

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

FRIDAY, 27 MAY 2005
10.07 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:

Pierre Boutet, Presiding

For the Prosecution:

Mr Joseph Kamara
Mr Mohamed Bangura
Mr Kevin Tavener
Mr Mohamed Stevens

For the Principal Defender:

No appearances

For the accused Sam Hinga
Norman:

Dr Bu-Buakei Jabbi
Mr Ibrahim Yillah
Mr Kingsley Belle (legal assistant)
Mr Brendan Driscoll (intern)

For the accused Moinina Fofana:

Mr Arrow Bockarie
Mr Victor Koppe
Mr Andrew Ianuzzi

For the accused Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams
Mr Ansu Lansana

1 [HN270505 - AD]

2 [Friday, 27 May 2005]

3 [Open session]

4 [Accused not present]

10:08:47 5 [Upon commencing at 10.07 a.m.]

6 PRESIDING JUDGE: Good morning. Yesterday afternoon we

7 were at the stage to determine the admissibility of a document

8 that the Prosecution sought to introduce as an exhibit. The

9 document in question was -- is called distribution summary for

10:12:07 10 CDFSL Kenema. This document was objected to by the first accused

11 and the third accused and as well by the second accused,

12 essentially that it was not relevant and that if it was relevant,

13 there was no evidence to support that this witness had prepared

14 the document.

10:12:36 15 We have reviewed the arguments present by both Prosecution

16 and Defence and considering the extensive admissibility followed

17 by this Court, we rule this document to be admissible for the

18 purposes outlined by the Prosecution and for that very limited

19 purpose. Again I would like to emphasis that we are talking here

10:13:02 20 of admissibility absolutely, and not the weight to be attached to

21 this document, which will be assessed in due course at the proper

22 time. Thank you very much. That should be marked as Exhibit 87,

23 I think.

24 [Exhibit No. 87 was admitted]

10:13:31 25 PRESIDING JUDGE: Yes, Mr Prosecutor.

26 MR BANGURA: Thank you, Your Honour.

27 WITNESS: TF1-079 [Continued]

28 EXAMINED BY MR BANGURA: [Continued]

29 Q. Good morning, Mr Witness.

1 A. Good morning, sir.

2 Q. You will recall yesterday, Mr Witness, that you were shown
3 a document which you prepared while you were a part of the
4 administration in xxxxxxx; is that correct?

10:13:56 5 A. Yes, sir.

6 Q. And you have that document before you?

7 A. Yes, sir.

8 Q. What I would like you to do, Mr Witness, is to guide this
9 Court through that document and very briefly name -- identify for
10 the Court particular commanders that were within the

11 administration in xxxxxxx at the time that you served there.

12 A. On the fourth page -- Your Lordships will note that the
13 pages are not actually serially numbered.

14 Q. Yes, Mr Witness.

10:15:06 15 PRESIDING JUDGE: There is the page where we have
16 signatures on, more or less, on the whole page.

17 MR BANGURA: Yes, Your Honour.

18 THE WITNESS: I said the fourth page. Number 1, I see a
19 name Arthur Koroma.

10:15:26 20 Q. You do recognise Arthur Koroma's name on that page; is that
21 correct?

22 A. Yes, sir.

23 Q. Who else do you recognise there?

24 A. Number 3, Musa Junisa.

10:15:36 25 Q. You also recognise Musa Junisa, that's number 3?

26 A. Yeah. Then number 1, the District Administrator Arthur
27 Koroma. Number 3, the deputy -- that is Mohammed O Musa,
28 Mohammed O Musa, number 3, who was the national deputy director
29 of war.

1 Q. Okay.

2 A. Number 6, can see a director of operations, Musa OM Junisa.

3 Q. Who else do you recognise?

4 A. Number 9, my very self. Can I go?

10:16:32 5 Q. Yes.

6 A. And you have Bockarie Fatoma, Kamajor police commander.

7 Q. That is what number?

8 A. It is number 14. Number 14, Kamajor Police Commander

9 Bockarie Fatoma.

10:16:58 10 Q. We are on the fourth page?

11 A. Yeah. Now we go to the 5th page, number 19 on that page.

12 They have the assistant Kamajor police, which is KP, Kamajor

13 Police Commander Steven L Fasay.

14 Q. That names reads Sesay. Who was the substantive holder of

10:17:49 15 that position?

16 A. It was Steven L Fasay. It was typographical. It should be

17 Fasay, F-A-S-A-Y.

18 Q. Did you sign against his name?

19 A. Yes, sir.

10:18:07 20 Q. And do you recognise that signature?

21 A. Yes, sir.

22 Q. Who else do you recognise on the list?

23 A. Number 20, the District Commander Ismail Koroma.

24 Q. Yes.

10:18:34 25 A. Assistant director of intelligence --

26 Q. What number?

27 A. Number 26, Assistant Director of Intelligence Vandi Songo.

28 Q. What else?

29 A. Number 27, the Deputy Transport Officer Bockarie Aruna.

1 Q. Yes please.

2 A. We have number 28, Ngaujia Mamoud the discipline officer,
3 Ngaujia Mamoud.

4 Q. Is that all?

10:19:38 5 A. No, sir. On the sixth page, --

6 Q. Who do you recognise there?

7 A. Number 34. The War Council representative, Chief Vandie
8 Soka.

9 Q. Any more?

10:20:11 10 A. Yes, sir. Number 46, of the same page, have office
11 attendant two Mohammed VB.

12 Q. Mohammed VB; did he perform any other functions?

13 A. Yes he was also the lockup officer who was in charge of the
14 guard room.

10:20:49 15 Q. Are there any more names that you recognise on the list?

16 A. Let me go through. On the 8th page, can I go?

17 Q. Yes please.

18 A. Number 10.

19 Q. And who is that?

10:21:43 20 A. Under the heading Kamajor battalion commanders, is number
21 10, you see KBATT, K-B-A-T-T, Kenema Battalion, the 10th
22 Battalion Commander Siaka Lahai.

23 Q. Siaka Lahai, is he somebody you have mentioned before in
24 your testimony in this Court?

10:22:14 25 A. Yes, sir.

26 Q. With regard to what did you mention Siaka Lahai earlier in
27 your testimony.

28 A. Yes, sir, I mentioned his name earlier.

29 Q. With regard to what?

1 A. With regard to the written situation report that we
2 handed -- that xxxxxxxx handed over to Moinina Fofana and Chief Norman
3 on our visit to Base Zero.

4 Q. Am I right to say that he is the commander --

10:23:00 5 A. Who gave me the report --

6 Q. About the killing of an AFRC agent --

7 A. Agent that was a market dues collector.

8 Q. Thank you. Do you recognise any more names on the list?

9 A. I think that could be all, for now.

10:23:21 10 Q. These persons you have identified you say played an active
11 part if the administration in Kenema at the time; is that right?

12 A. Yes, sir.

13 Q. I notice on the list that your signature appears in some
14 parts of it. What was the reason?

10:23:44 15 A. Can you refer me to a particular page please.

16 Q. On the first page.

17 A. Yes I received -- at number three there were ten of those
18 battalion commanders. It is summary of this distribution. You
19 cannot give the whole block of things together. You collect, you
10:24:19 20 sign for it and distribute them -- the items to them, one by one.

21 Q. So you were signing here on behalf of the battalion?

22 A. Yes, for the administration to know that I have paid such
23 distribution.

24 Q. Thank you Mr Witness.

10:24:44 25 A. Thank you sir.

26 Q. Mr Witness you have mentioned that during the course of
27 this administration headed by Arthur Koroma, the security
28 situation rather than improving, deteriorated again; is that
29 correct?

1 A. Yes, sir.

2 Q. Were any --

3 PRESIDING JUDGE: We are talking of Kenema?

4 MR BANGURA: In Kenema.

10:25:10 5 Q. Were any particular commanders accused of creating this
6 kind of situation of insecurity within Kenema as far as you
7 remember?

8 A. Yes, sir.

9 Q. Who do you remember that was accused of creating this
10:25:44 10 instance?

11 A. I can remember KBK Magonna who I mentioned his name
12 yesterday. Can I go?

13 Q. Just watch the pen of his Lordships.

14 A. Yes, sir. At one time that was in December 1998 --

10:26:26 15 Q. Yes please?

16 A. ECOMOG soldiers arrested him.

17 Q. Do you remember why he was arrested?

18 A. And was detained.

19 Q. He was arrested and detained. Do you remember why he was
10:26:57 20 arrested?

21 A. Yes.

22 Q. Why was he arrested?

23 A. They said they have persistent complaints about him with
24 regard to killing and harassment of civilians at SS Camp and
10:27:20 25 shooting indiscriminately. So, he was arrested and detained.

26 Q. Mr Witness, go on please.

27 A. In addition to that the next morning I went to the ECOMOG
28 brigade headquarters where he was detained and I saw him without
29 trousers and shirt, you know.

1 Q. What happened when you got there?

2 A. I was about to be caught also when I made mention that I
3 have come here to ascertain whether Magonna has been arrested.
4 So I narrowly have to escape and fled.

10:28:36 5 Q. Mr Witness, thank you very much for that. Can I take you
6 back to the -- let's talk about the composition of the Kamajors.
7 How would you describe the composition of the Kamajors throughout
8 your period as an active Kamajor; how would you describe its
9 composition?

10:29:09 10 A. There were --

11 PRESIDING JUDGE: Mr Prosecutor, haven't we been through
12 that yesterday with this witness at various stages when --

13 MR BANGURA: Not exactly Your Honour.

14 PRESIDING JUDGE: Not exactly so --

10:29:26 15 MR BANGURA: I am probably driving towards a different
16 direction if it would appear that we have covered this ground
17 before. I am probably moving towards something --

18 PRESIDING JUDGE: I do recall that we did cover some of
19 that ground yesterday but how much of it I do not know.

10:29:43 20 MR BANGURA: May I crave Your Lordships' indulgence to
21 allow the witness to answer this question and then we will see
22 whether we have in fact covered this ground.

23 PRESIDING JUDGE: Please proceed.

24 MR BANGURA: Thank you Your Honour.

10:29:57 25 Q. Mr Witness, I was asking you just now how would you
26 describe the composition of the Kamajors?

27 MR YILLAH: May it please Your Honours, I will object to
28 this line of questioning as Your Honour has rightly pointed out
29 because the evidence before this Court is that the witness

1 testified yesterday as to the composition of the Kamajors before
2 1997. So may we have a specific time frame from the Prosecutor
3 because this question is open ended and we do not know what way
4 to go.

10:30:32 5 PRESIDING JUDGE: Mr Prosecutor --

6 MR BANGURA: May it please Your Honours, I think the
7 question is deliberately left open ended. The question to the
8 witness is during the period he was a Kamajor whether he would
9 describe - he could describe the composition of the Kamajors.

10:30:50 10 MR BOCKARIE: Yes, Your Honour. Based on what the
11 Prosecution has said, then that makes is very vague. If it is
12 open ended it makes it very vague and we have difficulty in
13 comprehending exactly what would be a possible line of action.
14 The composition of the Kamajors; I consider it to be very vague.
10:31:12 15 It has to be narrowed down a little bit.

16 PRESIDING JUDGE: Mr Prosecutor.

17 MR BANGURA: I am at a loss because I believe, subject to
18 the rules that guide the --

19 JUDGE THOMPSON: I am at a loss myself in the sense that
10:31:29 20 the question of course, apparently is vague but as you say it can
21 be deliberately vague and open ended. I am not sure whether I
22 recall that that ground was covered yesterday in terms of the
23 composition of the Kamajors. What intrigues me a little, and the
24 Defence will help me here, on what ground is the objection being
10:32:03 25 predicated. What particular specific rule or prohibition of
26 examination-in-chief is he now allegedly infringing. It is not a
27 leading question. What specific rule of prohibition governing
28 examination-in-chief is he now infringing, because remember in
29 examination-in-chief one has to cover the entire ground upon

1 which the case is based. And unless he is infringing some rule
2 governing examination-in-chief, then this would not really be one
3 of those prohibitory grounds, would it be?

4 MR BANGURA: Well I rest my case, Your Honour.

10:32:57 5 JUDGE THOMPSON: I am looking here from -- there is a rule
6 against leading questions, there is a rule against previous
7 consistent statements, there is a rule against challenging the
8 witness's credibility; he is not doing any of these. I think he
9 is seeking to expand here. Perhaps the objection might be proper
10:33:13 10 if he tries to introduce matters of which incriminating nature of
11 which you did not have previous notice.

12 MR BOCKARIE: We will watch him cautiously Your Honour.

13 PRESIDING JUDGE: Mr Prosecutor, before you continue on
14 this, my observation that seems to have elicited these kind of
10:33:33 15 objections was based on the fact that yesterday you did cover
16 with this witness not the organisation -- it was not the same
17 terms as such -- you used the Kamajor structure at a specific
18 time and then you moved along. I presume this question is
19 different than what you were trying to elicit yesterday.

10:33:53 20 MR BANGURA: Certainly it is Your Honour.

21 PRESIDING JUDGE: Thank you.

22 Q. Mr Witness, can you endeavour to answer the question? The
23 question was, "What was the composition of the Kamajors during
24 the period that you were there actively as a Kamajor?"

10:34:10 25 A. Yes, I will answer that question.

26 Q. Yes, please.

27 A. There were child combatants from the ages of -- from the
28 age of ten to -- there were of course child combatants and adult
29 male. And the child combatants --

1 Q. Can you slow it a bit.

2 A. The ages of the children that I saw and noticed was --
3 ranges from 10 to 14, and the adult, I mean, up to 60 plus. Can
4 I go?

10:35:33 5 Q. Continue please.

6 A. These child combatants were of course referred to as "small
7 hunters". Their actual name was not called.

8 Q. They were referred to as "small hunters".

9 A. Small hunters.

10:35:57 10 Q. Mr Witness, during your period or stay with the Kamajors,
11 where particularly did you notice children - child combatants as
12 you have described - within this age range that you have given?

13 JUDGE THOMPSON: Learned counsel, have we finished with the
14 composition now?

10:36:22 15 MR BANGURA: Yes, I understood --

16 JUDGE THOMPSON: Are you sure? Your colleagues will object
17 that you have covered it and then you want to return to it.

18 MR BANGURA: I may get him to say more if there is any
19 more.

10:36:35 20 JUDGE THOMPSON: No, well the difficulty, of course, is the
21 logical sequence of the testimony. If you are dealing with
22 composition, it would seem to me logical that we exhaust that
23 particular aspect before any other aspect that you want to cover,
24 unless --

10:36:50 25 MR BANGURA: Your Honour, I am still on composition but --

26 JUDGE THOMPSON: I see, but not composition proper?

27 MR BANGURA: Yes, Your Honour; kind of moving away from the
28 particular age ranges now --

29 JUDGE THOMPSON: I restrain myself.

1 MR BANGURA: -- and to getting into more specifics.

2 Q. Yes, Mr Witness, you have just mentioned that you saw child
3 combatants within the age range of 10 and 14. Where particularly
4 did you notice children within this age range?

10:37:29 5 A. Somewhere seen by me at Base Zero and initially Kamoh
6 Brima, the late initiator for Kenema -- Kamoh Brima Bangura. Can
7 I go?

8 MR BANGURA: Let us get this very clear. You said --

9 JUDGE THOMPSON: Can we have that again?

10:37:48 10 MR BANGURA: Mr Witness, say it again, please.

11 JUDGE THOMPSON: Could he prefer "I saw", rather than "some
12 were seen"? The passive voice is a little too weak.

13 MR BANGURA:

14 Q. Did you observe any Kamajors within that age range?

10:38:05 15 JUDGE ITOE: "See" not observing, please.

16 MR BANGURA:

17 Q. Did you see any Kamajors within this age range?

18 A. Yes, I saw some at Base Zero.

19 PRESIDING JUDGE: And then?

10:38:19 20 MR BANGURA:

21 Q. Did you see any anywhere else?

22 A. One was, of course, with Kamoh Brima Bangura.

23 Q. Is that the person who you mentioned earlier, the initiator
24 that succeeded Hassan Sheriff; is that correct?

10:38:43 25 A. Yes.

26 PRESIDING JUDGE: That is in Kenema?

27 THE WITNESS: Yes.

28 MR BANGURA:

29 Q. These child combatants that you saw, did they ever carry

1 anything with them?

2 JUDGE ITOE: Kamoh Brima Bangura succeeded who?

3 MR BANGURA: Hassan Sherif, the first initiator.

4 Q. Did they ever carry anything with them?

10:39:12 5 A. Yes, sir. Some were carrying AK47s, grenades and some were
6 having machetes.

7 Q. Do you know whether these child combatants were ever
8 involved in any operations?

9 A. Yes, sir.

10:39:41 10 Q. Please tell the Court.

11 A. I saw them patrolling.

12 Q. Where?

13 A. With commanders at Base Zero. And some of course were
14 used -- can I go?

10:40:29 15 Q. Yes, go on please.

16 A. As bodyguards.

17 Q. Bodyguards to who?

18 A. Like the one I mentioned, he was a personal bodyguard to
19 the Kenema District initiator, Kamoh Brima Bangura.

10:40:53 20 Q. The one you mentioned earlier?

21 A. Yes, sir.

22 Q. Apart from that, did you notice any others being used as
23 bodyguards to anybody?

24 A. Yes, the high priest was having one that I saw when we went
10:41:11 25 to Base Zero.

26 Q. Are you talking of Allieu Kondewa?

27 A. Yes, sir.

28 MR MARGAI: Objection.

29 PRESIDING JUDGE: What is your objection Mr Margai?

1 MR MARGAI: The Prosecutor is definitely putting words into
2 the mouth of the witness.

3 PRESIDING JUDGE: Which words are we talking about, "high
4 priest" and "Kondewa"?

10:41:31 5 MR MARGAI: He said "the high priest", and it was he who
6 named Kondewa.

7 PRESIDING JUDGE: True. But are you disputing that?
8 Because the Witness has testified as to that yesterday and using
9 "high priest" and "Kondewa" many times.

10:41:43 10 MR MARGAI: There have been many high priests within the
11 Kamajor society.

12 PRESIDING JUDGE: I was just saying to you, Mr Margai, that
13 this Witness yesterday, when he testified, used the words "high
14 priest" and "Kondewa". So if you object --

10:41:55 15 MR MARGAI: I appreciate that My Lord. But Your Lordship
16 will recall that testimonies have been born in this Court with
17 regard to other high priests apart from Kondewa.

18 PRESIDING JUDGE: There has been testimony about other
19 initiators such as high priests, but it is not my recollection, I
10:42:15 20 must say.

21 MR MARGAI: I remember leading -- cross-examining in that
22 direction one of the Prosecution witnesses.

23 PRESIDING JUDGE: In any event, your objection is
24 overruled.

10:42:29 25 MR MARGAI: As My Lord pleases.

26 MR BANGURA: Thank you, Your Honour.

27 Q. Mr Witness, you were saying that you also saw child
28 combatants serving as bodyguards to a high priest, and my
29 question was: Was that Allieu Kondewa?

1 A. Yes, sir, he was the high priest -- Allieu Kondewa. That
2 is why he was here, of course.

3 THE WITNESS: [REDACTED]

4 MR BANGURA: Your Honours, that will be all for that
10:43:22 5 witness.

6 PRESIDING JUDGE: Thank you, Mr Prosecutor. First accused,
7 are you ready to proceed with cross-examination now?

8 MR YILLAH: Very well Your Honour.

9 PRESIDING JUDGE: Please do so.

10:43:39 10 CROSS-EXAMINATION BY MR YILLAH:

11 MR YILLAH: Your Honour, may I apply that a paper on which
12 I have written a question be put to the witness through Mr
13 Walker?

14 PRESIDING JUDGE: Mr Yillah, 5÷:to the witness, but you do
10:44:06 15 not want the witness to answer that question openly?

16 MR YILLAH: Yes.

17 PRESIDING JUDGE: Have you shown it to the Prosecution?
18 Not yet? So, Mr Yillah, you want the witness not only to read
19 that question but to write down his answer on that paper?

10:44:49 20 MR YILLAH: Very well My Lord.

21 PRESIDING JUDGE: Mr Witness, you are asked to read the
22 question and write down the answer on that piece of paper.

23 [Document shown to Defence and Prosecution
24 counsel, the Witness and given to the Trial Chamber]

10:45:49 25 PRESIDING JUDGE: Mr Yillah, you want this piece of paper
26 to be marked as an exhibit, presumably?

27 MR YILLAH: Very well My Lord.

28 PRESIDING JUDGE: So, this document, containing one
29 question and one answer by Witness TF1-079 is marked as Exhibit

1 No.88.

2 [Exhibit No. 88 was admitted]

3 MR BANGURA: Thank you very much, My Lord.

4 PRESIDING JUDGE: Mr Prosecutor, I did not ask whether you
10:47:00 5 had any objection. I presume not.

6 MR BANGURA: No, My Lord

7 MR YILLAH: May I proceed, My Lord?

8 PRESIDING JUDGE: Just one minute. Yes please, thank
9 you.

10:47:07 10 MR YILLAH: [REDACTED]

11 MR BANGURA: May it please Your Honours, I deliberately, and I
12 believe the witness did -- I particularly avoided that because
13 that would go on to reveal the witness's identity.

14 PRESIDING JUDGE: You are quite right. He was saying that
10:48:00 15 he was working in the administration but never specified the
16 exact position he occupied.

17 MR YILLAH: I apologise, My Lord.

18 MR BANGURA: May I respectfully ask that that portion of
19 the evidence be --

10:48:15 20 PRESIDING JUDGE: Be struck out?

21 MR BANGURA: Yes.

22 MR YILLAH: My deepest apologies, My Lord. I am deeply
23 sorry about that.

24 JUDGE ITOE: It's okay; it does happen, Mr Yillah.

10:48:19 25 MR YILLAH:

26 Q. Mr Witness, is it true that you were sacked from the office
27 you were holding because you embezzled monies given to you by the
28 government of Sierra Leone?

29 JUDGE THOMPSON: Why not split the question, step by step?

1 MR YILLAH: I will take that, Your Honour.

2 Q. Mr Witness were you at any time sacked from office?

3 A. Yes, sir.

4 Q. Mr Witness, would I be correct to say that you were sacked

10:49:19 5 because you embezzled moneys given to you by the government of

6 Sierra Leone for CDF?

7 A. No, that was not the reason.

8 Q. Mr Witness --

9 JUDGE ITOE: Mr Yillah, please.

10:49:52 10 MR YILLAH: Sorry My Lord.

11 JUDGE THOMPSON: You said, "Given by the government of

12 Sierra Leone".

13 MR YILLAH: For CDF; yes, My Lord.

14 JUDGE THOMPSON: For what?

10:50:08 15 MR YILLAH: For CDF.

16 Q. Mr Witness, were you at any time initiated as a Kamajor?

17 A. Yes, sir.

18 Q. During initiation were you given laws to guide your conduct

19 as a Kamajor in times of combat?

10:51:01 20 A. Yes, sir.

21 Q. Mr Witness --

22 A. Yes, sir.

23 Q. -- would I be correct to say one such law was not to kill

24 innocent civilians during combat?

10:51:37 25 A. Yes, sir.

26 Q. Mr Witness, would I also be correct to state that you were

27 also told not to rape women?

28 A. Yes, sir.

29 Q. And not to loot civilian properties as well?

1 A. Yes, sir.

2 Q. Thank you. Mr Witness, to what extent did you personally
3 observe these laws as a Kamajor?

4 A. I obeyed those laws throughout.

10:52:58 5 Q. Thank you. Mr Witness, would I be correct to suggest that
6 you obeyed those laws because you knew that the Kamajor movement
7 was set up to protect the lives and properties of civilians?

8 A. Yes, personally.

9 Q. Mr Witness --

10:53:54 10 A. Yes, sir.

11 Q. -- xxxxxxx role -- I mean the office xxxxxxx held in the CDF was
12 merely administrative; would I be correct to say that?

13 A. Yes, sir.

14 Q. Would I also be correct to say that you personally did not
10:54:30 15 at any point participate in combat?

16 A. I did. Can I say more of that?

17 Q. That is fine, Mr Witness. You stated in your
18 evidence-in-chief that you went to Base Zero; is that correct?

19 A. Yes, sir.

10:55:18 20 Q. Would I be correct to say that at the time you went to Base
21 Zero you met a War Council already established there?

22 A. No; during the first visit, no.

23 Q. But during the second visit, Mr Witness, a War Council had
24 already been established at Base Zero; is that correct?

10:56:23 25 A. It was after some time within the first visit -- after some
26 time.

27 Q. That the War Council was established?

28 A. Mostly, later on from it.

29 Q. Thank you. So far as you know, would it be correct to say

1 that the War Council was the body responsible for prosecuting the
2 war?

3 A. No, they were just playing an advisory role at Base Zero.

4 Q. Mr Witness, would I be correct to say at that time the War
10:58:09 5 Council was responsible for punishing commanders who misconducted
6 themselves at the battlefield?

7 A. Go over that again please.

8 Q. Would I be correct to say that the War Council at Base Zero
9 was responsible for punishing Kamajor commanders who misconducted
10:58:30 10 themselves at the battlefield?

11 A. No, sir.

12 Q. Mr Witness, you were in Kenema in April of 1998; is that
13 correct?

14 A. Yes, sir; yes, sir.

10:59:27 15 Q. Thank you, Mr Witness. Would I be correct to say that in
16 April of 1998 you attended a War Council meeting held in Kenema?

17 A. No, sir; there was no War Council meeting held there.

18 MR YILLAH: My Lord, at this stage may I apply that a
19 particular document which is already in evidence as Exhibit 28 be
11:00:57 20 shown to the witness with a view to refresh his memory?

21 PRESIDING JUDGE: 28?

22 MR YILLAH: Exhibit 28, My Lord.

23 JUDGE THOMPSON: Are you referring to the minutes of the
24 meeting which --

11:01:16 25 MR YILLAH: Just to show him the heading; it may help to
26 refresh his memory.

27 PRESIDING JUDGE: Mr Walker, do we have the document?

28 MR WALKER: Your Honour, Exhibit 28 is not in Court. We
29 only have the latest exhibits here. I can get it, but it will

1 take a moment.

2 PRESIDING JUDGE: Mr Yillah, do you have a copy here?

3 MR YILLAH: I don't have a copy here. It is very crucial.

4 MR WALKER: We can probably print one off, Your Honour.

11:01:43 5 PRESIDING JUDGE: You can print one off now?

6 MR YILLAH: As My Lord pleases.

7 PRESIDING JUDGE: You will appreciate that it will not be

8 the original, but it will be a copy. So we will show it to you

9 before you show it to the witness.

11:02:09 10 MR YILLAH: Very well My Lord.

11 PRESIDING JUDGE: It had many pages.

12 MR YILLAH: About five pages.

13 [Counsel shown document]

14 PRESIDING JUDGE: Mr Yillah ensure that it has all the

11:03:13 15 pages.

16 MR YILLAH: It does My Lord.

17 [Defence and Prosecution counsel shown document]

18 MR YILLAH:

19 Q. Mr Witness, please take a careful look at that document;

11:04:25 20 look at the heading.

21 [HN270505B - SV]

22 A. Okay.

23 Q. Thanks, Mr Witness. Mr Witness?

24 A. Yes, sir.

11:38:41 25 Q. Would I be correct to say that you have seen that document

26 before?

27 A. Yes.

28 Q. Now, Mr Witness, would I be correct to say that by virtue

29 of the office you held on the executive you have been in custody

1 of that document?

2 A. Not at all. No, sir.

3 Q. Mr Witness, does the document that you have read -- does it
4 confirm the position that you earlier took that KBK Magonna was
11:38:42 5 investigated by ECOMOG. Does it support that position?

6 A. Yes. Yes, sir.

7 Q. Mr Witness, that document is addressed to the
8 vice-president of Sierra Leone; is that correct?

9 A. Yes.

11:38:42 10 Q. Would I be correct to say that that was the then
11 vice-president Honourable Joe Demby?

12 A. Yes.

13 MR WILLIAMS: My Lords, at this stage I wish to apply under
14 Rule 89(C) for this document to be admitted in evidence. It is
11:38:42 15 relevant to my line of cross-examination and it supports the
16 questions that have been put to the witness prior to the
17 application for tendering this letter, My Lord.

18 JUDGE ITOE: The Prosecution has indicated that it raises
19 no objection.

11:38:42 20 MR YILLAH: As My Lord pleases.

21 JUDGE ITOE: I don't know, unless the other defence teams
22 do raise any objection, but the Prosecution which is directly
23 concerned has indicated that it is raising no objection.

24 MR YILLAH: As My Lord pleases.

11:38:42 25 JUDGE ITOE: Are you rightly reproduced on the records as
26 having said this?

27 MR BANGURA: Yes, Your Honour. We maintain the same
28 position as stated earlier.

29 PRESIDING JUDGE: It would appear to have some relevance in

1 line with the questions you have asked. However, I am just
2 puzzled a bit -- I mean, the witness has not disputed any of the
3 facts you put to him in this respect. It's your case, and there
4 is no objection from the Prosecution in this respect, so we will
11:38:44 5 just --

6 MR YILLAH: As My Lord please.

7 PRESIDING JUDGE: We are at Exhibit 89 now. So this is a
8 document dated 26 December 1998 and it is from Headquarters 15
9 ECOMOG Brigade to the honourable vice-president.

11:38:44 10 [Exhibit No. 89 was admitted]

11 MR YILLAH:

12 Q. Mr Witness, the honourable vice-president then, the
13 Honourable Joe Demby, do you know -- may I proceed, My Lord?

14 PRESIDING JUDGE: Yes, please.

11:38:44 15 MR YILLAH:

16 Q. Do you know whether he is a member of the CDF?

17 A. Yes, sir.

18 JUDGE THOMPSON: You mean now? Now?

19 MR YILLAH: He was.

11:38:44 20 JUDGE THOMPSON: You meant was.

21 MR YILLAH: Was, yes, Your Honour. And the witness has
22 just confirmed that he --

23 THE WITNESS: Later. Later, in 1998, a committee -- a
24 national coordination committee was established and he was the
11:38:45 25 chairman of that committee as far as I knew.

26 MR YILLAH:

27 Q. You mean a committee within the CDF?

28 A. Yes, part of that.

29 PRESIDING JUDGE: I'm not sure I understand the answer.

1 Are you saying that he was a Kamajor because he was the chairman
2 of that committee or he was a Kamajor and, because of that, he
3 became the chairman? So I'm not sure. What's your answer? You
4 were asked a question if he was Kamajor.

11:38:45 5 JUDGE ITOE: No, CDF [overlapping speakers]

6 PRESIDING JUDGE: Sorry, CDF. You say he was a CDF because
7 he became the chairman, not because he was CDF before becoming
8 chairman, is it, Mr Witness?

9 THE WITNESS: My Lord, please ask that question again.

11:38:45 10 PRESIDING JUDGE: You were asked the question that he was a
11 CDF member. You said yes, later in 1998 he became the chairman.
12 Are you saying he was a CDF because he became the chairman or
13 because he was CDF before becoming the chairman?

14 THE WITNESS: What I'm saying, My Lords, a national
11:38:46 15 coordinating committee was established later in 1998 here in
16 Freetown. Can I go?

17 PRESIDING JUDGE: Yes.

18 THE WITNESS: And he was the chairman of that committee.

19 JUDGE THOMPSON: Does that dispose of your initial
11:38:46 20 question?

21 MR YILLAH: The initial one, My Lord. I'll now proceed --

22 JUDGE THOMPSON: With the initial question?

23 MR YILLAH: No, I will now proceed with other questions on
24 that line.

11:38:46 25 JUDGE THOMPSON: Yes, because your question was was he a
26 CDF.

27 MR YILLAH: Yes, My Lord, and he has confirmed that.

28 Q. Now, Mr Witness, as an executive at your level -- as an
29 executive member at your level, would you agree with me that the

1 national coordinating committee that you have just spoken about
2 was the highest placed body within the CDF?

3 A. Well, all I know of that committee was --

4 JUDGE ITOE: Please, answer the question. The question is
11:38:46 5 simply put. Very, very simply put. Please put the question to
6 him again.

7 MR YILLAH: As My Lord pleases.

8 Q. As an executive member at your level, Mr Witness, would I
9 be correct to say that the committee that you have just
11:38:47 10 mentioned, the national coordinating committee, was the highest
11 placed body within the CDF?

12 A. Yes.

13 Q. Mr Witness, let me now move you away from -- to Tongo.
14 Now, was there a military base in Tongo during 1998? Did the
11:38:47 15 military -- did the AFRC -- let me put it this way --

16 JUDGE ITOE: Mr Yillah, I want to put a question to this
17 witness. When you say the national coordination committee of the
18 CDF was the highest placed body of the CDF what do you mean by
19 its being the highest placed body of the CDF? What do you mean?

11:38:48 20 THE WITNESS: They cater for the welfare of the CDF. That
21 was the body that I know caters for the welfare of the CDF at the
22 national level.

23 MR YILLAH: Is that all, My Lord?

24 JUDGE ITOE: As far as I want to go, at my level.

11:38:48 25 MR YILLAH: As My Lord pleases.

26 Q. Mr Witness, the chairman of that committee was the then
27 vice-president Honourable Joe Demby; is that correct?

28 A. Yes, sir.

29 Q. Would I be correct to state that that body is responsible

1 for receiving recommendations in respect of investigations of
2 commanders and implementing them? Would I be correct to say
3 that?

4 MR BANGURA: May it please Your Honours, could counsel be
11:38:48 5 more specific in terms of time frame. The question asked as
6 regards the role of the NCC, national coordinating committee, may
7 counsel try and state specifically what period we're talking of
8 here.

9 PRESIDING JUDGE: Mr Yillah.

11:38:49 10 MR YILLAH: I take the point, My Lord. My Lord, I will
11 apply that Exhibit 88, is it, be put again to the witness so that
12 he can clarify this point.

13 PRESIDING JUDGE: Isn't it the evidence of this witness
14 that this body was formed at the end of 1998?

11:38:49 15 MR YILLAH: Yes, My Lord, and this exhibit is also dated 26
16 December 1998.

17 PRESIDING JUDGE: No, I'm not saying that with reference to
18 the exhibit, Mr Yillah. I was saying that with reference to the
19 question that raised objection by the Prosecution. So the time
11:38:49 20 frame has got to be from '98 on, not before that.

21 MR YILLAH: I'll restrict myself to '98, My Lord.

22 [Exhibit No. 89 shown to witness]

23 MR YILLAH:

24 Q. Mr Witness, do you have the document before you?

11:38:49 25 A. Yes, sir.

26 Q. Please turn to page 3 of that document?

27 A. Yes, sir.

28 Q. And if you could look at the heading "Recommendations"?

29 A. On page 3.

1 Q. Page 3, yes, on Exhibit 89?

2 A. I'm just finding right above 7 on that page, finding it.

3 Q. Okay, could you turn to the next page, please. You will
4 see "Conclusion" and then "Recommendation"?

11:38:50 5 A. Yes, above 9.

6 Q. Mr Witness, if you look through that document you will
7 agree with me that certain recommendations were made by ECOMOG to
8 the vice-president in respect of Commander KBK Magonna?

9 A. Yes, recommendations were made.

11:38:50 10 Q. And one of these recommendations was to keep the commander
11 out of scene until the war is over; is that correct?

12 A. Which of the scenes, sir?

13 Q. No, it is written on this -- if you look at the
14 recommendations?

11:38:51 15 A. Yeah, it is on paper. It is on paper.

16 Q. With the leave of the Chamber, it reads: "9. It is
17 recommended that (a) Mr Magonna be kept out of the scene until
18 the war is over". Do you agree with me?

19 A. Yeah, they wrote it.

11:38:51 20 PRESIDING JUDGE: Mr Yillah, may I ask you what you are
21 trying to achieve. I mean, the document has been produced at
22 your request as an exhibit. The witness is not disputing this.
23 He had not seen the document but he does not dispute anything
24 you're questioning in this respect.

11:38:51 25 MR YILLAH: As My Lord pleases. In answer to Honourable
26 Judge Itoe's question, the witness said that this national
27 coordinating committee was merely responsible for catering for
28 the welfare of --

29 THE WITNESS: The CDF.

1 MR YILLAH: -- the CDF, My Lord. Now, as a follow-up to
2 that I'm saying -- and he confirmed that the then vice-president
3 was the chairman of that committee. So I am putting it to the
4 witness now that it could not only have been responsible for
11:38:52 5 catering for the welfare of CDF. It goes further than that, as
6 can be seen from this document.

7 JUDGE ITOE: No, but this document is not from the
8 committee. It is a recommendation by ECOMOG.

9 PRESIDING JUDGE: To the vice-president.

11:38:52 10 JUDGE ITOE: To the vice-president. It does not
11 necessarily mean that it comes within the functions of that
12 committee. Do you see the distinction?

13 MR YILLAH: I will not press the point. I will address
14 Your Lords [inaudible].

11:38:52 15 JUDGE THOMPSON: I concur in what my learned brothers are
16 saying. It is something like a quantum leap here.

17 MR YILLAH: I take the point, My Lord.

18 Q. Now, Mr Witness, would I be correct to say that the AFRC
19 had a military base in Tongo?

11:38:53 20 A. Yes, but not the AFRC alone.

21 Q. That's the AFRC and RUF?

22 A. Yeah.

23 MR BANGURA: May it please Your Honours - although the
24 witness has volunteered an answer - but, again, time frame. If
11:38:53 25 counsel can help us with a time frame it would be good for the
26 witness.

27 MR YILLAH: My Lord, I will take the point.

28 PRESIDING JUDGE: Yes. I mean, the AFRC, the evidence is
29 not that the AFRC was there for all sorts of periods of time.

1 We're talking of a fairly specific period of time. But, anyhow,
2 any assistance you can provide in this respect, Mr Yillah, will
3 be appreciated.

4 MR YILLAH: I take the point, My Lord.

11:38:54 5 Q. Now, in 1998 would I be correct to say that the AFRC/RUF
6 had a military base in Tongo?

7 A. Which --

8 Q. It's a straightforward question.

9 A. At what time actually?

11:38:54 10 Q. 1998. I mean, before the CDF finally dislodged the
11 AFRC/RUF from Tongo they had a military base there?

12 A. You mean in January 1998?

13 Q. Yes, precisely.

14 A. Yes, the AFRC and the RUF were having a military base in
11:38:54 15 Tongo.

16 Q. Now, Mr Witness --

17 A. Yes sir.

18 Q. -- would I also be correct that the Kamajors had sent
19 advance warnings to Tongo for civilians to leave before the
11:38:54 20 attack? Would I be correct to say that?

21 A. No. No. Warning, no.

22 Q. Now, Mr Witness, do you know whether the Kamajors sent
23 letters to civilians in Tongo asking them to leave before they
24 are attacked?

11:39:05 25 A. No.

26 JUDGE THOMPSON: Just a minute. Isn't there a lurking
27 ambiguity in that answer. No, what? No, he does not know
28 whether they did send or did they not send?

29 MR YILLAH: I'll put it to him again.

1 Q. Mr Witness, do you know whether the Kamajors sent letters
2 to civilians in Tongo asking them to leave before they are
3 attacked, the final attack?

4 A. No, I don't know about sending letters to Tongo for
11:40:03 5 civilians to leave.

6 Q. Mr Witness, from your evidence I take it that you were not
7 in Tongo -- xxxxxxx were not part of the group of Kamajors that
8 finally attacked and took the AFRC/RUF out of Tongo. You were
9 not part of that group?

11:40:54 10 A. You mean the group that went into gun battle?

11 Q. Yes.

12 A. Face to face gun battle?

13 Q. Yes.

14 A. No, in my statement -- in my statement, if you could
11:41:08 15 recall, I mentioned that xxxxxxx arrived with the ammunitions. The war
16 was -- the fighting was in progress in Tongo. They were just
17 running short of ammunitions when xxxxxxx arrived. Haven't heard about
18 my arrival. How did they hear? They were supplied with ammos.
19 They said those guys have come. And xxxxxxx stayed at Panguma.

11:41:44 20 Q. Mr Witness, the question is straightforward.

21 JUDGE THOMPSON: Quite right. I think we'll go back to
22 that question because that's not the answer.

23 MR YILLAH:

24 Q. Mr Witness, you were not part of the fighting force that
11:41:56 25 attacked and took the AFRC/RUF out of Tongo?

26 JUDGE THOMPSON: Yes, it's either yes or no.

27 MR YILLAH:

28 Q. Were you or were you not?

29 A. No.

1 Q. Thank you, Mr Witness. Mr Witness, I am putting it to you
2 that advanced warnings were sent to civilians to leave Togo
3 before the Kamajors launched their final attack. I'm putting it
4 to you?

11:42:50 5 A. I don't want to believe so.

6 Q. Mr Witness, I'm also putting it to you that the final
7 Kamajor attack on Togo that you spoke about was directed against
8 the military base at the NDMC headquarters?

9 A. Only the military base you're talking of.

11:43:42 10 Q. Mr Witness, the question is simple. I'm putting it to you
11 that the final attack that took the AFRC/RUF out of Togo was
12 directed at the military base at the NDMC headquarters in Togo?

13 A. Not only the military base.

14 Q. Now, you testified in your evidence-in-chief about your
11:44:37 15 observation of corpses, dead bodies, on the major streets of
16 Togo. Now, Mr Witness, I am putting it to you that those dead
17 bodies you saw in Togo came about as a result of civilians being
18 used as human shields by the AFRC/RUF soldiers during the attack.

19 MR BANGURA: May it please Your Honour, I object to that
11:45:12 20 question. The witness has clearly testified that he went to
21 Togo and found these bodies. He has not testified to being
22 there when they were killed. He found decomposing corpses. He
23 saw body parts. I don't think the question is a fair question to
24 the witness.

11:45:34 25 PRESIDING JUDGE: Well, he can answer that he doesn't know.
26 I mean, I don't see what is the unfairness about that.

27 JUDGE THOMPSON: I think he volunteered some hearsay
28 information. According to the records, he did say the he got
29 information of something from somewhere. So he did volunteer how

1 they were killed.

2 MR BANGURA: As My Lord pleases.

3 MR YILLAH: Apart from the information, my learned friend
4 knows that these are some of the elements that go to constitute
11:46:03 5 the crime with which the first accused is charged.

6 Q. Mr Witness, I'm putting it to you that those corpses you
7 saw came about as a result of civilians being used as human
8 shields by the AFRC/RUF soldiers?

9 A. Well, I don't know who killed them. I can hardly say who
11:46:34 10 killed who.

11 Q. Thank you, Mr Witness.

12 JUDGE ITOE: Does that answer the question; I don't know
13 who killed who.

14 MR YILLAH: That's his evidence.

11:46:46 15 JUDGE ITOE: Human shields, I don't know who killed who.

16 MR YILLAH: That's his evidence, My Lord.

17 THE WITNESS: That is how came about the death of those
18 people that I see, sir

19 JUDGE ITOE: Yes, you're coming closer it to now. You do
11:47:02 20 not know how they came by their death, isn't it?

21 THE WITNESS: [No audible response]

22 MR YILLAH: May I proceed, My Lord?

23 PRESIDING JUDGE: Yes.

24 MR YILLAH:

11:47:54 25 Q. Mr Witness, you also in your evidence-in-chief testified
26 about an incident at Dassama; is that correct?

27 A. Yes, sir.

28 Q. Now, you said you were on your way to Bo when you stopped
29 at Dassama because of a certain information you came by; is that

1 correct?

2 A. Yes.

3 Q. Now, were you in the company of War Council members or were
4 you alone?

11:48:49 5 A. I was in the company of some people that were in the War
6 Council.

7 Q. How many of them roughly; can you help the Court? How many
8 War Council members?

9 A. I can only remember one.

11:49:26 10 JUDGE ITOE: And which one was this?

11 THE WITNESS: Alhaji Daramy Rogers, My Lord.

12 JUDGE ITOE: Alhaji Daramy Rogers.

13 THE WITNESS: Yes, My Lord.

14 MR YILLAH:

11:49:56 15 Q. Mr Witness, and neither you as an executive member at your
16 level nor the War Council member intervened to save this man's
17 life?

18 A. We saw people running. We saw retreating Kamajors -- it
19 was a little bit distant from where we were seated. They were
11:50:21 20 chasing somebody. I mean, the time -- not even it -- it wasn't
21 even 15 minutes. They ran, they went into a bush, you know, and
22 they come now with the head of a human being and a small bit of
23 meat wrapped in leaves and they were placing them in their
24 pockets. So we did not actually go and say, "You stop this" or
11:50:54 25 what.

26 Q. You did not intervene?

27 A. Not at all. We never knew that they are going to kill
28 somebody.

29 Q. But after you knew about the incident did you intervene?

1 A. I did not intervene personally. Sorry. Sorry. Sorry,
2 please. I asked them, "Why have you killed this man?" They said
3 "Pa said police should die." I said, "Which Pa?" They said,
4 "Chief Norman." That is how it happened.

11:51:45 5 Q. But he was in there when that incident happened?
6 A. He was not there. Bumpeh is far off from there. Dassama
7 is far off from there at Base Zero.

8 Q. Now, Mr Witness, xxxxxxxx xxxxxxxx in a very responsible position in
9 the Kamajor movement. Would I be correct to say that xxxxxxxx xxxxxxxx in
11:52:27 10 a very responsible position, were you not?
11 A. Of course.
12 Q. Now, did you subsequently or at any time thereafter bring
13 this incident to the attention of the regional coordinator or the
14 commander of Bumpeh or Bo? Did you?

11:52:48 15 A. Killings were all over and --
16 Q. My question is --
17 A. No, sir.
18 Q. Mr Witness, you would also agree with me that Base Zero is
19 very far away from Bumpeh; is that correct?

11:53:37 20 A. Yes.
21 Q. Now, how long did you spend at Base Zero?
22 A. I stayed there for about two months.
23 Q. For two months?
24 A. Yes, at first.

11:54:14 25 Q. Was that the longest time you ever spent there?
26 A. Of course. Yes, sir.
27 Q. Now, Mr Witness, would I be correct to suggest that whilst
28 you were at Base Zero -- right?
29 A. Yes, sir.

1 Q. You did not know about what was happening at the battle
2 ground most of the time?
3 A. Which of the battle grounds are you referring to, sir?
4 Q. Let me put it this way for you so that we can get it clear.
11:55:05 5 Now, you told this Court that you were in Base Zero for a period
6 of two months?
7 A. Yes, sir.
8 Q. Now, I am saying that whilst you were in Base Zero during
9 this period of two months, you did not know about some of the
11:55:21 10 incidents involving Kamajors that were happening outside Base
11 Zero?
12 A. Well, I knew about some. The Bo commanders were coming in
13 with situation reports to -- for the attention of the national
14 coordinator, Chief Norman, so that he would know what is
11:55:56 15 happening on the ground. Because at one time they went -- the
16 commanders from Bo went and said they have gone as far as Towama,
17 where the Bo teachers college is. So I know about some. But
18 what was happening back home I did not know of.
19 Q. So for the two months period you did not know what was
11:56:35 20 happening in your home in xxxxxxxx Chiefdom?
21 A. Tongo, Panguma [indiscernible].
22 Q. And, Mr Witness, you would agree with me that the situation
23 is so because the use of communication set was not part of the
24 Kamajor method of fighting war; is that correct?
11:57:16 25 A. Please help me to understand what you mean by the phrase
26 "the situation was so".
27 Q. No, you said for the two month period that you were in Base
28 Zero you knew about some incidents but that you did not know what
29 was happening back home, your home, I take it; xxxxxxxx Chiefdom,

1 Panguma Chiefdom. I'm saying that there is this communication
2 gap because the use of communication set like radios was not part
3 of the Kamajor method of fighting war?

4 A. At that time.

11:57:55 5 Q. Thank you. And, Mr Witness, would I also be correct to
6 suggest that because of this absence of a communication system
7 between Base Zero and the various points some of the incidents do
8 not come to the knowledge of the Kamajor commanders at Base Zero?

9 A. Which of the commanders?

11:59:14 10 Q. To the War Council members, the national coordinator; those
11 who were at Base Zero?

12 A. Yes, I agree some of the incident did not come to the
13 notice of the War Council and the national coordinator because
14 already before --

11:59:59 15 JUDGE THOMPSON: Because of the lack of communication?

16 THE WITNESS: Yes.

17 JUDGE THOMPSON: That's the nexus you're making?

18 MR YILLAH: Yes, My Lord. That's what I put to him. That
19 will be all for this witness, My Lord.

12:00:21 20 PRESIDING JUDGE: Thank you.

21 THE WITNESS: Yes, sir, yes.

22 MR BANGURA: May it please Your Honours, I notice the
23 witness's hand is up. I'm not so sure.

24 PRESIDING JUDGE: We were just discussing for a short break
12:00:50 25 of five minutes, so that should take care of that. That is what
26 you are asking for, Mr Witness?

27 THE WITNESS: Yes, sir.

28 PRESIDING JUDGE: Okay. The Court is adjourned for five
29 minutes.

1 [Break taken at 12.00 p.m.]

2 [On resuming at 12.15 p.m.]

3 PRESIDING JUDGE: Counsel for second accused, yes.

4 CROSS-EXAMINED BY MR KOPPE:

12:18:46 5 Q. Good afternoon, Mr Witness?

6 A. Good afternoon, sir.

7 Q. Mr Witness, before you gave testimony today to this Court
8 and yesterday, did you prepare for your testimony? Did you
9 prepare yourself for this testimony that you gave yesterday and

12:19:16 10 today?

11 A. What do you mean exactly?

12 Q. Did you speak to somebody from the Prosecutor's office
13 about your testimony today?

14 A. Yes.

12:19:35 15 Q. Did you speak to the Prosecutor's office about the type of
16 questions you would get from them?

17 A. Go over that again.

18 Q. Did you discuss with the Prosecution's office what type of
19 questions you would get yesterday and today?

12:20:09 20 A. That you mean if I was asked yesterday by the Prosecutor
21 yesterday? Are you referring to yesterday?

22 Q. No, I'm referring to the questions of today and yesterday
23 by the Prosecution. Did you know that these specific questions
24 were going to be asked yesterday and today?

12:20:34 25 A. Well, he only told me that I will be giving -- I will be --
26 before this Court I will be asked a series of questions.

27 Q. He didn't specify which questions?

28 A. Well, he specified some. Not really.

29 Q. Let me give you example, Mr Witness. When you were being

1 asked this morning about the composition of the Kamajors, did you
2 know that the specific question was going to be asked by the
3 Prosecution?

4 A. It was out of the statement that I gave that -- these
12:21:21 5 questions began emerging from the Prosecution.

6 Q. No, my question was if you knew beforehand that this
7 question about composition of Kamajors was going to be asked by
8 the Prosecution?

9 A. He asked me that after giving my statement and that gave
12:21:48 10 back to those questions, for instance, the composition of
11 Kamajors.

12 Q. So you knew that this question was going to be asked?

13 A. Of course.

14 Q. And when discussing this question with the Prosecution did
12:22:09 15 the Prosecution say to you that it was important to mention
16 children who were fighting?

17 A. No, sir.

18 MR BANGURA: May it please Your Honours, I believe
19 communication between counsel and the witness has some -- is
12:22:29 20 subject to privilege and I submit that counsel cannot go so far
21 as to question the witness as to communication that he had with
22 counsel in the preparation for his testimony in court and that is
23 what counsel is seeking to do; going into what preparations the
24 witness had with counsel before he came to court.

12:23:02 25 PRESIDING JUDGE: Mr Defence Counsel.

26 MR KOPPE: Your Honour, the reason for this line of
27 questioning was that I was puzzled by certain answers to certain
28 questions and it seems to me that this witness was very well
29 prepared, to such an extent that he gave exactly the answers that

1 the Prosecution was seeking. I took this question of composition
2 as an example because when asked, in an open-minded fashion,
3 about composition of Kamajors it seems to me unlikely that the
4 witness should immediately speak about child soldiers. So I'm
12:23:40 5 just trying to ask from the witness how far he was led in giving
6 these answers before he was giving testimony yesterday and today.

7 PRESIDING JUDGE: But the objection -- I understand what
8 you're explaining and that's what I understood your questions to
9 be for, but the objection is you're now embarking into an area
12:24:06 10 that the Prosecution claims is privileged communication between
11 the witness and the Prosecution. So that's their claim to
12 support their objection to this line of questioning now.

13 JUDGE THOMPSON: As I understand it specifically, counsel
14 is objecting on the grounds that we're here in the area of
12:24:27 15 communication between lawyer and client and therefore, as a
16 result, they are entitled to the protection which such privilege
17 normally affords. I'm not saying they're right, but you would
18 want to respond specifically to that. As the learned presiding
19 judge has said, the objection does not go to the purpose, it goes
12:25:05 20 to the issue of whether what you're asking is privileged
21 communication.

22 PRESIDING JUDGE: And I would add to that my question was
23 directed to you in the sense -- and I was very careful about the
24 words I used. I have not stated that I do agree with what the
12:25:24 25 Prosecution is making as an objection necessarily. I'm just
26 posing the objection to you in the way I understood it to be.
27 Now whether such privilege of the communication between the
28 Prosecutor and a witness equates to communication between a
29 client or an accused and counsel is essentially what is raised at

1 this particular moment. So that's the issue.

2 MR KOPPE: I agree with you. I think there is a
3 fundamental difference between privileged communication between
4 counsel and the accused, his client, as opposed to a witness and
12:26:08 5 counsel for the Prosecution. I could imagine that preparing --
6 that witnesses which are examined on behalf of the Defence in a
7 later stage of this trial should be characterised and judged
8 differently than whatever communications I or my team have with
9 my client. I think there's a fundamental difference and I think
12:26:33 10 there's no case law backing up the position of the Prosecution on
11 this because, like I said, there is a fundamental difference
12 between counsel and a witness and a counsel and its client.

13 JUDGE THOMPSON: For me, and following from your analysis
14 here in response -- it would seem to me that if this becomes a
12:26:55 15 real bone of contention between you and the Prosecution I think
16 it would be better to hear arguments on it because even the issue
17 of who asserts the privilege might well come even if they are
18 right. Who asserts the privilege. The traditional position with
19 lawyer/client privilege is that it is the client who is asserting
12:27:22 20 the privilege against the lawyer wanting to disclose it or some
21 third party. So these issues may well be relevant and I don't
22 know how far learned counsel wants to press this for the
23 Prosecution, but if he's going to press it very far then perhaps
24 we need to hear some argument on this in the absence of the
12:27:40 25 witness.

26 PRESIDING JUDGE: I fully completely subscribe to the
27 comments of my brother Justice Thompson. The privilege is not a
28 privilege of lawyers, it's the privilege of the client and it's
29 the client that can claim that privilege, not the lawyer. A

1 lawyer is obliged to protect that privilege of his client, or her
2 client, but that belongs to the client and not the lawyer.

3 Furthermore I am unaware, but I may be educated in this
4 respect, that there is a privilege of the nature of lawyer/client
12:28:17 5 between a prosecutor and a witness. It's novel to me. If you do
6 have authority and you're prepared to argue that, as my brother
7 suggested, we are quite prepared to hear that and maybe hear
8 submission on that. But I am unaware of, as such, a privilege.
9 I'm not talking here of notes that you may take for your own
12:28:38 10 consideration when you're meeting and preparing for the case.
11 We're talking here -- and the objection had to do with
12 communication between you and the client.

13 MR BANGURA: May it please Your Honours, I think the
14 question was posed by His Lordship Justice Thompson as to how far
12:28:59 15 the Prosecution may wish to push this objection. My response to
16 that would depend on to what extent counsel intends to probe into
17 what transpired between counsel and the witness.

18 On the question of who has the right to claim the
19 privilege, I think Justice Boutet has rightly pointed out that
12:29:33 20 where the witness, as in this case, is not directly claiming it,
21 it could be claimed on his behalf by counsel and I think that is
22 what I have tried to do.

23 PRESIDING JUDGE: But are you claiming that you are the
24 counsel of this witness?

12:29:47 25 JUDGE THOMPSON: But that's the point. In fact, we're
26 talking about the traditional situation of a client/lawyer
27 relationship in the sense of client and accused persons. This
28 particular area is novel; a client/prosecutor relationship. And
29 that's the point where I say that if you're pressing this too far

1 - in other words, if you do not abandon the objection - it will
2 be very instructive for the Court to explore whether this common
3 law privilege between lawyer and client has any application in
4 the context of prosecutor and witness.

12:30:36 5 MR MARGAI: My Lords, I'm sorry, may I seek direction from
6 the Bench? In these tribunals when a witness takes the oath does
7 he not become a witness of the Court and, if so, should counsel
8 have access to that witness? Maybe that might help us.

9 PRESIDING JUDGE: In my position - I haven't discussed that
12:31:02 10 with my brothers here, but I know there is case law to support my
11 view of this - there is no ownership in a witness. A witness who
12 is there does not belong to the Prosecutor, does not belong to
13 the Defence

14 MR MARGAI: I would have thought so.

12:31:18 15 PRESIDING JUDGE: And certainly nothing precludes a defence
16 counsel from even having access to a witness whose name has been
17 disclosed to you before they gave evidence.

18 MR MARGAI: It has to be with the leave of the Court as
19 long as the witness has taken the oath.

12:31:35 20 PRESIDING JUDGE: Yes, absolutely.

21 MR MARGAI: That's what I'm saying.

22 PRESIDING JUDGE: If the witness has taken the oath,
23 absolutely.

24 MR MARGAI: Precisely.

12:31:36 25 PRESIDING JUDGE: But what I'm saying is even before a
26 witness gives evidence in court and his oath is taken nothing
27 would be preclude you to speak to that witness because there's no
28 ownership in witnesses.

29 MR MARGAI: I concede that, My Lord.

1 PRESIDING JUDGE: Even though they may be called by the
2 Defence it would not preclude somebody from the Prosecution to
3 talk to the witness being called by the Defence prior to that
4 witness giving evidence. So, yes, I agree with your position on
12:32:03 5 that.

6 MR MARGAI: As My Lords please.

7 PRESIDING JUDGE: We are moving away from the objection at
8 this particular moment. Justice Thompson was essentially asking
9 you are you insisting with your objection.

12:32:09 10 MR BANGURA: Without actually pushing the point I just
11 perhaps wish to pose a question, Your Honours, respectfully. Is
12 not counsel entitled as between counsel and the witness for the
13 Prosecution -- I mean, falling short of a privilege, would there
14 not be some entitlement to confidentiality between the two of
12:32:33 15 them as regards what transpires between them prior to testifying
16 in court? I'm asking but not particularly pushing the objection
17 at this point.

18 PRESIDING JUDGE: You are asking for guidelines.

19 MR BANGURA: Yes.

12:32:56 20 JUDGE ITOE: You see, we have been conducting these
21 proceedings in a manner that we really have not defined the
22 relationship of prosecuting counsel and prosecution witnesses who
23 have come here. There is, at a certain stage, a confusion as to
24 whether a prosecuting counsel who takes notes as an investigator
12:33:16 25 and what is the state of these notes, and if he is so taking
26 notes what is the privilege that links him with the witness? Is
27 it a counsel/client relationship or what?

28 We have up to now not been able to get out of that
29 obscurity and it is troubling because in the preparation of the

1 case this witness must have given some statements to counsel for
2 the Prosecution taking instructions in preparation for the case
3 and making notes to prepare for that case and then finding
4 himself, having taking the notes, representing the Prosecution in
12:34:06 5 relation to leading the evidence of that same witness from whom
6 he might have taken the statements. So this is, I think, an
7 issue that we have to address our minds to because it is very,
8 very important. There is something which is requiring our
9 attention somewhere as to the relationship.

12:34:32 10 Is the relationship between prosecuting counsel and the
11 witness as far as they are involved in investigations and
12 prosecutions -- is it to be patterned as a relationship between
13 counsel and client in terms of the privilege that we want to
14 address our minds to? I think it's a matter we have to address
12:34:58 15 our minds to properly in order to get out of this.

16 PRESIDING JUDGE: So are you maintaining your objection or
17 not?

18 MR BANGURA: At this point no, I'm not pushing the
19 objection further. I will withdraw the objection and see how far
12:35:19 20 counsel goes with it.

21 JUDGE THOMPSON: In the interests of the ascertainment of
22 the truth, well, whatever answers come out of the question will
23 be a matter for weight later on.

24 PRESIDING JUDGE: Mr Koppe, the objection has been
12:35:32 25 withdrawn.

26 MR KOPPE:

27 Q. Mr Witness, I believe my last question to you was whether
28 you knew beforehand that the question about the composition of
29 the Kamajors was going to be asked?

1 A. It was mentioned in my statement and I was asked to clarify
2 that further. So I have to make clarifications. From that point
3 I knew that that kind of question might come up.

4 Q. Mr Witness, did counsel for the Prosecution in this respect
12:36:36 5 mention to you that it would be important to mention that child
6 soldiers were part of Kamajors or the Kamajors were composed of
7 child soldiers?

8 A. He asked me to clarify that point after making the
9 statement. That is what I am saying. And after that I took
12:37:07 10 notice that those questions might come up, but he did not specify
11 whether they were going to be asked of me, those kind of
12 questions here.

13 Q. So are you saying that you didn't speak to the counsel for
14 the Prosecution beforehand about child soldiers?

12:37:35 15 A. I speak to him, out of the statement I [overlapping
16 speakers].

17 MR BANGURA: I stand to object.

18 JUDGE THOMPSON: Just a minute. Counsel, this witness, as
19 far as I can appreciate, has answered that he did clarify
12:37:46 20 something on child soldiers. I mean, something that he had made
21 in his statement -- he made in his statement about the
22 composition of Kamajors and he was asked to clarify it. I'm not
23 sure you intend, as counsel and as an officer of the Court, to
24 suggest that the Prosecution told him what to say. I'm sure
12:38:17 25 you're not suggesting that. Because remember this witness has
26 acknowledged that this is his statement, and what he had told the
27 Prosecution and the answer seems to be that he had told the
28 Prosecution about the composition of the Kamajor group but also
29 mentioned about child soldiers but was asked to clarify things.

1 Because if the suggestion coming from the Defence is that the
2 Prosecution put words in his mouth it would be a very serious
3 accusation and for my part, as a member of the Bench, one which
4 would not have to be made lightly and with serious implications
12:39:03 5 for the integrity of the process.

6 PRESIDING JUDGE: I subscribe to these comments as well.
7 It may have been because of the ambiguity of your question and
8 maybe you did not intend to asperse doubt as to the
9 professionalism, to say the least, of the Prosecution. If that
12:40:09 10 is the case, well then we may be embarking into a different
11 direction here. Because the witness again, just to carry on with
12 what my brother Justice Thompson has said, has explained to you
13 that he has met with them, he has described in his statement what
14 he did. He was asked questions about that. He said he took
12:40:09 15 notes, mental notes, of the possibility of questions that he
16 might be asked.

17 MR KOPPE: Just to be very clear on this point --

18 JUDGE ITOE: Would you say that it is not normal in the
19 course of preparing a case for the Prosecution to clarify certain
12:40:09 20 issues before coming to court? Is that what you're suggesting,
21 Mr Koppe?

22 MR KOPPE: No, this is not what I'm suggesting at all.

23 JUDGE THOMPSON: Before you answer you might just get me
24 clear. What would be abnormal from the perspective of the
12:40:49 25 interests of justice if any side, prosecution or defence, were to
26 tell their witnesses what to come and say in court.

27 MR KOPPE: What would be, in my view, abnormal is to direct
28 a witness to such an extent that the witness is going to say
29 certain things which might be true but which sustains the case

1 of, in this case, the Prosecution. My point is --

2 JUDGE THOMPSON: No, no. Let's not get it confused here.

3 The line of prohibition, as far as we understand -- the practice
4 of the law has always been witnesses for the Prosecution or the

12:41:29 5 Defence come and tell their story as they know them. They can be
6 coached in terms of the manner in which they tell their story,
7 but what they cannot be told to do is to say things which the
8 Prosecution or the Defence has actually added to their statement.

9 The line is clear and I'm only saying that if you're suggesting
12:41:36 10 that what you're cross-examining on was an emanation from the
11 Prosecution we are in fact in the territory of imputing some kind
12 of professional misconduct. That's all I'm trying to clarify.

13 PRESIDING JUDGE: I would like to add as well that in my
14 view there is absolutely nothing improper in the witness giving
12:42:01 15 you a factual background in the story, as such, and what he has
16 seen and observed, as such, with you as preparing your own
17 witness to say, "Well, I will be asking questions about these and
18 these are important matters". I mean, that comes from the
19 witness. However, if you add to what he's told you and you say,
12:42:21 20 "Well, it's not 15, it was 25 of those that you've seen, isn't it
21 true", and you're trying to build a story, quite a different
22 scenario. But to insist on a witness that you are calling that
23 you will be asking questions on this and this is, in your point
24 of view, an important matter, what's improper about that?

12:42:31 25 [HN270505C 12.40 p.m. - EKD]

26 MR KOPPE: I think, Your Honours, that we are in agreement
27 on this issue. The point that I am making is that this is the
28 first witness of all the witnesses I have heard so far that seems
29 to be very keen on giving incriminating evidence. It is not only

1 this question about composition of Kamajors, which is an open
2 ended question -- very, very open question. We actually had a
3 discussion on this. That this witness immediately starts
4 speaking about child soldiers. It is also on various occasions
12:43:19 5 that whenever one asks questions about what was going on for
6 instance at Base Zero, this witness has on more than one occasion
7 referred to the three accused. This is actually the first
8 witness who is naming these three witnesses without seemingly any
9 good reason.

12:43:43 10 I am just trying to see whether in this specific case, in
11 the deliberations before this testimony certain things occurred.
12 But if it is your position I am going too far on this I --

13 PRESIDING JUDGE: No, you are perfectly entitled to explore
14 matters that you feel are important for the defence of your
12:44:04 15 client. That is not what we are saying. We are saying in the
16 way you do it you have to be careful because some of your
17 questions have led, for example, this Bench to think that you
18 were trying to insinuate that the Prosecution might have done
19 things that were not proper and may have indeed not only prepared
12:44:20 20 the witness in the true sense, but gone beyond the mere
21 preparation. That is basically what seems to be coming out from
22 some of your questions. But for you to explore what you have
23 just described, that territory is perfectly legitimate.

24 JUDGE THOMPSON: I concur in that.

12:44:45 25 MR KOPPE: Let me rephrase, Your Honour, my question to the
26 witness.

27 JUDGE ITOE: The imputations you should avoid, Mr Koppe, in
28 my opinion is that --

29 MR KOPPE: I will.

1 JUDGE ITOE: The imputation you should avoid is that notion
2 that we know in practice of school witnesses: Witnesses who are
3 schooled, you know, to come and testify on issues which are not
4 true or in a manner that is totally exaggerated. When you make
12:45:09 5 such an imputation I go with my colleagues to show that they
6 border on impugning the integrity of the Prosecution, which in
7 interviewing its witnesses has just done what is procedurally
8 right in interviewing its witnesses beforehand and before they
9 come to testify, just like you would also interview witnesses
12:45:35 10 when they will come and testify before us. It is perfectly your
11 legitimate right. And I think you should also concede that to
12 the Prosecution if, of course, they are not asking these
13 witnesses to come and tell us untruths.

14 MR KOPPE: Thank you, Your Honour. Let me rephrase my
12:45:59 15 question to the witness.

16 Q. Mr Witness, in discussions that you had with counsel for
17 the Prosecution was the topic of soldiers an important topic you
18 spoke about?

19 A. Say that again; which soldiers?

12:46:15 20 Q. Child soldiers within the Kamajors or children -- child
21 fighters within the Kamajors. Was it an important topic when you
22 had discussions with the Prosecution before the testimony of
23 yesterday and today?

24 A. If it is important, you mean?

12:46:33 25 Q. Yes, was it an important element in your discussions?

26 A. Well, I don't know. I don't actually know what specific --
27 whether there will be important elements of it. I mentioned that
28 in my statement, of course.

29 MR KOPPE: I will move on, Your Honour.

1 Q. Mr Witness.

2 A. Yes, sir.

3 Q. In the cross-examination by counsel for the first accused
4 you acknowledged that you were xxxxxxx from your office. Is that
12:47:13 5 correct?

6 A. Yes, sir.

7 Q. Would it be possible to give a reason for you being sacked?

8 A. Yes, sir, if I could write that on a piece of paper for
9 security reasons.

12:47:36 10 Q. Of course.

11 PRESIDING JUDGE: We might have been embarking in a
12 delicate -- in the sense of revealing his identity in some ways.
13 But if you are satisfied with that you can do it.

14 MR KOPPE: No objection, no objection.

12:47:51 15 PRESIDING JUDGE: Would you write the question down,
16 "reason why you were sacked", and we'll ask the witness to
17 respond to that in writing. So Mr Koppe, you have seen the
18 answer to your question. You want that to be marked as an
19 exhibit?

12:51:49 20 MR KOPPE: Yes, please.

21 PRESIDING JUDGE: Mr Walker, we are at Exhibit 89 now or
22 90?

23 MR WALKER: Exhibit 90, Your Honour.

24 PRESIDING JUDGE: So this document will be marked as
12:52:41 25 Exhibit 90.

26 [Exhibit No. 90 was admitted]

27 PRESIDING JUDGE: Yes, Mr Koppe.

28 MR KOPPE:

29 Q. Mr Witness, did you agree or oppose to you being sacked for

1 this reason?

2 A. Sir?

3 Q. Did you agree or did you oppose to this reason?

4 A. Which of the reason, the one given by me?

12:53:40 5 Q. No, let me rephrase that. To you being sacked, did you
6 agree with that or did you oppose it?

7 A. But --

8 Q. You were sacked?

9 A. Yes, yes.

12:53:50 10 Q. Did you agree with the fact that you were sacked or did you
11 oppose it?

12 A. No, I was sacked. I have given the reason.

13 Q. Were you happy about it or were you unhappy about it?

14 A. Well, I was happy because already -- because of the reasons
12:54:09 15 given, written on the document which I have just tendered. If I
16 was not happy I would not have done that.

17 Q. So you had no objection?

18 A. I have no objection.

19 JUDGE ITOE: So you have no objection for being sacked on
12:54:45 20 the grounds of reasons given in Exhibit 90?

21 THE WITNESS: At that time?

22 JUDGE ITOE: Is that what you're saying?

23 THE WITNESS: At that time when I was sacked?

24 PRESIDING JUDGE: Yes.

12:54:59 25 THE WITNESS: If I objected on the idea?

26 PRESIDING JUDGE: If you opposed or objected to your being
27 sacked, not to the reason you have given. To you being removed
28 from your job.

29 THE WITNESS: I opposed that one at first. I opposed it.

1 PRESIDING JUDGE: That was the question: Did you oppose or
2 object to your being removed from your job?

3 THE WITNESS: I opposed that.

4 MR KOPPE:

12:55:37 5 Q. Mr Witness, did you fight in any way the removal of your
6 office? This decision, did you fight this decision?

7 A. Yes, initially I wrote a petition to the National
8 Coordinator complaining that others have done it and they were
9 not sacked and I have done it I have been sacked. But later I
12:56:07 10 did that just to know what to be the outcome of it.

11 JUDGE ITOE: You wrote a petition to the National
12 Coordinator. Who was this?

13 THE WITNESS: Chief Hinga Norman.

14 MR KOPPE:

12:56:48 15 Q. Mr Witness, what was the reply of Mr Norman to your
16 petition?

17 A. No reply.

18 Q. No reply?

19 A. Not at all.

12:57:10 20 Q. Did this make you in any way unhappy or angry with
21 Mr Norman?

22 A. Well, no. No. Because when you disarm that will be the
23 end of it.

24 Q. Mr Witness, there are some people who say you have a grudge
12:57:37 25 against Mr Norman for being sacked. True or false?

26 A. I don't have a -- I never have a grudge against him.

27 MR KOPPE: Your Honour, I am moving on to Base Zero and I
28 am looking at the clock. Shall I go on?

29 PRESIDING JUDGE: If you are to complete Base Zero in five

1 minutes you may. No? Then we are going to break and come back
2 and resume at 2.30 p.m. this afternoon, thank you. Court is
3 adjourned.

4 [Luncheon recess taken at 12.55 p.m.]

14:29:04 5 [HN 270505C-2 - EKD]

6 [On resuming at 2.47 p.m.]

7 PRESIDING JUDGE: Yes, Mr Koppe, you're ready to proceed
8 ahead?

9 MR KOPPE: Thank you, Your Honour.

14:49:49 10 Q. Mr Witness.

11 A. Yes.

12 Q. You have given testimony that you have arrived at Base Zero
13 in the early beginning of November 1997; is that correct?

14 A. Yes, sir.

14:50:03 15 Q. And that you initially stayed there for a period of two
16 months, correct?

17 A. Yes, sir.

18 Q. When you first arrived at Base Zero --

19 JUDGE ITOE: He said he arrived there first when?

14:50:24 20 MR KOPPE: Early November.

21 THE WITNESS: Not early November.

22 JUDGE ITOE: Mr Witness, when then?

23 MR KOPPE:

24 Q. When exactly did you arrive?

14:50:39 25 PRESIDING JUDGE: The first time. The first time you go
26 to -- it's the first time you're asking?

27 MR KOPPE: Yes.

28 THE WITNESS: It's around the 19th of November.

29 MR KOPPE: 19th. That is not early November, I agree.

1 Q. Mr Witness, when you arrived at Base Zero could you
2 indicate approximately how many people were present at Base Zero?

3 A. The population was higher.

4 Q. What do you mean with high - hundreds of Kamajors,
14:51:31 5 thousands?

6 A. There were hundreds of Kamajors and the people of them --
7 the people of the village also.

8 Q. And did this number increase in the next two months that
9 you were there?

14:51:57 10 A. Yes, sir.

11 Q. Would it be possible to indicate how much people were there
12 at one point?

13 A. Exactly -- the exact figure would be difficult for me to
14 tell, because there were plenty people.

14:52:21 15 Q. I understand that, but more than thousand?

16 A. It was a bit closer to thousands of people. It goes higher
17 and it reduce and get high.

18 PRESIDING JUDGE: Are we still talking November '98 or
19 you're more the end of the witness's stay at Base Zero?

14:52:54 20 MR KOPPE: I understand it is more to the end of 2000.

21 PRESIDING JUDGE: The numbers you've given, Mr Witness, is
22 it when you got there or when you went back?

23 THE WITNESS: During the time --

24 PRESIDING JUDGE: During the time you were at Base Zero,
14:53:11 25 during the two months?

26 THE WITNESS: Yes, sir. At times it swells, at times it
27 reduces.

28 PRESIDING JUDGE: When you say "it swells," you mean it
29 went over a thousand?

1 THE WITNESS: It increases.

2 PRESIDING JUDGE: Over a thousand?

3 THE WITNESS: Yes, sir.

4 MR KOPPE:

14:53:28 5 Q. Mr Witness, while you were there did you have a specific
6 function or job to do?

7 A. No, sir.

8 Q. Could you just describe to us what you have been doing
9 there in those two months?

14:53:50 10 A. I was just waiting for the arms and ammunitions. I was
11 waiting for. I was only waiting for arms and ammunitions. And
12 at one point in time sometimes I attended a meeting at xxxxxxxx II
13 wherein the meeting was someone to get somebody appointed to
14 deputise the Director of War, as I mentioned yesterday.

14:54:31 15 Q. But you didn't have any specific role in, let's say, the
16 command structure, to use that word?

17 A. No, I was only waiting for ammunition.

18 Q. Would it be fair to say that you were -- you had a position
19 like many other Kamajors who were waiting?

14:55:02 20 A. What do you exactly mean?

21 Q. Well, at one point you have given testimony that there were
22 about maybe thousand people on the base.

23 A. Yes, sir.

24 Q. You had no specific role or function. But there must be
14:55:24 25 other people like yourself who were waiting for ammunition or
26 other logistics; correct? Let me use other words. All these
27 other people, did they have roles or functions or jobs on Base
28 Zero?

29 A. Among the thousands?

1 Q. Yes.

2 A. There were people undergoing training at Base Zero, there
3 were people -- some were conducting the training at Base Zero.
4 There were chiefs of that village. And we have the National
14:56:12 5 Coordinator, Chief Norman; Moinina Fofana; Allieu Kondewa was
6 there. There were other commanders like Nallo, whom I know, the
7 southern commander. There were the War Council people, there
8 were people on the communication sets. There were also people
9 responsible for communicating to the BBC by using the radio --
14:56:51 10 the satellite phone, et cetera.

11 Q. But it is fair to say that you were a civilian with no
12 specific functions like you just described?

13 A. Yes, xxxxxxxx went there to get ammunitions. I was told even they
14 are available today, I will leave. So the delay was there that
14:57:19 15 brought about my staying for the two months I have mentioned.

16 Q. Mr Witness, did you ever have a personal conversation with
17 Moinina Fofana?

18 A. Yes.

19 Q. I am not referring to the time that you were offered that
14:57:45 20 situation report, but you gave testimony --

21 A. While I was there.

22 Q. But after that did you have any personal conversation with
23 him about things?

24 A. What is the "after that"?

14:58:01 25 Q. Well, after you arrived --

26 A. Yes.

27 Q. -- at Base Zero you presented a situation report. That was
28 your testimony yesterday.

29 A. Yes.

1 Q. And you said that was received by Moinina Fofana.

2 A. Yes, sir.

3 Q. Apart from that encounter did xxxxxxx ever have a personal
4 encounter with Mr Fofana?

14:58:23 5 A. Yes, sir.

6 Q. Can you please tell when that was?

7 A. That happens many times. I mean, you wake up in the
8 morning, you have to come and say the usual greetings, you have
9 to ask for food because you have to eat. He can tell you what

14:59:04 10 next or go so and so place and receive for your boys so that they
11 will go and cook for themselves and eat. I mean, he was really
12 encouraging me to wait until ammunitions are available. You
13 know, we had those kind of talks.

14 Q. But were there other people like xxxxxxx who had personal
14:59:44 15 conversations with Mr Fofana?

16 A. What do you mean when you say like me? Semblance?

17 Q. Do you know if there are other people like yourself who had
18 personal encounters with Mr Fofana and spoke about food, for
19 instance? Were you the only one?

15:00:06 20 A. I know of my own. I was not there to see -- to cross-check
21 or probe into what other people are talking with him. When I get
22 mine I just leave and go away. There were people who were
23 knocking his door -- the door of his room, entering there, and
24 they were having talks, but I can't tell exactly what they were
15:00:33 25 talking about.

26 Q. Did you ever speak to him about operations on strategy?

27 A. Yes.

28 Q. You would?

29 A. Yes. Because as a Director of War he needs to ask and he

1 asked what was the position in xxxxxxx. You know, "Do you think
2 you would be able to dislodge those people?" Those kinds of
3 talks.

4 Q. So he was asking information from you?

15:01:28 5 A. Yes.

6 Q. But did he also tell you what strategic or tactical
7 objectives were from the Kamajors?

8 A. Go over that again.

9 Q. Did he also tell you what the strategic or tactical goals
15:01:44 10 were of the CDF?

11 A. At one time he just make a statement in a nutshell saying
12 that we'll enjoy after liberating the country. That we will
13 enjoy. I can remember at one time we were just talking on a cool
14 evening, saying that, "Guys, you just try and if we succeed you
15:02:31 15 will enjoy in the future."

16 Q. Mr Witness, would it surprise you if I tell you that
17 Moinina Fofana has no recollection whatsoever about you?

18 A. He what?

19 Q. He has no recollection of you, he does not remember you at
15:02:51 20 all. Would that surprise you?

21 A. Yes, it will surprise me. It will surprise me. Because I
22 can remember at one time when xxxxxxx entered his room, xxxxxxx and one
23 Vandi Songo, xxxxxxx enter his room, we tell him that we are leaving
24 now for Tongo, and he gave us the sum of -- a cash amount to the
15:03:32 25 tune of about 100,000 leones he gave us in his room. And he was,
26 in fact, ordered to give us a good, which he did, 20,000 leones
27 on our second visit. And he used to bring dried fish and serve
28 xxxxxxx in the evening when xxxxxxx are together with the Pa. If he can
29 just say he denies -- well, probably what will come to mind -- to

1 my own mind is something like I have got -- I have developed
2 weight because in the days of the jungle I was a thin man.

3 Q. That could be a reason, Mr Witness.

4 A. Yeah.

15:04:31 5 Q. But you would be surprised if I tell you that you are the
6 first person who said he was on Base Zero that Mr Fofana does not
7 recognise. That would surprise you?

8 A. Yes.

9 Q. Okay. This situation report, Mr Witness, that you brought
15:04:54 10 to Base Zero on the 19th of November. You said yesterday that it
11 was originally handed to Mr Fofana; correct?

12 A. Yes, when Chief Norman was not there. He told us he has
13 gone to Liberia.

14 Q. Yes. Do you know whether Mr Fofana was actually able to
15:05:29 15 read that situation report?

16 A. He cannot read.

17 Q. So he is an illiterate?

18 A. Yes.

19 Q. So, Mr Witness, when you have given testimony earlier that
15:05:48 20 one of the functions of a Director of War is to receive frontline
21 reports, that would then not mean that the Director of War
22 actually reads those frontline reports; correct?

23 A. Go over that again, please.

24 Q. Well, yesterday you were asked by counsel for the
15:06:14 25 Prosecution that one of the functions of a Director of War is to
26 receive frontline reports.

27 A. Yes.

28 Q. But if you are saying that Mr Fofana was illiterate at the
29 time, this doesn't mean -- this means that he doesn't actually

1 read those reports; correct?

2 A. Yes, he cannot read. But I want you to -- I want to bring
3 to your notice that I made mention yesterday that when we arrive
4 at Base Zero that first day, he told us, "Chief Norman is not
15:07:04 5 here, he's gone to Liberia, and if he's not there I am in
6 charge." And having said that, I think we have to disclose the
7 purpose of our visit to him and hand him over whatever thing we
8 are having for Chief Norman. I think that is a best way a
9 stranger could behave initially.

15:07:33 10 Q. I understand that, Mr Witness. But my question was the
11 receiving of as you call them frontline reports, you said that
12 that was one of the functions of the Director of War?

13 A. Yes.

14 Q. But it does not mean he actually read them?

15:07:51 15 A. He handled it for the onward transmission to the National
16 Coordinator.

17 JUDGE THOMPSON: Mr Koppe, let me understand your question
18 a little if I can follow. You are suggesting to the witness that
19 the presumption of receiving a report also implies the
15:08:15 20 presumption of the ability to read it. Is that what you're
21 putting to him?

22 MR KOPPE: That's what I'm putting to him.

23 JUDGE THOMPSON: Quite. I thought I should process it
24 myself.

15:08:30 25 MR KOPPE:

26 Q. So is it fair to say that Mr Fofana was, in respect of
27 frontline reports, simply a mailbox for Mr Norman?

28 A. Well, I cannot put it that way, say he is a mailbox for
29 Mr Norman. He said, "The man is not here, but I am in charge."

1 I think the best way to behave in that -- at that time was to, I
2 mean, tell him all that you know. And that is why xxxxxxxx went
3 together with Orinko Fofana. He knows the route and he
4 introduced the route how to take, you know, bypass and each unto
15:09:16 5 Base Zero. He knew him before at Gendema. At first that base
6 was at Gendema. It moved so that the war can move rapidly. And
7 when he told us that the Pa is not here, referring to Chief
8 Norman, I mean, Orinko, you know, buttressed the idea which he
9 raised that "When the Pa is not here, I am in charge." And
15:09:48 10 Orinko said, "Didn't you know this man, he is the Director of
11 War." So in fact, all the reports I was having, I pass it on to
12 him and he gave it to -- you know. In fact, we never knew that
13 he cannot read at that time initially. But whether he was able
14 to read or not, we just have to pass everything we have for them
15:10:20 15 at Base Zero.

16 Q. Mr Witness, you have given testimony earlier that Mr Fofana
17 was giving interviews to the BBC; correct?

18 A. Yes, sir.

19 Q. Have you ever heard -- have you ever listened to one of
15:10:50 20 those interviews?

21 MR BANGURA: May it please Your Honours. I don't recall
22 evidence before this Court that Moinina Fofana was giving
23 interviews. I do recall evidence that he was quoted in reports.
24 I think there may have been a misstatement of the evidence in
15:11:17 25 that respect.

26 JUDGE THOMPSON: I remember that particular aspect of the
27 evidence in the context of you trying to elicit from him whether
28 he was someone of considerable authority.

29 MR BANGURA: Authority, exactly.

1 JUDGE THOMPSON: And then the answer was that well, if
2 every time we read something about him then it stands to reason
3 that he was someone with considerable authority. I think that is
4 the evidence that I recall. But counsel may have something
15:11:51 5 different, we don't know. Probably something further than that,
6 I don't remember that. But I am not saying that he did not say
7 he gave interviews to the BBC. I mean --

8 MR KOPPE: That was my understanding but I might be wrong.

9 JUDGE THOMPSON: I can't vouch for it. I just wanted to
15:12:12 10 agree with the context in which he made that observation. He may
11 have gone to that.

12 PRESIDING JUDGE: My recollection was, about this same
13 line, that it was Prince whatever his name that was giving
14 reports on BBC and he was quoting people, but I don't remember
15:12:27 15 specifically that Fofana would have given an interview. I don't
16 remember the second name of Prince, but whoever it was --

17 JUDGE ITOE: Prince Brima.

18 PRESIDING JUDGE: Prince Brima was reporting on a regular
19 basis on the BBC and he would say the Director of War, Mr Fofana,
15:12:42 20 or something like that. So it was not an interview with but a
21 report about.

22 MR KOPPE: That might be --

23 Q. Is that correct, how it is now summarised by the Presiding
24 Judge?

15:12:55 25 A. Well --

26 Q. He didn't actually appear in an interview on the BBC but he
27 was quoted?

28 A. Yeah, he was frequently, frequently quoted.

29 Q. Quoted, okay. Would you be able to tell this Court what

1 these quotes were?

2 A. What is -- how he was quoted, you mean?

3 Q. Yes, yes.

4 A. Yes, sir.

15:13:24 5 Q. Please do.

6 A. At one time there was a Kamajor advancement towards Kono.

7 The Kamajors captured the Sewafe bridge and they were advancing

8 towards Ngo Town. So Prince Brima made an announcement wherein

9 he quoted Moinina Fofana that according to Moinina Fofana, the

15:14:03 10 National Director of War CDF Sierra Leone, Kamajors have captured

11 Sewafe bridge and are advancing towards Ngo Town - N-G-O, Ngo

12 Town - at that time. I can remember that.

13 JUDGE ITOE: What is the name of that bridge again? The
14 bridge?

15:14:44 15 THE WITNESS: Sewafe bridge, S-E-W-E-F-E [sic].

16 MR KOPPE:

17 Q. Mr Witness, although you did not have a functional role on
18 Base Zero, although you were a civilian, you are saying that you
19 are well aware of how things went on Base Zero; correct?

15:15:12 20 A. Go over that again.

21 Q. Although you did not have any function or role on Base
22 Zero, although you were a civilian --

23 A. You mean -- excuse me, sir, please.

24 Q. Yes.

15:15:31 25 A. You mean I was a civilian assuming that I was not a
26 Kamajor, or you are taking Kamajors and civilian to be the same
27 people? Is that what you mean?

28 Q. You were not a fighter; correct?

29 JUDGE ITOE: He said he fought at times; he has said so.

1 He fought at times.

2 PRESIDING JUDGE: In his evidence-in-chief, in fact, he was
3 asked a question -- or maybe in cross-examination. But he has
4 said that he was not a fighter all the time but he has fought.

15:16:05 5 JUDGE ITOE: Yes.

6 PRESIDING JUDGE: You can ask him the question, if you
7 need. You seem to be uncertain about that. But that was his
8 evidence.

9 THE WITNESS: Can I clarify that?

15:16:18 10 MR KOPPE: Yes, please do.

11 THE WITNESS: I have fought referring to ambush. We
12 cleared it and then we move to our base.

13 MR KOPPE:

14 Q. Okay, but it was an introduction to my question. The
15:16:37 15 question is: You are saying that you knew fairly well what was
16 going on in Base Zero. That is my question. That's correct,
17 would you say?

18 A. Yes, ~~xxxxxxx~~ was waiting ammunitions. That does not --

19 Q. That is exactly where I want to go now, Mr Witness. This
15:16:51 20 ammunition, logistics --

21 A. What I want to add, mind you, an ordinary civilian cannot
22 just go to Base Zero, stand there and begin to turn his head
23 north, south, east and west and telling people that "I am waiting
24 for ammunition." You have to be a fighter and you have to have
15:17:13 25 guaranteed for doing that.

26 Q. Very well.

27 A. I have told you several times.

28 Q. Very well. I want to move on to the logistics that ~~xxxxxxx~~
29 were waiting for; the ammunition, food, et cetera. Do you

1 know --

2 A. Say again, please.

3 Q. I want to move on now to the supplies, logistics, et
4 cetera, you were waiting --

15:17:34 5 A. You can, you can, please.

6 Q. Thank you. Can you please tell the Court where this
7 ammunition, food, et cetera -- where it was coming from?

8 A. For the ammunitions, they were brought in by the -- there
9 was one combatant helicopter in Sierra Leone that was -- it was
10 used by the EOs. I mean, Executive Outcomes. I want to believe
11 Sierra Leoneans [indiscernible] -- maybe they can attest to that.

12 Q. But are you saying that they were the suppliers of the
13 ammunition?

14 A. It was brought in from Liberia to Base Zero.

15:18:21 15 PRESIDING JUDGE: What was brought in - the helicopter or
16 the ammunitions?

17 THE WITNESS: Ammunitions.

18 PRESIDING JUDGE: The ammunitions?

19 THE WITNESS: Yes.

15:18:33 20 MR KOPPE:

21 Q. So you are saying Executive Outcomes are the ones who
22 actually supplied the ammunition?

23 A. No, sir, that is not the point I am making. I am saying
24 that the ammunitions were being brought in by the helicopters --
15:18:46 25 one of the helicopters that were formerly used by the EOs,
26 Executive Outcomes. And I don't know how that was able to render
27 services to ECOMOG, actually, it was --

28 JUDGE THOMPSON: Witness, you are not asked that. Please
29 give us that first part, otherwise we get the evidence so

1 entangled here. The ammunitions were brought in; how were they
2 brought in?

3 THE WITNESS: By --

4 JUDGE THOMPSON: Is it by one helicopter?

15:19:15 5 THE WITNESS: One helicopter.

6 JUDGE THOMPSON: Formerly belonging to Executive Outcomes?

7 THE WITNESS: That was my understanding.

8 JUDGE THOMPSON: From Liberia -- well, that's okay. I

9 mean, it's your evidence. Give us the facts, actually, as you

15:19:28 10 know them.

11 THE WITNESS: It is the fact, My Lord.

12 JUDGE THOMPSON: And from Liberia?

13 THE WITNESS: Yes. I think it's a scrap one now around
14 Lungi area, but I don't know.

15:19:49 15 JUDGE THOMPSON: Mr Koppe, do you want that part too?

16 Whether it is salvaged off now, the helicopter, or not. Because
17 he is giving you evidence that it is a scrap one. Is that
18 material?

19 MR KOPPE: No, not to me. Material to me is from where
15:20:06 20 this ammunition is coming from.

21 JUDGE THOMPSON: Quite right. And, witness, help us a
22 little with some precision.

23 THE WITNESS: Yeah, people were sometimes saying that it
24 has been scrapped and could be found around Lungi.

15:20:17 25 JUDGE THOMPSON: It's all right.

26 PRESIDING JUDGE: That's okay.

27 JUDGE THOMPSON: That's fine. Those who are interested in
28 scrap metal will perhaps take that point.

29 PRESIDING JUDGE: Mr Koppe, please.

1 MR KOPPE: Let me rephrase the question.

2 Q. Mr Witness, did this ammunition, food, supplies, et cetera
3 come from ECOMOG?

4 A. Well, that I cannot say. They were airlifted to Base Zero
15:20:48 5 in the same helicopter that ECOMOG were using.

6 Q. But you cannot say for a fact that it was coming from --

7 A. Whether it was coming directly from which source or not, I
8 cannot attest to that.

9 Q. So this was never disclosed to you?

15:21:09 10 A. Not at all.

11 Q. Mr Witness, you have given testimony that Mr Norman was
12 frequently in contact by a satellite phone with ECOMOG; is that
13 correct?

14 A. Say that again, please.

15:21:30 15 Q. You have given testimony yesterday that Mr Norman was
16 frequently in contact with ECOMOG via the satellite phone;
17 correct?

18 A. In contact with ECOMOG via the satellite phone? I can't
19 remember if I said that.

15:21:50 20 MR BANGURA: I am not so sure, but I stand guided by the
21 records. I am not so sure the witness talked about communication
22 with ECOMOG. I was talking about communication on satellite
23 phone, but I am not so sure about ECOMOG. Your Honours, I stand
24 guided.

15:22:05 25 PRESIDING JUDGE: I don't have that recollection. My
26 recollection is that the witness testified as to some
27 communication between Mr Norman and BBC by satellite
28 communication, but I have no recollection that he did testify as
29 to communication with ECOMOG. You can ask him the question.

1 MR KOPPE:

2 Q. Are you aware of any communication between Mr Norman via
3 satellite phone with ECOMOG?

4 A. No.

15:22:32 5 Q. Or with President Kabbah?

6 A. President Kabbah was in Guinea and we are talking about
7 Base Zero.

8 Q. Yes, but there is a satellite phone. You can call anybody
9 anywhere with a satellite phone? Are you aware of any contact

15:22:56 10 between --

11 A. You said about calling anybody anywhere. What does that
12 mean?

13 Q. With a satellite phone, yes.

14 A. Please throw light on that again.

15:23:06 15 PRESIDING JUDGE: If you don't know, you don't know,
16 Mr Witness.

17 THE WITNESS: My Lord, he said if I know -- if I can -- do
18 call -- calling anybody anywhere. That was an area I don't
19 actually understand what he means.

15:23:19 20 MR KOPPE:

21 Q. My question was simply whether Mr Norman was in contact via
22 the telephone with President Kabbah?

23 A. Well, I am not aware of that.

24 Q. You were mentioning yesterday, Mr Witness, that at a
15:23:44 25 certain point of time a deputy was -- a deputy to the Director of
26 War was appointed; correct?

27 A. Yes, sir.

28 Q. What is the function of a deputy, do you know that?

29 A. Well, having looked at -- if you could examine the

1 functions of the Director of War, I think his deputy will
2 deputise in doing those functions. I mean, if --

3 JUDGE THOMPSON: Witness, don't get too hypothetical here.
4 Please give us the answer. You profess to be part of the
15:24:25 5 structure. You are here to testify as to matters that you are
6 familiar with. And when counsel asks the question he needs to
7 have an answer in a way that we can evaluate this. But if you
8 give us answers if so and so then so and so, I don't know how to
9 evaluate that as a piece of evidence. Please try and be less
15:24:50 10 argumentative.

11 THE WITNESS: Thank you, My Lord. Well, he was deputising
12 the Director of War, Moinina Fofana.

13 JUDGE THOMPSON: Thank you.

14 THE WITNESS: Even at a time when the ammunitions were
15:25:04 15 being given to xxxxxxx for Tongo operations. I mean, the ammunitions
16 that I was waiting for. He was instructed to -- it was not given
17 -- everything was not given straightaway. It was given in
18 piecemeal until later a good number -- it was Orinko was ordered
19 by Mr Fofana to keep them where he, Orinko, was sleeping, and
15:25:40 20 they were --

21 MR KOPPE:

22 Q. Mr Witness, my question was more general. Does it mean
23 that a Director of War can instruct the deputy, the deputy
24 assists the director?

15:25:52 25 A. Yes.

26 Q. Instructions?

27 A. Yeah. He ordered him.

28 Q. So the deputy was instructed and ordered by the director?

29 A. The director. That is it; thank you, sir.

1 Q. You have given testimony yesterday, Mr Witness, that
2 Mr Norman was National Coordinator and Deputy Minister of
3 Defence. If Mr Norman is the Deputy Minister of Defence that
4 would suggest that there is also a Minister of Defence. Are you
15:26:32 5 aware of any instructions or orders given to Mr Norman by the
6 Minister of Defence?

7 A. Which period are you talking about?

8 Q. The time that you were on Base Zero.

9 A. He was ruling -- he was running two ministries and you have
15:26:54 10 named one. That is what I am critical about.

11 Q. What I am trying --

12 A. Before they were overthrown.

13 JUDGE THOMPSON: Listen to the question. I am sure these
14 are not questions meant to entrap you. They are questions to
15:27:17 15 which direct answers are possible. I think if you listen
16 carefully you might be able to help the Tribunal. Put the
17 question again.

18 MR KOPPE:

19 Q. Mr Witness, you have said that a director can instruct or
15:27:37 20 order his deputy. We have also established that you have given
21 testimony that Mr Norman is Deputy Minister of Defence. This
22 would imply that there is a Minister of Defence who could
23 actually instruct and give orders to his deputy. My question is:
24 The time you were at Base Zero have you ever been aware of
15:27:59 25 instructions or orders being given to the Deputy Minister of
26 Defence by the actual Minister of Defence?

27 JUDGE THOMPSON: The answer is yes or no.

28 THE WITNESS: No, sir.

29 JUDGE THOMPSON: Yes, not a critical response.

1 THE WITNESS: No, sir.

2 MR KOPPE:

3 Q. Mr Witness was there ever a, let's say, discussion among
4 the Kamajors at Base Zero why Mr Norman was Deputy Minister of
15:28:40 5 Defence rather than Minister of Defence?

6 A. Go over that again.

7 Q. My question is whether during the time you were at Base
8 Zero there was ever discussion between the fighters, the Kamajors
9 who were there, about the fact that Mr Norman was Deputy Minister
15:29:00 10 of Defence and not Minister of Defence?

11 A. I am not aware of that.

12 Q. But you wouldn't think it was strange that he was Deputy
13 Minister of Defence?

14 JUDGE THOMPSON: Well, let's have the answer; I'm trying to
15:29:23 15 get the answer. Not aware that there was a discussion as to why
16 he was deputy minister and not minister.

17 MR KOPPE: That's correct.

18 Q. Mr Witness.

19 A. Yes, sir.

15:30:02 20 Q. Have you ever heard Moinina Fofana speak in public -- speak
21 to an audience on Base Zero?

22 A. Yes.

23 Q. Do you know when that was?

24 A. During the meeting in Walihun II.

15:30:35 25 Q. During the meeting in Walihun II?

26 A. Yes, sir.

27 Q. When he was deputed?

28 A. Yes, sir.

29 Q. Do you recall what he said at that meeting?

1 A. Yes, sir.

2 Q. May you please tell the Court.

3 A. He was talking to the commanders -- I mean, that was a
4 way -- he was giving a vote of thanks when his deputy was now
15:31:13 5 been selected and he was, you know, telling -- giving thanks to
6 whosoever would have played a good role to let that happen on
7 that day. And he said thanks and then we break off. That I
8 could remember.

9 Q. And that was the only occasion that you saw him speak to an
15:31:43 10 audience?

11 A. Again at the training base -- can I go? Can I go on?

12 Q. Excuse me?

13 A. Can I go on?

14 Q. Yes, please, please, please.

15:32:01 15 A. At the training base he was telling the large crowd that
16 when for the passing out parade at Base Zero, organising where
17 chiefs will sit and others could stand, and how Kamajors should
18 make those graduating were to be supplied their footwears and
19 those other green short and shirts they were wearing.

15:32:45 20 Q. A few final questions, Mr Witness, about the meetings in
21 Walihun I.

22 A. Walihun.

23 Q. Walihun - excuse me - I.

24 A. I, okay.

15:33:03 25 Q. You were never there, were you?

26 A. I was not there.

27 Q. I recall your testimony as making a distinction between
28 meetings in Walihun I, Walihun II and Walihun III. And you were
29 never in Walihun I meetings. Correct? You were never there in

1 those meetings because I understand those meetings were not open

2 to --

3 A. Ordinary --

4 Q. -- ordinary --

15:33:43 5 A. Kamajors, lower rank.

6 Q. -- Kamajors.

7 A. No.

8 [HN270505D 3.30 p.m. - SGH]

9 Q. Could you tell again why these meetings were not open

15:32:53 10 for ordinary Kamajors?

11 A. That was how we met it. That was how we met it. We don't
12 know the reason behind it. We met that one already created that
13 kind of bureaucracy was already created when we went in.

14 Q. Apart from Mr Fofana, Mr Kondewa and Mr Norman, as you said
15:33:25 15 yesterday, who else was attending these meetings in Walihun I?

16 A. At one time I saw this War Council vans coming out of that
17 bush. And I really saw them go into that place in the morning
18 carrying the chairs. But I actually don't forced to know why,
19 you know. But -- and again, when we are returning in the

15:34:02 20 afternoon, I saw them coming out of there. That --

21 Q. But apart from the War Council members, who else was
22 attending these Walihun I meetings?

23 A. At one time I saw the death squad commander coming out of
24 the place. I think that was the same guard room I am referring
15:34:27 25 to. But I cannot say exactly what there.

26 Q. Any others?

27 A. I cannot remember. That is what I can remember for now.

28 Q. So do you have any idea what was being discussed in those
29 Walihun I meetings?

1 A. No, I said I did not attend.

2 Q. I know, but did you hear later maybe what was discussed?

3 A. No, sir.

4 Q. Mr Witness --

15:35:27 5 A. Yes, sir.

6 Q. -- you have been shown yesterday an exhibit, or was it this

7 morning, with names on it.

8 A. Yes, sir.

9 Q. And it is about the supply of rice. Remember?

15:35:40 10 A. Yes.

11 Q. When I go through this document I see that a lot of events

12 are relating to a period in September 1998; would that be

13 correct?

14 A. Yes, sir.

15:36:19 15 Q. Is it fair to say that this document was drafted in or

16 around the fall of 1998?

17 A. Can you allow me to see it?

18 Q. Of course. Of course.

19 PRESIDING JUDGE: Are we talking about Exhibit 87, Mr Koppe?

15:36:48 20 MR KOPPE: 87, yes. Yes.

21 THE WITNESS: Your question is?

22 PRESIDING JUDGE: The question is whether these entries are

23 essentially made in September. So this is done in September 98,

24 that is your question.

15:37:18 MR KOPPE:

26 Q. That is my question, yes.

27 A. Not since September 1998.

28 Q. So, Mr Witness, my final question is would it be fair to

29 say that this document was not at all relevant to the period of

1 time when there was actually fighting? I mean November 1997
2 until March 1998?

3 A. I am not saying -- talking about the relevance of the
4 document as compared to the period you have mentioned.

15:38:03 5 Q. Let me re-phrase the question. President Kabbah was back
6 in power when this document was issued.

7 A. Of course.

8 Q. Okay. Thank you.

9 PRESIDING JUDGE: That concludes your cross-examination? Thank
15:38:19 10 you Mr Koppe. Counsel for the third accused, you are ready to proceed
11 with the cross-examination?

12 MR LANSANA: By all means, Your Honour.

13 CROSS-EXAMINED BY MR LANSANA:

14 Q. Mr Witness, when you were testifying yesterday you told
15:38:37 15 this Court that xxxxxxx were motivated to join the Kamajor
16 movement by your desire to free xxxxxxx and your people from
17 the brutality of the RUF; is that correct?

18 A. Yes, sir.

19 Q. Can you please tell this Court your xxxxxxx experience
15:39:14 20 with that brutality, if any?

21 A. One, they were abducting civilians to their strongholds at
22 Panguma that we knew. Panguma behind Tongo. That information
23 was coming in and -- can I go on?

24 Q. Go on.

15:39:53 25 A. And they were torturing people. They were also raping
26 women. That complaint was coming -- those informations were
27 meeting us and you have some exodus of people coming to -- moving
28 from --

29 Q. You mean displaced people.

1 A. Displaced people.

2 Q. Thank you?

3 A. Moving. And they give you all this information that so
4 many people have been locked into buildings and has been set
15:40:27 5 ablaze by the RUF and moreover we were getting some terrible
6 informations from the BBC reports.

7 Q. Thank you very much. So you came to the conclusion, if I
8 am right, that something had to be done about it. You came to
9 the conclusion that something had to be done about these people?

15:40:49 10 A. Yes, sir. We cannot -- I felt that I cannot go into hiding
11 from these guys. They are men and we are also men.

12 Q. So you decided to take the bull by the horns.

13 A. Indeed.

14 Q. Thank you. You also said you recall the 25th May 1997; is
15:41:08 15 that correct? You said you recall 25th May.

16 A. Yes, sir.

17 Q. The coup that took place on 25th May 1997.

18 A. Yes, sir.

19 Q. At that time were you a Kamajor? By May 1997 were you at
15:41:26 20 that time a Kamajor?

21 A. ~~xxxxxxx~~, sir, since 1993.

22 Q. Thank you very much. May I ask you what the situation was
23 when you went underground subsequent to this coup? What was life
24 like for the Kamajors when they went underground.

25 A. Underground?

26 Q. Yes, after the coup.

27 A. Underground?

28 Q. Yes.

29 A. Into the bush.

1 Q. Yes.

2 A. The RUF had announced from the local radio that all
3 Kamajors should report to the nearest police station. And they
4 were -- the RUF/AFRC were hunting us.

15:42:11 5 Q. So, you went underground. What was it like? What was life
6 like? Prior to that you were operating with the SLA, the Sierra
7 Leone army; is that correct?

8 A. Yes, sir.

9 Q. So, you were parading the streets free men, I mean doing
15:42:30 10 your job.

11 A. Yes.

12 Q. Then after the coup you had to go underground. What was
13 life like? What was the difference between the time you were
14 operating before the coup and when you went on the ground after
15:42:38 15 the coup. What was life like for the Kamajors?

16 A. There was -- the relationship had gone sour by then. They
17 were killing us.

18 Q. They were killing you?

19 A. Killing the Kamajors and they were even butchering some and
15:43:03 20 making their intestines with gates.

21 Q. Thank you.

22 A. In Lago. That happens in Lago.

23 Q. In Lago. Whereabouts is Lago? Assist the Court.

24 A. Lago is in Kenema Chiefdom.

25 Q. In Kenema District?

26 A. In Kenema District.

27 Q. Thank you.

28 A. It is a town on the main road leading to Tongo. It is a
29 town that is owned by Nongowa Chiefdom.

1 Q. Okay. Thank you very much. Mr Witness, would I be correct
2 to say that at the time when you were being hunted by the RUF
3 there were certain civilians who were informing as to your
4 whereabouts, you the Kamajors, informing the RUF about your
15:43:50 5 whereabouts; is that correct? I will come again. At the time
6 when you had gone underground, you were being hunted by the RUF.
7 I am saying - and I invite you to agree or disagree with me - I
8 am saying that there were certain civilians who were informing
9 the RUF about the Kamajor positions; is that correct?

15:44:14 10 A. Yes, sir. Yes, sir. I want to add something to that.

11 Q. Yes, go ahead.

12 A. People in Kenema, those who remain in Kenema who were not
13 Kamajors, they were being reported to the AFRC/RUF that Kamajors,
14 a relative of Kamajors staying in that house. I mean this is
15:44:40 15 just to support what you are coming about it.

16 Q. Thank you very much. Would I be correct to say that as a
17 result of this, Kamajors generally became suspicious of certain
18 civilians naturally?

19 A. Yes, sir.

15:45:20 20 Q. Thank you very much. In your testimony in chief --

21 JUDGE THOMPSON: Slow down, counsel.

22 MR LANSANA: I apologise, Your Honour.

23 PRESIDING JUDGE: Yes, Mr Counsel, are you waiting after
24 us? We are waiting after you.

15:46:20 25 MR LANSANA: We are waiting on each other.

26 PRESIDING JUDGE: Please.

27 MR LANSANA:

28 Q. Now, Mr Witness, in your evidence-in-chief you tender the
29 document, Exhibit 86. Your Honours, Exhibit 86. Which,

1 according to you, was the situation report; not so. Can I please
2 see?

3 Q. Exhibit 86.

4 A. Yes, sir.

15:47:21 5 Q. Now, on page 00003724 at paragraph 6, you refer to the
6 summary execution of a confessed junta agent one Robert Ndanema.

7 A. Yes, sir.

8 Q. Now, you said you were not there when he was summarily
9 executed; correct?

15:47:40 10 A. Yes, sir.

11 Q. But that later on you got told or a report was given to you
12 about that summary execution; correct?

13 A. Yes, sir.

14 Q. Now, what was the time lapse between the time you got
15:48:22 15 information about that incident and the time you composed Exhibit
16 86?

17 A. Well, the date is clearly written here, November 1997. And
18 this report here compiled I think on the 16th of November.

19 Q. Now, between the time when you got this information and the
15:49:00 20 time when you compiled this report, the situation report, what
21 action, if any, did you take in terms of raising this issue up
22 with a superior commander above the person who told you?

23 A. Well, this is where the guys who went to Gendema --

24 Q. [Overlapping microphones] are you coming?

15:49:42 25 A. I am coming. I will get to the web of your questions,
26 please. These guys, they went to Gendema. They returned with
27 the instruction that whosoever is found collaborating, I think I
28 said that yesterday in my statement, should be killed.

29 Q. Now, my question is: You were told about this incident by

1 one Siaka Lahai; correct?

2 A. Yes, commander.

3 Q. Yes, commander. Now, did you raise this issue with a
4 commander or a Kamajor authority above Siaka Lahai?

15:50:24 5 A. The person at that time was this Orinko and Musa Junisa.
6 Orinko, Siaka Lahai, they went to Base Zero. They returned back
7 with this information that collaborators should be killed and
8 that is going to be the start.

9 Q. Mr Witness, I am not asking you about who brought
15:50:45 10 information as to instructions that collaborators should be
11 killed. I am saying that you got this information about the
12 incident involving this junta agent from Siaka Lahai; correct?

13 A. Yes.

14 Q. He was a commander?

15:50:59 15 A. Yes, sir.

16 Q. And he had not done anything about that?

17 A. Yes, sir.

18 Q. My question is: Having found out that he had not done
19 anything about this incident, did you raise the issue up with any
15:51:13 20 superior authority above him that such a thing has happened?

21 JUDGE THOMPSON: The answer would be yes or no.

22 MR LANSANA: Yes.

23 THE WITNESS: No, sir. No, no, My Lord.

24 JUDGE THOMPSON: [Overlapping microphones]

15:51:18 25 MR LANSANA: Indeed not. Thank you very much.

26 Q. Now, I will take you to the incident around Bumpah
27 Chiefdom. You said there was an incident involving an SSD
28 personnel at Dassama; is that correct?

29 A. Yes, sir.

1 JUDGE THOMPSON: Which page reference is that, counsel?

2 MR LANSANA: My Lord, I have finished that.

3 JUDGE THOMPSON: Oh you have done with that?

4 MR LANSANA: I have taken another line.

15:52:04 5 JUDGE THOMPSON: I apologise.

6 MR LANSANA: As Your Honour pleases.

7 Q. Now, you said in cross-examination on behalf of the

8 first accused this morning, that the Kamajors went into the

9 bush after they had caught the SSD personnel; not so?

15:52:25 10 A. Who ran into the bush.

11 Q. The Kamajors ran after --

12 A. Him.

13 Q. Him and they went into the bush.

14 A. The bush, yes.

15:52:39 15 Q. Now, from where you were standing, was it possible for xxxxxxxx

16 to have seen the Kamajors in the bush?

17 A. No, sir.

18 Q. You did not see them?

19 A. No, sir. Because Dassama is a small village.

15:52:55 20 Q. Okay. Now, you also said in evidence-in-chief yesterday

21 that you saw machetes going up and down; not so?

22 A. Yes, sir.

23 Q. But you have just said you were not able to see them.

24 A. When -- after just coming from the bush I said they were

15:53:27 25 now having something in bits to which they were cutting.

26 Q. Mr Witness, you have not got me correctly. In

27 evidence-in-chief yesterday you said after they have chased the

28 SSD personnel and caught him, all you saw was the machetes going

29 up and down. You said that yesterday; didn't you?

1 A. Yes, I did say that.

2 Q. My question is: Is that the same as saying that they were
3 in the bush and you could not see them that you answered in
4 cross-examination for the first accused?

15:54:06 5 A. I said when they ran into -- when they chased the man into
6 the bush --

7 Q. Yes?

8 A. -- they began raise -- putting put their cutlass like this.
9 The man fled in the bush and they returned now with part of the
15:54:27 10 head and small meat wrapped in leaves.

11 Q. I will put it to you that it would not be correct to say
12 that you did not see them since they were in the bush, but yet
13 you saw their cutlasses going up and down. I put it to you that
14 those two statements cannot be right. What would you say?

15:54:51 15 A. What about the head, they were having the human freshly cut
16 head and they were having and the meat they were putting into
17 their pockets?

18 PRESIDING JUDGE: Mr Witness, that is not the question. The
19 question is: When you say you could not see them and yet at the same
15:55:04 20 time you say you saw the machetes going up and down.

21 MR LANSANA: As Your Honour pleases.

22 PRESIDING JUDGE: It is not whether you saw parts after
23 that, the question is more at the time you say they were in the
24 bush.

15:55:21 25 THE WITNESS: Say again, please.

26 MR LANSANDA:

27 Q. You have made two statements. First, they ran after the
28 SSD personnel into the bush as a result of which you could not
29 see them from where you were standing.

1 A. Yes, sir.

2 Q. Statement number two, you saw their cutlasses going up and
3 down when they had crowded on the SSD personnel.

4 A. Yes, sir. But --

15:56:00 5 Q. And now my question is: You cannot see what you say you
6 did not see; can you?

7 A. Let me highlight on that, please.

8 Q. You can say yes or no, then you can highlight. You cannot
9 see what you say you did not see.

15:56:16 10 A. Yes.

11 Q. Thank you.

12 A. Highlight now. And the man -- he -- the man got escaped
13 from there again and finally run into the bush.

14 Q. You now say?

15:56:31 15 A. Yes.

16 Q. All right. Now, you also related an incident of seeing
17 piles of ashes that where, according to you, a commander Magonna,
18 corpses of junta personnel and collaborators; correct? In
19 Kenema?

15:56:59 20 A. The remains?

21 Q. Yes, corpses. Remains, corpses. Remains of former junta
22 personnel and collaborators.

23 A. Yes, sir.

24 Q. Now, did you verify what Magonna told you? This is
15:57:22 25 something you were told.

26 A. Yes.

27 Q. Did you verify that?

28 A. No.

29 Q. You did not?

1 A. No.

2 Q. Thank you. Mr Witness, you are also aware that it was the
3 usual practice, after the ECOMOG intervention of February 1998,
4 that civilians were summarily executing junta personnel or junta
15:57:50 5 collaborators; not so?

6 A. Yes, sir.

7 Q. Civilians were doing that. And you also know that --
8 [overlapping microphones]

9 JUDGE ITOE: Counsel, please. Are you delivering a lecture or are
15:58:03 10 you cross-examining?

11 THE WITNESS: Go over that again, please.

12 MR LANSANA: Your Honour, I must apologise. One gets
13 carried away.

14 JUDGE ITOE: Don't get carried away, please.

15:58:14 15 JUDGE THOMPSON: And particularly --

16 JUDGE ITOE: You had better build your house methodically.

17 MR LANSANA: As your Lordship pleases.

18 JUDGE ITOE: Lay your bricks methodically, please.

19 MR LANSANA: I shall, I shall endeavour.

15:58:28 20 THE WITNESS: Please go over that again.

21 MR LANSANA:

22 Q. I was just saying it was also the situation that when
23 civilians killed these junta collaborators and junta personnel,
24 it was their style to burn them?

15:58:43 25 JUDGE THOMPSON: But why not --

26 JUDGE ITOE: That was not the question. The first.

27 Question --

28 JUDGE THOMPSON: The first part of your question.

29 MR LANSANA: He had answered that already that it was the

1 case that civilians, after the ECOMOG intervention, summarily
2 executed.

3 JUDGE THOMPSON: So he agreed with you?

4 MR BANGURA: May it please, Your Honours, I believe the
15:59:08 5 witness wanted that question repeated.

6 JUDGE THOMPSON: Precisely.

7 MR BANGURA: The witness wanted that question repeated.

8 JUDGE THOMPSON: That's why I thought and -- and I would
9 advise counsel to avoid double-barrel questions, particularly
15:59:17 10 when they are so loaded, so that we can have the answers to the
11 different parts of the question. So why not deal with the first
12 part of the question?

13 MR LANSANA: Your Honour, I had asked that question. I was
14 thinking that I would ask the second question that is closely
15:59:35 15 related to that.

16 JUDGE THOMPSON: Yes, but what you are saying is that a
17 clear appreciation of the evidence in response, we need to have
18 the sort of -- this composite question broken up into two parts.
19 It is also --

15:59:49 20 MR LANSANA: As it pleases Your Honour. As it pleases Your
21 Honours.

22 Q. Now, Mr Witness, I am putting it to you that after the
23 ECOMOG intervention of February 1997 -- sorry, February 1998,
24 it was the usual practice that civilians summarily executed
16:00:17 25 junta collaborators and junta personnel, not only in the
26 eastern province, all over the country. Civilians.

27 A. I am talking about Kenema and not the rest of the country.

28 Q. Fine. Fair enough. Restrict your answer to Kenema. What
29 was, to your knowledge, that after ECOMOG had taken over, Kenema

1 civilians summarily executed those who were junta personnel and
2 those they thought were junta collaborators?

3 A. I was not there initially when Kenema was taken.

4 Q. Did you eventually learn that that happened?

16:01:16 5 A. Those who told me -- those who told me the story were
6 Kamajors that we have burnt them.

7 PRESIDING JUDGE: Would you -- I didn't get that. Would you
8 repeat your last answer, Mr Witness.

9 THE WITNESS: I got the story from Kamajors.

16:01:36 10 MR LANSANA: Thank you very much.

11 JUDGE ITOE: That what?

12 THE WITNESS: That they have killed those collaborators and
13 juntas captured alive.

14 PRESIDING JUDGE: When you say "they" --

16:01:48 15 THE WITNESS: Kamajors.

16 PRESIDING JUDGE: The story you got was that Kamajors had
17 done that?

18 A. Yes, sir.

19 JUDGE THOMPSON: So it is not civilians. Because remember his
16:02:03 20 question was whether it was the practice that civilians --

21 MR LANSANA: Yes, Your Honour.

22 JUDGE THOMPSON: -- summarily executed junta personnel and
23 junta collaborators.

24 Q. So are you saying that the information you got was who did
16:02:22 25 the summary executions alleged? I am not clear on that.

26 A. ~~xxxxxxx~~ are Kamajors.

27 Q. It was Kamajors who summarily executed?

28 A. Yes.

29 Q. Not civilians?

1 A. Yes.

2 Q. That is what I am trying to get at.

3 JUDGE ITOE: And this was related to you by Kamajors?

4 THE WITNESS: Yes, sir.

16:02:39 5 JUDGE THOMPSON: So in other words, you disagree with
6 counsel's thesis that this was a civilian practice.

7 MR LANSANA:

8 Q. Now, Mr Witness, did you ever know a man, a popular
9 politician, a Member of Parliament, known as Alhaji Musa Kabia?

16:02:52 10 A. Yes, sir.

11 PRESIDING JUDGE: What's the name again?

12 MR LANSANA:

13 Q. Alhaji Musa Kabia?

14 A. No, sir.

16:03:24 15 Q. Did you ever receive information that after the
16 intervention of ECOMOG even in Freetown, there were prominent
17 people who were summarily executed by civilians in Freetown? Did
18 you learn about that in Kenema?

19 A. No.

20 Q. Did you know that --

21 JUDGE ITOE: Please wait.

22 MR LANSANA:

23 Q. Mr Witness --

24 A. Yes, sir.

16:04:23 25 Q. -- were you listening to BBC broadcasts during a period
26 February 1998 onwards up to the end of that year?

27 A. Not every day, every day, every day.

28 Q. Habitually you would?

29 A. Sometimes.

1 Q. And whilst you were listening to programmes like Focus on
2 Africa, didn't you hear BBC reports that civilians were summarily
3 executing people after the ECOMOG intervention.

4 MR BANGURA: Objection. Your Honours, I don't think counsel has
16:05:13 5 laid sufficient foundation to go on to suggest that the witness was
6 listening to the programme, the programme Focus on Africa. It is
7 just --

8 PRESIDING JUDGE: Maybe he is able to answer that question.
9 I don't see your objection.

16:05:25 10 JUDGE ITOE: He said he listened to some, not on a regular
11 basis.

12 MR BANGURA: BBC radio has numerous programmes.

13 PRESIDING JUDGE: He can answer that question.

14 MR BANGURA: I am not saying he is not capable of answering
16:05:36 15 that question, I am saying counsel has not laid foundation for
16 the question.

17 JUDGE ITOE: I think he has.

18 PRESIDING JUDGE: Your objection is overruled.

19 JUDGE THOMPSON: Leave your colleague alone. You had an
16:05:46 20 almost uninterrupted run when you were questioning him.

21 MR LANSANA: Most obliged Your Honours.

22 Q. Mr Witness --

23 A. Yes, sir.

24 Q. You said you were not listening on a daily basis to BBC
16:06:01 25 programmes. I said especially Focus on Africa.

26 A. Yes, sir.

27 Q. But during your intermittent or habitual listening --

28 JUDGE ITOE: He didn't say habitual. He did not say habitual.

29 JUDGE THOMPSON: He said sometimes.

1 MR LANSANA: As Your Honours please.

2 Q. During one of the situations when you were listening to

3 Focus on Africa by the BBC, did you not hear over the radio

4 that after ECOMOG had redeemed Freetown, civilians were

16:06:39 5 summarily executing junta personnel and junta collaborators?

6 A. On that day I did not listen to radio, sir.

7 Q. And after that day?

8 A. I did not also.

9 Q. And after that day?

16:06:57 10 JUDGE ITOE: Did you ever hear?

11 THE WITNESS: I heard it.

12 MR LANSANA:

13 Q. Thank you very much.

14 A. That people in Freetown, in Freetown here. I am talking

16:07:12 15 about Freetown. What people heard from --

16 Q. You heard about that happening in Freetown?

17 A. Say people have been captured.

18 Q. Like Shek Mustaba?

19 A. No, I cannot -- I don't know [overlapping speakers]

16:07:32 20 JUDGE ITOE: Let him finish with his question, please.

21 PRESIDING JUDGE: Yes, you ask a question, you don't let

22 the witness answer your question.

23 MR LANSANA: I apologise.

24 Q. I apologise.

16:07:41 25 A. I heard that just --

26 JUDGE ITOE:

27 Q. What did you hear about that broadcast?

28 A. That civilians --

29 Q. Yes.

1 A. -- who were collaborating with --
2 PRESIDING JUDGE: Go ahead, please.
3 THE WITNESS: Civilians that were collaborators have been
4 arrested and handed over to ECOMOG in Freetown here.
16:08:15 5 MR LANSANA:
6 Q. Thank you, Mr Witness.
7 A. Those who listened, that's what they told me.
8 Q. Thank you, Mr Witness.
9 PRESIDING JUDGE: So, you did not hear that civilians were
16:08:33 10 executing civilians?
11 THE WITNESS: No, sir.
12 JUDGE THOMPSON: Learned counsel got so carried away. The
13 question began with some kind of postulation of a civilian
14 execution theory. That is what you were trying to canvas.
16:08:52 15 MR LANSANA: Yes, Your Honour. Yes, Your Honour.
16 JUDGE THOMPSON: And I thought he had agreed with you at
17 some point that he did hear after ECOMOG had redeemed Freetown
18 that civilians were in fact executing --
19 MR LANSANA: He did say that.
16:09:07 20 JUDGE THOMPSON: -- Junta personnel and junta
21 collaborators.
22 MR LANSANA: He did say.
23 JUDGE THOMPSON: And this seems to have got lost in the
24 last answer because you shifted ground. You got so carried away
16:09:20 25 that you moved away from the original position. So I don't
26 know --
27 MR LANSANA: Your Honour, after the --
28 JUDGE THOMPSON: Now he says that he heard that civilians
29 who were collaborators had been arrested and --

1 JUDGE ITOE: Handed over to ECOMOG.

2 JUDGE THOMPSON: So the whole thing is a little untidy with
3 all -- with due respect to your attempted methodical
4 cross-examination. I don't know what you want us to record

16:09:45 5 because I have these two things seeming --

6 MR LANSANA: Your Honour, his answer, his last answer, was
7 not to my particular question. I think it was to Justice Boutet
8 who --

9 PRESIDING JUDGE: No, that was his answer, but I just
16:09:59 10 wanted to make sure that I well understood what he was saying.

11 MR LANSANA: As Your Honour pleases.

12 PRESIDING JUDGE: It was not in answer to my question. My
13 question was just to ask him to repeat what he had just stated.

14 MR LANSANA: And then he said something different.

16:10:07 15 PRESIDING JUDGE: Well, it was not something different. I
16 heard him to say handed over to ECOMOG. That's why I asked him
17 are you saying this, and he says yes, which was different than
18 the question you asked.

19 JUDGE THOMPSON: Okay. And that's what we are saying that
16:10:26 20 your theory had been consistent there was civilian execution.
21 Summary execution.

22 MR LANSANA: As Your Honour pleases.

23 JUDGE THOMPSON: And that is the -- but we will take what
24 we have.

16:10:35 25 MR LANSANA: For what it is worth.

26 Q. Now, Mr Witness, in your evidence-in-chief you said that
27 a camp was established at SS camp by the Kamajors; not so?

28 A. Yes, sir.

29 Q. And you also said that Kamajors were harassing civilians at

1 SS camp; not so?

2 A. Yes, sir.

3 Q. I am putting it to you that Kamajors who did that were
4 punished. Do you agree with me?

16:11:38 5 A. Yes, sir. Those who did it to a particular man, although
6 he has died, Swaray Mattia. It was Swaray Mattia's case. It was
7 that sorry Matteo who was beaten severely at SS camp. It was in
8 his own case that a good number of them were arrested and
9 punished and put into the guard room --

16:11:59 10 Q. Thank you very much.

11 A. -- in Kenema.

12 Q. Thank you very much.

13 A. That was the only incident I knew that Kamajors were
14 arrested and being punished.

16:12:12 15 PRESIDING JUDGE:

16 Q. What is the name of the person, can you repeat the name
17 here?

18 A. Swaray. S-W-A-R-A-Y, Swaray.

19 Q. Yes?

16:12:34 20 A. Mattia is M-A-T-T-I-A.

21 PRESIDING JUDGE: Thank you.

22 MR LANSANA:

23 Q. Now, Mr Witness, when you were testifying yesterday you
24 said something I want you to clarify for the purposes of this

16:12:57 25 Court. You made two statements. First, that Kondewa, the third
26 accused, provided logistics to groups of his own choice. You
27 said that; not so?

28 A. Yes, sir. Kamajor groups.

29 Q. Yes, Kamajor groups. The second statement was he requested

1 logistics for groups of his choice.

2 A. Yes, sir.

3 Q. Now, can you clarify the situation whether it was the case
4 that he provided the logistics or it was the case that he
16:14:05 5 requested the logistics?

6 A. He requested --

7 Q. Thank you very much.

8 A. -- for them.

9 Q. Thank you very much. Now, you agree with me, would you
16:14:32 10 not, that Kondewa never gave military instructions to Kamajors?
11 The third accused, he never gave military instructions to
12 Kamajors.

13 A. He did.

14 Q. He did?

16:14:49 15 A. Yes, xxxxxxxx was there.

16 Q. Thank you very much. I will refer you to --

17 A. Can I say more on that, please?

18 Q. If you will.

19 A. Okay.

16:15:13 20 PRESIDING JUDGE: Go ahead, Mr Witness.

21 THE WITNESS: I am satisfied.

22 MR LANSANA:

23 Q. Are you sure that Kondewa gave military instructions to
24 Kamajors?

16:15:23 25 A. Yes.

26 Q. Mr Witness, you made several statements to investigators
27 from the Office of the Prosecutor; is that correct?

28 A. Yes.

29 Q. And one of such statements was the one you made on 15th May

1 2003; correct?

2 A. Yes, sir. Maybe it would be correct because I have not
3 seen the document.

4 PRESIDING JUDGE:

16:16:22 5 Q. You mean by 15th May 2003?

6 A. Yeah, referring to a document in absentia. Maybe if I
7 could pass my eyes on the document I will be able to say yes or
8 no to it.

9 Q. You are not sure of the date?

16:16:47 10 A. Well, I met with those people --

11 Q. Many times?

12 A. Yes, sir, but maybe it is referring to different
13 document, but what I am saying here, My Lord, if I could see
14 the document then I will be able to satisfactorily give answer
16:17:00 15 to it.

16 PRESIDING JUDGE: Can we have a copy of that document, the one
17 that you want to show him, all the statements or whatever it is?

18 MR LANSANA: No, just the copy of the one he made on the
19 15th.

16:17:10 20 PRESIDING JUDGE: The one he made on the 15th?

21 MR LANSANA: Yes, Your Honour.

22 PRESIDING JUDGE: You mean 2003.

23 MR LANSANA: 15th May 2003.

24 PRESIDING JUDGE: Mr Walker, could you please?

16:17:20 25 JUDGE ITOE: [Inaudible]

26 PRESIDING JUDGE: 15th May.

27 MR LANSANA: 15th May.

28 THE WITNESS: Yes, sir. Okay.

29 PRESIDING JUDGE: So, you have looked at that document, Mr

1 Witness?

2 THE WITNESS: Yes, My Lord.

3 PRESIDING JUDGE: Mr Defence Counsel.

4 MR LANSANA:

5 Q. Mr Witness --

6 A. Yes.

7 Q. -- are you familiar with that statement?

8 A. Yes, My Lord.

9 Q. Did you make that statement?

16:18:31 10 A. Yes.

11 Q. Now, Mr Witness, I would read from that statement and I
12 will invite your reaction thereto.

13 JUDGE THOMPSON: And so, counsel, what options are you pursuing
14 now?

16:19:07 15 MR LANSANA: My Lord, this is to impeach his credibility.

16 JUDGE THOMPSON: So you are really going to in terms of
17 prior inconsistent statements?

18 MR LANSANA: Yes, Your Honour.

19 JUDGE THOMPSON: Well, would you like to go through the
16:19:28 20 familiar ritual of laying the foundation properly?

21 MR LANSANA: As Your Honour pleases.

22 JUDGE THOMPSON: Yes.

23 MR LANSANA:

24 Q. Now, Mr Witness, when you were talking to the
16:19:42 25 investigators, when you were being interviewed by the
26 investigators, in what language did they ask you questions?

27 A. In English.

28 Q. And in what language did you answer their questions?

29 A. In English.

1 Q. And when you gave your answers, did they write your answers
2 down or were you recorded on tape?
3 A. On computer.
4 Q. On computer?
16:20:32 5 A. Yes. And the second time it was on a tape recorder.
6 Q. For the statement of the 15th? Restrict yourself to that.
7 A. What was your question, sir?
8 Q. Did they record you on tape or was it on a computer?
9 A. On the second time.
16:20:57 10 Q. For the statement?
11 A. Yes, sir.
12 PRESIDING JUDGE: By the second time, what do you mean? What date
13 are we talking about?
14 A. In May. May, I think.
16:21:05 15 PRESIDING JUDGE: Yes, but --
16 JUDGE THOMPSON: What do you have before you there?
17 MR LANSANA:
18 Q. The statement of the 15th is what I want you to restrict
19 yourself to.
16:21:23 20 A. Yes. This 15th day of May statement was recorded on the
21 tape.
22 Q. On the tape?
23 A. Yes.
24 Q. And after the interview, did they the investigators play
16:21:40 25 the tape the recorded tape to you?
26 A. No. No, sir.
27 Q. They did not?
28 A. Not at all.
29 Q. Did they later transcribe that tape, that is transfer it

1 from tape to print and show it to you?

2 A. Yes, I saw it on this question and answer form later on.

3 Q. Thank you very much. Were you asked whether you agreed
4 with the contents?

16:22:20 5 A. Yes.

6 Q. Did you tell them?

7 A. At that time?

8 Q. Yes.

9 A. No.

16:22:35 10 Q. Eventually they did?

11 A. Eventually that was done to see where errors -- matters
12 this latter part by the lawyer.

13 Q. Thank you very much. And when that was done, did you tell
14 them that you were satisfied that that represented what you told
16:22:55 15 them?

16 A. Not with the entire document. There were certain areas
17 which I said that it should be the -- either minuted or changed.

18 Q. Thank you very much.

19 A. Here maybe he has the information, the written information
16:23:27 20 that --

21 Q. Thank you very much. But later on, apart from those
22 variation or those alteration that you highlighted to them, did
23 you generally say this statement was okay with you?

24 A. Yes, after those alterations the rest I was satisfied with.

16:23:46 25 Q. You were satisfied as representing your statement --

26 A. Indeed.

27 Q. -- you made to them?

28 A. Indeed.

29 Q. Thank you very much. I invite to you to look at page 11874

1 of that statement. Your Honours, page 11874. Is it numbered?

2 A. I am lost by that.

3 MR BANGURA: Your Honours, the Prosecution, we, on our side
4 here, we do have a copy of this statement, but it is not a filed
16:25:10 5 copy so it does not have the Registry numbering on it. But if
6 counsel can help us indicate the page number, because the pages
7 are serially numbered, it might help.

8 PRESIDING JUDGE: Page 17, from what I can see.

9 MR BANGURA: Thank you.

16:25:19 10 MR LANSANA:

11 Q. Are you okay, Mr Witness?

12 PRESIDING JUDGE: Counsel, so we are all on the same pages it is
13 11874, which is page 17 of the document in question.

14 MR LANSANA: Yes, Your Honour.

16:25:57 15 Q. Mr Witness, are you okay?

16 A. Yes.

17 Q. Now, I invite you to look at lines 9 following. The
18 question was asked by Ms Marcus. I will read, "And can the
19 Moinina could Kondewa give military instructions to the Kamajors
16:26:24 20 who were loyal to go and fight in one certain place? Did he get
21 involved in the battlefield?" Your answer, you shook your head
22 and you asked, "Kondewa." And then the question follows,
23 "Kondewa." And your answer, "No". Does that reflect what you
24 told the investigators?

16:27:31 25 A. Go over your question again once, please.

26 Q. Mr Witness, when you look at the question and answer on
27 page 17, Ms Marcus was asking you questions and you were
28 answering?

29 A. Correct.

1 Q. She asked you, "Can the Moinina could Kondewa give military
2 instructions to the Kamajors who were loyal to go and fight in
3 one certain place? Did he get involved in the battlefield?"
4 Answer, you shook your head and you asked, "Kondewa?" She
16:28:06 5 answered, "Kondewa". You answered, "No".
6 A. Yes, I answered no because -- I answered no because look at
7 the last -- the last --
8 Q. Mr Witness --
9 A. After the comma, please, please, please.
16:28:22 10 Q. Mr Witness, I would allow you, but let's get over that
11 hurdle first.
12 A. Yes, that is the way I want to do it satisfactorily,
13 please. And if you --
14 JUDGE ITOE: Learned counsel, he has said yes. He answered that
16:28:35 15 way.
16 MR LANSANA: As Your Honour pleases.
17 JUDGE ITOE: He said he has answered that way. I was just
18 trying to go ahead to explain.
19 MR LANSANA: As Your Honour pleases.
16:28:44 20 Q. Yes, go ahead.
21 A. I answered no. You asked me if that -- if I did answer no.
22 I said yes. The no was the answer I gave. And it is going for
23 the last -- after the comma or the second sentence written, that
24 is against 11 and fight in one certain place, "Did he get
16:29:19 25 involved in the battle?" The no is going for that. For that.
26 The no is implying that Kondewa -- I have never seen Kondewa
27 involved in battle. In battle himself, holding gun and firing.
28 If you can just examine, I mean, the last part of the question.
29 The no is going for that.

1 JUDGE THOMPSON: Counsel --

2 MR LANSANA: Yes, Your Honour.

3 JUDGE THOMPSON: -- the witness seems to be suggesting that
4 there is an inadvertent misreading on your part of the record.

16:29:56 5 PRESIDING JUDGE: No, the record is --

6 MR LANSANA: My Lord, the record is straight, Your Honour.

7 JUDGE THOMPSON: But he is saying -- is there formatting
8 problem here or where there --

9 MR LANSANA: I would not think so.

16:30:13 10 PRESIDING JUDGE: It is only the question -- the question,
11 the way it was asked, has more than one -- there is two issues.
12 And he answers to one issue and he says my answer --

13 MR LANSANA: As Your Honour pleases. But it appears to me
14 that the no served both --

16:30:31 15 JUDGE THOMPSON: Both purposes?

16 MR LANSANA: -- purposes, because if he had said, "No,
17 but," they would have recorded him. You are taking it from the
18 way it is; the script.

19 [HN270505E - CR]

16:31:45 20 JUDGE THOMPSON: So from your perspective, you're saying
21 that you have only one interpretation for the "no" there; it
22 applies to what?

23 MR LANSANA: It applies to both.

24 PRESIDING JUDGE: It applies to you to the whole statement
16:32:00 25 and the question?

26 MR LANSANA: Yes.

27 JUDGE THOMPSON: And he's saying no.

28 MR LANSANA: That's what he said.

29 JUDGE THOMPSON: I see. Is it a matter for interpretation

1 by the Court?

2 MR LANSANA: As Your Honour pleases. It would be your
3 interpretation against mine.

4 JUDGE THOMPSON: Against yours?

16:32:15 5 MR LANSANA: Yes, Your Honour. At this stage, I don't have
6 any further questions for the witness.

7 PRESIDING JUDGE: Thank you.

8 MR BANGURA: Your Honours, may I inquire as to the status
9 of that document, the statement. I understood someone saying it
16:33:04 10 was for the Court to give an interpretation to that answer from
11 the witness.

12 PRESIDING JUDGE: We've not accept the statement as an
13 exhibit. As far as we are concerned, it's not here.

14 JUDGE THOMPSON: It's the record that we have of the
16:33:17 15 answers. We're not going further than that,

16 MR BANGURA: Thank you.

17 PRESIDING JUDGE: I see counsel shaking his head in the
18 affirmative.

19 MR LANSANA: Your Honours, I'm in concurrence with you.

16:33:28 20 JUDGE THOMPSON: Yes, fine.

21 PRESIDING JUDGE: Mr Prosecutor, my question to you: any
22 re-examination?

23 MR BANGURA: There will be no re-examination of this
24 witness, Your Honour.

16:33:43 25 PRESIDING JUDGE: Thank you very much. Mr Witness, we
26 thank you very much for you coming to this Court to give your
27 evidence.

28 THE WITNESS: Thank you, My Lord.

29 PRESIDING JUDGE: We wish you good luck for the future.

1 THE WITNESS: Thank you.

2 PRESIDING JUDGE: Mr Prosecutor, it is 4.30 p.m. I know
3 you do have a witness on stand-by.

4 MR KAMARA: Indeed, we do have a witness scheduled for this
16:34:27 5 afternoon. That witness might take the entire afternoon and part
6 of Monday morning.

7 PRESIDING JUDGE: Yes. I must say, this week, we're not
8 necessarily really tempted at this time to take another witness
9 if we're not to finish this witness this afternoon. Our
16:34:45 10 preference, at this juncture, would be to start fresh Monday
11 morning and just carry on with that witness.

12 MR KAMARA: I agree with Your Honours.

13 PRESIDING JUDGE: We will adjourn the Court until 9.30 a.m.
14 Monday morning.

16:36:07 15 [The witness withdrew]

16 [The hearing adjourned at 4.35 p.m., to be
17 reconvened on Monday, the 30th day of May 2005,
18 at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 87	2
Exhibit No. 88	16
Exhibit No. 89	22
Exhibit No. 90	49

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-079	2
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