

Case No. SCSL-2004-14-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

FRIDAY, 19 MAY 2006
9.50 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Roza Salibekova Ms Andrea Marlowe (intern)
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Joseph Kamara Mr Mohamed Bangura Ms Bianca Suciu Ms Miatta Samba Ms Wendy van Tongeren
For the Principal Defender:	Mr Lansana Dumbuya
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Aluseine Sesay Ms Claire da Silva (legal assistant) Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Michiel Pestman
For the accused Allieu Kondewa:	Mr Charles Margai Mr Yada Williams Mr Ansu Lansana Mr Martin Michael (legal assistant)

1 [CDF19MAY06A - RK]
2 Friday, 19 May 2006
3 [Open session]
4 [The accused Fofana and Kondewa present]
09:38:31 5 [The accused Norman not present]
6 [Upon commencing at 9.50 a.m.]
7 PRESIDING JUDGE: Good morning, counsel. Good morning,
8 Mr Witness.
9 THE WITNESS: Yes, good morning, father.
09:51:43 10 PRESIDING JUDGE: Dr Jabbi, you are ready to proceed this
11 morning?
12 MR JABBI: Yes, My Lord.
13 PRESIDING JUDGE: So this is your witness 19.
14 MR JABBI: 19, My Lord.
09:52:03 15 PRESIDING JUDGE: This witness will give evidence in Mende?
16 MR JABBI: Yes, My Lord.
17 PRESIDING JUDGE: Yes, take the oath, please.
18 WITNESS: MOHAMED KATINEH [Sworn]
19 [Witness answered through interpreter]
09:52:44 20 PRESIDING JUDGE: Dr Jabbi, I note for the record that your
21 client is not in Court this morning. I assume and presume it is
22 for the same reason that you had indicated yesterday and the day
23 before.
24 MR JABBI: Yes, My Lord.
09:53:00 25 PRESIDING JUDGE: Is he still under medical treatment at
26 this time?
27 MR JABBI: Not perhaps specifically under medical
28 treatment, but waiting to see the doctor and generally
29 indisposed.

1 PRESIDING JUDGE: Has to do with his medical condition?

2 MR JABBI: Yes, My Lord.

3 JUDGE ITOE: What is his situation generally?

4 MR JABBI: My Lord, there is some cause for concern,
09:53:32 5 certainly not a desperate one. We believe there is some cause
6 for concern and some attention should be paid to his medical
7 condition.

8 JUDGE ITOE: Thank you. We wish him a speedy recovery.

9 PRESIDING JUDGE: Dr Jabbi, I know you have raised that
09:53:54 10 matter at the last status conference and I am lead to believe
11 that he is now being attended and they are trying to find out
12 what his medical condition is in a more precise way. Am I
13 misstating the facts?

14 MR JABBI: My Lord, I would have thought that what is now
09:54:17 15 required is what action to take in respect of his condition, but
16 I think it is quite clear to the doctor and I'm sure it has also
17 made clear to detention administration what his condition is.

18 PRESIDING JUDGE: Are we ready to proceed with this
19 witness?

09:54:48 20 MR JABBI: Yes, My Lord.

21 PRESIDING JUDGE: Please do so, Dr Jabbi.

22 EXAMINED BY MR JABBI:

23 Q. Good morning, Mr Witness.

24 A. Yes, good morning, father.

09:55:01 25 Q. I wish to admonish you to talk slowly when you are
26 answering questions and make short statements and wait a little
27 bit before you make the next statement, okay. Did you get me
28 clearly?

29 A. Very, very well.

1 Q. Now, can you tell the Court your full names?
2 A. My name is Mohamed Kaineh.
3 Q. How old are you, do you know?
4 A. I am 41, if I have not forgotten.
09:56:24 5 Q. Where do you live?
6 A. I live in Kenema.
7 Q. What work do you do?
8 A. I do bush work.
9 JUDGE ITOE: Bush work, I hope, is farming.
09:57:04 10 MR JABBI: My Lord, I was just going to ask for
11 clarification.
12 THE WITNESS: I am a farmer.
13 MR JABBI: People dig for minerals in the bush; that's why
14 I said.
09:57:15 15 Q. Can you tell the Court your original home?
16 A. It is called Yumbuma.
17 Q. Where is that?
18 A. In the Lower Bambara Chiefdom.
19 Q. Kenema District?
09:57:55 20 A. Yes.
21 Q. Where were you when the last civil war started?
22 A. I was still in my village, Yumbuma.
23 Q. Did you get involved in the war exercise in any way?
24 A. Yes.
09:58:52 25 Q. Can you briefly explain how and roughly what year?
26 A. 1991.
27 Q. How did you get involved?
28 A. When we heard that there is war in this country --
29 PRESIDING JUDGE: Yes, please.

1 MR JABBI:

2 Q. Yes, carry on.

3 A. So that situation that met our people, we're summoned and
4 we're 12 in number, so they asked me to be their leader in
09:59:50 5 defending the land.

6 Q. What do you mean by "we," "we were summoned"?

7 A. The chiefdom people selected us that "Now that we have
8 heard that the war has entered this land, now we want to summon
9 you, 12 of you, you should lead your colleagues at night, you
10:00:19 10 would pick up sticks to be going around so that no bad person
11 should enter this land. If you saw anybody, you should come and
12 tell us."

13 Q. What sort of people were these 12 who were selected in your
14 village? What sort of people were they?

10:00:53 15 A. They were men, they were youths, strong men.

16 Q. Now did that ever go beyond the village level, your
17 involvement?

18 A. Yes.

19 Q. Please explain briefly to the Court.

10:01:31 20 A. After we had come together and we were defending the
21 village with the sticks, we continued doing it for up to two
22 months.

23 Q. Yes?

24 A. Then our chiefdom people came together and said, "Now that
10:01:56 25 this thing has happened we want to make an organisation called
26 the Civil Defence Committee in our land."

27 Q. Yes?

28 A. When they did it by chiefdom, they went into sections.
29 Then they went down to the towns.

1 Q. Yes?

2 A. When they brought it down to the towns, they thought about
3 when they selected 12 of us and we were doing that job, that we
4 were supposed to do it.

10:02:57 5 Q. Yes.

6 A. So they made me the defence committee chairman for that
7 town.

8 Q. For the town?

9 A. Yes, that same Yumbuma.

10:03:17 10 Q. Did you ever have to get involved in the army soldiers at
11 that stage?

12 A. Very, very well indeed.

13 Q. Please explain very briefly.

14 A. When I was made defence committee chairman for that town,
10:03:44 15 we and the soldiers started working as one. Whatever they were
16 doing, we would be behind them. Whatever work they were doing,
17 we would be behind them to push out our enemies.

18 Q. Was there any special function your group was serving with
19 the soldiers?

10:04:16 20 A. I said we were working together as one. Wherever they were
21 going, they would take us and we would go together.

22 JUDGE ITOE: Dr Jabbi, he has not answered your question.
23 Maybe you can reframe it for him. I'm sure he has not answered
24 your question as to any special functions.

10:04:51 25 MR JABBI: Yes, My Lord.

26 Q. What was the special function, if any, that your group was
27 supposed to serve for the soldiers?

28 A. Well, that is what I said. When they said that the Civil
29 Defence Committee in that small town that we were - I'm not

1 talking about the section, I'm talking about that small town -
2 wherever the soldiers were going, when they wanted to go to our
3 enemies, they would come to us, they would take us and we would
4 all go, because we were the people who knew the terrain around
10:05:32 5 that area.

6 Q. Did you ever have an actual encounter with the rebels?

7 A. We and the soldiers?

8 Q. Yes.

9 A. Yes.

10:06:19 10 Q. How long did you continue working with the soldiers in your
11 home area?

12 A. We did that work for up to three months.

13 Q. Yes, what happened after three months?

14 A. Then our enemies, whom they called rebels, they came and
10:06:57 15 dislodged us from where we were, the chiefdom where we were.

16 Q. When was that? What year?

17 A. When they dislodged us and when we were going -- they
18 dislodged us in 1994.

19 Q. Where did you go?

10:07:28 20 A. We went -- I went to Kenema.

21 Q. Whilst you were in Kenema, did any developments take place
22 in respect of the war?

23 JUDGE ITOE: Dr Jabbi, when you said they were dislodged,
24 where were they dislodged? Was it in Kamboma? Where were they
10:08:03 25 dislodged before he now went to Kenema?

26 MR JABBI:

27 Q. Yes, can you explain?

28 A. Yes. I said they dislodged us from our chiefdom, Lower
29 Bambara. We all left there, all the surrounding villages --

1 sections. All the sections, we all left and went to Kenema.
2 Q. Whilst you were in Kenema, did any development take place
3 in respect of the war and the fighting against the rebels?
4 A. Yes. When we went to Kenema, yes.
10:09:06 5 Q. What development?
6 A. We were in Kenema, then we got an information that they
7 were doing the Kamajor initiation.
8 Q. In Kenema?
9 A. No.
10:09:33 10 Q. Where?
11 A. Bo.
12 Q. Did anything happen?
13 A. Yes.
14 Q. Please explain.
10:09:48 15 A. When we got that information, our chiefdom people and the
16 leaders of the initiation, they went to Bo to go and find out
17 whether that was true.
18 Q. Did any initiation take place in Kenema whilst you were
19 there?
10:10:16 20 A. Yes.
21 Q. Who was the initiator?
22 A. Mualemu Saddam Sheriff and Kamoh Brima Bangura.
23 Q. Who were initiated?
24 A. They initiated us.
10:11:08 25 Q. "Us", meaning?
26 A. Those of us -- we, the youths, strong youths that I just
27 said a while ago, we were the ones who were initiated.
28 Q. How were the initiates selected for initiation?
29 A. At the time that we were being initiated, the screen

1 started with --

2 THE INTERPRETER: Your Honours, the witness is speaking
3 very fast.

4 MR JABBI:

10:12:05 5 Q. Go over it again, slowly, as I'd explained earlier. Same
6 thing. Go over it, please.

7 A. Okay.

8 Q. The question was: How did they select those who were to be
9 initiated?

10:12:37 10 A. They started in the village, that is where the screening
11 started.

12 Q. Yes.

13 A. When they were screening the village, they took us to the
14 section people.

10:13:16 15 Q. Yes.

16 A. Then they brought us to the chiefdom people and they handed
17 us over to them.

18 Q. Were you yourself among the initiates?

19 A. Very, very well indeed.

10:13:42 20 Q. How many of you?

21 A. We were 70.

22 Q. Can you name some of the people in that group, the
23 initiates, one or two of them?

24 A. Yes.

10:14:09 25 Q. Yes.

26 A. Like I myself sitting here in your presence.

27 Q. Yes.

28 A. And Mr Vandi Kanneh.

29 Q. Yes.

1 A. Sam Thomas.
2 Q. Yes.
3 A. Allieu Vandj.
4 PRESIDING JUDGE: Dr Jabbi, do we need to have all of that?
10:14:41 5 MR JABBI: No, My Lord, just one more.
6 Q. Can you give us one more, please?
7 PRESIDING JUDGE: Why one more?
8 MR JABBI: Just to have a representative.
9 PRESIDING JUDGE: I do not think we need to know more than
10:14:57 10 this. We know initiation up to now. The witness was initiated.
11 Please move ahead.
12 JUDGE ITOE: I do not think we are prepared to dispute that
13 70 of them. We do not want to dispute the evidence of this
14 witness that 70 of them were initiated.
10:15:11 15 MR JABBI: However, My Lords, because of the specific
16 context, he may supply information that further characterises the
17 context.
18 PRESIDING JUDGE: Dr Jabbi, please move ahead. You know my
19 concern about this. I don't think it is disputed.
10:15:34 20 MR JABBI:
21 Q. Do you know one BJK Sei?
22 A. Yes.
23 Q. Was he among you?
24 A. Yes.
10:15:43 25 Q. When you were initiated, were you given any laws or
26 instructions?
27 A. [No interpretation]
28 JUDGE ITOE: Do we want to go into those laws again.
29 MR JABBI: No, My Lords.

1 PRESIDING JUDGE: Unless there is something new.
2 MR JABBI:
3 Q. Yes, what was your answer?
4 PRESIDING JUDGE: The answer was yes.
10:16:20 5 THE WITNESS: I said indeed.
6 MR JABBI:
7 Q. Now, can you tell the Court what was the purpose of those
8 laws?
9 A. Those laws, they gave us those laws for us to protect our
10:16:44 10 lives.
11 Q. Were you told the consequence of not complying with the
12 laws?
13 A. Yes.
14 Q. Can you tell the Court?
10:17:05 15 A. Those laws that were given to us, if you don't abide by
16 them you will die.
17 Q. How would you die?
18 A. You would die at the war front.
19 Q. Thank you. After the initiation did you yourself go to the
10:17:32 20 war front?
21 A. Not immediately, no.
22 Q. Where were you?
23 A. I was at the initiation bush.
24 Q. Doing what?
10:18:06 25 A. I was representing my people there.
26 Q. Can you give the Court an idea of when this was, what year?
27 A. 1996.
28 Q. How long did you stay at the initiation shrine?
29 A. I was there for up to three months plus.

1 JUDGE ITOE: He said he was in the bush. Was that bush a
2 shrine? He said he was in the bush. After he was initiated he
3 remained in the bush, representing his people. He did not say it
4 was a shrine.

10:19:00 5 MR JABBI: I did not hear the translation, but I heard his
6 statement. He said he was at the "vaala," and my knowledge of
7 vaala is a shrine. I didn't hear the translation, My Lord, but
8 the heard the statement in Mende.

9 JUDGE THOMPSON: The translation came out as "bush".

10:19:23 10 MR JABBI: I did not hear that.

11 Q. Now, Mr Witness, is it correct to call the initiation bush
12 a shrine?

13 PRESIDING JUDGE: Dr Jabbi, let's not go there. You have
14 used that, fine. I don't think there is a big dispute on this.

10:19:40 15 Please let's move on. We do not want to get into a semantic
16 argument at this time in the morning.

17 MR JABBI: Thank you very much, My Lord.

18 JUDGE ITOE: He stayed in the shrine for how long?

19 MR JABBI: He said three months.

10:19:58 20 PRESIDING JUDGE: And more.

21 MR JABBI:

22 Q. Now, did you have to leave the shrine at all?

23 A. Yes.

24 Q. On what occasion did you?

10:20:09 25 A. At the time they dislodged people -- they brought people
26 from Kailahun District to be initiated in the same society.

27 Q. Yes. Yes, why did you have to leave?

28 A. When they brought these people, the kamoh who -- the priest
29 who was doing the initiation said I should come with him to

1 Segbwema to be looking after them.

2 Q. Was that before or after their initiation?

3 A. When they were initiated and graduated, I accompanied them
4 to Segbwema in the Kailahun District.

10:21:13 5 Q. Can you tell the Court what happened in Segbwema whilst you
6 were there?

7 A. Yes.

8 Q. Yes?

9 A. When we went and we were in Segbwema and we were settled
10:21:33 10 there a little --

11 Q. Yes?

12 A. Then our leaders who were in that district told us that --

13 Q. Yes?

14 A. That they have made an arrangement for us to leave Segbwema
10:22:08 15 for Kailahun.

16 Q. And did you go?

17 A. No, I didn't go.

18 Q. What was the group going to do in Kailahun?

19 A. Well, they said that they should go and dislodge our
10:22:35 20 enemies from Kailahun.

21 Q. But you did not go yourself, not so?

22 A. Not in the least.

23 Q. Did you get any report from Kailahun about your men?

24 A. Yes.

10:23:06 25 Q. What was it?

26 A. When they said -- when they and the soldiers went together
27 to Kailahun --

28 Q. Yes.

29 A. They brought an information to me that --

- 1 Q. Who brought the information?
- 2 A. Some of my Kamajors.
- 3 Q. That what?
- 4 A. They said now that they have gone together with the
- 10:23:49 5 soldiers, the soldiers have treated them badly out there in the
- 6 bush.
- 7 Q. Did they explain how?
- 8 A. Yes.
- 9 Q. Yes?
- 10:24:07 10 A. They turned against them.
- 11 Q. Who turned against whom?
- 12 A. The soldiers turned against the Kamajors.
- 13 Q. Did they explain in what way?
- 14 A. Yes.
- 10:24:29 15 Q. What was it?
- 16 A. They said when they went, they were there, then they got an
- 17 information that the country was now in their hands.
- 18 Q. Who said the country was now in their hands?
- 19 A. The soldiers.
- 10:25:09 20 Q. Do you remember when that was?
- 21 A. Yes.
- 22 Q. Can you tell the Court?
- 23 A. At that time when they got that information, at the time
- 24 they were in the bush, that was in 1996, going to 1997.
- 10:25:55 25 Q. Do you know the particular month when the soldiers said
- 26 they now had the government, the particular month and year?
- 27 A. Yes.
- 28 Q. Please tell the Court.
- 29 A. If I have not forgotten, 1997 it was.

1 Q. The month? Was it, perhaps, May?
2 A. Yes.
3 Q. Now, what happened on that event?
4 A. Well, they were beating up some of the Kamajors.
10:26:58 5 Q. Yes?
6 A. Stripping some of them naked.
7 Q. Yes?
8 A. And they were killing some of them.
9 Q. Who was doing all this?
10:27:13 10 A. The soldiers were doing it.
11 Q. What did the Kamajors do?
12 A. Some of them escaped and went.
13 Q. What did you in particular do?
14 A. When I got that information, I too returned to my village
10:27:51 15 where I had been.
16 Q. Where was that?
17 A. Yumbuma.
18 Q. Did you do anything there?
19 A. No.
10:28:13 20 Q. So what happened then?
21 A. I was there when we heard another information that the
22 juntas have taken over Tongo.
23 Q. By Tongo, you mean Tongo Field?
24 A. Yes, Tongo Field.
10:28:51 25 Q. How far is Yumbuma from Tongo Field?
26 A. It could be up to five miles.
27 Q. And did the Kamajors have any engagement with the rebels --
28 I mean, with the soldiers?
29 A. Where?

- 1 Q. Whilst they were in Tongo and you were in Yumbuma.
- 2 A. Well, I can't say in detail because I was not in Tongo, I
3 was in Yumbuma.
- 4 Q. Did your group or yourself get any engagement with the
10:29:51 5 rebels whilst you were in Yumbuma?
- 6 A. At the time they were in Tongo?
- 7 Q. Yes.
- 8 A. No.
- 9 Q. Do you know one Orinko Musa?
- 10:30:32 10 A. Yes.
- 11 Q. When did you know him?
- 12 A. I have known him ever since.
- 13 Q. Who was he, or what was he, by this time when the soldiers
14 were in occupation in Tongo?
- 10:31:10 15 A. At that time he was deputy to BJK.
- 16 Q. Who is BJK?
- 17 JUDGE ITOE: We know BJK. His initials send a message,
18 very peculiar.
- 19 MR JABBI: As Your Lordship pleases.
- 10:31:43 20 PRESIDING JUDGE: What is your answer, Mr Witness?
- 21 MR JABBI:
- 22 Q. Who is BJK?
- 23 A. This BJK at that time --
- 24 Q. Give his full name?
- 10:31:56 25 A. Brima John Kineh Sei.
- 26 Q. So you are talking about BJK Sei?
- 27 A. Yes.
- 28 Q. Who was he?
- 29 A. At that time, those of us who were there, he was our boss,

1 he was our leader.

2 Q. "Our," meaning? What do you mean by "our leader"?

3 A. We the Kamajors in that land.

4 Q. Did you around that time have any involvement with Orinko

10:32:44 5 Musa?

6 A. Yes.

7 Q. At the time following the overthrow of the government, did
8 you have any involvement with Orinko Musa?

9 A. Yes.

10:33:07 10 Q. Tell the Court, please.

11 A. At the time when the soldiers had taken over our
12 government --

13 Q. Yes?

14 A. I went into the bush to a hiding place. That's where I
10:33:37 15 was.

16 Q. Yes?

17 A. I was there when one of my brothers called Vandi Songo.

18 Q. Can you give the name again, please?

19 A. Vandi Songo.

10:33:53 20 Q. Yes?

21 A. He came to me and met me on my farm.

22 Q. Yes?

23 A. At that time my rice --

24 Q. Why did he come to you?

10:34:12 25 A. He said Orinko Musa had sent him to me.

26 Q. Yes, with what?

27 A. He said we should come so that the two of us would go and
28 meet them at Panguma.

29 Q. Did you go?

1 A. Yes.

2 Q. What transpired at Panguma?

3 A. When I arrived in Panguma Town, then they said they had
4 come from Bo Waterside.

10:35:11 5 Q. Yes?

6 A. They said they had come for us to come together so that we
7 could chase out our enemies on the road and our big villages
8 around -- surrounding villages.

9 Q. And what was the outcome of that meeting?

10:35:46 10 A. I asked BJK Sei -- "Now that you have called me, where is
11 BJK Sei and where is Musa Junisa?"

12 Q. Who was Musa Junisa?

13 A. Musa Junisa, he was a Kamajor chief at Dodo.

14 Q. What was the answer? When you asked for BJK Sei and Musa
10:36:31 15 Junisa, what was the reply?

16 A. He said BJK Sei was at the hiding place.

17 Q. So what was the outcome of that meeting?

18 A. What he said there was that they should send for them and,
19 when they came, we all met again.

10:37:01 20 Q. What was decided?

21 A. We came to one that those of our enemies in the villages
22 troubling our people should be chased out.

23 Q. Who were these enemies?

24 A. The juntas.

10:37:36 25 Q. Yes. What did you do as a result of that decision?

26 A. It was during that time that the juntas in Tongo too knew.
27 Then they came and attacked us in Panguma in order to dislodge
28 us.

29 Q. Yes.

1 A. Then we fought.

2 Q. What was the result?

3 A. When we fought, we repelled them so they were unable to
4 dislodge us, so we chased them away and they returned.

10:39:01 5 Q. Now, did you yourself ever have to go to Bo Njala?
6 JUDGE ITOE: Bo Waterside.
7 MR JABBI:
8 Q. Bo Waterside.
9 A. No.

10:39:22 10 Q. What about to Base Zero?
11 A. Yes.
12 Q. Do you know when that was?
13 A. Yes.
14 Q. When was it?
10:39:39 15 A. I arrived in Base Zero in -- on the 1st of January.
16 Q. What year?
17 A. 1997.
18 Q. Had you ever been there before that time?
19 A. No. I have forgotten -- no, it was in 1998 that I went
10:40:16 20 there. I forgot.
21 Q. Was it January 1998, as you said. You didn't forget that
22 one?
23 A. Yes, yes.
24 Q. Can you tell this Court what transpired whilst you were in
10:40:36 25 Base Zero?
26 A. Yes, I can explain what I know.
27 Q. Yes.
28 A. When we went and arrived at Base Zero, we met one of our
29 brothers that I was talking about today, Musa Orinko, he was

1 already there.

2 Q. Yes.

3 JUDGE ITOE: When you say you met all your brothers that
4 you have been talking of for the whole of today --

10:41:40 5 MR JABBI: My Lord, I heard one.

6 JUDGE ITOE: Is it one or all? I thought the witness --

7 MR JABBI: The interpreter interpreted.

8 THE WITNESS: Yes, that our brother Musa Orinko.

9 Q. Yes.

10:42:05 10 A. And we went and spoke to him.

11 Q. What did you tell him?

12 A. We told him that something has happened to us in that land.
13 That is what we are here to tell you about.

14 Q. What was it?

10:42:36 15 A. He said, we were there when the juntas came with a chopper.
16 Wherever Kamajors were, they would drop a bomb there.

17 Q. Yes.

18 A. When we explained to him, then he too said come and let us
19 go to my own leaders.

10:43:29 20 Q. Yes.

21 A. Then we asked him where. Then he said War Council.

22 Q. Did he take you to the War Council, in fact?

23 A. Yes.

24 Q. What transpired?

10:43:55 25 A. We went. After I presented to him, he too presented the
26 same thing to the War Council.

27 Q. Was that in your presence?

28 A. When he presented it to the War Council?

29 Q. Yes.

1 A. Yes.

2 Q. What happened?

3 A. He too said that they would work on it.

4 Q. How long did you stay in Base Zero on that occasion?

10:44:39 5 A. I was there for --

6 Q. Did anything else happen whilst you were there?

7 JUDGE ITOE: He said he was there for and then the line

8 went off.

9 THE WITNESS: I said seven days.

10:45:02 10 JUDGE ITOE: Yes.

11 PRESIDING JUDGE: Mr Interpreter, try to speak into the

12 microphone when you are giving your answer.

13 THE INTERPRETER: I will do that, Your Lordships.

14 PRESIDING JUDGE: Dr Jabbi, sorry for that. Go ahead.

10:45:19 15 MR JABBI: Yes.

16 Q. Now, did anything else happen whilst you were in Base Zero?

17 A. Yes.

18 Q. Yes.

19 A. When we were at Base Zero, there was a day -- there is a

10:45:49 20 thing that they talk into called a satellite phone. It was

21 there.

22 Q. Yes.

23 A. I heard it, that information, that Mr Norman was sending a

24 message to the President.

10:46:16 25 Q. How did you know of that?

26 A. I was sitting close to them.

27 Q. Close to?

28 A. Mr Norman and Prince Brima, now deceased.

29 Q. Who was Prince Brima?

1 A. He was a radio reporter talking to people abroad.
2 Q. Yes, what happened whilst you were sitting by them?
3 A. I, I was there when he sent a message.
4 Q. Did you hear that message?
10:47:26 5 A. Yes. Yes.
6 Q. Did he say to whom he was sending the message?
7 A. Yes, from what I heard.
8 Q. To whom was he sending the message?
9 A. He was sending a message to the President, called Dr Ahmad
10:48:00 10 Tejan Kabbah.
11 Q. Did you hear what was said, the message?
12 A. Yes.
13 Q. What did he say?
14 A. He said that Mr Kabbah, some children have come from Lower
10:48:29 15 Bambara and they are here.
16 Q. What children was he referring to?
17 JUDGE ITOE: It is too much [overlapping speakers] --
18 THE WITNESS: The Kamajors.
19 JUDGE ITOE: Let's get it here, he, who? He said some
10:48:49 20 children have come from Lower Bambara, who was saying this? I
21 don't want to guess.
22 MR JABBI: Yes, My Lord.
23 Q. Now, who was sending this message?
24 A. Mr Norman.
10:49:16 25 Q. Do you know the full name of Mr Norman?
26 A. Yes.
27 Q. Yes.
28 A. His name is Chief Sam Hinga Norman.
29 Q. Can you tell his message briefly, the one you heard?

1 A. Yes.

2 Q. Carry on, please.

3 A. He said, "Kamajors have come from there to here." They
4 said they have no food to eat, that was why -- "What should I do
10:49:54 5 in this situation? It is up to you."
6 Q. Where did he say the Kamajors came from?
7 JUDGE ITOE: Lower Bambara, he had said so. From Lower
8 Bambara, they are here.
9 MR JABBI: My Lord, the first one said children from Lower
10:50:17 10 Bambara. And this time when he said Kamajors now, he said there.
11 Q. Yes, carry on with the message.
12 A. I was there, then the president told them: "That if that
13 is the case, give me three days, I will know what to do."
14 Q. And did you do anything?
10:50:41 15 A. Yes.
16 Q. Yes.
17 A. On those three days I was there when a helicopter came.
18 Q. Yes.
19 A. When it came, our brother, Musa Orinko said, "Let us go
10:51:11 20 there where the helicopter has landed. There is a field there."
21 Q. Yes.
22 A. We were there when it landed.
23 Q. And did anything happen?
24 A. Yes.
10:51:41 25 Q. Tell the Court, please.
26 A. When the helicopter landed, the first person that I saw was
27 MS Dumbuya.
28 Q. Yes.
29 A. With some food.

1 [CDF19MAY06B - CR]
2 Q. Yes.
3 A. And bullets.
4 Q. Yes.
10:52:15 5 A. And petrol.
6 Q. Yes.
7 A. And engine oil.
8 Q. Yes.
9 A. And gasoline.
10:52:30 10 Q. Yes.
11 A. Those are the things I saw.
12 Q. Where were these things that you saw?
13 A. I saw them where this helicopter had landed.
14 Q. Yes; what happened then?
10:52:59 15 A. When these things were dropped off, they said we should
16 bring them to town.
17 Q. And did you do that?
18 A. Yes. Yes, we brought them.
19 Q. Now, you said earlier on that in all you spent seven days
10:53:27 20 at Base Zero on that occasion. When you were going away from
21 Base Zero, what happened?
22 A. When we were returning to our home village, this War
23 Council that I spoke about today, that Mr Orinko took us to
24 them --
10:54:13 25 Q. Yes.
26 A. -- he sat down and made arrangements.
27 Q. What was it?
28 A. They said, "Now that you are going, we want to give you
29 position so that when you go, you would tell your colleague

- 1 Kamajors that we were supporting you strongly."
2 Q. Yes.
3 A. Then they made the arrangement.
4 Q. What arrangement was it?
10:55:07 5 A. They gave us some positions.
6 Q. For example?
7 A. Like I myself sitting down here, they gave me position that
8 I was a director of war, Kailahun District.
9 Q. Anyone else?
10:55:50 10 A. Yes. Vandi Songo III was director of intelligence, Eastern
11 Region.
12 Q. Yes.
13 A. And Jambawai, regional co-ordinator, Eastern Region.
14 Q. What Jambawai?
10:56:26 15 A. We used to call him brother Jambawai.
16 Q. Yes; anybody else was given a position?
17 A. Yes.
18 Q. Who else.
19 A. Abu Bakarr Konuwa, regional logistic officer.
10:56:59 20 Q. For what region?
21 A. Eastern Region.
22 Q. Now apart from these positions to these people you have
23 named, did the War Council do any other arrangement?
24 A. Yes.
10:57:24 25 Q. You had said they made an arrangement.
26 A. Yes.
27 Q. Yes, tell the Court.
28 A. Our own brother, Mohamed Musa Orinko --
29 Q. Mohamed Musa Orinko?

1 A. Orinko.
2 Q. Mohamed Orinko Musa?
3 A. Yes.
4 Q. Yes.
10:57:55 5 A. He came and assembled all of us.
6 Q. Yes.
7 A. Then he handed over the ammunition to us.
8 Q. Yes.
9 A. He said we should take them along. Those were our own
10:58:17 10 ammunition.
11 Q. Yes.
12 A. He said he will be coming later.
13 Q. When did you leave?
14 A. We left in the evening. That was when we left Base Zero.
10:58:47 15 Q. Can you tell the Court who and who were in the group that
16 left with you from Base Zero?
17 A. We were many, those of us who had come to Base Zero.
18 Q. Can you name a few? Three or four?
19 A. Yes.
10:59:21 20 Q. Carry on.
21 A. Vandí Songo, whom I've just spoken about.
22 Q. Yes.
23 A. There was CO Mambo who has died now.
24 Q. Yes.
10:59:36 25 A. Dauda Kabineh.
26 Q. Yes.
27 A. Samai Bockarie.
28 Q. Yes.
29 A. Bockarie Amara.

1 Q. Okay. Now, did you leave in a vehicle? Did you leave Base
2 Zero in a vehicle?
3 A. When we were returning to our home villages?
4 Q. Yes.
11:00:12 5 A. Yes.
6 Q. Did you leave in a vehicle?
7 A. Yes.
8 Q. What sort of vehicle?
9 JUDGE ITOE: He left Base Zero in a vehicle?
11:00:28 10 MR JABBI: That's what he has testified.
11 Q. Did you leave Base Zero in a vehicle?
12 A. Yes.
13 Q. What sort of vehicle?
14 A. A small van.
11:00:40 15 Q. Where did that van take you?
16 A. It stopped at Tihun Sogbeh [sic].
17 Q. Tihun where?
18 A. Tihun Sogbe [sic]. There is a town they call Tihun Sogbe
19 [sic].
11:01:05 20 Q. How far is that from Base Zero?
21 A. Well, it's quite a distance, because that was where the
22 vehicle came from, so when we were returning, we talked to him
23 and that's where he left us. He dropped us there and we went.
24 Q. From Tihun, how did you travel?
11:01:33 25 A. We walked on foot.
26 Q. For the whole distance to Lower Bambara?
27 A. Yes. Yes.
28 Q. How long did it take you to get to Lower Bambara?
29 A. We were on the way for eight days. We would walk day and

1 night.

2 Q. Did you take along with you the ammunition that was given
3 to you?

4 A. Yes.

11:02:37 5 PRESIDING JUDGE: Dr Jabbi, can you move a little bit
6 faster, please. I don't think these issues, these matters, are
7 very contentious.

8 MR JABBI:

9 Q. Now, what was the state of affairs when you arrived in
11:02:59 10 Lower Bambara?

11 A. Let's not yet go to Lower Bambara.

12 Q. Okay; take us where you want to take us.

13 A. When we went, we stopped at Boajibu.

14 Q. Boajibu?

11:03:17 15 A. Yes, Boajibu.

16 Q. What chiefdom is that?

17 A. Simbaru.

18 Q. Simbaru Chiefdom. Do you know the district?

19 A. Yes. It's in the Kenema District.

11:03:39 20 Q. Yes; what happened at there?

21 A. When we reached, going towards where the hydro is, we got
22 an information.

23 Q. Where the what is?

24 A. Where this hydro is, Golu.

11:04:03 25 Q. Hydro-electric plant?

26 A. Yes.

27 Q. Yes; carry on.

28 A. Then we got information that the Kamajors were coming to
29 Tongo today.

- 1 Q. Yes.
- 2 A. Then we just said, "Well, let's go."
- 3 Q. And you proceeded?
- 4 A. We were on our way.
- 11:04:40 5 Q. Yes.
- 6 A. Then we heard that the Kamajors have entered Tongo.
- 7 Q. Yes.
- 8 A. Then we went and reached in Panguma.
- 9 Q. Where did you take the ammunition you had?
- 11:05:10 10 A. We took them to Panguma.
- 11 Q. What report did you get about Tongo on arrival in Panguma?
- 12 A. When we reached Panguma in the evening, we met BJK and
- 13 Musa Junisa there in Panguma.
- 14 Q. What report did you get about Tongo in Panguma?
- 11:05:53 15 A. They said Kamajors had captured Tongo.
- 16 Q. Do you know what month that was that you arrived in Panguma
- 17 in?
- 18 A. Yes.
- 19 Q. What month?
- 11:06:23 20 A. It was in January.
- 21 Q. 1998?
- 22 A. Yes.
- 23 Q. So what happened then?
- 24 A. I passed the night in Panguma, together with BJK and
- 11:06:49 25 others.
- 26 Q. To whom did you present the ammunition?
- 27 A. We gave them to Musa Junisa and BJK Sei.
- 28 Q. Did you yourself go anywhere after that?
- 29 A. On that day I did not go to Tongo.

1 Q. Did you go to Tongo at all on that occasion?

2 A. Yes. When I passed the fight, the following morning -- on
3 that day that the Kamajors captured there, I did not go there.
4 When I passed the night, the following morning, I went there.

11:07:45 5 Q. Did you find the Kamajors in Tongo when you went there the
6 next day?

7 A. Yes, so many of them.

8 Q. How long did you stay there?

9 A. I spent two days and one night.

11:08:30 10 Q. Where did you go after that?

11 A. Where the War Council had said I should go, Kailahun
12 District. I went to Bunumbu.

13 Q. Were there any soldiers or rebels in Bunumbu when you got
14 there?

11:09:06 15 A. No.

16 Q. You said you were director of war, Kailahun District; not
17 so?

18 A. Yes.

19 Q. When you arrived in Bunumbu, were there soldier and rebels
11:09:35 20 anywhere else in the rest of the district?

21 A. Many. In fact, they were really based there.

22 Q. What areas of that district were occupied by rebels or
23 soldiers?

24 A. They were in Manowa.

11:09:58 25 Q. Anywhere else?

26 A. They were in Segbwema.

27 Q. Anywhere else?

28 A. They were in Daru.

29 Q. Anywhere else in?

1 A. From Daru going up to the Guinea border, they were there.
2 Q. Do you have anything to tell this Court about incidents in
3 Kailahun District under your directorate?
4 A. Yes.
11:11:03 5 Q. Yes.
6 A. When I was in Bunumbu, I was there when I heard that ECOMOG
7 and the Kamajors have entered Kenema.
8 Q. Yes.
9 A. Then I too took some of my Kamajors and went to Kenema.
11:11:37 10 Q. Yes.
11 A. When we arrived in Kenema Town and we presented ourselves
12 to ECOMOG, at that time the person who was the commander there
13 was Colonel Yayah Abu Bakarr.
14 Q. Commander for?
11:12:10 15 A. ECOMOG.
16 Q. Yes. Did anything happen?
17 A. Yes.
18 Q. Tell the Court, please.
19 A. Went and told me that place where we were, there was no
11:12:33 20 food there and no ammunition.
21 Q. Yes.
22 A. We had no guns and no medicines.
23 Q. Did he do anything?
24 A. Yes.
11:12:47 25 Q. What?
26 A. He provided ammunition.
27 Q. Yes?
28 A. Guns.
29 Q. Yes?

1 A. Food.

2 Q. Yes?

3 A. And gave me one vehicle, a van.

4 Q. Did you go back to your base?

11:13:29 5 A. Yes.

6 Q. With all those items?

7 A. Yes.

8 Q. Including the vehicle?

9 A. Yes.

11:13:56 10 Q. In Kailahun District, did you have any engagements of a
11 military nature, fighting?
12 A. Yes, very, very well indeed.

13 Q. Can you give an example to the Court?

14 A. Yes.

11:14:15 15 Q. Yes, please, carry on.

16 A. When I was in Bunumbu, I got a message.

17 Q. Yes?

18 A. From the ECOMOG commander, Colonel Abu Bakarr.

19 Q. Yes?

11:14:35 20 A. He said we should go so that we would come together and
21 base at Segbwema.

22 Q. Yes?

23 A. Then I went and we came -- we met at Talia Tokpoma.

24 Q. Yes?

11:15:03 25 A. Together we went and captured Segbwema.

26 Q. Yes?

27 A. We were in Segbwema again --

28 MR KAMARA: My Lord, if I may, we're objecting now on the
29 grounds of relevance, and counsel has been going into details.

1 There is no issue of Kailahun District in the indictment, and it
2 has not formed any basis of the evidence led before this Court.
3 If learned counsel is going into details about attacks in
4 Segbwema and elsewhere, which did not form the substance of the
11:15:52 5 case against the accused, we are objecting on the grounds of
6 relevance and he is going too far into that issue.

7 PRESIDING JUDGE: Dr Jabbi, what do you answer to that?

8 MR JABBI: My Lord, in fact, I'm not going into any detail.

9 PRESIDING JUDGE: If it is not relevant, it is not
11:16:07 10 relevant. If it is not part of the indictment against the
11 accused, why do we need to hear about that?

12 MR JABBI: My Lord, this is just background narrative
13 leading to the conclusion of the witness's evidence.

14 PRESIDING JUDGE: Dr Jabbi, we have all that information.
11:16:22 15 We do not need to have surplus of information that is not
16 relevant.

17 MR JABBI: As your Lordship pleases.

18 Q. Now, Mr Witness --

19 A. Yes.

11:16:45 20 Q. -- how long did you stay at Segbwema?

21 A. I stayed there for quite some time.

22 Q. Where did you go when you ultimately left Segbwema?

23 A. We went to Daru Barracks. We went and captured Daru
24 Barracks.

11:17:08 25 Q. After Daru Barracks, did you leave Kailahun District?

26 A. Yes.

27 Q. When you left Kailahun District, where did you go?

28 A. When I left Kailahun District, before I left there, I was
29 there when I was called up to Kenema, so I went there.

1 Q. Why were you called to Kenema?

2 A. They said I had done a good job, that they were coming to
3 elevate me.

4 Q. How were you elevated?

11:18:05 5 A. I was elevated to the post of deputy director of war -- no,
6 not deputy; director of operations, Eastern Region.

7 Q. Where were you based for performing that function?

8 A. I came and settled in Kenema.

9 Q. When was that? When did you settle in Kenema as deputy
11:18:44 10 director of operations for the Eastern Region?

11 A. 1989.

12 Q. Can you think of the date again, please?

13 A. No, I can't remember.

14 Q. Did you remain in Kenema thereafter?

11:19:13 15 A. Yes.

16 MR JABBI: My Lord, that is all for the witness.

17 PRESIDING JUDGE: Thank you. Counsel for the second
18 accused, any cross-examination?

19 MR PESTMAN: Yes, I have a couple of questions,
11:19:35 20 Your Honour. Would you like me to start now and interrupt at
21 half past?

22 PRESIDING JUDGE: If you have only a few questions, you
23 should finish in 10 minutes.

24 MR PESTMAN: It depends on the answers as well. I think it
11:19:48 25 will take more than 10 minutes. I will just start and see how
26 far we go.

27 PRESIDING JUDGE: If you are to take more than 10 minutes,
28 we'll break now.

29 MR PESTMAN: Yes, I would prefer that, thank you.

1 PRESIDING JUDGE: That's why I was asking you if you have
2 many questions. Thank you, Mr Pestman. So the Court will
3 adjourn for the morning recess.

4 [Break taken at 11.21 a.m.]

11:49:35 5 [Upon resuming at 11.52 a.m.]

6 PRESIDING JUDGE: Mr Pestman, before I ask you to proceed
7 with your cross-examination, allow me to just make a comment.
8 The comment is a caution to all when you're making reference to
9 evidence that has been given to be careful about not disclosing
11:53:07 10 the identity of witnesses who have testified under protective
11 measures. I say this to all and it is not necessarily directed
12 to you because I know you have not done so. I make is a general
13 comment, not to necessarily indicate which may have done or not
14 have done so. This is just a caution to be careful when we are
11:53:30 15 dealing with evidence that has been given in Court, either in
16 closed session or by protected witnesses. Using names of
17 witnesses that were protected is in violation of a Court order
18 and therefore care should be exercised when doing this. Thank
19 you very much, Mr Pestman. As I say, it is not directed to you
11:53:50 20 personally.

21 MR PESTMAN: I'm trying my best not to mention names. I'm
22 trying to stick to numbers as best as I can.

23 PRESIDING JUDGE: Thank you.

24 CROSS-EXAMINED BY MR PESTMAN:

11:54:04 25 Q. Mr Witness, I am defence counsel for Mr Moinina Fofana. Do
26 you know Mr Moinina Fofana?

27 A. Very well.

28 Q. Can you tell me when you first met him?

29 A. Mr Moinina Fofana, when I went -- we met at Base Zero.

1 Q. So you first met at Base Zero?
2 A. Yes.
3 Q. Did you know at the time you were at Base Zero whether
4 Mr Fofana was holding any official position?
11:55:01 5 A. No.
6 Q. Did you observe Mr Fofana doing anything during that week
7 that you were in Base Zero?
8 A. I did not observe that.
9 Q. Did you ever talk to him when you were there?
11:55:24 10 JUDGE ITOE: Mr Pestman, you're being recorded.
11 MR PESTMAN: I'm sorry, Your Honour.
12 THE WITNESS: Yes, we used to greet each other.
13 MR PESTMAN:
14 Q. Did you ever discuss anything, apart from greeting each
11:55:42 15 other?
16 A. No.
17 Q. Do you know whether Mr Norman had any deputy while you were
18 at Base Zero?
19 A. No.
11:56:16 20 Q. Was Mr Fofana - I'm still talking about your time in Base
21 Zero - regarded as second in command to Mr Norman?
22 A. No.
23 JUDGE THOMPSON: Can you take that back. I don't know what
24 the answer is.
11:56:55 25 MR PESTMAN:
26 Q. Mr Witness --
27 JUDGE THOMPSON: Give him the previous answer.
28 MR PESTMAN: The answer or my previous question?
29 JUDGE THOMPSON: Given the answer to the previous question,

1 I do not know what his answer is when he says, "Uh-huh," and I
2 take that he means --

3 MR PESTMAN: That's as far as my Mende goes. I think
4 "uh-huh" is no, and "ah" is yes. The first question was whether
11:57:26 5 Mr Norman had a deputy.

6 JUDGE THOMPSON: And he said he did not know whether he
7 did; is that correct?

8 MR PESTMAN: Yes.

9 JUDGE THOMPSON: And given that answer --

11:57:36 10 THE WITNESS: I said I did not know.

11 JUDGE THOMPSON: -- I find it difficult to fathom the
12 answer to the subsequent question.

13 MR PESTMAN: It is a completely different question and
14 unrelated.

11:57:46 15 JUDGE THOMPSON: Quite. Let's have it again.

16 MR PESTMAN:

17 Q. Mr Witness, a completely different question.

18 A. Yes.

19 Q. Was Mr Fofana, while you were at Base Zero, regarded as
11:58:00 20 second in command to Mr Norman?

21 A. I said no.

22 JUDGE THOMPSON: Thank you very much. That helps.

23 MR PESTMAN: Thank you, Your Honour.

24 Q. I would like to extend the period a bit further. I would
11:58:23 25 like to ask you a couple of questions about Mr Fofana, but not
26 only with regard to the time you spent at Base Zero, but with
27 regard to the time which is generally referred to as the
28 interregnum, so the period until the government was reinstated.
29 Did you, during that period, ever discuss with Mr Fofana matters

1 of policy or strategy for prosecuting the war?

2 A. I said the first time I met with Mr Moinina Fofana was at
3 Base Zero.

4 Q. Yes. And did you subsequently ever discuss matters of
11:59:27 5 strategy or policy with Mr Fofana?

6 A. When we returned to our home villages?

7 Q. Yes.

8 A. No.

9 Q. Did you ever liaise with Mr Fofana?

12:00:11 10 A. No, except to meet each other and say hello to each other.

11 Q. Did Mr Fofana ever give you any orders on issues relating
12 to the war?

13 A. No.

14 Q. Did you ever report to Mr Fofana on issues relating to the
12:00:40 15 war?

16 A. Never, I said, except greetings.

17 Q. Not even when you were director of war for the Kailahun
18 District?

19 A. The people who appointed me were members of the War
12:01:14 20 Council.

21 Q. Yes, I understand, but did you ever report to Mr Fofana
22 when you were director of war for the Kailahun District?

23 A. No.

24 Q. Did you ever report to him when you were director of
12:01:38 25 operations for the Eastern Region?

26 A. I said no.

27 Q. Did you know that Mr Fofana was, at one point, referred to
28 as the director of war?

29 A. Yes, they were calling him that name.

1 Q. Do you know whether he fulfilled any role in relation to
2 that title?

3 A. No, I wouldn't have known -- I couldn't have known.

4 Q. Earlier this morning you mentioned the name of a ECOMOG
12:02:46 5 officer, a person called Yayah Abu Bakarr. Is it correct he was
6 a colonel?

7 A. Yes.

8 Q. When did you exactly first meet him?

9 A. Just the time they said they had come to Kenema was the
12:03:23 10 first time I ever met with him.

11 Q. Do you remember when that was; which month and which year?

12 A. Yes.

13 Q. Which month and which year was it?

14 A. It was in February -- no, no, I can't remember it quite
12:04:11 15 well now, no.

16 Q. Was it before or after the restoration of the government?

17 A. After the coup, when they said the ECOMOG had come to
18 Kenema, it was then that they went there and we met each other.

19 Q. Was it before the government was reinstated?

12:04:46 20 A. Yes.

21 Q. Am I correct to say that he was also your commander after
22 you met him?

23 A. Yes.

24 Q. Was he the person who was giving you orders how to execute
12:05:11 25 the war?

26 A. Yes, we were under them.

27 Q. What does that mean, "We were under them"?

28 A. When the Mende man says "under you," it's the person that
29 you take commands from.

1 Q. And you also reported to him?

2 A. Yes.

3 Q. Were you taking orders from anyone else?

4 A. He, Colonel Abu Bakarr?

12:06:07 5 Q. Apart from him?

6 A. At the time he was there, I was only taking orders from
7 him.

8 MR PESTMAN: I would like to refer this witness to a
9 statement which I've mentioned earlier, or before this week,
12:06:31 10 given on 16 November 2004, by witness TF2-008, at page 47.

11 PRESIDING JUDGE: Do you mean statement or evidence?

12 MR PESTMAN: Evidence given in Court by that particular
13 witness.

14 JUDGE THOMPSON: What is the date again?

12:06:57 15 MR PESTMAN: It's 16 November 2004. It is always the same
16 statement. I've mentioned it before.

17 Q. Mr Witness, the Prosecution called a witness some time ago
18 who testified here in Court that Mr Fofana was in charge of all
19 CDF fighting groups. In your own experience as a member of the
12:07:34 20 CDF, and as a commander, did you ever consider Mr Fofana to be in
21 command of all CDF fighting groups?

22 A. No. It was divided by sections.

23 MR PESTMAN: There is another witness, your Honours, for
24 your information, that is witness TF2-005, who testified on
12:08:30 25 15 February 2005, page 94.

26 Q. Mr Witness, there is another witness who testified here.
27 He said that Mr Fofana was one of those responsible for deciding
28 and planning how the war was to be fought. I would like to know,
29 Mr Witness, whether, in your experience, Mr Fofana was ever

1 responsible for deciding and planning how to fight the war; do
2 you agree with that statement?

3 A. The fighting which I was involved, no.

4 MR PESTMAN: The same witness, Your Honours, on the same
12:09:34 5 day, but at page 101, said that Mr Fofana was responsible for the
6 selection of commanders.

7 Q. Mr Witness, I'm asking you, in your experience as a CDF
8 commander, was Mr Fofana responsible for the selection of
9 commanders?

12:10:10 10 A. I don't know that.

11 MR PESTMAN: I have no further questions. Thank you.

12 PRESIDING JUDGE: Thank you, Mr Pestman. Mr Margai,
13 counsel for the third accused, any cross-examination?

14 MR MARGAI: Yes, My Lord.

12:10:30 15 CROSS-EXAMINED BY MR MARGAI:

16 Q. Good afternoon, Mr Witness.

17 A. Yes, good afternoon father Margai.

18 Q. Were you, during the war, based at Bunumbu as a commander?

19 A. Yes, at the time I should.

12:11:04 20 Q. At the time you were based at Bunumbu, which fighting force
21 was in control of Segbwema?

22 A. Our enemies called the junta.

23 Q. Which fighting force was based at Daru at that time?

24 A. Theses same guys were based there. In fact, all of them
12:11:41 25 were based there.

26 Q. Did ECOMOG and the Kamajors engage in the joint operation
27 to retake Segbwema and Daru?

28 A. Yes. In unity.

29 Q. Did you take part in that operation?

1 A. Very well.

2 Q. Between ECOMOG and the Kamajors, who commanded that
3 operation?

4 A. The ECOMOG.

12:13:05 5 Q. Was it the pattern that whenever there was a joint
6 operation between ECOMOG and the Kamajors, ECOMOG would command
7 those operations?

8 A. Yes, they were husbands.

9 Q. You've told the Chamber that you were initiated into the
12:13:47 10 Kamajor society.

11 A. Yes.

12 Q. Now, did initiators take part in combat?

13 A. No, I did not see that. I did not walk to the war front
14 with any one of them.

12:14:28 15 Q. Did initiators at any time, to your knowledge, plan combat?

16 A. No, I do not know that, and I did not see that. I, I did
17 not see that.

18 Q. Did initiators, to the best of your knowledge as a
19 commander, distribute weapons during the war?

12:15:20 20 JUDGE ITOE: Mr Margai, my observation here is --

21 THE WITNESS: They did not give it to me, and they did not
22 distribute it to me.

23 MR MARGAI: Sorry, My Lord.

24 JUDGE ITOE: The trend of the cross-examination which
12:15:32 25 started since yesterday was that: "Did initiators". I thought
26 that issue particularised it was -- it would have a more
27 reassuring play on the record because "did initiators" is the
28 initiators.

29 MR MARGAI: No, that is deliberate, and I shall

1 particularise after generalising.

2 JUDGE ITOE: That's right, because yesterday there was no
3 particularisation; that is why --

4 MR MARGAI: No, yesterday was deliberate.

12:16:10 5 JUDGE ITOE: All right.

6 MR MARGAI: Thank you.

7 Q. Now, do you know Allieu Kondewa?

8 A. Very well.

9 Q. With regard to the war, what did you know him as?

12:16:28 10 A. Chief initiator.

11 Q. Did Kondewa, to the best of your knowledge, take part in
12 combat?

13 A. No, we were staying far away from each other. I didn't
14 know that.

12:17:16 15 Q. Whilst you were at Base Zero, did you see Kondewa at Base
16 Zero?

17 A. Yes.

18 Q. Whilst at Base Zero, did you witness the planning of the
19 war at Base Zero?

12:17:46 20 A. No, I did not go where the committee was sitting. I did
21 not go there to plan the war.

22 MR MARGAI: That will be all, thank you, My Lord.

23 PRESIDING JUDGE: Thank you, Mr Margai. Mr Prosecutor.

24 CROSS-EXAMINED BY MR BANGURA:

12:18:30 25 Q. Good afternoon, Mr Witness.

26 A. Yes, good afternoon, father.

27 Q. Mr Witness, let me start by first asking you: Did you make
28 any statement to the lawyers who invited you to come here?

29 A. Yes.

1 Q. In that statement, you indicated the things that you
2 intended to come and say in this Court; is that correct?

3 A. Yes; those that they asked me, I talked about them.

4 MR BANGURA: Your Honours, I am making an application that
12:19:42 5 the statement which the witness made to Defence be made available
6 to the Prosecution. Your Honours, the reason is that the
7 Prosecution intends to verify and possibly confront the witness
8 on matters which he has testified to in Court and for which we
9 did not have any notice in the summaries provided by the Defence.

12:20:39 10 PRESIDING JUDGE: What is it in particular?

11 MR BANGURA: Your Honours, in particular the witness, and
12 very crucially, testified to the fact that at Base Zero he was
13 present when Hinga Norman was making a telephone conversation
14 with somebody he alleges to be President Kabbah. Your Honours,
12:21:08 15 that is a very important and crucial piece of evidence which I
16 believe the Defence is seeking to rely on and which they have not
17 indicated in the summaries. If it had been indicated, we would
18 have had an opportunity sufficiently to investigate this fact and
19 to be in a position to confront the witness with this.

12:21:41 20 PRESIDING JUDGE: The test that we have enunciated is not
21 whether you can confront the witness or not. This is not what we
22 have said up to now.

23 MR BANGURA: If I should finish, Your Honour.

24 PRESIDING JUDGE: Yes.

12:21:56 25 MR BANGURA: There is a second part to it. That is, in the
26 summaries the Defence has given a summary -- they have given
27 notice that the witness will be testifying to the fact that he
28 arrived in Tongo on the day that Tongo was captured. Your
29 Honours, the Prosecution in its case before this Court has

1 alleged certain things that happened in Tongo on the day it was
2 captured. We have the witness testifying before this Court to
3 say that he arrived in Tongo --

4 PRESIDING JUDGE: Maybe if I can stop you here and ask that
12:22:49 5 the headphones be removed from the witness and that this not be
6 translated to the witness, otherwise we may get into some other
7 difficulties.

8 MR BANGURA: Thank you, Your Honour.

9 PRESIDING JUDGE: Madam Court officer and Witness
12:23:13 10 Protection, can you take the witness out of the courtroom because
11 that will not be decided in 30 seconds and we have not finished
12 yet to hear you. So can the witness be assisted out.

13 [The witness stood down]

14 PRESIDING JUDGE: Yes, Mr Bangura. Sorry for my
12:23:35 15 interruption.

16 MR BANGURA: Your Honour, continuing, we have led evidence
17 to show that on that day that Tongo was captured quite a number
18 of things happened in Tongo. The summary we have from the
19 Defence is that the witness was in Tongo on that day. He has
12:23:55 20 come to Court today and has testified that he in fact did not go
21 to Tongo until the next day which, in the view of the
22 Prosecution, is a significant departure from the summary which
23 they have provided to us.

24 Your Honours, the Prosecution is prejudiced by these facts,
12:24:18 25 by the situation, and we believe that it would help and it is in
26 the interests of justice that we see exactly what statement this
27 witness made to the Defence and perhaps why, in fact, there has
28 been some departure from that statement.

29 PRESIDING JUDGE: I would like to hear a bit more about

1 your second -- the capture of Tongo. I'm really at a loss to
2 understand what you're suggesting in this respect. I may have
3 misunderstood what you are suggesting in this respect. Can you
4 take it back again.

12:24:56 5 MR BANGURA: The Defence has provided a summary saying that
6 the witness went to Tongo. Let me just read specifically from
7 the summary. Your Honours, I am looking at page 15179. It is
8 the first sentence there. "How witness was way in Base Zero" -
9 "away" I believe that should read - "when Kamajors took Tongo
12:25:34 10 Field with arms and ammunition brought from Conakry, Guinea by
11 Jambawai. But witness went to Tongo the day it fell to the
12 Kamajors and he took part in shepherding civilians assembled at
13 headquarters for their own protection."

14 Your Honours, the Prosecution is saying that the events
12:25:52 15 which took place in Tongo are very important, and we have led
16 witnesses in this Court who have established a lot about the
17 crimes that were committed -- the alleged crimes that were
18 committed there. The summary given by the Defence is that this
19 witness was there on that day. The witness has testified in
12:26:22 20 Court that in fact he got there the day before.

21 PRESIDING JUDGE: The day after.

22 MR BANGURA: The day after, sorry. We would like to see
23 what the witness actually said in his statement. I'm not
24 suggesting anything at this point, Your Honours. We would like
12:26:38 25 to know what the witness said in his statement.

26 PRESIDING JUDGE: Again, my question to you: For what
27 purpose?

28 MR BANGURA: Your Honours, testing the veracity of what the
29 witness has said and his credibility. We would first of all get

1 to see the statement and put questions to the witness to test his
2 credibility. If necessary, we may then go to tender it as an
3 exhibit.

4 JUDGE THOMPSON: You say the summary. What does the
12:27:13 5 summary say about the alleged Tongo episode?

6 MR BANGURA: It says that the witness will testify that he
7 was away when Tongo was attacked, but he arrived in Tongo the day
8 it fell.

9 JUDGE THOMPSON: Right. What's your contention from the
12:27:35 10 perspective of the Prosecution's evidence on this?

11 MR BANGURA: Your Honours, the Prosecution led evidence
12 from many witnesses --

13 JUDGE THOMPSON: To say?

14 MR BANGURA: To say that crimes which we have charged were
12:27:49 15 committed in Tongo on the day it fell.

16 JUDGE THOMPSON: Right.

17 MR BANGURA: The Prosecution would like to -- if we were
18 given the summary which indicates that the witness was there on
19 that day, the Prosecution would like to have an opportunity to
12:28:06 20 examine the witness on the events that occurred in Tongo on that
21 day.

22 JUDGE THOMPSON: What is the alleged discrepancy?

23 MR BANGURA: He has come to Court and has said that he in
24 fact arrived in Tongo the day after.

12:28:26 25 JUDGE THOMPSON: Yes.

26 MR BANGURA: The question is what did he tell -- we have it
27 in a summary here. What did he say in his statement which was
28 reduced in the form of a summary?

29 JUDGE THOMPSON: How does that enhance the Prosecution's

1 case to know that. Having regard to the principle of orality, he
2 can expand on the Tongo episode, as long as he doesn't take the
3 Prosecution ex improviso, or he doesn't give evidence which may
4 amount to recent fabrication. The difficulty is what you are
12:29:04 5 seeking to explore here? What is the discrepancy, or is it just
6 the mention of Tongo and saying that he arrived there next day?

7 MR BANGURA: Your Honours, Tongo -- I don't think I have to
8 go over the importance of the Prosecution wanting to examine
9 witnesses on the events in Tongo on that day.

12:29:29 10 JUDGE THOMPSON: But you say his credibility, you doubt it
11 in respect of which specific aspect of Tongo? Are you saying
12 that your evidence which the Prosecution has does not put this
13 witness there --

14 MR BANGURA: Does not put the witness there now, but we
12:29:49 15 have in the summary that the witness was there.

16 JUDGE THOMPSON: Yes.

17 MR BANGURA: So I'm saying that -- the point is that this
18 point has been omitted from the --

19 JUDGE THOMPSON: Couldn't this be explored in a vigorous
12:30:08 20 cross-examination?

21 MR BANGURA: It might, perhaps, Your Honour. This is just
22 an addition to the first point that I made.

23 JUDGE THOMPSON: These are my random thoughts. I'll
24 restrain myself.

12:30:20 25 PRESIDING JUDGE: Is it all that you had to address at this
26 particular moment?

27 MR BANGURA: Yes.

28 PRESIDING JUDGE: Dr Jabbi, do you wish to respond to that?

29 MR JABBI: My Lord, I just wish to say with respect to the

1 sentence quoted by my learned friend from the summary --

2 PRESIDING JUDGE: Let's deal with the first issue first;
3 the issue about the fact that the witness has testified that he
4 overheard or heard a conversation between your client Chief
12:30:54 5 Norman and President Kabbah and that there is absolutely no
6 mention of that in the summary. That was the first argument
7 presented. I have looked at the summary and there is absolutely
8 no reference to that.

9 MR JABBI: There is no reference to that, My Lord.

12:31:19 10 PRESIDING JUDGE: But the question is: Is it in the
11 statement at all? The issue is that the witness has now
12 testified to matters that were not disclosed. It may or may not
13 have been in the statement, I don't know. So my question to you
14 is that particular issue or matter, or incident, or event,
12:31:36 15 whatever you want to describe it, is it in the statement or not?

16 MR JABBI: It is, My Lord.

17 PRESIDING JUDGE: So why is it that it was not disclosed?

18 [CDF19MAY06C - EKD]

19 MR JABBI: My Lord, it is just a shortcoming of the summary
12:31:59 20 and, as I have argued before, we did not look at the summary as a
21 production of every detail, but of as much of that detail in the
22 statement as possible.

23 PRESIDING JUDGE: But you agree with the Court that every
24 essential element that is contained in the statement should be in
12:32:21 25 the summary. An event where you have a witness that you lead to
26 testify to matters and issues, presumably if you have the witness
27 to speak about that, you consider yourself that this is of
28 importance. And if you do, I would suggest it should be
29 contained and disclosed. In any event, that one, you agree with

1 the Prosecution that it is not in the summary.

2 MR JABBI: It is not in the summary. No, My Lord.

3 PRESIDING JUDGE: What about the second issue?

4 MR JABBI: With the second issue, that is the sentence
12:32:57 5 cited by my learned friends.

6 PRESIDING JUDGE: That is the portion at the top of page
7 15179.

8 MR JABBI: Yes, My Lord. As my learned friend pointed out
9 the word "way" is a typographical error or omission for "away".
12:33:22 10 By the same token the word "after" has fallen out following the
11 word "the day" and it turns out to look like the day itself when
12 it should be the day after it fell. It may well have been at the
13 time of inputting it into the computer, just as the letter "a"
14 fell away from "away". But that also will be borne out in the
12:33:52 15 statement, My Lord.

16 PRESIDING JUDGE: So you are saying that it should have
17 read -- you seem to have difficulties with your -- a doctor like
18 you who has this kind of a background seem to have difficulties
19 in making sure that words that should be in a statement and have
12:34:20 20 meaning, as such -- I mean, this is the second time, Dr Jabbi,
21 that we have seen that in summaries. So you are saying the first
22 part: "How witness was away in Base Zero" rather than "way."

23 MR JABBI: Yes "way" should be "away". Then after the word
24 "the day" it should be "the day after."

12:34:42 25 PRESIDING JUDGE: "Witness went to Tongo the day after it
26 fell to the Kamajors."

27 MR JABBI: Yes, My Lord, that is how it should have read.
28 It is unfortunate and we apologise for it, that there are two
29 omissions in that sentence.

1 PRESIDING JUDGE: Yes, Dr Jabbi, do you have any further
2 argument to submit?

3 MR JABBI: Pardon, My Lord?

4 PRESIDING JUDGE: Do you have any other argument to present
12:35:51 5 on this? Your position is that the first was not part of the
6 statement and the second one was a typo or a mistake made when
7 the summary was typed.

8 MR JABBI: Those are the only points I wish to make,
9 My Lord.

12:36:11 10 PRESIDING JUDGE: But you do accept that the information
11 about Mr Norman's conversation is contained in the statement, and
12 that you're saying that in the statement the witness is talking
13 that he went to Tongo after the day.

14 MR JABBI: The day after.

12:36:29 15 PRESIDING JUDGE: The day after. This is what he says in
16 the statement. This is what he has in the statement?

17 MR JABBI: Yes, My Lord.

18 PRESIDING JUDGE: Thank you, Dr Jabbi. Mr Bangura, do you
19 wish to reply to this?

12:36:54 20 MR BANGURA: Your Honour, I believe I am still standing on
21 the same point, that the statement be made available to the
22 Prosecution so that we can verify these facts. I believe that is
23 the way that I see as moving forward with this issue, the
24 particular issues that I have raised.

12:37:18 25 PRESIDING JUDGE: What do you mean in order for you to
26 verify the fact? They have admitted that is there and that is a
27 mistake as far as the Tongo situation is concerned.

28 MR BANGURA: Your Honour, the Tongo situation, as suggested
29 by learned Justice Thompson, is one which could be handled as the

1 cross-examination goes on. But the one to do with the evidence
2 about Hinga Norman speaking on the satellite phone, we submit
3 that is so crucial to the Defence -- is so central to the
4 Defence, to their case, as far as I understand the Defence case,
12:37:56 5 that it is one which we would need to be very sure about,
6 Your Honour.

7 PRESIDING JUDGE: I am not sure what you mean by this
8 [overlapping speakers].

9 MR BANGURA: Your Honour, the position is that as far as I
12:38:18 10 understand the Defence up to this point, Hinga Norman was
11 discussing or was reporting to somebody else who was supposed to
12 be -- to President Kabbah who was supposed to be his boss.
13 That's as far as I understand it. I don't think we can hide away
14 from that fact. And I believe that has been a theme which the
12:38:43 15 Defence has been playing up to this point, Your Honour. I
16 believe that is a very important theme, a very important point
17 for their case. I don't see how that --

18 PRESIDING JUDGE: I must say I have some difficulties to
19 follow the logic of the argument on this, because I don't think
12:38:58 20 it is -- I think it is -- I may be wrong on this, but I don't
21 think it is disputed that President Kabbah was the boss of
22 Mr Norman. I don't think it is disputed. There is ample
23 evidence that the President in exile was -- if I am not mistaken
24 your boss himself, MR de Silva, has recognised that in court. So
12:39:18 25 I don't think it is in issue, but it may be different now.

26 MR BANGURA: Your Honour, we have a duty to rebut evidence
27 which is brought out by the Defence in challenging our case, and
28 so I don't think we would -- I don't think we should take a
29 position that he was -- I am not saying that that is the case,

1 but we have been reading through the Defence --

2 JUDGE THOMPSON: Let me see if I can help you. Let me put
3 it this way, under Rule 73ter(B) where I recognise you are moving
4 the Court, because that's the Rule where we can order disclosure
12:40:07 5 on the part of the Defence of statements made by their witnesses.
6 We have established in a recent decision that a general principle
7 that giving that particular rule its plain and unambiguous
8 meaning, there is no a priori entitlement of the Prosecution to
9 disclosure of Defence statements, witness statements, but that
12:40:42 10 the Court in its discretion and wisdom can exceptionally
11 authorise such disclosure if the Prosecution were to be able to
12 make a prima facie showing of undue or irreparable prejudice.

13 Perhaps what you need to do to satisfy the Bench is to
14 advance your arguments further to tell us how non-disclosure
12:41:15 15 might in fact cause this undue or irreparable prejudice. Perhaps
16 if you are able to do that, then you might persuade the Bench
17 that this is one case where the Court should exercise its
18 discretion to order disclosure of the statement.

19 MR BANGURA: Rightly so, Your Honour. I believe that the
12:41:40 20 Prosecution will be prejudiced in the sense that the Prosecution
21 has not had any opportunity of investigating this fact which the
22 witness has testified to in court. We are confronted with this
23 for the first time and the most --

24 PRESIDING JUDGE: Which fact are we talking about?

12:42:00 25 MR BANGURA: The fact that Hinga Norman was communicating
26 on the satellite phone with President Kabbah and was reporting to
27 President Kabbah that --

28 PRESIDING JUDGE: Were you in court for previous witnesses?

29 MR BANGURA: I have been following the proceedings if not

1 always in court, Your Honour.

2 PRESIDING JUDGE: Because there is a witness who testified
3 to that, a witness called by the Defence, I think, last week. I
4 don't have the name. All I can say to you --

12:42:25 5 JUDGE ITOE: Collier.

6 PRESIDING JUDGE: This is not new, at least not to this
7 Court.

8 MR BANGURA: It is not in itself a new fact that has come
9 before this Court, I agree, Your Honour, but from this witness.

12:42:40 10 PRESIDING JUDGE: Yes, but you're saying because this is a
11 new fact you have been deprived of the ability to investigate. I
12 suggest to you that this fact has been known to you because that
13 very fact of a communication between Norman and President Kabbah
14 has already been testified about in this Court by a witness for
12:42:58 15 the Defence. So if this is your argument that you have been
16 deprived of the ability to investigate that, I say, well, you had
17 the ability to investigate that for more than a week now for
18 sure. That has been disclosed already.

19 MR BANGURA: Your Honours, I take the point that this is
12:43:49 20 not a fact that is entirely new in these proceedings and it is
21 certainly not new for the Prosecution. The circumstances of it
22 as far as this witness is concerned, are what concerns and what
23 we are a bit concerned about. And in light of that,
24 Your Honours, we are bound by the ruling of this Court and it
12:44:14 25 would appear that at this moment in time we may not be able to
26 convince Your Honours much more than I have done about --

27 PRESIDING JUDGE: We have made no ruling yet on your
28 application, unless you have understood my comments to be a
29 ruling.

1 MR BANGURA: Certainly not, it is not understood to be a
2 ruling, but we are bound by what the Court has ruled before. But
3 as a way forward --

4 JUDGE ITOE: You are premising your application on what the
12:44:45 5 Court has ruled before; is that not it?

6 MR BANGURA: Certainly. Your Honours, may I then ask that
7 the Prosecution be given a short opportunity to review our
8 position on this so that we are in a better position to
9 cross-examine the witness.

12:44:57 10 PRESIDING JUDGE: Indeed. It is almost 1 o'clock, so that
11 is a 15-minute adjournment. Just a second, please.

12 We will grant you the 15 minutes, that's a few minutes you
13 have been asking. So rather than adjourn at 1 o'clock, we will
14 adjourn now to 2.30. Will that be sufficient for you to assess
12:45:35 15 your position and see if you want to pursue that or not?

16 MR BANGURA: That should be enough, Your Honour, thank you.

17 PRESIDING JUDGE: In case my comments might have been
18 misread and misinterpreted, and maybe you understood my comments
19 to be a ruling, in case there is any ambiguity in what I may have
12:45:52 20 said, what I said [indiscernible] ^ for the role
21 President Kabbah may or may not have played at the time and I
22 referred to comments and submissions made by your boss, Mr de
23 Silva. I obviously didn't check my notes and I was not making a
24 judgment at that particular moment.

12:46:11 25 MR BANGURA: I take the point, Your Honour.

26 PRESIDING JUDGE: I was relating to facts as I recall them.
27 Certainly there is absolutely no dispute that I am quite clear
28 that there was no dispute that Chief Norman fought for the
29 reinstatement of the legitimate government and that is very clear

1 and undisputed at that particular time. Having said that, you
2 will have the time to look at your arguments and documents and we
3 will come back at 2.30. Thank you very much. Court is
4 adjourned.

12:46:54 5 [Luncheon recess taken at 12.47 p.m.]

6 [CDF19MAY06D - EKD]

7 [Upon resuming at 2.44 p.m.]

8 PRESIDING JUDGE: Mr Prosecutor, we are now back after this
9 lunch recess. You had asked for some time to rethink your
10 position, so can we hear from you now.

11 MR BANGURA: Yes, Your Honour, thank you. Your Honours,
12 the Prosecution has reviewed its position and I would like to
13 canvass an additional argument for the disclosure of the
14 statement of this witness.

14:45:24 15 PRESIDING JUDGE: Go ahead, we are listening to you.

16 MR BANGURA: Thank you, Your Honour. Your Honour, from the
17 point of view of prejudice, even though it is the case that the
18 Prosecution already has knowledge of the fact that there was a
19 telephone communication between Hinga Norman and

14:45:52 20 President Kabbah, Your Honours, the Prosecution is of the view
21 that there still could be prejudice from the point of view of the
22 content of that communication. Your Honours, the witness made a
23 statement and has said in that statement whatever was the content
24 of that communication between what he overheard between

14:46:20 25 Hinga Norman and President Kabbah. He has come to court and we
26 see that there is a variance in the sense that the summary does
27 not say anything about that, and we think that he's says -- from
28 counsel, he says that that statement has something about that.
29 We do not have it. So we are not in a position to --

1 PRESIDING JUDGE: I don't think the counsel has said there
2 is something about that, the conversation, the phone call, the
3 satellite call between Norman and President Kabbah at the time.
4 The Defence has admitted that this is not in the summary. It is
14:47:08 5 in the statement, but not in the summary.

6 MR BANGURA: That is the point I am making, Your Honour.
7 He says that it is in the statement. At this point we are not in
8 a position to be able to ascertain whether in fact what he has
9 said in court is what is contained in that statement. In other
14:47:31 10 words, until the statement is made available to us, we would find
11 ourselves at a difficulty in knowing whether in fact what this
12 witness has said in court is consistent with what he said in the
13 statement.

14 Additionally, Your Honours, we have had two witnesses
14:47:58 15 before this one who have testified to the fact that there was a
16 telephone conversation. It would have been helpful to the
17 Prosecution if we knew the content of what this witness said to
18 be able to in fact ascertain whether what he says is in tandem,
19 is the same or is in line with what the previous witnesses have
14:48:29 20 said as to the content of that conversation. The point here is
21 not as to the fact that there was a conversation, but as to the
22 content of the conversation, and we would not now be in a
23 position to ascertain whether in fact what this witness is
24 alleging was the content of that conversation is in fact what the
14:48:50 25 other witnesses have said.

26 Additionally, Your Honours, there is the question of a
27 wider concern as to the state of the summaries which we have.
28 That concern is this is perhaps the second time that we have had
29 a situation where what is contained in the summary is deficient

1 in some way and we have had some explanation about why this is
2 so. First of all dealing with the statement itself, we do not
3 know whether in fact this is all that there is amiss between the
4 statement and the summary. It could very well be that there may
14:49:42 5 be other issues amiss. The business of this Court is to search
6 for the truth. It is in the interests of justice that
7 Your Lordships might also be interested in knowing whether in
8 fact other matters are there that are missed. This is the second
9 time that we have had this situation.

14:50:03 10 PRESIDING JUDGE: But the purpose of the statement is not
11 to see if there are some other matters that may or may not be
12 contained in the statement, as such. The question is whether or
13 not the witness has testified to matters that have not been
14 disclosed in the summary. If you look at the summary, there are
14:50:22 15 some matters disclosed in the summary that the witness had not
16 testified to. So this is the way it goes.

17 MR BANGURA: Your Honour, I am saying that it may be more
18 than just this situation that we are faced with.

19 JUDGE THOMPSON: But you are not suggesting that you want
14:50:37 20 the statement merely to go on a fishing expedition --

21 MR BANGURA: Certainly not.

22 JUDGE THOMPSON: -- in respect of other matters. The issue
23 now before us is the question of the alleged telephone
24 conversation and the contents between the first accused and the
14:51:02 25 President. It is on that basis that you have moved the Court.
26 It would seem to me that if you say there is broader principle
27 involved here, whether you are entitled to the statement because
28 there may be other matters, then, probably, if we agree with you
29 we drive a horse and coach through our decision that the rules do

1 not require reciprocal disclosure. It might be a way of getting
2 round our decision, because the idea of saying that we have a
3 discretion is that you make a case to justify departure from the
4 strict stipulation of the rule that there is no a priori
14:51:50 5 entitlement on the Prosecution. So I would be very careful not
6 to broaden, otherwise you might, if I can use the language,
7 entrap yourself.

8 MR BANGURA: Your Honour, the argument is being made
9 specifically for this case and, as Your Honours have rightly
14:52:05 10 pointed out, before where there could be such a departure it has
11 got to be on a case-by-case basis and proper reasons would have
12 to be advanced for each case as they arise. This is specifically
13 for this situation which we are faced with at the moment.

14 But I go on to say that in view of the history of this kind
14:52:29 15 of incident, it is of some concern to the Prosecution that we are
16 now beginning to have -- I wouldn't want to say a pattern, but we
17 are now beginning to have situations where what is in the summary
18 is not truly reflecting [Overlapping speakers].

19 JUDGE THOMPSON: In other words, there are some very vital
14:52:55 20 omissions from the summary to which the Prosecution believes that
21 they are entitled by way of disclosure.

22 MR BANGURA: That's the position.

23 JUDGE THOMPSON: That what you're saying. Of course, I am
24 not sure whether we have enough samples before us to join you in
14:53:11 25 concluding that it is becoming systemic. It may be that there
26 may be some lapses in the defence machinery that is responsible
27 for this inadequacy of the summaries. Of course that is
28 something that the Presiding Judge had adverted to. It is just
29 that I am a little worried when you move outside just the

1 specific incident to say that, "Well, maybe" - and when you say
2 maybe that sounds like speculation - "this statement might
3 contain some other thing that we might want to play around with."
4 I will restrain myself.

14:53:52 5 MR BANGURA: Yes, Your Honours, and that wider concern is
6 still there. Perhaps limiting the argument for the disclosure of
7 this statement only to the first point that I canvassed, but the
8 wider concern is perhaps not that all statements be disclosed to
9 the Prosecution, but perhaps that the Defence take another look
14:54:15 10 at this.

11 JUDGE THOMPSON: At what they are doing in terms of that.

12 MR BANGURA: Exactly.

13 JUDGE THOMPSON: That's all right. That could be an
14 injunction to the Defence or an admonition to them.

14:54:26 15 MR BANGURA: And to have some assurance on our part,
16 because we do not want these kinds of hiccups in the proceedings.

17 JUDGE THOMPSON: Right. I will say nothing more.

18 PRESIDING JUDGE: So these are your additional arguments.

19 MR BANGURA: Yes, Your Honour.

14:54:41 20 PRESIDING JUDGE: Dr Jabbi, you wish to -- as we have
21 allowed the Prosecution to enlarge their arguments as such, I
22 think it is just fair that we ask you if you have any further
23 comments in this respect.

24 MR JABBI: Yes, My Lord, just a few observations. First of
14:55:01 25 all, My Lord, the fact of the President having a conversation
26 over the telephone with somebody at Base Zero has indeed occurred
27 previously with other witnesses, but there is no evidence at all
28 that the content of that communication is the same on each
29 occasion. They have been at different times.

1 Secondly, My Lord --

2 PRESIDING JUDGE: Can you explain what you mean by that? I
3 really don't follow you on this. Are you suggesting that we are
4 talking of different conversations, different timings?

14:55:59 5 MR JABBI: When you talk about other witnesses who have
6 said the President spoke to somebody at Base Zero.

7 PRESIDING JUDGE: I would suggest to you it was the first
8 accused that spoke to the President rather than the other way
9 around, but anyhow.

14:56:12 10 MR JABBI: What I am saying is that those conversations are
11 not the same conversation that we are referring to.

12 PRESIDING JUDGE: Then you are supporting the position of
13 the Prosecution that this is the first time they have heard of
14 that conversation.

14:56:25 15 MR JABBI: No, My Lord, this is not the first time that the
16 President has been alleged to have spoken to somebody at
17 Base Zero. All I am saying is that it is the fact of the
18 President talking to somebody, irrespective of the particular
19 content, that has been reproduced on other occasions. The actual
14:56:50 20 content, however, notwithstanding that it may not be the same on
21 each occasion, has been of the same character. That is to say,
22 the President says I am sending so and so and so in way of arms,
23 ammunition or equipment, or other forms of logistics. That is
24 what is common to the various conversations.

14:57:20 25 From that point of view, My Lord, both the fact of the
26 President talking to somebody at Base Zero and the character of
27 the content of each conversation, those are very common, they
28 have occurred frequently, and, above all, the Prosecution has
29 admitted those particular aspects. There was a time here not

1 very long ago in this session when the Chief Prosecutor outlined
2 a series of things that he wants to take as admitted.

3 PRESIDING JUDGE: The provision by the President of arms
4 and ammunition and money and food.

14:58:07 5 MR JABBI: Yes, My Lord. He admitted all that.

6 MR KAMARA: My Lord, I challenge that. I'm sorry,
7 Mr Jabbi. That is mistaking --

8 JUDGE ITOE: That is true.

9 MR KAMARA: I have the transcripts, My Lord.

14:58:17 10 JUDGE ITOE: Those are very specific. Those admissions are
11 specific.

12 MR KAMARA: It was ECOMOG. It was logistics from ECOMOG
13 and not from the President. I have the transcripts, My Lord, and
14 we can revisit them.

14:58:28 15 PRESIDING JUDGE: Transcript of what?

16 MR KAMARA: Of 8th May 2005.

17 PRESIDING JUDGE: Was this during the trial or the status
18 conference?

19 MR KAMARA: This is at the trial, My Lord, when he was
14:58:43 20 cross-examining Mustapha Lumeh. And these are the admissions
21 that my learned friend is referring to and he made concessions as
22 to logistics from ECOMOG, as independent from logistics from the
23 President. That is why I printed the transcript, because I was
24 here and I quite remember.

14:58:56 25 PRESIDING JUDGE: I remember that the Prosecutor himself
26 made that admission at the time. That he admitted that these
27 issues were not in dispute. But I thought that he had also
28 admitted, if not there, at some other time, that they were not
29 disputing the fact that President Kabbah spoke to the Kamajors,

1 spoke to the CDF, and admitted to the fact that he supported them
2 and so on. I don't have that with me here. It may not have been
3 at that time, it may be on some other occasion.

4 MR KAMARA: Even at that time he made concession as to the
14:59:27 5 support for the restoration of democracy and he was grateful.
6 That is what he admitted.

7 PRESIDING JUDGE: That the President was grateful --

8 MR KAMARA: Was grateful to the CDF for what they did for
9 the restoration of democracy and that is different from support
14:59:41 10 for logistics and provision of logistics, My Lord. I may be
11 wrong, but that is the transcript.

12 PRESIDING JUDGE: So you are the Prosecution so you are
13 taking issue -- presumably what you're saying is you are taking
14 issue with this.

14:59:52 15 MR KAMARA: With the representation of what my learned
16 friend Jabbi is proposing to the Court.

17 PRESIDING JUDGE: My question to you is: You are taking
18 issue with the fact that the President has provided ammunition,
19 food and this kind of support, logistics directly or indirectly.
15:00:04 20 It is not a fact that the Prosecution is admitting.

21 MR KAMARA: Yes, My Lord.

22 PRESIDING JUDGE: You are disputing this.

23 MR KAMARA: Yes, My Lord. That the President directly
24 provided these logistics, yes, My Lord.

15:00:17 25 PRESIDING JUDGE: That's fine now. I just want to make
26 sure that there is no misunderstanding as to what your position
27 is in this respect.

28 MR KAMARA: Yes.

29 PRESIDING JUDGE: Dr Jabbi, at least that has clarified my

1 own understanding as to what it was. So I may have
2 misunderstood.

3 MR JABBI: My Lord, I do not have the transcript with me
4 right now but I will want to insist that the Prosecutor conceded
15:00:48 5 support both from ECOMOG and from the President for the Kamajors.
6 If I am given time to bring the transcript, I am sure --

7 JUDGE ITOE: Is that not the same transcript that he has
8 there?

9 MR JABBI: I don't know, My Lord.

15:01:05 10 MR KAMARA: I can let you have it.

11 MR JABBI: I don't know, My Lord.

12 MR KAMARA: 8th May 2005. It's at page 2, 3, 4 and 5; all
13 the admissions he made.

14 PRESIDING JUDGE: As I mentioned to you, Mr Prosecutor, I
15:01:32 15 have that recollection, but maybe my recollection is inadequate
16 in this respect, but I thought this matter had also been raised
17 and discussed quite extensively at one of the status conferences
18 where Mr de Silva was there and I remember him saying, when
19 looking in fact at summaries as such and arguing that he should
15:01:52 20 get statements so he would be better able to make admissions and
21 not dispute certain facts. He went through and admitted some of
22 these and said we are not disputing this and this and that, and
23 my understanding was that had also been one of the issues he
24 would have raised and said, "We are not disputing that." I will
15:02:14 25 have to check the record as well because I don't have that in
26 front of me.

27 MR KAMARA: I will check it.

28 PRESIDING JUDGE: If this is a matter you are disputing, I
29 will not force you to make an admission that is not in your

1 interest to make at this particular moment, absolutely not.

2 MR KAMARA: Thank you, My Lord.

3 PRESIDING JUDGE: Dr Jabbi.

4 JUDGE ITOE: Maybe Dr Jabbi needs some time to read the
15:02:48 5 transcript.

6 MR SESAY: Sorry, My Lords. I recall, My Lords, that on
7 that day that particular witness was examined by me and I recall
8 when he was being re-examined and I brought that issue. I recall
9 rightly Justice Itoe had in fact said to Mr de Silva whether in
15:03:20 10 fact he agrees that the logistics support was not only limited
11 from ECOMOG, but also from the President -- the government,
12 My Lord. There were two phrases used, the President and the
13 government. I recall that he did make reference to that in
14 re-examination. It was a point of clarification, My Lord, when I
15:03:48 15 rose and brought it out to the Court, that whether in fact that
16 could be extended.

17 PRESIDING JUDGE: Mr Sesay, I don't have that recollection.
18 I have to look at the transcript, as I say. I knew matters of
19 that nature had been raised and discussed, but what exactly was
15:04:07 20 said, I will have to look at the transcript. I am unable to
21 ascertain one way or the other at this moment.

22 MR KAMARA: My Lord, he is right as to the aspect of the
23 government and it is in that transcript, but Mr de Silva went on
24 further to mention, as far as the NCC was concerned, that is when
15:04:28 25 the National Co-ordinating Committee was formed. There was
26 obviously logistic support from the government to the CDF and we
27 have led abundant evidence before this Court in relation to that.
28 But at no point in time, as I recall, did the learned Prosecutor
29 make reference specifically that the President directly made

1 provisions of logistic aid.

2 PRESIDING JUDGE: Dr Jabbi, this is an important issue, I
3 agree. But this is not the issue we have deal with at this
4 particular moment. We will look at that later on because,
15:05:12 5 obviously, from I can hear, that would be quite an important
6 issue that will go to the merit of the matter. So we deal with
7 it when we get there. If it is disputed, it is disputed. I am
8 not here to force issues as to admissions. I just want to know
9 now what is your position vis-a-vis the application by the
15:05:32 10 Prosecution about this matter, about the statement of this
11 accused continuing that information of a conversation. You heard
12 a new argument they have presented in this respect saying they
13 are prejudiced now because this is a conversation for which they
14 would like to know and be able canvass the content of that
15:05:51 15 discussion, what the witness is reporting as taking place between
16 Mr Norman and the President at the time on this satellite phone.

17 MR JABBI: My Lord, our position is that the Prosecution
18 has not been prejudiced by the oral evidence given by the
19 witness, notwithstanding that a specific item is not included in
15:06:18 20 the summary. I still maintain the position that, as a matter of
21 fact, the content of that particular item of oral evidence is one
22 of those items admitted by the Prosecution when the learned chief
23 prosecutor made those concessions.

24 For example, My Lord, I read from page 3 of the transcript
15:07:15 25 my learned friend has referred to, lines 17 to 19, which is
26 stated in broad and general terms not specific to ECOMOG. For
27 example, he said, "What may be in dispute is the period, but in
28 general terms there is no dispute about the fact that, indeed,
29 the Kamajors and the CDF received aid from a number of sources,"

1 and ECOMOG is not the only source in that admission.

2 The statement also about blankets to bullets that the
3 learned prosecutor made again brings that general conception of
4 other sources of such aid beyond the aid from ECOMOG. "All
15:08:50 5 things that are necessary for a fighting force," and the
6 Presiding Judge said, "I thank you. I am just trying to make
7 sure there is no loose end in this respect. I didn't understand
8 your comments to be to that effect, but," and then the Prosecutor
9 said, "All things that are necessary for a fighting force,
15:09:17 10 whether it be blankets or bullets."

11 Again, page 4, line 9 to 13:

12 "What may be in dispute and can I make the position clear,
13 is the period when that began, or the time at which that
14 began. So long as I put down that period. I hope, My
15:09:52 15 Lords, I do this to assist the Court so that a lot of
16 evidence in the days to come may be rendered unnecessary."

17 So, My Lords, the point I am making is that the content of
18 the particular item of oral evidence given by the witness this
19 morning which my learned friends on the other side are picking up
15:10:26 20 as the point of prejudice, that point or content is included in
21 the sources of aid to the Kamajor that the prosecutor considered
22 in those admissions. It is certainly not new to the Prosecution,
23 either in the fact of the conversation itself or the general
24 content of what was said. It is of the same character as what
15:11:04 25 has been said to them earlier on.

26 So, My Lord, I really would not want to go beyond that. I
27 don't think there is any prejudice at all and my learned friends
28 are simply engaging in what My Lord Thompson has called a fishing
29 expedition. Thank you, My Lord.

1 PRESIDING JUDGE: Thank you. We will consult for a few
2 minutes on this matter and we will come back right away. Thank
3 you.

4 [Break taken at 3.12 p.m.]

15:28:24 5 [Upon resuming at 3.28 p.m.]

6 MR JABBI: My Lord, just before Your Lordship reports on
7 the deliberations, I just want to say that the Prosecution has
8 been kind enough to produce another page from the transcript of
9 the re-examination of the witness during whose evidence the
15:29:10 10 admissions were made. My Lord, I just want to read lines 3 to 8,
11 for instance, where the Prosecutor said:

12 "It's never been the position of the Prosecution that the
13 CDF and the Kamajors did not get aid in the way in which I
14 have described from a number of sources, be it the
15:29:43 15 government, be it ECOMOG and so on."

16 It's not the position of the Prosecution that there was no
17 aid from a number of sources to the CDF and the Kamajors. Just
18 to add to that --

19 JUDGE ITOE: There was a caveat to that as to the time
15:30:12 20 frames. That is what -- the Prosecutor subordinated that
21 submission to certain time frames as to when that admission was
22 valid. He did not admit that at all material times the Kamajors
23 received aid, supplies or whatever from various sources. He
24 didn't say at all material times. He said there is an admission
15:30:53 25 that the Kamajors received these logistics, from government or
26 from whatever. But he added and said he was making this
27 concession on condition that it is understood that he was
28 limiting it to certain time frames as to when this admission
29 should apply.

1 MR JABBI: The time frame in question, My Lord, was from --

2 JUDGE ITOE: He did not even indicate the time frames.

3 MR JABBI: But the relevant time frame under discussion at
4 the time was the period following the 1997 coup up to the time
15:31:36 5 ECOMOG and the Kamajors took various parts of the country from
6 the juntas. My Lord, I just wanted to give this additional
7 information.

8 PRESIDING JUDGE: Thank you, Dr Jabbi. This is the ruling
9 of the Court having deliberated on the matter of disclosure to
15:32:04 10 the Prosecution of a statement made by this witness to the
11 Defence. We rule that the statement in question should be
12 disclosed and shall be disclosed to the Prosecution for the
13 limited purpose of allowing the Prosecution to cross-examine this
14 witness as to credibility and, therefore, the statement shall be
15:32:33 15 disclosed.

16 We have repeatedly stated in the past that when matters --
17 the Defence was allowed and we ruled the Defence had an
18 obligation to disclose statements and that we reserve the
19 discretion to allow that disclosure should the case be made for
15:32:53 20 it, and we have concluded that in those circumstances it should
21 be disclosed. But we add, as well, that we have not found that
22 the Defence was systematically acting in such a way that the
23 Prosecution was prejudiced. There is no systematic failure on
24 the part of the Defence, but obviously in this case here,
15:33:18 25 probably a lack of diligence in the redaction of the summary, and
26 that may cause some prejudice to the Prosecution, therefore, we
27 allow the statement to be disclosed.

28 Dr Jabbi, do you have a copy of that statement available
29 for the Prosecution?

1 MR JABBI: Yes, My Lord.
2 PRESIDING JUDGE: A clean copy?
3 MR JABBI: Yes, My Lord.
4 JUDGE ITOE: For the Bench as well?
15:33:46 5 MR JABBI: My Lord, we will make copies.
6 PRESIDING JUDGE: How much time do you need for that?
7 MR JABBI: I am sure it can be done in 10 minutes, My Lord.
8 PRESIDING JUDGE: Thank you. I would like to know from the
9 Prosecution in 10 minutes if you are ready to proceed with the
15:34:05 10 cross-examination? We would like to be able to finish with the
11 witness today, if we can.
12 MR BANGURA: We will do our utmost. We do not know the
13 length of the statement as yet. In any case, we should be able
14 to go on with the cross-examination and, if possible, complete
15:34:21 15 today.
16 PRESIDING JUDGE: Because you do have, I would imagine,
17 quite a lot of knowledge of what the witness is saying because
18 you have the summary. It is only a few issues that have been in
19 dispute.
15:34:35 20 MR BANGURA: Yes, Your Honour. In fact, I am in a position
21 to go on with the cross-examination save for that portion of it
22 that relates to this statement.
23 PRESIDING JUDGE: Very well. The Court will adjourn for 10
24 minutes so this exchange of documents could be made and we will
15:34:50 25 come back for the continuation of your cross-examination.
26 [Break taken at 3.35 p.m.]
27 [CDF19MAY06E - SV]
28 [Upon resuming at 4.07 p.m.]
29 PRESIDING JUDGE: Mr Bangura, you're ready to proceed.

1 MR BANGURA: Yes, Your Honour.
2 PRESIDING JUDGE: Can we have the witness, please.
3 [The witness entered court]
4 PRESIDING JUDGE: Thank you, Mr Witness. Mr Prosecutor.
16:10:50 5 MR BANGURA:
6 Q. Good afternoon, Mr Witness.
7 A. Yes, good afternoon, father.
8 Q. Mr Witness, in your testimony in chief you said that at an
9 early stage during the war yourself and other persons from your
16:11:17 10 chiefdom were screened for purposes of being selected for
11 fighting; is that correct?
12 A. Yes.
13 Q. What was the purpose of the screening?
14 A. Well, according to the rules for the initiation.
16:12:07 15 MR BANGURA: Is that a complete sentence?
16 PRESIDING JUDGE: I don't know, ask the witness.
17 MR BANGURA:
18 Q. That day screening was according to the rules of
19 initiation; is that what you're saying, Mr Witness?
16:12:21 20 A. One would be screened to know if you were disciplined.
21 That was the reason for the screening.
22 Q. Did the screening process have anything to do with age
23 factor? Did the screening process consider the ages of you, the
24 volunteers, you the persons who were going to be selected?
16:12:53 25 A. Yes, they would ask your parents.
26 Q. And it would include persons of all ages; is that correct?
27 A. No.
28 Q. Thank you, Mr Witness. Mr Witness, you have said that
29 after the soldiers took over you went into hiding, and after that

1 you came back from hiding when you were called by your brother
2 Vandí Songo; is that correct?
3 A. Yes.
4 Q. Now when you came back from hiding, you then went to a
16:14:18 5 meeting, you were invited to go to a meeting?
6 A. I was invited to go to a meeting?
7 Q. A meeting with BJK Sei. You were supposed to be going to a
8 meeting with BJK Sei; is that correct?
9 A. When they took me I said I asked for -- I asked that they
16:14:47 10 call BJK and others to come.
11 Q. The meeting did not go on because they were not there?
12 A. Yes. When they called me I said they should call him so
13 all of us would be there.
14 Q. And why did you consider that he should be there?
16:15:15 15 A. In that for our chiefdom he was our leader.
16 PRESIDING JUDGE: Mr Prosecutor, can you assist me to
17 follow you on this? What meeting are we talking about here?
18 MR BANGURA: Your Honours, after the takeover -- after the
19 soldiers took over he said he went into hiding and then he was
16:15:46 20 sought by his friend, Vandí Songo, who invited him to a meeting.
21 The meeting was supposed to be with BJK Sei and somebody else, I
22 think it was Musa Junisa.
23 PRESIDING JUDGE: Thank you.
24 MR BANGURA:
16:16:07 25 Q. BJK Sei, Musa Junisa and Orinko Musa were all your bosses;
26 is that correct?
27 A. Yes, at that time.
28 Q. To which one of these did you answer directly?
29 A. BJK Sei and Orinko. Both of them.

1 Q. According to your evidence Orinko was junior to BJK Sei; is
2 that correct?

3 A. Yes, at that time. At that time he was senior for him,
4 according to what I knew.

16:17:07 5 Q. What about Musa Junisa? What was his position in relation
6 to these other two?

7 A. Musa Junisa as well at that time. The same position that
8 BJK held was the same he also had in his own chiefdom, Dodo, Dodo
9 Chiefdom.

16:17:34 10 Q. Mr Witness, you reported to Musa Orinko and Musa Orinko
11 would report to BJK Sei; is that correct?

12 A. Yes, if BJK were not around I would report to him. But if
13 BJK was around I would report to him directly. They were both my
14 seniors.

16:18:04 15 Q. And you know that BJK Sei would report to somebody else
16 about the war, about what was going on. He had a boss.

17 A. At that time to my knowledge, when I was going to the bush,
18 he would report to the civil defence committee. There was a
19 council there.

16:18:38 20 Q. Mr Witness, you went to Base Zero along with some of your
21 brothers in arms; correct?

22 A. Yes.

23 Q. And this was at a time when fighting was already going on
24 in Tongo; is that correct?

16:19:04 25 A. In Tongo itself, no.

26 Q. Is it not your evidence that you were at Base Zero for
27 seven days? Is that not your evidence?

28 A. That was what I testified to.

29 Q. Is it also not your evidence that by the time you came back

1 to Tongo, Tongo had been taken by Kamajors? Is that not your
2 evidence?

3 A. Yes. Even before I stepped there, I had met the place had
4 been taken by the Kamajors.

16:19:54 5 Q. Why did you have to go to Tongo? I'm sorry, Base Zero.
6 Why did you have to go to Base Zero? I'm sorry, my mistake.

7 A. I said just now, I said.

8 Q. Go on, please.

9 A. We were there when the junta sent choppers that wherever
16:20:29 10 Kamajors were they were bombing the places.

11 Q. And are you saying that at that time there was no fighting
12 going on around Tongo?

13 A. Around Tongo there was fighting. You asked me about inside
14 of Tongo and there was no fighting inside of Tongo, but around
16:20:58 15 Tongo.

16 Q. The question was around Tongo, not inside?

17 A. At that time.

18 Q. At the time.

19 A. I did not hear it clearly because I understood it to be
16:21:07 20 inside of Tongo. Around Tongo there was fighting.

21 Q. So in what parts around Tongo was there fighting at this
22 time?

23 A. There was fighting in Wima.

24 Q. And where else?

16:21:28 25 A. Yes.

26 Q. Where else?

27 A. From the Kono end.

28 Q. Apart from taking back to Base Zero the report that
29 helicopters were bombing your positions, was there another

1 reason, or any other reason, for going to Base Zero?

2 A. Yes, there was a reason.

3 Q. What was that reason?

4 A. We went there -- because of the way they were treating us,
16:22:21 5 we said we were going to complain them to our own brother and our
6 elder, our senior, who had gone there.

7 Q. Who was this senior that you were going to complain to?

8 A. Mohamed Musa Orinko.

9 Q. You knew that at the time Mohamed Musa Orinko also had
16:22:47 10 somebody at Base Zero to whom he was answerable; is that correct?

11 A. No, I didn't investigate that and, yes, I can say it was
12 the War Council.

13 Q. You knew that in addition to the War Council there were
14 other persons at Base Zero whom Mohamed Orinko Musa was
16:23:21 15 answerable to?

16 A. No. Besides the War Council, I don't know.

17 Q. Mr Witness, is it the case that you also were going to Base
18 Zero to request some support, some assistance, to come and be
19 able to fight against the soldiers?

16:23:56 20 A. When we went to BJK, they said Musa Orinko is there, go and
21 report to him. When we reported to him, that was when he did
22 that.

23 Q. So BJK said go to Musa Orinko whom he regarded as the
24 person to whom he would report; is that correct? This is
16:24:22 25 restating what you have just said.

26 A. If he was reporting to him?

27 Q. You've said, this is your evidence just now -- you've said
28 Musa Orinko -- BJK Sei told you to go to Base Zero to go and
29 report this situation to Musa Orinko?

1 A. Yes.

2 Q. My suggestion to you is that this was because BJK Sei was
3 answerable to Musa Orinko; is that not the case?

4 A. No, they were working -- they were both working. But if he
16:25:10 5 had gone down the river and he was not there, and he asked us to
6 go down to him and we should report to him, then we have to do
7 it.

8 Q. I put it to you, Mr Witness, that you know that in fact
9 Musa Orinko was answerable to Hinga Norman at Base Zero?

16:25:38 10 A. I didn't know. According to what Musa Orinko told me, it
11 was the War Council. That was what he told me at the time that I
12 was there.

13 Q. Now you said you arrived at Base Zero --

14 JUDGE ITOE: Please wait.

16:25:53 15 MR BANGURA: I'm sorry.

16 JUDGE ITOE: Yes.

17 MR BANGURA:

18 Q. You say you arrived at Base Zero and made your report to
19 Musa Orinko. Did you make a report to anybody else apart from
16:26:37 20 Musa Orinko?

21 JUDGE ITOE: A report on what?

22 MR BANGURA: I'll get the witness to answer, Your Honour.

23 Q. You say you went to Base Zero to report that the soldiers
24 were bombing your positions; is that correct?

16:27:03 25 A. Yes, I went and explained to Musa Orinko.

26 Q. Did you explain this or make this report to anybody else?

27 A. No, I went and explained to my own boss and that was what
28 we used to do. Whosoever would be your leader, whenever anything
29 happened, you would have to explain to him.

1 Q. Now when you made this report to Orinko, you said he made
2 this report to the War Council in your presence; is that correct?
3 A. No, I wasn't there.

4 Q. Do you know to whom Musa Orinko made -- do you know whether
16:27:50 5 he made this report to any other body, any other person?
6 A. No, he told me that he had gone to Talia to the War
7 Council. If he told any other person, I can't explain how.

8 Q. You were at Base Zero for seven days. Did you get to meet
9 Mr Norman during that period?
16:28:18 10 A. Yes.

11 Q. Apart from the instance where you allege that he was
12 speaking on the phone with President Kabbah, did you meet with
13 Mr Norman on any other occasion?
14 A. Yes, I used to see him there.

16:28:47 15 Q. In what circumstances?
16 A. If you are in the town with a person and both of you are in
17 the same town, you would see him.

18 Q. Do you know that Mr Norman was the co-ordinator of the CDF
19 at that time, national co-ordinator? You knew that; is that
16:29:16 20 right?
21 A. When I was at Base Zero?
22 Q. Yes.
23 A. No, no, no, I didn't know that at the time I was at Base
24 Zero. In fact, I wanted to return to my hometown immediately.

16:29:30 25 Q. What position did you know that Mr Norman was holding while
26 he was at Base Zero at that time?
27 A. Regarding the war, he was the deputy to Mr Kabbah.
28 Q. At the time we are talking about, Mr Kabbah was not at Base
29 Zero; is that correct?

1 A. Yes, he wasn't there.

2 Q. So if we go by what you're saying, in the absence of
3 Mr Kabbah, he would have been the boss at Base Zero; is that
4 correct?

16:30:26 5 A. That one that you've asked me, you said if I knew of any
6 position that he held. I said yes, he was the deputy defence
7 minister. That is what I knew.

8 Q. Mr Witness, the question is: going by your statement, in
9 the absence of President Kabbah at Base Zero, Hinga Norman was
16:30:45 10 the boss there when you got there. Do you agree with me?

11 A. Politically?

12 Q. It's a simple question, Mr Witness.

13 A. That's why I also want to answer it.

14 Q. At the time that you went to Base Zero there was nobody
16:31:11 15 there more senior to Mr Norman; is that correct?

16 A. Politically by the side of the government?

17 Q. Mr Witness, is it yes or no?

18 A. No, you can't just spoon-feed me and I say yes.

19 JUDGE ITOE: Your question, Mr Prosecutor, is: President
16:31:49 20 Kabbah was not in Base Zero in his absence? That, as such, was
21 the way you formulated the question.

22 MR BANGURA: And I reformulated again.

23 JUDGE ITOE: Go back to the original version of your
24 question.

16:32:10 25 MR BANGURA:

26 Q. Mr Witness, you have said that you know that President
27 Kabbah is the boss to whom Hinga Norman answers; is that correct?

28 A. Yes.

29 Q. At the time you went to Base Zero President Kabbah was not

1 there, was he?

2 A. He wasn't there. I didn't see him there.

3 Q. I suggest to you that at the time you went to Base Zero,
4 Hinga Norman was the most senior person there?

16:32:54 5 A. Politically. Politically, I know. Because he was the
6 deputy defence minister. Politically.

7 Q. Thank you, Mr Witness, you may qualify the answer. The
8 answer, I take it, is that he was the most senior person at Base
9 Zero at the time?

16:33:14 10 A. Politically. Politically.

11 Q. Thank you, Mr Witness. Do you agree with me, Mr Witness,
12 that if he was the most senior person there at Base Zero, then he
13 would be informed, or he should be informed about matters that
14 were going on about the war? He should be informed?

16:33:48 15 A. You have said it was supposed to be like that. But what I
16 know, I said I gave my own report to Musa Orinko. You are saying
17 it was supposed to have been like that. You know it better.

18 Q. I suggest to you that the report which you took to Base
19 Zero was in fact made to Mr Norman.

16:34:21 20 A. Well, that is not my own concern. I gave it to my own
21 boss, and he told me that he took it to the War Council and I
22 knew that War Council was there.

23 Q. Mr Witness, you have said that while you were at Base
24 Zero -- apart from reporting about the helicopter bombing your
16:34:46 25 positions, I had suggested to you before that you also went to
26 Base Zero for some other reason; is that correct?

27 A. The reason I went for, I went to report this thing to our
28 brother Musa Orinko. He was there. That was the only reason I
29 went there. It was not for any other reason.

1 Q. I suggest to you, Mr Witness, that in fact the main reason
2 for going to Base Zero was to go and request arms and ammunition
3 to be in a position to fight in Tongo?

4 A. I, my leader, BJK Sei, said, "Now that you have come with
16:35:39 5 this report, go and give the same report to Musa Orinko," and I
6 reported the same thing to Musa Orinko and he said, "Well, let me
7 say this to the War Council as well." He was wiser than I was
8 and he was my boss.

9 Q. Mr Witness, before you left for Base Zero, there had been
16:36:04 10 attempts by the Kamajors to attack Tongo at least twice; is that
11 correct?

12 A. If that happened, it could have been in my absence.

13 Q. Are you not aware that Kamajors had attempted to -- had
14 attacked Tongo twice and had failed to take Tongo before you left
16:36:42 15 for Base Zero?

16 A. I was not present for that arrangement. If they ever made
17 such arrangement that let's meet together and attack Tongo
18 tomorrow, I was not there.

19 JUDGE ITOE: It's not that you were present, all right? Do
16:37:08 20 you know that Tongo had been attacked twice? It is not that you
21 were present. Do you know that it was attacked twice?

22 THE WITNESS: At the time I was there, I said no.

23 JUDGE ITOE: In fact, you do not know that Tongo was
24 attacked twice; that is what you're saying.

16:37:42 25 THE WITNESS: In my presence, no.

26 PRESIDING JUDGE: Not in your presence, whether you knew of
27 it, whether somebody told you, you read about it.

28 THE WITNESS: I said I didn't know about it.

29 JUDGE THOMPSON: Dr Jabbi, perhaps you can advise your

1 witness. He's developing a very aggressive posture by the tone
2 of his voice. Tell him it's not a confrontational exercise.

3 MR JABBI: Mr Witness, was that interpreted to you what
4 His Lordship said just now?

16:38:24 5 THE WITNESS: Yes, I heard it.

6 MR JABBI: Just give your answers calmly. Don't assume
7 that there is any confrontation. Give answers as you know them;
8 okay?

9 THE WITNESS: Okay.

16:38:47 10 MR JABBI: As calmly as possible.

11 THE WITNESS: Okay.

12 MR JABBI: But as firmly as you know how to do it.

13 THE WITNESS: Okay.

14 JUDGE THOMPSON: I like that compromise, Dr Jabbi.

16:39:10 15 MR BANGURA:

16 Q. Mr Witness, going back to your earlier testimony --

17 JUDGE ITOE: I'm not clear about the reply that this
18 witness has given to the question about the two attacks. I want
19 him to be clear on those two attacks. Please, I want to be clear
16:39:36 20 on my records.

21 MR BANGURA:

22 Q. Mr Witness, I again suggest to you that at the time you
23 left Tongo to go to Base Zero, by that time when you were leaving
24 there had been two attacks on Tongo by Kamajors and those two
16:39:52 25 attacks were unsuccessful.

26 A. I am saying this. I said I neither heard it nor was I
27 present.

28 Q. Now I take you back, Mr Witness. In your earlier testimony
29 you said that you were called from your hiding. After the coup

1 you went into hiding and you were called from your hiding by your
2 brother in arms, Vandi Songo; is that correct?

3 A. Yes.

4 Q. And from the moment you came out of hiding, up until the
16:40:37 5 time you left Tongo to go to Base Zero, you left the Tongo axis
6 to go to Base Zero, you were within that area, you were operating
7 within that area; is that correct?

8 A. Yes.

9 Q. You had in fact been involved in fighting in Panguma; is
16:41:08 10 that correct?

11 A. Yes.

12 Q. You had also been involved in fighting in, I believe,
13 Talama, around Talama; is that correct?

14 A. No, I did not go on the fight to Talama.

16:41:30 15 Q. Apart from Panguma, which other areas around Tongo had you
16 been involved in fighting during that period?

17 A. I went to Kamboma.

18 Q. You had fought at Kamboma?

19 A. Yes.

16:41:50 20 Q. And you say that up until the time you left the Tongo area
21 to go to Base Zero you were within that area basically; correct?

22 A. Yes, but I was not inside of Panguma.

23 Q. Within that area, Mr Witness, you will agree with me that
24 the main focus of the Kamajors was to take Tongo, Tongo being the
16:42:26 25 big town in that area -- which was a big town in that area. The
26 focus was generally to take Tongo. Is that correct?

27 A. Yes, we had it in your mind. It was our home town. But I
28 wasn't there when the plan was made to go there.

29 Q. You want this Court to believe that up until the time you

1 left to go to Base Zero you were not aware that Kamajors had made
2 two attempts to take Tongo? You want this Court to believe that?

3 A. I, at the time that I was there, I said no.

4 Q. What position did you hold as a Kamajor in that area? Were
16:43:23 5 you a commander or patrol commander or what were you?

6 PRESIDING JUDGE: At that time, you mean?

7 MR BANGURA: Yes, at that time.

8 THE WITNESS: When I came to Panguma?

9 MR BANGURA:

16:43:38 10 Q. What position did you hold?

11 A. I was a patrol commander.

12 Q. At your level as a patrol commander, the person next to you
13 would be what rank? Would you like to help the Court with the
14 rank of the person next to you?

16:44:05 15 MR JABBI: My Lord, for clarity can my learned friend
16 specify what direction, upwards or downwards?

17 PRESIDING JUDGE: I thought he said above him.

18 MR BANGURA: Above him. I was referring to levels above
19 him.

16:44:26 20 Q. So who would be your senior -- the person next to you in
21 seniority?

22 A. The person who was our leader in the chiefdom.

23 Q. So what rank would he carry? You were patrol commander,
24 what would be his rank?

16:44:53 25 A. The person was the Kamajor chief. He was in charge of all
26 of us, the Kamajors.

27 Q. And what area was that that he covered where you were?

28 A. He was in charge of that chiefdom, Lower Bambara.

29 Q. I suggest to you that you heard information about these

1 attacks on Tongo?

2 A. No, I said that did not happen in my presence.

3 Q. Let me take you back to Base Zero, Mr Witness. You said
4 earlier that you were appointed at Base Zero as -- what was the
16:45:55 5 position you were appointed to? You had an appointment, a
6 promotion --

7 JUDGE ITOE: Director of war. Director of war of Kailahun,
8 was it?

9 MR BANGURA:

16:46:09 10 Q. Was it director of war?

11 JUDGE ITOE: Of Kailahun?

12 THE WITNESS: Yes.

13 MR BANGURA:

14 Q. And you say that this appointment was made by the War
16:46:22 15 Council?

16 A. Yes.

17 Q. How was the appointment made?

18 A. As I explained, when I went the War Council said if I went
19 back I should pass through Bunumbu and if I went to Bunumbu they
16:46:52 20 gave me that appointment.

21 Q. Are you aware that, in fact, at the time you state you were
22 appointed by the War Council there were other appointments made
23 by Hinga Norman at Base Zero?

24 A. No, I did not go for that.

16:47:14 25 Q. I am suggesting to you that your appointment was made by
26 Hinga Norman at Base Zero.

27 A. That is what you've thought, but that is not what happened
28 to me.

29 MR BANGURA: Your Honours, may the witness be shown

1 Exhibit 59 and Exhibit 10, if it's available, please.

2 JUDGE THOMPSON: In what sequence, 59 first and then 10?

3 MR BANGURA: Yes, Your Honour.

4 Q. Mr Witness, you have been shown two documents, but I want
16:50:34 5 us to start with the one marked Exhibit 59 first. Have you had
6 an opportunity to look at it carefully?

7 A. I am just seeing it.

8 Q. Can you read it?

9 A. No.

16:51:13 10 Q. Are you saying that you are not literate?

11 PRESIDING JUDGE: He has testified that he does not speak
12 English. So one would assume that would mean he may not be able
13 to read English either. Ask him the question.

14 JUDGE ITOE: But on this statement here: "Languages
16:51:38 15 spoken: Mende, Krio, English language."

16 MR BANGURA: Thank you, Your Honour. I was just going to
17 point that out.

18 PRESIDING JUDGE: Well, ask him the question.

19 MR BANGURA:

16:51:58 20 Q. Mr Witness, do you still maintain that you are not
21 literate?

22 A. Well, the level of my education is not up to this sort of
23 document that is in front of me now.

24 Q. [Overlapping speakers]?

16:52:24 25 A. I stopped at Class 2.

26 Q. But at that level you are able to sign your name; is that
27 correct?

28 A. Yes, that one, you will know how to sign, yes. You can
29 even sign in Mende.

1 Q. Have you signed here in Mende? You know the statement you
2 made to the Prosecutors? Have you signed there in Mende?

3 A. The Prosecutors?

4 Q. To the Defence, I'm sorry. You made a statement to your
16:53:10 5 lawyers, the Defence. You said the statement could be signed in
6 Mende. Did you sign that in Mende?

7 A. I want him to listen to me clearly what I said.

8 Q. It's a simple question, Mr Witness. You said you could
9 sign in Mende. Did you sign this statement in Mende?

16:53:31 10 A. I did not say myself. I said one would even sign in Mende.
11 I did not say myself.

12 Q. Do you speak English? Do you understand English?

13 A. No.

14 Q. Thank you, Mr Witness. Mr Witness, the document I was
16:54:03 15 referring you to, the first one, is a letter of appointment by
16 Hinga Norman and it is copied to the War Council and it is an
17 appointment of Moinina Fofana as director of war and operations.
18 Do you agree with me that's the document that is before you, the
19 first one that you've been looking at?

16:54:46 20 PRESIDING JUDGE: If he agrees with you as to what?

21 MR BANGURA: That this is a letter of appointment by Hinga
22 Norman of Moinina Fofana as director of war.

23 PRESIDING JUDGE: How can he agree to you? I don't know
24 how you can ask him that question. He tells you he does not read
16:55:07 25 English.

26 MR BANGURA:

27 Q. I am putting it to you, Mr Witness, that that document
28 before you is a letter of appointment by Hinga Norman of Moinina
29 Fofana as director of war. You could agree or disagree.

1 A. How can I agree or disagree? You said you gave it to
2 Mr Moinina Fofana, not me.
3 Q. What is your answer, Mr Witness?
4 A. I said you said you gave it to Mr Moinina Fofana, not me.
16:55:49 5 You didn't give it to me.
6 Q. Thank you, Mr Witness. Could you look at the next document
7 that has been given you?
8 A. I have seen them. The document is in front of me.
9 Q. The second one is also a letter of appointment signed by
16:56:08 10 Hinga Norman to Joe Gassimu Tamidey?
11 PRESIDING JUDGE: This is Exhibit 10 you're making
12 reference to?
13 MR BANGURA: Yes, Your Honour, it is Exhibit 10.
14 Q. That appointment was made at Base Zero by Hinga Norman?
16:56:37 15 PRESIDING JUDGE: So what's your question?
16 MR BANGURA:
17 Q. Do you agree with me that that is the document that is
18 before you?
19 A. All that I know is it's a document.
16:56:54 20 Q. Mr Witness, the reason I've shown you these documents is to
21 bring to you the fact that appointments were made at Base Zero by
22 Hinga Norman about this time that you said you were appointed by
23 the War Council?
24 A. I said what we saw and what we heard was, that's what I saw
16:57:22 25 and --
26 THE INTERPRETER: Your Honours, may the witness go over his
27 answers. He's going too fast.
28 PRESIDING JUDGE: Slowly. We need to hear what you say and
29 it needs to be translated. So now take your last answer slowly,

1 please.

2 THE WITNESS: I said the position that was given to me was
3 given to me by War Council and I was there just for a week and I
4 left the place. You said today that when we come here, what we
16:58:00 5 saw and what happened was what we were supposed to talk about.
6 What happened in my presence and happened to me is what I have
7 said already.

8 MR BANGURA:

9 Q. Mr Witness, you are not answering my question.

16:58:15 10 PRESIDING JUDGE: Don't speak too loudly, Mr Witness.
11 We're able to hear you, you know. Keep it quiet.

12 MR BANGURA:

13 Q. Mr Witness, you are not answering my question.

14 A. Okay.

16:58:24 15 Q. I put it again that at the time you say you were appointed
16 by the War Council at Base Zero, in fact, Mr Norman was in fact
17 the person who was making appointments at Base Zero, not the War
18 Council?

19 PRESIDING JUDGE: So your question is: do you agree --

16:58:48 20 THE WITNESS: The War Council gave mine.

21 PRESIDING JUDGE: Mr Witness, listen to the question
22 carefully, please. Ask your question again, and all you have to
23 say is: do you agree or disagree? Go ahead, please.

24 MR BANGURA:

16:59:04 25 Q. Now how did War Council come to give you this appointment.
26 How did they issue this appointment upon you?

27 A. I explained it.

28 Q. Were you invited by the War Council? Just let us know in
29 what circumstances it was actually given.

1 A. When I arrived at Base Zero they called me.
2 Q. Were you called up alone for this honour which was bestowed
3 on you? Were you called up alone? Were you the only person?
4 A. When we were at Base Zero?
16:59:49 5 Q. Yes.
6 A. Yes, I was called and appointed.
7 Q. Were you the only person whom the War Council appointed?
8 A. No.
9 Q. Who else did the War Council appoint?
17:00:09 10 A. They appointed Vandi Songo.
11 Q. Who else?
12 A. And Mr Jambawai.
13 Q. Would it surprise you to know that the appointment of
14 Jambawai was by Hinga Norman?
17:00:36 15 A. I don't know.
16 Q. You have said that he was one of those who was appointed
17 that day along with you, but I am suggesting to you, in fact, he
18 was appointed by Hinga Norman. Do you agree?
19 A. I don't know.
17:00:58 20 Q. Mr Witness, you have testified that while you were at Base
21 Zero you were present once when Hinga Norman was speaking on the
22 phone with President Kabbah; correct?
23 A. Yes.
24 Q. Now would you like to describe the telephone which Hinga
17:01:24 25 Norman was using for this purpose?
26 A. Yes.
27 Q. What did it look like?
28 A. It's a thing that they would put and they would open it.
29 Q. Did it have a handset like something you can hold by your

1 head and speak into?

2 A. I saw him sitting just by it, talking into it.

3 Q. Could you hear what was being said from the radio? He was
4 speaking into it, but could you hear what was being said from the

17:02:14 5 radio?

6 A. [No interpretation]

7 Q. What language was Mr Norman speaking in?

8 A. He was talking in Krio.

9 Q. Was it Mr Norman who made the call or was it a call that
17:02:43 10 came through on the radio?

11 A. Mr Norman made the call.

12 Q. Would it surprise you that President Kabbah would not
13 communicate with his ministers in any other language than
14 English?

17:03:06 15 JUDGE ITOE: No, I want to deny that.

16 JUDGE THOMPSON: I want to join my colleague and say highly
17 controversial.

18 JUDGE ITOE: Highly controversial. I know that Krio is
19 very much a conventional language in this country.

17:03:25 20 MR BANGURA: I'll rephrase, Your Honour.

21 JUDGE ITOE: I am sure even in cabinet meetings. I can't
22 rule out the fact that certain reports may even be presented in
23 Krio. Why not? I don't know whether it is constitutionally --

24 MR BANGURA: Your Honours, I will not go into that.

17:03:48 25 Q. Mr Witness, you were not part of this meeting. When I say
26 meeting here, the parties sitting there at the time. You merely
27 happened to be around when this conversation was going on; is
28 that correct?

29 PRESIDING JUDGE: What do you mean by parties sitting

1 around? I thought we had only one party here, Mr Norman.

2 MR BANGURA: I may need to --

3 JUDGE ITOE: With him sitting there.

4 MR BANGURA: I may need to get back to that but it would
17:04:14 5 seem to me like it was not just the two of them.

6 PRESIDING JUDGE: I don't know. You're putting that to the
7 witness. I just want to make sure that what you put to him is
8 not misleading.

9 JUDGE THOMPSON: I'm sure you're reading from the -- you're
17:04:27 10 looking at the document.

11 MR BANGURA: No, Your Honour. I was actually -- it's just
12 a vague recollection.

13 JUDGE THOMPSON: It may well be the document supports what
14 you're saying.

17:04:39 15 MR BANGURA:

16 Q. Who was with Mr Norman at this time that he was having this
17 call?

18 A. His name is Prince Brima.

19 Q. Was anybody else present?

17:05:05 20 A. Even if another person was there, I don't know about the
21 person.

22 JUDGE ITOE: [Overlapping speakers] Mr Witness, don't say
23 even if you were there. Even if another person was there you
24 wouldn't -- how would you say "even if". There was Prince Brima;
17:05:22 25 there was Hinga Norman. Was there any other person there?

26 THE WITNESS: It's a long time now. I can't remember now.

27 MR BANGURA:

28 Q. Let me suggest to you, Mr Witness, the reason you say you
29 can't remember is because there were no other persons there, just

1 Prince Brima and Hinga Norman. Because you cannot remember any
2 other person being there at that time. It was just Prince Brima
3 and Hinga Norman. I'm suggesting to you.

4 A. You have said so.

17:06:03 5 Q. Do you agree or do you disagree?

6 A. Those are the ones that I saw.

7 Q. You were not part of that company. You were not actually
8 sitting there with Prince Brima and Hinga Norman.

9 A. I was sitting, listening. That's why I said I heard.

17:06:33 10 Q. Mr Witness, do you know Foindu Junction?

11 A. No.

12 Q. Have you been a patrol commander outside -- you say you
13 come from Jimboma [sic]; is that correct?

14 A. Yes.

17:07:12 15 Q. Foindu Junction, I suggest to you, is not very far from
16 Tongo.

17 A. But I don't know Foindu Junction there.

18 Q. And you have never been a patrol commander at any place
19 called Foindu Junction?

17:07:40 20 A. Yes.

21 Q. Mr Witness, you arrived in Tongo after it had been
22 captured; correct?

23 A. Yes.

24 Q. And you arrived there on the day it was captured ; correct?

17:08:13 25 A. No.

26 Q. Did you tell the investigators for the Defence that it was
27 on the second day that you arrived there?

28 A. Yes.

29 Q. Would you be surprised that it doesn't appear at all in

1 your statement, that you arrived there on the second day?

2 A. But that is what I said.

3 Q. I am saying it does not appear in your statement that you
4 arrived there on the second day. Does that surprise you?

17:09:10 5 MR SESAY: My Lord, may I object to that question.

6 My Lord, it is in the statement. My Lord, at page 10. "The
7 following day after the fall of Tongo to our men I went to Tongo
8 and upon my arrival." It is there, My Lord.

9 MR BANGURA: I'm sorry, it may be with the haste with which
17:09:55 10 I read this document before. I'm sorry about that. I do
11 apologise to my learned friend.

12 PRESIDING JUDGE: Thank you, Mr Prosecutor.

13 MR BANGURA:

14 Q. Mr Witness, when you got to Tongo on the second day there
17:10:15 15 had been fighting. What was the situation that you found in
16 Tongo at that day?

17 A. When I arrived there, thanks be to God.

18 Q. The Kamajors were patrolling the streets of Tongo; is that
19 correct?

17:10:47 20 A. Yes.

21 Q. Did you see civilians in Tongo when you got there that day?

22 A. Yes, yes.

23 Q. Did you go to the NDMC headquarters at Tongo on that day?

24 A. Yes.

17:11:14 25 Q. And you met civilians there; is that correct?

26 A. Yes.

27 Q. How many civilians did you meet at the headquarters on that
28 day?

29 A. No, I couldn't count them.

- 1 Q. Were there many?
- 2 A. Yes.
- 3 Q. They were gathered there?
- 4 A. Yes, they were there.
- 17:11:40 5 Q. Were there Kamajors there?
- 6 A. Yes.
- 7 Q. And these Kamajors were -- what were they doing, basically?
- 8 A. They went and they were there. They were sitting down
- 9 there.
- 17:12:03 10 Q. They were armed Kamajors; is that not so?
- 11 A. Yes.
- 12 Q. What time of the day did you get to the NDMC compound at
- 13 Tongo?
- 14 A. I arrived there at 11 o'clock.
- 17:12:30 15 Q. In the morning?
- 16 A. Yes.
- 17 Q. The number of civilians at the NDMC compound on that day
- 18 would have been over a thousand; is that correct?
- 19 A. I didn't count them, so I can't tell the numbers.
- 17:13:00 20 Q. But there were many?
- 21 A. Yes.
- 22 Q. The NDMC headquarters has got a headquarter area which is a
- 23 big field with residences around it; is that not so?
- 24 A. Yes.
- 17:13:28 25 Q. Not very far away from the headquarter area there is a big
- 26 field, a football field; is that not so?
- 27 A. No. No, I don't know that field.
- 28 Q. Where were these people gathered then? Was it in the NDMC
- 29 headquarter field?

1 A. If they were there? Are you talking about previously?
2 Q. That day that you went to Tongo and you went to the NDMC
3 headquarters, that day that you met civilians there, where were
4 they gathered? Was it at the NDMC field, the NDMC headquarter
17:14:37 5 field?
6 A. They were there. Just as you described there, houses
7 surrounding, they were there.
8 Q. How long did you stay in Tongo on this occasion that you
9 went there?
17:15:00 10 A. Two days, one night.
11 Q. Now, these people who were at the headquarters, they had
12 been there before you got there; is that correct?
13 A. Yes, I met some of them.
14 Q. In fact, they had been there the day before, the day that
17:15:23 15 Tongo was taken by your forces; correct?
16 A. I can't say because I wasn't there.
17 Q. You walked around Tongo and did you observe corpses, dead
18 bodies, in the streets of Tongo?
19 A. The road which I used, I did not see corpses.
17:16:07 20 Q. You went around the town. After you had come to the field
21 did you take a walk around the town?
22 A. No, I did not round the town -- I did not walk round the
23 town.
24 Q. Now these civilians who were at the field, what was
17:16:28 25 happening? What was going on when you got there? They were just
26 there, you got there, Kamajors surrounding the field and they
27 were armed. What was going on? Why were they there?
28 A. They were not kind of encircled by Kamajors, that's what
29 I'm talking.

- 1 Q. Kamajors were securing the field, the area. They were
2 securing the area; is that correct?
- 3 A. Yes, they were sitting there. Yes, they were sitting.
- 4 Q. Now, among the Kamajor commanders who were there -- there
17:17:15 5 were Kamajor commanders there that day; is that not so?
- 6 A. Yes.
- 7 Q. Could you name some of them that you found there on that
8 day?
- 9 A. Yes.
- 17:17:28 10 Q. Who were there?
- 11 A. Saffa Berewa was there.
- 12 Q. Who else?
- 13 A. CO Gbadigwe [phon] was there.
- 14 Q. Who else?
- 17:17:43 15 A. Fata Blaye [phon] was there.
- 16 Q. You know one Kamabotie, don't you?
- 17 A. Yes.
- 18 Q. He was a commander at that time as well; is that correct?
- 19 A. Yes.
- 17:18:08 20 Q. And he was there too; is that correct?
- 21 A. I didn't see him there.
- 22 Q. Did you get to see him at all about that time during that
23 period that you were in Tongo?
- 24 A. Yes, I saw him.
- 17:18:29 25 Q. And where did you see him?
- 26 A. I saw him at Kpandebu.
- 27 Q. On what day did you see him at Kpandebu?
- 28 A. The day I went. It was then that I saw him.
- 29 Q. And you did not see him again until you left Tongo?

1 A. Yes, when I left his place. I never went to his place
2 again.

3 Q. Do you know, Mr Witness, those civilians that you saw at
4 the NDMC headquarters, do you know how they left that place?

17:19:29 5 A. If how they left the headquarters?

6 Q. Yes.

7 A. No, because I was not there. I passed.

8 Q. Mr Witness, at the time you got to the headquarter would
9 it -- those civilians who were held at the headquarter at that
17:19:59 10 time were in fact under some form of arrest by the Kamajors; is
11 that not so?

12 A. No. At the time I reached there until the time I left, I
13 did not see that they were under any detention or arrest.

14 Q. It was open, it didn't seem like anybody was restrained
17:20:31 15 physically, but they were not free to move; is that correct?

16 A. When I went I did not investigate much into that and I will
17 see civilians who go there and others who will return. I only
18 went and I spoke to the Kamajors and I passed.

19 Q. Did you take part in moving civilians from Tongo to Kamboma
17:21:07 20 at any time?

21 A. No.

22 Q. You had said earlier that you took part in fighting in
23 Kamboma; is that not so?

24 A. Yes.

17:21:35 25 Q. And when was this?

26 A. 1997 it was.

27 Q. And that fighting resulted in a lot of casualties on the
28 part of civilians; is that not so?

29 A. No. On the day that I arrived there I didn't see that.

1 Q. Did you ever take part in any activity which involved
2 moving civilians to Panguma?

3 A. No.

4 Q. Now on the day you came to Tongo after it had been taken
17:22:40 5 where was BJK Sei?

6 A. I left him at Panguma.

7 Q. Did you see him in Panguma before you left to come to
8 Tongo?

9 A. Yes.

17:22:57 10 Q. Mr Witness, we have heard evidence before this Court that
11 in fact you have been involved in fighting which has resulted in
12 death of civilians at Kamboma about the time that you stated you
13 fought there; is that correct?

14 A. No.

17:23:42 15 Q. Mr Witness, during this fighting at Kamboma did your men
16 suffer any casualties?

17 A. None of them died, praise be to God.

18 Q. I take it you were fighting against the rebels at that
19 time; is that correct?

17:25:12 20 A. Yes.

21 Q. Were there any casualties on their part?

22 A. Yes.

23 Q. What was the form of casualties that they suffered?

24 A. When we were exchanging firing.

17:25:39 25 Q. What I'm asking is were there wounded people there, were
26 there dead people there? That's my question. Did you see people
27 who were killed, who had been killed, or rebels, if you call them
28 rebels. People who had been killed from the fighting?

29 A. One. I saw one.

1 Q. So there was only one casualty you saw in that whole
2 episode?

3 A. Yes, the time that I went there.

4 Q. Would it surprise you to know that in fact a lot of
17:26:17 5 civilians had died from that fighting?

6 A. No, the time I went there, no.

7 Q. And how long did the incident last, the encounter?

8 A. That fighting -- that Kamboma fighting didn't take long.

9 Q. Was it one day?

17:26:56 10 A. One day, no. No, not the rest of the day.

11 Q. It did not last a whole day; is that what you're saying?

12 A. No.

13 MR BANGURA: Your Honours, that will be all for this
14 witness.

17:27:29 15 PRESIDING JUDGE: Thank you. Dr Jabbi, any re-examination?

16 MR JABBI: Yes, My Lord.

17 RE-EXAMINED BY MR JABBI:

18 Q. Mr Witness, you were asked in cross-examination whether the
19 screening for selecting you for initiation included all ages. Do
17:28:36 20 you remember that question?

21 PRESIDING JUDGE: Dr Jabbi, was it the question? I didn't
22 understand the question to have been screening for initiation. I
23 thought it was screening when he was first selected as part of
24 this group in '91/92.

17:29:03 25 MR JABBI: I thought it was.

26 PRESIDING JUDGE: It's not my understanding and I can see
27 some of your friends on the Defence side agreeing with me.

28 MR JABBI: As My Lord pleases.

29 Q. Now, do you remember the question about the screening for

1 your selection at the beginning of the war as one of the young
2 men to defend the village? Do you remember the question whether
3 that screening included all ages?

4 A. Yes.

17:29:39 5 Q. In particular, were there little children among you?

6 A. No.

7 Q. Now the Kamboma encounter, when was it, what year?

8 A. 1997.

9 Q. Was that before or after you went to Base Zero?

17:30:39 10 A. Before I went to Base Zero.

11 MR JABBI: My Lord, that is all for the witness.

12 PRESIDING JUDGE: Thank you. Mr Witness, that concludes
13 your evidence in this Court. We thank you very much for coming
14 here and have a safe trip back home. Thank you very much.

17:30:55 15 THE WITNESS: Okay.

16 PRESIDING JUDGE: Dr Jabbi, this is 5.30 Friday afternoon,
17 so we will adjourn to Monday morning at 9.30.

18 MR JABBI: Yes, My Lord.

19 PRESIDING JUDGE: And you will be ready with your next
17:31:17 20 witness.

21 MR JABBI: Indeed, My Lord.

22 PRESIDING JUDGE: And will the next one be the next one on
23 your witness list?

24 MR JABBI: The very next one, My Lord.

17:31:25 25 PRESIDING JUDGE: Thank you. Court is adjourned to Monday
26 at 9.30.

27 [Whereupon the hearing adjourned at 5.32 p.m,
28 to be reconvened on Monday, the 22nd day of
29 May, 2006, at 9.30 a.m.]

WITNESSES FOR THE DEFENCE:

WITNESS: MOHAMED KAINEH	2
EXAMINED BY MR JABBI	3
CROSS-EXAMINED BY MR PESTMAN	35
CROSS-EXAMINED BY MR MARGAI	41
CROSS-EXAMINED BY MR BANGURA	43
RE-EXAMINED BY MR JABBI	99