

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Thursday, 25 February 2021
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:51] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:23](Interpretation) Court is in session.
15 Good morning to everyone.
16 Court officer, please call the case.
17 THE COURT OFFICER: [9:33:36](Interpretation) Good morning, your Honour.
18 Situation in Mali, in the case The Prosecutor versus Al Hassan Ag Abdoul Aziz Ag
19 Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And we are in open session.
21 PRESIDING JUDGE MINDUA: [9:33:49](Interpretation) Thank you very much,
22 court officer.
23 As usual, we are going to proceed with the appearances, starting of course with
24 the Office of the Prosecutor.
25 MS SARDACHTI: [9:34:01](Interpretation) Good morning, your Honour. Good

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Open Session)

ICC-01/12-01/18

1 morning, your Honours. The Prosecution is represented by Marie Claudine
2 Umurungi, Lucio Garcia, and myself, Marie-Jeanne Sardachti.
3 PRESIDING JUDGE MINDUA: [9:34:16](Interpretation) Thank you very much,
4 Prosecutor.
5 I now turn towards the Defence.
6 MS SUTHERLAND: [9:34:20] Good morning, Mr President, your Honours.
7 The Defence for Mr Al Hassan is today represented by Ms Melinda Taylor, Ms Sarah
8 Marinier-Doucet, Ms Molly Thomas, and myself, Kirsty Sutherland.
9 PRESIDING JUDGE MINDUA: [9:34:40](Interpretation) Thank you very much,
10 Ms Sutherland. I now turn towards the Legal Representatives of Victims.
11 MR LUVENGIKA: [9:34:45](Interpretation) Good morning, your Honour,
12 your Honours. The victims are represented at this hearing by Madam
13 Prisque Biyéké and by myself, Fidel Nsita Luvengika. Thank you.
14 PRESIDING JUDGE MINDUA: [9:34:57](Interpretation) Thank you very much,
15 Maître Nsita.
16 I'm now going to turn towards the witness. Today, we are going to hear
17 the testimony of the 23rd Prosecution witness and this is Witness P-0554.
18 Good morning, Witness, can you hear me?
19 WITNESS: MLI-OTP-P-0554
20 (The witness speaks Songhaï)
21 (The witness gives evidence via video link)
22 THE WITNESS: [9:35:34](Interpretation) Yes, I can hear you.
23 PRESIDING JUDGE MINDUA: [9:35:58](Interpretation) Thank you very much,
24 Madam Witness.
25 THE WITNESS: [9:36:03](No interpretation)

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [9:36:06](Interpretation) On behalf of the Chamber, I
2 would like to welcome you.

3 Please can you interpret.

4 You are going to testify with a view to aiding the Chamber establish the truth in
5 the case concerning Mr Al Hassan.

6 THE WITNESS: [9:36:52](Interpretation) Very well.

7 PRESIDING JUDGE MINDUA: [9:36:52](Interpretation) Madam Witness, protection
8 measures have been taken such that your identity shall not be revealed to the public.

9 THE WITNESS: [9:37:14](Interpretation) Very well.

10 PRESIDING JUDGE MINDUA: [9:37:16](Interpretation) Whenever you have to give
11 details which could identify you, we will go into private session.

12 THE WITNESS: [9:37:38](Overlapping speakers)

13 THE INTERPRETER: [9:37:42] Overlapping speakers.

14 PRESIDING JUDGE MINDUA: [9:37:44](Interpretation) In this way nobody, apart
15 from the people who are here in this courtroom, will be able to hear you.

16 THE WITNESS: [9:38:01](Interpretation) Very well.

17 PRESIDING JUDGE MINDUA: [9:38:03](Interpretation) Madam Witness, I am now
18 going to carry -- take your solemn undertaking under Rule 66(1) of the Rules of
19 Procedure and Evidence, the solemn undertaking according to which you must swear
20 to tell the whole truth.

21 THE WITNESS: [9:38:47](Interpretation) I swear that I will tell the truth, the whole
22 truth and just what I've seen.

23 PRESIDING JUDGE MINDUA: [9:39:03](Interpretation) Very well. Thank you
24 very much. You are now under oath.

25 THE WITNESS: [9:39:16](Interpretation) Okay.

1 PRESIDING JUDGE MINDUA: [9:39:19](Interpretation) The representatives of
2 victims and witnesses and the representatives of the Prosecution have already told
3 you what that means.

4 THE WITNESS: [9:39:41](Interpretation) Yes.

5 PRESIDING JUDGE MINDUA: [9:39:45](Interpretation) So I have some practical
6 matters to go through with you, practical instructions to give you.

7 THE WITNESS: [9:40:01](Interpretation) Okay.

8 PRESIDING JUDGE MINDUA: [9:40:03](Interpretation) You should always bear in
9 mind throughout your testimony that everything that's said in this courtroom is
10 transcribed by court reporters and it's interpreted into several languages by
11 interpreters.

12 THE WITNESS: [9:40:32](Interpretation) Okay.

13 PRESIDING JUDGE MINDUA: [9:40:35](Interpretation) It's therefore important to
14 speak clearly and slowly.

15 THE WITNESS: [9:40:51](Interpretation) Okay.

16 PRESIDING JUDGE MINDUA: [9:40:54](Interpretation) Don't start speaking until
17 the person who is putting a question to you has finished asking that question.

18 THE WITNESS: [9:41:12](Interpretation) Very well.

19 PRESIDING JUDGE MINDUA: [9:41:15](Interpretation) We're now going to take
20 your testimony.

21 You will be questioned, firstly, by the Office of the Prosecutor, thereafter possibly by
22 the Legal Representatives of Victims, and finally, by the Defence for the
23 cross-examination.

24 It's also possible that the Chamber will put some questions to you.

25 Thank you very much, Madam Witness.

1 So, without further ado, I now pass the floor to the Office of the Prosecutor.

2 Prosecutor.

3 MS SARDACHTI: [9:42:33](Interpretation) Thank you, your Honour.

4 QUESTIONED BY MS SARDACHTI: (Interpretation)

5 Q. [9:42:40] Good morning, Madam. Do you remember me?

6 A. [9:42:52] I'm well.

7 Q. [9:42:55] So we saw each other during the preparatory session at the beginning
8 of February.

9 A. [9:43:11] Yes, we saw each other.

10 Q. [9:43:16] My name is Marie-Jeanne Sardachti.

11 A. [9:43:22] (No interpretation)

12 Q. [9:43:27] So before putting questions to you on behalf of the Prosecutor, I would
13 like to remind you of a certain number of points.

14 A. [9:43:46] Very well.

15 Q. [9:43:50] So it's important to speak quite loudly and close to the microphone.

16 A. [9:44:03] Very well.

17 Q. [9:44:07] And if a question isn't clear to you and you find it difficult to
18 understand, please tell me and I will reformulate it or I will repeat it.

19 A. [9:44:34] Very well.

20 Q. [9:44:40] If you don't remember something, or you don't know the answer to
21 a question, please don't hesitate to say that.

22 A. [9:44:58] Very well.

23 MS SARDACHTI: [9:45:05](Interpretation) Your Honour, your Honours, with your
24 leave, I would like to go into private session for approximately 10 minutes, the time it
25 will take to elicit identifying elements.

1 PRESIDING JUDGE MINDUA: [9:45:21](Interpretation) Court officer, please take us
2 into private session.

3 MS SARDACHTI: [9:45:34](Interpretation) Madam Witness --
4 (Private session at 9.45 a.m.)

5 THE COURT OFFICER: [9:45:36] We are in private session.

6 (Redacted)

7 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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- 13 (Open session at 9.57 a.m.)
- 14 THE COURT OFFICER: [9:57:48](Interpretation) We are now in open session,
- 15 your Honour.
- 16 PRESIDING JUDGE MINDUA: [9:57:51](Interpretation) Thank you very much,
- 17 court officer.
- 18 Prosecutor, please continue if you would be so kind.
- 19 MS SARDACHTI: [9:57:58](Interpretation)
- 20 Q. [9:57:59] Madam Witness, I'm going to start by putting questions to you about
- 21 life in Timbuktu in 2012.
- 22 A. [9:58:22] Very well.
- 23 Q. [9:58:25] So, were you present in Timbuktu when the town was taken over by
- 24 armed groups?
- 25 A. [9:58:45] Yes, I was present then.

1 Q. [9:58:54] So, in private session, you spoke about these people. Could you give
2 more details to the Court, what do you mean by "these people", who are they?

3 A. [9:59:38] These people, those are the people that arrested me. I don't know
4 them, but all I know about them is that they are bearded people. They are
5 the bearded ones.

6 Q. [10:00:05] Madam Witness, these people who you call "the bearded ones", do
7 you remember how they were dressed?

8 A. [10:00:27] Yes, I recall.

9 Q. [10:00:37] Can you tell us how they were dressed?

10 A. [10:00:45] They wore raglan, and these were the raglan, they were not the bazin.
11 It was a full robe with something on top of it, with a lot of pockets. They had
12 turbans, turbans and their trousers were not very long. They were sort of short
13 trousers.

14 Q. [10:02:04] Do you recall whether they were armed?

15 A. [10:02:17] What?

16 Q. [10:02:20] Do you recall whether they carried weapons?

17 A. [10:02:41] Yes, they carried weapons.

18 Q. [10:02:58] And do you recall what sort of vehicles they drove, if they drove
19 vehicles?

20 A. [10:03:15] Yes, they did drive vehicles.

21 Q. [10:03:28] Could you describe these vehicles as you remember them?

22 A. [10:03:35] Yes, I can describe them, these type of vehicles. They were not
23 covered at the back and they were sort of vans, but they had no cover at the back.
24 Those are the ones they used most. But in general they had various types of vehicles,
25 vans and vehicles without any covering at the back.

1 Q. [10:05:04] What language did they speak?

2 A. [10:05:14] Some spoke Arabic and some spoke Tamasheq.

3 Q. [10:05:40] Madam Witness, were there changes in the way of life in Timbuktu
4 after the arrival of the people you refer to as "the bearded ones"?

5 A. [10:06:18] When they arrived in Timbuktu, that's when they inflicted this torture
6 on us. They found that we were already practicing that because they were talking of
7 prayers. They felt that we did pray. They also talked of dressing correctly and they
8 didn't think that we did so, so that's why they fell on us.

9 Q. [10:07:23] Madam Witness, could I please ask for a clarification. I read here
10 that they felt that you -- they talk about prayer and they felt that you did pray.
11 Could you please clarify this for us, please.

12 A. [10:07:51] They talked of praying, they were talking about praying in
13 the language, because when they arrived we were already Muslim, we did pray, we
14 dressed correctly. But this is why they came, because, according to them, it was to
15 avoid people dressing any old how and to bring people to prayer. And when
16 they -- but when they arrived we were already praying because we were Muslim.
17 We did wear correct dress but something else. They want to fight there. It's
18 difficult. Until the end of the world it won't be possible -- that is possible -- men and
19 women meet, that those are when practices start. And as long as the world remains
20 the world, we can't stop that happening.

21 Q. [10:09:58] You said "they fell on us", could you explain what you mean by this
22 expression?

23 A. [10:10:38] When I say they fell on us, *I mean they arrived, since they were
24 stronger than us, they imposed themselves on us. They came, really, just in order
25 to do us wrong. Because they were stronger than us they can impose on us their will.

1 That's all.

2 Q. [10:11:18] You said "they inflicted this torture on us", could you please explain
3 what you mean by that?

4 A. [10:12:48] What I mean is that, when they arrived, a lot of things that they
5 imposed on us, for example, people not being allowed to go to the market, women
6 were no longer allowed to go shopping, the men couldn't go to work, they
7 *used to take women, to bring them to places, and to undress them to flog them.

8 THE INTERPRETER: [10:13:27] This is not clear in the interpretation.

9 THE WITNESS: [10:13:30](Interpretation) (Redacted)

10 (Redacted) Even the men were afraid of

11 these people and they didn't go to work anymore. *People who were found praying
12 and for whom Islam is important found themselves the target of actions that are
13 totally unacceptable under Islam and were told they were obliged to behave properly.
14 Our dignity was disregarded. They talk about Islam. Islam does not tolerate the
15 humiliations that they inflicted upon people.

16 MS SARDACHTI: [10:14:28](Interpretation)

17 Q. [10:14:30] Why were you no longer allowed to go to the market?

18 A. [10:14:48] It was because of them, because whatever you did, the way that you
19 covered your body, they always found something to say that you hadn't totally
20 covered your body. And then it was because of that that I didn't go to the market
21 anymore. And it wasn't just me, it was a lot of women. Whatever
22 the way -- whatever way we dressed, we covered our bodies. But they always
23 questioned whether we were properly covered. And that's why a lot of people no
24 longer dared leave the house.

25 MS SARDACHTI: [10:16:17](Interpretation) Mr President, I would like to move into

1 private session for a quarter of an hour or so, please.

2 PRESIDING JUDGE MINDUA: [10:16:28](Interpretation) Court officer, private
3 session, please.

4 (Private session at 10.16 a.m.)

5 THE COURT OFFICER: [10:16:42](Interpretation) We are back in private session.

6 (Redacted)

7 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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13 Page redacted – Private session

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Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

- 1 (Open session at 10.46 a.m.)
- 2 THE COURT OFFICER: [10:46:15] We are now in open session, Mr President.
- 3 PRESIDING JUDGE MINDUA: [10:46:21](Interpretation) Thank you very much.
- 4 Madam Prosecutor.
- 5 MS SARDACHTI: [10:46:28](Interpretation)
- 6 Q. [10:46:30] And what happened afterwards, Madam Witness?
- 7 THE SONGHAI-FRENCH INTERPRETER: [10:46:54](Interpretation) Your Honour,
- 8 could the witness repeat?
- 9 PRESIDING JUDGE MINDUA: Yes, the witness can repeat. We are in open
- 10 session.
- 11 THE WITNESS: [10:47:13](Interpretation) What happened there, when we arrived
- 12 there, they put me in a small cell. Into a small prison.
- 13 MS SARDACHTI: [10:47:42](Interpretation)
- 14 Q. [10:47:44] Could you describe that place to us.
- 15 A. [10:48:03] Yes, I can. It's next to Yobou Tao. It's part of Yobou Tao, next to
- 16 Yobou Tao.
- 17 Q. [10:48:27] Can you describe the building?
- 18 A. [10:48:39] Yes, I can.
- 19 Q. [10:48:45] Could you explain to the Court what this building was like.
- 20 A. [10:48:59] It's a house at -- it's got two levels, two floors. So there's a room
- 21 which is just next to the floor, the first floor. A small room.
- 22 Q. [10:49:53] Do you know this place?
- 23 A. [10:50:02] Yes, I recognise it.
- 24 Q. [10:50:12] Did you go to the -- have you been to that place before -- had you
- 25 been to that place before?

1 A. [10:50:23] No.

2 Q. [10:50:30] Do you know what people called that place?

3 A. [10:50:58] Were they not called -- I think they were called the gendarmerie. I
4 think they were called police or gendarmerie.

5 Q. [10:51:21] You said that they took you to a small cell. Could you describe that
6 cell to us.

7 A. [10:51:36] Yes, I can.

8 Q. [10:51:42] And what was it like?

9 A. [10:52:13] It's a very small room, extremely small. It's not even enough for one
10 person. And there is a grille or bars and you can see people from outside and people
11 from outside can also see you. It's a very small room.

12 Q. [10:52:46] And what was the state of this room?

13 A. [10:53:02] (No interpretation)

14 PRESIDING JUDGE MINDUA: [10:53:15](Interpretation) Just one minute, Madam
15 Prosecutor.

16 Madam Prosecutor, there's a technical problem with the Registry that means that we
17 can no longer continue with redactions of certain portions of the transcript. So what
18 we're going to do is we're going to immediately suspend the hearing so that
19 the problem can be resolved. We are going to be back at 11.30.

20 Court is suspended. Thank you.

21 THE COURT USHER: [10:54:46] All rise.

22 (Recess taken at 10.54 a.m.)

23 (Upon resuming in open session at 11.46 a.m.)

24 THE COURT USHER: [11:46:34] All rise.

25 Please be seated.

1 PRESIDING JUDGE MINDUA: [11:46:59](Interpretation) The Court is once again in
2 session.

3 We will continue with the examination with the Prosecutor, but a short
4 announcement to make with regard to our timetable. As you see, we're starting
5 15 minutes late and we will also break 15 minutes late. So that should be 1315, 1315
6 for the lunch break. We will then have a shorter lunch break, one hour, so we'll start
7 at 1415. Thank you.

8 Madam Prosecutor, you have the floor.

9 MS SARDACHTI: [11:48:02](Interpretation)

10 Q. [11:48:05] Madam Witness, before we pick up from where we stopped before
11 the break, I would like to say something to you.

12 A. [11:48:36] Yes.

13 Q. [11:48:39] Could you please give shorter replies. These will make it easier for
14 the interpreters to take note of everything that you say.

15 A. [11:49:02] Very well.

16 Q. [11:49:06] Thank you. Before the break, I was asking you about the state of
17 the room, the condition of the room where you were held.

18 A. [11:49:54] It was a small room where I was and -- and it really smelled dreadful
19 and I could hardly breathe in that room.

20 Q. [11:50:18] Were you able to leave this room?

21 A. [11:50:29] No, I was not able to leave.

22 Q. [11:50:34] Why not?

23 A. [11:50:42] It was closed.

24 Q. [11:50:54] Were there any other people with you in this room?

25 A. [11:51:06] No, I was alone.

1 Q. [11:51:16] You said that the room was closed. Can you recall whether anyone
2 was watching you?

3 A. [11:51:45] Of course, there were people there who were arrested, that they were
4 all around. They came, they went, they went, they came. There were people there.

5 *Q. [11:52:07] Who were these people?

6 THE WITNESS: [11:52:22](Interpretation) These were, of course, the people that
7 I was talking about earlier.

8 MS SARDACHTI: [11:52:33](Interpretation)

9 Q. [11:52:35] Were you given anything to eat and drink?

10 A. [11:52:50] No. Once they brought me some milk and I refused to take it.

11 Q. [11:53:04] Were there toilets?

12 A. [11:53:16] There were no toilets. Everything happened in the same room.

13 Q. [11:53:32] Roughly, if you recall, how long did you stay in this room?

14 A. [11:53:59] I think that I spent the night there and then to the next day, to
15 the evening of the next day when I was taken to another small room.

16 Q. [11:54:26] (No interpretation)

17 A. [11:54:37] Okay.

18 Q. [11:54:45] Do you recall whether you had anyone visit you?

19 A. [11:54:57] Yes.

20 Q. [11:55:03] Roughly, and if you recall, how many people came to visit you?

21 A. [11:55:18] Three people.

22 Q. [11:55:25] How did you feel in this room?

23 A. [11:55:54] I was ashamed. I felt ashamed. And I was afraid for my safety.
24 And really I felt quite unwell.

25 Q. [11:56:15] Madam Witness, you said that the next day in the early evening you

- 1 were taken to another room. Can you describe this other room to us?
- 2 A. [11:56:42] The room, yeah. Yes, of course.
- 3 Q. [11:56:55] What was this room like?
- 4 A. [11:57:21] It was -- it was close to the other and in this room there were white
5 tiles, and there were also stains in the room.
- 6 Q. [11:57:46] Who was present in this room?
- 7 A. [11:57:55] There was a man in the room.
- 8 Q. [11:58:18] What was this man like, can you describe him, please?
- 9 A. [11:58:33] Yes, I can.
- 10 Q. [11:58:43] What was he wearing?
- 11 A. [11:59:14] I don't recall this very well, but I do know that it was somebody with
12 black skin. He wasn't very fat, he was quite slim. But he had the same sort of
13 clothing.
- 14 Q. [11:59:35] Did he speak?
- 15 A. [11:59:46] Yes.
- 16 Q. [11:59:55] If you recall, which language did he speak?
- 17 THE INTERPRETER: [12:00:21] I missed the first bit, says the interpreter. But he
18 spoke in Arabic.
- 19 The first bit was: If I recall correctly, he spoke in Arabic.
- 20 MS SARDACHTI: [12:00:36](Interpretation)
- 21 Q. [12:00:36] And apart from this man, were there other people in the room?
- 22 A. [12:00:52] Yes, there were other people.
- 23 Q. [12:01:02] We are in public session, so please doesn't give any names. But can
24 you tell us who these other people were?
- 25 A. [12:01:29] Yes.

1 Q. [12:01:43] How are you, Madam Witness?

2 A. [12:01:52] I'm okay, yeah, I'm fine.

3 Q. [12:01:55] Can we continue?

4 A. [12:02:00] Yes.

5 Q. [12:02:05] If you don't feel well, then ...

6 A. [12:02:20] Yes, I'm okay.

7 MS SARDACHTI: [12:02:26](Interpretation) Could we please have a short break for
8 her to see people from the victims' unit.

9 PRESIDING JUDGE MINDUA: [12:02:38](Interpretation) Courtroom officer, can we
10 have a short break?

11 Prosecutor, how much time would you like for this?

12 MS SARDACHTI: [12:02:48](Interpretation) I would like the witness to have time to
13 come to herself again.

14 PRESIDING JUDGE MINDUA: [12:02:56](Interpretation) Cut the sound, please.

15 THE COURT OFFICER: [12:03:03] Do you want me to turn into private session too
16 so we don't see or ...

17 PRESIDING JUDGE MINDUA: [12:03:10](Interpretation) Yes, let's move into private
18 session.

19 (Private session at 12.03 p.m.)

20 THE COURT OFFICER: [12:03:28] We are in private session, Mr President.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Open Session)

ICC-01/12-01/18

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4 (Open session at 12.08 p.m.)

5 THE COURT OFFICER: [12:08:21](Interpretation) We are once again in public
6 session, your Honour.

7 PRESIDING JUDGE MINDUA: [12:08:24](Interpretation) Thank you, courtroom
8 officer.

9 So I would like to say that the witness is taking a short rest and we will take
10 a 10-minute break in the hearing. The hearing is suspended.

11 (Recess taken at 12.08 p.m.)

12 (Upon resuming in open session at 12.24 p.m.)

13 THE COURT USHER: [12:24:46] All rise.

14 Please be seated.

15 PRESIDING JUDGE MINDUA: [12:25:10](Interpretation) Court is in session.

16 Madam Witness, is it better now?

17 THE WITNESS: [12:25:28](Interpretation) Yes, it is.

18 PRESIDING JUDGE MINDUA: [12:25:33](Interpretation) Thank you very much.

19 The Chamber would like to thank you for your availability.

20 So I've now got an announcement to make. Taking into account the situation, we
21 have just started again at 12.25 and we're going to continue until 1325. We will have
22 a break of one hour.

23 I'm now turning towards the Prosecutor.

24 Madam Prosecutor, taking into account the situation, I have perhaps some advice to
25 give to you. Would it not be possible to reduce the duration of your

1 examination-in-chief by focusing on the particular aspects with relation to this
2 witness, leaving aside other aspects which have already been developed by different
3 witnesses. Thank you very much, you now have the floor.

4 MS SARDACHTI: [12:26:33](Interpretation) Indeed, your Honour, we take good
5 note of your advice and we shall make an effort to do our best in this regard.

6 Q. [12:26:55] Madam Witness, before the break you spoke to us about a room
7 which you were in with a man and other people and then you were taken to another
8 place.

9 A. [12:27:26] Yes, they took me somewhere else.

10 Q. [12:27:38] Could you tell us where it was?

11 A. [12:27:48] Yes, I can.

12 Q. [12:27:54] So, what was that place called?

13 A. [12:28:18] I don't know the name. But what I do know is that it's where
14 the judgment was, where they try people. If you have to go to prison or you have to
15 be flogged, it's that place there.

16 Q. [12:28:50] And approximately, do you remember how many people were in
17 the room or in that place?

18 A. [12:29:30] Well, at the time, those who were in front of me, there were four
19 people. There were other people, but I saw four people in front of me. Yes, there
20 were people.

21 Q. [12:29:55] And who were these four people?

22 A. [12:30:24] Well, these people, they had papers in front of them. They read what
23 was on the papers. I think it was these people who were rendering the judgment.

24 Q. [12:30:41] Could you tell us a bit more about these papers and describe them?

25 A. [12:31:16] These were papers, white papers, with other yellow papers like what

- 1 I'm wearing here.
- 2 Q. [12:31:41] Did these people speak to you?
- 3 A. [12:32:00] (Redacted)
- 4 (Redacted)
- 5 Q. [12:32:27] So, at the time, did you understand what was happening?
- 6 A. [12:32:43] I'm sorry?
- 7 Q. [12:32:45] I'm going to put my question differently. Did you understand why
- 8 you were in that place, in that room?
- 9 A. [12:33:10] Yes.
- 10 Q. [12:33:15] So, did they tell you what they were accusing you of?
- 11 A. [12:33:24] Yes.
- 12 Q. [12:33:32] And how much time did this last for, if you remember,
- 13 approximately?
- 14 A. [12:33:50] It didn't last long.
- 15 THE INTERPRETER: [12:34:05] Or, it did last long, corrects the interpreter.
- 16 MS SARDACHTI: [12:34:09](Interpretation)
- 17 Q. [12:34:10] Could you say in terms of hours, more than an hour, less than an
- 18 hour?
- 19 A. [12:34:32] Well, in terms of the duration there, about an hour. It was for about
- 20 an hour, something like that.
- 21 Q. [12:34:48] Was somebody able to speak on your behalf?
- 22 A. [12:35:00] No.
- 23 Q. [12:35:07] Were you able to call witnesses?
- 24 A. [12:35:20] They didn't give me the opportunity to call a witness.
- 25 MS SARDACHTI: [12:35:38](Interpretation) Your Honour, for the next five minutes,

1 I'm not going to presume what the witness is going to say, but the questions that I'm
2 going to put, they risk being very identifying and, as such, I would suggest that we go
3 into private session for five minutes.

4 PRESIDING JUDGE MINDUA: [12:35:55](Interpretation) Very well.

5 Court officer, please could you take us into private session.

6 (Private session at 12.36 p.m.)

7 THE COURT OFFICER: [12:36:13](Interpretation) We are in private session again,
8 your Honour.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

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- 10 (Redacted)
- 11 (Redacted)
- 12 (Open session at 12.40 p.m.)
- 13 THE COURT OFFICER: [12:40:24](Interpretation) We are in open session again,
- 14 your Honour.
- 15 PRESIDING JUDGE MINDUA: [12:40:30](Interpretation) Thank you, court officer.
- 16 Madam Prosecutor, please continue.
- 17 MS SARDACHTI: [12:40:36](Interpretation)
- 18 Q. [12:40:42] Witness, you mentioned that you were taken to a prison in a camp.
- 19 Could you tell us how you were taken there, what means of transport was used to
- 20 take you there?
- 21 A. [12:41:32] The route that we took to go there, you could see large trees. And
- 22 when we got to the -- just until we got to the prison, it was dirty outside.
- 23 Q. [12:41:55] Could you describe the entry to this prison.
- 24 A. [12:42:06] Yes, I can.
- 25 Q. [12:42:12] So what was this entry like?

1 A. [12:42:31] It was a large red gate.

2 Q. [12:42:45] And if you remember, approximately how long did you stay at that
3 place?

4 A. [12:43:10] I think I was there for four days, if I remember. Four days, if my
5 memory serves me well.

6 Q. [12:43:23] If you remember, where in the prison were you taken to?

7 A. [12:44:19] They took me to a house with a large courtyard, and it was long.

8 And now, in terms of the room, it was a lounge, I was taken to a lounge. There was
9 an old mosquito net and there was an old mattress -- or an old mat.

10 Q. [12:44:58] Were you able to leave that place?

11 A. [12:45:09] I could leave into the courtyard, but the courtyard was closed off.

12 Q. [12:45:28] Do you remember who was in the courtyard?

13 A. [12:45:38] There was nobody else, I was alone there.

14 Q. [12:45:48] So after these four days spent in the camp prison, what happened
15 afterwards? Were you taken to another place, what happened?

16 A. [12:46:23] After that they took me to a house where there was the whips with
17 which we were flogged.

18 Q. [12:46:47] And who made these whips?

19 A. [12:46:56] They made them themselves. They made these whips themselves.

20 Q. [12:47:08] Roughly, and if you can recall, how much time did you spend in this
21 place?

22 A. [12:47:30] I spent some time there, but it was the -- the same day that I -- I left
23 there, the same day.

24 Q. [12:47:55] (Redacted)

25 A. [12:48:13] (Redacted).

1 MS SARDACHTI: [12:48:25](Interpretation) Your Honour, I would like to move to
2 private session for a short time, please. Five minutes perhaps.

3 PRESIDING JUDGE MINDUA: [12:48:37](Interpretation) Court officer, private
4 session, please.

5 (Private session at 12.48 p.m.)

6 THE COURT OFFICER: [12:48:47](Interpretation) We are in private session,
7 your Honour.

8 (Redacted)

9 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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13 (Open session at 1.00 p.m.)
14 THE COURT OFFICER: [13:00:11](Interpretation) We are in public session and I
15 need to contact the transmission room to re-establish the sound connection too.
16 PRESIDING JUDGE MINDUA: [13:00:25](Interpretation) Yes, please go ahead.
17 THE COURT OFFICER: [13:01:05](Interpretation) We have sound again,
18 your Honour.
19 PRESIDING JUDGE MINDUA: [13:01:08](Interpretation) Thank you, courtroom
20 officer.
21 Madam Witness, we are going to take a break now for an hour. During this break
22 you can rest and you can also have something to eat.
23 So we will suspend the hearing. The hearing is suspended.
24 THE COURT USHER: [13:01:28] All rise.
25 (Recess taken at 1.01 p.m.)

- 1 (Upon resuming in open session at 2.32 p.m.)
- 2 THE COURT USHER: [14:32:32] All rise.
- 3 Please be seated.
- 4 PRESIDING JUDGE MINDUA: [14:32:59](Interpretation) The Court is once more in
- 5 session.
- 6 (Speaks English) I don't see the witness on my screen.
- 7 THE COURT OFFICER: [14:34:44](Interpretation) Your Honour, somebody will be
- 8 with you in a very short time to fix this.
- 9 (Pause in proceedings)
- 10 THE COURT OFFICER: [14:35:38](Interpretation) The technician is on his way,
- 11 your Honour.
- 12 (Pause in proceedings)
- 13 THE COURT OFFICER: [14:37:27] In the meantime, can I ask if someone else has
- 14 a similar issue and cannot see the clear view of witness? Okay. The psychologist.
- 15 I think now this is fixed, Mr President?
- 16 PRESIDING JUDGE MINDUA: [14:38:25](Interpretation) Yes, it's all sorted, so we
- 17 can continue. Thank you. I would like to thank the Registry, the technician for this
- 18 assistance.
- 19 Good afternoon, Madam Witness. Have you been able to take sufficient rest?
- 20 THE WITNESS: [14:38:58](No interpretation)
- 21 PRESIDING JUDGE MINDUA: [14:39:14](Interpretation) Thank you.
- 22 In that case, Madam Prosecutor, you have the floor.
- 23 MS SARDACHTI: [14:39:21](Interpretation) Thank you, your Honour.
- 24 Q. [14:39:25] Good afternoon, Madam Witness.
- 25 A. [14:39:33] Good afternoon, I'm -- I'm well.

1 Q. [14:39:39] Before the break you told us that you had been flogged, and I would
2 like to know, immediately after this flogging, what was the state of your injuries?

3 A. [14:40:14] The injuries?

4 Q. [14:40:27] Yes, the injuries. What injuries did you have?

5 A. [14:41:17] Well, I -- now I have scars and my back hurts a lot. And often
6 the scars are painful.

7 Q. [14:41:51] Where are these scars?

8 A. [14:42:12] On my back and on the shoulders.

9 Q. [14:42:31] And after your flogging did you receive any psychological support?

10 A. [14:43:01] No. No, there was nothing. I didn't hear the second part.

11 THE INTERPRETER: [14:43:14] Says the transcript.

12 MS SARDACHTI: [14:43:22](Interpretation) I would like to ask a final question in
13 private session.

14 PRESIDING JUDGE MINDUA: [14:43:30](Interpretation) Court officer, private
15 session, please.

16 (Private session at 2.43 p.m.)

17 THE COURT OFFICER: [14:43:42](Interpretation) We are in private session,
18 your Honour.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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13 Page redacted – Private session

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Trial Hearing
WITNESS: MLI-OTP-P-0554

(Private Session)

ICC-01/12-01/18

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Page redacted – Private session

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9 (Open session at 3.03 p.m.)

10 THE COURT OFFICER: [15:03:35](Interpretation) We are back in open session,

11 Mr President.

12 PRESIDING JUDGE MINDUA: [15:03:39](Interpretation) Thank you very much.

13 Madam Prosecutor, please.

14 MS SARDACHTI: [15:03:46](Interpretation)

15 Q. [15:03:48] I'm going to put my question once again.

16 Could you please explain to the Chamber the consequences that this event had on
17 your life.

18 A. [15:04:15] Yes, I can.

19 Q. [15:04:23] What are your relations with your friends?

20 A. [15:05:14] Well, since everything happened with the Islamists, I can no longer go
21 out in public. I cannot talk to my friends in public. Everyone is speaking badly
22 behind my back. I can't even go out because everyone is talking about me. I can't
23 go to public ceremonies.

24 Q. [15:05:44] Do you have any health issues today subsequent to these events?

25 A. [15:06:35] In the name of God, since I was flogged I have health issues. It is

1 true that I had blood pressure issues. I can't even sit down.

2 Q. [15:06:56] And how do you feel in yourself today?

3 A. [15:07:45] I just have pain. I have pain. Even now, my children, people talk to
4 my children about it. Friends talk badly about me. It's just pain.

5 Q. [15:08:10] Madam Witness, I would like to thank you once again for your
6 courage and your patience.

7 Mr President, this marks the end of my examination-in-chief.

8 PRESIDING JUDGE MINDUA: [15:08:22](Interpretation) Thank you very much,
9 Madam Prosecutor, for all the efforts that you have made in order to attempt to
10 follow the advice of the Chamber.

11 I shall now turn to the Legal Representative of Victims.

12 Mr Nsita, after having followed the examination-in-chief on the part of the Prosecutor
13 and taking into account the particular situation of this witness, do you still intend to
14 put questions to her?

15 MR LUVENGIKA: [15:09:02](Interpretation) I thank you, Mr President,
16 your Honours.

17 It is true that the examination-in-chief did broach a number of the questions that I had
18 intended to put to the witness. Nevertheless, I did want to add -- or, did want to ask
19 just two questions. I will keep my word. I just want to ask two questions to elicit
20 items of evidence that might be useful for the -- for the case of this witness later on.

21 PRESIDING JUDGE MINDUA: [15:09:45](Interpretation) We will grant your request,
22 Maître Nsita, but please take into account the particular circumstances of this witness.
23 Please be brief.

24 MR LUVENGIKA: (Interpretation) Good afternoon, Madam Witness.

25 PRESIDING JUDGE MINDUA: [15:09:59](Interpretation) I do apologise. Is there

1 any objection on the part of the Defence? It depends on the questions of course, that
2 he's going to be putting.

3 MS SUTHERLAND: [15:10:09] Mr President, you've pre-empted my standard
4 objection, which is no objection in principle, but of course we reserve the right to
5 object should the nature of the questions require it.

6 PRESIDING JUDGE MINDUA: [15:10:25](Interpretation) Thank you very much,
7 Ms Sutherland, for your cooperation.

8 Mr Nsita, Maître Nsita, please, over to you.

9 MR LUVENGIKA: [15:10:36](Interpretation) Yes, Mr President, before I put my
10 questions to the witness, I did want to make a brief observation as to the decision or
11 a decision on the part of the Chamber which outlines how the proceedings should
12 unfold and which acknowledges to the Legal Representatives for Victims the right to
13 put questions to the witnesses. Unless I have misinterpreted this, this is not -- it is
14 not dependent upon any objections to be raised by the Defence. But I am in
15 agreement that we will be putting our questions, or I shall be putting my questions to
16 the witness under the control of the Chamber. We shall make sure that we shall not
17 be a Prosecutor *bis*. We remain Legal Representatives for Victims and we shall be
18 fulfilling our mandate, remaining within the scope of the Statute as acknowledged by
19 the Chamber. Thank you, Mr President.

20 PRESIDING JUDGE MINDUA: [15:11:48](Interpretation) Thank you very much for
21 your observation, Mr Nsita. But when the Chamber asks the Defence whether they
22 have any objections to raise, this does not mean that the Defence will necessarily
23 oppose and, therefore, the Chamber would say that you are not in a position to put
24 questions. That is not it. It just requests the opinion of the parties and then it is up
25 to the Chamber to decide. There is no nexus. Over to you.

1 QUESTIONED BY MR LUVENGIKA:

2 Q. [15:12:23] Good afternoon, Madam Witness.

3 A. [15:12:30] (No interpretation)

4 Q. [15:12:31] My name is Maître Fidel Nsita and I am one of the lawyers
5 representing the factual -- or the victims of Timbuktu.

6 (Redacted)

7 (Redacted)

8 (Redacted)

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10 (Redacted)

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12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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19 (Redacted)

20 (Redacted)

21 Q. [15:16:20] Yes, thank you, Madam Witness. I'm going to put one last question
22 to you. When you decided to come to testify before the Chamber, what do you
23 expect from the Chamber with regard to what happened to you?

24 A. [15:17:26] I am hoping that justice will be administered. Why did they spoil
25 my life like this? Why did they ruin my children's lives? I want justice to be done

1 between me and those people there.

2 Q. [15:17:48] Thank you very much, Madam Witness. I have finished putting
3 questions to you.

4 Mr President, your Honours, this marks the end of my questions.

5 PRESIDING JUDGE MINDUA: [15:18:02](Interpretation) Thank you very much,
6 Maître Nsita. You did keep your word and I'm grateful for that.

7 Now I'm turning to the Defence for the cross-examination.

8 Now, of course I don't expect there to be any objection from the Prosecutor with
9 regard to any documents or items of evidence.

10 MS SARDACHTI: [15:18:30](Interpretation) I just wanted to say that the list of
11 evidence on the part of the Defence was submitted very tardily, we received it this
12 morning at 9.20, if I am not mistaken. Article 61 in the decision on the conduct of
13 proceedings says it should be sent at least one day in advance.

14 PRESIDING JUDGE MINDUA: [15:18:59](Interpretation) Ms Sutherland, what do
15 you have to say to that?

16 MS SUTHERLAND: [15:19:03] Mr President, that is in fact the case. We sent it on
17 the understanding that we would be commencing our cross-examination tomorrow.
18 I am ready to proceed, though I would, at the outset, like to know exactly how much
19 time will be afforded to us given the curtailed nature of the Prosecution's
20 examination-in-chief.

21 My one further observation is that, in view of the likely curtailment of our
22 cross-examination time, time this evening to refine my cross-examination would be
23 appreciated.

24 PRESIDING JUDGE MINDUA: [15:19:55](Interpretation) A little bit more time,
25 what exactly does that mean? How much?

1 MS SUTHERLAND: [15:20:04] Mr President, I first prepared my cross-examination
2 on the understanding that I would have approximately five hours, that was then
3 reduced to four hours, and I now understand the Prosecution has used just over two
4 hours, meaning that my cross-examination may be a little bit long at the moment.

5 PRESIDING JUDGE MINDUA: [15:20:35](No interpretation)

6 (Trial Chamber confers)

7 PRESIDING JUDGE MINDUA: [15:22:02](Interpretation) Well, Ms Sutherland, we
8 briefly deliberated, as you might have seen. You raise two questions. The first
9 question is the delayed manner in which you received items of evidence from
10 the Office of the Prosecutor -- no, what am I saying, it's the opposite, the fact that you
11 belatedly gave the documents to the Prosecutor and the Prosecutor was saying that
12 they needed at least one day in advance, as was in our decision.

13 Now, the second question is the amount of time that you would need to have. I'm
14 going to start by answering the second question. As to the volume of time or
15 the amount of time, because we are dealing here with a viva voce witness,
16 the Chamber will grant you exactly the same amount of time as that used by
17 the Prosecution.

18 Now, of course, madam courtroom officer will tell me precisely how long the -- or
19 how much time the Prosecution used up.

20 Madam courtroom officer.

21 THE COURT OFFICER: [15:23:18](Interpretation) The Office of the Prosecutor used
22 2 hours and 21 minutes to question the witness in total.

23 PRESIDING JUDGE MINDUA: [15:23:27](Interpretation) There we are. Thank you
24 very much for those details.

25 So 2 hours and 21 minutes, that is what you will have at your disposal,

1 Ms Sutherland.

2 Now, as to your first question with regard to the items of evidence, I'm going to create
3 a nexus between this question and the specific situation of the witness. I would like
4 for the witness to be able to rest the remainder of the day. We shall continue
5 tomorrow. And you have 24 hours, therefore, to prepare your cross-examination.
6 That is the decision come to by the Chamber.

7 I will turn now to the witness.

8 Madam Witness, we shall now suspend your evidence for the time being. Of course,
9 the Chamber would like to thank you for having very clearly answered the questions
10 that have been put to you. But as your testimony has not yet come to an end, you
11 shall be continuing your testimony tomorrow.

12 Until then, please do not forget that you are not allowed to speak about your
13 testimony to whomsoever. Nor are you allowed to speak to your -- neither are you
14 allowed to speak to members of your family or your friends, were you to come into
15 contact with them this evening.

16 Have you understood what I just said to you?

17 THE WITNESS: [15:26:17](Interpretation) I know that it's not the right thing to do, I
18 have understood. It's not the right thing to do.

19 PRESIDING JUDGE MINDUA: [15:26:33](Interpretation) Very well. Thank you
20 very much, Madam Witness.

21 Madam courtroom officer, we are in open session, are we not?

22 THE COURT OFFICER: [15:26:44](Interpretation) Yes, we are, Mr President.

23 PRESIDING JUDGE MINDUA: [15:26:46](Interpretation) Very well.

24 So, we shall rise for today.

25 I would like to thank the parties and the participants. I would also like to thank

Trial Hearing
WITNESS: MLI-OTP-P-0554

(Open Session)

ICC-01/12-01/18

- 1 the court reporters and the interpreters, and, of course, I am very grateful to our
- 2 security officers. I would like to thank the members of the public in the public
- 3 gallery and further afield and wish you all a very pleasant evening.
- 4 We shall reconvene tomorrow morning at 9.30.
- 5 Court is adjourned.
- 6 THE COURT USHER: [15:27:29] All rise.
- 7 (The hearing ends in open session at 3.27 p.m.)