

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and Judge
7 Kimberly Prost
8 Trial Hearing - Courtroom 1
9 Thursday, 3 December 2020
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:54] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:32:18](Interpretation) The session is open.
15 Good morning, everybody.
16 Court officer, would you please tell today's case.
17 THE COURT OFFICER: [9:32:29] (Overlapping speakers) Thank you, Mr
18 President.
19 The situation in the Republic of Mali, in the case of The Prosecutor versus Al
20 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference
21 ICC-01/12-01/18.
22 For the record, we are in open session.
23 PRESIDING JUDGE MINDUA: [9:32:48](Interpretation) Thank you very
24 much, court officer.
25 We will now do the presentations, as usual.

26

03.12.2020

Page 1

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 Madam Prosecutor.

2 MS LUPING: [9:32:59] (Overlapping speakers) Good morning, Mr President,
3 good morning, your Honours. Representing the Prosecution this morning are
4 Ms Marie-Jeanne Sardachti, my colleague, Mr Gilles Dutertre and myself,
5 Dianne Luping.

6 PRESIDING JUDGE MINDUA: [9:33:18](Interpretation) Thank you,
7 Mrs Luping.

8 Now the Defence, Ms Taylor.

9 MS TAYLOR: [9:33:25] Good morning, Mr President, good morning,
10 your Honours. Good morning to everyone in the courtroom. The Defence
11 for Mr Al Hassan is represented today by Ms Sarah Marinier-Doucet,
12 Ms Dolly Chahla and myself, Melinda Taylor. Thank you.

13 PRESIDING JUDGE MINDUA: [9:33:45](Interpretation) Thank you,
14 Ms Taylor.

15 And now the representative of the victims.

16 Mr Nsita.

17 MR LUVENGIKA: [9:33:50](Interpretation) Good morning, Mr President,
18 your Lords. We are represented today by Mrs Claire Laplace and myself,
19 Mr Nsita. Thank you.

20 PRESIDING JUDGE MINDUA: [9:34:03](Interpretation) Thank you very
21 much, Mr Nsita.

22 This morning we will continue with the testimony of the 18th witness for
23 the Prosecution, this is P-0656 --

24 THE INTERPRETER: [9:34:17] 657 (sic), sorry.

25 PRESIDING JUDGE MINDUA: [9:34:18](Interpretation) I turn to the witness.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 Mr Witness, can you hear me?

2 WITNESS: MLI-OTP-P-0557 (On former oath)

3 (The witness speaks Songhai)

4 THE WITNESS: [9:34:37](Interpretation) Good morning. Yes, I hear you
5 clearly.

6 PRESIDING JUDGE MINDUA: [9:34:41](Interpretation) Thank you,
7 Mr Witness.

8 Once again, we welcome you to the Court and we would like to thank you for
9 your availability.

10 I would like to remind you that you are under oath and you must tell the truth,
11 the whole truth and nothing but the truth.

12 I would also like to remind you that when you speak, that you remember
13 the advice I've given you previously.

14 THE WITNESS: [9:35:38](Interpretation) Yes, I've understood.

15 PRESIDING JUDGE MINDUA: [9:35:43](Interpretation) This morning, we
16 will start the cross-examination of the Defence.

17 Mr Witness, I would like to point out, this is normal procedure under
18 the Statute and the rules of evidence and proof.

19 The Defence will put questions to you, but it does not mean that they
20 systematically question everything you say.

21 The Defence is carrying out its duty by asking you questions in order to verify
22 your statements.

23 So, please, bear with them and to answer fully all their questions.

24 Have you understood?

25 THE WITNESS: [9:37:11](Interpretation) Yes, I have understood.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [9:37:13](Interpretation) Thank you very
2 much.

3 Ms Taylor, the floor is yours.

4 I see Madam Prosecutor is standing up. What is happening,
5 Madam Prosecutor?

6 MS LUPING: [9:37:26] Mr President, your Honours, before my learned friend
7 begins with her cross-examination, I just want to note for the record that
8 the Prosecution, under paragraph 61 of the conduct of proceedings decision,
9 would just observe that, whilst obviously all of the documents or items that
10 the Defence intends to put to the witness will obviously need to have
11 the appropriate foundation established, we express our particular concerns
12 regarding the relevance and potential foundation for the items that appear to
13 be -- sorry, for the following note, I would ask that the Songhai interpreter not
14 interpret this to the witness. Our particular concerns are the Facebook entries
15 and call data records. Thank you, Mr President.

16 PRESIDING JUDGE MINDUA: [9:38:25](Interpretation) The Chamber is
17 aware of the items mentioned, and we've already reached a decision on this
18 type of question. We will look at this on an individual case-by-case basis as
19 we go through the items. The rule is there, clearly. We have to know what
20 the relevance, what is the link, what is the foundation are all relevant concerns.
21 Ms Taylor, you have the floor.

22 MS TAYLOR: [9:39:01] Thank you, Mr President. And I believe we can start
23 in open session.

24 QUESTIONED BY MS TAYLOR:

25 Q. [9:39:10] I would just caution the witness from the outset not to mention

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 anything that's identifying, and when I come to identifying questions, we'll go
2 into private session.

3 MS TAYLOR: [9:39:21] I think we also need to ask the Songhai interpretation
4 to come back.

5 Q. [9:39:47] Good morning, Mr Witness. How are you this morning?

6 THE SONGHAI INTERPRETER: [9:39:54] I have no sound, Mr President.

7 PRESIDING JUDGE MINDUA: [9:40:15](Interpretation) Court officer.

8 THE COURT OFFICER: [9:40:26] (Interpretation) Mr Witness, could you
9 please repeat your answer.

10 THE WITNESS: [9:40:36](Interpretation) Good day.

11 MS TAYLOR: [9:40:40]

12 Q. [9:40:40] Now, Mr Witness, I apologise, I was not able to meet you on
13 Monday due to personal reasons during the familiarisation session.

14 As the President has explained, the role of the Defence is to put questions to
15 you to ascertain issues that are relevant to the Defence.

16 After the Prosecution case, the Defence may also call its own witnesses and its
17 own evidence concerning the issues that are discussed today.

18 A. [9:42:03] Yes, I've understood.

19 Q. [9:42:07] I'm about to put questions to you about substance. If you wish
20 to answer in private session, perhaps if you raise your hand and then I'll ask to
21 go into private session.

22 Now, Mr Witness, you've testified about Islamists and a group called
23 Ansar Dine being in Timbuktu in 2012. My question is, are you aware of
24 a group known as the MNLA, the National Movement for the Liberation of
25 Azawad?

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 A. [9:44:01] What I know of the MNLA, when they arrived, they came, but
2 they -- they then departed to a town that was some kilometres away from
3 Timbuktu, about 7 kilometres away from Timbuktu.

4 Q. [9:44:23] And in the period when they came to town and before they
5 departed, what was the situation like for people in Timbuktu?

6 A. [9:45:20] When MNLA arrived, they were only there for three days and
7 then they left, because things were as they were.

8 Q. [9:45:38] And, Mr Witness, in the three days they were there, to your
9 knowledge, based on what you saw and what you heard, did they commit any
10 crimes against any of the people in Timbuktu?

11 A. [9:46:50] What I heard, but I didn't see, what I heard was that they
12 pillaged the camp. And then they also tried to sell some things from a lorry,
13 before they moved to Kabara.

14 Q. [9:47:13] And before the Islamists were running things in Timbuktu, were
15 there Berabish groups or Arab militia present in Timbuktu?

16 A. [9:47:51] Sorry, I haven't understood.

17 Q. [9:48:00] At this time, before the Islamists arrived, were there other
18 groups, such as Arab militia, also known as the Berabish groups, present in
19 Timbuktu?

20 A. [9:48:51] Yes. When they arrived, there were some militia in Timbuktu,
21 but a part of them disappeared and we don't know where they went.

22 Q. [9:49:05] And to your knowledge, based on what you saw or what you
23 heard, did these militia commit any crimes against the people in Timbuktu?

24 A. [9:49:41] I haven't seen that or I didn't hear anything about it.

25 Q. [9:49:48] Now, for my following question, Mr Witness, please don't

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 mention anything concerning you, or if you do, please put up your hand.

2 Now, after the Islamists came, you stayed in Timbuktu. Is that because you
3 didn't have the means to leave Timbuktu?

4 A. [9:51:14] When -- yes, when the Islamists arrived, I was looking after my
5 parents, my mother and my father. However, my friends, who could leave,
6 tried to leave, but I couldn't at that moment.

7 Q. [9:51:42] And if you had left, would the circumstances have been difficult
8 for you?

9 A. [9:52:16] If I would have left, I don't know. I don't know how things
10 would have turned out, whether they would have been difficult or easy; that's
11 something I can't tell.

12 MS TAYLOR: [9:52:31] For my next questions, I'll have to go into private
13 session.

14 PRESIDING JUDGE MINDUA: [9:52:39](Interpretation) Private session,
15 please, court officer.

16 (Private session at 9.52 a.m.)

17 THE COURT OFFICER: [9:52:50] We're in private session, Mr President.

18 PRESIDING JUDGE MINDUA: [9:52:56](Interpretation) Thank you very
19 much.

20 Ms Taylor.

21 MS TAYLOR: [9:53:00]

22 Q. [9:53:00] Now, at some point after the Islamists arrived, you went to [REDACTED]

23 [REDACTED] When was it that you
24 went there?

25 A. [9:54:00] I can't remember exactly the date. I can't remember. All I can

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 recall, I think it was 19 days after the festival, the fete.

2 Q. [9:54:20] Which festival?

3 THE INTERPRETER: [9:54:24] Sorry, the interpreter would like to say: It
4 was 19 days after I returned that there was the liberation.

5 THE WITNESS: (Interpretation) I haven't followed. Sorry, I haven't
6 understood.

7 MS TAYLOR: [9:54:44]

8 Q. [9:54:44] I apologise, Mr Witness, it was a confusion with translation, so
9 please ignore or disregard my question.

10 Now, my question is, how long were you there for?

11 A. [9:55:27] I said 19. But in reality, I made a mistake. It was 29 days.
12 I was there for 29 days.

13 Q. [9:55:40] Now, Mr Witness, when you were there, was your wife,
14 [REDACTED] and your child with you?

15 A. [9:56:20] [REDACTED] and my child did not come with me, [REDACTED]

16 [REDACTED]

17 Q. [9:56:34] And did you decide that it was better for her to stay in
18 Timbuktu?

19 A. [9:57:02] Yes. It was better for her to stay in Timbuktu.

20 Q. [9:57:11] And at this place, [REDACTED] was working as
21 [REDACTED]; that's correct?

22 A. [9:57:30] Yes, that is correct. [REDACTED]

23 Q. [9:57:35] And did [REDACTED] to the groups that were there?

24 A. [9:58:00] Yes, [REDACTED] to everybody. Anybody who came, he sold
25 [REDACTED] to them.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [9:58:13] And [REDACTED] for one of the groups?

2 A. [9:58:29] Yes. [REDACTED]

3 [REDACTED] And then he suggested I could do it. But
4 then I realised, it was the Ansar Dine.

5 Q. [9:59:14] Now, Mr Witness, you've referred to Ansar Dine, but is it correct
6 that you saw Omar Ould Hamaha there?

7 A. [10:00:12] Yes, I saw Omar and I saw him -- yeah, I saw him there in
8 Timbuktu and then I saw him being filmed and they said that it was him that
9 they were waiting for. He was waiting for the Malian military.

10 Q. [10:00:40] Now, when you were at [REDACTED], did you think it was
11 Ansar Dine because you saw Omar Ould Hamaha?

12 A. [10:01:21] Yes, I knew him because I've seen Omar and also, I saw his
13 vehicle, which he normally used.

14 Q. [10:01:33] Mr Witness, were you aware that Omar Ould Hamaha was not
15 from Timbuktu originally?

16 A. [10:02:14] I can't say where he was from. I don't know where he's from.

17 Q. [10:02:26] Is it correct that after you saw Omar Ould Hamaha at [REDACTED]
18 that you decided to come back to Timbuktu?

19 A. [10:03:10] Yes, at the same time. When they left, it was finished, and I
20 returned to Timbuktu.

21 Q. [10:03:24] Mr Witness, can I ask a point of clarification. When you say
22 "When they left, it was finished," what do you mean?

23 A. [10:03:59] Yes, when they left, they went through Timbuktu. And
24 afterwards, they went to Konna -- to Konna.

25 Q. [10:04:16] So is it correct that you left because they had left?

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 A. [10:04:40] No. I left for Timbuktu to return to my family. And that's
2 the reason in reality, why I left.

3 Q. [10:04:54] Now, Mr Witness, you said that you saw Omar Ould Hamaha
4 in Timbuktu. And on Tuesday, the Prosecutor showed you a picture and
5 asked you, Is this the same Omar that you saw when you arrived at the BMS.
6 Is it correct that you saw Omar at the BMS on the day of your arrest?

7 A. [10:05:46] Yes. I saw him at the BMS. I did.

8 Q. [10:05:54] And did you see him there on the night you were arrested and
9 brought to the BMS?

10 A. [10:06:23] (No interpretation)

11 PRESIDING JUDGE MINDUA: [10:06:26](Interpretation) Prosecutor.

12 MS LUPING: [10:06:26] Mr President, I have not sought to interrupt my
13 learned friend, I could have asked for references before but I would ask, in this
14 instance, for a reference. I am not so certain that the witness referred to
15 the night as the specific time for the transfer to the BMS; so I would
16 (Overlapping speakers)

17 MS TAYLOR: [10:06:45] (Overlapping speakers) This should not be
18 interpreted.

19 MS LUPING: [10:06:45] (Overlapping speakers) like that reference, please.

20 MS TAYLOR: [10:06:46] Just for the record, this shouldn't be interpreted to
21 the witness. But I have the reference specifically and I will give it now,
22 without it being interpreted to the witness.

23 It was transcript 55, this is real-time, pages 60 to 61, and, I can put in
24 quotations:

25 "Is this the same Omar that you saw when you said you arrived at the BMS?"

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 And the witness said: "Yes, [...]"

2 I'm now asking a follow-up question.

3 That's the exact quotation I have from the transcript.

4 MS LUPING: [10:07:23] Mr President, again, no translation please, to
5 the witness.

6 That is not -- apologies, I'll wait for the interpretation.

7 PRESIDING JUDGE MINDUA: [10:07:40](Interpretation) Please go ahead,
8 Madam Prosecutor.

9 MS LUPING: [10:07:44] Again, with no interpretation for the witness - and,
10 my learned friend is correct about that - my apologies.

11 The -- that is not the point that I'm raising. It's the question of the timing.

12 My learned friend stated that the witness had said he was brought to the BMS
13 at night, and that is the reference I'm asking for. I'm not aware of where, in
14 his evidence, the witness stated that it was at nighttime that he was brought to
15 the BMS upon his arrest.

16 If I could please have that reference, please.

17 MS TAYLOR: [10:08:18] (Overlapping speakers) Mr President --

18 MS LUPING: [10:08:18] (Overlapping speakers) Thank you.

19 MS TAYLOR: [10:08:19] (Overlapping speakers) I didn't actually state that. I
20 asked a question to the witness. I asked him for clarification as to whether it
21 was at night. Because he had said, yes, and it wasn't clear to me whether he
22 was saying yes as to whether that was the day he first arrived.

23 I then asked a follow-up question, which I'm perfectly entitled to do.

24 MS LUPING: [10:08:43] Mr President, I'm going to quote the question.

25 PRESIDING JUDGE MINDUA: [10:08:55](Interpretation) Let's move on,

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Ms Taylor.

2 MS TAYLOR: [10:08:59] Okay, for the record, and I've got this very much in
3 front of me, page -- it's line 22:

4 "And did you see him there on the night you were arrested [...]" That is
5 the question that I put to him. And I don't really see any basis for any further
6 objections to me asking a question.

7 MS LUPING: [10:09:26] Mr President, I'm sorry, but I (Overlapping speakers)

8 PRESIDING JUDGE MINDUA: [10:09:30](Interpretation) Prosecutor, I don't
9 see the reason for the objection.

10 MS LUPING: [10:09:35] (Overlapping speakers) That -- that -- I'm sorry,
11 Mr President, just for the record, that was not the question.

12 "And did you see him there on the night you were arrested and brought to the
13 BMS?"

14 The witness did not state he was brought there at night. That is my objection,
15 Mr President. I just wanted clarity on that.

16 MS TAYLOR: [10:09:56] I think this is the first time the Prosecutor is
17 disputing the fact that he was arrested in the evening. I think we've had
18 a multitude of testimony about the fact that the arrest happened on the evening,
19 but I can rephrase it and have it on the first day. But I do believe that that has
20 been said several times.

21 PRESIDING JUDGE MINDUA: [10:10:25](Interpretation) Please move on,
22 Ms Taylor.

23 MS TAYLOR: [10:10:34]

24 Q. [10:10:34] Mr Witness, when you saw Omar at the BMS, was that on
25 the same day that you were brought into the BMS?

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 A. [10:11:24] The day I was arrested, that was on the -- around 9 o'clock in
2 the evening, and it was the next day that I saw him enter there.

3 Q. [10:11:37] Now, Mr Witness, I'm going to ask you for a point of
4 clarification concerning outsiders and their role in Timbuktu. And, to do so,
5 I'd like to refer to a paragraph in your statement.

6 Now, obviously you can't read your statement; so I'm going to read it out on to
7 the record and then ask you a question.

8 I was just waiting for that to be interpreted before I read it out.

9 PRESIDING JUDGE MINDUA: [10:12:39](Interpretation) Ms Taylor, can we
10 go into open session?

11 MS TAYLOR: [10:12:47] Mr President, for -- the next three questions will be in
12 private session. Then I'll go into open session.

13 PRESIDING JUDGE MINDUA: [10:12:57](Interpretation) Please go ahead.

14 MS TAYLOR: [10:12:59]

15 Q. [10:13:00] Now the reference is tab 1, MLI-OTP-0046-8845 at 8853, it's
16 paragraph 43, and it concerns the day of the judgment.

17 And the quote is:

18 (Interpretation) "With regards to the judgment, I didn't speak. They just
19 asked for my name. Houka Houka was the judge, he was the person who
20 made the judgments. The head was the person who came from elsewhere.
21 The town leader was there just to do the work -- " (Overlapping speakers)

22 THE COURT OFFICER: [10:13:46] Ms Taylor --

23 MS TAYLOR: [10:13:46] (Overlapping speakers)

24 THE COURT OFFICER: [10:13:47] Ms Taylor, could you please observe
25 pauses so the Songhai booth could also interpret to the witness.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 MS TAYLOR: [10:13:52] I apologise. Is it easier for them -- for me to read it
2 all out first and they read from the statement or for me to take the pause?
3 Because I'm reading from the statement that should be in front of them.

4 PRESIDING JUDGE MINDUA: [10:14:16](Interpretation) Do they have
5 the statement?

6 THE COURT OFFICER: [10:14:19] We can publish the witness statement
7 indeed on evidence 1 channel; so I will ask my colleague in the AV booth to
8 send -- to send the evidence 1 channel to our colleague.

9 PRESIDING JUDGE MINDUA: [10:14:44](Interpretation) Very well.

10 Ms Taylor, you can continue.

11 MS TAYLOR: [10:14:49] (Interpretation) "The head of the town was just there
12 to do the work. The person who carried out justice was Houka Houka."

13 Q. [10:15:11] Mr Witness, is this an accurate reflection of what you said to
14 the Prosecution?

15 A. [10:15:26] I haven't understood.

16 Q. [10:15:29] Mr Witness, I just read a quote to you from your statement that
17 you gave to the Prosecution. Is this quote what you yourself know and
18 believe to be true from what happened in 2012?

19 A. [10:16:28] Yes, the day that I was taken, everything that happened I've
20 already explained. And that's what happened.

21 Q. [10:16:41] Now, Mr Witness, in this paragraph you said, in the statement:

22 (Interpretation) "In my opinion, the chief was the person who came from
23 elsewhere. The chiefs of the village were just there to do the work."

24 (Speaks English) What did you mean by that?

25 A. [10:17:35] Yes, I said that the population do what they're asked to do.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 That's explained by somebody who has weapons and somebody who doesn't.

2 Q. [10:17:53] And were the population being asked to do things by people
3 who came from outside?

4 A. [10:18:25] People from outside ... Who do you mean by people who
5 came from the outside? What do you mean by that?

6 Q. [10:18:34] People who were not from Timbuktu?

7 A. [10:19:08] People from Timbuktu and not from Timbuktu, I don't know
8 how to make the difference between them. I can't make that difference
9 between them.

10 I spoke about, or I said that I'd given the names of those who were from
11 Timbuktu who I knew. When it comes to the ones who weren't from
12 Timbuktu, I didn't know them. And so how would I be able to distinguish
13 them? But I could distinguish them from the way they dressed.

14 Q. [10:20:07] Now, Mr Witness, going to 2013, when Ansar Dine left, you
15 testified that you then went to help your father [REDACTED]
16 [REDACTED]?

17 A. [10:21:18] Yes, [REDACTED]
18 [REDACTED] I don't know exactly how much that is. That
19 must be around [REDACTED]

20 MS TAYLOR: [10:21:35] Mr President, I believe we can go into open session
21 now.

22 PRESIDING JUDGE MINDUA: [10:21:45](No interpretation)
23 (Open session at 10.21 a.m.)

24 THE COURT OFFICER: [10:21:52] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [10:22:02](Interpretation) Thank you very

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 much.

2 Ms Taylor.

3 MS TAYLOR: [10:22:07]

4 Q. [10:22:07] Now, again, staying in the year 2013, after Ansar Dine left,
5 based on what you saw or heard, do you know if any shops or houses were
6 broken into in Timbuktu?

7 A. [10:23:12] Yes. After Ansar Dine left, shops were pillaged by
8 the population. I also have to say how it happened.

9 Q. [10:23:30] Please, do so.

10 PRESIDING JUDGE MINDUA: [10:23:50] (No interpretation) *Interprétation?*

11 THE WITNESS: [10:23:59](Interpretation) Yes, I answered the question that
12 was put to me.

13 MS TAYLOR: [10:24:06]

14 Q. [10:24:06] Mr Witness, you said you could also say how it happened.
15 Can you please do so.

16 A. [10:24:48] Yes. When the Islamists left, the population started to attack
17 the shops and they broke into them, and they took what was inside.

18 Yes, the same thing happened when the soldiers left. Things happened in
19 the same way. Things were stolen. They were broken into and they took
20 things. They took solar panels and other things. When the MNLA left as
21 well.

22 Q. [10:25:56] Did you see or hear of any incidents concerning attacks against
23 Tuaregs or Arabs in this period in 2013?

24 A. [10:26:36] How were they attacked and by whom? I'd like to
25 understand.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 Q. [10:26:44] Did you hear of any incidents of Tuaregs or Arabs being
2 attacked by members of the Malian army or by other persons present in
3 Timbuktu?

4 A. [10:27:36] Well, where it concerns inside Timbuktu, I didn't see anything
5 like that. But with regards to what happened in the bush, that's not
6 something that I know.

7 Q. [10:27:55] Mr Witness, I'm going to play a video. It's dated
8 29 January 2013. It's a minute and 13 seconds long. I'll play it without sound.
9 It's tab 23 of the Defence binder and it's MLI-D28-0004-0003 and we're going to
10 play it from the Defence channel, so that's evidence 2.

11 THE COURT OFFICER: [10:28:21] Ms Taylor, could you have the level of
12 confidentiality of the document, please.

13 MS TAYLOR: [10:28:26] I believe it can be shown in public.

14 We'll play it -- because it's short, we'll play the entire clip without sound.
15 (Viewing of the video excerpt)

16 MS TAYLOR: [10:30:23]

17 Q. [10:30:23] Mr Witness, did you recognise any of the locations in this
18 video?

19 A. [10:30:47] Yes, I do recognise some of the areas. Yes, I recognise Yobou
20 Tao.

21 Q. [10:31:04] And based on what you yourself saw and heard at this time, do
22 you have any knowledge of what was happening in this video?

23 A. [10:31:51] Yes, the video confirms what I said as regards pillaging of
24 the shops. But when the military left, I didn't see them take those things.

25 Q. [10:32:16] I'm just going to play from 38 seconds until the end, again

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

1 without sound.

2 (Viewing of the video excerpt)

3 MS TAYLOR: [10:33:09]

4 Q. [10:33:09] Mr Witness, do you recognise the location?

5 A. [10:33:28] Yes, but I don't know the exact area. But the one who is
6 talking is called Sékou.

7 Q. [10:33:45] Are we referring to the part that's on the video now? I think
8 unfortunately there was something shown to you before, but it should be from
9 38 seconds onwards what you're seeing now on the screen.

10 Is there interpretation?

11 A. [10:34:35] Yes, it is Sékou. I know him well. And the area is
12 Yobou Tao.

13 Q. [10:34:45] And who is Sékou on the -- can you point out or tell me which
14 one is Sékou on the screen?

15 A. [10:35:07] No, it's not on the image that I am looking at now.

16 Q. [10:35:12] Was Sékou the one who was standing in front of a yellow
17 building before?

18 A. [10:35:33] (No interpretation)

19 PRESIDING JUDGE MINDUA: [10:35:34](Interpretation)(Overlapping
20 speakers) Madam Prosecutor.

21 MS LUPING: [10:35:36] Mr President, it is just a question of ensuring that we
22 have appropriate images actually recorded with timestamps for the record.

23 At the moment, we've now switched to a different timestamp and it's different
24 to the one -- the scene that we saw before. They are two different timestamps
25 and we don't appear to have them separately identified for the record. It's just

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 to make it easier for when we return to this, Mr President.

2 MS TAYLOR: [10:36:01] Mr President, the one before (Overlapping speakers)

3 PRESIDING JUDGE MINDUA: [10:36:04](Interpretation) Ms Taylor,

4 the Prosecution is correct. We need to have the precise timestamp.

5 MS TAYLOR: [10:36:11] Yes, Mr President, the image I showed before was at

6 the 38-second mark; I did give that earlier. And this one I was going to give if

7 the witness identified this as a scene that he meant. So I can say ...

8 Which second is it?

9 (Counsel confer)

10 MS TAYLOR: [10:36:27] Okay. So this is at the 38-second mark and this is,

11 39-second mark.

12 So the witness identified at the 39-second mark as being Yobou Tao. And

13 we're now going back to the 38-second mark to identify if this is the image that

14 the witness was referring to.

15 (Viewing of the video excerpt)

16 MS TAYLOR: [10:37:36]

17 Q. [10:37:36] Mr Witness, is this the image you're referring to or was it an

18 earlier image?

19 A. [10:37:57] Yesterday, we saw it here. Or did we not?

20 Q. [10:38:16] Mr Witness, you referred to an individual called Sékou. Is this

21 Sékou? Or is Sékou in an earlier scene in this video?

22 A. [10:38:53] No, I think that we didn't perhaps see him today.

23 Q. [10:39:01] Was it someone who was being talked to earlier in the image?

24 I can find it during the break and perhaps it's easier if I show it to you then.

25 A. [10:39:38] I haven't understood.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 Q. [10:39:41] Mr Witness, I'll move on to another question and perhaps come
2 back to this after the break.

3 Now, Mr Witness, in Timbuktu, when you marry someone, is it correct that
4 the dowry is given to the wife's family?

5 PRESIDING JUDGE MINDUA: [10:40:22] (No interpretation) *Interprétation,*
6 *s'il vous plaît.*

7 THE WITNESS: [10:40:54](Interpretation) Yes, the dowry is given to
8 the family of the wife's. Otherwise, if you don't give it to the wife's family,
9 I don't know who else you would give it to.
10 But it goes via the responsible people for the marriage before it goes to
11 the family.

12 MS TAYLOR: [10:41:23]

13 Q. [10:41:23] So would it be correct, Mr Witness, that the husband's family is
14 not entitled to receive any money themselves?

15 A. [10:42:04] The dowry is given by the man. The family of the man has
16 nothing to do with it.

17 MS TAYLOR: [10:42:22] Mr President, my next questions I'll need to ask in
18 private session.

19 PRESIDING JUDGE MINDUA: [10:42:30](Interpretation) Let us go into
20 private session, please, court officer.

21 (Private session at 10.42 a.m.)

22 THE COURT OFFICER: [10:42:41] We are in private session, Mr President.

23 PRESIDING JUDGE MINDUA: [10:42:46](Interpretation) Thank you.

24 Ms Taylor.

25 MS TAYLOR: [10:42:50]

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [10:42:51] Now, in 2012, how long had you been in a relationship with
2 [REDACTED] ?

3 A. [10:43:33] [REDACTED] and I, we had spent quite a lot of time together before
4 2012. But I can't give you the exact time, but we had been together already for
5 some time.

6 Q. [10:43:53] And before your arrest, it's correct, isn't it, that [REDACTED]
7 father (sic) had learnt that you were the father of her child?

8 PRESIDING JUDGE MINDUA: [10:44:09](Interpretation) Madam Prosecutor.

9 MS LUPING: [10:44:10] Mr President, for my objection I would ask that
10 the Songhai interpret -- interpreter not interpret what I'm about to say.

11 PRESIDING JUDGE MINDUA: [10:44:24](Interpretation) No interpretation.
12 Please proceed.

13 MS LUPING: [10:44:25] My objection, Mr President, is that the question is
14 being put as if it is an uncontested fact, and that is not the case. There are two
15 contentions being put. First, that [REDACTED]'s father had learnt that he was
16 the father of the child, and that is -- that is not an uncontested fact.

17 MS TAYLOR: [10:44:58] I believe it's been put in the transcript wrong. I put
18 "family". It should have been "family".

19 PRESIDING JUDGE MINDUA: [10:45:11](Interpretation) Yes, Ms Taylor, yes,
20 I see in the French transcript, the French record, we talk about the "father".

21 MS TAYLOR: [10:45:19] It should have been family; so I'll ask the question
22 again, and I did ask it as a question.

23 PRESIDING JUDGE MINDUA: [10:45:25](Interpretation) Rephrase it, please.

24 MS TAYLOR: [10:45:30]

25 Q. [10:45:30] Now, Mr Witness, before your arrest, is it correct that

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 [REDACTED]'s family had learnt that you were the father of her child?

2 A. [10:45:57] Yes, they knew.

3 Q. [10:46:05] And is it correct that they were upset?

4 A. [10:46:40] I don't know if they were upset or not. It concerned several
5 people, and it's up to us, what happened to [REDACTED] and me. It's happened
6 to other people before. I don't know how many, but it has happened to others
7 as well.

8 Q. [10:47:06] Mr Witness, I'm going to refer to a paragraph of your statement,
9 it's tab 1, it's MLI-OTP-0046-8845, at 8859, the relevant paragraph is 74.

10 It says:

11 (MLI-OTP-0046-8845, at 8859, paragraph 74, read in French by Ms Taylor)

12 (Interpretation) "... to send people to me to say that what I did was not really
13 very good. They didn't know that before they had taken me away to flog me."

14 A. [10:48:29] Sorry?

15 PRESIDING JUDGE MINDUA: [10:48:31](No interpretation) (Overlapping
16 speakers)

17 MS LUPING: [10:48:32] I'm not sure if my learned friend has finished with
18 her quotation, but we would ensure that the rest of the paragraph is read for
19 the sake of fairness to the witness, that the entire context is provided to
20 the witness. At the moment, we've only had the first two sentences, but I
21 would submit that the last two sentences are also of relevance.

22 PRESIDING JUDGE MINDUA: [10:48:58](Interpretation) Ms Taylor, please
23 go ahead.

24 MS TAYLOR: [10:49:07]

25 Q. [10:49:07] (Interpretation) "Today I've done with -- there what I do

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 with -- I do at home. And that's what -- and I was at her place when
2 the people arrived."

3 MS TAYLOR: [10:49:32] I don't believe that the English transcript
4 (Overlapping speakers)

5 THE INTERPRETER: [10:49:38] Sorry.

6 (Interpretation) "The father [REDACTED] had already died a long time ago when
7 they arrived."

8 MS TAYLOR: [10:49:46]

9 Q. [10:49:46] Now, Mr Witness, is it correct that you told the Prosecutor that
10 the mother of [REDACTED] was upset or she sent people to tell you that what you
11 had done was not good?

12 A. [10:50:22] Yes. As regards the question you asked me already, it's true
13 the brother and the father were aware, but the mother not. And it's true that
14 they sent someone to me. They sent -- she sent someone to me, that's true.

15 Q. [10:51:07] Now, Mr Witness, you testified on Tuesday that you wanted to
16 marry [REDACTED] and [REDACTED] has testified that she wanted to marry you.
17 She's also said that her family wanted you to marry her. So my question is,
18 why were you not yet married?

19 A. [10:52:09] As regard the question, why we were not yet married, I would
20 say I wanted to marry her, but at that moment, I didn't have sufficient means.

21 Q. [10:52:28] Now, you've testified that on the night of your arrest,
22 the Islamists came to you when you were with [REDACTED] in front of her house.
23 Was this house her father's house?

24 A. [10:53:03] Yes, it was the house where the father died and where
25 the mother was living.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [10:53:13] Now, [REDACTED] has testified, transcript 51, page 18, lines 10 to
2 11, that [REDACTED]

3 A. [10:53:50] I haven't quite understood, sorry.

4 Q. [10:53:54] [REDACTED]
5 [REDACTED]
6 [REDACTED]?

7 A. [10:54:56] [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 Q. [10:55:33] Mr Witness, you've just said that [REDACTED]
12 [REDACTED]?

13 A. [10:56:10] [REDACTED]
14 [REDACTED]

15 Q. [10:56:28] What was the name of the man [REDACTED]
16 [REDACTED]?

17 A. [10:56:51] His name was [REDACTED]

18 Q. [10:57:02] Did he have more than one name? Do you have two names
19 for him?

20 A. [10:57:25] Yes, I don't -- another name -- a name for him. But I called
21 him [REDACTED]

22 Q. [10:57:41] When you're arrested, you said that you gave the name of
23 [REDACTED]
24 [REDACTED]?

25 A. [10:58:19] No, [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [10:58:28] Now, Mr Witness, a witness who has testified in this case has
2 said that he heard that it was [REDACTED] father that filed a complaint
3 concerning the fact that his daughter was not married.

4 And the reference is transcript 49, page 21, lines 17 to 24.

5 MS TAYLOR: [10:58:50] I haven't actually given my question.

6 MS LUPING: [10:58:57] Mr President, I would like to already make an
7 objection --

8 PRESIDING JUDGE MINDUA: [10:59:02](Interpretation) Madam Prosecutor.

9 MS LUPING: [10:59:03] I'd like to make an objection, but without the Songhai
10 interpreter, please.

11 PRESIDING JUDGE MINDUA: [10:59:10](Interpretation) No Songhai
12 interpretation, please. Nothing for the witness.

13 Please proceed.

14 MS LUPING: [10:59:21] Mr President, we object as a contention has been put
15 as if it is an uncontested fact. It's stated here:

16 "[...] a witness who has testified in this case has said that he heard that it was
17 [REDACTED] father that filed a complaint concerning the fact that his daughter
18 was not married."

19 Now the Prosecution does not agree with this contention. We know which
20 witness the Defence is referring to, but that witness did not state -- did not
21 provide any names, did not state that it was [REDACTED] did not provide
22 the names of these individuals. In fact, the description provided of the victim,
23 it is not categorical that it is, in fact, a reference to [REDACTED] and we would not
24 agree that the contention be put in this way.

25 Our -- in our submission, this contention needs to be rephrased so that it

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 doesn't appear to be an uncontested fact.

2 MS TAYLOR: [11:00:13] I can reformulate it.

3 PRESIDING JUDGE MINDUA: [11:00:19](Interpretation) Yes, Ms Taylor.

4 But wait until the -- I was waiting to listen to the end of the Prosecution, but I
5 have heard it now, so please proceed.

6 It's very difficult when you ask one witness about a declaration or testimony
7 made by another person.

8 MS TAYLOR: [11:00:42]

9 Q. [11:00:42] Now, Mr Witness, another witness in this case - who was
10 present at the Islamic tribunal when they issued a judgment concerning
11 the flogging of a couple that had a child out of wedlock - said that he heard
12 that, in that case, it was the father who had filed a complaint regarding the fact
13 that his daughter was not married.

14 I'm going to ask for that to be interpreted and then I'll put my question.

15 Now my question is, Mr Witness, based on what you know and your
16 interactions with ██████████'s family, is it possible that a member of her family
17 filed a complaint?

18 A. [11:02:34] First of all, the first question that you put, do you imagine that
19 the father of ██████████ came from his tomb to say that his son -- that his
20 daughter had had a son outside of marriage?

21 Q. [11:03:10] Mr Witness, my question is not whether her dead father filed
22 a complaint, but whether it's possible, based on what you know, a member of
23 her family filed a complaint?

24 A. [11:03:53] In fact, I don't see how somebody from her family would do
25 that.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 MS TAYLOR: [11:04:04] It's 11 -- it's five past 11; so I believe it would be
2 a good time for the break.

3 PRESIDING JUDGE MINDUA: [11:04:13](Interpretation) Absolutely,
4 Ms Taylor.

5 Court officer, could you be so -- would you be so kind as to take us into open
6 session, please.

7 (Open session at 11.05 a.m.)

8 THE COURT OFFICER: [11:05:14] We are in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [11:05:23](Interpretation) Thank you,
10 court officer.

11 It's now time for our usual break. We shall have a break of approximately
12 30 minutes, but we will be back at 11.30.

13 THE COURT USHER: [11:05:45] All rise.

14 (Recess taken at 11.05 a.m.)

15 (Upon resuming in open session at 11.33 a.m.)

16 THE COURT USHER: [11:33:45] All rise.

17 Please be seated.

18 PRESIDING JUDGE MINDUA: [11:34:07](Interpretation) The session is
19 resumed.

20 We will continue with the cross-examination of the Defence.

21 Ms Taylor.

22 MS TAYLOR: [11:34:18] Thank you, Mr President.

23 I believe I can start with a few questions in open session, based on the video
24 that we were showing previously.

25 For the record, this is the video MLI-D28-0004-0003.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 Q. And, Mr Witness, just so you know, we are now in open session, so I'd
2 ask you not to provide any identifying information.

3 MS TAYLOR: [11:34:51] Do we have interpretation?

4 PRESIDING JUDGE MINDUA: [11:35:07](Interpretation) Songhai
5 interpretation, please.

6 MS TAYLOR: [11:35:24] And it should have been "MLI-D28-0004-0003".

7 Q. [11:35:26] And we're going to play it from the 0 second to the 35 second
8 with sound, so you can hear the voice of the person speaking.

9 (Viewing of the video excerpt)

10 THE INTERPRETER: [11:36:10] (Interpretation of the video excerpt)

11 This whole bank was taken over by the Islamists. Pillaged were also shops of
12 anyone who was suspected to have worked with the Islamists. They were
13 accused of being terrorists. Amongst them was this man. He was taken by
14 the men and fled in a vehicle owned by the Malian army.

15 MS TAYLOR: [11:36:43]

16 Q. [11:36:44] Mr Witness, do you recognise this person who's on the screen
17 now?

18 THE INTERPRETER: [11:37:08] The Songhai, a message from the Songhai
19 booth: We do not hear the witness.

20 PRESIDING JUDGE MINDUA: [11:37:18](Interpretation) Microphone, please,
21 Mr Witness. Could you please repeat your answer.

22 THE WITNESS: [11:37:27](Interpretation) Yes, I recognise the person on
23 the image.

24 MS TAYLOR: [11:37:34]

25 Q. [11:37:34] Are you able to give his name in open session or do you prefer

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 to go into private session?

2 A. [11:38:08] I know him like that. I know his name, I know the name of his
3 father. But other than that, I don't know much.

4 Q. [11:38:18] Are you able to give his name and the name of his father in
5 open session or ...?

6 A. [11:38:37] He's called Sékou. Sékou Baba Kounta. That's what we
7 called him.

8 Q. [11:39:03] Do you have any knowledge of what he's talking about? I can
9 also play the video again to a longer point, to the 38-second mark.

10 PRESIDING JUDGE MINDUA: [11:39:35](Interpretation) Interpretation,
11 please.

12 THE WITNESS: [11:39:54](Interpretation) I see the person, but I don't really
13 understand what he's saying.

14 PRESIDING JUDGE MINDUA: [11:40:05](Interpretation) Ms Taylor, perhaps
15 you should play the video again for him.

16 MS TAYLOR: [11:40:09] Yes, and this time I'll play till the 39-second mark,
17 from 0 seconds to 39 seconds, with sound.

18 (Viewing of the video excerpt)

19 MS TAYLOR: [11:40:44] Is there sound?

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [11:40:48](Interpretation of the video excerpt)

22 Tables, chairs, doors. This is completely emptied out in a couple of minutes

23 because this old bank was converted by the Islamists for their own purposes.

24 Also looted were shops belonged to people who thought -- worked with

25 the Islamists. The inhabitants said they were also terrorists.

Trial Hearing

(Open Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 Amongst their targets was this man. The inhabitants accused him and he
2 went into a Malian vehicle as he fled.

3 THE WITNESS: [11:41:32](Interpretation) I heard what he said.

4 MS TAYLOR: [11:41:38]

5 Q. [11:41:39] And do you have any knowledge of what he's talking about,
6 about this gentleman being taken away?

7 A. [11:42:03] Yes, yes.

8 Q. [11:42:05] And what do you know about it?

9 A. [11:42:32] I didn't understand, what do you mean?

10 Q. [11:42:36] In the video, we saw a man who was being taken away in
11 a truck. And then this person, Sékou, is talking about this incident. Do you
12 yourself have any knowledge of this incident where this man was taken away
13 from the bank?

14 A. [11:43:39] In everything that Sékou said, he was saying that people
15 thought that he was a terrorist, although he wasn't one, and that's why he had
16 to go.

17 Q. [11:43:59] I'll play the rest of the video, from the 30 second -- is it
18 38-second mark till the end?

19 39-second mark till the end.

20 (Viewing of the video excerpt)

21 THE INTERPRETER: [11:44:24](Interpretation of the video excerpt)

22 Pillaging. The military can't handle it.

23 Some are trying to speak to the people.

24 Please, please, settle down. We're here for your own safety. Help us in our

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 work. Stop looting. Stop taking things.

2 Others are more heavy handed.

3 NGOs asked for immediate actions to be taken to stop this.

4 MS TAYLOR: [11:45:01]

5 Q. [11:45:01] Mr Witness, is it correct that what we just saw was Yobou Tao?

6 A. [11:45:29] Yes, yes, that is Yobou Tao indeed.

7 Q. [11:45:37] And, Mr Witness, you were in Timbuktu at this time, so did

8 you hear or see or learn of any incidents of the Malian authorities beating

9 the local people?

10 A. [11:46:24] I heard something like that and even saw that they were

11 walking around in the streets in order to make people more aware. But

12 I didn't see that the people were breaking anything. I also saw enter,

13 some -- in some houses, and I also see -- saw them pick up some of the bullets.

14 Q. [11:47:25] Mr Witness, when you saw these Malian authorities or soldiers

15 walking in the streets, did you ever see them beat any of the locals or did you

16 hear of any such incidents?

17 A. [11:48:13] Yes. I didn't hear anything. I didn't hear -- I didn't hear

18 about them being beaten. I only saw it on this video.

19 MS TAYLOR: [11:48:29] I think we'll have to go into private session for

20 the next.

21 PRESIDING JUDGE MINDUA: [11:48:38](Interpretation) Closed session,

22 court officer, please.

23 (Private session at 11.48 a.m.)

24 THE COURT OFFICER: [11:48:49] We are in private session, Mr President.

25 PRESIDING JUDGE MINDUA: [11:48:57] *Merci beaucoup*, Maître Taylor.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 MS TAYLOR: [11:49:00]

2 Q. [11:49:01] Now, Mr Witness, you've testified that when the Islamists came
3 to ██████████'s house, you pretended to be her brother. Did you do so because
4 *les jeunes* had told you that if you and ██████████ were taken, you would be
5 punished because you were not married?

6 A. [11:50:08] Somebody talked to us about that before. It's just when they
7 came, that we, we thought we should say that. Nobody spoke to us before
8 about it. And even if somebody had told us, I don't really remember.

9 Q. [11:50:47] Mr Witness, I'm going to read you a paragraph from your
10 statement to refresh your memory.

11 It's tab 1 of the Prosecution binder, MLI-OTP-0046-8845 at 8850. And
12 the relevant paragraph is 28. And if it can be brought up on the evidence 1
13 channel so that the interpreters can see it. (Interpretation) "Investigators
14 asked me why ██████████ and I lied on the real name of our parents.
15 The young in our neighbourhood, who had the means, left the town when
16 the town was taken over. But we had to stay. The young said that if
17 ██████████ and I were taken, we would be punished because we weren't
18 married."

19 PRESIDING JUDGE MINDUA: [11:52:32](Interpretation) Madam Prosecutor
20 (Overlapping speakers)
21 Madam Prosecutor.

22 MS LUPING: [11:52:47] (Overlapping speakers) Yes, Mr President. I was
23 just listening till the Songhai interpreter finished to the end of his
24 interpretation.

25 I would, again, I'm not sure what my learned friend proposes, to re-continue,

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 but I would ask that the remainder of the paragraph be read, again for
2 the -- to -- fairness to the witness. It provides a context of the entirety of the
3 response and it is relevant to what he knows or doesn't know.
- 4 MS TAYLOR: [11:53:14] I'm happy to do so, but it does -- the whole
5 paragraph has a lot of different things in there.
- 6 PRESIDING JUDGE MINDUA: [11:53:24](Interpretation) Go ahead,
7 Ms Taylor.
- 8 MS TAYLOR: [11:53:27](Interpretation) "Equally, during the sermon at the
9 *mosquée*, the preacher said what we should do or not do. For example,
10 the imam of Bellaferandi, named Daoud, said that in the public. Many
11 couples lived in Timbuktu without being married. When [REDACTED] and I met,
12 it was three years before and that group wasn't even yet in Timbuktu."
13 (Speaks English) Now, Mr Witness, is it correct that you told the Prosecution
14 that *les jeunes* had told you that if you and [REDACTED] were taken, you would be
15 punished because you were not married?
- 16 A. [11:54:50] Yes, indeed. That's why, as I said before, even if we talked
17 about it beforehand. I can't quite remember now.
- 18 Q. [11:55:02] Would *les jeunes* have been the people in your neighbourhood?
- 19 A. [11:55:22] Yes. That's correct.
- 20 Q. [11:55:30] On the day of your arrest, beforehand, did you tell [REDACTED]
21 that your uncle would be coming to her house to discuss the wedding?
- 22 A. [11:56:12] I haven't understood the question.
- 23 Q. [11:56:17] Before you were arrested, did you tell [REDACTED] on the day of
24 your arrest that your uncle would be coming to her house that day to discuss
25 the wedding with you?

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [11:57:00] No, I didn't say that. I didn't say that.

2 Q. [11:57:15] Mr Witness, when your wife testified, this is transcript 51,
3 page 16, lines 20 to 23, she said that at the time the Islamists came to her house:

4 "We were just chatting. We weren't yet married and he said that his uncle
5 would be coming so that we could discuss our wedding."

6 I'll put my question after this is interpreted.

7 Could there be interpretation.

8 A. [11:58:39] My -- my uncle had to come, perhaps on that day that my uncle
9 should've come to them.

10 Q. [11:58:52] And was he coming to discuss your wedding?

11 A. [11:59:23] What I said, that on that day, when we were flogged, it was
12 during that time that my uncle came to talk about celebrating the wedding in
13 the mosque.

14 Q. [11:59:45] Mr Witness, [REDACTED] has testified that before you were
15 arrested, she thought her uncle was coming that day -- sorry, your uncle was
16 coming that day to discuss your wedding. Based on what you know, why do
17 you think she would think that?

18 A. [12:00:55] Yes, what I remember is that we talked about it before
19 the Islamists spoke about the marriage. And they said -- at that time, I didn't
20 have the means. And that's what we spoke about.

21 Q. [12:01:19] On Monday you mentioned [REDACTED] Is [REDACTED]
22 [REDACTED]?

23 THE INTERPRETER: [12:02:12] Message from the Songhai booth:

24 Your Honour, could the witness go over that answer once again.

25 PRESIDING JUDGE MINDUA: [12:02:22](Interpretation) Witness, would you

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 be so kind as to repeat what you said, please.

2 THE WITNESS: [12:02:40](Interpretation) No, the surname isn't [REDACTED] That's

3 [REDACTED]'s surname. Ours is not [REDACTED]

4 MS TAYLOR: [12:02:50]

5 Q. [12:02:50] Mr Witness, do you know anyone called [REDACTED]?

6 A. [12:03:13] No, I don't know him.

7 Q. [12:03:15] Is the name [REDACTED] common in Timbuktu?

8 A. [12:03:34] I couldn't answer that question.

9 Q. [12:03:41] You've mentioned an individual called Adama, and you've
10 testified that you saw him in Timbuktu before your arrest. Did you call him
11 in the days before your arrest?

12 A. [12:04:26] Yes, I called him before the arrest, but I don't know if he saw
13 me or not. I saw Adam (sic) before the arrest.

14 Q. [12:04:47] Did you call or speak to Adama on the phone at any point in
15 the day before your arrest?

16 A. [12:05:30] What would I have with Adama to speak to him on the phone?
17 I've got no reason to speak to Adama over the telephone.

18 Q. [12:05:40] Mr Witness, just to clarify, can you please answer, did you
19 speak to him?

20 A. [12:06:09] I did not speak to Adama.

21 Q. [12:06:16] Now, after your arrest, and this is transcript 54, real-time, pages
22 55 to 56, you testified that:

23 Sanda "[...] told me to tell the truth about the circumstances which caused -- in
24 which I found myself. And when I told the truth he asked that I be taken back
25 to my cell."

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Now, by the truth, do you mean that you told him that you had a child with
2 [REDACTED] and you were not married?

3 A. [12:07:24] Yes, that's it.

4 Q. [12:07:31] And is it correct the reason why you were punished is that you
5 had a child outside of marriage?

6 A. [12:07:58] I haven't understood what you said.

7 Q. [12:08:01] Was the reason that you were punished, the fact that you had
8 a child outside of marriage?

9 A. [12:08:29] Indeed, that's the reason.

10 Q. [12:08:33] So you didn't disagree with the facts that were relied upon to
11 sentence you; that's correct?

12 PRESIDING JUDGE MINDUA: [12:09:04](Interpretation) Prosecutor.

13 MS LUPING: [12:09:07] Mr President, I -- we would object to the way this
14 question has been formulated. It's both confusing and unfair to the witness.
15 "... you didn't disagree with the facts that were relied upon to sentence you."
16 It's not clear enough, Mr President, and we would submit it should be
17 reformulated.

18 PRESIDING JUDGE MINDUA: [12:09:30](Interpretation) Ms Taylor, could
19 you reformulate, please.

20 MS TAYLOR: [12:09:39]

21 Q. [12:09:39] Now, Mr Witness, you've said that you told Sanda that you had
22 a child when you were not married and you've said that you were punished
23 because you had a child when you were not married.

24 So is it correct that you confessed to the facts relied upon to punish you?

25 A. [12:11:03] How could I be in agreement with the punishment? Where

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 we were, it wasn't a question of being in agreement or not with the punishment.

2 They, they take their decisions and they execute them.

3 Q. [12:11:24] Mr Witness, I'm not asking you if you agreed with

4 the punishment ...

5 PRESIDING JUDGE MINDUA: [12:11:34](Interpretation) Madam Prosecutor.

6 MS LUPING: [12:11:36] Mr President, I think this is argumentative now. I

7 object to the question being re-put to the witness.

8 MS TAYLOR: [12:11:47] I'm not putting the same question to the witness.

9 I'm clarifying. Because it seems that the witness misunderstood my

10 answer -- my question. And I should be allowed to put the question before

11 the Prosecution objects to a question I have not yet made.

12 PRESIDING JUDGE MINDUA: [12:12:06](Interpretation) Madam Prosecutor,

13 I think Ms Taylor is right. The witness hasn't understood the question.

14 Please go ahead, Ms Taylor.

15 MS TAYLOR: [12:12:20]

16 Q. [12:12:20] Mr Witness, just to be clear, I'm not asking you whether you

17 agreed with the punishment. I'm asking you if the facts used by the judge,

18 which is that you had a child and were not married, whether today you can say

19 those facts were true?

20 A. [12:13:27] These facts I'm not in agreement with, because I didn't see

21 anybody else who they did that to, apart from myself.

22 Q. [12:13:45] Mr Witness, here today, under oath, are you saying that you

23 weren't -- that you didn't have a child outside of marriage?

24 PRESIDING JUDGE MINDUA: [12:14:19](Interpretation) Madam Prosecutor.

25 MS LUPING: [12:14:21] Mr President, if I could just make my objection

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 without the Songhai interpretation. But I believe that this question is unfair.
2 The witness has not stated that he's disagreeing that he didn't have a child
3 outside of marriage. That's not what he has said. And so I believe that what
4 has now been put to him is extremely unfair to the witness. It is not what he
5 has said. His answer instead was, "... because ..." To be fair to the witness,
6 the way the question was put, it says:
7 "... Witness, just ... be clear, I'm not asking you whether you agreed with
8 the punishment, I'm asking" if you agree with "the facts used by the judge,
9 which is that you had a child and were not married, whether today you can say
10 those facts were true?" Now, there's a mention of the punishment and
11 the witness responds:
12 "These facts I'm not in agreement with, because I didn't see anybody else who
13 they did that to, apart from myself."
14 Now, it's clear, Mr President, that, again, he's making reference to
15 the punishment. It's quite possible the witness is confused, but to put to him
16 that, again, to state also under oath that he's -- as if it's a claim that he's denying
17 that he has a child outside of marriage, that is unfair, Mr President. I would
18 ask that the -- either my learned friend seeks to clarify the witness's
19 understanding or reformulate her question.
20 PRESIDING JUDGE MINDUA: [12:15:46](Interpretation) Ms Taylor, you can
21 see that your dialogue with the witness, there's -- there's lack of understanding
22 there. When you ask a question with regards to one aspect, the witness is
23 replying on another aspect. So there, the Prosecutor is right.
24 You have to clarify your question so that you are both understanding the same
25 thing, both you and the witness, because when you say, That under oath, are

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 you denying that you had a child, that's not exactly what the witness said.

2 So please reformulate and then we can move on.

3 MS TAYLOR: [12:16:29] Thank you, Mr President.

4 But just to be clear, I never claimed that that was what the witness said.

5 Now, can we have the interpretation for the next part ...

6 Q. [12:16:46] Now, Mr Witness, today, you're free to speak freely. Is it
7 the truth that you had a child outside of wedlock with [REDACTED]?

8 A. [12:17:31] Well, I wasn't going to say that from the first time if it was false.

9 Q. [12:17:41] So, Mr Witness, the judgment against you says -- or, is based on
10 the fact that you had a child outside of wedlock. That's correct, isn't it, that
11 you had a child outside of wedlock?

12 A. [12:18:19] Yes, that's correct.

13 Q. [12:18:24] Now when you were speaking to Sanda, did you tell him that
14 you and [REDACTED] wanted to get married?

15 A. [12:18:51] I didn't tell him that.

16 Q. [12:18:57] Now, on the evening of the flogging, this is transcript 54,
17 page 38, lines 2 to 4, you said:

18 "[...] they came to the woman's house, they gave what they had to give. They
19 spoke with the parents of the family. They carried out the marriage, and then
20 they left."

21 And if that could be translated and then I'll read another quote.

22 A. [12:19:52] Who gave what they had to give?

23 Q. [12:19:57] Mr Witness, I'm just going to read out two quotes and then ask
24 you a question; so if you could refrain from answering until I've finished with
25 the interpretation.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 On Tuesday you also testified, transcript 55, pages 32, lines 24 to 25 that
2 afterwards, you asked for "[...] a new marriage because the way that was done,
3 it was a danger that it wouldn't be a customary, proper marriage."
4 My first question is, is it correct that you didn't believe the ceremony
5 performed by Houka Houka actually married you?

6 A. [12:21:33] The marriage that they did, I'm not saying it was a good or
7 a bad marriage. After the marriage, I said that I'd given money to my uncle to
8 have the marriage at the mosque.

9 Q. [12:21:56] Mr Witness, this first marriage, what do you mean when you
10 said that you were concerned it wouldn't be a customary, proper marriage?

11 A. [12:22:37] I don't know what I mean by that or what I want -- what I
12 wanted to say with that.

13 Q. [12:22:48] Would it be correct that you were concerned that this first
14 marriage wasn't binding or wouldn't be recognised?

15 A. [12:23:24] I, I also can't say anything about that either.

16 Q. [12:23:33] For you, did you consider the marriage to be finalised after you
17 had the ceremony in the mosque?

18 PRESIDING JUDGE MINDUA: [12:23:55](Interpretation) Madam Prosecutor.

19 MS LUPING: [12:23:56] (Overlapping speakers) Mr President, I just ask that
20 my comments now not be interpreted by the Songhai interpreter.

21 But our objection would be that this has been asked and answered. My
22 learned friend has asked a number of questions now about the witness's views
23 regarding the nature of the marriage, the first, and what happened
24 subsequently. And I believe the witness has provided a clear answer as clear
25 as he's able to give.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 MS TAYLOR: [12:24:22] Mr President, I haven't actually asked any questions
2 about the second ceremony. This is the first question I've put to him.

3 PRESIDING JUDGE MINDUA: [12:24:35](Interpretation) Madam Prosecutor,
4 Ms Taylor is asking about the second ceremony at the mosque.
5 Please go ahead, Ms Taylor.

6 MS TAYLOR: [12:24:45] Could my question that I made earlier be interpreted
7 to the witness.

8 THE SONGHAI INTERPRETER: [12:24:58] Your Honour, with your leave,
9 could the question be put again, if possible.

10 PRESIDING JUDGE MINDUA: [12:25:03](Interpretation) Ms Taylor, please
11 put the question again.

12 MS TAYLOR: [12:25:08]

13 Q. [12:25:08] Mr Witness, is it correct that, for you, your marriage to
14 ██████ became finalised after you had the ceremony at the mosque?

15 A. [12:25:47] I haven't understood. Could you ask the question again.

16 Q. [12:25:53] Certainly, Mr Witness. Earlier I was talking about a ceremony
17 with Houka Houka and then you said that you arranged to have a second
18 ceremony at the mosque. For you, was your marriage to ██████ finalised
19 after you had this ceremony at the mosque?

20 A. [12:26:44] The fact is that, normally, what you do in marriages wasn't
21 done in the first marriage. That's the reason why we did a second one.

22 Q. [12:27:23] Now, Mr Witness, I'm going to go back to another issue earlier
23 in the day. Is it correct that before you were taken to the hotel where
24 the judgment was issued, Sanda decided that you should first be driven to
25 the house of ██████ to collect her?

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [12:28:24] No, I wasn't taken to ██████'s house. I was taken in
2 a vehicle, but ██████ was taken in a different vehicle.

3 Q. [12:28:34] Mr Witness, I'm going to read something from your statement.
4 It's paragraph 41. The reference is MLI-OTP-0046-8845 at 8852.
5 And it starts with --

6 MS TAYLOR: [12:28:58] Could we put on the evidence 1, for the interpreters,
7 and it's a long paragraph, so I don't know if they want to wait for me to finish
8 before interpreting.

9 Q. [12:29:10] (Interpretation) "The morning of the fourth day, Sanda and
10 Adama asked me if I knew somebody else who had done the same thing.
11 They told me that they would give me something if I told them, but I told them
12 that I didn't know anyone. They told me that, even donkeys don't do that.
13 Sanda spoke to me in Songhai. They asked me to show them ██████'s
14 house. They put me into a car. The car had a cabin and was open in behind.
15 There was an armed person -- an armed man seated with -- behind me.
16 Straight after, they showed ██████'s house. The Islamists took me to
17 a hotel which was being used for trials in the Sankoré neighbourhood."
18 (Speaks English) Mr Witness (Overlapping speakers) does that refresh your
19 memory?

20 A. [12:32:09] What I've just heard, that reminds me. But the question that
21 you put now, you were asking if I was with ██████ in the same vehicle on
22 the day of the trial or the judgment?

23 Q. [12:32:47] Did you go in a car to the house of ██████ on the day of the
24 judgment?

25 A. [12:33:19] On the day of the judgment, yes. Because those who were

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 taking [REDACTED] every day, they weren't there on that day. That was in
2 the morning.

3 Q. [12:33:39] And was this the first time that you left the BMS in a car?

4 A. [12:34:20] The day I left the BMS with them, that was the same day that
5 I was shown [REDACTED]'s house.

6 MS TAYLOR: [12:34:34] It's 12.35. I believe that it would be a good time to
7 break.

8 PRESIDING JUDGE MINDUA: [12:34:47](Interpretation) You're right,

9 Ms Taylor. I was just waiting for the witness to finish the answer.

10 Court officer, could you take us into open session.

11 (Open session at 12.35 p.m.)

12 THE COURT OFFICER: [12:35:04] We are in open session, Mr President.

13 PRESIDING JUDGE MINDUA: [12:35:09](Interpretation) Thank you very
14 much, court officer.

15 It's now 12.35. We are going to have the lunch break for approximately one
16 hour and we will be back at 13.30.

17 Court is now suspended.

18 THE COURT USHER: [12:35:34] All rise.

19 (Recess taken at 12.35 p.m.)

20 (Upon resuming in open session at 1.32 p.m.)

21 THE COURT USHER: [13:32:37] All rise.

22 Please be seated.

23 PRESIDING JUDGE MINDUA: [13:33:03](Interpretation) The Court is once
24 more in session.

25 We will continue with the cross-examination by Defence.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 And, I would ask, Ms Taylor, to ensure that we can spend as much of this
2 session as possible in public session.

3 The floor is yours, Ms Taylor.

4 MS TAYLOR: [13:33:34] Thank you, Mr President. My next questions,
5 though, do concern individuals mentioned by the witness which are
6 identifying. So it will be necessary to ask these questions in private session.

7 PRESIDING JUDGE MINDUA: [13:33:53](Interpretation) Court officer,
8 private session, please.

9 (Private session at 1.34 p.m.)

10 THE COURT OFFICER: [13:34:03] We are in private session, Mr President.

11 PRESIDING JUDGE MINDUA: [13:34:08](Interpretation) Thank you very
12 much.

13 Ms Taylor.

14 MS TAYLOR: [13:34:12]

15 Q. [13:34:13] (Microphone not activated) Mr Witness, how are you?

16 A. [13:34:27] I'm very well. Thank you.

17 Q. [13:34:29] I hope you were able to have some rest during the break.

18 A. [13:34:54] Yes, of course.

19 Q. [13:34:59] Now, on Tuesday you testified that Boubacar asked that you be
20 flogged with a camel whip. My question is, by "camel whip" do you mean
21 a nylon cord?

22 A. [13:35:55] What's on -- made of nylon? I don't understand.

23 Q. [13:35:59] Mr Witness, I'm going to read to you something from your
24 statement and it might be an issue of interpretation, and it's MLI-OTP- -- sorry,
25 0046-8845 at 8855, paragraph 55. And if it could be brought up on evidence 1

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 for the interpreters.

2 And it says:

3 (Interpretation) [REDACTED]

4 [REDACTED]"

5 THE INTERPRETER: [13:36:39] Sorry.

6 MS TAYLOR: [13:36:40](Interpretation) "Somebody told -- said that they had
7 seen a -- someone buying a nylon cord. Then the Islamists made the object
8 themselves for the flogging."

9 THE SONGHAI INTERPRETER: [13:37:11] We can't hear this properly,
10 Mr President.

11 PRESIDING JUDGE MINDUA: [13:37:17](Interpretation) You should have
12 the text in front of you.

13 THE SONGHAI INTERPRETER: [13:37:24] It's just arrived.

14 PRESIDING JUDGE MINDUA: [13:37:31](Interpretation) Ms Taylor, could
15 you please repeat the paragraph, then it can be translated correctly.

16 MS TAYLOR: [13:37:38] (Microphone not activated) Certainly, it's
17 paragraph 55.

18 THE INTERPRETER: [13:37:39] It's paragraph 55.

19 THE WITNESS: [13:39:06](Interpretation) I didn't say that. I said that [REDACTED]

20 [REDACTED] Islamists buying three metres of rope, and maybe it was that
21 that they used in order to whip me.

22 MS TAYLOR: [13:39:28]

23 Q. [13:39:28] Now, after your flogging, you were taken to the hospital and

24 you said you saw a doctor [REDACTED] Do you recall

25 being examined by a doctor [REDACTED] ?

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 A. [13:40:17] I know that it was somebody [REDACTED] but I don't recall his
2 name. I -- I really don't remember his name.

3 Q. [13:40:28] I'm going to show a photo to you, it's tab 24 of the Defence
4 binder. MLI-OTP-0028-082 -- 0872 and if it could be put on to evidence 1.
5 And if it could be zoomed in to the person. And zoomed in more to the face.
6 Mr Witness, do you recognise this person?

7 A. [13:41:33] I don't know him like that.

8 Q. [13:41:44] Could you clarify what you mean by you "don't know him like
9 that". Is this someone whose face you recognise?

10 A. [13:42:14] No, I don't know him. I don't know him.

11 Q. [13:42:22] Now, you testified on Tuesday you saw a therapist a couple of
12 days later. Is this therapist known [REDACTED]?

13 A. [13:42:51] What was that name?

14 Q. [13:42:54] [REDACTED]

15 A. [13:43:13] [REDACTED] is, is not that person. That's not a traditional therapist.
16 [REDACTED] is a doctor.

17 Q. [13:43:28] And did you see this person [REDACTED] after going to
18 the hospital?

19 A. [13:43:46] No, no, he's -- he's not there.

20 Q. [13:43:56] (Overlapping speakers) Mr Witness, I'm going to read
21 something from your statement, it's paragraph 69. The full reference is
22 MLI-OTP-0046-0 -- sorry, 8845, at 8857. It's paragraph 69. If that could be
23 put on evidence channel, evidence 1 for the interpreters, and if the interpreters
24 could read out paragraph 69.

25 THE INTERPRETER: [13:44:37] Paragraph 69: "[REDACTED]"

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1

2 (inaudible) ..."

3 There seems to be a problem with the page, but that now seems to have been
4 resolved for the Songhai booth.

5 (Interpretation) " [REDACTED] and me, to the clinic in

6 [REDACTED] We met a man who is called [REDACTED] He gives
7 serums, does injections and (Overlapping speakers). He gave us two serums

8 each and gave us a lot of injections. He disinfected the wounds where there
9 was blood and he put something on them. We stayed two days in the clinic.

10 Then he gave us a prescription to buy some salves and some tablets and some

11 injections which [REDACTED] wanted us -- wanted to give us at the house. When

12 we got back home, the medicines -- or, the medication from modern medicine

13 didn't manage to heal all my wounds. My left side was like it was dead. [REDACTED]

14 [REDACTED] suggested that I go and see someone who does traditional

15 medicine. That's what I did. [REDACTED]

16 who opened some of the wounds and put an upturned glass on them with a lit

17 match in order to draw out the blood."

18 MS TAYLOR:

19 Q. [13:48:51] Mr Witness, my question is, in the days after the flogging, did

20 you see someone called [REDACTED]?

21 A. [13:49:15] Of course I saw [REDACTED] But the day, the day we were taken

22 to the hospital after the whipping, we didn't see [REDACTED] It was after that that

23 we saw [REDACTED] That's when we went to see [REDACTED]

24 Q. [13:49:37] Is the name of [REDACTED]?

25 THE INTERPRETER: [13:49:57] The Songhai booth is not hearing the witness.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 The sound has been cut. The Songhai cabin is still not hearing.

2 THE COURT OFFICER: [13:50:13](Interpretation) There's a message from
3 the Songhai booth that they are no longer hearing the witness but there is a ...
4 Message from the court officer to the French booth.

5 THE WITNESS: [13:50:43](Interpretation) I don't know anybody -- any other
6 name for this person.

7 MS TAYLOR: [13:50:53]

8 Q. [13:50:53] Was the clinic of [REDACTED]

9 [REDACTED]?

10 A. [13:51:23] It wasn't at [REDACTED] It was [REDACTED] quarter.

11 Q. [13:51:39] And afterwards, is it correct, you decided to see a traditional
12 doctor?

13 A. [13:52:02] Yes, of course it's true. But if it was a lie, I wouldn't have said
14 it.

15 THE INTERPRETER: [13:52:15] Sorry, it wasn't entirely clear coming from
16 the translation.

17 MS TAYLOR: [13:52:19]

18 Q. [13:52:19] Mr Witness, just to go back a bit. Was [REDACTED] the one who
19 made cuts in your skin to draw out the blood?

20 A. [13:52:51] No, no, it wasn't [REDACTED] didn't do that.

21 MS LUPING: [13:52:58] (Overlapping speakers)

22 PRESIDING JUDGE MINDUA: [13:53:00](Interpretation) Prosecutor.

23 MS LUPING: [13:53:00] Mr President, if the witness could just remove his -- if
24 the Songhai interpreter could not interpret what I'm just going to say. It was
25 just simply to note indeed that that was not what was stated in the prior

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 statement, at least of the witness, and certainly not what was said in

2 the testimony. But the witness in any event has answered the question.

3 PRESIDING JUDGE MINDUA: [13:53:28](Interpretation) Very well. In that

4 case, please proceed, Ms Taylor.

5 MS TAYLOR: [13:53:33]

6 Q. [13:53:33] So did the traditional doctor make cuts in your skin to draw

7 out the blood?

8 A. [13:53:57] (No interpretation)

9 PRESIDING JUDGE MINDUA: [13:54:02](Interpretation) Prosecutor.

10 MS LUPING: [13:54:03] (Overlapping speakers) If the witness could -- if the

11 Songhai interpreter could please not interpret what I'm just about to say, but

12 there is a use of a term being used by my learned friend suggesting that

13 the wounds were cut. It's not what was said in his previous statement. It

14 talks about certain wounds being opened. That is quite different to say that

15 there were any cuts made on the skin.

16 MS TAYLOR: [13:54:27] Mr President, my question was open. I said, Did

17 the traditional doctor make cuts to your skin? The witness is free to answer and

18 has, in fact, provided an answer, which should be interpreted.

19 MS LUPING: [13:54:46] Mr President, it was just a case of confusion, because

20 before that, it was put as if it was stated as a fact, because it was asking if it was

21 [REDACTED] who was the one who cut, who put cuts on the skin.

22 PRESIDING JUDGE MINDUA: [13:55:02](Interpretation) Okay, but this was

23 corrected by Ms Taylor afterwards, once she reworded her question.

24 Please proceed, Ms Taylor.

25 MS TAYLOR: [13:55:14] (Overlapping speakers) Could the answer of the

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 witness be interpreted.

2 THE WITNESS: [13:55:27](Interpretation) Of course, after the whipping, there
3 were wounds opened in order to remove the coagulated blood.

4 MS TAYLOR: [13:55:41]

5 Q. [13:55:41] And did this traditional doctor put a glass with a lighted match
6 on your skin to draw out the blood?

7 A. [13:56:15] It wasn't one or two glasses, it was seven glasses.

8 Q. [13:56:31] To be clear, I didn't suggest it was one or two, but I think your
9 answer is clear.

10 Is there interpretation?

11 Now, Mr Witness, is it correct that this practice of using a knife or a small razor
12 to draw out blood from bruises is common in Timbuktu?

13 A. [13:57:43] Well, for people who have blood coagulated under their skin,
14 that's something we have done if somebody falls, for example, and is injured.
15 I wouldn't know how often it's done. It's done a lot.

16 Q. [13:58:19] On Tuesday the Prosecution showed you various photos of

17 [REDACTED] Is it correct that [REDACTED]

18 [REDACTED]?

19 A. [13:58:57] Yes. [REDACTED]

20 Q. [13:59:07] Now, Tuesday you referred to an incident concerning [REDACTED] and
21 another one concerning someone called [REDACTED]. Do you recall if the incident
22 concerning [REDACTED] happened before the incident concerning [REDACTED]?

23 A. [14:00:05] Well, [REDACTED], I don't know where they are at the moment.

24 I, I -- I don't know, I don't recall that. I don't know what happened first.

25 Q. [14:00:24] Now, as concerns [REDACTED] you testified -- this is page -- this is

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 transcript 54, page 32, lines 13 to 14 of the real-time.

2 "I was in the BMS a long time before. But on that time, I was at the BMS but I
3 stayed outside."

4 Now, did the incident concerning [REDACTED] also happen a long time after your
5 detention in the BMS?

6 A. [14:01:37] Well, I was the first person to whom that happened. It was
7 after me that all that happened.

8 Q. [14:01:53] Mr Witness, perhaps if I can phrase it differently. Did
9 the incident concerning [REDACTED] happen at about the same time of the year as
10 the incident concerning [REDACTED]?

11 A. [14:02:38] Of course. They -- I -- I don't know whether it was [REDACTED] that
12 happened first or [REDACTED]

13 Q. [14:02:56] Now, you testified that [REDACTED] was walking in the street at the
14 time. What street was she walking on?

15 A. [14:03:27] It was [REDACTED]

16 Q. [14:03:33] And do you recall what the colour of her sari was?

17 A. [14:03:51] No, I do not remember.

18 Q. [14:03:57] Mr Witness, I'm going to read something from your statement
19 and then ask you a question.

20 It's tab 1, MLI-OTP-0046-8845 at 8859, paragraph 78. And if that could be put
21 up on to evidence 1 for the interpreters.

22 THE INTERPRETER: [14:04:54] Interpretation of paragraph 78:

23 "Hamed Moussa also arrested [REDACTED] Her veil had fallen.

24 He locked her up for a day. I know this because [REDACTED]

25 [REDACTED] She is about [REDACTED] years old today. Her

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 arrest occurred after my arrest." End of quote.

2 MS TAYLOR: [14:05:47]

3 Q. [14:05:47] Mr Witness, my question is, did you learn about what
4 happened to [REDACTED] because [REDACTED]?

5 A. [14:06:29] Between -- well, [REDACTED]

6 [REDACTED] It occurred or this happened [REDACTED]

7 Q. [14:06:46] Mr Witness, my question was, did you find out about what
8 happened to [REDACTED]?

9 A. [14:07:22] With regard to [REDACTED] I saw her. It happened there. I saw --

10 THE INTERPRETER: [14:07:31] Unclear whether it's "it" or "her", from
11 the booth.

12 MS TAYLOR: [14:07:37]

13 Q. [14:07:37] And where were you?

14 A. [14:07:57] [REDACTED]

15 Q. [14:08:03] And where was [REDACTED] walking?

16 A. [14:08:22] She was walking in the street.

17 Q. [14:08:25] And the person who arrested her, what did he look like?

18 A. [14:08:58] The person who apprehended her and put her in the car was
19 wearing a white attire and a white turban.

20 Q. [14:09:11] Now, Mr Witness, according to your statement, you told
21 the Prosecution that it was Hamed Moussa. Why did you tell them it was
22 Hamed Moussa?

23 A. [14:09:38] It was Hamed Moussa who caught her and put her in the car.
24 It was Boubacar who hit her. Hit her.

25 Q. [14:10:00] Now, Mr Witness, according to your statement, you told

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 the Prosecution that this is what [REDACTED] told you. Why did
2 you say that?

3 A. [14:10:26] What did I say?

4 Q. [14:10:30] According to your statement, it says: (Interpretation) "[REDACTED]
5 [REDACTED]"

6 A. [14:11:15] Yes, [REDACTED] It happened in front
7 of me [REDACTED]

8 Q. [14:11:31] What you've been describing today, is it based on what you
9 saw [REDACTED]?

10 A. [14:12:03] I saw it with my very own eyes [REDACTED]
11 [REDACTED]

12 Q. [14:12:14] Now, Mr Witness, regarding [REDACTED] where was she at the time
13 that Hamed Moussa arrested her?

14 A. [14:12:39] [REDACTED] was leaving home and going to the market on
15 the tarmacked road.

16 Q. [14:12:50] Now, [REDACTED] that's correct?

17 A. [14:13:16] [REDACTED]

18 Q. [14:13:21] [REDACTED]?

19 A. [14:13:37] No, no, no, [REDACTED]

20 Q. [14:13:44] And she was married at the time?

21 A. [14:13:56] Yes, she was married [REDACTED]
22 [REDACTED]

23 THE INTERPRETER: [14:14:14] Says the witness.

24 MS TAYLOR: [14:14:21]

25 Q. [14:14:21] And her husband wasn't with her at the time she was arrested;

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 is that correct?

2 A. [14:14:41] I didn't understand what you just said.

3 Q. [14:14:44] Was she with her husband at the time of her arrest?

4 A. [14:15:00] No, no, no, she wasn't with her husband.

5 Q. [14:15:09] And where were you?

6 A. [14:15:38] I was going around, I saw her, because at that moment
7 you -- you couldn't even take your own sister behind you on a motorbike. I
8 saw her. They apprehended her and put her in a car and they took her away.

9 [REDACTED]

10 Q. [14:16:15] Now, do you recall contacting the Prosecution [REDACTED]

11 [REDACTED]?

12 A. [14:16:55] [REDACTED] I never
13 asked.

14 MS TAYLOR: [14:17:04] If I could refer to tab 124 of the Prosecution binder.
15 It's MLI-OTP-0074-2046. There's no paragraph numbers, but if it could be put
16 on evidence 1, and if the section under, [REDACTED] if those
17 two paragraphs could be read to the witness, since he can't read them.

18 THE SONGHAI INTERPRETER: [14:18:21] Message from the Songhai
19 interpreters: This is in English.

20 PRESIDING JUDGE MINDUA: [14:18:32](Interpretation) Yes, could
21 the -- could it be interpreted into French for our Songhai interpreters, please.

22 THE INTERPRETER: [14:18:43] And message from the English booth: Could
23 the reference please be repeated. Thank you so much.

24 MS TAYLOR: [14:18:49] It's on the evidence screen 1. I can read it out, but it
25 might be easier for you to -- it's MLI --

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [14:18:59](Interpretation) Ms Taylor, I asked
2 the interpreters to interpret it into French for our Songhai interpreters. That's
3 what they're doing just now.

4 MS TAYLOR: [14:20:44]

5 Q. [14:20:45] Mr Witness, does this --

6 PRESIDING JUDGE MINDUA: [14:20:53](Interpretation) Please proceed,
7 Madam interpreter.

8 (MLI-OTP-0074-2046-R02, section under ██████████ read to
9 witness)

10 THE INTERPRETER: [14:24:40] Message from the French interpreter: Could
11 the rest of the text please be brought up on the screen. Thank you.

12 MS TAYLOR: [14:26:01]

13 Q. [14:26:01] And Mr Witness (Overlapping speakers)

14 A. [14:26:04] That is indeed the truth.

15 Q. [14:26:10] Do you recall if the Prosecution ██████████?

16 A. [14:26:58] It's very clear, they sent it me.

17 Q. [14:27:05] Now, Mr Witness, ██████████
18 ██████████?

19 A. [14:27:36] ██████████
20 ██████████

21 Q. [14:27:54] Now, Mr Witness, at the end -- or, just before the end of this
22 note, it says:

23 ██████████
24 ██████████
25 ██████████

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1

2

3 MS TAYLOR: [14:29:00] It's at the bottom of the page for the interpreters.

4 THE WITNESS: [14:29:11](Interpretation) Yes.

5 MS TAYLOR: [14:29:12]

6 Q. [14:29:12] Mr Witness, what other organisations did you contact to try to
7 get help at this point?

8 THE INTERPRETER: [14:30:00] The beginning of the Songhai interpreter's
9 rendition was inaudible because his microphone was off. Could he please be
10 asked to repeat.

11 MS TAYLOR: [14:30:12] I believe the Songhai will have to repeat the answer,
12 because the interpreters didn't hear the beginning.

13 PRESIDING JUDGE MINDUA: [14:30:27](Interpretation) Very well, Songhai,
14 please.

15 THE WITNESS: [14:30:36](Interpretation) Well, the people I knew, it was
16 from them that I asked help. I don't know any other organisations.

17 MS TAYLOR: [14:30:51]

18 Q. [14:30:51]

19

20 A. [14:31:30]

21

22 Q. [14:31:47] I'll rephrase my question. Apart from the Office of the

23 Prosecutor, whether before or afterwards,

24

25 A. [14:32:27] Well, there are organisations who came to see us and some

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 helped me. Some of them did help me, of course.

2 Q. [14:32:54] Now, I can go through it organisation by organisation. What
3 was the first organisation that helped you?

4 A. [14:33:28] I don't have the names. I don't really recall the names.

5 Q. [14:33:35] Was it a local organisation or a foreign organisation?

6 A. [14:34:10] They were local organisations, local organisations that were
7 there.

8 Q. [14:34:18] And what kind of help did they give to you?

9 A. [14:34:58] There are some who come and they helped me with money and
10 there are some that give gifts. Gifts, but at the moment, well -- and then there
11 is the door, which is -- there's an organisation ...

12 THE INTERPRETER: [14:35:27] Apologies from the English booth, the quality
13 of the line for the Songhai interpreter -- French from Songhai was rather poor.

14 MS TAYLOR: [14:35:46]

15 Q. [14:35:47] Do you recall how much money was given to you?

16 A. [14:36:03] No, I don't remember.

17 Q. [14:36:07] And what type of gifts were given to you?

18 A. [14:36:22] I don't understand what you meant by that. I don't
19 understand.

20 Q. [14:36:41] Mr Witness, in the French transcript at line 16, it said that when
21 the organisations came, some gave you money and some gave you gifts.

22 What type of gifts were given?

23 A. [14:37:12] These were gifts of rice and oil. There were people who gave
24 us rice and oil from -- from the agency.

25 Q. [14:37:40] [REDACTED]

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1

2

3 A. [14:38:23] How do you mean, lied?

4 Q. [14:38:31] Did you ever say something that didn't happen or wasn't
5 correct?

6 A. [14:39:01] I don't recall having said anything to anybody that was not
7 correct or not true.

8 Q. [14:39:09] Do you know someone called [REDACTED]

9 [REDACTED]?

10 A. [14:39:40] You said [REDACTED]?

11 Q. [14:39:43] No, Mr Witness - sorry, there was an interpretation issue - [REDACTED]

12 [REDACTED]?

13 A. [14:40:03] That they call, what?

14 Q. [14:40:07] Someone called [REDACTED]?

15 A. [14:40:37] Yes, I know him. He's been to see me at home and what I
16 know is, is that, and what I have said.

17 Q. [14:40:55] I am just going to show you Defence tab 9, [REDACTED]

18 If it could be shown on evidence 1.

19 If we could zoom in to the person on the right.

20 Is this the person you're referring to?

21 A. [14:42:00] Yes, that is indeed he. I know him.

22 Q. [14:42:05] And if I could bring up Defence tab 17, that's

23 [REDACTED]

24 That's not the correct one. I think I must have -- it should be

25 [REDACTED], Defence tab 17.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

- 1 We can play it from the Defence computer.
- 2 There seems to be an issue with the image that's uploaded on to Ringtail; so
- 3 we'll play it from the Defence computer and we'll update eCourt afterwards.
- 4 THE COURT OFFICER: [14:43:41](Interpretation) Assistant, it is now being
- 5 shown on evidence channel 2.
- 6 MS TAYLOR: [14:44:03]
- 7 Q. [14:44:03] Can you see the photo, Mr Witness?
- 8 A. [14:44:14] Yes, I've just seen it, yes.
- 9 Q. [14:44:22] (Overlapping speakers) Is it the same person?
- 10 A. [14:44:29] In this way, I'm not sure I understand or I can recognise them.
- 11 Q. [14:44:48] Can you see them now?
- 12 A. [14:44:58] No, that's not the same person.
- 13 Q. [14:45:05] Do you know an NGO called, Association Malienne pour la
- 14 Survie au Sahel?
- 15 A. [14:45:30] No.
- 16 Q. [14:45:32] I'm going to play a video for you, it's Defence tab
- 17 MLI-D28-0004-3798 and the transcript is tab 4, MLI-D28-0004-3810. We'll play
- 18 it without sound to start with.
- 19 (Viewing of the video excerpt)
- 20 MS TAYLOR: [14:46:20] Stop.
- 21 Q. [14:46:21] Mr Witness, do you recognise the person in this video?
- 22 A. [14:46:33] Yes, I -- of course I know this man. How could I not know
- 23 him?
- 24 Q. [14:46:44] For the record, can you say who it is?
- 25 A. [14:46:58] It's me.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 Q. [14:47:04] And do you recall being filmed at this juncture?

2 A. [14:47:20] When they filmed that, well, I don't know when that was.

3 Q. [14:47:39] Do you recall being interviewed by [REDACTED]?

4 A. [14:47:56] Yes, I do remember that.

5 Q. [14:47:59] I'm going to play the video with sound.

6 THE INTERPRETER: [14:48:04] Question from the English booth, could you
7 please repeat the reference for the transcript.

8 MS TAYLOR: [14:48:11] (Overlapping speakers) I am just going to give
9 the reference for the transcript to the English boot. It's tab 14,
10 MLI-D28-0004-3810.

11 THE INTERPRETER: [14:48:23] Thank you.

12 (Viewing of the video excerpt)

13 THE INTERPRETER: [14:48:36](Interpretation of the video excerpt)

14 "Brother, how are you?

15 Allah, I'm okay.

16 And the members of the family?

17 We give thanks to god.

18 What's your name?

19 My name is [REDACTED]

20 [REDACTED] in fact, I've come today to see you so that you can tell
21 us what happened when these people arrived, up until the moment where they
22 didn't leave. So what happened to you?

23 Yes.

24 I would like you to tell me all about that.

25 Yes. When these people arrived.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

- 1 Interviewer: Yes.
- 2 Well, when they arrived, they found me, and I was at the door of the women.
- 3 Yes.
- 4 They asked me, What are you doing there? I said, It's my little sister, and I
- 5 wanted to take some coal inside.
- 6 Yes.
- 7 They said to me, It's your little sister? We were arrested and I was on
- 8 the point of taking a barrel inside.
- 9 Yes.
- 10 They called me to the other side.
- 11 Yes.
- 12 The driver's side. They asked me the name of my father and I gave them
- 13 the name of my -- of the woman's father.
- 14 Yes.
- 15 They also asked the woman and she gave the name of my father. Yes.
- 16 That it's at this point that we were divergent in our stories and they arrested us.
- 17 Yes.
- 18 They took me -- and took me to prison. My wife was with them. They took
- 19 me to prison and they shut me in for two days.
- 20 Yes.
- 21 The third day, they judged us.
- 22 Yes.
- 23 They took the woman also and they whipped us.
- 24 Where was the whipping?
- 25 The whipping was in Sankoré.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 But when the -- where was it that they arrested you? Where? The place?

2 Well, well, the place --

3 Where they arrested you?

4 Abaradjou.

5 They arrested you at Abaradjou?

6 Yes.

7 They took us to -- they took you to Sankoré?

8 Yes.

9 And you were whipped?

10 Yes.

11 Who are they?

12 In fact, the perpetrators, I know them from -- by sight, but I don't know their

13 names.

14 You don't know their names, but you know the group to whom they belong

15 because there are various groups that came to Timbuktu. Ah, yes, I see what

16 you mean.

17 So which group were they from?

18 The Islamists.

19 The Islamists?

20 Yes.

21 How do you know that they were the Islamists?

22 Well, I see their flag and the way they behave. That tells me that they are

23 the Islamists.

24 Their -- what do their clothes look like, what colours?

25 Colour? Well, their clothes seem to be the same colour as sand.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

- 1 Their clothing, yes, their boubou. And their flag?
- 2 Their flag is black with white writing on the inside.
- 3 What tells you that these are Islamists?
- 4 Islamists.
- 5 At the time they arrested you, how many were there?
- 6 There were seven of them.
- 7 Seven people?
- 8 Yes.
- 9 And when they whipped you, how many people whipped you?
- 10 There were about a hundred people in the location. They put vehicles around
- 11 the location. They pointed their rifles at me. They were all aiming at me.
- 12 Now, the subject of your whipping, how many lashes did you get?
- 13 A hundred lashes.
- 14 A hundred lashes?
- 15 A hundred.
- 16 Does that hurt?
- 17 Of course it hurts.
- 18 Ah, yes, you're injured?
- 19 Of course I'm injured. Until today, you can still see the marks, the scars.
- 20 You can still see them?
- 21 Yes, you can.
- 22 And did you have prescriptions for the wounds from these whippings?
- 23 Prescriptions, yes, they took me to hospital. They gave me six tablets.
- 24 Yes.
- 25 And when they gave me these six tablets, I swallowed them. That's all.

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

- 1 And I don't know what else to say.
- 2 Whether you have prescriptions?
- 3 Yes.
- 4 Do you have them with you?
- 5 Yes.
- 6 I can ensure you that you -- I will collect them within a week. Okay.
- 7 They will pay the price of the prescriptions.
- 8 Okay.
- 9 But the aid that they give you will be in three months, six months or a year.
- 10 Okay.
- 11 Our aid is also an aid of results, god be praised.
- 12 Yes.
- 13 Yes. This is the full truth.
- 14 Yes.
- 15 If you have anything to add, then please do.
- 16 These are all the prescriptions that I had.
- 17 Yes.
- 18 These were given to me at the hospital.
- 19 Yes.
- 20 *Incomprehensible.*
- 21 Yes.
- 22 I don't have any work which allows me to pay for this.
- 23 Yes.
- 24 I took out loans ...
- 25 Okay.

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 To pay them.

2 Yes.

3 I kept all the prescriptions for these. I took out loans in order to pay them.

4 Yes.

5 They're all with me.

6 You have them with you?

7 They're all at my house.

8 Great. Is that what you wanted to add?

9 Yes.

10 Now, don't be afraid, we have listened to you and you've spoken well. Also,

11 if you are afraid that we're going to show you to people and we'll talk about

12 you to people, tell us, and we will assure you that that will remain between us

13 and god.

14 Okay, I'm not afraid of anything.

15 You're not afraid of anything.

16 Because what happened to me is known by everybody. There -- there is

17 nothing. Inaudible.

18 May god help us.

19 Indeed. Oh, god.

20 Pray. But I would like to have the prescriptions.

21 Okay."

22 PRESIDING JUDGE MINDUA: [14:55:06](Interpretation) Ms Taylor.

23 MS TAYLOR: [14:55:08]

24 Q. [14:55:08] Mr Witness, was this you telling ██████████ about what happened to

25 you in 2012?

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 A. [14:55:32] Yes, that is indeed me.

2 Q. [14:55:38] And did you tell him the truth about what happened to you?

3 PRESIDING JUDGE MINDUA: [14:55:52](Interpretation) Madam Prosecutor.

4 MS LUPING: [14:55:53] Mr President, I would just ask that the Songhai
5 interpreter not interpret my intervention, but I observe that the question was:
6 "[...] was this you telling ██████ about what happened to you in 2012?"

7 The witness has only actually responded to say that's indeed me. He hasn't
8 responded to the question about who is asking the questions at this stage.

9 Just to avoid any confusion for the record, I would ask that this be made clear,
10 because I believe the record is not clear at present.

11 PRESIDING JUDGE MINDUA: [14:56:25](Interpretation) Ms Taylor, I
12 completely agree with the Prosecution's remark.

13 MS TAYLOR: [14:56:32] (Overlapping speakers) I can ask the question.

14 Q. [14:56:33] Mr Witness, was that ██████ interviewing you about what
15 happened in 2012?

16 A. [14:57:04] In 2012, I didn't see ██████ myself.

17 Q. [14:57:11] I think there was a confusion, Mr Witness. The voices that
18 you heard in that video, were the voices yours and that of the person known as
19 ██████?

20 A. [14:57:42] Yes, it was indeed ██████ voice and me, my voice.

21 Q. [14:57:54] And just for the record, you were both speaking Songhai?

22 A. [14:58:07] Yes, of course it was Songhai.

23 Q. [14:58:15] And what you told him about what happened to you, was that
24 the truth?

25 A. [14:58:42] What do you mean by what happened to me?

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Private Session)

ICC-01/12-01/18

1 Q. [14:58:47] The details that you were telling ██████ were they based on
2 your memory of what happened to you at the time?

3 A. [14:59:28] Yes, what I said to ██████ I told him that, but there's a lot of
4 other things that I didn't tell him. He -- I didn't tell him everything.

5 Q. [14:59:48] (Overlapping speakers) Now, Mr Witness, according to lines 29
6 to 31 of the transcript of this video, that's MLI-OTP-0004-3810 at 3811, you said

7 ██████

8 (No interpretation)

9 And then you say (No interpretation)

10 THE INTERPRETER: [15:00:31] Unfortunately, we didn't understand what
11 Ms Taylor said.

12 MS TAYLOR: [15:00:38] If we can put the transcript on evidence 1; it's
13 MLI-OTP-0004-3810 at 3811. We have lines 29 to 31.

14 THE INTERPRETER: [15:01:25](Interpretation)

15 "They took me to prison and they locked me up for two nights. Interviewer:

16 Yes.

17 Interviewee: On the third day, they judged us." End of quote.

18 MS TAYLOR: [15:01:43]

19 Q. [15:01:43] Mr Witness, is what you told ██████ consistent with what you
20 remembered at that time?

21 A. [15:02:13] I didn't understand that.

22 Q. [15:02:18] Mr Witness, what you said to ██████ in these lines, did you
23 believe it to be true at the time you said it to ██████?

24 A. [15:02:53] If it was not the truth, why would I have said it to him?

25 PRESIDING JUDGE MINDUA: [15:03:03](Interpretation) Ms Taylor, I can see

Trial Hearing

(Private Session)

ICC-01/12-01/18

WITNESS: MLI-OTP-P-0557

1 that you're looking at the clock.

2 MS TAYLOR: [15:03:08] Yes, we can stop for today now, if that's what you
3 mean.

4 PRESIDING JUDGE MINDUA: [15:03:16](Interpretation) Madam courtroom
5 officer, open session, please.

6 (Open session at 3.03 p.m.)

7 THE COURT OFFICER: [15:03:32] We are in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [15:03:41](Interpretation) Thank you very
9 much, madam courtroom officer.

10 So, Ms Taylor, you shall be continuing tomorrow.

11 MS TAYLOR: [15:03:53] Yes, Mr President. But I believe I won't
12 be -- I believe I'll be able to finish within the allotted time.

13 PRESIDING JUDGE MINDUA: [15:04:12](Interpretation) Very well.

14 Mr Witness, Mr Witness, we are reaching today -- the end of today's testimony
15 and you will have understood that your testimony is not yet over, you shall
16 continue your testimony tomorrow. Until then, please do not forget that
17 you are forbidden from speaking about your testimony to whomsoever.

18 Have you understood?

19 THE WITNESS: [15:05:33] (No interpretation)

20 PRESIDING JUDGE MINDUA: [15:05:34](Interpretation) Thank you very
21 much.

22 So, it remains for me to thank all the parties and participants. I would also
23 like to thank the court reporters, the interpreters, and of course I do not forget
24 our security officers and our public. I would like to wish you all a nice evening
25 and we shall reconvene tomorrow

~~ICC-01/12-01/18-T-056-CONF-ENG-ET-03-12-2020-69/69-SZ-T~~

Trial Hearing
WITNESS: MLI-OTP-P-0557

(Open Session)

ICC-01/12-01/18

- 1 morning at 9.30.
- 2 Court is adjourned.
- 3 THE COURT USHER: [15:06:06] All rise.
- 4 (The hearing ends in open session at 3.06 p.m.)