

Trial Hearing
WITNESS: MLI-OTP-P-0602

(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 vs Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Wednesday, 19 May 2021
10 (The hearing starts in open session at 10.00 a.m.)
11 THE COURT USHER: [10:00:25] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [10:00:50](Interpretation) The hearing will now
15 resume. Good morning to everybody.
16 Court officer, please call the case.
17 THE COURT OFFICER: [10:01:01] Good morning, Mr President, your Honours.
18 This is the situation in the Republic of Mali, in the case of The Prosecutor versus
19 Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case number
20 ICC-01/12-01/18.
21 And for the record, we're in open session.
22 PRESIDING JUDGE MINDUA: [10:01:23](Interpretation) Thank you very much,
23 court officer.
24 We were due to start at 9.30. Unfortunately, for technical reasons out with the
25 control of the Chamber, we have been unable to start until now. We apologise for

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1 this delay.

2 As we are starting late, we will be considerably changing today's programme. We
3 will now meet from now until 11.30. There will then be a half-hour break, with our
4 second session starting at 12 and running until 13.30. We will then have our lunch
5 break -- a one-hour lunch break today, and our third session will therefore start at
6 14.30, and we will meet until 16.00, 4 o'clock, as usual. There we are.

7 So let us now start with the presentation, starting with the Prosecutor.

8 MS SARDACHTI: [10:02:57](Interpretation) Good morning, your Honours. For the
9 Prosecutor we have, as yesterday, my colleague Dianne Luping and myself,
10 Marie-Jeanne Sardachti.

11 PRESIDING JUDGE MINDUA: [10:03:07](Interpretation) Thank you very much,
12 Madam Prosecutor.
13 Defence.

14 MS SUTHERLAND: [10:03:10] Good morning, Mr President, your Honours. For
15 the Defence today we have Ms Melinda Taylor, Ms Sarah Marinier-Doucet,
16 Ms Sophia Westen and myself, Kirsty Sutherland.

17 And forgive me, Mr President, I know this is a slightly awkward time to raise this, but
18 it's also the entirely pertinent time. We understand that yesterday the same term
19 was used in Songhai that means -- translates as *malfaitteur*, or criminal, to refer to both
20 the Defence and Mr Al Hassan, and ask again if a more neutral term can be found. I
21 also understand that Songhai is a very rich language and that it's very plausible that a
22 suitable alternative can be used.

23 PRESIDING JUDGE MINDUA: [10:04:06](Interpretation) Thank you, Ms Sutherland,
24 for drawing our attention to this matter.

25 Speaking to the interpreters, as Maître Sutherland has said, we must not use the term

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1 of *malfaiteur*.

2 I turn now to Legal Representatives for Victims.

3 MR KASSONGO: [10:04:31](Interpretation) Thank you, your Honour. Good
4 morning, everybody. The format of the Legal Representative for Victims team has
5 not changed. I am here again on my own, Maître Kassongo, for the legal
6 representation of victims.

7 PRESIDING JUDGE MINDUA: [10:04:53](Interpretation) Thank you,
8 Maître Kassongo.

9 So I now turn to our witness. We will continue this morning hearing the 34th
10 Prosecution witness, P-0602.

11 Madam Witness, can you hear me -- good morning. Can you hear me?

12 WITNESS: MLI-OTP-P-0602 (On former oath)

13 (The witness speaks Songhai)

14 (The witness gives evidence via video link)

15 THE WITNESS: [10:05:26](Interpretation) Good morning to you. I can hear you
16 well.

17 PRESIDING JUDGE MINDUA: [10:05:30](Interpretation) Thank you very much,
18 Madam Witness.

19 Welcome once more to the court, and I would like to remind you that you are still
20 under oath.

21 THE WITNESS: [10:05:54](Interpretation) Yes, I have understood.

22 PRESIDING JUDGE MINDUA: [10:05:56](Interpretation) Therefore, you need to
23 speak the truth, the whole truth and nothing but the truth.

24 THE WITNESS: [10:06:09](Interpretation) Understood.

25 PRESIDING JUDGE MINDUA: [10:06:13](Interpretation) I would like to remind you

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1 that what you say is noted by court reporters and translated into several languages by
2 our interpreters.

3 THE WITNESS: [10:06:38](Interpretation) I have understood that, yes.

4 PRESIDING JUDGE MINDUA: [10:06:41](Interpretation) Therefore, I would ask you
5 to speak clearly and slowly in a moderated tone in order to take the work of the
6 interpreters easier.

7 THE WITNESS: [10:07:05](Interpretation) Yes, I've understood.

8 PRESIDING JUDGE MINDUA: [10:07:09](Interpretation) Thank you very much,
9 Madam Witness.

10 Madam Prosecutor, you have the floor, but yesterday I noted that in her replies our
11 witness tends to develop her replies and the interpreters tend to summarise. Could
12 you please try and ask questions so that the witness can ask -- can answer in short
13 chunks. Thank you.

14 Please go ahead.

15 MS SARDACHTI: [10:07:47](Interpretation) Yes, I've noted that, Mr President.

16 Thank you.

17 QUESTIONED BY MS SARDACHTI: (Continuing)(Interpretation)

18 Q. [10:08:00] Good morning, Madam Witness.

19 A. [10:08:06] Good morning.

20 Q. [10:08:07] I'm going to continue to ask you questions on behalf of the Office of
21 the Prosecutor.

22 A. [10:08:23] Understood.

23 Q. [10:08:24] I would like to come back to what Judge Mindua has just said. In
24 order to allow us to note everything that you say, it's very important to have breaks in
25 what you say. And I myself will try hard to word my questions accordingly.

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1 MS SARDACHTI: [10:09:11](Interpretation) Mr President, before we continue,
2 yesterday we finished in private session, and for the same reasons that I explained
3 yesterday, I would like to now go into private session again.

4 PRESIDING JUDGE MINDUA: [10:09:26](Interpretation) Yes. You asked for
5 30 minutes of private session and you have used 10, so we have another 20 minutes.
6 So, court officer, private session, please.

7 (Private session at 10.09 a.m.)

8 THE COURT OFFICER: [10:09:42] We're in private session, Mr President.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Open session at 11.06 a.m.)

24 THE COURT OFFICER: [11:06:19] We are back in open session, Mr President.

25 PRESIDING JUDGE MINDUA: [11:06:23](Interpretation) Thank you, court officer.

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1 Madam Prosecutor.

2 MS SARDACHTI: (Interpretation)

3 Q. [11:06:39] Madam Witness, you said, when we were in private session, "I said I
4 wasn't interested because that doesn't concern me." Could you please tell us why
5 you say that that didn't concern you?

6 A. [11:07:31] I said that because something I didn't like, it didn't please me, and so I
7 didn't show interest in that because, yes, it just -- was just something that was going
8 to happen.

9 Q. [11:07:59] You talked about a religious ceremony. Was there any wedding
10 party?

11 A. [11:08:20] No, no, there was no party. No party. Nothing.

12 Q. [11:08:44] And before the armed groups arrived in Timbuktu, how -- what
13 happened when there was a marriage?

14 A. [11:09:09] Before they arrived in Timbuktu, there would be the religious
15 marriage ceremony, there would be a party, there was a cortège. We were to
16 transport the bride in a parade, in a cortège, and all that sort of thing.

17 Q. [11:09:40] So once what you describe as the marriage took place, how did you
18 feel?

19 A. [11:10:16] Once that happened, I really felt bad about it. I had grave concerns
20 about it.

21 Q. [11:10:36] What were your concerns?

22 A. [11:10:51] And then, well, these people come from nowhere and they come to
23 Timbuktu and they marry people just like that. They married lots of people. And
24 there are people who do bad things. Coming to us, marrying us in Timbuktu, that's
25 what was so bad.

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1 Q. [11:11:54] After your marriage, what happened?

2 A. [11:12:19] *The marriage took place and he came. He took me at night, he
3 took me away in a vehicle, and I spent the night at his place. And then he brought me
4 home the next day and I spent the day at my home.

5 Q. [11:13:02] So the day after the marriage, can you tell us exactly what happened?

6 A. [11:13:39] As I said, the marriage took place and I didn't go anywhere. I didn't
7 go anywhere in the neighbourhood. People come -- friends came and talked to me.
8 That's all.

9 Q. [11:14:09] You said, "He came and he took me for the night". Who came and
10 took you?

11 A. [11:14:33] That was the man to whom I had to be married. He came with one
12 of his friends. They were the ones who came and took me.

13 Q. [11:14:54] Do you know their names?

14 PRESIDING JUDGE MINDUA: [11:15:04](Interpretation) Madam Prosecutor, there
15 is a risk that the name might be spoken.

16 MS SARDACHTI: [11:15:10](Interpretation) As it's the names of the members of the
17 groups, I think I'm okay asking this question.

18 PRESIDING JUDGE MINDUA: [11:15:23](Interpretation) I don't know. Maybe it
19 would be better not to mention the names, or perhaps you could ask in private
20 session later.

21 MS SARDACHTI: [11:15:33](Interpretation) I have made a note of that,
22 your Honour.

23 Q. [11:15:53] Can you tell us where they took you?

24 A. [11:15:58] Yes, it was the house that was near (Redacted), that's where they took
25 me. And then they brought me home in the morning where I would spend the day.

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- 1 Q. [11:16:42] When they came to get you, were these two people armed?
- 2 A. [11:16:57] Yes.
- 3 Q. [11:17:06] How were they dressed?
- 4 A. [11:17:21] They wore the same clothes they usually wore, as I explained to you
5 earlier.
- 6 Q. [11:17:42] You said that they -- they took you. What means of transport did
7 they use to take you away?
- 8 A. [11:18:02] I didn't understand. When they took me where?
- 9 Q. [11:18:21] You said, Madam Witness, that they took you away in a vehicle.
10 What sort of vehicle was this?
- 11 A. [11:18:44] The vehicle was the same vehicle I talked to you about, I spoke to you
12 about.
- 13 Q. [11:19:00] I'm sorry to have to ask you to repeat things, but just so that we have
14 this clear, could you please describe the vehicle. What sort of vehicle was it, what
15 sort of colour?
- 16 A. [11:19:35] The -- there are no other signs, it's a sort of yellow colour where you
17 can have three people in the front and the back is uncovered. The cruisers.
- 18 Q. [11:20:15] Would you have been able to escape?
- 19 A. [11:20:47] They knew that if I had the chance, I would have escaped, which is
20 why they put me between them, and that's -- for that reason I was unable to escape.
- 21 Q. [11:21:20] You said to us that you were taken to a house.
- 22 A. [11:21:32] Yes.
- 23 Q. [11:21:34] Can you describe this house, the colour and so on?
- 24 A. [11:22:00] It was a house, a villa, and they were houses that had been abandoned.
25 Because when these people came in, the houses were abandoned when people fled.

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- 1 Q. [11:22:24] And what was this house like?
- 2 A. [11:22:47] It was a big house, somebody's house, a big house with different
3 rooms.
- 4 Q. [11:23:03] Had you ever seen this house before?
- 5 A. [11:23:19] It was a house I had seen when passing, but I had never been inside
6 before.
- 7 Q. [11:23:44] Who had you seen in this house?
- 8 A. [11:23:59] I don't understand. Do you mean when there were the real owners
9 or when these people had taken it over?
- 10 Q. [11:24:10] When you arrived in the house yourself, was there anybody else in
11 the house?
- 12 A. [11:24:42] It's possible, it's possible, it's possible when you go in that other
13 people come and see it because there's a lot of rooms there. But, well, maybe some
14 people might have been there, but I don't know, I don't know.
- 15 Q. [11:25:09] Apart from the two people that took you there, were there other
16 members of the armed groups there?
- 17 A. [11:25:37] It's possible, but I said when I arrived that there was nobody else -- I
18 didn't see anybody else. Sorry.
- 19 Q. [11:25:59] What did you do when you were in this house?
- 20 A. [11:26:15] What do you mean what did I do?
- 21 Q. [11:26:19] Did you have anything to do? Did anybody ask you to do anything?
- 22 A. [11:26:43] Yes. As I said, I just came there to spend the night, and then the next
23 day I left and he would leave too.
- 24 Q. [11:27:03] And were you able to leave this house?
- 25 A. [11:27:18] To go where?

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1 Q. [11:27:23] Did you try and escape when you were in this house?

2 A. [11:27:50] *Yes, the marriage had taken place, it had taken place. And... and, of
3 course, I didn't like him, I didn't like him. But I was afraid and I was concerned -- I
4 had concerns because I was afraid, but I was also afraid for my parents. I couldn't ... It
5 is true that I often thought of doing it, but I was afraid, I was afraid for my parents.

6 Q. [11:28:24] And why were you afraid for your parents?

7 A. [11:28:50] I was afraid because these were people who were not afraid of God,
8 so everybody in the whole town, they could have made problems.

9 Q. [11:29:09] What type of problems?

10 A. [11:29:31] They can accuse them and they could have said that they would have
11 been the ones to help me escape, and I was afraid that that would happen if I left, that
12 they could say all of that.

13 MS SARDACHTI: [11:29:49] I see that it is almost 11.30. I think that perhaps we
14 could make the break now.

15 PRESIDING JUDGE MINDUA: [11:29:58](Interpretation) Indeed, yes, we're one
16 minute before 11.30. So we will stop now. We will take half an hour's break and
17 we will start again at 12.

18 The hearing is suspended.

19 THE COURT USHER: [11:30:14] All rise.

20 (Recess taken at 11.30 a.m.)

21 (Upon resuming in open session at 12.00 p.m.)

22 THE COURT USHER: [12:00:55] All rise.

23 Please be seated.

24 PRESIDING JUDGE MINDUA: [12:01:18](Interpretation) Court is in session once
25 again.

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- 1 Courtroom officer, could you please tell us how much time the Office of the
2 Prosecutor has already used up and how much time is remaining, if possible, please.
- 3 THE COURT OFFICER: [12:01:48] Your Honour, the Prosecution has used 2 hours
4 and 43 minutes in total, and today it used 1 hour and 21 minutes for questioning. I
5 will revert to you with regards to how much time they have remaining.
- 6 PRESIDING JUDGE MINDUA: [12:02:13](Interpretation) Very well.
7 Madam Prosecutor, over to you. You've heard what the courtroom officer just said.
8 So at the very most, you have five hours in total. There we are. Please go ahead.
- 9 MS SARDACHTI: [12:02:30](Interpretation) That's noted, Mr President.
- 10 Q. [12:02:36] Madam Witness, I would now like to home in on what happened on
11 the first night in the house. Once you arrived at the house, where did you go?
- 12 A. [12:03:24] We went into a room.
- 13 Q. [12:03:32] And what was that room like?
- 14 A. [12:03:49] It was a room where there was a double mattress.
- 15 Q. [12:04:02] And how big was this bedroom?
- 16 A. [12:04:16] Well, yes, it was just a room but not -- it was quite big, but not as big
17 as all that.
- 18 Q. [12:04:24] And what was the lighting like in the room?
- 19 A. [12:04:38] I beg your pardon?
- 20 Q. [12:04:42] Was there any light in the room?
- 21 A. [12:05:00] Yes, there was light in the room.
- 22 Q. [12:05:09] When you say "we went into the room", who went into the room?
- 23 A. [12:05:32] The gentleman that the marriage was conducted with, it was he.
- 24 Q. [12:05:45] And what happened that first night in the house in the room?
- 25 A. [12:06:06] Yes, on the first night, nothing happened in the room. Something

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1 nearly happened, but I didn't accept.

2 Q. [12:06:29] Did he speak to you?

3 A. [12:06:48] No, he just wanted to get close to me and touch me. There we are.

4 He was just sidling up to me.

5 Q. [12:07:09] And why do you say that something nearly happened?

6 A. [12:07:35] Well, it means that he wanted us to have intercourse. That's what he
7 wanted.

8 Q. [12:07:52] You say that you didn't accept. Can you explain that to us.

9 A. [12:08:06] I didn't accept because it was something that I didn't like. I didn't
10 accept. That's all.

11 Q. [12:08:34] You say that "He wanted us to have intercourse together." What
12 kind of intercourse or relations are you talking about?

13 A. [12:09:12] Well, I don't know how to say that to you, just wanted us to sleep
14 together, for us to sleep together.

15 Q. [12:09:39] You said, "He was just trying to get close to me and touch me." Did
16 he touch you?

17 A. [12:10:04] The first night he didn't touch me because I refused.

18 Q. [12:10:16] Now, I know that this happened a long time ago and that it's difficult
19 to recall, but can you remember what you said to him?

20 A. [12:10:48] What do you mean he said something to me?

21 Q. [12:10:52] You say "I refused." Well, after you refused, did he say something to
22 you?

23 A. [12:11:20] Yes, he just told me that if a man and woman get married, that they
24 should be aware that they should touch and that they should sleep together and that
25 they should do everything together.

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- 1 Q. [12:11:42] And what did you answer?
- 2 A. [12:11:54] Well, I didn't answer. I didn't even answer. I didn't even speak to
3 him.
- 4 Q. [12:12:14] So how did he understand that you had refused -- or I shall rephrase.
5 How did you express your refusal?
- 6 A. [12:12:40] Yes, he understood because I went to sit to one side, and he
7 understood that I didn't want to.
- 8 Q. [12:12:53] Was he armed that night?
- 9 A. [12:13:08] He put the rifle next door or nearby.
- 10 THE INTERPRETER: [12:13:16] Unclear in French.
- 11 MS SARDACHTI: [12:13:25](Interpretation)
- 12 Q. [12:13:26] When you say "next door or nearby", do you mean in the room?
- 13 A. [12:13:41] Yes, I mean next to him in the room.
- 14 Q. [12:13:53] And on that night, were you able to sleep?
- 15 A. [12:14:06] No, I wasn't able to sleep that night. I felt -- I spent the whole night
16 sitting down. I wasn't able to sleep.
- 17 Q. [12:14:28] Why were you not able to sleep?
- 18 A. [12:14:50] I couldn't sleep. I could see that man near me and I could see the
19 weapon. And the truth be told, I couldn't sleep.
- 20 Q. [12:15:06] What happened the next day?
- 21 A. [12:15:24] The next day nothing happened, and the next day the same thing
22 happened again.
- 23 Q. [12:15:43] Now, Madam Witness, at page 21, from lines 10 to 13, you told us that
24 "The marriage took place. He came and took me at night, he took me in a vehicle,
25 and I spent the night at his house. And on the next day he took me back."

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- 1 A. [12:16:58] Yes.
- 2 Q. [12:17:00] So did he take you home to your house that morning?
- 3 A. [12:17:14] Are you talking about our house?
- 4 Q. [12:17:23] On the next day, did you remain in the house or did he take you back
5 to your home?
- 6 A. [12:17:42] On that day, do you mean that day?
- 7 Q. [12:17:50] I do apologise. I might not have been very clear as to the temporal
8 framework. You describe to us that on a first night you were taken to the house.
9 Then you told us that you spent the first house in -- the first night in that house.
- 10 A. [12:18:31] Yes.
- 11 Q. [12:18:32] And that -- and so, the next morning where did you go?
- 12 A. [12:18:48] I went home. They took me home.
- 13 Q. [12:18:57] When you say "home", is that your father's house?
- 14 A. [12:19:06] Yes.
- 15 Q. [12:19:15] Do you remember who was present at the time?
- 16 A. [12:19:34] Yes, when they took me home, my parents were there. That's all.
- 17 Q. [12:19:45] Did you talk to them?
- 18 A. [12:20:02] Yes, we did speak. There are certain things that are not said, but we
19 did talk.
- 20 Q. [12:20:20] And what did you talk about?
- 21 A. [12:20:40] We just talked about things in life. I know that we talked.
- 22 Q. [12:20:55] Did you talk about what happened on that first night?
- 23 A. [12:21:14] We just talked. We didn't talk about that. We just talked.
- 24 Q. [12:21:27] Who took you back to your father's home that morning?
- 25 A. [12:21:44] It was the same man who took me to the house with his friend and

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1 then they went back.

2 Q. [12:22:00] And did they come back and pick you up again?

3 A. [12:22:17] Yes, that's what happened every night, they would come back. They
4 would come and go.

5 Q. [12:22:33] So if I have understood you correctly, did they come and pick you up
6 on the second night?

7 A. [12:22:49] Yes.

8 Q. [12:22:52] And what happened on that second night?

9 A. [12:23:13] The same thing happened on the second night that had happened on
10 the first night.

11 Q. [12:23:24] Just to clarify, when you say "he", who do you mean?

12 A. [12:23:47] Who do you mean?

13 Q. [12:23:50] Was it the same people who came to pick you up on that first night?

14 THE INTERPRETER: [12:24:01] Correction: "he" should be "they".

15 THE WITNESS: [12:24:07](Interpretation) Yes.

16 MS SARDACHTI: (Interpretation)

17 Q. [12:24:18] And when you say that this happened again on the second night,
18 what do you mean by that?

19 A. [12:24:44] Well, in the same way that I hadn't accepted on the first night, I didn't
20 accept on the second night.

21 Q. [12:24:58] What did you not accept?

22 A. [12:25:13] I did not accept that we sleep together, because that's what he asked
23 again.

24 Q. [12:25:33] You say "I did not accept that we sleep together." Can you tell us
25 what his reaction was?

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- 1 THE INTERPRETER: [12:26:01] Message from the Songhai interpreters:
2 Mr President, could you please ask the witness to repeat what she just said? Thank
3 you.
4 PRESIDING JUDGE MINDUA: [12:26:12](Interpretation) Yes.
5 Madam Witness, could you please repeat your answer.
6 THE WITNESS: [12:26:29](Interpretation) Which answer are you referring to?
7 PRESIDING JUDGE MINDUA: [12:26:34](Interpretation) Madam Prosecutor,
8 please.
9 MS SARDACHTI: (Interpretation)
10 Q. [12:26:37] You said "I did not accept that we sleep together." Can you tell us
11 what the reaction of the man was to that after you had expressed your refusal?
12 A. [12:27:24] Well, he was very angry, very wound up. I was frightened, but I
13 didn't take that into account.
14 Q. [12:27:38] Did you try and run away?
15 A. [12:28:03] I had the idea of running away in my mind, but I couldn't do that
16 because they knew where I came from. I thought about running, but I didn't do it.
17 Q. [12:28:23] And for things to be clear, are we talking here about the same man as
18 on the first night?
19 A. [12:28:42] Yes.
20 Q. [12:28:50] You said to us that he was very angry, very wound up. Could you
21 tell us more about that? Did he say anything? How did it unfold?
22 A. [12:29:24] Well, he didn't say anything particular to me, he just frightened me.
23 Q. [12:29:38] And on that second night, did he have his weapon?
24 A. [12:29:48] Yes, he did.
25 Q. [12:30:03] Did you talk about the marriage on that night?

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- 1 A. [12:30:16] No.
- 2 Q. [12:30:30] You told us that he frightened you. How did he frighten you?
- 3 A. [12:30:52] He frightened me. He was shouting. He frightened me. And then
4 it was -- he had his rifle that he took in his hand and that all frightened me.
- 5 Q. [12:31:13] And that night, did you sleep well?
- 6 A. [12:31:28] No, that night I didn't sleep well. I kept waking up, just kept waking
7 up.
- 8 Q. [12:31:53] What happened on the next day?
- 9 A. [12:32:10] The next thing, he took me home to my father's house. That's all.
- 10 Q. [12:32:35] So on the day after this second night, did you talk about this to your
11 father?
- 12 A. [12:33:11] I couldn't say that to my father. These type of words, I can't say
13 them to my father. I just said that I hadn't slept for two nights and that was it. And
14 he told me -- I told him I was afraid, I was afraid, that's why I didn't sleep. And he
15 told me not to be afraid.
- 16 Q. [12:33:47] Did they come back and get you again?
- 17 A. [12:34:00] Yes, yes, that's -- that's what happened. They came and got me
18 again.
- 19 Q. [12:34:07] Who came and got you?
- 20 A. [12:34:18] The same ones who got me each time. They were the same.
- 21 Q. [12:34:30] Could you tell us again who they were?
- 22 A. [12:34:43] The man I talked to you about and his friend.
- 23 Q. [12:34:59] On this third night, where did they take you?
- 24 A. [12:35:10] They took me to the same house again.
- 25 Q. [12:35:23] And what happened then?

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1 A. [12:35:46] On the third night it became forceful. He -- truth, he forced me.

2 And then, well, he -- he frightened me with a weapon.

3 Q. [12:36:20] How did he force you?

4 A. [12:36:33] He forced -- forced me. He forced me to sleep with him. He forced
5 me.

6 Q. [12:36:52] Madam Witness, I do realise that it's very difficult for you to talk
7 about this. Could you please explain what you mean by "sleep with me"?

8 A. [12:37:32] Sleep with me, well, what do you want me to say? Have relations.
9 What do you mean? What do you want me to say?

10 Q. [12:37:48] Maybe to talk about this sort of thing, which is very difficult, I could
11 show you a diagram and ask you to circle the items on the diagram. Would that be
12 okay? I could ask the President if we can do this.

13 PRESIDING JUDGE MINDUA: [12:38:24](Interpretation) Ms Sutherland.

14 MS SUTHERLAND: [12:38:25] Mr President, if it assists, the Defence does not
15 dispute what "relations" means and we understand.

16 PRESIDING JUDGE MINDUA: [12:38:44](Interpretation) Ms Sutherland, we have
17 the impression that Madam Witness doesn't wish to use the appropriate terms, which
18 is why the Prosecutor wants to use a diagram. But what -- could you make your
19 point clearer, Ms Sutherland.

20 MS SUTHERLAND: [12:39:05] Mr President, we're saying that the Defence
21 understands what the witness is indeed saying and what the terms she -- what the
22 terms she's using refer to. And in order to avoid any further traumatising of her,
23 we're content to remain with the language already used.

24 PRESIDING JUDGE MINDUA: [12:39:31](Interpretation) Thank you for your
25 understanding, Ms Sutherland.

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1 Are you happy with that, Madam Prosecutor?

2 MS SARDACHTI: [12:39:39](Interpretation) *Yes, so just to clarify this, is the Defence
3 saying that we don't need to go any further and that there were sexual relations
4 within the meaning of the Rome Statute, that there was penetration?

5 PRESIDING JUDGE MINDUA: [12:39:53](Interpretation) Ms Sutherland, are we all
6 agreed on the terminology? Because the Prosecutor wants to clarify that there was
7 penetration, but can we not have to put this to the witness, that we are all agreed that
8 that's what happened?

9 MS SUTHERLAND: [12:40:17] Yes, Mr President, we agree with the terminology.
10 We agree not necessarily that it happened, but that that is what she means by the use
11 of that term.

12 PRESIDING JUDGE MINDUA: [12:40:37](Interpretation) Quite.
13 Madam Prosecutor, you can proceed.

14 MS SARDACHTI: [12:40:44](Interpretation) Thank you for the Defence -- thank you
15 to the Defence for that, because that's in accordance with the recommendations of the
16 unit, Victim and Witness Unit, and so I will continue.

17 Q. [12:41:24] You said to us that he forced you with his weapon. Can you explain
18 how he forced you?

19 A. [12:41:49] How? What?

20 Q. [12:41:56] What did he do with his weapon?

21 A. [12:42:16] Well, he picked up his weapon and I was afraid, just picked it up and
22 I was afraid.

23 Q. [12:42:45] Did you say anything?

24 A. [12:43:03] I didn't say anything. I said nothing. No, I -- I was afraid. I just
25 didn't say anything.

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1 Q. [12:43:15] I know it was a long time ago, but can you recall whether he said
2 anything?

3 A. [12:43:52] I heard him say that we were married, we were married, and that's
4 what people who are married have to do. And I was supposed to know that.

5 Q. [12:44:23] And then what happened?

6 A. [12:44:46] He forced me to sleep with him and he forced me, forced me. And
7 once we slept together, I was afraid all night.

8 Q. [12:45:06] How did this make you feel inside?

9 A. [12:45:16] Well, it's something that happened that I didn't want. It was against
10 my will and -- really, and that -- I didn't like that. It made me feel bad.

11 Q. [12:45:53] And how did you feel in your heart?

12 A. [12:46:12] I felt that it was not right, in my heart.

13 Q. [12:46:36] What happened after these sexual relations?

14 A. [12:46:52] Nothing happened after that.

15 Q. [12:46:59] Did he take you home?

16 A. [12:47:09] Yes, that's what happened. That's what -- how it was. I would
17 come for the night and then the next morning I would be taken home.

18 Q. [12:47:37] Did you have sexual relations with him on the other nights?

19 A. [12:47:54] After the time that he frightened me, well, after that we slept together.

20 Q. [12:48:20] I know that this is all a long time ago, but could you tell us over how
21 many days this took place.

22 A. [12:49:05] Well, it was quite a few days, with comings and goings, and at a
23 certain time it stopped. There were two nights like that.

24 Q. [12:49:33] Madam Witness, could you please repeat your last answer because
25 there's a part that was not clear or not audible. Could you please repeat what you

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- 1 last said.
- 2 A. [12:49:56] Which part?
- 3 Q. [12:50:04] I will ask my question again.
- 4 You said that "Since the time he frightened me, we were -- we slept together." So
- 5 after the time he frightened you, can you tell us how long this thing lasted?
- 6 A. [12:50:44] The comings and goings, what do you mean?
- 7 Q. [12:50:57] Perhaps I can put my question a different way.
- 8 How long do you think that your marriage lasted?
- 9 A. [12:51:41] Marriage lasted a little time. But when people started to escape,
- 10 when the escapes started and the Malian army came, then I didn't see anybody
- 11 anymore.
- 12 Q. [12:52:17] Did you get the impression that you had any choice in whether you
- 13 got married?
- 14 A. [12:52:43] Who would ask me that?
- 15 Q. [12:53:08] Did you feel that you were free in this marriage?
- 16 A. [12:53:24] How do you mean "free in this marriage"? I didn't -- I told you that I
- 17 didn't agree to this marriage, but it took place, it happened.
- 18 Q. [12:53:55] How did this marriage end?
- 19 A. [12:54:18] As I said, when the people started fleeing and when people started to
- 20 flee and the aircraft hit from -- from the top and people hid, that was the moment.
- 21 Q. [12:54:43] Did you ever see him again?
- 22 A. [12:55:01] After the fleeing started, well, I don't know. I don't know
- 23 whether -- in the bombings, I don't know whether he was -- whether he's alive or
- 24 dead. I don't know.
- 25 Q. [12:55:29] After the facts, did you ever return to that house?

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- 1 A. [12:55:43] What would I go there for? No, no, I've never been back.
- 2 Q. [12:55:57] After the forced sexual relations that you describe to us, did you
3 receive any medical treatment?
- 4 A. [12:56:28] Excuse me, whether I had medication?
- 5 Q. [12:56:36] Did you receive any medication? Did you go and see a doctor?
6 That sort of thing.
- 7 A. [12:57:08] I went to the hospital, where I got some medication, because I didn't
8 feel well in myself.
- 9 Q. [12:57:32] Did -- did you have any marks on your body after the forced sexual
10 relations?
- 11 A. [12:57:50] What do you mean by "marks"?
- 12 Q. [12:58:00] Marks, scars, that sort of thing.
- 13 A. [12:58:18] No.
- 14 Q. [12:58:26] Any injuries?
- 15 A. [12:58:39] No. No, no.
- 16 Q. [12:58:46] You said that "I didn't feel well in myself in my body." What do you
17 mean by that?
- 18 A. [12:59:11] So I felt that my body hurt and I -- that -- that's -- that's what I felt.
- 19 Q. [12:59:32] And did you have any help to feel better mentally?
- 20 A. [12:59:59] How --
- 21 THE INTERPRETER: [13:00:06] The beginning was inaudible, but -- the whole thing
22 was inaudible.
- 23 MS SARDACHTI: [13:00:14](Interpretation)
- 24 Q. [13:00:16] I'm going to put my question again because I see that the answer was
25 not able to be captured by the interpreters.

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1 Did you have anything to make you feel better in your head after the events?

2 A. [13:00:58] After that, I fell sick. And it was my father who went to see some
3 marabouts so that they could do something to me and help me to forget it all.

4 Q. [13:01:24] According to you, how long did the members of the armed groups
5 remain in Timbuktu?

6 A. [13:02:01] I do not recall, I do not recall how long they stayed.

7 Q. [13:02:22] What was your reaction when they left?

8 A. [13:03:05] Nothing happened. It's just that at the beginning, I didn't feel well,
9 I would withdraw. But my father went to see some marabouts for me, who prayed
10 for me, and then I was able to speak and talk to people again.

11 Q. [13:03:49] And from what you could observe, what was the reaction of the
12 population in Timbuktu when the armed groups left?

13 A. [13:04:21] Yes, the people in the town were very happy. Because men and
14 women alike had been terrorised. So people were very happy.

15 Q. [13:04:54] I shall repeat what you said in the context of your testimony. From
16 page 21, lines 4 to 8, you told us that you could see "people coming out of nowhere,
17 coming to Timbuktu, and coming to get married to people like that. They married
18 many people like that. And there are some people who do bad things. Coming to
19 get married to us in Timbuktu, that hurts."

20 A. [13:06:57] Yes, it is something that really did hurt us a great deal, and their
21 departure did us a great deal of good.

22 Q. [13:07:14] So I wanted to ask you whether you knew if this had happened to
23 other people.

24 A. [13:07:53] Yes, my sister has a friend by the name of (Redacted) who was also
25 married off, and we were in the habit of going by their house to greet them.

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1 Q. [13:08:11] So, Madam Witness, I would rather we continue in open session, but
2 I would remind you not to give any names. I should have reminded you of that
3 earlier. It's my fault. Please do not give any names. So refer to this individual as
4 your friend, if you don't mind.

5 So I will ask you for their name later in private session, but for the time being, we
6 shall be redacting the name.

7 So how are you aware for this friend of yours that she was married to one of the
8 members of the armed groups?

9 A. [13:10:03] I don't know how it happened, but it's not my friend, my own friend,
10 it's the elder sister of one of our friends.

11 Q. [13:10:21] So who spoke to you about her marriage?

12 A. (No interpretation)

13 PRESIDING JUDGE MINDUA: [13:10:44](Interpretation) Ms Sutherland.

14 MS SUTHERLAND: [13:10:45] My fear is that it's going to be very difficult to track
15 who's speaking about what if we continue in this manner. And may I therefore
16 suggest that we go briefly into private session to assign code names for the respective
17 individuals?

18 PRESIDING JUDGE MINDUA: [13:11:10](Interpretation) Thank you, Ms Sutherland,
19 for your idea. I think you're right.

20 So we shall go into private session, please, Mr Courtroom Officer.

21 (Private session at 1.11 p.m.)

22 THE COURT OFFICER: [13:11:34] We're in private session, Mr President.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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16 (Open session at 1.31 p.m.)

17 THE COURT OFFICER: [13:31:53] We are back in open session, Mr President.

18 PRESIDING JUDGE MINDUA: [13:31:59](Interpretation) Thank you very much,

19 Mr Courtroom Officer.

20 We shall now rise for one hour for lunch, and we shall reconvene at half past two, half
21 past two.

22 Court is adjourned -- or suspended.

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

24 (Recess taken at 1.32 p.m.)

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- 1 (Upon resuming in open session at 2.31 p.m.)
- 2 THE COURT USHER: [14:31:46] All rise.
- 3 Please be seated.
- 4 PRESIDING JUDGE MINDUA: [14:32:13](Interpretation) The hearing will resume.
- 5 The Prosecutor has the floor in order to continue the examination-in-chief.
- 6 MS SARDACHTI: [14:32:27] (Interpretation) Thank you, Mr President.
- 7 Q. [14:32:31] Madam Witness, I would now like to show you a video.
- 8 A. [14:32:43] Okay, that's fine.
- 9 Q. [14:32:48] I would ask you to watch it attentively and then I will ask you some
- 10 questions.
- 11 It's the video at tab 3, MLI-OTP-0015-0495.
- 12 A. [14:33:27] Okay.
- 13 Q. [14:33:30] This is a public video. We will show first an extract and then come
- 14 back to certain particular points. Once I've played the passage from the video, I will
- 15 ask you whether you recognise anything.
- 16 The passage I'd like to play is from 00:27:12:00 to 00:27:57:00.
- 17 MS SARDACHTI: [14:34:51] (Interpretation) May I play it myself, Mr President? It
- 18 will be on evidence channel 2.
- 19 PRESIDING JUDGE MINDUA: [14:35:00](Interpretation) Go ahead, Madam
- 20 Prosecutor.
- 21 (Viewing of the video excerpt)
- 22 MS SARDACHTI: [14:35:55] (Interpretation)
- 23 Q. [14:35:57] Madam Witness, were you able to see this extract from the video?
- 24 A. [14:36:06] Yes, I saw it.
- 25 Q. [14:36:10] Were you able to recognise anything, things, places, people?

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1 A. [14:36:41] Yes, what I've just seen looks very like places I know very well, but
2 it's -- it's a while ago and it's really gone out of my head now.

3 Q. [14:37:02] I would like to show some precise moments from the video.

4 A. [14:37:19] Okay.

5 Q. [14:37:21] So timestamp 00:27 ...

6 (Viewing of the video excerpt)

7 MS SARDACHTI: [14:38:15](Interpretation) So I'd like to come to 00:27:26:20.

8 Q. [14:38:28] Can you tell us what you see on the screen now?

9 A. [14:38:44] Yes, I can see two people, two Islamists.

10 Q. [14:38:59] Can I draw your attention to their clothing.

11 A. [14:39:13] Yes.

12 Q. [14:39:16] Have you seen such garments previously?

13 A. [14:39:29] Yes, that's the clothes they wear, they wear clothes like that.

14 Q. [14:39:42] When you say "their clothes", who are "they", whose clothes?

15 A. [14:39:55] The -- the Islamists that you're -- that you're showing here.

16 Q. [14:40:16] So now I'd like to move to another timestamp. But before I do so,
17 I would like to ask you an additional question.

18 In fact, well, I come back to my question. When you say whose clothes, your answer
19 is "the clothes that you showed me." And you said that you had already seen -- that
20 you had previously seen such clothing. So I know that these are repetitive questions,
21 but whose clothes are we talking about here?

22 A. [14:41:54] These are the sort of clothes that we were talking about before.

23 Q. [14:42:05] Did the people who came to your house wear this sort of clothing?

24 A. [14:42:21] Yes, yes, they did. That was the sort of clothes that they wore.

25 Q. [14:42:32] So now I would like to move to that other timestamp.

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1 (Viewing of the video excerpt)

2 MS SARDACHTI: [14:43:26] I've stopped the video at 00:27:17:05.

3 Q. [14:43:43] Can you tell us what you see on the screen now?

4 A. [14:44:08] What I can see is a vehicle, a white -- a Hilux white vehicle and on it
5 there is the flag of the Islamists. That's what I can see.

6 Q. [14:44:39] And have you seen this flag before?

7 A. [14:44:54] Yes, yes, I've seen it. I've seen it quite often. It was their flag. As
8 soon as you see the Islamists, you see the flag that looks like that.

9 Q. [14:45:21] Thank you, Madam Witness. Those are all the questions I have
10 related to this video.

11 And before completing the examination-in-chief by the Prosecution, I have a few
12 questions about the consequences that these events have had on you in your life.
13 Can you explain to the Chamber what impact these events have had on your life?

14 A. [14:46:59] Do you mean where I am now?

15 Q. [14:47:04] I will clarify my question.

16 What you went through, the forced sexual relations, the marriage you talked -- talked
17 about, what effect has this had on your everyday life nowadays?

18 A. [14:48:03] Now I can say that it's okay, but I still feel this sadness in my heart.

19 Q. [14:48:20] Did this change your relationships with your family?

20 THE INTERPRETER: [14:48:46] Message from the Songhai booth: With your
21 authorisation, could Madam Witness please repeat her last answer.

22 PRESIDING JUDGE MINDUA: [14:49:00](Interpretation) Madam Prosecutor, could
23 you please ask the witness the same question again rather than have her repeat it.

24 MS SARDACHTI: [14:49:10] (Interpretation)

25 Q. [14:49:12] Has this changed the relationship between you and your family?

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1 A. [14:49:29] No, that didn't change anything because they know that nobody
2 could do anything about what happened.

3 Q. [14:49:42] And with your friends, did anything change in your relationships
4 with them?

5 A. [14:49:58] No, no, nothing changed.

6 Q. [14:50:11] And how do you cope with all this on a day-to-day basis?

7 A. [14:50:31] How -- how to do this in my heart?

8 Q. [14:50:42] Yes, you talked about the pain in your heart, how -- how do you
9 manage this pain every day?

10 A. [14:51:09] As I said, it was my father who did what -- what was necessary so that
11 I would be more calm.

12 Q. [14:51:26] Thank you, Madam Witness. The Prosecution has finished its
13 questions for you. I would like to thank you for your courage and I turn now to the
14 President.

15 PRESIDING JUDGE MINDUA: [14:51:51](Interpretation) Thank you,
16 Madam Prosecutor. That is the end of the examination-in-chief?

17 Madam Prosecutor, can you confirm that this is the end of the examination-in-chief?

18 MS SARDACHTI: [14:52:08] (Interpretation) *Yes. Maybe I wasn't specific enough.
19 That is the end of my examination-in-chief.

20 PRESIDING JUDGE MINDUA: [14:52:15](Interpretation) Thank you very much,
21 Madam Prosecutor.

22 I turn now to the Legal Representative of Victims. We have received your writings
23 of 12 April, confidential writings that you have said that this is a direct witness but
24 who has not yet been declared a potential victim. You would have liked to ask
25 questions about the rape suffered, the forced marriage, and the consequences for the

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1 person, the family and so on. These are legitimate questions which have also been
2 covered by the Prosecutor. But given the vulnerability of this witness, you know
3 that you always get the opportunity to examine victims, but we would like to use our
4 discretionary power. We think there is no need to ask further questions on the
5 impact of the alleged suffering on the person and the family.

6 So in that case, we will move immediately to the Defence cross-examination.

7 Maître Kassongo, would you like to -- would you like to add something?

8 MR KASSONGO: [14:54:09](Interpretation) Thank you, your Honour, your Honours.

9 I would first like to say that I am very happy with the examination-in-chief and to
10 accept the decision of the Chamber for which I thank you.

11 PRESIDING JUDGE MINDUA: [14:54:31](Interpretation) Thank you, Maître
12 Kassongo, for your understanding.

13 I turn now to the Defence. Ms Sutherland, what is the position for your
14 cross-examination?

15 MS SUTHERLAND: [14:54:43] Mr President, we are of course ready to proceed, but
16 we actually would like to ask for an adjournment to tomorrow morning. The reason
17 being, frankly, for me to speak very plainly, I feel very unwell. I've been suffering
18 from a migraine for the last two days. My hope is that by the morning I will be in a
19 better position to examine. This will have no bearing on the conclusion of the
20 hearing tomorrow.

21 PRESIDING JUDGE MINDUA: [14:55:24](Interpretation) Clearly, Ms Sutherland,
22 the Chamber understands that you have a migraine, but as you can imagine, our
23 programme is very heavily filled. You have an hour and five minutes. If you wish
24 not to take up this hour but only to work tomorrow, can you confirm that you will
25 finish tomorrow?

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1 MS SUTHERLAND: [14:55:59] My understanding, Mr President, is that the
2 Prosecution will have, I think, used four -- roughly four hours today. Therefore, we
3 would conclude our cross-examination within the same time tomorrow.
4 PRESIDING JUDGE MINDUA: [14:56:27](Interpretation) The Chamber -- before I
5 give you our decision, I see that Madam Prosecutor is on her feet.
6 MS SARDACHTI: [14:56:36] (Interpretation) I just wanted to point out that we have
7 no objection to adjourning to tomorrow. And we have noticed that the witness looks
8 also somewhat tired; therefore, that would seem to be a good thing.
9 PRESIDING JUDGE MINDUA: [14:56:53](Interpretation) You're right. I can see
10 that the witness is also -- seems very tired. So we can adjourn until tomorrow
11 morning.
12 Madam Witness, once again, I would like to say how grateful we are to you for your
13 cooperation. So we will stop now for today, but as you have noticed, your testimony
14 is not yet over. So we will meet again tomorrow morning at 9.30 in The Hague and
15 you will be told what time you should be there to continue your testimony.
16 In the meantime, please remember that you must not discuss your testimony with
17 anyone at all. You should not discuss it with members of your family or your
18 friends, if you are in contact with them this evening.
19 So on behalf of the judges of the Chamber I would ask you to take the opportunity to
20 rest this evening and I thank you for your courage.
21 So at this stage I would like to express my thanks to the parties and the participants,
22 the court reporters and interpreters, our security officers and our public.
23 We will now adjourn and we will meet again tomorrow morning at 9.30.
24 The hearing is adjourned.
25 THE COURT USHER: [14:59:36] All rise.

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- 1 (The hearing ends in open session at 2.59 p.m.)