

Trial Hearing
WITNESS: MLI-D28-P-0544

(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 Kesia-Mbe Mindua, Judge Tomoko Akane and Judge Kimberly Prost
7 Trial Hearing - Courtroom 3
8 Tuesday, 30 August 2022
9 (The hearing starts in open session at 10.51 a.m.)
10 THE COURT USHER: [10:51:53] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE MINDUA: [10:52:32](Interpretation) Court is now present.
14 Good morning to one and all.
15 Court officer, would you mind calling the case, please.
16 THE COURT OFFICER: [10:52:45] Good morning, Mr President. Good morning,
17 your Honours.
18 This is the Situation in the Republic of Mali, in the case of The Prosecutor versus Al
19 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
20 And for the record, we're in open session.
21 PRESIDING JUDGE MINDUA: [10:53:06](Interpretation) My thanks, court officer.
22 As custom dictates every morning, let's have the appearances and we can start with
23 the Prosecution bench.
24 Prosecutor, please.
25 MR GARCIA: [10:53:18](Interpretation) Good morning, honourable members of the
26

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 Bench. My name is Lucio Garcia, and with me on my bench is Gilles Dutertre.

2 PRESIDING JUDGE MINDUA: [10:53:26](Interpretation) Thank you very much
3 from the Prosecution.

4 And I turn to the Defence. Counsel.

5 MS GERRY: [10:53:30] Good morning, Mr President, your Honours, and everyone in
6 court. The Defence are represented today by myself, Felicity Gerry, and by Melissa
7 Beaulieu Lussier who sits to my right. And Mr Al Hassan is, of course, here behind
8 me. Thank you.

9 PRESIDING JUDGE MINDUA: [10:53:51](Interpretation) My thanks, Counsel Gerry.
10 And I'd also note the presence of the accused in the courtroom.

11 I now turn to the LRVs. Counsel.

12 MR DOUMBIA: [10:54:08](Via video link)(Interpretation) Good morning,
13 your Honour, honourable members of the Bench. The LRV team this morning is
14 staffed by Ms Biyéké-Dipanga, case manager, and myself, Seydou Doumbia. And
15 we are coming to you from Bamako. Thanks very much.

16 PRESIDING JUDGE MINDUA: [10:54:30](Interpretation) Thank you very much,
17 Counsel Doumbia.

18 And now I turn to the witness.

19 Good morning, Witness. Can you hear me properly?

20 WITNESS: MLI-D28-P-0544

21 (The witness speaks Tamasheq)

22 (The witness gives evidence via video link)

23 THE WITNESS: [10:54:50](Interpretation) Good morning.

24 PRESIDING JUDGE MINDUA: [10:54:54](Interpretation) Mr Witness, on behalf of
25 the Chamber, we wish you a warm welcome. You are going to be offering evidence

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 to assist the Bench in reaching the truth going to the matter of Al Hassan, the case
2 Al Hassan.

3 Mr Witness, protective measures have been implemented to ensure that your identity
4 is not disclosed to the general public. When you are called upon to make details that
5 may reveal your identity, we will move into private session to address said details.
6 Consequently, those outside of the courtroom will not be able to hear you.

7 Have you understood, Witness?

8 Mr Witness, did you understand what I -- what I said?

9 THE INTERPRETER: [10:56:39] The Tamasheq interpreter reminds the Bench that
10 they are working in consecutive mode.

11 PRESIDING JUDGE MINDUA: [10:56:45](Interpretation) Exactly so.

12 THE WITNESS: [10:57:27](Interpretation) Yes, I've understood.

13 PRESIDING JUDGE MINDUA: [10:57:31](Interpretation) My thanks, Mr Witness.

14 We now move to the solemn undertaking under Rule 66, first paragraph of the Rules
15 of Procedure and Evidence.

16 Mr Witness, you are now going to be taking a solemn undertaking, an oath, by which
17 you will swear to tell the truth. So please repeat after me with a loud voice.

18 I solemnly swear to tell the truth.

19 THE WITNESS: [10:59:16](Interpretation) I solemnly declare that I will tell the truth.

20 PRESIDING JUDGE MINDUA: [10:59:21](Interpretation) The whole truth and
21 nothing but the truth.

22 THE WITNESS: [10:59:29](Interpretation) The whole truth and nothing but the
23 truth.

24 PRESIDING JUDGE MINDUA: [10:59:37](Interpretation) Thank you, Mr Witness.

25 You are now under oath.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 The VWU, as well as representatives of the Defence team, have already made known
2 to you what that implies.

3 Now, I have one or two practical points of advice for you, Mr Witness. Please bear
4 in mind that throughout your oral evidence, what is said in this courtroom is
5 transcribed by court reporters and interpreted in a number of languages by
6 interpreters. Consequently, it's very important to enunciate clearly, to speak slowly
7 and observing pauses.

8 We will be now turning to your oral evidence. You will be questioned first by the
9 Defence, then by the Prosecution, and possibly, after the Prosecution, by the Legal
10 Representative of Victims, and then questions potentially from the Bench.

11 So, without further ado, I turn to the Defence for them to embark on their
12 examination-in-chief.

13 Counsel Gerry, over to you.

14 MS GERRY: [11:02:21] Thank you, Mr President.

15 QUESTIONED BY MS GERRY:

16 Q. [11:02:26] Mr Witness, can you see and hear me clearly?

17 A. [11:02:43] I can hear you, but I can't see you.

18 Q. [11:02:48] Okay.

19 I don't know if that's necessary, but if it can help him to see me, then I'd ask that that
20 happen, please. But I can (Overlapping speakers)

21 PRESIDING JUDGE MINDUA: [11:03:06](Interpretation) Yes, it's very important.

22 Court officer, can you ensure that the witness sees counsel.

23 (Pause in proceedings)

24 PRESIDING JUDGE MINDUA: [11:03:38](Interpretation) Mr Witness, you should be
25 able to see the Defence counsel now.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Private Session)

ICC-01/12-01/18

- 1 THE WITNESS: [11:03:49](Interpretation) Yes, I see her.
- 2 PRESIDING JUDGE MINDUA: [11:03:53](Interpretation) Very well.
- 3 MS GERRY: [11:03:53] Thank you very much.
- 4 PRESIDING JUDGE MINDUA: [11:03:53](Interpretation)
5 Counsel Gerry, you can begin.
- 6 MS GERRY: [11:03:57] Thank you very much.
- 7 Q. [11:03:57] Mr Witness, is your -- I need to identify your name.
8 So I'll need to go into private session, please.
- 9 PRESIDING JUDGE MINDUA: [11:04:11](Interpretation) Exactly so.
10 Court officer, private session, please.
- 11 (Private session at 11.04 a.m.)
- 12 THE COURT OFFICER: [11:04:29] We're in private session, Mr President.
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
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25 (Redacted)

Trial Hearing
WITNESS: MLI-D28-P-0544

(Private Session)

ICC-01/12-01/18

1 (Redacted)

2 (Redacted)

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5 (Redacted)

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8 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Open session at 11.09 a.m.)

23 THE COURT OFFICER: [11:09:12] We're back in open session, Mr President.

24 MS GERRY: [11:09:17] I may have made a mistake. I apologise, Mr President.

25 PRESIDING JUDGE MINDUA: [11:09:26](Interpretation) Counsel Gerry, please

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 only speak when I give you the floor because we really have to make sure that things
2 hang together, and of course, there's the additional complexity of the interpretation.

3 Court officer, are we returning into open session? Thank you.

4 Right. Counsel Gerry has requested that the witness statement feature on our
5 screens but to make sure that it's not displayed to the general public. Thank you
6 very much.

7 MS GERRY: [11:10:05] Very grateful. Sorry for my mistake. Thank you.

8 Q. [11:10:11] Mr Witness, I now want to show you your statement. That will be
9 shown to you and not the public.

10 Can we please scroll down to the bottom of page 1, please.

11 Mr Witness, do you see your signature at the bottom of page 1?

12 A. [11:10:55] Yes, I can see it there.

13 Q. [11:10:56] Thank you.

14 If we could scroll down to the bottom of page 2, please.

15 Mr Witness, do you see your signature at the bottom of page 2?

16 A. [11:11:34] Yes, I do.

17 Q. [11:11:36] Thank you.

18 May we scroll down to the bottom of page 3, please.

19 Mr Witness, do you see your signature at the bottom of page 3?

20 A. [11:12:19] Yes, I do.

21 Q. [11:12:21] Thank you.

22 May we scroll down to the bottom of page 4, please.

23 Mr Witness, do you see your signature at the bottom of page 4?

24 A. [11:13:00] Yes, I do.

25 Q. [11:13:01] May we scroll down --

1 Thank you.

2 May we scroll down to the bottom of page 5, please.

3 Mr Witness, do you see your signature at the bottom of page 5?

4 A. [11:13:34] Yes, I do.

5 Q. [11:13:37] Thank you.

6 And finally, may we scroll down to the bottom of page 6, please.

7 Thank you.

8 Mr Witness, do you see your signature at the bottom of page 6?

9 A. [11:14:14] Yes, I do.

10 Q. [11:14:18] Thank you.

11 Mr Witness, that is your statement dated 4 April 2022. Can you confirm that that
12 statement was read to you during the Defence preparation session -- sessions in both
13 French and Tamasheq.

14 A. [11:15:25] Yes, it was read back to me in both those languages.

15 Q. [11:15:32] Mr Witness, can you confirm that during the Defence preparation
16 sessions, you made a correction to replace paragraph 23.

17 A. [11:16:16] Yes, indeed.

18 Q. [11:16:22] And, Mr Witness, I'm now going to ask that my colleague, Ms Melissa
19 Beaulieu Lussier, read to you the replacement paragraph 23 in French.

20 MS BEAULIEU LUSSIER: [11:16:54](Interpretation) "My daughter called me by
21 phone to inform me that her mother had been taken away by two young men in a
22 vehicle because she didn't wear the veil. My daughter did not know the identity of
23 the men nor the place where she had been taken."

24 PRESIDING JUDGE MINDUA: [11:17:20](Interpretation) Please remember that the
25 interpretation's in consecutive, counsel.

1 MS BEAULIEU LUSSIER: [11:17:30](Interpretation) "At that time, I was at the Fondo
2 Kati library in the Hamabangou neighbourhood. I immediately called
3 Mr Al Hassan."

4 MS GERRY: [11:18:00]

5 Q. [11:18:00] Mr Witness --

6 PRESIDING JUDGE MINDUA: [11:18:12](Interpretation) Maître, could you reread
7 the paragraph with breaks, and read it slowly for the benefit of the interpreters, the
8 Tamasheq interpreters.

9 MS BEAULIEU LUSSIER: [11:18:26](Interpretation) My apologies to the interpreters.
10 "My daughter called me by phone to inform me that her mother had been taken away
11 by two young men in a vehicle because she wasn't wearing a veil. My daughter did
12 not know the identity of the men nor the place where she was being taken. At that
13 time, I was at the library, the Fondo Kati library, in the Hamabangou neighbourhood.
14 I immediately called Mr Al Hassan."

15 MS GERRY: [11:20:14]

16 Q. [11:20:14] Mr Witness, is what my colleague, Melissa Beaulieu Lussier, has just
17 read to you the correct paragraph 23 for your statement now?

18 A. [11:21:06] Yes, indeed. Indeed, that corresponds with it.

19 Q. [11:21:11] Thank you.

20 With that correction, is your statement now a full and accurate record of the evidence
21 that you have given?

22 A. [11:21:57] Yes, indeed.

23 Q. [11:22:12] I now have some follow-up questions for you. During any interview
24 with the Defence, did anyone ask you to change your evidence?

25 A. [11:23:01] No, not at all.

- 1 Q. [11:23:05] Has anyone asked you to give evidence that was not true?
- 2 A. [11:23:34] No, not at all.
- 3 Q. [11:23:37] Has anyone promised you anything in exchange for giving evidence
4 for the Defence?
- 5 A. [11:24:07] Absolutely not.
- 6 Q. [11:24:09] Has anyone pressured you or forced you to sign your statement?
- 7 A. [11:24:42] Not at all.
- 8 Q. [11:24:43] Before signing your statement, did you discuss your evidence with
9 anyone, apart from the Defence?
- 10 A. [11:25:20] Absolutely not at all. I haven't spoken about it with anyone.
- 11 Q. [11:25:29] And after you signed your statement, have you discussed what you
12 will say to the judges with anyone outside of the Defence team?
- 13 A. [11:26:17] No, not at all.
- 14 Q. [11:26:19] With that correction to paragraph 23, do you agree for your statement
15 to be admitted into evidence?
- 16 A. [11:27:03] I haven't understood the question.
- 17 Q. [11:27:07] With that correction to paragraph 23, do you agree that the judges can
18 accept your statement as your evidence?
- 19 A. [11:27:50] Yes, I agree.
- 20 Q. [11:27:52] Thank you.
- 21 I now have three short follow-up questions.
- 22 The first, Mr President, may we go into private session, please.
- 23 PRESIDING JUDGE MINDUA: [11:28:07](Interpretation) Court officer, please take
24 us into private session.
- 25 (Private session at 11.28 a.m.)

- 1 THE COURT OFFICER: [11:28:26] We're in private session, Mr President.
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Open session at 11.31 a.m.)
- 20 THE COURT OFFICER: [11:31:38] We're back in open session, Mr President.
- 21 PRESIDING JUDGE MINDUA: [11:31:44](Interpretation) Thank you very much,
- 22 court officer.
- 23 Maître Gerry.
- 24 MS GERRY: [11:31:51] Thank you, Mr President.
- 25 Q. [11:31:52] Mr Witness, did you observe Eid in 2012?

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 A. [11:32:27] When?

2 Q. [11:32:28] In 2012.

3 A. [11:32:47] Yes, indeed.

4 Q. [11:32:52] Mr Witness, I think you can also tell us about an event that involved a
5 (Redacted) of yours.

6 A. [11:33:31] The story of whom? I didn't understand the question.

7 Q. [11:33:38] Are you able to tell us about an event involving your (Redacted)?

8 A. [11:34:30] With regard to this ...

9 PRESIDING JUDGE MINDUA: [11:34:49](Interpretation) Witness, please, could you
10 leave breaks so you can be interpreted in French and English. If you'd be so kind.

11 THE WITNESS: [11:35:05](Interpretation) Well noted.

12 So with regards to the event -- with regards to the event, which my (Redacted) was
13 involved in, we were sitting with a friend (Redacted), and he got up, and our
14 friend said that my (Redacted) had been arrested. We were there. And at a certain
15 time, Al Hassan arrived. He was stopped by somebody. And when I saw him, I
16 got up in order to tell him the story. I told him that my (Redacted) had been arrested.
17 I heard that he was in prison. And he is (Redacted), and at the same time (Redacted).
18 "May it please God," I said to him. He said, "If it pleases God, tomorrow he will be
19 freed."

20 That is the story of (Redacted).

21 MS GERRY: [11:36:53]

22 Q. [11:36:53] Thank you.

23 Mr President, to deal with the identification of person now, may we please go into
24 private session, please.

25 PRESIDING JUDGE MINDUA: [11:37:06](Interpretation) Indeed.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Private Session)

ICC-01/12-01/18

- 1 Court officer, private session, please.
- 2 (Private session at 11.37 a.m.)
- 3 THE COURT OFFICER: [11:37:22] We're in private session, Mr President.
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Open session at 11.40 a.m.)
- 23 THE COURT OFFICER: [11:40:17] We're back in open session, Mr President.
- 24 PRESIDING JUDGE MINDUA: [11:40:20](Interpretation) Thank you very much,
- 25 court officer.

1 Maître Gerry.

2 MS GERRY: [11:40:27] Thank you, Mr President.

3 Q. [11:40:35] Mr Witness, you told us that Mr Z told you that your -- that Mr Y had
4 been detained. What were you doing -- sorry. I'll ask the question in a better way.
5 I'm sorry to the interpreters.

6 Why were you at the location that you were at?

7 A. [11:41:40] We were with -- we were at Z's house, and it was one of our
8 house -- friends who told us the story.

9 Q. [11:41:53] So just to make sure I understand you correctly, was it Mr Z who told
10 you about Mr Y, or was it one of your friends who told you about Mr Y?

11 A. [11:42:52] To be clear, we were sitting at Z's place, and that's where we had the
12 meeting normally. And it was a friend, another friend of ours who told us what had
13 happened.

14 Q. [11:43:20] You told us that you were meeting normally. Can you help us to
15 understand this meeting, please.

16 A. [11:44:13] (Redacted)

17 (Redacted). And we would
18 discuss, we would chat at his house or his place.

19 Q. [11:44:33] Thank you.

20 You told us that one of your friends in the group told you about what had happened
21 to Mr Y. Can you remember exactly what the friend in the group told you about
22 what had happened to Mr Y?

23 A. [11:45:37] I don't remember anything about that friend. I don't know in fact
24 whether he was there or not -- whether he was a member of the group.

25 THE INTERPRETER: [11:45:54] Corrects the interpreter.

1 MS GERRY: [11:45:56]

2 Q. [11:45:56] Can you tell us exactly what you were told about Mr Y, about what
3 had happened to Mr Y.

4 A. [11:47:01] I don't even remember -- well, this was right information or not. We
5 were just there, talking and chatting. And then the information -- well, we heard
6 that information. We picked up on the information there. I don't remember who
7 gave us the information.

8 What I do remember is that when we heard about it, I saw Al Hassan, and when I did
9 so, I went to see him to tell him all about what had happened, about the situation.

10 Q. [11:47:39] Thank you.

11 Where was Mr Z's place located?

12 A. [11:48:18] (Redacted)

13 Q. [11:48:26] You told us that a person told you that Mr Y had been detained.

14 What did you do after you learned this information?

15 A. [11:49:30] I didn't do anything. But at a given point of time, Al Hassan turned
16 up and I spotted him. I went to see him to tell him about the situation, (Redacted)
17 (Redacted)

18 Q. [11:50:01] Do you remember how long it was between learning that Mr Y had
19 been detained and Mr Al Hassan arriving in the area?

20 A. [11:51:04] We were talking, and it was at that point Al Hassan turned up. We
21 didn't finish our discussion, and he turned up. So it was only a matter of minutes.

22 Q. [11:51:20] When you first saw Mr Al Hassan, where was he in relation to you?

23 A. [11:52:16] He was just standing in the street. He'd stopped in the street and he
24 was facing us, where we were sitting. There was about 10 metres maximum
25 between him and us. Somebody had stopped him. He had been in his car. And

1 then I saw him and went to him.

2 Q. [11:52:40] Were you expecting Mr Al Hassan to arrive or not?

3 A. [11:53:15] No, I didn't expect him to be there. It was totally unexpected. We
4 were sitting down, and unexpectedly he turned up. And I used that situation to tell
5 him what had happened.

6 Q. [11:53:32] Why did you go to speak to Mr Al Hassan?

7 A. [11:54:24] I went up to him because Al Hassan is people who can sort things out,
8 iron things out. With my wife, he had done so, and other situations. Every time I
9 went up to him, he sorted things out for me.

10 Q. [11:54:53] What year was it that you were at Mr Z's place and you learned about
11 Mr Y being detained? What year are we talking about?

12 A. [11:55:40] It was in 2012, the year of the crisis.

13 Q. [11:55:50] Do you remember the month that you were at Mr Z's place and you
14 were told that Mr Y had been detained?

15 A. [11:56:33] I don't know. I don't know the exact date. I'd get it wrong if I were
16 to try and tell you.

17 Q. [11:56:40] Can you recall if you were at Mr Z's place and you learned about
18 Mr Y being detained before or after your wife was detained?

19 A. [11:57:20] After that event.

20 Q. [11:57:27] You told us that you went from Mr Z's place over to Mr Al Hassan,
21 who was in the street. Was Mr Al Hassan still in his car, or the car, or was he out of
22 the car?

23 A. [11:58:34] He just stopped. So he was still in the car. He was at the wheel of
24 the car, and somebody was talking to him. And it was at that point that I turned up.
25 He was still sitting in his car.

1 Q. [11:58:54] And can you tell us, to the best of your recollection, what you said in
2 your words to Mr Al Hassan.

3 MR GARCIA: [11:59:33](Interpretation) Your Honour.

4 PRESIDING JUDGE MINDUA: [11:59:34](Interpretation) Mr Prosecutor.

5 MR GARCIA: [11:59:36](Interpretation) It's the second time that the witness has
6 been asked to answer this question. The question was the second time. This is
7 page 15, lines 1 through 7. "Al Hassan arrived. He stopped. I saw him. I went
8 up to see him to tell him my account," et cetera, et cetera. So this is the second time
9 the question's being put to the witness, your Honour.

10 PRESIDING JUDGE MINDUA: [12:00:10](Interpretation) Counsel Gerry.

11 MS GERRY: [12:00:11] Mr President, the witness gave a general answer earlier. I
12 am asking for specific answers so that the Court can hear this witness's recollection of
13 exactly what was said by each party. Firstly, this witness, and then what this
14 witness recalls was said by Mr Al Hassan.

15 In my submission, those are perfectly proper questions, and it will assist this Court to
16 hear what, if anything, this witness remembers about the exact conversation.

17 I'd be grateful if I could ask the questions, please.

18 PRESIDING JUDGE MINDUA: [12:00:54](Interpretation) Mr Prosecutor, yes, the
19 witness has answered the first time to this question, but as a general -- in a general
20 position, but the Defence is interested in what words was used by the witness.

21 Maybe there's a strategy sitting behind this question. Shall we listen to the question?

22 MR GARCIA: [12:01:15](Interpretation) Possibly. But let me inform the Bench that
23 in respect to the answer, we have it, page 15, line 6 to 8, where we have exactly what
24 Al Hassan allegedly responded to the witness. I lay that before the Chamber.

25 PRESIDING JUDGE MINDUA: [12:01:34](Interpretation) Well, let's listen to the

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 answer now, for the last time.

2 Counsel Gerry.

3 MS GERRY: [12:01:40]

4 Q. [12:01:41] Mr Witness, can you tell us, to the best of your recollection, the words
5 that you used when you spoke to Mr Al Hassan.

6 A. [12:02:58] We were still talking where we were sitting down and we were
7 talking, and then Mr Al Hassan arrived. And when he did so, as I was saying, he
8 was stopped by somebody in the street and he started talking to him. So I went up
9 to him, and I waited for the discussion to finish between the two men. And once it
10 had finished, then I told my account with the situation of my -- of my (Redacted)
11 (Redacted), Al Hassan, and then I had told him that my (Redacted) had been arrested
12 and had gone off to prison. So he told me if -- he told me, "If that pleases God."
13 And then Al Hassan went off.

14 Q. [12:03:58] Mr Witness, just focusing on Mr Al Hassan now, can you tell us, to the
15 best of your recollection, what it was that Mr Al Hassan said to you.

16 MR GARCIA: [12:04:13](Interpretation) Your Honour.

17 PRESIDING JUDGE MINDUA: [12:04:15](Interpretation) Yes, Mr Prosecutor.

18 MR GARCIA: [12:04:17](Interpretation) This will be the third time that we will be
19 raking over this. The witness has just reiterated, with less details, about what he
20 said to Mr Al Hassan. And Al Hassan's answer has been recorded twice. This will
21 be the third time now.

22 PRESIDING JUDGE MINDUA: [12:04:36](Interpretation) Counsel Gerry, I agree
23 with the Prosecution. This is -- this time -- this is a third time. You can't do this.
24 It's not -- it's not appropriate.

25 MS GERRY: [12:04:46] Mr President, if I may, it is not --

1 PRESIDING JUDGE MINDUA: [12:04:47](Interpretation) No, no.

2 MS GERRY: [12:04:49] It's not the third time that I've asked. It's only fair that this
3 witness is entitled to give his recollection and, at the moment, he has given two
4 different answers. So it's very important that that answer --

5 PRESIDING JUDGE MINDUA: [12:05:00](Interpretation) Yes.

6 MS GERRY: [12:05:01] It's very important that what Mr Al Hassan, who is the
7 person on trial, said is communicated to this Court. At the moment, we have two
8 different answers. We do not have this witness's recollection of what was said. In
9 my submission, the Prosecution are wrong to prevent this witness from giving his
10 evidence in the detail that this witness remembers. And it would be wrong for this
11 Court to prevent this witness from giving his evidence as to what he remembers
12 about a conversation with this defendant, who is the person on trial. In my
13 submission, it was a perfectly proper question to clarify exactly what this witness
14 remembers about what Mr Al Hassan says, particularly where this Court has two
15 different answers.

16 PRESIDING JUDGE MINDUA: [12:05:58](Interpretation) Yes, there are different
17 answers because it's the third time that you've put the question to the witness, and it
18 will be the third time that the witness answered. I can even remember the answers
19 off by heart, but because I am not on the stand, I don't say it. But this is not
20 appropriate. It's not appropriate to put the same question several times to receive
21 the answer that the Defence wishes to hear.

22 So, no. Let's move on.

23 MS GERRY: [12:06:23] Mr President, it is not --

24 PRESIDING JUDGE MINDUA: [12:06:24](Interpretation) No, please -- no, counsel.

25 MS GERRY: [12:06:25] It is not the third time I have asked the question.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 PRESIDING JUDGE MINDUA: [12:06:25] No. We have -- this is -- this is our
2 ruling. This is the third time now, counsel. Can you see, the first time the
3 Prosecution rose, and then again had to manifest himself three times. So, please, can
4 you move on, Counsel Gerry.

5 And I say for the record that the accused has been excused for the time being, and he
6 will be returning into the body of the court.

7 Counsel Gerry, please resume.

8 (Mr Al Hassan exits the courtroom)

9 MS GERRY: [12:07:01]

10 Q. [12:07:01] Mr Witness, tell us what else you remember about what occurred in
11 the street outside Mr Z's place, please.

12 A. [12:07:40] I didn't understand.

13 Q. [12:07:45] Mr Witness, you have been helping us about a meeting between you
14 and Mr Al Hassan outside of Mr Z's place. Can you help us with any more of your
15 recollection about your meeting with Mr Al Hassan, please.

16 (Mr Al Hassan enters the courtroom)

17 PRESIDING JUDGE MINDUA: [12:08:47](Interpretation) For the record, I clarify
18 that Mr Al Hassan has returned to the courtroom.

19 THE WITNESS: [12:09:01](Interpretation) I still haven't understood the question.

20 MS GERRY: [12:09:05]

21 Q. [12:09:05] You told us something about your (Redacted) release.

22 MR GARCIA: [12:09:16](Interpretation) Your Honour.

23 PRESIDING JUDGE MINDUA: [12:09:17](Interpretation) Mr Prosecutor.

24 MR GARCIA: [12:09:19](Interpretation) I'd like to have the reference for this last
25 suggestion on the part of the Defence.

1 PRESIDING JUDGE MINDUA: [12:09:28](Interpretation) The Defence is making
2 reference to the release of the (Redacted). Isn't that right?

3 Yes, Counsel Gerry.

4 MS GERRY: [12:09:37] Of course. We will just find the reference. Would you give
5 us a moment. Certainly my recollection is of some words that I've asked to be
6 checked.

7 I need to go back to that first answer that he gave.

8 MR GARCIA: [12:10:20](Interpretation) If this assists.

9 PRESIDING JUDGE MINDUA: [12:10:22](Interpretation) Yes, Mr Prosecutor.

10 MR GARCIA: [12:10:24](Interpretation) Yes. I was actually listening myself and
11 looking, and I think it's at 15, page 15, line -- line 7.

12 PRESIDING JUDGE MINDUA: [12:10:38](Interpretation) Perhaps you can assist,
13 Mr Prosecutor.

14 MR GARCIA: [12:10:42](Interpretation) He simply says, "If God pleases, tomorrow
15 he will be free. This is the story around my (Redacted)." This links in with the
16 release. It's not very clear as asserted by the witness. Perhaps the question could
17 be re-put to the witness to that effect.

18 PRESIDING JUDGE MINDUA: [12:11:07](Interpretation) Counsel Gerry.

19 MS GERRY: [12:11:10] (Microphone not activated)

20 THE INTERPRETER: [12:11:11] Microphone, please, counsel.
21 Microphone, please, counsel.

22 MS GERRY: [12:11:18] Mr President, I agree with the Prosecution that the lines that
23 appear at page 14, lines 17 to 20, in the English version are not clear. It is precisely
24 why I asked you if I could ask the witness to give his exact recollection of what was
25 said. In my submission, we are falling into error here. It would be very important

1 for me to clarify what has been said as between this witness and Mr Al Hassan before
2 going on to questions about release.

3 I appreciate you ruled against me, but I would ask you to revisit that ruling, now that
4 the Prosecution have agreed that that answer is not clear that the witness gave earlier
5 on. Since the Prosecution have agreed that it's not clear, in my submission, I should
6 be entitled to clarify exactly what was said by Mr Al Hassan at that scene in the street.
7 Then we can go on to the question of release, please.

8 MR GARCIA: [12:12:15](Interpretation) Mr President.

9 PRESIDING JUDGE MINDUA: [12:12:25](Interpretation) Mr Prosecutor, there
10 seems to be a contradiction in your own submission.

11 MR GARCIA: [12:12:31](Interpretation) I think we are mixing up what's being said.
12 What matters now is what he allegedly said. "Tomorrow he will be freed." And,
13 simply, it revolves around that. The objections I entered earlier on went only to the
14 matter of what was allegedly said to Mr Al Hassan and what Mr Al Hassan said.
15 But now that -- all that is a discrete matter. We don't necessarily have to revisit the
16 entire debate upon which the Chamber has already ruled. Simply putting the
17 question - if this is appropriate, in the mind of the Defence - "Tomorrow he was
18 freed." Maybe this is the only area where there is a problem. Does he put his name
19 to these words or not, the witness.

20 PRESIDING JUDGE MINDUA: [12:13:16](Interpretation) Counsel Gerry, I would
21 agree with the Prosecution. So put your question in relation to that -- that discrete
22 aspect, "Tomorrow he was freed."

23 MS GERRY: [12:13:27]

24 Q. [12:13:27] Mr Witness, I'm going to read back to you what you said earlier on so
25 that you can understand what we are talking about. This is how it was translated to

1 me. It was translated that you said:

2 "I told him that my cousin had been arrested. I had heard that he was in prison."

3 I just want to be clear, did you tell Mr Al Hassan that you had heard that he was in
4 prison, or is that just something that you heard?

5 MR GARCIA: [12:14:28](Interpretation) Mr President.

6 PRESIDING JUDGE MINDUA: [12:14:32] (No interpretation)

7 MR GARCIA: [12:14:33](Interpretation) Yes. I do apologise, but the way that the
8 question is being taken up again by rereading the excerpt. This is not what it's all
9 about. The ruling was unambiguous from the Chamber. It was just about this last
10 section. We don't need to go back and backtrack and to ask -- and do a
11 catch-all question, a catch-all -- phrasing the question in such a way that catches
12 everything. That's my view anyway.

13 PRESIDING JUDGE MINDUA: [12:14:57](Interpretation) Counsel Gerry.

14 Counsel Gerry, the Chamber has already ruled on this exchange of words between
15 the witness and the accused. The Prosecution now is raising an objection going to a
16 section of text, which is slightly contradictory. "Tomorrow he was freed." This is
17 what we're talking about now. And the Prosecutor is seeking some clarity on that
18 point. The Prosecutor didn't ask you to go -- to start everything de novo.

19 So would you just mind checking with the witness what this is all about, this sentence,
20 "Tomorrow he was freed." There is a problem in the tense here, the grammatical
21 tense.

22 MS GERRY: [12:15:51] Mr President, in my submission, this is not fair to the witness
23 and not fair to Mr Al Hassan.

24 PRESIDING JUDGE MINDUA: [12:15:54](Interpretation) No, no. We
25 have -- Maître Gerry --

1 MS GERRY: [12:16:01] This witness -- the Prosecution --
2 PRESIDING JUDGE MINDUA: [12:16:02](Interpretation) Maître Gerry, be careful.
3 MS GERRY: [12:16:03] -- have an opportunity to cross-examine. You are asking me
4 to do cross-examination questions. I am asking for free flow for this witness to give
5 his evidence, to explain the evidence that he's given in his own words. He is
6 speaking through two interpreters. It is simply not fair that those sentences are left
7 the way they are. It is entirely fair for him to tell us what he heard Mr Al Hassan say,
8 when the Prosecution have accepted that what is currently transcribed is not clear.
9 This is simply not fair.
10 I asked a perfectly sensible question in chief: What did you hear Mr Al Hassan say?
11 And that should make this clear. I should then be entitled to ask follow-up
12 questions. That is what examination-in-chief is about. And this is just simply not
13 fair. In my submission, I should be asked to -- should be allowed to ask this witness,
14 what did he hear Mr Al Hassan say, and then use follow-up questions.
15 I appreciate this Court is trying to move forward in time. But I am also trying to be
16 fair to the witness, as I'm sure you are too. Please may I conduct my
17 examination-in-chief in the way that I have suggested, please.
18 PRESIDING JUDGE MINDUA: [12:17:29](Interpretation) No, Maître Gerry. You
19 have spoken without my leave, because I was speaking and you've cut me off. And I
20 listen to you politely as usual. The witness has already replied three times. I'm not
21 going back to that.
22 We are currently examining the aspect of a phrase or sentence where there is
23 contradiction. "*Demain il a été libéré*", which means "Tomorrow he was freed", which
24 grammatically doesn't make sense. But if you don't want to deal with that, will you
25 please move on. But we will not go back to what we've over -- what we've already

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 decided.

2 MS GERRY: [12:18:17]

3 Q. [12:18:17] Mr Witness, you told the trial -- it is transcribed to the Trial Chamber
4 that Mr Al Hassan said to you, "May it please God." And then you said something
5 to him. There is a gap in the transcript, we don't know what that is, and then he said,
6 "If it pleases God, tomorrow he will be freed."

7 Could you please explain to us what it was you were trying to tell the Trial Chamber,
8 please, about the conversation you had with Mr Al Hassan.

9 PRESIDING JUDGE MINDUA: [12:19:23](Interpretation) Maître Gerry, the
10 interpreting is consecutive. So please speak with breaks such that the Tamasheq
11 interpreters can translate for your witness.

12 MS GERRY: [12:19:37] Of course.

13 Q. [12:19:42] Mr Witness, I am going to read to you what the transcript currently
14 reads of what you said earlier today. Okay?

15 A. [12:20:33] Yes.

16 Q. [12:20:35] Thank you.

17 Mr Witness, this is what our transcript says, and I quote:

18 "I told him that my (Redacted) had been arrested. I heard that he was in prison.
19 And he is an (Redacted), and at the same time a (Redacted). 'May it please God,' I
20 said to him. He said, 'If it pleases God, tomorrow he will be freed.' That is the story
21 of my (Redacted)."

22 End quote.

23 MR GARCIA: [12:21:51](Interpretation) I'm sorry, your Honour.

24 PRESIDING JUDGE MINDUA: [12:21:54](Interpretation) Yes, Prosecutor.

25 MR GARCIA: [12:21:56](Interpretation) I'm saying perhaps there is a problem with

1 the translation. I see "he will be freed", whereas when it was the sentence which was
2 a problem, the sentence in question was different. "Tomorrow he was freed." At
3 least in the way that it was reread to the witness. "He will be liberated" is not the
4 same as "he was liberated tomorrow".

5 PRESIDING JUDGE MINDUA: [12:22:30](Interpretation) Indeed.

6 Prosecutor, you followed the interpreting. Tamasheq hadn't finished.

7 Interpreters Tamasheq, could you finish the interpreting.

8 THE WITNESS: [12:23:43](Interpretation) What I wanted to say is that when I told
9 him about the situation, the next day, (Redacted) was freed.

10 PRESIDING JUDGE MINDUA: [12:24:02](Interpretation) Well, Prosecutor,
11 obviously, there is a difference with the text that we had before, but now it seems a lot
12 more logical. We can therefore continue.

13 MR GARCIA: [12:24:14](Interpretation) Certainly, your Honour.

14 PRESIDING JUDGE MINDUA: [12:24:16](Interpretation) Very well.

15 Maître Gerry.

16 MS GERRY: [12:24:19] Mr President, without wishing to incur the wrath of the
17 Court, I wonder if it would assist the Court for me to ask what Mr Al Hassan said to
18 this witness, please.

19 PRESIDING JUDGE MINDUA: [12:24:47](Interpretation) Counsel, we know. We
20 said that he would be freed. Isn't it that? And it's the third time that the witness
21 has explained that.

22 MS GERRY: [12:24:59] This is where I think we are falling into a misunderstanding.
23 The witness's evidence is now that (Redacted) was freed the next day. It is not clear
24 if that was said (Overlapping speakers)

25 PRESIDING JUDGE MINDUA: [12:25:12](Interpretation) Maître Gerry, please move

1 on. The Chamber is sufficiently informed with regards to this subject. Please move
2 on.

3 MS GERRY: [12:25:20] In my submission, the Chamber is not sufficiently informed.
4 There is clearly a problem between --

5 PRESIDING JUDGE MINDUA: [12:25:27](Interpretation) It's the Chamber that
6 knows whether it's informed or not. Please move on.

7 MS GERRY: [12:25:45]

8 Q. [12:25:46] Mr Witness, did you understand, when you were in the street with
9 Mr Al Hassan, anything about your (Redacted) release? When you were in the street.

10 A. [12:27:24] So to be clear, I was not at all in the street with Al Hassan. We were
11 with Z. We were sitting down, we were at Z's place, in his warehouse. We were
12 speaking and the information was heard. And when the information was heard,
13 then Al Hassan came, and he was stopped in the street. And when I saw him, I
14 immediately went to him to inform him. And once I had informed him, he told me
15 that, "God willing," and the next day, the day after, my (Redacted) was freed.

16 Q. [12:28:16] So to be clear, your evidence is that the words used by Mr Al Hassan
17 were "God willing"?

18 MR GARCIA: [12:28:31](Interpretation) I object, your Honour.

19 PRESIDING JUDGE MINDUA: [12:28:34](Interpretation) Mr Prosecutor.

20 MR GARCIA: [12:28:35](Interpretation) It seems that we are going to the fourth or
21 fifth time that the words are taken up again, and now we are limiting what the
22 witness said previously. So I think it's inappropriate in these circumstances. He
23 has already answered several times and that's in the case record.

24 PRESIDING JUDGE MINDUA: [12:28:55](Interpretation) Maître Gerry, he says it's
25 the fourth or fifth time, and myself, I know it's the fifth time that the witness repeats

1 the same thing. So the Chamber is sufficiently informed, and we no longer want to
2 listen to that any more.

3 Now, court officer --

4 No, Maître Gerry, that's it.

5 Court officer, we started at 10.47. Normally, we have an hour and a half and we
6 should stop at 12.15, but I know normally the Registry is kind and allows us to go
7 until 2 o'clock -- 12 o'clock. Can we go to 12.45, because apparently it's not yet
8 finished with the Defence.

9 THE COURT OFFICER: [12:29:48] Your Honour, if you will give me just one minute
10 to verify with my colleagues and I will get back to you.

11 PRESIDING JUDGE MINDUA: [12:29:55](Interpretation) Indeed.

12 And I take this opportunity to say to Maître Gerry - normally, we accorded you one
13 hour and 15 minutes. Now how many minutes do you still need, Maître Gerry?

14 MS GERRY: [12:30:09] May we cut the connection to the witness, please.

15 PRESIDING JUDGE MINDUA: [12:30:15](Interpretation) Court officer, please
16 interrupt the sound.

17 THE COURT OFFICER: [12:30:21] Your Honours, the sound to the witness has been
18 cut off.

19 PRESIDING JUDGE MINDUA: [12:30:26](Interpretation) Thank you very much.
20 Thank you, court officer.

21 Maître Gerry.

22 MS GERRY: [12:30:33] Mr President, the only questions I wish to ask arise out of this,
23 that currently we have a confusion over whether the words of the witness are
24 "Tomorrow he was freed" or "Tomorrow he will be freed". That is the section that
25 the Prosecution keep objecting to. And thus far, you don't have clarification. I

1 wish -- I read out that paragraph quote from beginning to end, and before I was able
2 to get an answer as to whether that paragraph was correct or not, I was interrupted
3 again by the Prosecution.

4 I think I will only be a couple of minutes, but I would like to clarify the difference
5 between "Tomorrow he was freed" and "Tomorrow he will be freed". They are
6 fundamentally different and it is a core issue for this Court to understand. And if I
7 can be permitted to do that, I will only be a very few minutes. I of course apologise
8 that I have taken longer. You have seen why, we have dual translation.

9 PRESIDING JUDGE MINDUA: [12:31:44](Interpretation) Court officer - we can
10 continue to 12.45 - thank you, court officer.

11 Maître Gerry, here in this court, we have professionals in law, and every one of us has
12 studied the study of texts. The texts that we have before us, the texts that we've
13 heard, and we have sufficient clarity. The problem was with regards to tense that
14 was used. "Tomorrow he was liberated." I asked the question, and in the last
15 version it became "Tomorrow he would be freed". So it's been resolved. That's five
16 times.

17 The Chamber does not give leave to go back over that. If you are finished with your
18 questions, you end your examination-in-chief and that is it. Very well.

19 MS GERRY: [12:32:46] It may be my misunderstanding. I do apologise very much.
20 I just want to understand what the Court understands, because it might well be me.
21 So the Court is satisfied that the witness had said that his cousin was freed the next
22 day. Do I understand the Court correctly?

23 PRESIDING JUDGE MINDUA: [12:33:07](Interpretation) That's the fifth version.

24 So I'm looking on the side of the Prosecutor. I think the Prosecutor has understood it
25 as I do.

1 MR GARCIA: [12:33:17](Interpretation) If you would allow me, your Honour, I find
2 that the question has already been put sufficiently. We have an answer in the
3 record.

4 PRESIDING JUDGE MINDUA: [12:33:27](Interpretation) That's it, Maître Gerry, so
5 you can be -- you can rest easy because everybody's understood.

6 MS GERRY: [12:33:45] Okay. I do have just three or four more questions to finalise.
7 So might we restore the link to the witness, please.

8 PRESIDING JUDGE MINDUA: [12:33:56](Interpretation) Court officer.

9 THE COURT OFFICER: [12:34:03] Your Honours, the sound to the witness has been
10 re-established.

11 PRESIDING JUDGE MINDUA: [12:34:08](Interpretation) And we are in open
12 session.

13 THE COURT OFFICER: [12:34:12] Yes, your Honour, we are in open session.

14 PRESIDING JUDGE MINDUA: [12:34:17](Interpretation) Very well.

15 MS GERRY: [12:34:18]

16 Q. [12:34:18] Mr Witness, you have told us that your (Redacted) was freed the next
17 day. I apologise. That Mr Y was freed the next day.

18 Did you have any other communications with Mr Al Hassan in relation to this
19 matter?

20 A. [12:35:09] No. My exchange with Al Hassan was limited to the fact that I
21 informed him that (Redacted) was in prison, following which the next day he was
22 freed. I never saw Al Hassan again since that incident.

23 Q. [12:35:25] When did you first tell the Defence about this incident involving
24 Mr Y?

25 A. [12:36:00] Not a long time ago.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 Q. [12:36:07] Do you remember who from the Defence team you were speaking to?

2 A. [12:36:34] I don't know the difference between their names.

3 Q. [12:36:40] You were interviewed in January, March and April 2022, and then
4 you came to a witness preparation session in August, last Saturday and yesterday.
5 Does it help you as to which one of those meetings it was at?

6 A. [12:37:22] The meeting of Saturday.

7 Q. [12:37:27] Thank you.

8 Mr Witness, did you have any other interactions with Mr Al Hassan in 2012 that you
9 have not told us about?

10 A. [12:38:05] Meetings with him? Such as what?

11 Q. [12:38:11] Did you have any -- any other interactions of any sort with
12 Mr Al Hassan in 2012 that you've not told us about?

13 THE INTERPRETER: [12:39:35] Your Honour, could the witness be asked to shorten.

14 PRESIDING JUDGE MINDUA: [12:39:40](Interpretation) Indeed.

15 Witness, please, could you speak with breaks to make it possible for the interpreters
16 to do their work.

17 THE INTERPRETER: [12:39:53] Could the witness also be asked to repeat the
18 answer.

19 PRESIDING JUDGE MINDUA: [12:39:56](Interpretation) Please repeat your answer,
20 Witness.

21 Please stop, Witness.

22 THE WITNESS: [12:40:32](Interpretation) One night, we were there, we were sitting
23 down, and there were young people who came to smash up a house. Some of them
24 were on motorbikes. Others were in other vehicles. And a short time afterwards,
25 there was a third vehicle that arrived, and Al Hassan was in that vehicle.

1 PRESIDING JUDGE MINDUA: [12:40:55](Interpretation) Please go ahead, Witness.

2 Please continue.

3 MS GERRY: [12:40:59] Thank you.

4 Q. [12:41:00] Mr Witness, I think you were telling us about an incident that was in
5 your statement already. So I will ask my question more clearly.

6 PRESIDING JUDGE MINDUA: [12:41:43](Interpretation) Prosecutor.

7 MR GARCIA: [12:41:45](Interpretation) Your Honour, I see that the microphone of
8 my learned friend is still on.

9 I see that this question has already been put quite clearly on page 36, lines 28:

10 "Have you had other contacts of any type with Mr Al Hassan in 2012? Contacts that
11 you haven't spoken about."

12 And the witness says:

13 "Now, we're speaking about the events that are already in the statement."

14 This is said. It's already been answered. The question was clear as well.

15 MS GERRY: [12:42:26] I agree. It has. I was simply going to say, "Anything other
16 than what's in your statement and what you've told us today," to make it clear. I
17 don't need to ask the question. That was all I was trying to do.

18 PRESIDING JUDGE MINDUA: [12:42:45](Interpretation) Very well. Then I think
19 you have finished your time because we've only got five minutes left.

20 MS GERRY: [12:42:52] Yes, thank you. I was going to clarify the -- that there was
21 nothing more on top of his statement and what he's told us to the Court today. As I
22 understand it, the Court accepts that that completes his evidence, and that completes
23 my examination-in-chief. Thank you.

24 PRESIDING JUDGE MINDUA: [12:43:16](Interpretation) Thank you very much,
25 Maître Gerry, for your examination-in-chief.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

1 We now have the witness who is in front of us. He does not contest the admission of
2 his testimony. The witness is obviously available for cross-examination by the Office
3 of the Prosecutor, and the witness has certified the exactness of the testimony given to
4 us. So the conditions of the procedure under 68(3) of the Rules of Procedure and
5 Evidence have therefore been satisfied. I would like to thank you.

6 Now, normally, we should go into the cross-examination. I'm looking at the
7 Prosecution. What is the situation?

8 MR GARCIA: [12:44:08](Interpretation) Your Honour, I note that we hardly have a
9 minute left. The Prosecution is ready to start its cross-examination, and I can
10 reassure you, the Chamber, that we will have sufficient time with the afternoon
11 session, if it starts at 2.30 hours without going over the usual time limits. Thank you.

12 PRESIDING JUDGE MINDUA: [12:44:30](Interpretation) Very well.

13 So for the moment, we also have a request from Legal Representative of Victims and
14 it will depend on the cross-examination. And we will see if the Legal
15 Representatives request their request -- maintain their request.

16 MR DOUMBIA: [12:44:53](Via video link)(Interpretation) Indeed, your Honour.

17 PRESIDING JUDGE MINDUA: [12:44:56](Interpretation) Very well. Well, it's 12.45.

18 We are going to have a break for lunch, and we will be back at 2.30.

19 Court is suspended.

20 THE COURT USHER: [12:45:09] All rise.

21 (Recess taken at 12.45 p.m.)

22 (Upon resuming in open session at 2.33 p.m.)

23 THE COURT USHER: [14:33:13] All rise.

24 Please be seated.

25 PRESIDING JUDGE MINDUA: [14:33:37](Interpretation) We resume.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

- 1 So, over to the Prosecution as planned for the cross-examination.
- 2 Mr Prosecutor.
- 3 MR GARCIA: [14:33:56](Interpretation) My thanks.
- 4 QUESTIONED BY MR GARCIA: (Interpretation)
- 5 Q. [14:34:01] Good morning, Witness.
- 6 A. [14:34:08] Good morning.
- 7 Q. [14:34:12] Now, we did meet briefly this morning. I don't have very many
- 8 questions for you.
- 9 Did you hear me properly? I just want to make sure that you can hear me properly,
- 10 Mr Witness.
- 11 A. [14:34:57] Yes, I did hear you.
- 12 Q. [14:35:01] Thank you very much, Mr Witness.
- 13 So where we left things this morning, you had briefly spoken about an event
- 14 involving young people who came to break up a house. Do you remember that?
- 15 A. [14:35:51] Yes, I remember.
- 16 Q. [14:35:55] All right, then. Now, on that matter, you said that shortly after - this
- 17 is line 20, page 37 - a third vehicle came, and in that vehicle, there was Al Hassan.
- 18 Do you confirm that? Is that accurate?
- 19 A. [14:36:40] Yes.
- 20 Q. [14:36:42] But in actual fact, Mr Witness, all those people didn't come at the
- 21 same time but they were part of the same group; isn't that right?
- 22 A. [14:37:28] In any event, the young people, they came. There were cars, cars
- 23 and motorcycles. And there was -- it was at that point that Al Hassan's car turned
- 24 up.
- 25 Q. [14:37:47] Very well, Mr Witness.

1 Just let's backtrack a little bit. You told the Court that -- that those young people
2 arrived to smash up a house. Now, first, were these young people armed?

3 A. [14:38:29] Yes, they were carrying weapons.

4 Q. [14:38:40] Kalashnikovs, wasn't it, Mr Witness?

5 A. [14:38:59] I'm not a soldier. I don't know. And I couldn't tell one from
6 another, among weapons, but I saw that they were carrying weapons.

7 Q. [14:39:10] Very well. You're absolutely right, Mr Witness.

8 And you told us that those people -- these young people came to smash up a house.
9 But wouldn't it be rather to -- correct to say, according to you, that they came to loot
10 the house, the house belonging to big brother?

11 A. [14:40:04] That's right. They came to loot our big brother's house.

12 Q. [14:40:19] And how many were they, those young people, approximately?

13 A. [14:40:40] I don't know how many they were. I didn't count them, but they
14 were in large numbers than we were.

15 Q. [14:40:55] Well, give us a ballpark idea. A dozen or so, 10 people, five people,
16 more or less?

17 A. [14:41:25] I don't want to get it wrong. I wouldn't want to put you wrong. I
18 couldn't tell you the number. I didn't count them. Since I didn't count them, I can't
19 tell you whether they were 10 or 20 of them. I couldn't tell you. What I do know is,
20 is that it was a group of young people.

21 Q. [14:42:01] All right. Then in your statement, Mr Witness, you did talk about
22 elements. "I met them one evening. There were elements that wanted to get into
23 the house belonging to a big brother." "Elements" was the word; is that right,
24 Witness?

25 THE INTERPRETER: [14:43:20] A request from the interpreters. Could the witness

1 reiterate his utterance and speak more slowly. It was too lengthy.

2 PRESIDING JUDGE MINDUA: [14:43:29](Interpretation) Mr Witness, can you
3 observe pauses and start your utterance again, please.

4 Would you mind pausing to enable the interpreters to work, please.

5 THE WITNESS: [14:44:24](Interpretation) Elements, they were elements, but there
6 were, I don't know, two, three, 10 people. They can't come into a specific
7 neighbourhood because they know that in that neighbourhood, there are men and
8 young people. And in neighbourhoods, we have people there so that whenever
9 there's an incident, they make sure that they oppose some sort of resistance.

10 PRESIDING JUDGE MINDUA: [14:44:57](Interpretation) Please continue,
11 Mr Witness.

12 THE WITNESS: [14:45:35](Interpretation) Yes, the elements know that they just can't
13 arrive to -- in twos, threes or fours because in the neighbourhoods, there are young
14 people and elements. And when they arrived, they came in sufficiently sizeable
15 numbers. And we turned up, and we went to meet them.

16 MR GARCIA: [14:46:04](Interpretation)

17 Q. [14:46:04] And when you talk about "elements", you're talking about elements of
18 armed people, armed groups; is that right, Mr Witness?

19 A. [14:46:50] At that time, anybody who had a weapon could bear a weapon. You
20 couldn't tell whether they were members of one group or another. But these were
21 armed groups; that they had formed a group -- they formed groups, and they would
22 go off and stop cars or loot houses.

23 Q. [14:47:15] Mr Witness, you said "at that time". We think -- when we use as a
24 time reference the entry of armed groups into Timbuktu, are you referring to weeks
25 after that entry or months after that entry? How much time?

1 I know that you're here to tell the truth. Could you give us an idea of the time frame
2 that you're referring to, please.

3 A. [14:48:42] It was about two weeks after their arrival, or just around the time of
4 their arrival. I can't give you a specific point in time, but when they arrived.

5 Q. [14:49:12] Mr Witness, you also said, at that particular point, that you went up to
6 Mr Al Hassan's vehicle. You exchanged words with Mr Al Hassan; is that right?

7 A. [14:50:09] Yes. When Al Hassan arrived, I immediately went to see him, and I
8 said to him, "Al Hassan, that's the house of our -- of a big brother." And it was at
9 that point that he told them to move on and leave that house alone.

10 Q. [14:50:58] So I follow your evidence, Mr Al Hassan arrived shortly after those
11 elements; is that right?

12 A. [14:51:42] Shortly after their arrival --

13 THE INTERPRETER: [14:51:54] Interpreter correction: He was there a little time
14 after their arrival and then he arrived.

15 MR GARCIA: [14:52:01](Interpretation)

16 Q. [14:52:02] But, Mr Witness, he wasn't there by happenstance, was he, at the
17 beginning of the evening; is that right?

18 PRESIDING JUDGE MINDUA: [14:52:30](Interpretation) Maître Gerry.

19 MS GERRY: [14:52:31] Mr President, it may have been a delay in the translation to
20 me, but I think the Prosecutor started asking his question in the middle of the answer
21 from the witness. So I simply rise to ask that the witness is allowed to finish before
22 the next question is asked, please. Thank you.

23 PRESIDING JUDGE MINDUA: [14:52:53](Interpretation) You're absolutely right,
24 Counsel Gerry.

25 Mr Prosecutor, perhaps the best way to check whether the interpretation has finished

1 is to -- to look at the booths and see whether the red light on the mic has extinguished
2 or not. And once they are finished, they will turn off their mic.

3 MR GARCIA: [14:53:25](Interpretation) Exactly so. In fact, I was following the
4 transcript, and I saw the answer transcribed. Well, anyway, I would like to thank
5 my learned friend.

6 Q. [14:53:54] Right, Mr Witness, I put a question to you before we were interrupted.
7 Would you mind answering my question?

8 A. [14:54:47] The house is in the street where his house is located. That's what I
9 know. But I don't know whether he was with him or not, or whether he was going
10 to his house.

11 Q. [14:55:11] Yes, but in your written statement, you said that he was in a vehicle
12 and that there were other individuals in the same vehicle as he was. Therefore, with
13 Mr Al Hassan. So you would agree with me that quite obviously, he wasn't going
14 home; right?

15 A. [14:56:16] All I knew is that it wasn't he who was at the wheel. He was next to
16 one of the car doors. Somebody else was driving the vehicle. There was a person
17 sitting between him and the person at the wheel. And I don't know where they were
18 going. I don't know where they were going. There were three of them in the
19 vehicle.

20 Q. [14:56:41] But according to your statement, you didn't call him. According to
21 your statement, you didn't even have his telephone at that time. Are we in
22 agreement on that information?

23 A. [14:57:08] That's right. It was on that very evening that I was able to get his
24 telephone number.

25 Q. [14:57:16] And I would be right in saying that what you said -- this is in your

1 written statement -- what you said to Al Hassan was that it wasn't public property but
2 private property. This is in paragraph 16 of your statement.

3 Do you recall having said that to members of the Defence team?

4 A. [14:58:12] Yes, that's exactly what I said.

5 Q. [14:58:14] And you said that, Mr Witness, at the time -- because you knew, and
6 even today, that at that time, belongings belonging to the Mali authorities were being
7 looted; that's right, isn't it?

8 A. [14:58:56] Yes, that's right. That's true.

9 Q. [14:59:00] I would also be right in saying, Mr Witness, that in your written
10 statement, you say that nobody got out of the vehicle in which Mr Al Hassan was
11 riding; is that right? Throughout that entire exchange.

12 A. [14:59:43] No, nobody got out of the car.

13 Q. [14:59:47] So if I understand you well, Witness, all this situation happened
14 without Mr Al Hassan or the other inhabitants of the vehicle having left the car.
15 Everybody left, and the house of your older brother wasn't invaded by anyone at all.

16 A. [15:00:50] In fact, what I said -- perhaps he spoke to them. Whatever happens,
17 the people dispersed, and they left.

18 Q. [15:01:03] Is it still the case, Witness, that with all these young people, these
19 elements, you said that they were armed. Nevertheless, there wasn't even a dispute.
20 There was no firing from one side or another. All that was necessary, as you say in
21 your statement, was that Mr Al Hassan just had to explain to them not to touch the
22 house, and everybody left.

23 Is that your testimony?

24 A. [15:02:31] Whatever the case, there wasn't any firing. There was an exchanges
25 of voices between us and them, but there wasn't shouting. There wasn't firing. But

1 when Al Hassan came, everything calmed down.

2 Q. [15:02:57] Witness, when Al Hassan spoke, telling them to leave and not to
3 touch anything, all these armed elements, they just obeyed what Al Hassan said to
4 them; is that correct?

5 A. [15:03:47] Whatever the case, they didn't do anything, and they left.

6 Q. [15:03:51] So they all left together, did they not, Witness?

7 A. [15:04:04] They left accompanied by whom?

8 Q. [15:04:09] Everybody. Mr Al Hassan, the armed elements, everybody left
9 together when the situation finished.

10 A. [15:04:36] Whatever the case, they dispersed. I don't know if some left together
11 or if each took their own route. That's something I don't know.

12 Q. [15:04:50] But you were present, and you immediately returned after the
13 situation had finished. Nobody was left. Just you and the other neighbours, I
14 imagine.

15 A. [15:05:26] When they dispersed, we also left. Everybody left and went home.

16 Q. [15:05:46] Could you tell me, sir, these armed elements, did anybody try to
17 disarm them, take their weapons off them?

18 A. [15:06:23] Not to my knowledge. I didn't see that. Whatever the case, if
19 somebody is carrying a weapon, who would dare to tell that person to put their arm
20 down?

21 Q. [15:06:40] Well, in particular, not Mr Al Hassan who asked these elements to put
22 their weapons down; is that what I should understand?

23 A. [15:07:15] I don't know somebody who can tell them to put their weapons down.
24 Whatever the case, it didn't happen in front of me, and he didn't say it in front of me.

25 Q. [15:07:32] And the occupants of the vehicle in which Mr Al Hassan was, were

1 they armed?

2 A. [15:08:01] He didn't get out of the vehicle, and we didn't go to look what
3 was -- look at what was inside their car, whether there were weapons or not. We
4 didn't see anything.

5 Q. [15:08:15] Witness, I just want to address a question. Now, you told us during
6 your testimony that you took Mr Al Hassan's number on that evening. That's also
7 something that appears on page 17 of your statement. Is that right? Have we
8 understood that well?

9 A. [15:08:55] Yes, that's correct.

10 MR GARCIA: [15:08:58](Interpretation) Your Honour, if you would allow me, I
11 would like some minutes in private session.

12 PRESIDING JUDGE MINDUA: [15:09:03](Interpretation) Court officer, private
13 session, please.

14 (Private session at 3.09 p.m.)

15 THE COURT OFFICER: [15:09:17] We're in private session, Mr President.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: MLI-D28-P-0544

(Private Session)

ICC-01/12-01/18

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Open session at 3.12 p.m.)

9 THE COURT OFFICER: [15:12:18] We're back in open session, Mr President.

10 PRESIDING JUDGE MINDUA: [15:12:21](Interpretation) Thank you very much.

11 Prosecutor.

12 MR GARCIA: [15:12:25](Interpretation)

13 Q. [15:12:25] Witness, you also told us that you considered Mr Al Hassan as an
14 older brother or like a cousin; is that not correct?

15 A. [15:13:05] In fact, Kel Ansar and the Imuchagh are cousins. Furthermore, I
16 could be his older brother, given my relationship with his father. He can't be my
17 older brother.

18 Q. [15:13:29] So at the time in 2012, you did know that Mr Al Hassan was working
19 in the Islamic police, did you not?

20 A. [15:14:15] I don't know if he was in the Islamic police or not. The only thing
21 that I know is that he was with them, like a lot of people. But in terms of his activity
22 or in what part he was in, that's something I don't know.

23 Q. [15:14:37] But, Witness, you spent all your life in Timbuktu and, if I understand,
24 you spent all of 2012 in Timbuktu, didn't you?

25 A. [15:15:15] I never leave Timbuktu, and I stayed in Timbuktu. I've always been

1 there.

2 Q. [15:15:23] So you're telling us, Witness, that today, despite the links you have
3 with Mr Al Hassan, everything that you've said in private session, you're saying that
4 Mr Al Hassan was part of the -- that you don't know that he was part of the Islamic
5 police in 2012? Is that what you're saying now?

6 PRESIDING JUDGE MINDUA: [15:17:06](Interpretation) Witness, please, could you
7 stop for a minute.

8 THE WITNESS: [15:17:17](Interpretation) Everybody was in their cars. Nobody
9 would tell you what he was doing, what he was in. I wouldn't be able to tell you if
10 he was in the police or not. Every time I moved, it was to go to my car. If I came
11 here today, then I can only say what I know. If I knew that he was, I would have
12 said it, but because I don't know, I say I don't know.

13 MR GARCIA: [15:18:05](Interpretation)

14 Q. [15:18:07] Isn't it curious, Witness, to know what he did by way of work, what
15 he was doing?

16 A. [15:18:57] I never followed him one day. I was never at his home. Not one
17 day. I didn't try to find out where he was on a single day. I don't know where he is.
18 I was never there. It was just when there was a problem, I would call him. That's
19 it.

20 Q. [15:19:23] But, Witness, you called Mr Al Hassan. You said you would call him
21 when you had problems, above all, because you knew that he was a member of the
22 Islamic police. He had a certain authority. He could help you, could he not?
23 Otherwise, why would you call him to help you?

24 A. [15:20:38] This is something I can swear. I don't know if he was a policeman or
25 a gendarme, but I know that he had authority, a certain degree of power, to be able to

1 come and help me. That's true. However, I don't know if he was a policeman or a
2 gendarme or something else. I don't know that.

3 Q. [15:21:04] Witness, wasn't it the case that whenever you asked him for help,
4 according to your statement, Mr Al Hassan was able to help you? Wasn't that the
5 case?

6 PRESIDING JUDGE MINDUA: [15:21:26](Interpretation) Maître Gerry.

7 MS GERRY: [15:21:28] Mr President, I believe this has been asked and answered.
8 The answer at page 53, line 10 -- lines 10 to 13, says, "to be able to come and help me".

9 PRESIDING JUDGE MINDUA: [15:21:49](Interpretation) Indeed, Maître Gerry. He
10 answered. But do you think that the answer is clear enough? There is no need to
11 follow up? Because he says that he knew that Mr Al Hassan would help him. But
12 in what capacity? That's why he's asking for a follow-up question. You are saying
13 he has already answered, but I think that you can authorise a follow-up question.
14 Wouldn't you agree?

15 MS GERRY: [15:22:27] It is, of course, a matter for your -- for you, Mr President.
16 But the -- my understanding of the witness's evidence is that he is not aware of the
17 capacity of Mr Al Hassan at the time. What he knows is that Mr Al Hassan was able
18 to help. But it's very much a matter for you, Mr President. If you consider there is
19 a need for a follow-up question, that will be your decision.

20 PRESIDING JUDGE MINDUA: [15:23:01](Interpretation) Yes, but I understood that
21 you had objected.

22 MS GERRY: [15:23:07] Yes, of course. I've objected on the basis that the question
23 has been asked and answered, both the knowledge of this witness as to
24 Mr Al Hassan's role and the knowledge of this witness's expression that
25 Mr Al Hassan was able to help. So he was someone he would call who was able to

1 help. He doesn't appear to know the position of Mr Al Hassan at all. That's why I
2 objected.

3 PRESIDING JUDGE MINDUA: [15:23:44](Interpretation) That's clear now.

4 So, Prosecutor, what would you respond to the objection?

5 MR GARCIA: [15:23:51](Interpretation) Your Honour, what I don't see of the
6 objection is one which was quite simple at the beginning and afterwards it was
7 widened in scope. My learned sister is talking about his cognisance with regard to
8 Mr Al Hassan and what job he did. But my question was more precise.
9 "When -- whenever you asked him for help, he helped you", which is different from
10 the last question, which was mentioned by my learned friend. This is a simple
11 follow-up question. We don't need to go back to say, before the witness, what he has
12 just confirmed.

13 PRESIDING JUDGE MINDUA: [15:24:28](Interpretation) Well, Prosecutor, what is
14 your question? That way we will see what the witness responds.

15 MR GARCIA: [15:24:38](Interpretation)

16 Q. [15:24:38] Witness, I'm going to change my question. I'm going to be more
17 precise. You mentioned in your testimony on several occasions that -- according to
18 what you said, that you called Mr Al Hassan for issues of protection of houses,
19 et cetera, houses which had been targeted by people. Would I be right?
20 According to what you say in your statement is that, whenever you called upon
21 Mr Al Hassan, he helped you. Is that correct?

22 PRESIDING JUDGE MINDUA: [15:25:25](Interpretation) Maître Gerry.

23 MS GERRY: [15:25:27] Mr President, I object to the question because it has two
24 targets. The first part of the question limits this to the protection of houses. The
25 second part of the question is more general, using the words "whenever". It would

1 help the witness, in my submission, to know what it is that the Prosecutor is asking.

2 Is he asking about the protection of houses or about some other help that

3 Mr Al Hassan provided?

4 The question is not precise at all.

5 PRESIDING JUDGE MINDUA: [15:26:10](Interpretation) Very well.

6 Prosecutor, please put this question in two phases.

7 MR GARCIA: [15:26:16](Interpretation) Certainly.

8 Q. [15:26:17] Witness --

9 MR GARCIA: [15:26:18](Interpretation) But you have to let the witness -- but the
10 question is quite clear and I'm not trying to lead him into error, and I can assure my
11 learned friend. But with the time that we have, we have to be efficient. But
12 nevertheless, I can obviously go through the question in detail. But it's very simple.

13 Q. [15:26:37] Witness --

14 MR GARCIA: [15:26:38] (Interpretation) If it's obviously what the Chamber would
15 like, I will reformulate, work on the question again.

16 Q. [15:26:44] Witness, you spoke to us about the fact that you didn't have the
17 telephone number of Mr Al Hassan before the first event, if I understand that
18 correctly.

19 A. [15:27:17] Yes, that's what I said.

20 Q. [15:27:20] So -- and you would confirm before this Chamber, Witness, that
21 despite the links that you had, which were quite close with the family of
22 Mr Al Hassan, you didn't have his telephone number before 2012; is that your
23 testimony?

24 A. [15:28:36] In fact, it was on that evening I saw him for the first time and I was
25 able to get his number. Because before that, he wasn't in the area. He hadn't been

1 in the area for more than 10 years.

2 Q. [15:29:09] Witness, in your statement itself, you stated, in paragraph 14 of your
3 statement, that he would come to see his father, that he would pass through the
4 neighbourhood to see his father. So you had the opportunity to see him with a
5 certain frequency at the time, Mr Al Hassan.

6 A. [15:30:30] No, I never took his number. Never.

7 Q. [15:30:36] In the same paragraph, you also stated, Mr Witness, that
8 Mr Al Hassan would go through your house -- I'm not going to talk about the exact
9 circumstances of that because we are in open session, but he went to your house.
10 And at no point did you ask him his telephone number, despite that?

11 A. [15:31:38] No, I never took his number. And at that time, there hadn't been all
12 the events, they hadn't yet occurred.

13 Q. [15:31:54] All right, then. So we'll leave it at that. You didn't have your
14 cousin's telephone number, the person that you describe as your big brother, if I've
15 understood.

16 So let me move to my next question.

17 You also talk about this. Let's return to why --

18 PRESIDING JUDGE MINDUA: [15:32:08](Interpretation) Counsel.

19 MS GERRY: [15:32:09] Mr President, the witness very particularly gave evidence
20 that the Prosecutor had misunderstood the relationship; that the witness was in the
21 older brother position, not Mr Al Hassan. And the witness has explained that in his
22 evidence. So the collection of information that my learned friend was using before
23 he asked a question was inaccurate.

24 And I object to the collect -- I object twice.

25 Firstly to the collection of information before asking a question; and secondly, to the

1 suggestion that Mr Al Hassan was in a big brother position, because that is not the
2 witness's evidence. Thank you.

3 PRESIDING JUDGE MINDUA: [15:32:58](Interpretation) Mr Garcia.

4 MR GARCIA: [15:33:05](Interpretation) Your Honour, what I'm trying to do is lay
5 out what I've seen in the transcript, when he talks about big brother. And gathering
6 information that my friend is talking about, it's really essentially boiling down to
7 what he already said in the private session in this courtroom, in part, at least.
8 In any event, this point is a point of polemic. And I don't want to delay the
9 proceedings by cutting off the link, the sound link, but it's the link between these two
10 people and the witness's oral evidence going to the fact whether he had the telephone
11 number or not. And it will be up to the Bench to make its determination.

12 PRESIDING JUDGE MINDUA: [15:33:52](Interpretation) Let's move on. Let's
13 make some progress.

14 MR GARCIA: [15:33:56](Interpretation)

15 Q. [15:33:57] Mr Witness, in your statement, you make mention of other incidents
16 that occurred in your neighbourhood, involving other houses; is that right?

17 A. [15:34:37] Yes, that's right, houses, one of which belonged to somebody working
18 at the public treasury and another house belonging to somebody who worked in the
19 forestry department.

20 Q. [15:34:50] And if I've understood properly, Mr Witness, when you talk about
21 these incidents in your statement, you say that "people returned to my
22 neighbourhood." Are we talking about the same elements that you mentioned
23 featuring in the first incident? In other words, people carrying weapons?

24 A. [15:36:14] That time, it was six or seven armed people. So elements in lesser
25 number than the first time. They came to smash up two houses belonging to some of

1 our people on our side. And that time I called Al Hassan. And that time I called
2 him, and I called him, he told me he wasn't too far away and that he was going to
3 come. And when he came, I showed him what had happened. And he said that
4 nobody should break anybody's -- smash up anybody's house. And that's how it
5 happened.

6 Q. [15:37:06] And if I follow your evidence, Mr Witness, when Mr Al Hassan
7 arrived and he spoke with those people, they obeyed him; right?

8 A. [15:37:43] Yes. When he arrived, he told them to not touch anything at all, and
9 then they left.

10 Q. [15:37:50] Mr Witness, Mr Al Hassan was carrying a weapon when he arrived?

11 A. [15:38:18] When I called him on that day, he came all alone, and I didn't see any
12 weapon. He was in his car. He got out of his car, and I didn't see him carrying a
13 weapon.

14 Q. [15:38:33] But what I've understood from your account, what's sure is that when
15 he spoke to these armed elements, he didn't have any weapon on him. Is that what
16 you're telling us, Mr Witness?

17 A. [15:39:06] In any event, he didn't carry -- he didn't -- he wasn't armed and he
18 didn't have a weapon on him.

19 Q. [15:39:15] So if I've understood that, Mr Al Hassan, he arrives. He's alone.
20 He's not armed. He confronts - this is what I've understood - seven armed people,
21 and he tells them to go and they go. And that's how that happens, is it?

22 A. [15:40:06] That's what he told them. He spoke. That's what he said. And in
23 any event, they left.

24 Q. [15:40:17] All right, then. Once again, there was no argument. There was no
25 exchange of fire. There was no violence whatsoever. Mr Al Hassan spoke, and

1 these armed people obeyed and immediately left.

2 A. [15:41:01] Well, he spoke to them and immediately they left. Nothing more.

3 Q. [15:41:10] And if I've understood your statement, you made mention of another
4 event, which boils down to pretty much the same thing, involving houses and
5 vehicles. And once again, you state in your written statement that you called
6 Mr Al Hassan and he helped you protect four houses and some vehicles; is that right?

7 A. [15:42:35] Now, when he was called for the house of the person working in the
8 forestry department, the person who was working in the forestry department, and the
9 person working in the public treasury, I called him. It was my wife -- it was for my
10 wife and my cousin that I spoke to him. But it was in respect of the big brother's
11 house. And he came -- he came off his own bat alone. That's what I can tell you.

12 Q. [15:43:17] You must have realised at the time that Mr Al Hassan had a certain
13 authority, the fact that he could iron things out. He confronted these armed people
14 and that these armed people obeyed him upon his request; right?

15 A. [15:44:18] Yes, that's what happened. In -- my view, particularly, is, if he didn't
16 have a certain amount of power, he couldn't have done what he did.

17 Q. [15:44:36] And these incidents with the other houses, these other houses, these
18 other belongings, and what you spoke about the first incident, how much time went
19 by before that incident and this incident? How much time went by? A week?
20 Months, approximately? We're not going to hold you to something extremely
21 accurate.

22 A. [15:45:42] About a month, possibly, between the two incidents involving the
23 houses.

24 Q. [15:45:48] All right, then. So we're talking about a month after the first incident
25 that you described. Would I be right in that assumption or not?

1 A. [15:46:13] Yes, possibly. Possibly a month. About a month.

2 Q. [15:46:28] Mr Witness, I think you also talked about an incident involving your
3 wife also. I have one or two questions to put to you on that point. All right?

4 All right. I just want to clarify something straight away. In your written statement,
5 in paragraph 23, you assert in respect of your wife, that you say that you saw her
6 being taken off by some men. Do you remember having made that statement? It's
7 in your initial statement taken with the Defence team. I know obviously afterwards
8 you made an amendment. But I just want to make sure that that was indeed the
9 case.

10 A. [15:48:10] In fact, I said that she left in front of me. But in fact, I wasn't there.
11 I was in another area altogether. She was taken away. And my daughter called me
12 to tell me that her mother had been taken away. But I wasn't there.

13 Q. [15:48:33] Yes, we'd understood that, Mr Witness, but thanks for the
14 clarification.

15 Just one further point, because I'm looking at the correction or the amendment that
16 you entered. You said that it's your daughter. Is it, therefore, the members of the
17 groups that your daughter saw taking your wife away?

18 Are you in agreement with me on that point?

19 A. [15:49:51] All we knew is that two young people in a car saw her as she was
20 going out to put out the rubbish, put out the bins, and they came back to her and took
21 her, took her away.

22 Q. [15:50:20] All right, then. So if I've followed your written statement, you
23 yourself went off to collect your wife; is that right?

24 A. [15:51:35] This time, it was me who called Al Hassan. I told him that, "There
25 are people, some of your lot, that have taken away my wife." And he said, "Okay, I'll

1 look into it." Shortly after, he called me back to tell me that Mohamed Moussa -- that
2 she was at Mohamed Moussa's house and said that I could go and collect her at 3 p.m.
3 And when I went to collect her, he released her and said she needs to carry or wear a
4 veil and needs to cover her head.

5 Q. [15:52:19] All right, Mr Witness, can you tell me what the neighbourhood was
6 where you went to collect your wife? You spoke of a prison. Forgive me. It was
7 the prison in a former mini-market. There was a supermarket there. This is
8 paragraph 25. In which neighbourhood was that? Where exactly in the
9 neighbourhood was that prison located?

10 A. [15:53:20] Badjinde.

11 Q. [15:53:45] Are you able to spell it for us? I think we've got B-A-D-J-I-N-D-E.
12 Is that the right spelling, Mr Witness?

13 A. [15:54:24] I couldn't tell you how to spell it. But it's Badjinde. It's up to you to
14 find the right spelling.

15 Q. [15:54:35] And you talk about the prison in the former mini supermarket. Can
16 you give us greater specifics about that prison? Was it used before or after 2012?
17 Can you give us more specifics about that, please.

18 A. [15:55:43] It's not really a prison per se. It was the groups that turned it into a
19 prison. Whenever they took a woman, they put her there. In fact, beforehand, it
20 was a little commercial window.

21 Q. [15:56:06] When you talk about a commercial window, *guichet*, in French,
22 is -- that's of a bank?

23 A. [15:56:33] Well, it's a bank teller's window. It was a bank that was looted, and
24 they turned it into a prison.

25 Q. [15:56:45] Was it the BMS, Mr Witness?

1 A. [15:56:55] Yes.

2 Q. [15:56:59] And when you arrived on site, were there other women being
3 detained?

4 A. [15:57:19] Yes, there were some. There were some there, yes.

5 Q. [15:57:25] At the bank teller's window being detained; right?

6 A. [15:57:41] Yes.

7 Q. [15:57:43] So can you give us an inkling into that. How many women were
8 being detained there? One, two, three, four? More? Or less?

9 A. [15:58:17] I didn't count them, and I didn't look at them either. All I did was to
10 come to collect my wife. That's it.

11 Q. [15:58:30] Last question, Mr Witness. In your written statement, paragraph 24,
12 you describe communications that you had over the telephone with Mr Al Hassan.
13 I'm not going to talk about that at length because it's already in your statement. But
14 just to tell you, before me I have -- and I'm going to put it on evidence 2 button, so it
15 will all be displayed before you, Mr Witness. We don't really need to go into the
16 finer detail. You've already confirmed your telephone number. You've already
17 disclosed that to the Defence team. So that's been properly recorded.

18 This is MLI-OTP-0031-0870. That's the ERN number. And we have here a
19 document, which is confidential. So this document, this is telephone data that we've
20 retrieved and that we can make the attribution to Mr Al Hassan. And when we look
21 at this telephone data, what we see, amongst others, is that on 17 December 2012,
22 there were four telephone contacts established between you and your telephone, the
23 telephone that you cited in this courtroom, and the number that we attribute to
24 Mr Al Hassan.

25 And just to help you a little bit in the reading of this, we're just going to -- if you just

1 bear with me. There are four calls in total.

2 PRESIDING JUDGE MINDUA: [16:00:31](Interpretation) This is quite long. I think
3 we need to allow time for the interpreters.

4 MR GARCIA: [16:01:44](Interpretation)

5 Q. [16:01:44] So in your statement, you stated that your wife stayed in this prison
6 from 11 o'clock to 1500 hours.

7 A. [16:02:13] Yes.

8 Q. [16:02:15] So in the document, which is on the screen, the telephone data, what
9 we can see is that there are four telephone contacts, on 17 December 2012, between
10 you and the telephone number of Mr Al Hassan -- which we attribute to
11 Mr Al Hassan.

12 THE COURT OFFICER: [16:02:58] Your Honours, with apologies, it appears that the
13 Prosecution's laptop has lost the connection. Therefore, the witness cannot see what
14 is being displayed.

15 MR GARCIA: [16:03:18](Interpretation) I don't know, your Honour, if the
16 interpreter was able to translate all my words. If he can just nod.

17 Okay. I showed the document with a view to provide a basis. I just want to ask a
18 last question to the witness. We don't need the document to be shown.

19 PRESIDING JUDGE MINDUA: [16:03:37](Interpretation) Please go ahead.

20 MR GARCIA: [16:03:40](Interpretation)

21 Q. [16:03:41] Witness, these are four calls, which start at 13:32 and the last is at
22 16:32:27. Is it possible that these telephone calls, these four telephone calls are linked
23 to the event that you described in your statement concerning your wife, which
24 happened on 17 December, just before Christmas, or just before 25 December and
25 New Year?

1 A. [16:05:02] Yes, perhaps it's that. Yes, perhaps it's that.

2 Q. [16:05:13] Thank you, Witness. I have no further questions for you. Thank
3 you for your patience.

4 PRESIDING JUDGE MINDUA: [16:05:27](Interpretation) Thank you, Prosecutor, for
5 your cross-examination.

6 We have a maximum of 25 minutes. I now turn towards the Legal Representative of
7 Victims, Maître Doumbia, to know if you still want to intervene.

8 MR DOUMBIA: [16:05:50](Via video link)(Interpretation) Thank you very much,
9 your Honour. With regards to everything that has been said, the Legal
10 Representative of Victims will have no questions for this witness. Thank you most
11 sincerely.

12 PRESIDING JUDGE MINDUA: [16:06:07](Interpretation) Thank you very much,
13 Maître Doumbia.

14 So I now turn towards the Defence to see if there are any additional questions
15 possibly.

16 Maître Gerry.

17 MS GERRY: [16:06:21] Yes, please, Mr President. Just -- hopefully just two.

18 PRESIDING JUDGE MINDUA: [16:06:30](Interpretation) Please go ahead. You
19 have the floor.

20 MS GERRY: [16:06:33] Thank you very much.

21 QUESTIONED BY MS GERRY:

22 Q. [16:06:38] Mr Witness, you told the Prosecutor - and this is at page 51 of the
23 English transcript for today, between lines 16 and 19 - that -- that:

24 "[...] Kel Ansar and the Imuchagh [is] cousins. Furthermore, I could be his older
25 brother, given my relationship with his father. He can't be my older brother."

1 Can you explain to us what that means, please.

2 A. [16:09:01] In fact, the cousin relationship between the tribes exists.

3 Furthermore, they said that he is my older brother, which I haven't said furthermore
4 because I am a lot older than him. If I have an older brother -- I would be the older
5 brother, or rather, his uncle. That's what I mean by that. Nothing else.

6 Q. [16:09:47] Thank you, Mr Witness.

7 You were asked about some telephone calls in December 2012. Would it help you to
8 know what those calls were about to know the location of the telephones? You were
9 not told the locations of the telephones by the Prosecutor.

10 A. [16:11:31] In fact, I don't know. On the other hand, with regards to what he
11 said to me, it seems to be towards 11 o'clock. It seems to be the period when my
12 wife was arrested. It resembles that.

13 Q. [16:11:53] You were not told about another call between those two numbers in
14 August 2012 that appears in the same document.

15 MR GARCIA: [16:12:04](Interpretation) I object.

16 PRESIDING JUDGE MINDUA: [16:12:09](Interpretation) Prosecutor.

17 MR GARCIA: [16:12:12](Interpretation) This question wasn't addressed during the
18 cross-examination by the Prosecution. The re-examination is quite limited in scope.
19 And my learned friend is well outside the parameters of the cross-examination. I
20 never put a question on any call on 18 August 2012. So I would object.

21 PRESIDING JUDGE MINDUA: [16:12:42](Interpretation) Maître Gerry.

22 MS GERRY: [16:12:44] Mr President, unfortunately for the Prosecution, they put the
23 document before the witness. So it's perfectly proper in re-examination for the
24 witness to give his evidence on the document that he has been presented with. In
25 my submission, it would not be appropriate for the Prosecution to only show the

1 witness some calls and not others. It is alleged that this witness has spoken to
2 Mr Al Hassan. It is suggested they are about particular events, and the Prosecution
3 have deliberately only asked questions about some calls that are in the same
4 document.

5 In my submission it is entirely appropriate in re-examination to ask about the call on
6 18 August.

7 MR GARCIA: [16:13:27](Interpretation) Your Honour, if you would allow me.

8 PRESIDING JUDGE MINDUA: [16:13:31](Interpretation) Yes, Prosecutor, to save
9 time. I think that you've put forward the list of telephone calls during the
10 cross-examination, and the Defence can use it as a basis to ask questions on the
11 number.

12 MR GARCIA: [16:13:49](Interpretation) If you would allow me your Honour. I
13 think that it would be completely inappropriate. I put questions on 17 December
14 with regards to a precise event, which comes out of the statement in
15 cross-examination. If the Defence considered that there was something important in
16 bringing out this call from 17 August, then it could have done so in
17 examination-in-chief. It chose strategically, for whatever reason, not to do it. I just
18 addressed the call on 17 December. That doesn't mean that it gives the Defence a
19 blank cheque to address all telephone calls that there might have been between the
20 witness and Al Hassan. The re-examination is quite precise, and the rules have to be
21 respected.

22 PRESIDING JUDGE MINDUA: [16:14:38](Interpretation) Maître Gerry, you are not
23 going to ask questions on all the numbers in the list. There has to be a link with the
24 facts raised by the Prosecutor, do they not?

25 MS GERRY: [16:14:51] Yes, indeed, the link is the two telephone numbers. The link

1 is between the number that they attribute to Mr Al Hassan and the number that this
2 witness has given us. The Prosecution have asked about communication between
3 those numbers. In my submission, it is perfectly proper for this Court to hear about
4 the communication in August that they omitted to deal with. It's perfectly clear that
5 the schedule of numbers between those two people, alleged people, have been placed
6 before the Trial Chamber as a result of cross-examination. And my re-examination is
7 proper.

8 PRESIDING JUDGE MINDUA: [16:15:43](Interpretation) Prosecutor, I'm going to
9 accept the Defence question because there is certainly a link.

10 Maître Gerry.

11 MS GERRY: [16:15:51] Thank you, Mr President.

12 Q. [16:15:52] Mr Witness, there is also a record of a call between your number and
13 the number that the Prosecution attribute to Mr Al Hassan, which on the records
14 produced by the Prosecution puts the number belonging to Mr Al Hassan in a
15 location called Zohro.

16 Do you remember that call with Mr Al Hassan?

17 A. [16:17:01] By Allah, I don't know. I know that I called, but as regards the day, I
18 don't remember. I don't remember the month either.

19 Q. [16:17:24] Thank you.

20 Just going back then to the December calls, do you recollect -- you told us when you
21 answered my questions that you observed Eid in 2012. Do you recollect any other
22 events in December 2012?

23 A. [16:18:22] Yes, I remember.

24 Q. [16:18:25] What event -- what other events do you -- was there a reason for you
25 to call Mr Al Hassan --

- 1 MR GARCIA: [16:18:36](Interpretation) I object.
- 2 MS GERRY: [16:18:37] Yes, I accept the objection.
- 3 MR GARCIA: [16:18:42](Interpretation) I object, and I would like the sound to be
4 cut.
- 5 PRESIDING JUDGE MINDUA: [16:18:42](Interpretation) Prosecutor.
- 6 MR GARCIA: [16:18:43](Interpretation) Could the sound be cut, please.
- 7 PRESIDING JUDGE MINDUA: [16:18:47](Interpretation) Court officer, please cut
8 the sound to the witness.
- 9 Prosecutor, I think the objection has been accepted, so we can continue.
- 10 MR GARCIA: [16:18:59](Interpretation) Yes, but, your Honour, it's completely
11 inappropriate. The witness has already heard what she was trying to do on the part
12 of the Defence and this is completely inappropriate. We have to stop that
13 immediately. The witness has already explained on 17 December -- and I
14 understand that the microphone is still on. My learned friend finds that funny.
15 The microphone is still on, but nevertheless, it's important. The witness has already
16 testified. There's an -- they are trying to get a different explanation. And my
17 learned colleague is suggesting responses.
- 18 I would ask the Court to read the last words: "What event -- what other
19 events -- was there a reason for you to call Al Hassan ..."
- 20 That's completely inappropriate, what's happening, and I ask that it stops.
- 21 PRESIDING JUDGE MINDUA: [16:19:56](Interpretation) Court officer, we've still
22 got the sound with the witness?
- 23 Very well.
- 24 Maître Gerry.
- 25 MS GERRY: [16:20:04] Mr President, I accept the objection. I was stopping myself

1 from asking that question. I'm not going to ask that question. I don't find anything
2 funny. And I have no further questions for this witness. Thank you.

3 PRESIDING JUDGE MINDUA: [16:20:21](Interpretation) Thank you very much,
4 Maître Gerry. I think it was time for us to finish.
5 I'm now turning to the witness.

6 Witness, you will have seen that we've come to the end of your testimony. The
7 Chamber would, once again, like to thank you for having helped the Chamber by
8 answering the questions put to you very clearly and very patiently. On behalf of the
9 Chamber, I would wish you good luck for the future and lots of success in your career
10 and in your life.

11 I'm now turning to the Defence to see what the follow-up is to the list of witnesses, if
12 you have an answer for the moment.

13 MS GERRY: [16:22:05] Mr President, I don't have an answer as I stand here now. I
14 know that the team are working very hard and that the witness service are working
15 very hard to try and bring some witnesses forward, but there are problems because
16 there are two days vacated on Monday and Tuesday.

17 Because I know everyone is working hard, it would be wrong of me to make
18 assumptions about what solutions have been achieved. So I don't have an answer
19 for you at the moment.

20 The current timetable is Witness 213 on 7 September, which is next Wednesday, after
21 the two vacated days, and then Witness 514, I believe, is currently at Monday, 12
22 September, but it is those two witnesses that everyone is working to try and achieve a
23 solution.

24 I should say this: That the solutions cannot be achieved without the Tamasheq
25 interpreters who have been used in court this afternoon. So the reason I can't give

1 you an answer is because we need those interpreters in order to help with the
2 movement of witnesses.

3 So it is my profound apology that I don't -- I am not able to give you a straight answer
4 from here, but we intend to communicate with the Trial Chamber to let you know if a
5 solution can be achieved.

6 I should add to that that the efforts that we are making, include the needs of the
7 witnesses as they have expressed them, and the security needs of the witnesses as the
8 witness service have recognised. So my position is, everybody is working very hard
9 to keep this Trial Chamber working. I don't -- I just don't know whether we're going
10 to be able to move witnesses about with the sorts of logistics that we have.

11 It's a very long way of saying sorry. I hope you will accept my apology and accept
12 that we are working very hard to keep this Chamber busy.

13 May I simply add one more thing that may or may not help, which is, I understand, in
14 the case of Mr Rahman, which is in a separate court in this building -- I see that the
15 Court doesn't want to hear about that. I won't take it further.

16 I can only represent our position, and maybe we could communicate with the Trial
17 Chamber electronically.

18 PRESIDING JUDGE MINDUA: [16:24:38](Interpretation) Very well. I note that
19 you are working on the matter actively such that the time of the Chamber and the
20 time of the Court is used in an efficient way, and I recommend to continue in that
21 sense with the Victims and Witnesses Unit and to come back to the Chamber as
22 quickly as possible.

23 So to the parties and participants, I would like to say that you will have
24 communication by electronic means, by email for the follow-up of our proceedings.
25 That's all I can say for the moment.

Trial Hearing
WITNESS: MLI-D28-P-0544

(Open Session)

ICC-01/12-01/18

- 1 Before finishing the session, as usual, I would like to express all my gratitude to the
- 2 parties and participants, to the court reporters and to the interpreters, to our security
- 3 guards, as well as our public. I would like to wish you all a very good evening.
- 4 And we shall finish -- and we shall adjourn the session.
- 5 Court is adjourned.
- 6 THE COURT USHER: [16:25:50] All rise.
- 7 (The hearing ends in open session at 4.25 p.m.)