIDING JUDGE MINDUA: [14:43:07](Interpretation) Thank you very much.
2 Madam Prosecutor.
3 MS LUPING: [14:43:08] Mr President, your Honours, I wanted to wait to see
4 precisely what information was provided by Defence counsel to the witness and the
5 precise question before rising. Now, we know that also stated after the reference to
6 the quartier, [REDACTED] is a reference to:
7 (Interpretation) "[...] [REDACTED]'
8 (Speaks English) Now, the witness was asked before this document was shown,
9 whether or not the man she married [REDACTED] to which she
10 clearly responded that she did not ...
11 Now, this document is dated [REDACTED] --
12 MR EDWARDS: [14:43:52] Sorry. I asked if she -- her evidence was -- I apologise,
13 the gravamen of her evidence was that she doesn't know.
14 PRESIDING JUDGE MINDUA: [14:44:05](Interpretation) Mr Edwards, I didn't
15 allow you to address the Court. You shouldn't intervene like that. There must be
16 order in our discussions.
17 MS LUPING: [14:44:15] If I could please continue.
18 PRESIDING JUDGE MINDUA: [14:44:18](Interpretation) Madam Prosecutor,
19 rapidly, please, because we're running late.
20 MS LUPING: [14:44:22] Yes, indeed. But it's just a question of fairness to the
21 witness, Mr President, because this witness is being asked to confirm that these
22 details correspond to the man that she married. She's not, first of all, been given all
23 of the details that are stated in this document.
24 And, secondly, she was asked specifically about a question of whether [REDACTED]
25 [REDACTED] and she didn't confirm these

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1 details.

2 So it's not fair to the witness not to complete the full description of this individual
3 before she's asked to confirm whether or not it's the same person or it corresponds to
4 details of the man that she married.

5 PRESIDING JUDGE MINDUA: [14:45:12](Interpretation) There we are, Mr Edwards.

6 You've heard the objection. What do you answer?

7 MR EDWARDS: [14:45:19] Excuse me, your Honour.

8 (Counsel confers)

9 MR EDWARDS: [14:45:29] Well, the first thing is, your Honour, I hadn't finished
10 these questions. I was -- I was asking, at that stage, is that consistent with the man
11 that she married. I hadn't finished with the document. I was going to move on
12 because -- and my learned friend must have known that I was going to move on
13 because there's a far more important element of his account to the gendarmerie that I
14 needed to pick up on.

15 So perhaps I can just be allowed to continue without these constant interruptions.

16 As your Honour says, we are -- we're running out of time.

17 PRESIDING JUDGE MINDUA: [14:46:18](Interpretation) No, Madam Prosecutor.

18 Please sit down. Otherwise, we won't be able to manage the situation. We know
19 only too well that the witness must be released today; so we need to reduce, firstly,
20 the length of your interventions and they need to be relevant.

21 Mr Edwards, please continue.

22 MR EDWARDS: [14:46:34] Yes. Thank you.

23 Q. [14:46:36] So, Madam Witness, do you accept that so far those details are
24 consistent with the man who married you?

25 THE COURT OFFICER: [14:47:02] Could the counsel repeat his question. The

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1 sound was off on the witness side. Thank you very much.

2 MR EDWARDS: [14:47:09] Yes.

3 Q. [14:47:12] Madam Witness, do you accept that so far those details are consistent
4 with the man who married you?

5 PRESIDING JUDGE MINDUA: [14:47:53](Interpretation) Madam Witness, could
6 you respond?

7 THE COURT OFFICER: [14:48:12](Interpretation) My apologies. I'm informed that
8 the sound had not yet been re-established. So if the Defence could --

9 PRESIDING JUDGE MINDUA: [14:48:24](Interpretation) No, no, no. The
10 interpreters can interpret the question right away.

11 Interpreters, interpret the question for our witness.

12 THE WITNESS: [14:49:08](Interpretation) The document that you just showed
13 out -- to me, I understand nothing of it. All I know is that his name was [REDACTED]
14 as I have no idea about his age or his work. I have no idea. All I know, he is still ...

15 THE INTERPRETER: [14:49:34] Inaudible.

16 MR EDWARDS: [14:49:40]

17 Q. [14:49:41] Madam Witness, you said at the very end "he is still" something. The
18 interpreters didn't get it. Could you just repeat that last part of your answer.

19 A. [14:49:58] I was saying that all I know is that his name was [REDACTED] but I don't
20 know his -- I don't know his age. I don't know when he was born. I don't know
21 what his line of work is. All I know is [REDACTED]

22 As for the other information -- well, there was the information on the divorce
23 certificate. But other than that, I don't know anything about him.

24 Q. [14:51:00] This document also says that -- or he says that [REDACTED]

25 [REDACTED] Now, you've already told us that you don't know anything about

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1 that, and I'm not going to ask you a question about that.

2 A. [14:51:43] I don't know about that. Houka Houka gave the divorce paper and
3 that was written on the divorce paper. Other than that, I don't have any more details
4 along those lines. That's all I'm aware of.

5 MR EDWARDS: [14:52:02] And, your Honour, just so that it's on the record, this
6 [REDACTED] says, a little further down:

7 (Interpretation) "Indeed, I was with the MNLA members close to ..."

8 (Speaks English) Sorry. Can we just scroll back up to where we were, Madam

9 Registrar. Thank you

10 (Interpretation) "Indeed, I was with MNLA members close to [REDACTED]"

11 [REDACTED]

12 (Speaks English) A bit later on:

13 (Interpretation) "There were 10 of us, all MNLA members."

14 Q. [14:52:50] And, Madam Witness, that's consistent with what you understood of
15 [REDACTED]'s -- of the group that [REDACTED] belonged to, right?

16 THE INTERPRETER: [14:53:17] Message from the Songhai booth: Your Honour,
17 Mr Edwards was not speaking close enough to his microphone, so we did not hear
18 what he was saying.

19 PRESIDING JUDGE MINDUA: [14:53:25](Interpretation) Counsel, if you could
20 repeat.

21 Madam Prosecutor?

22 MS LUPING: [14:53:30] Mr President, I have an objection. The question is
23 overcomplicated. There's a great deal amount of information that's being read out.
24 It's not just a question about the MNLA. There's a whole paragraph -- or even two
25 paragraphs read out and then a question: Is this consistent with what you know?

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1 It's compound. It's confusing. It's not fair to the witness.

2 PRESIDING JUDGE MINDUA: [14:53:53](Interpretation) Mr Edwards?

3 MR EDWARDS: [14:53:54] Yes, I don't disagree with my learned friend. I'll put the
4 question again.

5 Q. [14:54:01] Madam Witness, when this man says that he was with the MNLA,
6 that is consistent with what you understood was the case with regard to the man that
7 you married, correct?

8 A. [14:54:52] No, that's not in keeping. If he said that he was with the MNLA,
9 that's not true. He was with the Islamists.

10 Q. [14:55:05] Madam Witness, about 10 minutes ago, I specifically asked you about
11 something that you said in your OTP statement. And I said:

12 "You were able to identify the man" --

13 This is at page 49, your Honour, of the transcript --

14 "You were able to identify the man who married you as a member of the MNLA
15 group, is that right?"

16 Your answer was: "Yes."

17 A. [14:56:33] Maybe I forgot that for a moment. Ever since yesterday, ever since
18 I've started testifying, I've always said that he was part of the Islamic group. You
19 can even check the document.

20 Q. [14:56:52] Why did you say in your OTP statement then that: "The man who
21 married me by force was part of the MNLA group. I was able to distinguish him by
22 their flag"?

23 PRESIDING JUDGE MINDUA: [14:57:22](Interpretation) Madam Prosecutor?

24 MS LUPING: [14:57:25] Objection, Mr President.

25 And I would ask that the sound be cut off to the witness.

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- 1 PRESIDING JUDGE MINDUA: [14:57:36](Interpretation) I'm really wondering if we
2 do need to cut the feed to the witness. We really need to move forward.
3 Mr Edwards, the witness answered the question a few moments ago. I think you're
4 repeating the same question. We can -- we can move on.
5 MR EDWARDS: [14:57:53] Is your Honour's ruling that I can't deal with
6 inconsistencies in the witness's evidence?
7 PRESIDING JUDGE MINDUA: [14:58:10](Interpretation) Court officer, cut the feed
8 to the witness.
9 THE COURT OFFICER: [14:58:14](Interpretation) The feed has been cut.
10 PRESIDING JUDGE MINDUA: [14:58:21](Interpretation) Thank you.
11 Mr Edwards, you're saying that I'm keeping you from identifying inconsistencies.
12 That is not true. I'm telling you that the witness has just answered.
13 She has said that -- ever since the beginning, she has been saying that the
14 member -- the husband was part of the jihadist groups. And she just said: That
15 must have skipped my mind. She accepted that yesterday.
16 So we have our answer. We can move forward.
17 The Chamber has seen that there are inconsistencies on this particular point. We are
18 managing our time. The witness is tired, and we all know that. So keep on going.
19 Madam Courtroom Officer, re-establish the feed to the witness.
20 THE COURT OFFICER: [14:59:21](Interpretation) The witness can now hear us.
21 PRESIDING JUDGE MINDUA: [14:59:27](Interpretation) Thank you.
22 Mr Edwards.
23 MR EDWARDS: [14:59:30] I'd like, please, to bring up the following document: It's
24 MLI-OTP-0078-6006. And this is at -- it's one of the documents that was recently
25 admitted to the Defence bundle of exhibits. Tab 30, I think it is.

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1 And, your Honour, could Mr Al Hassan be excused, please, just for a few moments.

2 He wishes to go and pray.

3 PRESIDING JUDGE MINDUA: [15:00:22](Interpretation) Certainly.

4 Mr Al Hassan, you are excused.

5 (Mr Al Hassan exits the courtroom)

6 MR EDWARDS: [15:00:34] Yes, thank you. Next page, please.

7 Q. [15:00:51] Madam Witness, I'm going to ask you a little bit about the court
8 proceedings that led up to your divorce.

9 MR EDWARDS: [15:01:00] And for the record, the -- your Honour, the date of this
10 document is indicated in the Islamic calendar. I'm reluctant to give evidence, but
11 we'll provide evidence in due course. Our understanding is that this equates to [REDACTED]

12 [REDACTED] But perhaps in due course, there can be an agreed -- there can be an
13 agreement between the Prosecution and the Defence about the date.

14 PRESIDING JUDGE MINDUA: [15:02:03](Interpretation) Certainly. That way we
15 can save some time.

16 MR EDWARDS: [15:02:07]

17 Q. [15:02:08] Madam Witness, this is notes of the beginning of the divorce
18 proceedings between the man who married you and you and your family. The
19 name of the claimant is, [REDACTED]

20 Translate that, please.

21 [REDACTED]

22 And the defendants in the case are [REDACTED]

23 That's you, isn't it?

24 A. [15:03:56] That's me, but [REDACTED] is not part of my name. I'm [REDACTED]

25 [REDACTED] is not part of my name.

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- 1 Q. [15:04:18] [REDACTED] ?
- 2 A. [15:04:23] I don't know.
- 3 Q. [15:04:35] Okay.
- 4 (Interpretation) "[...] her father [REDACTED] [...]"
- 5 (Speaks English) Does your father go -- is that your father?
- 6 A. [15:05:03] My father is [REDACTED]
- 7 Q. [15:05:06] Okay. "[...] and her mother [REDACTED]"
- 8 Is that name -- is that the name of your mother or maybe your step-mother? Does
- 9 she go by that name?
- 10 A. [15:05:50] That is the name of my mother, because you said [REDACTED] That is the
- 11 name of my mother.
- 12 Q. [15:06:07] Okay. A bit further down we see the name, [REDACTED] Is
- 13 that your mother?
- 14 A. [15:06:25] (No interpretation) [REDACTED] ?
- 15 Q. [15:06:28] Mm?
- 16 A. [15:06:31] My mother's name is [REDACTED]
- 17 Q. [15:06:44] Okay. In -- in this document -- well, let's take it step by step.
- 18 When you were first brought or when you first went to Houka Houka's court, did the
- 19 man who marry you state that you had been taken from him?
- 20 A. [15:07:45] No, the people who married me by force -- their man married me by
- 21 force.
- 22 Q. [15:07:58] Okay. Just -- I'm going to repeat the question, and try and listen as
- 23 carefully as you can to my question.
- 24 First of all, did the man who marry you bring the case to Houka Houka's court? Is
- 25 he the one who started the process before Houka Houka's court?

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1 A. [15:08:53] He is the one who made the complaint. He is the one who contacted
2 Houka Houka for the first time.

3 Q. [15:09:06] Yes. And his complaint was based on the behaviour of your parents,
4 is that right?

5 A. [15:09:43] That's why he made the complaint, because I refused the marriage.
6 So he got the entire family involved in it.

7 Q. [15:09:55] Did he say to the judge that your parents were interfering with the
8 marriage?

9 A. [15:10:21] Yes, that's what he told them.

10 Q. [15:10:23] Now, when the case first came before Houka Houka, you were
11 present, weren't you, in the courtroom?

12 A. [15:11:08] As far as I'm concerned, ever since this whole thing started, I didn't
13 even leave. That each time, he would come and get me in a car. I didn't even leave
14 that place.

15 Q. [15:11:22] Okay. I need a yes or a no answer, Madam. You were present on
16 the first occasion that the case came before Houka Houka.

17 Can you just confirm that for now, please.

18 A. [15:12:02] I was present the first time.

19 Q. [15:12:05] And your mother and your father and your step-mother were also
20 present, is that right?

21 A. [15:12:23] Yes, we were all there.

22 Q. [15:12:26] [REDACTED]

23 right?

24 A. [15:13:01] What the man said to Houka Houka, I don't know. But as far as I'm
25 concerned -- as far as I know, what he said to Houka Houka, I don't know. I just

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1 know about my own knowledge.

2 Q. [15:13:22] Okay. And Houka Houka also wanted to hear what you had to say
3 about the marriage, right?

4 Just say yes or no for now.

5 A. [15:13:58] Yes. He wanted to understand why I had refused, and I just told
6 him that I didn't love him. And I was not going to marry a bandit.

7 Q. [15:14:12] Well, let's just pause there for a moment. You had not consented to
8 the marriage yourself, but the marriage did formally exist, correct?

9 PRESIDING JUDGE MINDUA: [15:14:37](Interpretation) Madam Prosecutor?

10 MS LUPING: [15:14:38] Mr President, could I please ask that the sound be cut off.

11 PRESIDING JUDGE MINDUA: [15:14:46](Interpretation) Court officer, cut the feed
12 to the witness.

13 (Mr Al Hassan enters courtroom)

14 I'll take this opportunity to put it on the record that Mr Al Hassan is back in the
15 courtroom.

16 THE COURT OFFICER: [15:15:00](Interpretation) The sound has been cut off.

17 PRESIDING JUDGE MINDUA: [15:15:01](Interpretation) Thank you.

18 MS LUPING: [15:15:02] Mr President, the Prosecution would object to the way this
19 question has been formulated on two grounds. First, we are -- she's being asked if
20 the marriage did formally exist. This is not an appropriate question for her because,
21 effectively, this is one of the charges before the judges that are being assessed,
22 whether or not this is a forcible marriage.

23 So to ask the witness whether she's been -- whether there was formally a marriage is
24 asking her to make, effectively, a legal determination.

25 Second, factually, this is also difficult for the witness to answer because it's unclear

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1 and it's vague as to what we mean by "formally." The witness can be simply asked
2 whether or not in her view there was a marriage. That is what she can answer. But
3 the rest is -- but the way it's being currently articulated is unfair and it's not
4 appropriate for her to answer it.

5 PRESIDING JUDGE MINDUA: [15:16:03](Interpretation) Mr Edwards, I don't need
6 to repeat the objection. But legally speaking, our witness cannot answer. That's the
7 duty of the Chamber.

8 So please put the question in a different way.

9 MR EDWARDS: [15:16:11] I will do. The point is that, if there are divorce
10 proceedings, our submission would be that, formally speaking, a marriage existed,
11 a marriage had been contracted. But I take my learned friend's point that it's a legal
12 question; that maybe it's not appropriate for this witness.

13 Okay. I'm ready to continue, with your Honour's leave. If the feed can be
14 reconnected.

15 PRESIDING JUDGE MINDUA: [15:16:44](Interpretation) Yes, indeed.

16 Madam Courtroom Officer, the sound, please.

17 THE COURT OFFICER: [15:16:52](Interpretation) The witness can hear us again, Mr
18 President.

19 PRESIDING JUDGE MINDUA: [15:16:56](Interpretation) Thank you very much,
20 Madam Courtroom Officer.

21 Mr Edwards.

22 MR EDWARDS: [15:17:02]

23 Q. [15:17:03] Is it right that you told the judge that you had not consented and
24 that -- and that you had complained to the police yourself?

25 A. [15:17:49] Yes. I said it. I did say it. It was there at the police station. I did

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1 not lodge a complaint, but it was he who did so. And where he lodged a complaint?

2 Well, I said that I was not in agreement, but I did not myself lodge a complaint.

3 Q. [15:18:20] I'm going to read out a part of the -- these notes, in fairness. The note
4 says:

5 (Interpretation) "She alleges that she was obliged to marry him, while she had not
6 consented, and that it was for that reason that she had presented herself to lodge
7 a complaint with the police because she was informed of the marriage only after the
8 signature of the paper."

9 (Speaks English) Can that be translated, please, into Songhai.

10 Madam Witness, is it right that you only learned that you were married to this man
11 after something had been signed?

12 A. [15:20:22] I never appended my signature to a document. It was only the
13 divorce papers that I signed. Otherwise, I never signed another document.

14 Q. [15:20:37] Okay. [REDACTED] - I'm going to read out what is noted in terms of
15 what [REDACTED] All right?

16 (Interpretation) [REDACTED]
17 [REDACTED]. So I asked her whether she was in agreement."

18 (Speaks English) Actually, I think that should be and so I asked "him" if she was in
19 agreement.

20 (Interpretation) "and he answered yes. So I asked him to wait for the next day, but
21 he insisted. So I signed the marriage certificate without talking to the girl."

22 (Speaks English) Is that what [REDACTED] told Houka Houka when you were all in
23 front of Houka Houka?

24 A. [15:22:46] Who gave you that document? I wonder who told you that. Who
25 even wrote it. [REDACTED] Or what? I want to understand.

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1 Q. [15:23:03] Madam Witness, I would just like you to answer the question, please,
2 without worrying about how we got the document. The Prosecution gave us this
3 document. All right? But just answer the question.

4 Is that what [REDACTED] told Houka Houka when you were all before Houka Houka?

5 A. [15:24:05] I do apologise, but I couldn't give you an opinion on this document
6 because I've never seen it, and I don't know what it's about.

7 Q. [15:24:18] Madam Witness, for now, please don't worry about the document
8 itself. I'm just asking you questions about what you recall of the time when you and
9 your father and your mother and step-mother and the man who married you were all
10 before Houka Houka giving your different versions of events. All right?

11 Now, can you just answer the question, please.

12 A. [15:25:53] What my step-mother and father said to Houka Houka? Well, after
13 so much time, I cannot recall. All I do recall is what I said, namely, that I was not in
14 agreement with the marriage. Because many things have happened since then, and I
15 can't remember everything.

16 Q. [15:26:22] No. All right. Let me see if this jogs your memory. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 PRESIDING JUDGE MINDUA: [15:27:06](Interpretation) Madam Prosecutor?

20 MS LUPING: [15:27:07] Mr President, could I please ask that the sound be cut off to
21 the witness.

22 PRESIDING JUDGE MINDUA: [15:27:13](Interpretation) Madam Courtroom Officer,
23 please.

24 THE COURT OFFICER: [15:27:16](Interpretation) The sound is off, Mr President.

25 PRESIDING JUDGE MINDUA: [15:27:21](Interpretation) Thank you very much,

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1 Madam Courtroom Officer.

2 MS LUPING: [15:27:26] Mr President, your Honours, a statement or a proposition is
3 being put forward as if it's an uncontested fact, that, [REDACTED]

4 [REDACTED]

5 Now, that goes too far, your Honours. That is not what these documents also
6 support.

7 If there's a specific part of the document or the record, as it's stated here - this is, again,
8 this is somebody's summary of what was being stated - if this record or if there's a
9 part of the record that Defence counsel wishes to put to the witness, then, in fairness,
10 he should put it to her.

11 But it's not accurate either - based on these documents - or on the testimony of this
12 witness [REDACTED]

13 PRESIDING JUDGE MINDUA: [15:28:20](Interpretation) Mr Edwards.

14 MR EDWARDS: [15:28:21] I'm really just trying to save time, but I can take the
15 witness through each individual proposition. It just takes much, much longer. All
16 right.

17 Can we re-establish the link, please.

18 PRESIDING JUDGE MINDUA: [15:28:44](Interpretation) Well, we're going to
19 re-establish the link, but please try to present your suggestion to the witness without
20 making affirmations. All right?

21 THE COURT OFFICER: [15:29:04](Interpretation) The sound is back, Mr President.

22 PRESIDING JUDGE MINDUA: [15:29:08](Interpretation) Thank you, Madam
23 Courtroom Officer.

24 Mr Edwards.

25 MR EDWARDS: [15:29:14]

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- 1 Q. [15:29:15] [REDACTED]
2 [REDACTED] ?
3 A. [15:29:59] [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 Q. [15:30:27] I just want to be very clear about this. Are you saying that during
7 the divorce proceedings, you didn't hear what other people had to say about how the
8 marriage came -- how the marriage happened?
9 A. [15:31:20] Which other people?
10 Q. [15:31:23] Your father, your mother, your step-mother, and the man who
11 married you.
12 A. [15:31:56] My step-mother, my mother, and myself and my father and the man I
13 was married to were all in front of Houka Houka, and we all spoke in front of him.
14 Q. [15:32:12] All right. So you would have heard -- sorry. I will start again.
15 You -- did you, therefore, hear what your father and your mother and your
16 step-mother and the man who married you, did you hear what they said to
17 Houka Houka?
18 A. [15:33:20] [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 Q. [15:33:54] You said a little earlier on that Houka Houka acted as a sort of an
24 interpreter during these proceedings. Did Houka Houka translate into Songhai
25 what was being said during these -- during this hearing?

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1 A. [15:34:40] Yes.

2 Q. [15:34:42] Okay. I want to ask you a question about your knowledge of the
3 marriage. Let's focus on that for a moment. Okay?

4 Is it true that you only learnt about the marriage -- you only knew about the marriage
5 after it had been agreed between your father and the man you married?

6 A. [15:35:57] That is true.

7 Q. [15:35:58] All right. A little further down, there's a note of something that you
8 said to Houka Houka.

9 Can we just scroll down the page, please. Just -- just stop there.

10 I'm going to read out something that is noted, something that you said to

11 Houka Houka.

12 Translate that first, please.

13 THE INTERPRETER: [15:36:49] Sight translation:

14 (Interpretation) "The girl says that she does not accept what her father did [REDACTED]

15 [REDACTED]

16 MR EDWARDS: [15:36:54]

17 Q. [15:36:55] Do you remember saying something -- do you remember saying that
18 to the judge?

19 A. [15:37:22] Yes.

20 Q. [15:37:25] To summarise, were you and the rest of -- were you and your parents
21 and your step-mother asking Houka Houka to grant a divorce?

22 A. [15:38:10] Yes.

23 Q. [15:38:13] This document, [REDACTED] ends in the following way:

24 (Interpretation) "The *Khul'* (dissolution of the Muslim marriage which comes into
25 play at the behest of the woman) was proposed or suggested to the husband as

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1 reconciliation; but he refused."

2 THE COURT OFFICER: [15:39:00] Could we mark a pause to let the Songhai
3 interpreters finish their sentences, please.

4 MR EDWARDS: [15:39:07] Yes.

5 THE COURT OFFICER: [15:39:10] Thank you very much.

6 MR EDWARDS: [15:39:28] Your Honour, I don't know if that's been translated for
7 the witness by the -- from the Songhai booth.

8 THE INTERPRETER: [15:39:52] The Songhai interpreter: Yes, indeed, we were not
9 able to translate.

10 MR EDWARDS: [15:39:56] Can I invite the Songhai booth to just let us know as
11 quickly as possible if they're having difficulties. I'll start again.

12 (Interpretation) "The *Khul'* (dissolution of a Muslim marriage which comes into play
13 at the behest of the woman) was suggested to the husband by way of reconciliation;
14 but he refused."

15 Q. [15:40:36] All right. Madam Witness, is that right? That Houka Houka
16 proposed a dissolution of the marriage on that occasion, but the man who married
17 you refused?

18 A. [15:41:14] Yes.

19 Q. [15:41:19] All right. And so Houka Houka said:

20 All right. Come back [REDACTED]

21 Correct?

22 A. [15:41:46] Yes.

23 Q. [15:41:52] And did you go back to your parents' home?

24 A. [15:42:35] No. The parents left. I stayed there. I remained detained there. I
25 did not go out. I didn't eat or sleep or drink. The others left. But the ones who

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- 1 were taken were myself [REDACTED] when I was detained, [REDACTED]
2 [REDACTED]
3 Q. [15:43:18] Madam Witness, there's nothing in this document that indicates that
4 there was any complaint [REDACTED]
5 Let me ask you this --
6 Translate that, first, please.
7 [REDACTED] ?
8 A. [15:44:26] [REDACTED]
9 [REDACTED]
10 Q. [15:44:37] I just want to be very clear about your evidence. Your evidence is
11 that Houka Houka -- well, let me start again.
12 Did Houka Houka authorise your detention at the conclusion of this hearing?
13 A. [15:45:27] Yes, it was indeed Houka Houka who said that I should be locked up
14 with the man -- it was he and the man who said that I should be locked away.
15 Q. [15:45:45] So your evidence is that a judge who had proposed that you and this
16 man be divorced, then went on to authorise your detention. Have I got that right?
17 A. [15:46:55] Yes, I can say that because in actual fact they were all bandits. They
18 were bandits together. They were together, and, at that time in Timbuktu, there
19 were no -- we didn't have our authorities. They were the authorities. Our soldiers
20 and our judges had all fled.
21 So they were just a bunch of bandits who were together.
22 Q. [15:47:18] But, nevertheless, this is a judge that you and your family have asked
23 to authorise a divorce. Right?
24 PRESIDING JUDGE MINDUA: [15:47:32](Interpretation) Mrs Prosecutor.
25 MS LUPING: [15:47:35] Mr President, objection. Augmentative.

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1 PRESIDING JUDGE MINDUA: [15:47:44](Interpretation) Mr Edwards.

2 MR EDWARDS: [15:47:44] I'm just trying to understand her evidence on this point,
3 your Honour. That's all. And the Court might be interested in understanding this
4 extraordinary evidence. But I can move on, if you like.

5 PRESIDING JUDGE MINDUA: [15:48:09](Interpretation) Yes, please.

6 MR EDWARDS: [15:48:13]

7 Q. [15:48:14] Why did -- as far as you know, why did Houka Houka adjourn the
8 proceedings [REDACTED] What was the purpose?

9 A. [15:48:55] I don't know why. But in actual fact, I -- he didn't tell me to come
10 back [REDACTED] I --

11 THE INTERPRETER: [15:49:08] Inaudible.

12 THE WITNESS: [15:49:09](Interpretation) But it was my parents who were
13 sent -- asked to come back [REDACTED] But I stayed, I remained detained there
14 until -- well, [REDACTED] He told my parents to come back [REDACTED] for the
15 divorce.

16 MR EDWARDS: [15:49:38]

17 Q. [15:49:39] Let's see if this jogs your memory.

18 Were you asked to come back [REDACTED] for -- in order for you and in order for the
19 man who you married to bring witnesses?

20 A. [15:50:26] What witness?

21 Q. [15:50:28] Never mind about the identity of the witnesses. My question was
22 this --

23 Translate that, please.

24 Was the case adjourned in order for you and the man who you married to bring
25 witnesses to present before Houka Houka?

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1 Just answer that question, please.

2 A. [15:52:13] This situation from the beginning to the end, neither the man nor I
3 had witnesses in this whole story. But the -- the witnesses were the members of my
4 family [REDACTED] who knew that I was truly in a difficult
5 situation and that I was truly being tortured. [REDACTED]
6 who were aware of the situation.

7 Q. [15:52:50] And the judge had indicated that he wanted to hear from these
8 witnesses, correct?

9 A. [15:53:11] Yes.

10 Q. [15:53:13] And is that -- and it was difficult for you to -- I'll start again.
11 Was it difficult for you to bring witnesses before Houka Houka?

12 A. [15:54:06] I didn't ask for witnesses. All I know is that I said to Houka Houka
13 that I wanted to separate from this man. Other than that, I didn't have any witnesses.
14 I just said -- I just told them to shoot me. Even if someone shot me, that would be
15 better than to remain in that marriage. Other than -- otherwise, I didn't have any
16 witnesses. I was my only witness.

17 Q. [15:54:47] And Houka Houka indicated that he was prepared to grant the
18 divorce if your husband, if the man who had married you, agreed. Is that right?

19 A. [15:55:35] Yes.

20 Q. [15:55:38] When you came back [REDACTED]

21 MR EDWARDS: [15:55:42] Can we please turn now, your Honour, to the document
22 MLI-OTP-0077-2783, which is at tab 20 -- 30 -- 32 of the Defence bundle, please.

23 Okay. Well, that's the coversheet. The translation. Can we turn to the next page.

24 Your Honour, very quickly, your Honour will see that on the face of it, the date of this
25 document - in the Islamic calendar - is the same as the date on the preceding

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1 document. We think that the -- there's been an error of transcription in the previous

2 document; that it should be [REDACTED] instead of [REDACTED]

3 But between the Defence and the Prosecution, we'll try and resolve that without

4 bothering the Chamber too much.

5 PRESIDING JUDGE MINDUA: [15:57:23](Interpretation) Quite so.

6 MR EDWARDS: [15:57:25]

7 Q. [15:57:26] Madam Witness, [REDACTED] you return before Houka Houka with

8 your family, is that right?

9 THE INTERPRETER: [15:57:53] Message from the Songhai booth: Your Honour,

10 we did not hear the response given by Madam Witness.

11 PRESIDING JUDGE MINDUA: [15:58:00](Interpretation) Madam Witness, kindly

12 repeat your answer.

13 THE WITNESS: [15:58:12](Interpretation) I was saying that it was the truth.

14 MR EDWARDS: [15:58:15] Okay.

15 Q. [15:58:17] And on that occasion, there were, in fact, translators in attendance,

16 [REDACTED]

17 Now maybe you don't know their names, but you remember that there were

18 translators present?

19 A. [15:59:06] There were people there.

20 Q. [15:59:09] Yes, Madam Witness, but specifically translators. Just confirm that,

21 please, if it's true.

22 A. [15:59:37] I don't know. I've forgotten. I've forgotten, I don't know.

23 Q. [15:59:44] Houka Houka hears you and says the following -- sorry -- hears you

24 and you say the following:

25 That your "father's wife [REDACTED] bears witness that just before the marriage, she had

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1 said that she was unwilling and not consenting."

2 Do you remember saying that to Houka Houka?

3 A. [16:00:33] Yes.

4 Q. [16:00:34] Do you remember then that your father's wife, [REDACTED] said that she had
5 heard you say that, that you were unwilling and not consenting, but that the marriage
6 took place without your knowledge?

7 A. [16:01:22] Yes.

8 Q. [16:01:23] Did you then say that your parents forced you to stay with the man
9 who married you for two nights and that you were crying as they handed you over to
10 him?

11 A. [16:02:08] I don't remember that.

12 Q. [16:02:10] Okay. I just want to be clear. Not so much what you remember
13 telling Houka Houka, but do you remember that your parents forced you to stay with
14 the man you married?

15 A. [16:03:15] Yes. When my parents were in agreement, that is when they
16 brought -- he brought the weapon and was threatening them with it. And I said I
17 would rather be shot than stay with a bandit. And my mother was afraid.

18 Q. [16:04:00] I'm just turning over the page to page 2785. Top of the page, please.

19 There's a note [REDACTED] saying:

20 "I did not inform her."

21 Is that what you understood? [REDACTED] had not informed you that the
22 marriage would take place?

23 A. [16:05:06] That's true. I wasn't informed.

24 Q. [16:05:10] Okay. [REDACTED]

25 [REDACTED]

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1 [REDACTED]?

2 A. [16:05:50] I don't know. I don't remember that.

3 Q. [16:05:53] All right. Do you remember the man who you -- who had married
4 you saying that he had brought -- I'll read the whole thing.

5 He told Houka Houka:

6 [REDACTED]
7 [REDACTED]

8 This is at page 2784.

9 Do you recall that, Madam Witness?

10 THE INTERPRETER: [16:06:55] Message from the Songhai booth: Your Honour,
11 could Mr Edwards repeat the names and more slowly, if possible.

12 PRESIDING JUDGE MINDUA: [16:07:07](Interpretation) Mr Edwards.

13 MR EDWARDS: [16:07:09] Yes.

14 Q. [16:07:10] Do you recall that the man who married you told Houka Houka the
15 following:

16 [REDACTED]

17 Translate that, first, please.

18 [REDACTED]

19 Do you remember that?

20 A. [16:08:08] I don't remember that.

21 Q. [16:08:13] Do you remember [REDACTED]

22 [REDACTED]
23 [REDACTED]

24 A. [16:08:45] I don't remember that.

25 Q. [16:08:48] During this hearing before Houka Houka, did you complain about the

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1 fact that you had -- that you were being detained at the place where they rendered
2 justice?

3 A. [16:09:27] I didn't like that.

4 Q. [16:09:30] Did you complain to the judge that you were being detained at this
5 place, at the place where they give justice?

6 A. [16:09:58] I didn't tell them that.

7 Q. [16:10:02] Why not?

8 A. [16:10:15] Tell them what?

9 Q. [16:10:17] Did you ask Houka Houka to release you so that you could go home
10 to your family?

11 A. [16:10:51] I told them that several times. I told them several times. I even
12 suggested -- offered [REDACTED] to Houka Houka, my own money, if he could -- so
13 that he could free me of that man. But he did not agree to that.

14 Q. [16:11:13] I just want to have a look at -- with you, one -- the first page we
15 looked at, 2784, please.

16 Because what's written here, Madam, is the following:

17 "On this day, the two litigants" - so I pause there for a moment, by that is meant, the
18 husband and the wife - "the two litigants returned [REDACTED] with her family."

19 I'm going to suggest, Madam, that you did appear before Houka Houka. You came
20 into Houka Houka's court, together with your family -- together, because that's where
21 you had been for the last week, with your family?

22 PRESIDING JUDGE MINDUA: [16:13:12](Interpretation) Madam Prosecutor?

23 MS LUPING: [16:13:16] Mr President, if the sound could be cut off, and I'll try to be
24 very brief, because I know we have one more document at least to show the witness.

25 PRESIDING JUDGE MINDUA: [16:13:26](Interpretation) Court officer.

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- 1 THE COURT OFFICER: [16:13:27](Interpretation) The feed has been cut off.
- 2 PRESIDING JUDGE MINDUA: [16:13:33](No interpretation)(Overlapping speakers)
- 3 *Merci beaucoup.*
- 4 *Madame la Procureur.*
- 5 MS LUPING: [16:13:34] (Overlapping speakers) Mr President, I appreciate that
- 6 Defence counsel is trying to provide the context for the witness, but at the moment,
- 7 the context that's being provided is so very long that my concern is that it'll be very
- 8 confusing.
- 9 If he's wishing to put it to her that she was not being detained and that she was
- 10 instead at the family home before she's brought back again, perhaps that may be
- 11 the simpler way of putting it. She's already said she's detained. The fact that she
- 12 might appear before Houka Houka doesn't mean that they didn't remove her from a
- 13 detention cell to bring her before Houka Houka.
- 14 My request is simply that the question is simplified and the witness can then answer.
- 15 MR EDWARDS: [16:14:19] Right.
- 16 PRESIDING JUDGE MINDUA: [16:14:24](Interpretation) Mr Edwards, I think you
- 17 have some understanding from the Prosecution; so please try to adjust your question.
- 18 Please re-establish the audio feed.
- 19 THE COURT OFFICER: [16:14:48](Interpretation) The witness can now hear us.
- 20 PRESIDING JUDGE MINDUA: [16:14:53](Interpretation) Thank you.
- 21 Mr Edwards.
- 22 MR EDWARDS: [16:14:56]
- 23 Q. [16:14:57] I suggest to you, Madam, that [REDACTED] between the first hearing in
- 24 front of Houka Houka and the second hearing in front of Houka Houka, you were at
- 25 home with your family. Do you agree or not?

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1 A. [16:15:35] Yes, that's true.

2 Q. [16:15:37] At home -- I just want to be very clear. At home with your family.
3 Do you understand?

4 A. [16:16:13] It was the members of my family who went to Houka Houka. I was
5 detained there. It was they who were coming and going. That's my step-mother,
6 my father, and my mother.

7 Q. [16:16:36] And I suggest to you that you were at home with your family, and
8 that's exactly why you said in your [REDACTED] statement that during the last four months
9 of your marriage, you were able to stay at home with your family.

10 But -- (Interpretation) "But they constantly harassed us by having us come to the
11 tribunal on a frequent basis in an attempt to convince us."

12 PRESIDING JUDGE MINDUA: [16:17:22](Interpretation) Madam Prosecutor.

13 MS LUPING: [16:17:24] Mr President, your Honours, could I just ask that the sound
14 be briefly cut off to the witness.

15 PRESIDING JUDGE MINDUA: [16:17:30](Interpretation) Madam Courtroom Officer,
16 could you please cut off the feed to the witness.

17 THE COURT OFFICER: [16:17:35](Interpretation) The sound has been cut off.

18 PRESIDING JUDGE MINDUA: [16:17:53](Interpretation) The sound is cut off.

19 Thank you very much.

20 Madam Prosecutor.

21 MS LUPING: [16:18:01](Overlapping speakers) Mr President, these are pleadings.

22 This is not an appropriate question for the witness. It's very long, very complex,
23 very confusing, and it's been asked and answered.

24 I appreciate that the added elements of the previous response relating to her

25 statements to [REDACTED] are a new element in this question, but that question and that

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1 whole line of inquiry has already been put to this witness.

2 MR EDWARDS: [16:18:29] I'll move on, your Honour. I just don't have time, so I'll
3 move on.

4 PRESIDING JUDGE MINDUA: [16:18:37](Interpretation) Very well. Please let's
5 move on or move on, please.

6 MR EDWARDS: [16:18:44]

7 Q. [16:18:45] When [REDACTED] said to Houka Houka,

8 [REDACTED]
9 [REDACTED]

10 Translate that first, please.

11 I just want to see if I can jog your memory.

12 Is that because the man who had married you had tried to seek -- had tried to arrive
13 at a reconciliation?

14 THE COURT OFFICER: [16:20:26] We have to re-establish the sound, Mr President.

15 PRESIDING JUDGE MINDUA: [16:20:32](Interpretation) Yes, indeed.

16 Madam Courtroom Officer, please.

17 THE COURT OFFICER: [16:20:44](Interpretation) The witness can hear us now, Mr
18 President.

19 PRESIDING JUDGE MINDUA: [16:20:50](Interpretation) Thank you very much.

20 Mr Edwards.

21 MR EDWARDS: [16:20:53] Thank you.

22 Q. [16:20:57] When [REDACTED] said to Houka Houka,

23 [REDACTED]
24 [REDACTED]

25 Translate that part first, please.

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1 Is that because the man who married you had tried to arrive at some sort of
2 reconciliation?

3 A. [16:22:01] Yes.

4 Q. [16:22:04] And did Houka Houka then adjourn that hearing for a while to see if
5 reconciliation could be achieved?

6 A. [16:23:02] Well, it is true. Houka Houka adjourned because he needed to see
7 whether he could have us reconcile or divorce.

8 Q. [16:23:17] So my question, Madam Witness, is, what's wrong with that? The
9 judge was doing his job. Don't you agree?

10 A. [16:23:52] Yes, he was doing his job.

11 Q. [16:23:55] Okay. Now, we know that in due course the judge did grant
12 a divorce.

13 Translate that, please.

14 And that's even though the man who married you didn't want a divorce, correct?

15 A. [16:24:58] Well, I do not know. That might be the truth; that might not. I
16 don't know.

17 Q. [16:25:05] Madam Witness, isn't it the case that the man who married you was
18 furious that Houka Houka granted your divorce?

19 MR EDWARDS: [16:25:10] And, your Honour, by way of reference, [REDACTED]

20 (Overlapping speakers)

21 THE WITNESS: [16:25:59](Interpretation) That was the day when [REDACTED]

22 [REDACTED] I got my divorce papers. I don't know whether he was angry
23 or not.

24 MR EDWARDS: [16:26:14]

25 Q. [16:26:15] I'd like to put a proposition to you.

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1 MR EDWARDS: [16:26:17] Your Honour, it's from the [REDACTED] document,

2 MLI-OTP-0071-0406, at 0409, tab 5 of the OTP bundle.

3 I'll just read it:

4 (Interpretation) [REDACTED]

5 [REDACTED] But my forced husband got angry [REDACTED]

6 [REDACTED] He said that he wanted me and that even if the divorce was
7 pronounced, he would still look for me and that if he found me, he would riddle my
8 body with bullets.

9 But the judge finally granted the divorce and signed a paper."

10 MR EDWARDS: [16:28:23]

11 Q. [16:28:24] Now, Madam Witness, does that -- does that trigger your memory of
12 the anger of your -- of the man who married you when the divorce was pronounced?

13 A. [16:28:59] Yes, I do remember.

14 Q. [16:29:02] Okay. And yesterday or -- I think it was yesterday, my learned
15 friend was attempting to adduce this evidence from you. I'll put it to you, directly.

16 Is it right that the judge was prepared to grant the divorce after [REDACTED] swore on
17 the Koran that [REDACTED]

18 [REDACTED]?

19 Translate that, please.

20 A. [16:30:24] Yes. They had him (sic) swear that it was not she who had got in the
21 way of the marriage -- even [REDACTED] on the Koran.

22 Q. [16:30:44] Because that is what your husband had been claiming, correct?

23 A. [16:31:01] Yes.

24 Q. [16:31:03] Okay.

25 MR EDWARDS: [16:31:06] Your Honour, I see the time. Can I ask for 10 minutes,

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1 and then I'll be finished. There's one important matter that I just need to put to the
2 witness.

3 PRESIDING JUDGE MINDUA: [16:31:30](No interpretation)...

4 *Oui, Madame la Procureur ?*

5 MS LUPING: [16:31:32](Overlapping speakers) Mr President, your Honours, the

6 Prosecution would not object, obviously, to that, but I just want to clarify with

7 Defence counsel, because there is one more page that relates to the documents that

8 were shown to the witness. I believe it's an important page. It's at tabs 33 and 34 of

9 the Defence binder. And I just want to clarify that this is also going to be shown to

10 the witness. It does provide context in relation to the proceedings.

11 Now, obviously, I could seek to show it in re-examination, but I don't want to take up

12 time in re-examination. And if we could avoid it, it provides context to the witness

13 as well. And I believe it'll be useful for your Honours, too, for your assessment.

14 PRESIDING JUDGE MINDUA: [16:32:17](Interpretation) Well, there are two

15 questions - the possibility, first of all, to continue for 10 or 15 minutes; and the second

16 question is up to the Defence to answer.

17 Could the Defence answer that second question, please.

18 MR EDWARDS: [16:32:30] Yes, I'm happy to. The document is going to into

19 evidence, I would hope, anyway but --

20 (Counsel confers)

21 MR EDWARDS: [16:32:39] It's already in. All right.

22 Yes, happy to. May I continue, with your Honour's leave?

23 PRESIDING JUDGE MINDUA: [16:32:47](Interpretation) No, no.

24 Madam Courtroom Officer, what about technical matters? Can we continue for

25 another 10 or 15 minutes?

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1 THE COURT OFFICER: [16:33:02](Interpretation) I think I got confirmation on both
2 sides of the courtroom, from the interpreters, that we continue for 10 minutes. I'm
3 just -- I'm going to check with the audio-visual people.

4 PRESIDING JUDGE MINDUA: [16:33:15](Interpretation) The interpreters and court
5 reporters are very nice to us. We put them through lengthy proceedings, and,
6 generally speaking, they are in agreement.

7 Yes, please, go ahead, Madam Courtroom Officer.

8 THE COURT OFFICER: [16:33:35](Interpretation) I've just had my confirmation
9 from the audio-visual colleagues that we can continue.

10 PRESIDING JUDGE MINDUA: [16:33:45](Interpretation) Mr Edwards, we can
11 continue for 10 or 15 minutes, but you should not go over that, because if the tapes
12 cut off in the interim, we won't be able to retrieve that.

13 MR EDWARDS: [16:33:58] Thank you. We're grateful to the interpreters and
14 everyone else.

15 Q. [16:34:04] Madam Witness, I'm just going to put -- ask you about one other entry
16 in this document from Houka Houka's court.

17 MR EDWARDS: [16:34:10] This is at page 2787, your Honour.

18 MLI-OTP-0077-2787 -- 2786, at 2787. Thank you.

19 Q. [16:35:16] There's a note, Madam Witness, that you --

20

21 Can that be translated, please.

22 "The wife informed me in the middle of the night that she was not consenting."

23

24 A. [16:36:35] She did say that to him. And I said that I was not in agreement. I
25 was never in agreement.

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1 Q. [16:36:45] Understood. Thank you.

2 I'm just looking at my friend to see if I can move on. Is that yes? Thank you.

3 Very, very quickly, please. I want to return to your OTP statement. This is

4 MLI-OTP-0039-0072. This is at tab - I think - 1 of the OTP bundle.

5 You gave evidence yesterday - this is at transcript pages 58 and 59 - that you were

6 forced to sleep with the man who married you and his friends, and that this

7 happened in front of the other girls in your cell.

8 Can we please go to page 10 of the statement, which is at 0081, paragraph 48. I'm

9 just going to read something that you said to the Prosecution when you gave them
10 your statement.

11 THE INTERPRETER: [16:39:40] Sight translation:

12 "The man whom I was married forcibly to and his three friends would take the girl

13 out of the cell, [REDACTED] whilst they had sex with me. They

14 would have her come back in afterwards."

15 MR EDWARDS: [16:40:33]

16 Q. [16:40:34] Now, that is -- I suggest that that is not consistent with the evidence
17 that you gave yesterday; that the rapes happened in the presence of the other girls in
18 your cell. What do you say about that?

19 A. [16:41:34] It may be that -- otherwise, what I was saying was that the third girl

20 [REDACTED] so she was often shown out of the cell, and often she
21 was isolated or sitting in her corner. Otherwise, we did everything in front of the
22 others.

23 Q. [16:42:12] Well, Madam -- Madam Witness, at paragraph 45 of your statement,
24 you say this:

25 (Interpretation) "But, during my fourth and last detention, I shared my cell with one

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1 girl [REDACTED] I do not know the name of that girl."

2 (Speaks English) You don't say that you share the cell with two other or three other
3 girls, do you?

4 A. [16:43:43] I said three women because the fourth was somebody [REDACTED]

5 [REDACTED] That's why I said there were only three of us. She was locked
6 away on her own.

7 PRESIDING JUDGE MINDUA: [16:44:04](Interpretation) Mr Edwards, you need to
8 think about wrapping up now.

9 MR EDWARDS: [16:44:07] Yes.

10 Q. [16:44:08] Well, I'm going to -- okay. Final question.

11 You talk about the *va-et-vient* in front of Judge Houka Houka. You never
12 complained to Judge Houka Houka that you were being raped in detention, did you?

13 A. [16:45:06] There was no point in me telling them that because, that he -- because
14 he was there. There was no point in me telling him that because he knows himself
15 that he was there.

16 Q. [16:45:26] I'm going to suggest that you know that if you had complained to
17 Houka Houka, if there was any truth -- you know that if you had complained to
18 Houka Houka, he would have put an end to your detention immediately.

19 MS LUPING: [16:45:45] Objection. Mr President, I'd ask that the sound be cut off.

20 PRESIDING JUDGE MINDUA: [16:45:54](Interpretation) Madam Prosecutor.

21 THE COURT OFFICER: [16:46:02](No interpretation)(Overlapping speakers)

22 MS LUPING: [16:46:05](Overlapping speakers) Objection, Mr President. Simply
23 because it requires the witness to speculate. She can't say what Houka Houka would
24 or would not have done.

25 PRESIDING JUDGE MINDUA: [16:46:16](Interpretation) Exactly. Yes, indeed.

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1 Madam Courtroom Officer, could you please re-establish the feed with the witness.

2 Mr Edwards, I have cut off the sound because your question called for speculation
3 and your time is now up.

4 MR EDWARDS: [16:46:47] Very well. Thank you, your Honour.

5 Can I just hand the floor to Maître Taylor. She has one point very quickly to make,
6 a matter of legal -- well, it doesn't detain the witness (Overlapping speakers)

7 PRESIDING JUDGE MINDUA: [16:47:05](Interpretation) There is no more time.

8 Yes, quite so.

9 Madam Prosecutor, have you any additional questions? Because there's no more
10 time.

11 MS LUPING: [16:47:18](Overlapping speakers) No, Mr President, your Honours, I
12 have no further questions for this witness.

13 PRESIDING JUDGE MINDUA: [16:47:23](Interpretation) Very well. Thank you
14 very much.

15 No, we have no more time. We said 10 minutes, and now we're 15 -- 17.

16 Ms Taylor, in one second, what do you have to say? Can't you put something in a
17 filing? If it -- if it doesn't have to do with this witness, you can put it in a filing.

18 MS TAYLOR: [16:47:43] It certainly has to do with this witness, but I think it's
19 appropriate to note for the record and to raise this to the attention of the Chamber
20 and the Prosecution that clearly from the witness's testimony today - this delayed
21 disclosure witness - it is necessary to recall two Prosecution witnesses; namely, P-150,
22 P-626, because of the Prosecution's failure to link these documents, because of their
23 failure to put these documents to those two witnesses, and given our inability to do so
24 because of their delayed disclosure.

25 So I think it's important to recall that and to record that in the record, given the clear

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1 impact on our ability to cross-examine this witness. Thank you.

2 PRESIDING JUDGE MINDUA: [16:48:33](Interpretation) The interpreters did not
3 hear everything. There's a problem with the interpretation.

4 Now, we're not going to deal with this now. Put something in a filing and the
5 Chamber shall now -- will deliberate. Mr Edwards, thank you for your
6 cross-examination. It has concluded.

7 MR EDWARDS: [16:49:02] Thank you, your Honour.

8 PRESIDING JUDGE MINDUA: [16:49:04](Interpretation) Once again, I thank you.
9 Since there are no further additional questions, we are adjourning. And I wish to
10 address the witness now.

11 Madam Witness, can you hear me?

12 THE WITNESS: [16:49:17](Interpretation) Yes.

13 PRESIDING JUDGE MINDUA: [16:49:27](Interpretation) We have finally, finally
14 come to the end of your testimony. On behalf of the Chamber, I would like to, once
15 again, thank you very sincerely for helping the Chamber by answering very clearly
16 and with great goodwill the questions that were put to you. I thank you for being so
17 patient, and I wish you good luck and great courage for everything that lies ahead of
18 you in the future. You are now free to go.

19 (The witness is excused)

20 PRESIDING JUDGE MINDUA: [16:49:55](Interpretation) Before adjourning, I
21 would like to thank all the parties and participants, the court reporters and
22 interpreters - who agreed to go beyond the usual time - and our security officers, and
23 not to forget, people listening in to the hearings.

24 We shall resume tomorrow at 9.30 with the next Prosecution witness, Witness P-0004.

25 I look to the Prosecution. Is that correct?

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- 1 MS LUPING: [16:51:11] That is correct, Mr President. The next witness, P-4, will
- 2 commence tomorrow at 9.30.
- 3 PRESIDING JUDGE MINDUA: [16:51:20](Interpretation) Very well.
- 4 We shall now adjourn. The hearing is hereby adjourned.
- 5 THE COURT USHER: [16:51:29] All rise.
- 6 (The hearing ends in private session at 4.51 p.m.)