

Trial Hearing
WITNESS: MLI-OTP-P-0565

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 1
9 Thursday, 26 November 2020
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:46] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:33:18](Interpretation) The Court is in session.
15 Court officer, could you please call today's case.
16 THE COURT OFFICER: [9:33:28] Thank you, Mr President.
17 The situation in the Republic of Mali, in the case of The Prosecutor versus Al Hassan
18 Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
19 And for the record, we are in open session.
20 PRESIDING JUDGE MINDUA: [9:33:50](Interpretation) Thank you very much.
21 Good morning, everybody.
22 As usual, we will now make the appearances, by starting with the office for
23 the Prosecution.
24 Madam Prosecutor.
25 MS CORBIN: [9:34:12](Interpretation) Good morning, my Lord, your Honours.

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1 The OTP is represented today by my colleague Luping, Huck, Gilles Dutertre and
2 myself.

3 PRESIDING JUDGE MINDUA: [9:34:30](Interpretation) Thank you.

4 And now the Defence.

5 Ms Sutherland.

6 MS SUTHERLAND: [9:34:38] Good morning, Mr President, your Honours.

7 The Defence for Mr Al Hassan is this morning represented by Ms Melinda Taylor,

8 Ms Sarah Marinier-Doucet and Ms Dolly Chahla, and of course myself,

9 Ms Sutherland.

10 PRESIDING JUDGE MINDUA: [9:35:05](Interpretation) Thank you, Ms Sutherland.

11 And now the representative for the victims.

12 MR LUVENGIKA: [9:35:10](Interpretation) Good morning, your Honour, my Lords.

13 The victims are represented by Mrs Claire Laplace and myself, Mr Nsita Luvengika.

14 PRESIDING JUDGE MINDUA: [9:35:25](Interpretation) Thank you very much,

15 Mr Nsita.

16 Today we will continue with the hearing of the 17th witness of the Prosecution,

17 namely P-0656 --

18 THE INTERPRETER: [9:36:44] Sorry, 565, correction.

19 PRESIDING JUDGE MINDUA: [9:36:47](Interpretation) I now turn towards

20 the witness.

21 Madam Witness, can you hear me?

22 WITNESS: MLI-OTP-P-0565 (On former oath)

23 (The witness speaks Songhai)

24 THE WITNESS: [9:36:04](Interpretation) Yes.

25 PRESIDING JUDGE MINDUA: [9:36:05](Interpretation) Good morning. I welcome

- 1 you again. And I thank you very much for being available.
- 2 THE WITNESS: [9:36:21](Interpretation) Yes. Thank you.
- 3 PRESIDING JUDGE MINDUA: [9:36:26](Interpretation) I would like to remind you
4 that you're still under oath and you must speak the truth and nothing but the truth.
- 5 THE WITNESS: [9:36:53](Interpretation) Yes, I understand.
- 6 PRESIDING JUDGE MINDUA: [9:36:58](Interpretation) I would also like to give
7 you some practical advice as regards when you speak.
- 8 THE WITNESS: [9:37:12](Interpretation) Yes.
- 9 PRESIDING JUDGE MINDUA: [9:37:17](Interpretation) Of course, this applies to
10 your assistant as well.
- 11 THE WITNESS: [9:37:26](Interpretation) Yes.
- 12 PRESIDING JUDGE MINDUA: [9:37:31](Interpretation) I will give the floor
13 immediately to Madam Prosecution for the continuation of her examination.
- 14 THE WITNESS: [9:37:45](Interpretation) Yes.
- 15 MS CORBIN: [9:37:49](Interpretation) Thank you, my Lord.
16 First of all, I would like to clarify something in the records on page 2, line 11,
17 the name Coquillaud, which appears amongst the Defence, if you could correct that,
18 I'd be grateful.
- 19 PRESIDING JUDGE MINDUA: [9:38:14](Interpretation) I also heard that and I was
20 really surprised. I thought that maybe there was a sudden *changement*. Thank you
21 for that.
- 22 QUESTIONED BY MS CORBIN: (Continuing) (Interpretation)
- 23 Q. [9:38:35] Good morning, Madam Witness. How are you feeling this morning?
- 24 A. [9:38:41] I am well, thank you.
- 25 Q. [9:38:47] I'd like to go back to something you said yesterday.

1 A. [9:38:57] Okay.

2 Q. [9:38:58] Yesterday I asked you something about the rules of the Islamists, as
3 you called them, and your answer was, on page 15 of the record from yesterday:
4 People were asked to -- ask -- full garments. We also didn't allow them to
5 put -- wear creams or have any celebrations during a wedding.

6 A. [9:40:05] Yes.

7 Q. [9:40:12] A clarification for us so we understand fully. What does it mean, not
8 allowed to have any *pommades* or creams?

9 A. [9:40:25] For example, sometimes they wear powder or creams to have a lighter
10 skin. So you can see immediately that it is some sort of cream that they've put on
11 their face.

12 Q. [9:40:53] Thank you. Were there other things that were forbidden at that time
13 in Timbuktu?

14 A. [9:41:09] What I could see myself.

15 Q. [9:41:29] When did the Islamists, as you call them, leave Timbuktu?

16 A. [9:41:42] I can't quite remember. I don't remember the month and I don't know
17 how to say it in French either.

18 Q. [9:41:57] How did you react once they left, you personally?

19 A. [9:42:14] When they left, I was pregnant, and I was hoping when the military
20 arrived and the Islamists left.

21 Q. [9:42:52] And how did you -- how did the inhabitants of Timbuktu react when
22 they left?

23 A. [9:43:14] They took drums and people gathered together and were very pleased.

24 Q. [9:43:55] Why did people play drums?

25 A. [9:44:16] I don't really know, but I saw that people were happy and wanted to

1 express their joy.

2 Q. [9:44:29] Thank you, Madam.

3 Just to be clear, that those things that were banned, did you just hear them? Did you
4 hear of any other things that were banned?

5 A. [9:44:54] I didn't hear of any others. I can't recall of any others. I didn't leave
6 anymore.

7 Q. [9:45:11] You said you didn't go out anymore. Could you explain why?

8 A. [9:45:21] I could.

9 Q. [9:45:26] Go ahead, Madam.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 MS CORBIN: [9:46:18](Interpretation) With your permission, my Lord, could we
14 move to private session.

15 PRESIDING JUDGE MINDUA: [9:46:24](Interpretation) Please, court officer, could
16 we move into closed -- private session.

17 (Private session at 9.46 a.m.)

18 THE COURT OFFICER: [9:46:37] We are in private session, Mr President.

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- 18 (Open session at 10.08 a.m.)
- 19 THE COURT OFFICER: [10:08:12] We are in open session, Mr President.
- 20 PRESIDING JUDGE MINDUA: [10:08:20](Interpretation) Thank you very much.
- 21 Prosecutor, please continue.
- 22 MS CORBIN: [10:08:33](Interpretation)
- 23 Q. [10:08:34] Could you describe to the Chamber what you felt when you were
- 24 flogged?
- 25 A. [10:09:01] When I was being flogged, is that what you're talking about?

1 The moment that I was being flogged in front of people?

2 Q. [10:09:19] First of all, the moment in which you were being flogged.

3 A. [10:09:30] Yes.

4 Q. [10:09:34] What did you feel when you were being flogged?

5 A. [10:09:48] I felt pain on my back.

6 Q. [10:10:07] Any other parts of your -- were there any other parts of your body
7 where you felt pain?

8 A. [10:10:27] Yes. When I came home, my whole body, my whole back was
9 hurting and I was -- my mother gave me medicine to heal the wounds.

10 Q. [10:10:47] What type of wounds or injuries did you have?

11 A. [10:11:04] There was inflammation on my back. I had bruising. It was very
12 red. And it was my mother who was able to provide me with additional medicine.

13 Q. [10:11:31] And for how much time did you feel this pain?

14 A. [10:11:48] I don't know how long this lasted for. I just took this medicine.
15 That's it.

16 Q. [10:12:06] And do you still have back pain to this day?

17 A. [10:12:21] Where I am at the moment, I don't feel anything anymore. After my
18 mother gave me the medicine, I no longer felt anything.

19 Q. [10:12:41] And at the time when you had these wounds, how were you able to
20 sleep?

21 A. [10:12:53] I slept on my chest.

22 Q. [10:13:09] And in terms of your morale, what did you feel, in terms of your
23 emotions at the time of the flogging?

24 A. [10:13:28] I was an adolescent. I was an adolescent. I couldn't determine all of
25 that. It was my parents who said that that could happen to anyone and that's

1 destiny. And they were the ones who comforted me and they advised me.

2 Q. [10:14:16] And how did people react around you?

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [10:15:24] And your family and friends, how did they react?

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 THE INTERPRETER: [10:16:35] Correction from the interpreter: My husband had

12 it on a key which he was -- and I don't know where I was able to see that.

13 THE ASSISTANT: [10:16:44](Interpretation) In fact, the question of the Prosecutor is

14 about what was felt, so they have to say how the lady felt. And she said, at that time,

15 how your -- the entourage saw it.

16 But the question was how those close to you felt it, what their feelings were. So

17 the interpretation could be formed in a better way so that the witness is able to

18 understand it.

19 PRESIDING JUDGE MINDUA: [10:17:24](Interpretation) Madam Prosecutor, could

20 you put the question again so that the interpreters can say what's necessary.

21 MS CORBIN: [10:17:33](Interpretation) Thank you very much for this correction.

22 Q. [10:17:36] Madam, my question was, how did you feel, morally, emotionally?

23 What did you feel on the day of the flogging?

24 A. [10:18:07] How did I feel, what?

25 Q. [10:18:12] Within you emotionally, your morale.

1 A. [10:18:34] At that time, at that time I couldn't say that I felt something, because I
2 just thought that there was nobody to come to my rescue. My father wasn't there.
3 My older brother. Nobody from my family could come to save me.

4 Q. [10:19:34] And your family, how did they react to what you experienced?

5 A. [10:20:19] (Redacted), they were there. But
6 what could they do apart from that? Just advise me, comfort me and say "Get well
7 soon."

8 Q. [10:20:43] And after that, did you feel at ease to move around Timbuktu?

9 A. [10:21:21] Well, where would I go? Where would I leave my parents? I
10 couldn't even think of doing that. It was not an idea that occurred to me.

11 Q. [10:21:38] And in the streets of Timbuktu, I mean, did you go out in Timbuktu
12 streets? Did you feel able to go out in Timbuktu? Did you feel at ease to do so?

13 A. [10:22:06] Yes. I -- I did. I could go out with my sari, I could go out in
14 the streets.

15 PRESIDING JUDGE MINDUA: [10:22:20](Interpretation) Counsel, is there
16 a problem?

17 MS SUTHERLAND: [10:22:22] My observation was merely that the witness has
18 already been asked this and provided a full answer. But it's redundant now.

19 PRESIDING JUDGE MINDUA: [10:22:36](Interpretation) Very well. Okay.
20 Madam Prosecutor.

21 MS CORBIN: [10:22:53](Interpretation) I asked the question again because of the
22 translation issue, just to make sure that we -- that the witness had understood fully.

23 Q. [10:23:11] Madam, you said that you only would go out with a full sari and that
24 only your eyes would be seen?

25 A. [10:23:26] Yes.

1 Q. [10:23:31] Why did you go out with a sari like that?

2 A. [10:23:57] That's what was allowed. A lot of people would wear this type of
3 clothing. Even here I often wear it. This is what was allowed at the time.

4 Q. [10:24:17] It was allowed by whom? It was permitted by whom?

5 A. [10:24:26] At the time of the Islamists, that's what they imposed. But there
6 were people who would usually wear such clothing. And until up to two years ago,
7 there were people who would usually wear such clothing, even up to this day.

8 Q. [10:25:06] And what happened at the time if women didn't wear such clothing?

9 A. [10:25:17] If the -- if women don't wear it, they're beaten.

10 Q. [10:25:26] How are they beaten?

11 A. [10:25:35] They beat them. Well, I don't know how to say this, but they -- they
12 hit them hard.

13 Q. [10:25:54] Who hits them? Who beats them?

14 A. [10:26:01] The Islamists, of course.

15 Q. [10:26:15] Did you keep all of your friends after the flogging?

16 A. [10:26:25] Yes.

17 Q. [10:26:34] And how do you feel today with regards to this event?

18 A. [10:26:53] If today what?

19 Q. [10:26:59] How do you feel? How do you feel emotionally with regard to this
20 incident?

21 A. [10:27:40] Very well. Nothing has changed. I've still kept my friends. My
22 friends know that I was flogged. Everybody knows. But I've kept in contact with
23 people. Everybody knows what happened. Nothing else.

24 Q. [10:28:16] Thank you, Madam.

25 I've got a last clarification to ask you with regard to what you said yesterday.

1 A. [10:28:32] Very well.

2 Q. [10:28:35] Yesterday you spoke about the marriage of Adama with a woman.

3 That was in open session. We're in open session now, so I'm not going to say

4 the name, nor how you know her.

5 A. [10:29:04] Yes.

6 Q. [10:29:11] Could you tell us when this marriage finished between this woman

7 and Adama?

8 A. [10:29:45] I don't know when the marriage finished. All I know (Redacted)

9 (Redacted), they got married and they were in there.

10 Q. [10:30:17] Did Adama stay in Timbuktu?

11 A. [10:30:27] No, I didn't see him anymore.

12 Q. [10:30:33] And did this woman follow Adama or did she stay in Timbuktu?

13 A. [10:30:48] The woman remained. And she was still there when I left Timbuktu.

14 I also saw her sometimes in Bamako. Once I saw her there.

15 Q. [10:31:12] Did she follow Adama when he left?

16 A. [10:31:28] No. I told you that she stayed in Timbuktu. And now she has

17 remarried and has two children and she's still in Timbuktu now.

18 Q. [10:31:47] How did she react when Adama left?

19 A. [10:32:10] I don't know, because we didn't really get involved in other people's

20 affairs.

21 Q. [10:32:28] (Microphone not activated)

22 A. [10:32:30] (Overlapping speakers)

23 PRESIDING JUDGE MINDUA: [10:32:33](Interpretation) Prosecution, your

24 microphone was off.

25 MS CORBIN: [10:32:40](Interpretation) Thank you, madam. I have no further

1 questions for today.

2 THE WITNESS: [10:32:49](Interpretation) Very well.

3 PRESIDING JUDGE MINDUA: [10:32:55](Interpretation) Thank you, Madam

4 Prosecutor.

5 Madam Witness, before giving the floor to the other party, I have a small question for
6 you.

7 THE WITNESS: [10:33:12](Interpretation) Fine.

8 PRESIDING JUDGE MINDUA: [10:33:14](Interpretation) I would like to point out
9 for the parties that my question relates to page 16, line 11, 12 and 13 of today's
10 records.

11 Madam Witness, you have said that women who did not wear the appropriate
12 clothing or garments were beaten by the Islamists. "Islamists" is your word, your
13 term.

14 My question is as follows: They were immediately hit or were they beaten later in
15 the street? Or later, after a sentence or judgment had been reached by the tribunal?

16 THE WITNESS: [10:34:44](Interpretation) What I could see myself is what happened
17 in the market. They were beaten immediately in front of me and the person ran
18 away. I was sufficiently covered with my clothing and you only saw my eyes. So
19 that's how I entered the market. If they took people away for sentencing, I don't
20 know, but I know that they beat someone in front of me when I was in the market.
21 But I immediately left.

22 PRESIDING JUDGE MINDUA: [10:35:36](Interpretation) Thank you, madam. It's
23 very clear.

24 We have finished now with the Defence -- the Prosecution, sorry.

25 I look at the representative of the victims.

- 1 THE WITNESS: [10:36:05](No interpretation)
- 2 PRESIDING JUDGE MINDUA: [10:36:09](Interpretation) Thank you.
- 3 Mr Nsita, we've received your submissions. After having listened to the Prosecution,
- 4 would you like to intervene?
- 5 MR LUVENGIKA: [10:36:19](Interpretation) Thank you, my Lord, for giving me
- 6 the floor.
- 7 After having heard the examination of the Prosecution and the way in which
- 8 the witness answered, we have some questions of clarification which we would like to
- 9 put. And then we have a motion as regards the statements made by the witness.
- 10 PRESIDING JUDGE MINDUA: [10:36:52](Interpretation) Very well.
- 11 Would you first like to do the motion or would you like to put your questions first?
- 12 MR LUVENGIKA: [10:37:01](Interpretation) I first would like to question her.
- 13 PRESIDING JUDGE MINDUA: [10:37:04](Interpretation) Very well. I will confer
- 14 very quickly with my colleagues.
- 15 (Trial Chamber confers)
- 16 PRESIDING JUDGE MINDUA: [10:37:32](Interpretation) The Chamber grants you
- 17 the permission to question the witness.
- 18 Please proceed.
- 19 THE SONGHAI INTERPRETER: [10:38:10] We are not hearing anything.
- 20 PRESIDING JUDGE MINDUA: [10:38:15](Interpretation) The representative hasn't
- 21 started yet. We're starting now.
- 22 QUESTIONED BY MR LUVENGIKA: (Interpretation)
- 23 Q. [10:38:25] Good morning.
- 24 A. [10:38:26] Good morning.
- 25 Q. [10:38:29] We haven't spoken yet. I am one of three lawyers appointed by

1 the Judge to defend all the victims of Timbuktu.

2 A. [10:38:58] Fine.

3 Q. [10:38:58] I want to ask you some questions by way of clarification. And then I
4 will see with the Chamber what we should do with your testimony.

5 A. [10:39:28] Very well. It's noted.

6 Q. [10:39:33] Very quickly, I want to go back, and very succinctly, to your
7 statement of this morning. You mentioned - we're going to remain in public session
8 so that we can remain in public session - you talked about punishment that you
9 received in 2012. My question is, is that for now you don't feel anything anymore, so
10 my question is to know whether -- do you have any scars or -- of that punishment?

11 A. [10:40:34] No. I don't have any scars or marks on my body.

12 Q. [10:40:40] Thank you.

13 (Redacted)

14 (Redacted)

15 (Redacted)

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- 16 PRESIDING JUDGE MINDUA: [10:44:50](No interpretation)
- 17 THE COURT OFFICER: [10:44:55](Interpretation) Please don't answer that question.
- 18 PRESIDING JUDGE MINDUA: [10:45:00](Interpretation) Mr Nsita, perhaps I
- 19 suggest that we move into private session.
- 20 MR LUVENGIKA: [10:45:08](Interpretation) That's fine.
- 21 PRESIDING JUDGE MINDUA: [10:45:09](Interpretation) Please let us move into
- 22 private session.
- 23 (Private session at 10.45 a.m.)
- 24 THE COURT OFFICER: [10:45:18] We are in private session, Mr President.
- 25 (Redacted)

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- 20 (Open session at 10.48 a.m.)
- 21 THE COURT OFFICER: [10:48:01] We are back in open session, Mr President.
- 22 PRESIDING JUDGE MINDUA: [10:48:09](Interpretation) Thank you very much.
- 23 We have now completed the examination of the Prosecution. We have also heard
- 24 the representatives of the victims.
- 25 We now turn to the cross-examination of the Defence.

1 Ms Sutherland, are you ready?

2 I think Mrs Sutherland is ready. At least I got the answer to my question; is that
3 correct?

4 MS SUTHERLAND: [10:49:01] Your Honour, yes, I am ready. I would welcome
5 the opportunity to consult with my client, if that could be afforded to us.

6 PRESIDING JUDGE MINDUA: [10:49:18](Interpretation) You can consult your
7 client during the break.

8 MS SUTHERLAND: [10:49:22] Yes, your Honour, I'm mindful of the time. I was
9 asking, essentially, if we could be given a little -- either take the break slightly earlier
10 or have a slightly longer break to accommodate the consultation. I also note that my
11 learned friend for the Prosecution has something to say.

12 PRESIDING JUDGE MINDUA: [10:49:50](Interpretation) Thank you,
13 Mrs Sutherland, I will return to that in a moment.

14 Madam Prosecutor.

15 MS CORBIN: [10:49:58](Interpretation) Thank you, my Lord.

16 I will say it in English, otherwise the witness might understand some words in
17 French.

18 (Speaks English) As per paragraph 61 -- sorry, I'll just -- sorry, I had the French.

19 As per paragraph 61 of the conduct of proceedings decision, the Prosecution would
20 like to make the following observations:

21 First, we want to stress the need for the Defence to show a connection between
22 the witness and the documents shown to her. And this is not clearly apparent from
23 the list we have received yesterday evening, especially for -- especially when there are
24 no specific pages and when the documents are quite long. I'm thinking of the long
25 forensic report prepared by another witness or about the *Plainte avec constitution de*

1 *partie civile.*

2 And also in fairness to the witness, where only part of the document has information
3 of apparent relevance, not all can be used, especially when she is not the source of
4 that information and cannot fairly respond.

5 And I have two specific objections. First in relation to the annexes to P-557's
6 statement. They are his own personal and amateur drawings of places and objects.

7 It is not fair to ask this witness to comment on these drawings. And in our
8 submission, this would be a meaningless exercise.

9 Second, as regard the Facebook pages, we query the relevance and connection and
10 also the connection to the witness has not been established for any of those Facebook
11 pages. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE MINDUA: [10:53:00](Interpretation) Thank you, Madam

16 Prosecutor.

17 Ms Sutherland.

18 MS TAYLOR: [10:53:05] Thank you, Mr President. I'll address this on behalf of
19 the Defence.

20 Firstly, issues of relevance and the connection to the witness can be established at the
21 time of use and not in advance. There's no obligation on the part of the Defence to
22 adduce these issues prior to cross-examination.

23 I can, however, allay the concerns of the Prosecution and indicate that some of the
24 documents will not be used with this witness, but have been included out of an
25 abundance of caution and also in the event that the Prosecution requests the Defence

1 to establish a foundation for a line of questioning.

2 So not all the items on the list are intended to be shown to the witness. They are on
3 the list as fairness to the other parties in case issues come up concerning whether
4 there's a foundation to put a certain question to the witness. And in particular I'm
5 referring to the annexes to the victim application of P-557.

6 As concerns the forensic report, as the Prosecution is well aware, they created this
7 report, they are fully aware of its contents and they know that there are photos in that
8 report of a location where the witness purported to be. The relevance is clear and
9 apparent.

10 So we do not believe that there's any basis to object to any particular items and these
11 issues should and could be dealt with at the time of use, where the relevance and
12 connection will be apparent.

13 Thank you.

14 PRESIDING JUDGE MINDUA: [10:54:51](Interpretation) Thank you, Ms Taylor.

15 Madam Prosecutor, you raised three points as regards the evidence and this witness.

16 The second subject are your objections vis-à-vis the annexes. And, thirdly, you
17 talked about Facebook pages.

18 I think that the response given by Mrs Taylor are appropriate. It doesn't mean that
19 these documents will be examined and put to the witness.

20 What seems important, however, is the first subject, the connection between
21 the witness and the documents. And the Defence said how the Chamber should
22 consider that, because there's a link between the witness and the documents. We
23 will look at this on a case-by-case basis.

24 I turn again to the Defence and see what the possibilities are as regards them
25 contacting and consulting with their client. Perhaps that could be done during

1 the break.

2 We need to have a break at 11.30. We could continue until 12 and then you could
3 have an hour to consult with your client.

4 Ms Sutherland.

5 MS SUTHERLAND: [10:56:40] Thank you very much, Mr President, your Honours.

6 I am in your hands. If you would like to start, recommence at 11.30 or perhaps 11.45,
7 then we would be happy to do so. We have had some difficulties, of course, as you
8 know, contacting our client, but we think they are alleviated.

9 PRESIDING JUDGE MINDUA: [10:57:01](Interpretation) Very well.

10 We'll move swiftly. We will start again at 11.30 if you so wish.

11 Madam Prosecutor.

12 MS LUPING: [10:57:13] Mr President, it was just simply to confirm that
13 the Prosecution has no objection to take a break if the Defence indeed wants to make
14 contact with their client.

15 MS SUTHERLAND: [10:57:29] Your Honour, we are mindful that our client has to
16 pray or has a prayer time at 12.30, so we would endeavour for that to be respected.
17 They change every day, so please bear with me. Today the prayer time is 12.30 and
18 again at 2.20.

19 PRESIDING JUDGE MINDUA: [10:58:01](Interpretation) What is your request right
20 now?

21 MS SUTHERLAND: [10:58:04] It would be preferable to start at 11.30. Forgive me
22 for being unclear.

23 PRESIDING JUDGE MINDUA: [10:58:12](Interpretation) Very well.

24 We will adjourn for half an hour and we'll resume again at 11.30.

25 We stand adjourned.

- 1 THE COURT USHER: [10:58:25] All rise.
- 2 (Recess taken at 10.58 a.m.)
- 3 (Upon resuming in open session at 11.31 a.m.)
- 4 THE COURT USHER: [11:31:21] All rise.
- 5 Please be seated.
- 6 PRESIDING JUDGE MINDUA: [11:31:48](Interpretation) Court is now again in
- 7 session.
- 8 The Defence is now going to start with its cross-examination, but first of all, I would
- 9 like to address the witness.
- 10 THE WITNESS: [11:32:19](Interpretation) Very well.
- 11 PRESIDING JUDGE MINDUA: [11:32:21](Interpretation) Madam Witness,
- 12 the Defence is going to carry out its cross-examination. This means that the Defence
- 13 lawyers are going to put questions to you.
- 14 THE WITNESS: [11:32:47](Interpretation) Very well.
- 15 PRESIDING JUDGE MINDUA: [11:32:49](Interpretation) This doesn't mean that
- 16 the Defence doubts systematically what you have said.
- 17 THE WITNESS: [11:33:02](Interpretation) Very well.
- 18 PRESIDING JUDGE MINDUA: [11:33:04](Interpretation) But the Defence must
- 19 carry out its work and put questions to you in order to carry out checking.
- 20 THE WITNESS: [11:33:20](Interpretation) Very well.
- 21 PRESIDING JUDGE MINDUA: [11:33:21](Interpretation) So I would ask you to be
- 22 patient and kind to the Defence, as you were with the Prosecutor.
- 23 THE WITNESS: [11:33:47](Interpretation) Very well.
- 24 PRESIDING JUDGE MINDUA: [11:33:48](Interpretation) Thank you very much.
- 25 Ms Sutherland.

1 MS SUTHERLAND: [11:33:53] Thank you very much, Mr President.

2 QUESTIONED BY MS SUTHERLAND:

3 Q. [11:33:56] Good morning, Madam Witness. We met briefly yesterday.

4 A. [11:34:12] Yes, very well.

5 Q. [11:34:15] How long -- forgive me.

6 Mr President, these questions are very identifying so I'm afraid I'll have to request to
7 go into private session.

8 PRESIDING JUDGE MINDUA: [11:34:34](Interpretation) Court officer, would you
9 be so kind as to take us into private session.

10 (Private session at 11.34 a.m.)

11 THE COURT OFFICER: [11:34:47] We are in private session, Mr President.

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8 (Recess taken at 12.29 p.m.)
9 (Upon resuming in open session at 1.32 p.m.)
10 THE COURT USHER: [13:32:13] All rise.
11 Please be seated.
12 PRESIDING JUDGE MINDUA: [13:32:38](Interpretation) The Court is in session and
13 we can continue with the Defence cross-examination.
14 Ms Sutherland. Ah, I can see that the Prosecutor is on her feet.
15 Prosecutor.
16 MS CORBIN: [13:32:56](Interpretation) Thank you, your Honour.
17 I've got a comment to make about the references to the transcript from this morning.
18 We have references here which are not correct, because they're not linked to
19 the statements made by Defence. What I'm talking about is the transcript of this
20 morning which referred to page 40, line 18 of the French version, and this morning
21 where it was mentioned at 96, 23. And I think there were -- the second case is more
22 difficult, because I think that the Defence has taken statements from the witness
23 which I think she didn't give in the -- in the courtroom. But it's a procedure, I would
24 just ask the Defence to be vigilant about references.
25 PRESIDING JUDGE MINDUA: [13:34:12](Interpretation) Are you talking about

1 the French transcript or the English transcript of the Defence?

2 Ms Sutherland.

3 MS SUTHERLAND: [13:34:21] I'm not sure what Madam Prosecutor is talking
4 about.

5 PRESIDING JUDGE MINDUA: [13:34:40](Interpretation) Prosecution, I think we
6 can gain time by you discussing this separately. I think we need to get on with
7 things now.

8 Ms Sutherland.

9 MS SUTHERLAND: [13:34:58] Mr President, may I address the Bench briefly. I'll
10 speak in English and it doesn't need to be translated for the witness.

11 Are we in private session?

12 PRESIDING JUDGE MINDUA: [13:35:19](Interpretation) No, we are in public
13 session. Would you like us to go into private session?

14 MS SUTHERLAND: [13:35:23] Yes, please, your Honour.

15 PRESIDING JUDGE MINDUA: [13:35:27](Interpretation) Court officer, private
16 session, please.

17 (Private session at 1.35 p.m.)

18 THE COURT OFFICER: [13:35:46] We're in private session, Mr President.

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6 (Open session at 1.46 p.m.)

7 THE COURT OFFICER: [13:46:09] We are back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [13:46:15](Interpretation) Thank you very much.

9 I see Madam Prosecutor is on her feet. What is happening?

10 MS LUPING: [13:46:23] I just want to note, to assist my learned friend, I believe that

11 in the English transcript that there has been an error because it's different to

12 the French. In the French there is a reference to "*le bureau du juge*" and in the English

13 it says "the first judge". So there is a mistake, I believe, in the English transcript.

14 PRESIDING JUDGE MINDUA: [13:46:52](Interpretation) Indeed. I heard

15 the judge's office, but we can ask the witness, if necessary.

16 MS SUTHERLAND: [13:47:15]

17 Q. [13:47:16] Where were the other people? Can you describe where the other

18 people were?

19 A. [13:48:09] I don't know exactly. I was taken into the office. I was told it was

20 a judge's office. It was a big building. I don't know anything about the rest of it.

21 Q. [13:48:32] Can you describe where the judge's office was in the building?

22 A. [13:49:13] I don't know how I should describe it, but that day it was -- I can say it

23 was on the eastern side of the building, on the east of the building.

24 Q. [13:49:37] How do you know it was on the east of the building?

25 A. [13:49:54] I am able to know that because in our country we know where east is

1 and that's because we pray in that direction.

2 Q. [13:50:32] Are you able to describe your journey within the building to get to
3 the judge's office?

4 A. [13:51:24] I can know -- I know how to get to the building, but -- I knew
5 the building, I knew how to get to that building, I knew the way there.

6 Q. [13:51:51] But within the building, are you able to describe from entering
7 the building to going to the judge's office?

8 A. [13:52:34] Within the building, as I knew it, unless there have been any changes,
9 if it hasn't been remodelled in any way, I know my way around.

10 Q. [13:52:57] Can you describe more specifically where the judge's office was in
11 the building? As specifically as you can.

12 A. [13:53:44] If you could understand me in Songhai, I could explain myself well.
13 But if -- I could explain how it was if, if I -- if there haven't been any changes since
14 then.

15 Q. [13:54:07] Please explain how it was at the time.

16 A. [13:54:27] Yes, I can explain it as I know it.

17 Q. [13:54:32] Please.

18 A. [13:54:42] Yes. Yes, I can.

19 Q. [13:54:52] On the basis of your knowledge in 2012, please explain, to the best of
20 your ability, where the judge's office was in that building.

21 A. [13:55:23] Yes, I can.

22 Q. [13:55:26] Please do so.

23 A. [13:56:10] Well, what I can recall, unless there have been any changes, because
24 all the doors faced east, but when we get -- went inside, it was on my right. It was
25 the office that was on my right. That's where I was taken.

1 Q. [13:56:47] Did this building have a courtyard?

2 A. [13:57:20] Perhaps at the back of the building, but I don't know. But what I saw
3 in front, there is no courtyard.

4 (Counsel confer)

5 MS SUTHERLAND: [13:57:52]

6 Q. [13:57:55] Were there windows in this building?

7 A. [13:58:23] The office that I saw had a window, but I don't know whether that's
8 the same in all of the building. The building -- the room I saw had a window that
9 looked out onto the road.

10 Q. [13:58:47] When you were going to the judge's office, did you see other people?

11 A. [13:59:16] Yes, we just passed them. I saw people, but they were people whom
12 I didn't know.

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE MINDUA: [14:00:04](Interpretation) Ms Sutherland, we are in
16 public session.

17 MS SUTHERLAND: [14:00:08] Oh, forgive me. Forgive me, your Honour. I'm so
18 sorry.

19 PRESIDING JUDGE MINDUA: [14:00:15](Interpretation) Do you want us to go to
20 private session?

21 MS SUTHERLAND: [14:00:19] For the benefit of the witness, I think that's necessary.
22 Thank you.

23 PRESIDING JUDGE MINDUA: [14:00:26](Interpretation) Madam courtroom officer,
24 please.

25 (Private session at 2.00 p.m.)

1 THE COURT OFFICER: [14:00:38] We're in private session, Mr President.

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14 (Open session at 2.49 p.m.)
15 THE COURT OFFICER: [14:49:45] We are back in open session, Mr President.
16 PRESIDING JUDGE MINDUA: [14:49:54](Interpretation) Thank you very much,
17 court officer.
18 Ms Sutherland.
19 MS SUTHERLAND: [14:50:01] And to correct the misunderstanding from earlier, it's
20 transcript 42 that we were referring to, not transcript 44.
21 PRESIDING JUDGE MINDUA: [14:50:19](Interpretation) That is now clearer.
22 People were clearly talking at cross-purposes there. Thank you very much,
23 Ms Sutherland.
24 So, this brings us to the end of today's hearing. The Defence will continue for a short
25 time tomorrow morning.

1 Madam Witness, the Chamber would like to thank you once again for having replied
2 so kindly and patiently to the questions that have been put to you today.

3 Unfortunately, your testimony has not yet been completed, you will be back here
4 tomorrow morning at 9.30.

5 In the meantime, please do not forget that you must not talk about your statement to
6 anybody at all.

7 THE WITNESS: [14:51:49](Interpretation) I don't have anyone that I could discuss it
8 with. I am alone where I am spending the time.

9 PRESIDING JUDGE MINDUA: [14:52:02](Interpretation) Thank you. We
10 understand.

11 I would simply like now to thank everybody here in the courtroom and out with
12 the courtroom who have been part of this hearing. I'm thinking particularly of the
13 parties and participants, the court reporters, the interpreters, the security officers, of
14 course. And I would thank also our public. I wish all of you a very pleasant
15 evening and we will meet again tomorrow morning at 9.30.

16 The hearing is adjourned.

17 THE COURT USHER: [14:52:42] All rise.

18 (The hearing ends in open session at 2.52 p.m.)