

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-14-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

TUESDAY, 1 MARCH 2005
9.40 a.m.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison
Ms Roza Salibekova

For the Registry:

Ms Maureen Edmonds
Mr Geoff Walker

For the Prosecution:

Mr Raimund Sauter
Mr Kevin Tavener
Ms Adwoa Wiafe
Mr Mohamed Stevens

For the Principal Defender:

Mr Ibrahim Yillah
Mr Kingsley Belle

For the Accused Sam Hinga Norman:

No appearance

For the Accused Moinina Fofana:

Mr Arrow Bockarie
Mr Victor Koppe
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Charles Margai
Mr Ansu Lansana

1 [HN010305A - EKD]
2 Tuesday, 1 March 2005
3 [Accused Kondewa and Fofana entered court]
4 [The accused Norman not present]
5 [Open session]
6 [Upon reconvening at 9.40 a.m.]

7 PRESIDING JUDGE: Good morning, learned counsel. We are
8 resuming the session and we would first of all present
9 the judgment on the decision on presentation of witness
10 testimony on the Moyamba crime base. The majority
11 decision of the Court will be read by Honourable Justice
12 Pierre Boutet.

13 JUDGE BOUTET: Thank you, Mr Presiding Judge.

14 Trial Chamber I of the Special Court for
15 Sierra Leone, composed of Honourable Judge Benjamin
16 Mutanga Itoe Presiding Judge, Honourable Judge Bankole
17 Thompson and Honourable Judge Pierre Boutet, seized of
18 the proposal by the Prosecution and court appointed
19 counsel for the first accused Sam Hinga Norman made on
20 the 25th of February 2005 for the Prosecution to call
21 witnesses to testify on matters related to the Moyamba
22 crime base which relates to portions of the consolidated
23 indictment that the Trial Chamber ordered to be stayed
24 against the first accused in its decision of the 29th of
25 November 2004, noting the decision on the first accused's
26 motion for service and arraignment on the consolidated
27 indictment delivered by the Trial Chamber on the 29th of
28 November 2004 pursuant to Article 17 of the Statute of
29 the Special Court for Sierra Leone and Rule 26(bis) of

1 the Rules of Procedure and Evidence of the Special Court
2 for Sierra Leone, issues the following decision:

3 Proposals of the party. Prosecution's proposal:
4 Counsel for the Prosecution informed the Chamber that it
5 is anticipated that they will move to the Moyamba crime
6 base next week and that this crime base is significant as
7 it was not included in the initial indictment and is now
8 in the consolidated indictment and is a current matter of
9 appeal by the first accused. Prosecution stated that
10 they have reached a resolution with counsel for the first
11 accused for those witnesses who will testify to the
12 Moyamba crime base. The Prosecution submit that if the
13 appeal of the first accused is successful then the
14 Moyamba crime base is not part of the case against him
15 and then any evidence that comes out in respect of this
16 will not be used against him. However, in order for the
17 trial to proceed, the first accused has agreed to engage
18 in a trial. The Prosecution submits that no harm or
19 prejudice will be done to the first accused should his
20 appeal be successful. The Prosecution indicated that
21 they are not in a position to go ahead with other
22 witnesses but the Moyamba crime base witness at this
23 stage.

24 The Defence proposal quoted by the counsel for the
25 first accused proposed that the court appointed counsel
26 for the second and third accused begin the
27 cross-examination of witnesses presented by the
28 Prosecution on the Moyamba crime base with the option for
29 counsel for the first accused to cross-examine if they

1 choose to do so. Court appointed counsel for the first
2 accused state that they cannot stand mute in case they
3 lose the appeal and therefore need to cross-examine.
4 Court appointed counsel for the first accused stated that
5 they want to go forward as expeditiously as possible and
6 not take a day off at all if they can avoid it. They
7 submit that a week long continuance in the middle of the
8 trial while the Prosecution gather alternative witnesses
9 does not serve anybody. They are in agreement, however,
10 with the Prosecution to move forward with the Moyamba
11 crime base witnesses. Court appointed counsel for the
12 first accused will argue to the Court how the proof needs
13 to be segregated if need be at the close of the case,
14 depending on the outcome of the appeal.

15 Deliberation. In the Chamber's opinion the issue to
16 be determined is whether, in terms of fairness to the
17 first accused and in the interests of justice,
18 Prosecution witnesses will be called to testify on the
19 Moyamba crime base which relates to portions of the
20 consolidated indictment that the Trial Chamber ordered to
21 be stayed against the first accused in its decision of
22 the 29th of November 2004. This decision of the Trial
23 Chamber has been appealed by court appointed counsel for
24 the first accused and by the Prosecution. Leave to
25 appeal has subsequently been granted by the Trial Chamber
26 in both cases. The impugned decision ordered that,
27 "The identified portions of the consolidated
28 indictment that are material and embody new factual
29 allegations and substantive elements of the charges be

1 stayed and that the Prosecution is hereby put to its
2 election either to expunge completely from the
3 consolidated indictment such identified portions or seek
4 an amendment of the said indictment in respect of those
5 identified portions in that either option is to be
6 exercised with leave of the Trial Chamber."

7 Subsequent to this decision Prosecution filed a
8 motion for leave to amend the indictment. In accordance
9 with the Rule 73(C) of the Rules of Procedure and
10 Evidence of the Special Court, in circumstances where
11 there is an appeal against an impugned decision, the
12 proceedings on a motion against that decision will be
13 stayed until a final determination by the Appeals
14 Chamber. As a consequence of the appeal against the
15 impugned decision, the Trial Chamber has not made a
16 ruling on the Prosecution's request for leave to amend
17 the indictment, and while the decision of the Trial
18 Chamber is not suspended, it so ordered for the
19 Prosecution to seek leave of the Trial Chamber to either
20 expunge the identified portions of the indictment or to
21 amend such portions that remain in theory by virtue of
22 Rule 73(C) of the Rules and which prevents the Trial
23 Chamber from making a ruling on this issue until the
24 rendering of the appeal's decision on this issue.

25 On this basis the Trial Chamber may conclude that
26 the portions of the consolidated indictment that the
27 Trial Chamber ruled should be stayed against the first
28 accused, continue in existence against the accused
29 pending a further order by the Trial Chamber to grant

1 leave to amend the indictment or decline to do so. As a
2 consequence, the evidence of witnesses who will testify
3 on matters relating to the Moyamba crime base is relevant
4 to the charges against the first accused as they exist in
5 the consolidated indictment.

6 The Trial Chamber considers that no prejudice will
7 ensue to the accused if the trial proceeds with the
8 testimony of witnesses who gave evidence related to the
9 Moyamba crime base. The accused has had adequate time
10 and resources to prepare for the cross-examination of
11 these witness. Court appointed counsel for the first
12 accused have themselves represented that the first
13 accused is ready to proceed with the testimony of these
14 witnesses and wishes to proceed with the trial.

15 Under the Statute and Rules of the Special Court the
16 Trial Chamber is vested with the authority and duty to
17 guarantee the accused a fair trial in the proper
18 administration of justice. Article 17(2), (3) and
19 (4)(a), (b), (c) and (e) of the Statute provides that the
20 accused shall be entitled to a fair and public hearing,
21 subject to measures ordered by the Special Court for the
22 protection of victims and witnesses; the accused shall be
23 presumed innocent until proved guilty according to the
24 provisions of the present Statute; in the determination
25 of any charge against the accused pursuant to the present
26 Statute, he or she shall be entitled to the following
27 minimum guarantees in full equality:

28 (a) to be informed promptly and in detail in a language
29 which he or she understands of the nature and cause of

1 the charge against him or her;
2 (b) to have adequate time and facilities for the
3 preparation of his or her defence and to communicate with
4 counsel of his or her own choosing;
5 (c) to be tried without undue delay; and
6 (e) to examine or have examined the witnesses against him
7 or her and to obtain the attendance and examination of
8 witnesses on his or her behalf under the same conditions
9 of witnesses against him or her.

10 And Rule 26(bis) of the Rules provides that the
11 Trial Chamber and the Appeals Chamber shall ensure the
12 trial is fair and expeditious, and that proceedings
13 before the Special Court are conducted in accordance with
14 the Agreement Statute and the Rules with full respect for
15 the rights of the accused and due regard for the
16 protection of victims and witnesses.

17 In accordance with the Statute and Rules of the
18 Special Court, the Trial Chamber considers that it is in
19 the interests of justice and judicial economy to continue
20 the trial and hear the testimony of witnesses who will
21 give evidence on the Moyamba crime base. The Trial
22 Chamber does not consider that any prejudice will ensue
23 to the accused. The Trial Chamber will competently and
24 fairly consider the relevance of this evidence to the
25 charges contained in the consolidated indictment against
26 the first accused in conformity with the decision of the
27 Appeals Chamber when that decision is rendered on this
28 issue.

29 The Trial Chamber notes that this finding is in

1 accord with the decisions of the International Criminal
2 Tribunal for the Former Yugoslavia, ICTY, and the
3 International Criminal Tribunal for Rwanda, ICTR.

4 In the Simic case the Defence requested a Trial
5 Chamber to refuse to hear particular witness testimony
6 until the Appeals Chamber delivered its decision on an
7 appeal against the Trial Chamber's decision granting
8 leave to the Prosecution to amend the indictment,
9 claiming that this testimony was related to the amended
10 portions of the indictment. The Trial Chamber ruled that
11 it was entitled to proceed with the witness testimony and
12 that it was satisfied that the proceedings were being
13 followed by the accused and that they were able to give
14 instruction to their Defence counsels concerning their
15 defence and that they were not facing charges.

16 In the Kvocka case the Defence requested a stay of
17 proceedings in relation to all new witnesses who were
18 related to an appeal pending before the Appeals Chamber.
19 In opposition the Prosecution submitted that if an
20 appellant chamber were to determine that the evidence of
21 these new witnesses cannot be considered in reaching a
22 decision in this case, the trial judges are presumed to
23 be able to set aside that evidence in reaching their
24 verdict. The Prosecution, furthermore, submitted that,
25 "If they then decide the evidence is not admissible,
26 there is a presumption that the judges can set aside that
27 evidence and not consider it in reaching their decision."
28 The Trial Chamber in that case ruled to continue the
29 hearing of witness testimony and advised the Defence that

1 if it felt prejudiced because it had not had time to
2 prepare they should communicate their reasons to the
3 Chamber, who would make a ruling on pertinent measures so
4 that there would be no prejudice to the Defence.

5 For the above reasons the Trial Chamber decides that
6 the trial proceedings will continue against the accused
7 persons and that the Prosecution may present witnesses to
8 give testimony in areas relating to the Moyamba crime
9 base, and the Trial Chamber will make a determination on
10 the relevance of this testimony to the first accused upon
11 the rendering of the Appeals Chamber's decision on this
12 matter.

13 Honourable Justice Benjamin Mutanga Itoe, Presiding
14 Judge, appends his dissenting opinion to this decision.
15 Thank you.

16 PRESIDING JUDGE: Thank you, honourable and learned brother.

17 This is my dissenting opinion.

18 Mindful of the proposal by Mr Tavener representing the
19 Prosecution, and Mr John Wesley Hall, court appointed
20 counsel for the first accused Mr Samuel Hinga Norman,
21 made on the 25th of February 2005 for the Prosecution to
22 call to testify on matters related to the Moyamba crime
23 base related to the portions of the consolidated
24 indictment of the Trial Chamber order to be stayed
25 against the first accused in its majority decision on the
26 29th of December 2004; mindful of the majority decision
27 on the first accused's motion for service and arraignment
28 on the consolidated indictment delivered by the Trial
29 Chamber on the 29th of November 2004; mindful of the

1 separate concurring opinion of Honourable Justice Bankole
2 Thompson on the decision on the first accused's motion
3 for service and arraignment on the consolidated
4 indictment issued on the 29th of November 2004; mindful
5 of my dissenting opinion; mindful of the provision of
6 Rule 73(C) of the Rules of Procedure and Evidence of the
7 Special Court; mindful of the provisions of Rule 26(bis)
8 of the Rules of Procedure and Evidence; mindful of the
9 provisions of Article 17 of the Statute of the Special
10 Court for Sierra Leone on the rights of the accused, and
11 particularly those of article 17(2) and 17(4)(b), issue
12 the following dissenting opinion on the Chamber majority
13 decision:

14 Counsel for the Prosecution submits that it is
15 anticipated that they will move to the Moyamba crime base
16 this week. This crime base is significant as it was not
17 included in the initial indictment. It is now in the
18 consolidated indictment and is a current matter of appeal
19 by the first accused. The Prosecution submit that they
20 have reached a resolution with counsel for the first
21 accused for those witnesses who will testify to the
22 events in the Moyamba crime base. The Prosecution submit
23 that if the appeal of the first accused is successful and
24 the Moyamba crime base is not part of the case against
25 him, then any case that comes out in respect of this will
26 not be used against him. In order to enable the trial to
27 proceed the first accused has agreed to engage in the
28 trial. The Prosecution submits that no harm or prejudice
29 will be done to the first accused should his appeal be

1 successful. The Prosecution submit that they are not in
2 a position to go ahead with other witnesses but the
3 Moyamba crime base witnesses at this stage. The Defence
4 submits that the first accused proposed that the court
5 appointed counsel could begin the cross-examination
6 presented by the Prosecution on the Moyamba crime base
7 with the option for the court appointed counsel for the
8 first accused to cross-examine if they choose to do so.
9 Court appointed counsel for the first accused state that
10 they cannot stand mute in case they lose the appeal and
11 therefore need to cross-examine. Court appointed counsel
12 again for the first accused submits that they want to go
13 forward as expeditiously as possible and not take a day
14 off at all if they can avoid it. They submit that a week
15 long continuance in the middle of the trial while the
16 Prosecution gather alternative witnesses does not serve
17 anybody. They are in agreement to go forward with the
18 Moyamba crime base witnesses. Court appointed counsel
19 for the first accused will argue to the Court how the
20 proof needs to be segregated if need be at the close of
21 the case depending on the outcome of the appeal.
22 The question which comes under scrutiny is whether the
23 Prosecution can or should at this stage of the
24 proceedings be allowed to call witnesses to testify on
25 issues affecting the Moyamba crime base, which relates to
26 the contentious and contested aspects of the consolidated
27 indictment, and which the Chamber in its majority
28 decision of the 29th of November 2004 ordered to be
29 stayed as far as the first accused is concerned. It

1 would be recalled in this regard that the Chamber
2 majority decision ordered as follows:
3 "That the identified portions of the consolidated
4 indictment that are material and embody new factual
5 allegations and substantive elements of the charges be
6 stayed and that the Prosecution is hereby put to its
7 election to expunge completely such identified portions
8 or seek an amendment of the said indictment in respect of
9 those identified portions and that either option is to be
10 exercised with the leave of the Chamber."
11 From this conclusion and directive, and having stayed the
12 new factual allegations and substantive elements of the
13 charges, there appears to me to be no juridical basis to
14 proceed with hearing witnesses on stayed allegations when
15 the appeal on these issues are not yet disposed of.
16 The Prosecution by a motion dated the 6th day of December
17 2004 applied for leave for the Chamber to appeal under
18 the provisions of Rule 73(B) of the Rules of Procedure
19 and Evidence. This application was granted by a chamber
20 ruling dated the 17th of December 2004. It stands to
21 reason that judicially the Appeals Chamber was and is
22 still, since the 15th of December 2004, seized of this
23 matter which precisely concerns the Moyamba crime base
24 and which for diverse reasons is hotly contested by both
25 Prosecution and the Defence, indeed, even more so by the
26 first accused and his defence team.
27 The first accused, like the Prosecution also, by a motion
28 dated the 2nd of December 2004, still under the
29 provisions of Rule 73(B), sought the leave of the Chamber

1 to appeal. The Chamber, by a ruling dated the 16th of
2 December 2004, granted the leave solicited. As is the
3 case also with the Prosecution, the Appeals Chamber was,
4 since the 16th of January 2005, seized of the
5 interlocutory appeal filed by the first accused inter alia
6 on issues relating to the Moyamba crime base and
7 particularly those relating to the stayed portions of the
8 consolidated indictment.

9 Both the Prosecution and the Defence have appealed
10 against the majority decision of the Chamber and the
11 contention is all centred around the alleged new charges
12 or new particulars which are related to the Moyamba crime
13 base whose witnesses the Prosecution now wants us to
14 hear, notwithstanding the fact that its appeal on it is
15 still pending and that the majority decision had ordered
16 a stay of the new factual allegations and substantive
17 elements of the charges on which they will testify if the
18 application by the Prosecution were granted.

19 The Prosecution, on the 8th of December 2004, after
20 filing this appeal, filed a motion for leave to amend the
21 consolidated indictment following the aforementioned
22 order in the majority decision to this effect: The
23 hearing of this motion has been stayed by the Chamber on
24 the grounds of the appeal that is pending on this same
25 issue in the Appeals Chamber, and this by virtue of the
26 provisions of Rule 73(C) of the Rules of Procedure and
27 Evidence which provide as follows:

28 "Whenever the Trial Chamber and the Appeals Chamber of
29 the Court are seized of the same motion raising the same

1 issue or similar issue or issues, the Trial Chamber shall
2 stay proceedings on the said motion before a final
3 determination of the motion by the Appeals Chamber."
4 The legislative intent of the plenary when drawing up and
5 adopting this rule, as I understand it, was to ensure
6 that the Trial Chamber does not continue to hear any
7 matter based on the same or similar issues that are
8 pending before the Appeals Chamber. It is clear and
9 uncontested that the appeal before the Appeals Chamber
10 concerns issues relating to the Moyamba crime base where
11 the consolidated indictment, as considered by the
12 majority decision itself of the Chamber of the 29th of
13 November 2004, certain portions that are material and
14 embody new factual allegations and substantive elements
15 for which an application to expunge or to amend was to be
16 made to the Chamber. This aspect of the decision by the
17 Trial Chamber is as much an appeal as that which
18 constrained the Prosecution to seek the leave of the
19 Chamber to amend as ordered. The later motion is stayed
20 in chambers on the grounds of the provision of Rule
21 73(C).

22 What justification, therefore, is provided for
23 derogating and accepting in this particular case to
24 determine, instead of also staying, the oral Prosecution
25 motion to hear witnesses related to this same
26 controversial Moyamba crime base which is also the
27 subject matter of an appeal that is pending before the
28 Appeals Chamber? The Chamber, I would observe, is
29 endowed with the separate responsibility of ensuring and

1 safeguarding the supremacy and inviability of the
2 fundamental principle of fairness in the conduct of a
3 trial. This element, more than any other value in
4 trials, impacts greatly on the perception of the image of
5 the integrity of the proceedings where the interests of
6 fairness do require, as in this case, a respect for basic
7 rules that ordinarily govern the conduct of proceedings,
8 like a stay of proceedings in the event of an appeal as
9 provided for under Rule 63 of the Rules of Procedure and
10 Evidence.

11 One of the issues canvassed on appeal is that the
12 consolidated indictment contains new elements and that a
13 re-arraignment is obligatory. If this contention were to
14 be sustained by the Appeals Chamber the proceedings would
15 take a different turn with all the attendant legal and
16 procedural formalities to be followed and fulfilled by
17 the Chamber before the trial proceeds. Why should we,
18 even in the proclaimed justification of the interests of
19 justice, of judicial economy, or of encouraging
20 expeditiousness, rush to prematurely hear this evidence
21 on stayed issues which are yet to be determined by the
22 Appeals Chamber instead of waiting to do so at the
23 appropriate moment?

24 Necessity to stay the proceedings concerning the
25 Moyamba crime base. In this case, we rendered a ruling
26 on the 2nd of June 2004 on the Prosecution's application
27 for judicial notice. The Defence sought our leave under
28 the provisions of Rule 73(B) of the Rules of Procedure
29 and Evidence to appeal against our ruling. We granted

1 this leave by our ruling dated the 19th of October 2004
2 and are still expecting the decision of the Appeals
3 Chamber on this issue which, of course, as we all know,
4 will impact on the strategy the Prosecution has to put in
5 place to continue in proving its case should the Appeals
6 Chamber uphold the arguments canvassed by the Defence and
7 this before the closure of its case, which is imminent,
8 and, in any event, before the opening of the case for the
9 Defence.

10 Given the apparently and clearly expressed
11 divergence of opinion on issues under consideration which
12 are at stake and which are clearly vital and important in
13 the final adjudication of this matter, it is at this
14 stage necessary, in my opinion, to put in place a trial
15 management strategy which is expedient and fair and
16 which, even if not necessarily expeditious, is respectful
17 of the rights of all parties that we as a chamber are
18 called upon to protect at all times within the confines
19 of legality.

20 In the course of the hearing of this oral motion I
21 suggested to Mr Tavener, who was representing the
22 Prosecution, to call witnesses other than the Moyamba
23 base witnesses so as to allow time for the Appeals
24 Chamber to issue directives on the contentious Moyamba
25 crime base issues that have already been referred to.
26 Mr Tavener replied by saying that it would take the
27 Prosecution about a week to get in place the other
28 witnesses who would testify from other crime bases and
29 whose testimony will not be affected by the pending

1 decision of the Appeals Chamber. The Prosecution has
2 been interacting with these witnesses for quite some time
3 and I am sure that producing one for a start would not be
4 a difficulty at all and does not require one week. The
5 explanation offered by the Prosecution in this respect
6 is, to my mind, dictated more by considerations of their
7 convenience than on the hard realities that are at stake
8 which should ordinarily prevail within the framework of a
9 trial management strategy. This is even necessary if we
10 have to lose a few days of trial by giving the
11 Prosecution a few days to call the non-Moyamba crime base
12 witnesses to testify during the rest of this session and
13 to call the Moyamba base witnesses at a later stage of
14 these proceedings.

15 I would like to observe here and in this context
16 that time lost in administering justice credibly is not
17 time wasted. In fact, the delay that might ensue, which
18 in my opinion is necessary, strategic and judicially
19 useful, will contribute immensely to ensuring the
20 neatness of our proceedings and upholding the doctrine of
21 fundamental fairness in the interests of both appellants
22 - I mean the Prosecution and the Defence - but, even more
23 importantly, of the accused in the light of the
24 provisions of Article 17(2) and 17(4)(b) of the Statute
25 and Rule 26(bis) of the Rules of Procedure and Evidence.
26 This should indeed be the case in order to ensure that
27 the effects of the decisions of the Appeals Chamber on
28 the judicial notice and on the appeals by both the
29 Prosecution and the Defence on the Moyamba crime base

1 controversy are fully integrated into our current trial
2 management strategy long before the Prosecution closes
3 its case.

4 Prosecution and Defence compromises on agreements.
5 The Chamber has always solemnly indicated that it
6 encourages, within the context of achieving the goal of
7 expeditiousness of trials, and would welcome agreements
8 between the Prosecution and the Defence on some
9 noncontentious issues in the conduct of proceedings. We
10 have also said, however, that where such agreements are
11 of a nature to violate the law, the rights of the accused
12 or applicable procedures, and I would add the doctrine of
13 fundamental fairness, they should not and will not be
14 accepted by the Trial Chamber.

15 In this regard, counsel for the first accused,
16 Mr Hall, is on record as having said that they cannot
17 stand mute in case they lose the appeal and therefore
18 needs to cross-examine. He submitted that the Defence
19 want to go forward as expeditiously as possible and not
20 to take a day off at all if they can avoid it. He
21 further submitted that a week long continuance in the
22 middle of the trial while the Prosecution gathers
23 alternative witnesses does not serve anybody and
24 concluded by saying that they are in agreement with the
25 Prosecution to go forward with the Moyamba crime base
26 witnesses thereby supporting, in effect, what the
27 Prosecution is seeking to achieve by making this
28 application.

29 I would like to observe here that the rights granted

1 to the accused under Article 17 of the Statute are all
2 equally and individually important, and that the rights
3 to an expeditious trial, which is highlighted by both the
4 Prosecution and the Defence to foster their agreement and
5 boost the chances of success of the Prosecution's
6 application, should not be exclusively canvassed to the
7 detriment of the equally important right to a fair trial
8 which the accused is entitled to, because a trial, after
9 all, could be expeditious without necessarily being fair.
10 This is primarily the situation which we should avoid in
11 the instant case because I am strongly of the opinion
12 that counsel should be cautious, particularly given the
13 absence of the accused from the proceedings, in making
14 decisions that tend to and indeed compromise the Article
15 17 statutory rights as well as those enshrined in Rule 26
16 of the Rules of Procedure and Evidence.

17 It is indeed my opinion that this particular
18 agreement between the Prosecution and the Defence should
19 not receive the benediction of the Chamber because it
20 flagrantly not only violates the provisions of Article
21 17(2) and 17(4) of the statutory rights of the first
22 accused, but also and as well, the doctrine of
23 fundamental fairness to the detriment of the first
24 accused whose fate on the contentious issues at stake,
25 including those of the Moyamba crime base, is yet to be
26 determined by the Appeals Chamber following the appeal
27 against the majority decision that is still pending.

28 In this regard I would say that if Article 17(2) of
29 the Statute stipulates that the accused shall be entitled

1 to a fair and public hearing, this includes the respect
2 of his appellate rights which he has exercised and whose
3 outcome we should and are bound to patiently wait for
4 before we proceed to hearing evidence on the stayed
5 portions of the consolidated indictment which constitutes
6 the core issues of his appeal that is yet to be
7 determined. I do so hold because even argument based on
8 the interests of justice, judicial economy or
9 expeditiousness cannot be, given the circumstances of
10 this case, countenanced or sustained even though they are
11 traditionally accepted criteria in the administration of
12 justice to grant this motion as this would, in these
13 particular circumstances, amount to a violation of the
14 law.

15 The question to be answered here is: How can we
16 today start taking evidence in relation to the Moyamba
17 crime base when a majority decision, supported by the
18 separate concurring opinion, ordered a stay of some major
19 elements of the crimes alleged to have been committed in
20 the Moyamba crime base when the determination of this
21 contention is sub judice? Indeed, why should we today
22 start taking evidence of the witnesses from that crime
23 base when the majority decision put the Prosecution to
24 its election either to expunge completely such identified
25 portions referring to what I consider are new charges and
26 what is cosmetically characterised as new factual
27 allegations on substantive elements of the charges and
28 when in fact a ruling on the Prosecution's motion to
29 amend dated the 8th of December 2004 is now stayed by the

1 Chamber on the grounds that entertaining it at this stage
2 would violate the provisions of Rule 73(C) of the Rules
3 of Procedure and Evidence since these same issues are sub
4 judice before the Appeals Chamber?

5 I would like to observe here that the ICTY cases of
6 Simic and Kvocka which are cited in the majority decision
7 to support granting this application do not, with
8 respect, apply here. In fact, even if they treated a
9 similar subject of continuing with the proceeding, they
10 are distinguishable and indeed not on all fours with the
11 case in hand. The primary reason being that in those two
12 cases the honourable chambers of the ICTY had not
13 expressly, like we have done in our majority decision,
14 ordered a stay or an expungement of the contentious
15 portions of the indictment.

16 I am of the opinion that it does not serve the
17 interests of justice for the Trial Chamber at this stage
18 to hear and consider evidence from witnesses who will
19 testify on the Moyamba crime base because it would be
20 legally improper for the Trial Chamber to consider such
21 evidence when there is an appeal pending on this issue
22 and when the facts they may be testifying to were stayed
23 by the majority decision.

24 For these reasons, I am of the opinion that to
25 continue with the presentation of witness testimony on
26 areas of the indictment that are in dispute and are being
27 considered on appeal by the Appeals Chamber would not be
28 in the interests of justice. I do consider that an
29 agreement by the parties to proceed with the trial

1 constitutes a foundational basis for the trial to proceed
2 with this evidence, because of issues of fairness to the
3 accused and the avoidance of any prejudice to the case
4 for the accused person under Article 17 of the Statute.
5 I believe that the right of the first accused to a fair
6 trial would be violated should the trial proceed and
7 should witnesses testify on a subject area of the
8 indictment that is contested on appeal.

9 In conclusion, I am of the opinion that the
10 Prosecution, within the spirit of expeditiousness and to
11 avoid stopping the proceedings for too long, should be
12 given a timely means of about five days to enable them to
13 convene some or all of the Moyamba crime base witnesses
14 for them to testify for the time being up to the end of
15 the session and pending the decision of the Appeals
16 Chamber on the appeal filed by the Prosecution and the
17 Defence against the majority decision of the 29th of
18 November 2004.

19 For the foregoing reasons I am, of course with due
20 deference to the majority decision to my learned brothers
21 and colleagues, not in accord with the conclusions of the
22 said majority decision and do instead order as follows:
23 That the motion is denied; that the application presented
24 by the Prosecution as well as that portion of the
25 proceedings concerning the Moyamba crime base is stayed
26 until a decision is rendered by the Appeals Chamber on
27 the issue; that the proceedings continue in respect of
28 the non-Moyamba crime base witnesses; that the
29 proceedings are stayed with effect from today, Tuesday

1 the 1st of March 2005, to resume on Monday the 7th of
2 March 2005 at 9.30 a.m.; that at the session beginning on
3 the 7th of March 2005 the Prosecution will only call the
4 non-Moyamba crime base witnesses to testify; that these
5 orders be carried out. Done in Freetown, Sierra Leone
6 this first day of March 2005 and signed Honourable
7 Justice Benjamin Mutanga Itoe.

8 Thank you. I did express my deference to the
9 majority opinion and notwithstanding my dissenting
10 opinion which I have just read, we'll be rising in order
11 to enable the Prosecution to call their witness for us to
12 proceed with the trial. So we would rise, please.

13 [Break taken at 10.20 a.m.]

14 [The witness entered court]

15 [Upon resuming at 10.33 a.m.]

16 PRESIDING JUDGE: Learned counsel, we are resuming the
17 session.

18 MR YILLAH: May it please you, My Lords. May I crave
19 Your Lordships' indulgence before we proceed with this
20 witness to make certain applications and observations,
21 My Lord. I don't know whether it would be prudent in the
22 circumstances for the witness to be present, because some
23 of the issues to be raised are legal ones.

24 JUDGE BOUTET: And it has to do with the evidence of this
25 particular witness?

26 MR YILLAH: It has to do with the evidence of this witness and
27 the following witnesses.

28 PRESIDING JUDGE: Mr Walker, could the witness be asked to
29 withdraw for some time, please, whilst Mr Yillah is

1 making his observations.

2 [The witness stands down]

3 JUDGE BOUTET: Yes, Mr Yillah, you're prepared to address the
4 Court?

5 MR YILLAH: Yes, My Lord. My Lord, two issues I would wish to
6 seek Your Lordships' guidance on. It has to do with the
7 decision that has just been rendered by the Trial
8 Chamber. I am not asking Your Lordships to revisit your
9 decisions, but I seek firstly, My Lords, your guidance on
10 whether when one is seeking leave to appeal an oral
11 decision one has to go through Rule 73(B) procedure. In
12 respect of an oral decision, My Lords. That is the first
13 guidance I seek from this Chamber.

14 JUDGE BOUTET: I don't understand your application at all.
15 Are you talking of this decision we just rendered this
16 morning?

17 MR YILLAH: My Lord, my understanding from what I gathered,
18 because, My Lord, I was not present here on Friday when
19 the application and agreement was reached between court
20 appointed counsel and the Prosecution in respect of the
21 Moyamba crime base witnesses, and I also do not know that
22 it was as a result -- the decision sprang up as a result
23 of written motions and responses filed by the sides,
24 My Lord. My understanding is that it was oral and the
25 decision that has just been rendered by the Court,
26 My Lords.

27 JUDGE BOUTET: Yes, but it will be filed today some time in
28 writing, so it is not only oral. There is no difference
29 between an oral decision and a written decision in that

1 respect, if that is your question.

2 MR YILLAH: So, My Lord, in seeking leave the normal Rule
3 73(B) procedure would apply?

4 JUDGE BOUTET: A decision is a decision.

5 MR YILLAH: As My Lord please. Secondly, it has to do with --
6 the second point I want to raise has to do with
7 professional issues and I don't know whether it would be
8 prudent -- it would be appropriate to make these
9 observation in open session or to do so in closed
10 session. The one that I will be raising now, My Lords.

11 JUDGE BOUTET: Has to do with your own professional status? I
12 am at a loss to understand.

13 MR YILLAH: Yes, My Lord, it has to do with my professional
14 status and that of the Defence team, My Lord. I wanted
15 to seek your guidance on whether it would be appropriate
16 for me to make those observations in open session or in
17 closed session. It will be short, My Lord. It will be
18 short and very brief.

19 JUDGE THOMPSON: Learned counsel, why not guide us. What
20 would be your preference?

21 MR YILLAH: My Lord, I would seek to do so in closed session.

22 JUDGE THOMPSON: Let me give you what I perceive to be two
23 options. Closed session is one option. What about in
24 chambers as a second option?

25 MR YILLAH: As My Lord pleases.

26 JUDGE BOUTET: Because a closed session has to do more with
27 protection of witnesses than for issues that you're
28 raising. But certainly in chambers that appears to be,
29 my brother and colleague is suggesting, more of an

1 appropriate avenue for what you appear to be raising at
2 least, if I sense what you are talking about.

3 MR YILLAH: I am grateful, My Lord, I will pursue the second
4 option.

5 JUDGE BOUTET: But where and when do you want to do that?
6 Now? You feel that this is something that this Court
7 needs to address before we proceed any further?

8 MR YILLAH: I feel very strongly about that, My Lords.

9 PRESIDING JUDGE: I think we would need the presence of the
10 Prosecution and the other Defence teams, both of the
11 Defence teams.

12 MR YILLAH: As My Lord pleases.

13 JUDGE BOUTET: Representatives.

14 PRESIDING JUDGE: Or representatives. Mr Koppe is back,
15 you're welcome back. I didn't take notes, you know. How
16 was your trip?

17 MR KOPPE: Very well, thank you.

18 PRESIDING JUDGE: Good, you're welcome. Your wife is doing
19 well now?

20 MR KOPPE: She's always doing well. You're referring to
21 co-counsel's wife I think.

22 PRESIDING JUDGE: Okay, okay, I'm sorry. I'm sorry. Well, I
23 think we would rise and retire to chambers. I hope
24 Mr Yillah will not keep us there for too long.

25 MR YILLAH: I'll be very brief, My Lords, and I'm grateful for
26 your understanding.

27 PRESIDING JUDGE: The gallery should wait. We shall be coming
28 back very shortly. The Court will rise, please.

29 [Break taken at 10.42 a.m.]

1 [Upon resuming at 10.55 a.m.]
2 PRESIDING JUDGE: Learned counsel, we are resuming the
3 session.
4 JUDGE BOUTET: Mr Yillah, you were the one that was proposing
5 for the meeting in chambers and we were informed that
6 apparently the matter has been resolved. Can you inform
7 the Court as to officially what is the status of your
8 application?
9 MR YILLAH: Yes, My Lord, we discussed among ourselves and
10 benefitting from the advice of senior counsel, Mr Margai,
11 we have resolved the matter in-house.
12 JUDGE BOUTET: So you need not to make any further
13 application?
14 MR YILLAH: I need not to make any further application.
15 JUDGE BOUTET: Thank you.
16 MR YILLAH: I'm grateful for Your Honours' time.
17 JUDGE BOUTET: So you're ready to proceed?
18 MR YILLAH: Very well, My Lord.
19 JUDGE BOUTET: Just for greater clarity, as part of the
20 proposal that was submitted to the Court last week in
21 respect of this Moyamba crime base, the proposal included
22 that the cross-examination of witnesses should be done in
23 a different order as such, the first accused being the
24 last one to cross-examine, and we agreed to this process.
25 So the second accused, third accused and then first
26 accused in that order. You look at me, Mr Bockarie; you
27 seem to be concerned. You were there at that time, so
28 that is the proposal at this particular moment. So be
29 ready to proceed with that order. That is, second

1 accused, third accused and then first accused being last
2 to cross-examine.
3 That being said, are we ready to proceed now,
4 Mr Prosecutor? I know the witness is not in the witness
5 chair but we'll call the witness. You're ready to
6 proceed?
7 MR SAUTER: Yes, I am, Your Honour.
8 JUDGE BOUTET: What's the number of the witness?
9 MR SAUTER: The Prosecution calls witness TF2-016, witness
10 number 52.
11 JUDGE BOUTET: Thank you.
12 PRESIDING JUDGE: You say it's TF2-016?
13 MR SAUTER: Yes, Your Honour.
14 JUDGE BOUTET: The witness will testify in what language?
15 MR SAUTER: The witness will testify in Krio.
16 JUDGE BOUTET: Krio, thank you.
17 [The witness entered court]
18 JUDGE BOUTET: Yes, Mr Prosecutor. Mr Sauter, you may
19 proceed.
20 MR SAUTER: The witness has not been sworn in as far as I
21 know.
22 JUDGE BOUTET: Mr Walker, can we --
23 WITNESS: TF2-016 sworn
24 [Witness answered through interpreter]
25 JUDGE BOUTET: Please proceed.
26 EXAMINED BY MR SAUTER:
27 MR SAUTER:
28 Q. Good morning, Mr Witness.
29 A. Good morning, Mr Lawyer.

- 1 Q. You are about to give your testimony. I am very grateful
2 for your patience. When giving your testimony please
3 speak very slowly. Everything that you are saying has to
4 be recorded, so take your time, please. Okay?
5 Mr Witness, how old are you?
6 A. I am 46 years old.
7 Q. Where were you born, Mr Witness?
8 A. I was born in Lalehun Town, Tongo Field, Lower Bambara
9 Chiefdom.
10 Q. The writing of Lalehun is L-A-L-E-H-U-N. Where are you
11 residing now?
12 A. Right now I'm residing in the Lalehun Town.
13 Q. Are you married, Mr Witness?
14 A. I'm married.
15 Q. Do you have children?
16 A. Yes, I have five.
17 Q. Did you attend school, Mr Witness?
18 A. Yes, I went to school.
19 Q. For how many years?
20 A. From the primary school to the secondary school I spent
21 15 years.
22 Q. Mr Witness, how do you make your living?
23 A. Well, I'm a farmer.
24 Q. Mr Witness, let me take you to the year 1997. 1997. Do
25 you recall where you lived in the year 1997?
26 A. Yes.
27 Q. Please tell the Court.
28 A. Well, 1997 I was in Lalehun. We were there -- when we
29 were there we heard about the overthrow of the government

- 1 by the AFRC.
- 2 Q. Did you live all the time in 1997 in Lalehun?
- 3 A. I was in Lalehun.
- 4 Q. The question was whether or not you lived all the year
- 5 long in Lalehun?
- 6 A. No, I was not there throughout that year.
- 7 Q. Where else did you live?
- 8 A. Well, 1997, August 11.
- 9 Q. Yes?
- 10 A. We were there with the Kamajors.
- 11 PRESIDING JUDGE: Where? You were there. Where?
- 12 THE WITNESS: In Lalehun Town.
- 13 MR SAUTER:
- 14 Q. Did I get you right that until August 11th, 1997 the
- 15 Kamajors were in Lalehun?
- 16 A. We were there until August 11, when the Kamajors attacked
- 17 us and -- we were there together with the Kamajors when
- 18 the AFRC waged war and attacked us and asked us to leave
- 19 the town.
- 20 Q. So, Mr Witness, in order to make it clear, you say until
- 21 August 11th, 1997 the Kamajor were in Lalehun. That's
- 22 right?
- 23 A. We were there together, all of us, and that was the very
- 24 day that they attacked all of us, when in the evening we
- 25 had to flee.
- 26 Q. Who attacked on the 11th of August?
- 27 A. It was the AFRC and RUF forces that attacked us and we
- 28 fled. That was around 4.00 o'clock in the evening.
- 29 Q. Thank you, Mr Witness. When you say "we fled," who do

- 1 you mean - population and the Kamajors?
- 2 A. We, the civilians, and the Kamajors all left the land.
- 3 Q. Where did you go to, Mr Witness?
- 4 PRESIDING JUDGE: When he says "the land," he means Lalehun?
- 5 THE WITNESS: All the entire Tongo Field. Let me make that
- 6 clear. It was the entire Tongo Field. Lalehun was a
- 7 section of Tongo and that is where I resided.
- 8 MR SAUTER:
- 9 Q. Let me put this question. How far away is Lalehun from
- 10 Tongo?
- 11 A. It's a quarter mile. It's not up to a mile. It's a
- 12 short distance.
- 13 Q. So, Mr Witness, did you yourself also flee from Lalehun?
- 14 A. Yes.
- 15 Q. And where did you go to?
- 16 A. Well, I went to a neighbouring chiefdom called Dodo, Dodo
- 17 Chiefdom.
- 18 Q. How long did you stay there approximately?
- 19 A. Yes, I was there for about three months.
- 20 Q. After that where did you go to?
- 21 A. After the three months I decided to go to Kenema because
- 22 I was suffering there so much.
- 23 Q. Suffering from what, Mr Witness?
- 24 A. I had no food to eat and I hadn't even something to put
- 25 on.
- 26 Q. You said from Dodo you went to Kenema?
- 27 A. Yes.
- 28 Q. How long did you approximately stay in Kenema, just
- 29 briefly?

1 A. I spent two weeks there.
2 Q. And from Kenema?
3 A. From Kenema we went to -- we passed through Segbwema to a
4 village called Nyama.
5 PRESIDING JUDGE: He said he stayed in Kenema for how long,
6 two weeks?
7 MR SAUTER: Two weeks. The writing of Nyama is N-Y-A-M-A.
8 Q. And from Nyama?
9 A. When I left Nyama I went to Weima.
10 PRESIDING JUDGE: From Nyama he went to?
11 THE WITNESS: Weima.
12 MR SAUTER: From Kenema to Nyama, from Nyama to Weima.
13 PRESIDING JUDGE: Weima, okay.
14 JUDGE BOUTET: There was another place.
15 PRESIDING JUDGE: He mentioned another place.
16 MR MARGAI: He passed through Segbwema.
17 THE WITNESS: Through Segbwema.
18 MR MARGAI: S-E-G-B-W-E-M-A.
19 MR SAUTER: And finally to Weima, W-E-I-M-A.
20 Q. So, Mr Witness, did the Kamajors ever return to Tongo
21 Field and to Lalehun?
22 A. Yes.
23 Q. When was this?
24 A. Well, while we were in Weima, November ending to
25 December -- December ending, that was the time we heard
26 that they've returned to Tongo.
27 Q. You said when they returned you were still in Weima?
28 A. I was in Weima when I heard that they've returned there.
29 [HN010305B 11.15 a.m. - SGH].

- 1 Q. Did you yourself around this time return to
2 Lalehun?
- 3 A. I spent one month before returning there.
- 4 PRESIDING JUDGE: One month in Weima?
- 5 BY MR SAUTER
- 6 Q. Do you mean one month after the Kamajors returned to
7 Lalehun you returned to this place?
- 8 A. Yes.
- 9 Q. So when returning to Lalehun how did you find this
10 village or this town?
- 11 A. I found the place very rough. That day they were all
12 looting, removing doors, removing the roof, the zinc.
- 13 Q. You said they looted, did they do anything else, they the
14 Kamajors?
- 15 A. They burnt nine houses.
- 16 PRESIDING JUDGE: [Microphone not activated] He did not say
17 it was the Kamajors who looted.
- 18 JUDGE BOUTET: He said they found the place very rough and the
19 zinc and the doors looted, but that was said [overlapping
20 speakers].
- 21 PRESIDING JUDGE: Looting doors, looting zinc, and so on.
- 22 THE WITNESS: I will still go back there.
- 23 MR SAUTER: Okay, I apologise.
- 24 Q. Who looted in Lalehun?
- 25 A. It was only the Kamajors that were there. They found
26 them looting removing properties and packing them.
- 27 Q. Did they do anything else apart from looting?
- 28 A. Yes.
- 29 Q. What?

- 1 A. They burnt nine houses. Nine.
- 2 Q. Have you personally been affected by burning and looting?
- 3 A. Yes.
- 4 Q. What happened to you?
- 5 A. My father's house was burnt.
- 6 Q. Apart from burning and looting, did they do anything else
7 in Lalehun?
- 8 A. Yes.
- 9 Q. What, please?
- 10 A. I cannot get you clear. I do not understand.
- 11 Q. Apart from looting and burning, did the Kamajors do
12 anything else to the people of Lalehun?
- 13 A. Yes, they did a lot of things.
- 14 Q. Which kind of things?
- 15 A. Well the first time we enter they used us to collect the
16 properties for them. That was one.
- 17 PRESIDING JUDGE: Is it to collect or to carry, let's get the
18 verb right. Is it to collect or to carry? To collect?
- 19 THE WITNESS: To tote them and take them along. To carry. To
20 tote it for them.
- 21 MR SAUTER:
- 22 Q. What else? Did they kill anybody?
- 23 A. Yes. They killed two people.
- 24 Q. Do you know who was killed?
- 25 A. I know the two of them.
- 26 Q. Could you give the Court the names of these two people?
- 27 A. Yes.
- 28 Q. Please.
- 29 A. The first person was called by Aruna Konowa. Aruna

- 1 Konowa.
- 2 Q. The second one?
- 3 A. Was Pa Brima Conteh. Brima Conteh.
- 4 Q. In writing Aruna, A-R-U-N-A. Konowa, K-O-N-O-W-A. The
5 second one is Brima Conteh, B-R-I-M-A C-O-N-T-E-H. Did
6 you witness the killing of both of them?
- 7 A. We were in the town, but we did not go there.
- 8 Q. Could you tell the Court what function Aruna Konowa had
9 in Lalehun if he had any?
- 10 A. Yes.
- 11 Q. Please.
- 12 A. Yes, he was a quarter head.
- 13 Q. And what to your knowledge happened to Aruna Konowa?
- 14 A. Well, that Aruna Konowa one evening he was tied and
15 brought to town.
- 16 Q. OBrought to town by who?
- 17 A. The Kamajors. The Kamajors.
- 18 Q. And could you tell the Court how long after you returned
19 to Lalehun this happened?
- 20 A. Yes.
- 21 Q. Please.
- 22 A. The time I went to Lalehun, after three days, that was a
23 time when Pa Konowa returned from where he was in hiding.
- 24 Q. So three days after your return to Lalehun?
- 25 JUDGE BOUTET: I heard him to say three days after
26 [inaudible].
- 27 THE WITNESS: Yes.
- 28 JUDGE BOUTET: It seemed to be confusing. Is it three days
29 after himself the witness returned, or three days Konowa

- 1 returned?
- 2 MR SAUTER: I understood three days after his return to
3 Lalehun, Aruna Konowa was arrested and brought to
4 Lalehun.
- 5 Q. Mr witness, once again, how long after your
6 return to Lalehun Aruna Konowa was arrested and
7 brought to town?
- 8 A. On my return to Lalehun I spent three days before they
9 arrested that Pa and came back. I was there three days
10 before that -- the arrest of that Pa.
- 11 Q. Thank you.
- 12 A. Yeah.
- 13 Q. Do you know what happened to Mr Konowa after he was
14 arrested and brought to Lalehun?
- 15 A. Yes.
- 16 Q. Please tell the Court.
- 17 A. When he was arrested and brought to Lalehun he slept with
18 them at headquarter.
- 19 Q. To make it clear at the Kamajors' headquarter?
- 20 A. At the Kamajor headquarters. Yes.
- 21 Q. And the next morning?
- 22 A. The morning we were all gathered together at the barri,
23 court barri. They rang the bell and we all gathered at
24 the barri and they asked the man to sit on the floor.
- 25 Q. Mr witness, which man was asked to sit down on the floor?
- 26 A. This same Pa that was arrested, Pa Aruna Konowa.
- 27 Q. Aruna Konowa was brought to the town barri or court barri
28 and asked to sit down on the floor? That is right?
- 29 A. Yes.

- 1 Q. And who asked him to sit down on the floor?
- 2 A. It was the Kamajor commander they had there.
- 3 Q. So what happened afterwards?
- 4 A. They said the Pa was a collaborator. So the time they
5 left the area he was with the rebels. Therefore, they
6 were going to kill him.
- 7 Q. Did they do so?
- 8 A. So the section chief that was there tried to plead on his
9 behalf.
- 10 Q. Do you know the name of this section chief?
- 11 A. He was Lahai Samuka [phon] Konowa, LS Konowa.
- 12 Q. So was he successful with his plea?
- 13 A. No. They said -- the Kamajors said that -- the
14 particular commander said that he would not listen -- he
15 will not listen to any chief and that wasn't the time for
16 any chief. They said that was their own time and that
17 the country was for them and they don't care for another
18 seven years.
- 19 Q. This was what the Kamajor commander said?
- 20 MR BOCKARIE: He did not say a particular commander, My Lord.
- 21 MR SAUTER: After referring to the Kamajors.
- 22 JUDGE BOUTET: I didn't hear clearly your objection, Mr
23 Bockarie.
- 24 MR BOCKARIE: Yes, My Lord. No reference was made to a
25 Kamajor commander. The reference made was a particular
26 commander.
- 27 JUDGE THOMPSON: Yes, that was what I heard.
- 28 MR BOCKARIE: Yes.
- 29 JUDGE THOMPSON: A particular commander.

- 1 MR SAUTER:
- 2 Q. So, Mr witness, who was saying so, that there were no
3 more chiefs and so on?
- 4 A. This was a Kamajor. I was not alone there. There were
5 so many people there when this thing happened.
- 6 Q. After this was said what was going on?
- 7 A. They commanded their boys to go and kill the Pa.
- 8 Q. Who commanded the boys to go and kill the Pa?
- 9 A. This -- their commander. If you allow me I can call his
10 name.
- 11 Q. Please?
- 12 A. Bimba Aruna was the commander. Then they heard their
13 advisor Momoh Mandu.
- 14 Q. Could you please repeat, what about Momoh Mandu?
- 15 A. Momoh Mandu was their advisor. Bimba Aruna was their
16 commander.
- 17 PRESIDING JUDGE: Momoh who?
- 18 THE WITNESS: Mandu.
- 19 MR SAUTER: M-A-N-D-O.
- 20 MR MARGAI: D-U. M-A-N-D-U.
- 21 MR SAUTER: M-A-N-D-U, thank you.
- 22 Q. So was Aruna Konowa taken away?
- 23 A. Yes, they carried him, they took him and led him towards
24 the school compound.
- 25 Q. Could you see him being there?
- 26 A. Yes.
- 27 Q. And what happened to him at the school compound?
- 28 A. As they went across the school field they laid him down
29 and put a knife on his throat and killed him.

- 1 Q. This was what you saw with your own eyes?
- 2 A. That was not all.
- 3 Q. So please go ahead.
- 4 A. When they killed him they slit open his stomach and took
5 some parts from his stomach.
- 6 Q. Once again the question did you see all this, the killing
7 and the slitting open of his body, by your own eyes?
- 8 A. We weren't there, we looked. We went there, we proved
9 them. A lot of us civilians went there and saw
10 everything.
- 11 Q. So you said before you know about the killing of a second
12 person by name Brima Conteh. Who was Brima Conteh?
- 13 A. He was next to the township; he was the town speaker.
- 14 Q. And when was he killed? The same day?
- 15 A. It was not on the same day. He was not there. It was
16 after some days that he came.
- 17 Q. So please tell the Court what happened to Brima Conteh?
- 18 A. The day that Pa Brima Conteh came from the place where he
19 was hiding.
- 20 Q. Go ahead please?
- 21 A. He met people at a meeting at Tongo centre.
- 22 Q. Let's go back to this meeting. You said there was a
23 meeting in Tongo centre; that is right?
- 24 A. Yes, between the Kamajors that were there.
- 25 Q. And to your knowledge Brima Conteh was attending this
26 meeting?
- 27 A. When he came he thought that it was his brothers that
28 were there. As we felt that it was -- they were fighting
29 for us. So he decided to go there and when he went he

- 1 was captured.
- 2 Q. Captured by who?
- 3 A. The Kamajors that were there, the Kamajors that went to
4 this meeting. It was the Kamajors from Lalehun that went
5 to the meeting. When they saw him they captured him.
- 6 Q. After this capture what was done to him?
- 7 A. He was stripped naked and they tied a rope on his neck
8 and brought him to Lalehun.
- 9 Q. Did you see him being naked and having a rope tied around
10 his -- what did you say?
- 11 A. Yes, I saw him. They met me sitting by my door. They
12 tied the rope round his waist and they put a block on his
13 head and they started walking with him round the town.
- 14 Q. Do you know where he was taken to finally?
- 15 A. Yes.
- 16 Q. Please tell the Court?
- 17 A. He did not sleep with them. When they rounded him at the
18 town they --
- 19 THE INTERPRETER: Your Honours, would the witness please go a
20 little bit slower.
- 21 MR SAUTER:
- 22 Q. Please slow down. Speak very slowly please. Okay?
- 23 A. Okay, okay, no problem. It's because it pains me, that's
24 why.
- 25 Q. So, Mr witness, once again where was Mr Conteh taken to?
- 26 A. He himself, when he was captured they took him to a road
27 that came from Kenema. They took him up to a banana
28 plantation and that is where he was killed.
- 29 Q. Did you see him being taken to this banana plantation?

- 1 A. Yes.
- 2 Q. Did you see what happened to him within this banana
3 plantation?
- 4 A. Yes, we went there and proved -- we saw that his throat
5 was slit and they opened his stomach.
- 6 Q. Go slow. You said we go there. When you say "we", who
7 do you mean?
- 8 A. We the civilians, a lot of us went there. Even his
9 brother, even his brother was amongst us. He went there.
- 10 Q. Once again, the question again, Mr Witness: Did you see
11 him, Mr Brima Conteh, being killed?
- 12 A. Yes.
- 13 Q. In which way he was killed?
- 14 A. He himself, his throat was cut.
- 15 Q. Did anything else happen to his body?
- 16 A. Yes.
- 17 Q. Please tell the Court.
- 18 A. His stomach was -- his stomach was slit open and they
19 took some of his parts.
- 20 Q. And after this?
- 21 A. These two people were eaten.
- 22 Q. Did the Kamajors leave the body of Mr Conteh at the place
23 where he was killed?
- 24 PRESIDING JUDGE: Let him repeat. What did I hear him say?
25 These two people were eaten?
- 26 THE WITNESS: Yes.
- 27 PRESIDING JUDGE: Is that what he is saying; that these two
28 people were eaten?
- 29 MR SAUTER: This is what he was saying but I intentionally

1 did not follow this point of his testimony.

2 JUDGE BOUTET: Why not?

3 PRESIDING JUDGE: Perhaps you could [overlapping speakers]

4 MR SAUTER: Because I was told earlier that cannibalism is not
5 a count in this indictment.

6 JUDGE BOUTET: Yes, but without being -- this is true, there
7 is no such charges. However, there are charges that deal
8 with threats to the civilian population.

9 MR SAUTER: As My Lord pleases.

10 JUDGE BOUTET: So obviously you are leading this for charges
11 of cannibalism but it may be for other purposes.

12 MR SAUTER: As Your Lordship pleases.

13 JUDGE BOUTET: But that is your case. I mean, as the
14 presiding judge has just raised, the witness has
15 mentioned something and all of a sudden you moved away
16 from it. If it is not part of your case, that's fine.

17 MR SAUTER:

18 Q. Mr Witness, you said the Kamajors took away inner parts
19 from the body of Mr Conteh?

20 JUDGE BOUTET: That was not his evidence. All he says is
21 that his stomach was opened and they took some of his
22 parts.

23 MR SAUTER: Yes.

24 Q. Do you know what they did with these parts?

25 A. They ate them. I said so. They ate them.

26 Q. Did you see this --

27 PRESIDING JUDGE: Who ate them, to begin with. When you say
28 "they", who?

29 MR SAUTER: He said the Kamajors took --

1 THE WITNESS: It was the Kamajors.
2 PRESIDING JUDGE: You don't presume.
3 MR SAUTER: This is no presumption. It is obvious
4 [overlapping speakers] when he said they ate them the
5 "they" is referring to Kamajors.
6 PRESIDING JUDGE: [Overlapping speakers] there is not anything
7 obvious in criminal proof.
8 MR SAUTER:
9 Q. So who ate the parts?
10 A. It was the Kamajors.
11 Q. Did you see that?
12 A. We saw that with our own eyes in town. We were -- a lot
13 of us civilians saw that with our own eyes.
14 Q. Did anything else happen to the body of Mr Conteh?
15 A. Well, they left it there lying down. They chopped off
16 the head. We saw another Kamajors with the head, playing
17 with it in town.
18 Q. Mr Witness, you said earlier that the civilians were
19 asked to carry loads for the Kamajors. Could you
20 describe whether this was organised in any way?
21 A. Yes.
22 Q. Please.
23 A. At the time that they went to oust the RUF and the AFRC
24 it was not only in Tongo. Kamajors came from Dodo, they
25 came from Falawando, they came from Malegohun and
26 Segbwema area. So all of them captured the town. When
27 they were removing the zinc and removing the boards and
28 looting all type of property that they took for
29 themselves.

- 1 Q. In the [inaudible]?
- 2 A. The entire Tongo town.
- 3 Q. Did this include Lalehun?
- 4 A. The entire Tongo. Lalehun was within. Because at Tongo
5 centre Lalehun is a centre, it is a headquarter town.
- 6 Q. Mr Witness, the question was whether or not the carrying
7 of looted items was in any way organised by the Kamajors?
- 8 A. Yes.
- 9 Q. So please describe?
- 10 A. The town was divided, it was divided into different
11 areas. So one particular street they say, "You that have
12 come from this place, now take what you want from this
13 part", like board, zinc, house property, and these were
14 theirs.
- 15 Q. Did you personally carry looted items?
- 16 A. In the morning we are threatened. If you did not do it
17 you would be threatened. In fact, you will even be put
18 in guard room.
- 19 Q. Mr Witness, what means "in the morning"? Do you speak of
20 a particular morning?
- 21 A. Other morning? Yes, I talk something about some other
22 morning.
- 23 Q. Did you have to carry loads just on one morning or
24 several of them?
- 25 A. In fact I spent one month in doing so. In fact I became
26 fed up and I left the place.
- 27 Q. Every day?
- 28 A. Every morning they will ring the bell and we assembled
29 and they will give us different types of loads.

- 1 Q. Where was the assembly point?
- 2 A. It was in the town Barri.
- 3 Q. So you say every morning at six o'clock they rang the
4 bell and you, the civilians, had to assemble at the town
5 Barri; that's right?
- 6 A. Yes.
- 7 Q. In order to carry loads?
- 8 A. Carry the loads for them. So one man can have five
9 people who will carry his load for him.
- 10 MR SAUTER: So, Your Honours, this is all for this witness.
11 Than you very much.
- 12 JUDGE BOUTET: Thank you. Counsel for the second accused, are
13 you ready to proceed with the cross-examination of this
14 witness?
- 15 MR YILLAH: My Lord, I have just observed from the testimony
16 and from the statement this is not one of the Moyamba
17 crime base witnesses.
- 18 JUDGE BOUTET: It is not.
- 19 MR YILLAH: It is not.
- 20 JUDGE BOUTET: So you are prepared to testify.
- 21 MR YILLAH: Yes, My Lord.
- 22 JUDGE BOUTET: Not testify, but to cross-examine, sorry.
- 23 MR YILLAH: To cross-examine. My Lord, before cross-examining
24 may I take the opportunity to introduce Professor Vincent
25 Nmehielle. He is a co-counsel for the Kallon team. He
26 has just joined. He is from the University of
27 Witwatersrand in South Africa.
- 28 JUDGE BOUTET: He is with --
- 29 MR YILLAH: Witwatersrand.

- 1 JUDGE BOUTET: Which team is he with?
- 2 MR YILLAH: He is with the Kallon team but he just came to
3 court today.
- 4 JUDGE BOUTET: That is fine. Thank you. Welcome.
- 5 PRESIDING JUDGE: You are welcome.
- 6 JUDGE BOUTET: Mr Yillah, are you prepared to proceed now?
- 7 MR YILLAH: Yes, My Lord.
- 8 JUDGE BOUTET: Thank you.
- 9 CROSS-EXAMINED BY MR YILLAH:
- 10 Q. Mr Witness, you said in your evidence-in-chief
11 that the Kamajors in Tongo had come from
12 different areas; is that correct?
- 13 A. Yes.
- 14 Q. Mr Witness, these different groups of Kamajors had
15 different commanders; is that correct?
- 16 A. Well, they were supposed but I did not see them. I did
17 not see the different different ones because they came
18 from different areas and they would come together and
19 advance to Tongo.
- 20 Q. Mr Witness, I am saying according to your testimony you
21 were not there, you only came one month after the
22 Kamajors had entered. My question is: These different
23 groups of Kamajors that you said had come from different
24 areas, did they have different different commanders?
- 25 A. Yes. I couldn't remember most of them but that was so.
- 26 Q. Mr Witness, is it correct that these different groups of
27 Kamajors were doing different things without any form of
28 control?
- 29 A. There was no control at all.

- 1 Q. Thank you very much, Mr Witness. Mr Witness, do you
2 recall making a statement to the investigators from the
3 Office of the Prosecutor, precisely on 16th of
4 November 2002? Do you recall, Mr Witness?
- 5 A. I cannot remember again.
- 6 Q. Okay, Mr Witness, let me ask you this: How did you talk
7 to the investigators from the Office of the Prosecutor?
- 8 A. Put it clearly, I don't understand.
- 9 Q. When you were speaking to the investigators --
- 10 PRESIDING JUDGE: Did he talk? Ask him. Ask him, Mr Yillah.
- 11 MR YILLAH: As My Lord pleases.
- 12 Q. Did you talk to the investigators from the Office of the
13 Prosecutor?
- 14 A. In Tongo or here?
- 15 Q. In Lalehun.
- 16 A. Yes, I talked with one individual who was called Mr
17 Gbekie.
- 18 Q. Now, when you were speaking to him, Mr Witness, was he
19 recording down -- was he writing down what you were
20 saying to him?
- 21 PRESIDING JUDGE: Is it the same Mr Gbekie?
- 22 MR YILLAH: Gbekie. G-B-E-K-I-E, My Lord.
- 23 Q. Did he record what you were saying to him?
- 24 A. He was writing.
- 25 Q. And, Mr Witness, at the end of that statement did he read
26 it over and explain to you what you had said in that
27 statement?
- 28 A. No, no, he did not read it, after the statement he just
29 took my picture and went.

- 1 Q. And in what language did you talk to him, Mr Witness?
- 2 A. It is this same Krio that I am talking now.
- 3 Q. Mr Witness --
- 4 A. Yes.
- 5 Q. -- the statement in question is dated 16th November 2002
6 and it is numbered nine pages. Do you recall signing,
7 appending your signature to each page of this statement?
- 8 A. I can't remember again because it has taken so long.
- 9 Q. Can I ask Court Management to refresh his memory.
- 10 JUDGE BOUTET: It has how many pages, Mr Yillah?
- 11 MR YILLAH: Nine pages, My Lord.
- 12 JUDGE BOUTET: And these are the handwritten statement?
- 13 MR YILLAH: Yes, My Lord.
- 14 JUDGE BOUTET: Mr Witness, you are being shown a document
15 called a witness statement. Will you look at it very
16 carefully.
- 17 THE WITNESS: Okay.
- 18 JUDGE BOUTET: Mr Yillah, you want him to read whole statement
19 or you are asking him to look at his signature?
- 20 MR YILLAH: No, My Lord, I'm just --
- 21 Q. Mr Witness, look at the bottom of every page of that
22 statement. Do you recognise the signatures there as
23 yours?
- 24 A. Yes, it's my signature.
- 25 Q. Thank you, Mr Witness. Mr Witness --
- 26 A. Yes.
- 27 Q. -- please stop -- please turn to page 5 of that
28 statement.
- 29 A. Yes, I have seen that.

- 1 Q. Mr Witness --
- 2 PRESIDING JUDGE: Page what is it?
- 3 MR YILLAH: Page 5, My Lord.
- 4 Q. Mr Witness --
- 5 A. Yes.
- 6 Q. -- do you recall saying in your evidence-in-chief that,
- 7 "We the civilians went there when Chief Konowa was
- 8 killed," and you saw everything. Do you recall saying
- 9 that this morning to this Court?
- 10 A. No, we are there when these two people are killed before
- 11 my eyes.
- 12 Q. You were there?
- 13 A. I was there.
- 14 Q. So, Mr Witness, I would kindly ask you to read -- to look
- 15 at page 5 and in particular line 9. Would you read it
- 16 for the Court.
- 17 PRESIDING JUDGE: Why don't you read it to him.
- 18 MR YILLAH: As My Lord pleases. As My Lord pleases.
- 19 JUDGE BOUTET: I was going to say, I mean, read that portion
- 20 and ask him if he has or has not, then whatever.
- 21 MR YILLAH: As My Lord pleases.
- 22 Q. Mr Witness, do you recall saying, "They then
- 23 killed him at the football field Brima Woodrow
- 24 [phon] killed him. I was not there when he was
- 25 killed, but I went there on hearing about his
- 26 murder." Do you recall saying that to the
- 27 investigators?
- 28 A. What I said was at the time that they are going to kill
- 29 him I did not go there. When they had killed him I

1 already came back and that was the time that we went and
2 saw that he had been killed.

3 JUDGE BOUTET:

4 Q. So, Mr Witness, I just want to make sure we hear and
5 understand what you are saying. So you are saying now
6 that you did not see when they were killing him, but you
7 went there right after and you saw the dead body; that is
8 what you are saying?

9 A. The same day. We did not go when they were killing him.
10 When they had killed him we went there and saw that he
11 had been killed.

12 Q. You did not see actually the killing, that is what you
13 are saying, you saw the body after?

14 A. Yes, when they had killed him.

15 MR SAUTER: I think what is going on is confusing in this
16 part of his statement which was quoted he speaks of the
17 killing of both of them of Konowa and Conteh, of course.
18 Brima too was killed or Brima -- "I was not there when
19 he was killed." This refers to Brima Conteh, not to
20 Konowa. Thank you.

21 JUDGE BOUTET: Mr Yillah.

22 MR YILLAH: My Lord, I think my learned friend is mis-stating
23 the evidence to this Court. I am questioning the witness
24 in respect of Chief Konowa. Brima Conteh comes
25 separately in the evidence. He is confused by the word
26 Brima Woodrow that appeared in the statement I have just
27 read. My Lord, I submit that I am on the right track.
28 He is confusing.

29 Q. Mr Witness, let me put it to you --

1 JUDGE BOUTET: So your question now has to do with Conteh.
2 MR YILLAH: No, no, no, My Lord, it's not Conteh, it's Konowa.
3 He is mixing -- my learned friend is mixing the evidence
4 up.
5 JUDGE BOUTET: No, but the question you have just read --
6 MR YILLAH: The portion I am putting to the witness is in
7 respect of Konowa, My Lord. I stand to be corrected by
8 the statement that is disclosed to us.
9 JUDGE BOUTET: Could you read that portion of the statement
10 again at page 5, Mr Yillah.
11 MR YILLAH: Yes, My Lord. It says -- okay, let me begin
12 again. "They took Chief Aruna to their base because
13 Momoh Mandu did not want to see him. They then killed
14 him at the football field. Brima Woodrow killed him, I
15 was not there when he was killed, but I went there on
16 hearing about his murder." So I am still referring to
17 Chief Konowa.
18 MR SAUTER: I contend that my learned friend is right.
19 JUDGE BOUTET: Pardon me?
20 MR SAUTER: He is right.
21 MR YILLAH: Thank you very much.
22 JUDGE BOUTET: What you are trying to do is understand what is
23 going on.
24 MR YILLAH: As My Lord pleases.
25 Q. Mr Witness --
26 A. Yes.
27 Q. -- now that you have admitted not being present when
28 Chief Konowa was killed, so do you now admit to this
29 Court -- do you now say that what you said to this Court

1 this morning that you witnessed -- you saw the killing of
2 this -- of Chief Konowa is not correct?

3 A. I said the day that that Pa was killed, at that time I
4 was there. I did not go there when he was killed. After
5 the killing I went there and saw for myself. That is
6 what I said in Court. And that is what I said.

7 PRESIDING JUDGE: Put the question to him again, please.

8 MR YILLAH: As My Lord pleases.

9 PRESIDING JUDGE: He has not answered the question.

10 MR YILLAH: As My Lord pleases.

11 PRESIDING JUDGE: Slowly.

12 MR YILLAH:

13 Q. Mr Witness, you said to this Court this morning that we
14 the civilians, including yourself, went there and saw
15 everything when Chief Aruna Konowa was killed. Now I
16 have just read a portion from your statement where you
17 stated that, "I was not there when he was killed." And
18 you have admitted the statement to be your statement. So
19 my question now, Mr Witness, is this: Do you now say
20 that what you told this Court this morning that you were
21 present when Chief Konowa was killed is not correct?

22 A. I was in town. I was in town. I was not in the place
23 where he was killed, but I was in town. After he had
24 been killed, we went there, a lot of us went there and
25 proved that he had been killed.

26 MR YILLAH: My Lord, at this stage - I am entirely in Your
27 Lordship's hands - but I would make an application that
28 this portion be admitted in evidence.

29 JUDGE BOUTET: Well, given the latitude we have taken with

1 these statements as such and again the witness, I should
2 remind, is not denying making that statement and then he
3 acknowledges that he has made in fact -- states in the
4 statement. What you are saying is that statement is not
5 necessarily in line with what he testified about --

6 MR YILLAH: As My Lord pleases.

7 JUDGE BOUTET: Presumably that is why you want to tender that
8 portion of the statement.

9 MR YILLAH: As My Lord pleases. On the basis of
10 inconsistency. My Lord, I only have one copy of that
11 statement and that is with the witness. May I apply for
12 recall of the statements.

13 JUDGE BOUTET: Yes. Mr Walker, will you get the statement
14 back, please. Do you have any other issues about
15 statements?

16 MR YILLAH: Yes, My Lord.

17 JUDGE BOUTET: Leave that then.

18 MR YILLAH: As My Lord pleases.

19 Q. Mr Witness, do you also recall telling this
20 Court today that you also witnessed the killing
21 of Chief Brima Conteh?

22 A. With regard to that I did not say that I was there. I
23 said when he had been killed we went there and found out
24 that he had been killed and that it was true. We know
25 they arrived after the killing, but after the exercise we
26 went there and saw.

27 MR YILLAH: My Lordship, the witness having admitted this bit
28 I will not pursue the second option. My Lord, I will
29 still apply that the first portion on page 5 underlined

1 be admitted.

2 JUDGE BOUTET: Mr Walker, where are we in the numbering of
3 exhibits?

4 MR WALKER: Exhibit 70, Your Honour.

5 JUDGE BOUTET: 70. So is five -- five pages?

6 MR YILLAH: Page 5, My Lord.

7 JUDGE BOUTET: It's page 5 of a nine pages statement.

8 MR YILLAH: Yes, My Lord. Starting from lines nine.

9 JUDGE BOUTET: So that will be marked as Exhibit 70 and again
10 for the specific purpose of alleged inconsistency between
11 what is in the statement and what the witness has said
12 from the witness box.

13 MR YILLAH: As My Lord pleases. My Lord, that will be all for
14 this witness.

15 JUDGE BOUTET: Thank you. The second accused.

16 MR BOCKARIE: Yes, Your Honour.

17 CROSS-EXAMINED BY MR BOCKARIE:

18 Q. Mr Witness --

19 A. Yes, please.

20 Q. -- you personally knew Chief Brima Conteh, didn't you?

21 A. I knew him very well.

22 Q. For how long did you know him?

23 A. I was born in his hands. I was born in his hands.

24 JUDGE BOUTET: Did you say in this hands?

25 MR BOCKARIE: He probably meant he knew him from birth.

26 JUDGE BOUTET: That is okay. That is okay. I am being
27 indicated to -- Thank you.

28 MR BOCKARIE:

29 Q. Mr Witness, also he was a town speaker of Niawa section,

- 1 isn't it? Niawa town, isn't it?
- 2 A. He was a town speaker for Lalehun town. Niawa was a
3 section. Lalehun town is the section headquarter.
- 4 Q. And he was the speaker?
- 5 A. Yes, he was the speaker.
- 6 PRESIDING JUDGE: [Microphone not activated]
- 7 MR BOCKARIE:
- 8 Q. What did he say he was; speaker of what?
- 9 A. The town speak of Lalehun.
- 10 Q. Yes. Mr Witness, will I be correct to say that one of
11 his functions as speaker was to decide cases of people in
12 Lalehun, isn't it? Cases like [inaudible], isn't it?
- 13 A. Yes, he was the chief, the chief in the town.
- 14 Q. That is not a question. One of his functions was to
15 decide cases amongst people of Lalehun, cases like
16 [inaudible], isn't it?
- 17 A. Yes.
- 18 Q. Mr Witness, will I be correct to say that in most cases
19 the offenders were very young men in the [inaudible]
20 cases?
- 21 A. You are right, but even sometimes some big men are
22 accused of that.
- 23 Q. Mr Witness, isn't it true that heavy fines have been
24 imposed by the chief on his young men?
- 25 A. Well, it does happen with some chiefs and some chiefs
26 really normally help them in such cases.
- 27 PRESIDING JUDGE: That answer is not clear. Some chiefs,
28 some chiefs. We are on Brima Conteh?
- 29 MR BOCKARIE: Yes, yes, yes. I just want to --

1 PRESIDING JUDGE: We are on Brima Conteh?

2 MR BOCKARIE:

3 Q. Yes, isn't it true that in most cases does he impose
4 heavy fines on young men when he decide some cases
5 involving women and other cases?

6 A. Well Pa Brima -- Pa Brima Conteh himself I have never
7 seen him do that. He was a very soft man.

8 Q. No, he did not say that, Mr Interpreter.

9 THE INTERPRETER: He said that.

10 MR BOCKARIE: When he used the word, "He was a very soft
11 man," the witness didn't say that.

12 THE INTERPRETER: That is what he said, he said he was a soft
13 man. Let him go over.

14 MR BOCKARIE:

15 Q. Mr Witness, but Chief Brima Conteh in deciding most of
16 these cases used to impose fines; am I correct?

17 A. He did fine, but it was not heavy.

18 Q. Mr Witness, will I be correct to say that most of these
19 fines imposed by Chief Brima Conteh did not go down well
20 with most of the young men; isn't it?

21 JUDGE THOMPSON: Before he volunteers an answer, how is it
22 peculiarly within his knowledge?

23 MR BOCKARIE: Because, according to his testimony, he lives in
24 Lalehun and it is a very small community.

25 JUDGE THOMPSON: Yes, so he would have this broad knowledge of
26 what goes on in the courts and also the responses of
27 young men who are --

28 MR BOCKARIE: Taking into consideration how peculiar that
29 particular community [inaudible], he will be in a

1 position to know.

2 JUDGE THOMPSON: Yes, it's just that I am a little troubled
3 that of course he has answered that he knew that the
4 chief used to fine young men who were found guilty of
5 this kind of infraction and also that they were not heavy
6 lines, but I am taking it a stage further to find out the
7 reaction of the young men who were so fined and conceding
8 perhaps the disparateness of the community. I am just
9 wondering whether it is peculiarly within his knowledge
10 that even if he gives us an answer whether that answer
11 will be helpful. But I will not press the point further.

12 MR BOCKARIE: My Lord, I will take the cue, I will take the
13 cue, Your Honour.

14 Q. Now, Mr, witness, the chiefs generally in
15 Lalehun are custodian of the bush; am I
16 correct?

17 A. The town chief was in charge. He was a speaker.

18 PRESIDING JUDGE: The town chief was in charge of what?

19 MR BOCKARIE: No, sorry, he said whether -- the question was
20 whether the chiefs are the custodian of the bush in
21 Lalehun. He said it was the town chief.

22 Q. Mr Witness, do you know in the absence of the
23 town chief it is the speaker acts in Lalehun?
24 Do you know that?

25 A. It is the speaker that used to act.

26 Q. Mr Witness, Lalehun bush is rich in diamonds; isn't it?

27 A. Yes.

28 Q. Chief Brima Conteh had a say in the allocation of his
29 bush in Lalehun; am I correct?

- 1 A. No, it is only the bush that he owned that he used to
2 share.
- 3 Q. Thank you. Mr Witness --
- 4 A. Yes.
- 5 Q. Did you know for a fact whether Chief Brima Conteh owned
6 a diamond bush?
- 7 JUDGE THOMPSON: Counsel, for my edification, did you begin
8 with a premise custodian of a bush?
- 9 MR BOCKARIE: Yes. Custodian of a bush.
- 10 JUDGE THOMPSON: Is that the same concept as ownership of a
11 bush?
- 12 MR BOCKARIE: Well, based on his answer. He is not, Your
13 Honour, but --
- 14 JUDGE THOMPSON: Is it perhaps the distinction is important,
15 and I'm prepared to take judicial notice of that --
- 16 MR BOCKARIE: Yes, Your Honour.
- 17 JUDGE THOMPSON: -- that custodianship of a bush within the
18 context of the provinces does not presume ownership in
19 the custodian?
- 20 MR BOCKARIE: I agree with you, Your Honour, you are
21 absolutely correct.
- 22 Q. Now, Mr Witness, you know for a fact that Chief Brima in
23 his personal capacity as Brima Conteh owned a bush in
24 Lalehun; am I correct?
- 25 A. He had, but the company has worked in all the areas -- in
26 his own areas.
- 27 Q. Mr Witness --
- 28 A. Yes.
- 29 Q. Do you know one Bimba Aruna?

- 1 A. Yes, I know him.
- 2 Q. He was a Kamajor and he too hails from Lalehun; am I
3 correct?
- 4 A. Yes.
- 5 Q. You also know Momoh Moriba?
- 6 PRESIDING JUDGE: Can you go slow, please.
- 7 MR BOCKARIE: Yes. Bimba Aruna.
- 8 PRESIDING JUDGE: Bimba Aruna hailed from Lalehun, yes?
- 9 MR BOCKARIE: Yes, yes.
- 10 Q. What of Momoh Moriba?
- 11 JUDGE BOUTET: How do you spell that?
- 12 MR BOCKARIE: Momoh M-O-M-O-H, Moriba M-O-R-I-B-A.
- 13 Q. Do you know Momoh Moriba?
- 14 A. Yes.
- 15 Q. He too hailed from Lalehun; am I correct?
- 16 A. He is not in the chief of Lalehun, but he settled there.
- 17 Q. For how long had he settled in Lalehun, Mr Witness, do
18 you know?
- 19 A. No, I didn't know. When we are born we met them there
20 already.
- 21 Q. Mr Witness, would I be correct to say he had settled in
22 Lalehun for over 30 years?
- 23 A. It's more than that.
- 24 MR BOCKARIE: My Lord, I just want to show him a piece of
25 paper in respect of one --
- 26 PRESIDING JUDGE: No, don't tear it, don't tear it. We need
27 full papers, please. Don't tear it. That is part of
28 judicial economy. He will call it judicial economy.
- 29 JUDGE BOUTET: Show it to the Prosecution and -- Mr Margai, do

1 you want to see it too?

2 MR MARGAI: Yes, My Lord, if I may.

3 JUDGE BOUTET: Mr Yillah, you've seen it or you want to see

4 it?

5 MR YILLAH: I have seen it already, My Lord.

6 THE WITNESS: I know him.

7 MR BOCKARIE:

8 Q. He too, is he a native of Lalehun?

9 A. Yes.

10 JUDGE BOUTET: I presume you want that to be marked as an

11 exhibit?

12 MR BOCKARIE: Yes, Your Honour.

13 JUDGE BOUTET: Mr Prosecutor, do you have any comment?

14 MR SAUTER: No comment.

15 JUDGE BOUTET: This will be marked as Exhibit 71. So this

16 document containing the name of a person identified by

17 witness TF2-016 as a person he knows of.

18 [Exhibit No. 71 was admitted]

19 JUDGE BOUTET: Mr Witness, you have said you have known him

20 and he is from Lalehun. That's what you've said.

21 THE WITNESS: Yes, he is a native of the place, he was born

22 there.

23 JUDGE BOUTET: Thank you.

24 MR BOCKARIE:

25 Q. Mr Witness, this --

26 JUDGE BOUTET: Just a minute, Mr Bockarie.

27 MR BOCKARIE:

28 Q. Mr Witness, would I be correct to say that these names

29 were the major Kamajor bosses in Lalehun at that time?

- 1 A. Yes, he too had a rank.
- 2 Q. These three names mentioned: Bimba Aruna, Momoh Moriba
3 and the name I just showed you. They were the major
4 Kamajor bosses in Lalehun at that time; am I correct?
- 5 A. Yes.
- 6 Q. Now Mr Witness -- sorry, you also mentioned the name of
7 one Pa Aruna Konowa. Was he from Lalehun too, Pa Aruna
8 Konowa?
- 9 A. He too was a native of the place. He was born there.
- 10 Q. He also said he was -- was he one of the elders of
11 Lalehun, Pa Aruna Konowa? Was he one of the elders, the
12 big men of Lalehun?
- 13 A. Yes.
- 14 Q. Mr Witness, he also said he was a quarter head; am I
15 correct?
- 16 A. He was a quarter head.
- 17 Q. Can you tell us what it means?
- 18 A. Yes.
- 19 Q. Tell us.
- 20 A. Well, the section where we are is Niawa Section. So it
21 was divided into four parts, four sections. So he
22 controls one.
- 23 Q. Thank you, Mr Witness.
- 24 A. Okay.
- 25 Q. Mr Witness, was Pa Aruna Konowa also a owner of a bush in
26 Lalehun -- was a bush owner?
- 27 A. Yes, he had a bush.
- 28 Q. Would I be correct to say that this bush was very
29 productive in diamond mining?

- 1 A. It had diamond, but he was a native man. They believed
2 in the plantations, cocoa plantation and coffee.
- 3 JUDGE THOMPSON: [Overlapping speakers] I said that was not
4 your question. I said that was not your question.
- 5 MR BOCKARIE: Yes. Whether he had a diamond bush.
- 6 JUDGE THOMPSON: And whether it was productive, you said.
- 7 MR BOCKARIE: Yes.
- 8 JUDGE THOMPSON: I think you should put your question equally
9 precisely so that we have a precise answer.
- 10 MR BOCKARIE:
- 11 Q. Mr Witness, isn't it true that Aruna Konowa was a bush
12 owner and he had a productive diamond bush? He was a
13 bush owner; am I correct?
- 14 A. He had a bush, he was the owner of a bush.
- 15 Q. And his bush was very rich in --
- 16 A. I cannot prove it. It is not everywhere in Tongo that
17 has diamonds.
- 18 Q. Mr Witness, I am putting it to you that Pa Aruna Konowa
19 had a bush that was very rich in diamonds.
- 20 A. Well, I cannot tell because it is something that is found
21 underground.
- 22 Q. Mr Witness, besides these three Kamajors I have just
23 mentioned, there are other Kamajors in Lalehun known as
24 Konowas -- members of the Konowa family to join the
25 Kamajors; am I correct?
- 26 A. No, there was no Kamajor from the Konowa family.
- 27 Q. Mr Witness, will I be correct to say that Bimba Aruna,
28 Momoh Moriba, according to your testimony you were very
29 instrumental in the death of these two people, Pa Brima

1 Conteh and Pa Konowa; isn't it?

2 A. Yes.

3 PRESIDING JUDGE: Bimba Aruna and who?

4 MR BOCKARIE: Bimba Aruna, Momoh Moriba and Exhibit --

5 JUDGE BOUTET: 71.

6 MR BOCKARIE:: -- Exhibit 71 were very instrumental in the

7 death of this Brima Conteh and --

8 PRESIDING JUDGE: Did you say instrumental to the killing?

9 MR BOCKARIE: Yes, yes, specific, My Lord.

10 PRESIDING JUDGE: Or were responsible? Are you saying they

11 were responsible, these three?

12 MR BOCKARIE: I want to use the word instrumental.

13 PRESIDING JUDGE: Of Aruna Konowa.

14 MR BOCKARIE: Yes, Your Honour, and Brima Conteh.

15 Q. Mr Witness, these three people knew these

16 people before; isn't it? They knew them

17 before?

18 A. They knew them.

19 Q. Even before 1997; Am I correct?

20 A. Yes.

21 Q. Mr Witness, would I be correct if I describe these three

22 people as being very bad Kamajors who had no regard for

23 authority? Will I be correct to describe them so?

24 A. No, I cannot say yes.

25 Q. Based on what you saw in Lalehun would I be correct to

26 describe them as being very bad Kamajors who have no

27 regard for authority?

28 A. No, it's because they defied the chief, that's all I

29 know. But I don't know of any of it.

- 1 MR BOCKARIE: That will be all for him, sir.
- 2 JUDGE BOUTET: Thank you.
- 3 PRESIDING JUDGE: So what he is saying is that he cannot say
4 whether these three Kamajors were very bad Kamajors who
5 didn't have any regard for authority. That's what he has
6 said?
- 7 JUDGE THOMPSON: That's the answer as far as I can gather.
- 8 JUDGE BOUTET: Mr Margai, counsel for third accused.
- 9 CROSS-EXAMINED BY MR MARGAI:
- 10 MR MARGAI: Yes, My Lord.
- 11 Q. Mr Witness, do you know Momoh Mandu?
- 12 A. I know him.
- 13 Q. Is he from Lalehun?
- 14 A. He is settled in Lalehun.
- 15 Q. But he is not born of Lalehun?
- 16 A. Not a native of the place.
- 17 Q. Was Chief Aruna Konowa killed because Momoh Mandu didn't
18 want to see him?
- 19 A. Yes.
- 20 Q. Do you know why Momoh Mandu did not want to see Chief
21 Aruna Konowa?
- 22 PRESIDING JUDGE: Mr Margai, please.
- 23 MR MARGAI: Sorry, My Lord.
- 24 Q. Do you know why Momoh Mandu did not want to see
25 Chief Aruna Konowa?
- 26 A. Well, I don't know really what he [inaudible].
- 27 Q. Who was Momoh Mandu in Lalehun?
- 28 A. Momoh Mandu was not an authority.
- 29 Q. Was he a miner?

- 1 A. Yes, he was a miner.
- 2 Q. Do you know whether Momoh Mandu had had problems with
3 Chief Aruna Konowa?
- 4 A. No, not in the day.
- 5 JUDGE THOMPSON: Is it that he had never had problems with
6 him? Is that the answer, Witness?
- 7 MR MARGAI:
- 8 Q. Are you saying that he never had problems with him or you
9 don't know?
- 10 JUDGE THOMPSON: No. I mean, I don't understand your answer.
- 11 THE WITNESS: In my own eyes I have never seen him with a
12 problem -- having the problem with him. I did not see
13 that.
- 14 MR MARGAI:
- 15 Q. Now, in your statement which is Exhibit 70, did you say
16 that "They took Chief Aruna to their base because Momoh
17 Mandu did not want to see him"?
- 18 A. A time when he was captured, that was the time that he
19 said, "Let them take him away from [inaudible]." He they
20 didn't want to see him.
- 21 Q. Did you say so in your statement of the 16th of
22 November 2002, that they took Chief Aruna to their base
23 because Momoh Mandu did not want to see him?
- 24 A. Yes, I said so.
- 25 Q. How did you know that Momoh Mandu did not want to see
26 Chief Aruna?
- 27 A. Because he said the Pa was a collaborator.
- 28 Q. Was Momoh Mandu a Kamajor?
- 29 A. Yes.

- 1 Q. Did he hold any rank in the Kamajor society to the best
2 of your knowledge?
- 3 A. He used to call him adviser.
- 4 Q. Now, who was the chief Kamajor in that region, Tongo
5 region, Tongo field region? Who was the most senior
6 Kamajor? Was it Sei?
- 7 A. I would say then we had Orinko.
- 8 Q. Who was the more senior of the two to your knowledge?
- 9 A. Well, to the best of my knowledge I knew of Sei being the
10 head.
- 11 Q. Now, did you at any time report these killings of Chief
12 Brima Conteh and Chief Aruna Konowa to Sei?
- 13 A. Well, I was a little kid. I cannot do that to make that
14 kind of report.
- 15 Q. Thank you very much. But did you report; yes or no?
- 16 A. No.
- 17 Q. Thank you. Now the forced labour you testified to here,
18 getting you -- forcing you to take looted items by the
19 Kamajors. Did you report it to Sei?
- 20 A. We made the report but he got fed up with that.
- 21 Q. Did you report to Sei? You personally, did you report
22 to --
- 23 A. I did not personally make a report.
- 24 Q. Thank you. Now the nine houses you testified to that
25 were allegedly burnt by the Kamajors, including your
26 father's, did you report that to Sei, you personally?
- 27 JUDGE BOUTET: The witness shook his head in the negative
28 way, but did you say yes or no?
- 29 THE WITNESS: No.

1 MR MARGAI: [Overlapping speakers]
2 JUDGE BOUTET: It is okay, he has answered no.
3 MR MARGAI: You did not. Thank you very much. That will be
4 all for this witness, My Lord.
5 JUDGE BOUTET: Thank you, Mr Margai. Mr Prosecutor, any
6 re-examination?
7 MR SAUTER: No, no re-examination.
8 JUDGE BOUTET: Thank you, Mr Sauter.
9 PRESIDING JUDGE: Mr Sauter, no re-examination?
10 MR SAUTER: No, Your Honour.
11 PRESIDING JUDGE: Mr Witness --
12 THE WITNESS: Yes, My Lordship.
13 PRESIDING JUDGE: -- we have finished with you and we are
14 discharging you. We thank you very much for coming to
15 testify in this Chamber. Although we are releasing you,
16 we may call you back if necessity arises. Should it
17 arise we will call you back. It has not yet arisen. I
18 hope that if we do call you back you would fully come
19 and assist the Chamber. But this said, we again thank
20 you and we wish you a safe journey to your place of
21 abode. Right.
22 I am sure Mr Margai wants to go and have a heavy
23 lunch so he again [inaudible].
24 MR MARGAI: No, My Lords, I believe time is of the essence and
25 it is not the number of questions that one asks.
26 PRESIDING JUDGE: I know, it is just a comment. Well, we will
27 rise and we will be resuming the session at 2.30. The
28 Chamber will rise, please.
29 [Luncheon recess taken at 12.55 p.m.]

1 [On resuming at 2.45 p.m.]

2 [HN010305C - CLR]

3 PRESIDING JUDGE: Learned counsel, good afternoon. We are
4 resuming the session. Yes, Mr Tavener, you are very
5 smart at springing on your feet. What can we do for you,
6 Mr Tavener?

7 MR TAVENER: Sorry, Your Honour, I was waiting to start,
8 that's all. I'm ready to proceed.

9 PRESIDING JUDGE: You are ready to proceed? We're expecting
10 that the witness would have been installed already.

11 MR TAVENER: A slight introduction: In consequence of the
12 Court's order to recall investigators, this afternoon we
13 have one of the investigators required by that order, and
14 that is Virginia Chitanda, C-H-I-T-A-N-D-A. I'm not
15 quite familiar with the exact process for this particular
16 witness. It was intended to call the witness. I will
17 ask her some questions as to background and general
18 matters, then, obviously, the witness then becomes
19 available for cross-examination by the Defence, if that
20 is suitable.

21 JUDGE BOUTET: Yes, because that witness was to be called with
22 reference to a particular statement, as such.

23 MR TAVENER: That's correct.

24 JUDGE BOUTET: I think the best thing would be for you to
25 bring that witness to that statement and then let her
26 proceed. Is it a hierarchy --

27 [Trial chamber confers]

28 PRESIDING JUDGE: Outside of that, do you have another
29 witness?

1 MR TAVENER: We always have another witness, Your Honour.
2 PRESIDING JUDGE: Mr Tavener, I think we're going to take
3 Ms Chitanda tomorrow, so this leaves us with the option
4 of taking your next witness. We'll take that one
5 tomorrow.
6 MR TAVENER: Thank you.
7 PRESIDING JUDGE: I hope she was not scheduled to travel
8 tomorrow.
9 MR TAVENER: Very soon. She travels very soon.
10 PRESIDING JUDGE: Very soon, certainly not tomorrow. That's
11 okay. I think she will be done tomorrow. At least the
12 Defence team - someone should be prepared for her
13 tomorrow.
14 JUDGE THOMPSON: If my recollection is correct, she will be
15 testifying on a very narrow compass.
16 PRESIDING JUDGE: Very narrow.
17 JUDGE THOMPSON: Extremely narrow, so perhaps it's necessary
18 that we, the Bench, should flash our minds back and
19 recapture the scenario which culminated in our order and
20 perhaps, I'm sure you'd agree, so that we would not let
21 the proceedings go beyond what was intended. Are you on
22 the same wavelength?
23 MR TAVENER: Yes, I am, Your Honour, it relates to a witness
24 TF2-021, and the ruling that flowed from the argument.
25 JUDGE BOUTET: Presumably, we need to adjust the Court?
26 PRESIDING JUDGE: Presumably we have to rise for the structure
27 to be brought in place?
28 MR TAVENER: I believe so.
29 PRESIDING JUDGE: I believe so, too. We will rise for just a

1 few minutes.

2 [Break taken at 2.51 p.m.]

3 [Upon resuming at 3.00 p.m.]

4 JUDGE BOUTET: Mr Prosecutor, which witness are you calling in
5 now?

6 MR KAMARA: The Prosecution calls witness TF2-053.

7 JUDGE BOUTET: What language will he be giving evidence in?

8 MR KAMARA: In Krio.

9 JUDGE BOUTET: So we can proceed. Swear the witness, please.

10 WITNESS: TF2-053 [sworn]

11 [The witness answered through interpreter]

12 THE INTERPRETER: The witness is not on the right channel.
13 Please ensure he's on the right channel.

14 JUDGE BOUTET: Mr Bangura, maybe you can advise Court
15 Management.

16 [Microphone adjusted]

17 EXAMINED BY MR BANGURA:

18 Q. Good afternoon, Mr Witness.

19 A. Good afternoon, sir.

20 Q. I will be asking you questions, Mr Witness, to which you
21 will give answers.

22 A. Okay, sir.

23 Q. I will ask you to try not to speak too fast when you give
24 your answers, all right?

25 A. Okay, sir.

26 Q. Mr Witness, how old are you?

27 A. 47 years.

28 Q. Where were you born?

29 A. I was born in Gbendembu Ngowahun chiefdom in the Bombali

- 1 district.
- 2 Q. Where do you presently reside?
- 3 A. I reside in Tongo Field.
- 4 Q. How long have you been living in Tongo Field?
- 5 A. I have been there for 27 years.
- 6 Q. Are you married?
- 7 A. Yes, sir.
- 8 Q. Do you have children?
- 9 A. Yes, sir.
- 10 Q. What do you do for a living?
- 11 PRESIDING JUDGE: How many children does he have?
- 12 THE WITNESS: I am a diamond miner. I have children.
- 13 MR BANGURA:
- 14 Q. Can you tell this Court how many children you have,
15 please?
- 16 A. I have children, I said.
- 17 Q. Can you tell the Court how many children you have?
- 18 A. There are many.
- 19 Q. Give the number.
- 20 PRESIDING JUDGE: No, no, it's okay. It's okay. There's
21 plenty, that's all.
- 22 THE WITNESS: There are many, sir.
- 23 MR BANGURA:
- 24 Q. Are you able to read and write English?
- 25 A. Small.
- 26 Q. When you say small, your education would be up to what
27 level?
- 28 A. Form 2.
- 29 Q. You stopped at Form 2.

- 1 A. Yes, sir.
- 2 Q. What languages do you speak?
- 3 A. I speak Krio, Loko and some Mende.
- 4 Q. Mr Witness, I would like to take your mind back to events
5 that occurred in this country not so long ago. Do you
6 recall that there was a war in this country which ended
7 very recently?
- 8 A. Yes, sir.
- 9 Q. Do you recall sometime in August of 1997 -- that was the
10 time within the war?
- 11 A. Yes, sir.
- 12 Q. Where were you living at this time?
- 13 A. I was in Tongo Field.
- 14 Q. Do you recall anything happening in Tongo Field about
15 this time, August 1997?
- 16 A. Yes, sir.
- 17 Q. What happened?
- 18 A. The juntas took over Tongo.
- 19 Q. When you say the juntas, do they have another name that
20 you know them for?
- 21 A. Yes, sir.
- 22 Q. What's the other name?
- 23 A. The AFRC.
- 24 Q. Before this time, can you tell this Court who was in
25 control of the town, Tongo -- who was responsible for
26 security in the town?
- 27 A. Yes, sir.
- 28 Q. Who was it?
- 29 A. The police were in charge.

- 1 Q. Now, apart from the -- you said that the juntas came in
2 at that time. Did you know what was happening around the
3 country about this same time, this time that the juntas
4 came to Tongo?
- 5 A. Yes, sir.
- 6 Q. What was happening?
- 7 A. Well, I heard that the AFRC have overthrown the
8 government.
- 9 Q. Now, apart from the junta forces who came to Tongo, was
10 there any other force, any other group within Tongo
11 around that area?
- 12 A. Yes, sir.
- 13 Q. What was this?
- 14 A. They used to call them the Kamajors.
- 15 Q. To your knowledge, where were these Kamajors based?
- 16 A. Well, they settled in Dodo and Panguma.
- 17 Q. Do you know how far Dodo is from Tongo?
- 18 A. Yes, sir.
- 19 Q. How far? What's the distance?
- 20 A. Well, it would be about six miles.
- 21 Q. What about Panguma?
- 22 A. From Tongo to Panguma, five to six miles. From Panguma
23 to Dodo, it is not far. It it could be about three
24 or -- two or three miles.
- 25 Q. So when you said five to six miles initially, it's in
26 relation to Panguma; is that right?
- 27 A. From Tongo Field to Panguma, yes sir.
- 28 Q. And then two to three miles from Panguma to Dodo; is that
29 correct?

- 1 A. Yes, sir.
- 2 Q. Now, you have told this Court that the AFRC juntas came
3 to Tongo in August 1997. Did they then take control of
4 the town?
- 5 A. Yes, sir.
- 6 Q. How long were they in control of Tongo, as far as you
7 remember?
- 8 A. What I know is that they were there about three months
9 going to the fourth month.
- 10 Q. Now, you say they were there three months going on four
11 months. Did anything happen towards the end of that
12 period you're talking about?
- 13 A. Yes, sir.
- 14 Q. What happened?
- 15 A. Well, one morning I was in my house. Therein I heard
16 gunshots.
- 17 Q. Mr Witness, I caution you not to speak too fast, please.
18 Take it a bit slowly.
- 19 A. Yes, sir.
- 20 Q. Continue, please.
- 21 A. Yes, sir. I heard a gun sound from the Kenema Highway.
22 Therein I took my family, I went to the NDMC security
23 headquarters.
- 24 Q. Mr Witness, why did you go to the -- let me ask you this
25 first: you said it was three to four months after the
26 junta entered Kenema that you heard this gun sound.
27 About what month was this?
- 28 A. Well, it would be around November going towards December.
- 29 Q. You've said that when you heard the gun sound, you took

- 1 your family and you went to the NDMC headquarters. Why
2 did you go to the NDMC headquarters?
- 3 A. Well, when I took my family, on the way, therein I saw
4 the AFRC soldiers controlling the civilians, telling all
5 of them to go to the NDMC security headquarters, "You are
6 not to go any other place, you are to go there."
- 7 Q. At this time, did you have every member of your family
8 with you?
- 9 A. I had some. I could not raise my little boy, about 12
10 years of age. Boy.
- 11 Q. So you went to the security headquarters; is that right?
- 12 A. Yes, sir.
- 13 Q. Was it only your family that went there?
- 14 A. So many, so many of us that were civilians.
- 15 Q. When you got to the headquarters, was anything happening
16 around town while you were there?
- 17 A. Yes, sir.
- 18 Q. What was happening.
- 19 A. There was firing going on in the town, in the
20 headquarters, around, and everywhere, there was firing
21 going on.
- 22 Q. Did this firing stop eventually?
- 23 A. Yes, it stopped later.
- 24 Q. About how long did it go on for?
- 25 A. It took a long time. It will be around three to four
26 hours.
- 27 Q. While you were there at the headquarters, did anything
28 happen?
- 29 A. Yes, sir.

- 1 Q. What happened?
- 2 A. Well, when I went to the headquarters, I was there and I
3 saw AFRC soldiers undressing themselves and hiding away and
4 they all sneaked away.
- 5 Q. Mr Witness, this incident you're talking about, you said
6 it happened sometime in November going on to December; is
7 that right?
- 8 A. Yes, sir.
- 9 Q. So when you got to the headquarters after the firing had
10 ceased - you said it took about three to four hours - can
11 you say exactly what you observed?
- 12 A. Yes, sir.
- 13 Q. What did you observe?
- 14 A. Well, before the AFRC soldiers sneaked away, a bomb
15 landed among the civilians that were around the
16 security --
- 17 INTERPRETER: Please, the witness is going too fast.
- 18 MR BANGURA: Take it slowly, please.
- 19 JUDGE BOUTET: The witness said that the bomb landed around --
20 is it the NDMC or headquarters?
- 21 MR BANGURA: NDMC.
- 22 JUDGE BOUTET: Take it from there at a slower pace, please.
- 23 MR BANGURA:
- 24 Q. Mr Witness?
- 25 A. Sir?
- 26 Q. [Previous interpretation continues]
- 27 A. A bomb landed at the security headquarters among the
28 civilians.
- 29 Q. Mr Witness, let me ask you this: Did you have to go to

- 1 the security headquarters more than one time with your
2 family?
- 3 A. Yes, sir.
- 4 Q. So this time that you went there, was it the first time
5 you're talking about?
- 6 A. Well, we went to the headquarters twice.
- 7 Q. You just mentioned that when you were there, there was a
8 bomb came down -- a bomb landed in the field. Was it the
9 first time that you got there that this bomb landed, or
10 the second time?
- 11 A. It was during the second time we went there.
- 12 Q. Mr Witness, what I want you to do is to tell us about
13 what happened there the first time.
- 14 A. Yes, sir.
- 15 Q. And then we shall come to what happened there the second
16 time.
- 17 A. Okay. I took some of my families.
- 18 Q. Mr Witness, are we now talking about the first time you
19 went there?
- 20 A. Yes, sir.
- 21 Q. So you heard firing in town; you took your family and the
22 juntas were telling you to go to the headquarters. Is
23 that right?
- 24 A. Yes, sir.
- 25 Q. You got to the headquarters and there was firing still
26 going on in town; is that right?
- 27 A. Yes, sir.
- 28 Q. While you were at the headquarters, on this first time,
29 can you tell the Court what happened there?

- 1 A. Yes, sir.
- 2 Q. Please go on.
- 3 A. So when I took some of my family to the headquarters, I
4 was there when Kamajors brought in corpses.
- 5 Q. Who was bringing in corpses?
- 6 A. The juntas.
- 7 Q. They were bringing in corpses?
- 8 A. Yes, sir.
- 9 Q. Corpses of who? Were you able to recognise which dead
10 people they were bringing in?
- 11 A. Yes, sir.
- 12 Q. Whose corpses were they?
- 13 A. They were Kamajors.
- 14 Q. Did they say anything to you when they brought in these
15 corpses?
- 16 A. Yes, sir.
- 17 Q. What did they say?
- 18 A. They told us that these people who have come to fight
19 against us are the people they have killed. From now on,
20 you, the civilians, sit down, don't be afraid.
- 21 Q. Did you eventually leave the headquarters?
- 22 A. Yes, I returned to my house.
- 23 Q. Now, you mentioned earlier that one of your children went
24 missing, your son. When you went back, were you able to
25 find him?
- 26 A. I was not able to see him, sir.
- 27 Q. Did anything happen after you got back?
- 28 A. Yes, sir.
- 29 Q. What happened.

- 1 A. Well, one day I was in the mosque praying the four
2 o'clock prayers. I heard gunshots from the Kenema
3 Highway. I left the mosque and went back to the house.
- 4 Q. Okay, Mr Witness. How long after the first incident did
5 you hear gun sound on this second occasion?
- 6 A. It was one week lapsed.
- 7 Q. And you say you were in the mosque performing prayers?
- 8 A. Yes, sir.
- 9 Q. Was there any particular occasion that you were
10 celebrating at that time?
- 11 A. Yes, sir.
- 12 Q. What was it?
- 13 A. It was the fast month, Ramadan.
- 14 Q. So you heard the sound of guns again. What did you do?
- 15 A. I went to my house and took my family and went back to
16 the headquarters.
- 17 Q. Why did you go to the headquarters this time?
- 18 A. Well, after the first attack, the commander that was in
19 town, he called a meeting. At any time we heard the
20 sound of a gun, we the civilians, we should go to the
21 NDMC security headquarters.
- 22 Q. So you were now complying with that instruction?
- 23 A. Yes, sir.
- 24 Q. Were you the only person who went to the headquarters?
- 25 A. All the townspeople.
- 26 Q. Now, can you describe the headquarters to this Court?
- 27 A. Yes, sir.
- 28 Q. Whereabouts in Tongo is the headquarters?
- 29 A. Well, you arrive at Tongo at the motor park. You stand

- 1 there and look and look ahead of you. One part at the
2 end of the town, there we have this NDMC security
3 headquarters.
- 4 Q. And if you got to the -- why is it the NDMC security
5 headquarters? Why is it called that?
- 6 A. Well, the man who call that was NDMC was the one that was
7 using that particular place for security purposes, that's
8 why they gave it that name.
- 9 Q. And if you got up to the security headquarters, what is
10 one likely to see?
- 11 A. Well, you would see an open field.
- 12 Q. Is that all you would see?
- 13 A. You would see an open field, then you would see quarters
14 that are built around the field for the staff.
- 15 Q. What's the size of this field?
- 16 A. Well, it's big. The field is big.
- 17 Q. Apart from that, is there any other open area near the
18 NDMC field?
- 19 A. Yes, sir.
- 20 Q. What is that?
- 21 A. The town football field.
- 22 Q. Are they close?
- 23 A. Yes, they are close to each other, a little bit.
- 24 Q. Now, you've said that there were many people who went to
25 the headquarters. Are you able to tell us numbers?
- 26 A. We are many. We are so many, we are so many when we
27 assembled in the place.
- 28 Q. Where were you assembled?
- 29 A. It was at the NDMC security headquarters.

- 1 Q. While you were at the NDMC security headquarters, was
2 anything happening there?
- 3 A. Yes, sir.
- 4 Q. Can you tell this Court?
- 5 A. Yes, sir.
- 6 Q. Please go on.
- 7 A. When I went to the headquarters, that was where I had
8 commenced sitting. When the firing was going on, I saw
9 the AFRC junta undressing, taking off their uniform, and
10 all of them sneaked away. When they sneaked away, it was
11 then I heard a bomb landed amongst us, the crowd, the
12 civilians. When this bomb landed --
- 13 Q. Can I stop you there, Mr Witness. Is this the same
14 incident you earlier mentioned when you said a bomb
15 landed?
- 16 A. This is a second attack. I'd finished the first attack,
17 now I'm talking about the second attack.
- 18 Q. I'm only asking you to confirm, this bomb which landed,
19 was it in the second attack?
- 20 A. It was the AFRC junta that had been undressing and they
21 sneaked away. Having sneaked away, it was then that the
22 bomb landed among the crowd. When the bomb landed, all
23 of us were panic-stricken and wanted to run.
- 24 Q. Don't take it too fast, Mr Witness. Yes, continue.
- 25 A. When we wanted to run, it was then that Kamajors came,
26 and they asked us where we were going. "Whosoever got up
27 from this place would have died, so you have to return to
28 your place, sit down."
- 29 Q. Now, did you observe anything about these Kamajors?

- 1 A. Yes, sir.
- 2 Q. What did you observe?
- 3 A. When they came, they wore dark uniforms, some blue
4 taffeta, yellow, and the black, those that wore black
5 clothes said -- they said, "We are the ones called
6 Black December, for us wherever we attack, we will never
7 be tired."
- 8 Q. Okay, Mr Witness, the Kamajors came and told you not to
9 go anywhere. Did anything happen after this?
- 10 A. Yes, sir.
- 11 Q. What happened?
- 12 A. They told us that they were in control of Tongo. They
13 said that were called Black December, wherever they went,
14 they would never be tired. After that, it was then that
15 one CO that was called CO Kamabote --
- 16 Q. Okay, Mr Witness, take it a bit slowly.
- 17 MR BANGURA: Your Honours, Kamabote is K-A-M-A-B-O-T.
- 18 Q. Yes.
- 19 A. They stood before me and he called two women.
- 20 Q. Now, these two women he called, he called them from
21 where?
- 22 A. We all were sitting down.
- 23 Q. Yes, go on.
- 24 A. He called these two women and these two women came to him
25 and he told them that -- he said, "These are all rebels.
26 Look at them."
- 27 Q. Take it slowly. Yes, go on.
- 28 A. "Look among them and whosoever is a rebel, please point
29 at him or her." Two out of these women came and pointed

- 1 at one and came to him, to the CO. The other one came
2 and pointed at somebody and came with him.
- 3 Q. Mr Witness, you said each of these ladies went and
4 pointed out somebody; is that correct?
- 5 A. Yes, sir.
- 6 Q. The persons whom they pointed out, were they male or
7 female?
- 8 A. They were men.
- 9 Q. In which case?
- 10 A. The two were men. The two that were pointed at were men.
- 11 Q. Okay, thank you. Now, did anything happen after these
12 two men were pointed out?
- 13 A. Yes, sir.
- 14 Q. What happened?
- 15 A. Then the CO took the gun and shot the other one dead and
16 he shot the other again dead.
- 17 Q. Did he say anything after doing this?
- 18 A. Yes, sir.
- 19 Q. What did he say?
- 20 A. He said, "You see what I have done. Now anybody who
21 knows that you are a rebel, come to me. Come and
22 identify yourself; I don't do anything."
- 23 Q. Did anybody come out?
- 24 A. No, sir, nobody came out.
- 25 Q. Did anything happen after that?
- 26 A. Yes, sir.
- 27 Q. What happened?
- 28 A. He ordered these girls again. He said, "Go and point at
29 the rebels among them." The women went and they started

- 1 pointing at people and they would hold one and bring them
2 out. They would go and hold one individual and bring
3 them out.
- 4 Q. These persons who were being pointed out, was anything
5 done to them as they were brought out?
- 6 A. Yes, sir.
- 7 Q. What?
- 8 A. Anyone that was brought out by the women, and when this
9 individual was brought out, they would take off the
10 trousers and the shirt off you.
- 11 Q. Was anything done to these people who were being pointed
12 out later?
- 13 A. Yes, sir.
- 14 Q. What?
- 15 A. Well, the CO called some armed men and said, "Go with
16 these people there." These armed men went, took these
17 people and went away with them.
- 18 Q. Were you able to tell what number they were, the people
19 who had been pointed out?
- 20 A. Well, there were many. There were more than 10.
- 21 Q. You said the CO asked some armed men to take them away;
22 who were these armed men? Who were they?
- 23 A. It was the Kamajors.
- 24 Q. Do you know where they took these people to?
- 25 A. Well, the road that led to the car yard and Dodoma and
26 hospital camp, it was to that side that I saw them going
27 towards.
- 28 MR BANGURA: Your Honours, Dodoma is D-0-D-0-M-A.
- 29 Q. Apart from this group of over 10 people that you saw had

- 1 been taken away, did you see any other incident of that
2 kind going on at the field?
- 3 A. Yes, sir.
- 4 Q. What did you see?
- 5 A. Well, I saw people that were stripped naked. Two or
6 three armed men went with them to the same route.
- 7 Q. About what time was this that we're talking about?
- 8 A. Well, the time I can say was almost nightfall, because it
9 was almost getting dark.
- 10 Q. These other groups that you saw, apart from the group of
11 over 10, were there many?
- 12 A. Yes, sir, there were many. There were around four or
13 five or six with armed men behind them, taking them
14 along.
- 15 Q. You said earlier that there is another field, the town
16 football field which is not far away from the headquarter
17 field. Do you know what was happening in there?
- 18 A. No, I would not be able to know, sir.
- 19 Q. Was there anybody in that field, assembled in there?
- 20 A. Well, we, the civilians, we are many. Some people are
21 there and we are also in the headquarters.
- 22 Q. Did you spend the night at the headquarter field?
- 23 A. No, sir.
- 24 Q. Were you able to leave the headquarter field at some
25 point?
- 26 A. Yes, sir.
- 27 Q. When was that?
- 28 A. Well, the time was around -- between 10 and 11. That was
29 the time that I held my wife's hand, and we left.

- 1 Q. Did you walk out just like that?
- 2 A. Well, we were hiding, so I just held my wife's hand and
3 said, "Let's go."
- 4 Q. When you left the headquarters, where were you going?
5 Where were you heading for?
- 6 A. We were heading for Kenema.
- 7 Q. What road did you take?
- 8 A. We passed through the centre of the town, right in the
9 middle of the town.
- 10 Q. Did you observe anything on the way?
- 11 A. Yes, sir.
- 12 Q. What did you observe?
- 13 A. Well, I saw corpses. When the moon was shining, I saw
14 corpses.
- 15 Q. Did anything happen on the way?
- 16 A. Yes, sir.
- 17 Q. What happened?
- 18 A. Well, as we went along, I would just see Kamajors coming
19 from the bush and they would stop us and they would ask
20 us where we're going and we told them that we are going
21 to Kenema.
- 22 Q. Would they do anything?
- 23 A. Yes, sir.
- 24 Q. What would they do?
- 25 A. Well, they used to ask us our tribe. They would ask us,
26 "You, what's your tribe? What's your tribe?" I and my
27 wife, we claimed that we were Madingos. They said, "Are
28 you Madingos?" We said, "Yes." And then they said,
29 "Go."

- 1 Q. If you said you were --
- 2 MR MARGAI: Objection, objection, objection.
- 3 JUDGE BOUTET: What's your objection?
- 4 MR MARGAI: My Lord, the objection here is that we're now
- 5 leading into the realm of speculation, "if you were".
- 6 JUDGE BOUTET: Maybe he knows. Maybe he was asked all the
- 7 questions. Maybe your objection is well founded, but it
- 8 may be slightly premature. I know your concern, because
- 9 the answer may be out before you can object.
- 10 MR MARGAI: It's not only hypothetical, but it is speculative.
- 11 JUDGE BOUTET: Mr Prosecutor, what do you have to respond?
- 12 MR BANGURA: Your Honour, I will endeavour to rephrase, but I
- 13 believe the witness is testifying as to factual events;
- 14 there is nothing speculative.
- 15 JUDGE BOUTET: Yes, but your question had this tendency to be
- 16 speculative.
- 17 MR BANGURA: I agree, Your Honour, I will rephrase the
- 18 question.
- 19 Q. Mr Witness, you were asked what tribe you belonged to and
- 20 you said you belonged to the Madingo tribe; is that not
- 21 so?
- 22 A. Yes, sir.
- 23 Q. Were there other people who belonged to other tribes than
- 24 the Madingo tribe?
- 25 A. Yes, sir.
- 26 Q. What other tribes were there?
- 27 A. Some would say they were Fullahs, some would say they
- 28 were Susus, some would say they are Madingos.
- 29 Q. Was anybody stopped at any of these checkpoints or

- 1 detained at any of these checkpoints as you were going?
- 2 JUDGE BOUTET: Was there evidence that there was a checkpoint?
- 3 MR BANGURA: Yes, Your Honour.
- 4 JUDGE BOUTET: I've heard that the Kamajor came out of the
5 bush. I may be wrong; I may have missed that.
- 6 MR BANGURA: I was probably assuming that.
- 7 Q. Was anybody stopped along the way as you were going? As
8 the Kamajors stopped you, was anybody detained?
- 9 A. I did not see any person being detained. It was not a
10 checkpoint. So they would come out of the bush and would
11 stop you. They did not put any checkpoints. They would
12 come from the bush and they would stop you and they would
13 start asking you, "Where are you from? What's your
14 tribe?"
- 15 Q. The question is: Do you know of anybody who was held
16 back. You were allowed to go. Do you know of anybody
17 who was held back on account of what they said to these
18 Kamajors?
- 19 A. None to my knowledge and I did not see any person being
20 held.
- 21 Q. Mr Witness, did you eventually get to Kenema?
- 22 A. I went to Kenema.
- 23 Q. Did you get to learn about your son who had disappeared
24 in Tongo when you were in Kenema?
- 25 A. Yes, sir.
- 26 Q. How did you learn about your son?
- 27 A. Well, when I arrived in Kenema, I saw one [inaudible]. I
28 was staying in Tongo.
- 29 Q. What is the name of this woman?

- 1 A. She is called Massa.
- 2 Q. So what happened?
- 3 A. I asked her - I greeted her and she answered me and I
4 asked her - I said, "Where is your husband?"
- 5 Q. What was her answer?
- 6 A. She said, "My husband is in Dodo." She said, "I came
7 here in search of food." She said, "Your son -- we were
8 all captured together," she said, "I" - the woman - "and
9 my husband with your son. They took us to Talama, which
10 is near Panguma.
- 11 MR BANGURA: Your Honours, Talama is T-A-L-A-M-A.
- 12 Q. Did she say what happened at Talama?
- 13 A. Yes, sir.
- 14 Q. What did she say happened there?
- 15 A. She said they were captured, many of them, and they took
16 them and they made them to queue and they said my son -
17 she said CO Kamabote asked him, "Son, what's your tribe?"
18 The child said he was a Loko. He said, "Are you related
19 to Akim?" And the child said, "Yes." It was there that
20 CO Kamabote struck him on the head with a machete.
- 21 Q. Now, this Akim who you mentioned, did you know him?
- 22 A. Well, I used to hear about him, Akim, Akim.
- 23 Q. Who was he? What did you hear about him?
- 24 A. He was an AFRC soldier.
- 25 Q. Where was he?
- 26 A. He was in Tongo.
- 27 Q. Mr Witness, while you were in Kenema, did you learn
28 anything else about your house in Tongo?
- 29 A. Yes, sir.

- 1 Q. What information did you get about your house?
- 2 A. Well, they told me that my house had been burnt in Tongo.
- 3 Q. Were you able to confirm this later?
- 4 A. Yes, sir.
- 5 Q. Did you come back to Tongo and find your house burnt?
- 6 A. Yes, sir.
- 7 Q. Apart from your house, did you know of other houses that
8 were burnt in Tongo?
- 9 A. Yes, sir.
- 10 Q. At the time you were leaving Tongo, was your house burnt?
- 11 A. No, sir.
- 12 MR BANGURA: That will be all for this witness, Your Honour.
- 13 Thank you, Mr Witness.
- 14 CROSS-EXAMINED BY MR YILLAH:
- 15 Q. Mr Witness, is it true that the Kamajors who entered
16 Tongo came from different parts of the country; do you
17 know?
- 18 A. Well, I live in Dodo and Panguma, it's where I reside at;
19 it's where I understand.
- 20 Q. Mr Witness, let me ask you this: You said you were based
21 in Dodo and Panguma? Now, did you see Kamajors in Tongo
22 who are resident in Dodo and Panguma?
- 23 A. I live in Tongo Field. I saw Kamajors. The first attack
24 where they were killed, the juntas were saying that these
25 Kamajors are killed from Panguma and Dodo, so we went and
26 fought them. That is what the AFRC soldiers said.
- 27 Q. What you were told by the AFRC soldiers, regarding the
28 fact that the Kamajors had come from Dodo and Panguma.
29 Now, from what you observed whilst in Tongo, were the

- 1 Kamajors in different groups?
- 2 A. Well, yes, because I saw the other one, telling us that
3 they call them Black December. That is what he told me.
- 4 Q. Mr Witness, did you also observe that the Kamajors --
5 that these various groups had different commanders? Did
6 you observe that?
- 7 A. Yes, sir.
- 8 Q. Mr Witness, did you observe that there was no form of
9 control amongst these different groups of Kamajors in
10 Tongo?
- 11 A. Well, I believe there was control, because they had
12 commanders.
- 13 Q. Mr Witness, is it true that before the Kamajors entered
14 Tongo for the first time, they had sent several warnings
15 to civilians to leave Tongo? Is it true?
- 16 A. Well, I was not aware of that. I did not hear that.
- 17 Q. You never heard that?
- 18 A. I did not hear that.
- 19 PRESIDING JUDGE: What did he not hear?
- 20 THE WITNESS: I am not saying it is not so, but I did not hear
21 about that.
- 22 MR YILLAH: He had not heard about the warnings that Kamajors
23 had given to civilians to leave Tongo.
- 24 PRESIDING JUDGE: You say he didn't hear the warnings?
- 25 MR YILLAH: He said he didn't hear them.
- 26 JUDGE BOUTET: He said it may have been given, but he was not
27 aware of it.
- 28 MR YILLAH: Yes, My Lord, he was not aware of it.
- 29 Q. Mr Witness, was there a military base in Tongo?

- 1 A. I know of NDMC security headquarters.
- 2 Q. [Microphone not activated] of the AFRC headquarters?
- 3 A. That's where I used to see them.
- 4 Q. Now, Mr Witness, during your stay in Togo whilst the
5 juntas were there, did you observe military activities on
6 the part of the juntas?
- 7 A. I've not got it clearly. What do you mean by military
8 activities?
- 9 Q. The junta forces that you saw in Togo, were they
10 carrying guns?
- 11 A. Yes, sir.
- 12 Q. Mr Witness, were these junta forces also many in number;
13 were there many in Togo?
- 14 A. Yes, sir.
- 15 Q. Mr Witness, is it true that many civilians died in Togo
16 in the stampede whilst rushing to the NDMC headquarters?
17 [HN010305D 4.01 p.m. - JM]
- 18 A. Yes, sir.
- 19 Q. Mr Witness, is it also true that many civilians who were
20 at the NDMC security headquarters died as a result of the
21 crossfire between the junta forces who were at the NDMC
22 headquarters and the Kamajor forces who were outside of
23 the NDMC headquarters? Is that true?
- 24 A. When I was passing in town, when I was going to Kenema, I
25 saw some dead bodies.
- 26 Q. [Previous translation continues] going to the NDMC
27 security headquarters. My question is: Is it true that
28 many of them died as a result of the crossfire between
29 the junta forces who were held up by the NDMC

1 headquarters and the Kamajor forces who were outside of
2 the NDMC headquarters?

3 A. I had turned my back, you know, to my house, so I
4 wouldn't be able to know whatever happened at my back.

5 Q. [Previous translation continues]

6 JUDGE BOUTET: Mr Witness, please allow the witness to respond
7 before you ask your other question, otherwise we are
8 going to get confused here.

9 MR YILLAH: I apologise, My Lord.

10 JUDGE BOUTET: Carry on, please. He said he had his back, and
11 you were asking a subsequent question.

12 MR YILLAH:

13 Q. Now, Mr Witness, were you one of the civilians who
14 acceded to the call of the junta forces to go to the NDMC
15 security headquarters on the day the Kamajors entered
16 Tongo?

17 A. Yes, sir.

18 Q. Now, Mr Witness, is it true that many civilians who went
19 to the NDMC security headquarters died as a result of the
20 crossfire between the junta forces who were in the NDMC
21 headquarters and the Kamajor forces who were outside of
22 the NDMC security headquarters?

23 A. I saw CO Kamabote before me. He fired at two people, and
24 they died on the spot. Then when I was going to Kenema,
25 I saw corpses lying down on the ground.

26 Q. Mr Witness, do you recall telling this Court in your
27 evidence-in-chief that some Kamajors were captured by
28 -- some were captured and killed, others killed, by junta
29 forces during the first attack on Tongo?

- 1 A. They brought one Kamajor who was alive, and they called
2 him "captured alive," one, whom I saw.
- 3 Q. Do you know what happened to that Kamajor who was
4 captured by the junta forces?
- 5 A. Well after some time, I saw him being dragged, dead, and
6 he was laid just by his companion.
- 7 Q. Mr Witness, you also told this Court that whilst at the
8 NDMC headquarters, junta forces undressed. They took off
9 their uniforms and dressed as civilians; is that correct?
- 10 A. Yes.
- 11 Q. Is it also correct that they were exchanging fire with
12 the Kamajor forces whilst in this civilian clothing?
- 13 A. I did not say that they were firing at each other. I
14 said there was firing in town around the security
15 headquarters.
- 16 Q. Okay, let me ask you this, Mr Witness: At the time the
17 junta forces, the ones you saw at the NDMC headquarters
18 -- at the time they undressed -- at the time they took
19 off their uniforms and dressed in civilian clothing was
20 there still an ongoing exchange of fire between the junta
21 forces and the Kamajors?
- 22 A. The time when they were taking off their clothes and
23 sneaking away, during that time there was crossfire in
24 town. It was in town that we -- it was coming from. It
25 was around the headquarters. But the firing had not
26 reached the headquarters during the time when the junta
27 had been taking off their clothes.
- 28 Q. Mr Witness, do you know any commander by the name of BJK
29 Sei?

- 1 A. Yes sir.
- 2 Q. Did you see him at the NDMC headquarters on that day?
- 3 A. I did not see him. I would not say he was not there, but
4 I did not see him.
- 5 Q. Thank you, Mr Witness. Mr Witness, do you recall making
6 a statement dated the 19th day of November 2002 to the
7 investigators from the Prosecutor's office?
- 8 A. Well, the date that you shown, I would not be able to
9 recall.
- 10 Q. Let me help you, Mr Witness. When you were -- do you
11 recall talking at any time to investigators from the
12 Prosecutor's office?
- 13 A. In Tongo?
- 14 Q. Yes.
- 15 A. Yes, I can remember.
- 16 Q. In what language did you talk to the investigator?
- 17 A. It was in Krio, this one that I'm speaking now.
- 18 Q. At the time you were talking to the investigator, did the
19 investigator record what you were saying to him?
- 20 A. Yes, they did write.
- 21 Q. And at the end of the investigator's writing, did he ask
22 you -- did he read your statement and explain it to you?
- 23 A. Yes.
- 24 Q. And you admitted it to be true and correct?
- 25 A. Well, yes.
- 26 Q. Now, Mr Witness, you told -- you said in your
27 evidence-in-chief that you got to know about your son
28 through a lady called Massa; is that correct?
- 29 A. Yes.

- 1 Q. And you said you asked Massa about her husband. Is that
2 also correct?
- 3 A. Yes.
- 4 Q. Now, Mr Witness, I'm going to read a portion from your
5 statement to you where you said: "The first attack
6 happened on a Tuesday."
- 7 MR YILLAH: With the leave of the Bench, My Lord.
- 8 PRESIDING JUDGE: Mr Yillah, that statement is what date?
- 9 MR YILLAH: It's the 19th of November 2002, My Lord.
- 10 JUDGE BOUTET: Ask him the question, if he remembers making
11 whatever you are about to read.
- 12 MR YILLAH: Yes, I'm reading and then I'll put it to him.
- 13 PRESIDING JUDGE: 19th of November 2002.
- 14 MR YILLAH: Very well, My Lord. Yes.
- 15 Q. "The first attack happened on a Tuesday. Sometime later
16 after the second attack and after we had pulled out to
17 Kenema I learnt what had happened to my son."
- 18 JUDGE BOUTET: What page is this, Mr Yillah?
- 19 MR YILLAH: That's on page 4 of the typed statement.
- 20 Q. I'll just commence again. I'll just take a portion of
21 that paragraph and put it: "Massa and her husband said
22 after reaching Panguma, in a small village a quarter mile
23 this side of Panguma called Talama, the Kamajors took all
24 the captured civilians, lined them up and started
25 interviewing them." Do you recall saying that to the
26 investigator?
- 27 A. I don't get you clearly.
- 28 Q. I'm reading a statement -- I'm reading a sentence from
29 your statement. "Massa and her husband said, after

1 reaching Panguma, in a small village quarter mile this
2 side of Panguma called Talama, the Kamajors took all the
3 captured civilians, lined them up and started
4 interviewing them." Do you recall saying that to the
5 investigators?

6 A. Yes. When I asked Massa about her husband, so as to
7 confirm the information, so as to confirm the
8 information, that is why I asked for her husband. It was
9 her husband that came and clarified the information.

10 Q. So in light of that, Mr Witness, do you now tell the
11 Court that Massa's husband -- do you now say that Massa's
12 husband was present when you were asking about your son?

13 A. He wasn't present. He wasn't in Kenema when I asked
14 Massa.

15 MR YILLAH: My Lord, the witness has denied that portion. At
16 this stage, I would just apply for this portion -- to
17 tender this portion that I have put to the witness. I'll
18 go through the procedure and show it to the Prosecution,
19 and the witness if he wants to see.

20 MR BANGURA: I'm at a loss as to what my learned friend is
21 seeking to do here. He has read a portion of the
22 statement to the witness, and the witness has confirmed
23 what he said in the statement. And I don't see any
24 inconsistency or contradiction. And my learned friend is
25 being -- I'm not so clear about what he wants to do. I'm
26 not aware of any inconsistency at this stage,
27 Your Honours.

28 MR YILLAH: My Lord --

29 JUDGE BOUTET: I would like to clearly understand, too, what's

1 the contradiction, Mr Yillah?

2 MR YILLAH: My Lord, I asked the witness earlier that he had
3 earlier told this Court in evidence-in-chief --

4 JUDGE BOUTET: That he met this woman, Massa.

5 MR YILLAH: And he forced Massa about her husband and then
6 Massa said her husband was in Talama or somewhere in the
7 evidence-in-chief. And in this statement, the witness is
8 saying that it was Massa and the husband who spoke to
9 him. So that's what I wanted to know, which is which.
10 That's why --

11 JUDGE BOUTET: You're talking of the statement of 19 November
12 2002?

13 MR YILLAH: Very well, My Lord.

14 JUDGE BOUTET: Is it?

15 MR YILLAH: That's what I'm talking about.

16 JUDGE BOUTET: And you're looking at page number 2?

17 MR YILLAH: No, page number 4 of the typed statement.

18 JUDGE BOUTET: Number 4. I have only three pages. So you say
19 of the typed statement?

20 MR YILLAH: Yes, My Lord.

21 JUDGE BOUTET: What's at the top of the page?

22 MR YILLAH: There's nothing on top of it.

23 JUDGE BOUTET: No, what's the first sentence at the top of the
24 page?

25 MR YILLAH: It says by one to two.

26 JUDGE BOUTET: I thought that was page 2, but to you it's page
27 4. Okay. So just for the record that statement starts
28 at 11566 and it goes to 11569 and the page you refer to
29 is page 11567.

1 MR YILLAH: Yes, My Lord. My Lord, for clarity, I'll just put
2 it to the witness. In fact, we may not need to go
3 through this exercise.

4 Q. Mr Witness.

5 A. Yes, sir.

6 Q. In light of the statement that I have just read, do you
7 now --

8 JUDGE BOUTET: Again, at the risk of -- I can only suggest to
9 you that you read the whole thing in context. I mean,
10 I'm looking at that page -- at that thing, and this is a
11 bit misleading, I would suggest to you, Mr Yillah. Look
12 at the -- you're reading from the second paragraph, sort
13 of, I think, from the middle of the paragraph, "Massa and
14 her husband said" --

15 MR YILLAH: I'll read the whole paragraph.

16 JUDGE BOUTET: Because the second line in that paragraph is
17 not quite that.

18 MR YILLAH: I'll read the whole paragraph for Your Lordship to
19 see.

20 Q. Mr Witness, I'm taking this paragraph from your
21 statement, and I'll read slowly. "The first attack
22 happened on a Tuesday. Sometime later, after the second
23 attack, and after we had pulled out to Kenema, I learned
24 what had happened to my son. A woman named Massa, a
25 Mende, who is married to a Limba man named Samba told me
26 what happened. She said as Kamajors withdrew after the
27 second attack, they took with them around 200 to 300
28 civilians they had abducted from near the agricultural
29 secondary school in Pandebu section. I suspect my son

1 had run towards Pandebu and been captured at this time.
2 Massa and her husband said after reaching Panguma in a
3 village quarter mile this side of Panguma called Talama
4 the Kamajors stripped all the civilians, lined them up,
5 and started interviewing them. That all was happening
6 the morning after the first attack."

7 MR YILLAH: There's no need to continue. My Lord, I just --

8 JUDGE BOUTET: You want that portion to be marked -- that
9 statement to be marked as an exhibit because you are
10 alleging that there are inconsistencies here with what
11 the witness has said.

12 MR YILLAH: Yes.

13 JUDGE BOUTET: Do I hear you well?

14 MR YILLAH: That's my argument, My Lord.

15 JUDGE BOUTET: This is a question for appreciation by the
16 Court in due course. We are not making any decision if
17 there is any or there is none.

18 MR BANGURA: If it please Your Honour, I don't think what my
19 learned friend is suggesting is the case. I don't think
20 he has sufficiently questioned the witness about the
21 alleged inconsistency for this Court to be very clear
22 that there is in fact such an inconsistency. I have not
23 heard counsel put it to the witness as to --

24 JUDGE BOUTET: Mr Bangura, you know we have admitted
25 statements where the inconsistencies were not necessarily
26 obvious. We have admitted statements where there was
27 -- I mean, there were arguments about inconsistency, but
28 it was not very clear that there was inconsistency. So
29 we have said that we are quite prepared to admit the

1 statements, given the flexibility that -- the approach
2 taken by this Court. And if there is or not, well, we'll
3 determine that in due course.

4 MR BANGURA: Your Honours, in principle, we have no reason not
5 to want the statement in. But I think --

6 JUDGE BOUTET: But again, if it goes in, it is in for that
7 very limited purpose; that the counsel for the first
8 accused is claiming that there are inconsistencies
9 between a portion of that statement and what the witness
10 would have said. That's it.

11 MR BANGURA: Again --

12 JUDGE THOMPSON: Mr Bangura, could you help me a little bit.
13 Are you suggesting that we're not following our laid-down
14 procedure and our previous decision on disclosure on
15 prior inconsistent statements?

16 MR BANGURA: Not exactly, Your Honour.

17 JUDGE THOMPSON: Because the decision was given on 16th of
18 July, and, as far as I can recollect, is that we did lay
19 down certain prescribed procedure --

20 MR BANGURA: I agree, Your Honour.

21 JUDGE THOMPSON: -- as to how to proceed where counsel alleges
22 that there may well be some inconsistency between a
23 witness's out of court statement and his oral testimony.
24 What is your complaint here? What particular ingredients in
25 those five stipulations that we enunciated at page 8 is
26 missing from the process here?

27 MR BANGURA: Your Honour, I think it will have to do with the
28 part of it -- of the procedure where counsel reads that
29 portion of the witness's statement, previous statement,

1 to the witness and gives the witness an opportunity to
2 either clarify or explain that this is what I said. And
3 I believe that --

4 JUDGE THOMPSON: That has not been --

5 MR BANGURA: [Overlapping speakers] clearly from the witness.

6 JUDGE THOMPSON: In other words, there has not been either an
7 acknowledgment or a disclaimer of the statement.

8 MR BANGURA: Certainly, Your Honour. That's my point.

9 MR YILLAH: My Lord --

10 JUDGE BOUTET: On this, I have to say that counsel for the
11 first accused read first a portion of it, put it to the
12 witness. The witness said yes, this is what I've said.
13 So --

14 JUDGE THOMPSON: So, in other words, there has not been a
15 disclaimer on the part of the witness.

16 JUDGE BOUTET: There has not been a disclaimer per se.

17 JUDGE THOMPSON: Which is, in other words --

18 JUDGE BOUTET: Depends on the portion of the statement you
19 look at --

20 JUDGE THOMPSON: Prescription 3 of our procedure has not been
21 --

22 JUDGE BOUTET: That procedure, my dear brother, indeed as we
23 spelled it out is not essentially applicable to the
24 scenario here. But we have in the last few weeks
25 expanded on the admissibility given the flexibility to
26 admit more than one statement that didn't meet that
27 criteria.

28 JUDGE THOMPSON: But my learned brother would realise that we
29 did in fact say that that flexibility would, in fact, be

- 1 accommodated under Rule 89.
- 2 JUDGE BOUTET: Yes, yes, yes.
- 3 JUDGE THOMPSON: But that does not mean that we were --
- 4 JUDGE BOUTET: Disregarding --
- 5 JUDGE THOMPSON: -- disregarding our prescriptions, our five
6 full prescriptions set out at paragraph 21 of our ruling.
7 I didn't understand that that was what we were doing at
8 all.
- 9 JUDGE BOUTET: No. Mr Yillah.
- 10 MR YILLAH: Yes, My Lord. In light of the comments and the
11 arguments from the Bench, I will take the cue and, to
12 resolve the matter, I will just put it to the witness to
13 clarify.
- 14 JUDGE BOUTET: Which specific portion of the statement are you
15 alleging that the witness now in his evidence has said
16 something that, according to you, differs from what he
17 said at the time. That is the question.
- 18 MR YILLAH: Precisely, My Lord.
- 19 JUDGE BOUTET: Well, put it to the witness.
- 20 MR YILLAH: As My Lord pleases.
- 21 Q. Mr Witness.
- 22 A. Sir.
- 23 Q. I'm reading this portion from your statement: "Massa and
24 her husband said after reaching Panguma in a small
25 village a quarter mile this side of Panguma called
26 Talama, the Kamajors stripped all captured civilians,
27 lined them up and started interviewing them." Do you
28 recall saying that to the investigator?
- 29 A. They undressed the civilians. The civilians whose tribe

1 was asked and if they were not satisfied with you, they
2 would strip you naked and they will put you in a line.

3 Q. [Previous translation continues] that I've just read to
4 you to the investigator. Do you recall saying that to
5 the investigator?

6 A. It is what I've explained. They will take off your
7 clothes. A man who has been asked and who is response
8 was not satisfactory would be stripped of his clothes --

9 JUDGE BOUTET: Mr Witness, please listen carefully to the
10 question that is being asked of you and the lawyer will
11 be reading a portion of that statement that it is alleged
12 that you have made, and then he will ask you a
13 question. Mr Yillah, please.

14 MR YILLAH: As My Lord pleases.

15 Q. Mr Witness, I will slowly read the portion again to you.
16 "Massa and her husband said after reaching Panguma in a
17 small village quarter mile this side of Panguma called
18 Talama the Kamajors stripped all captured civilians,
19 lined them up and started interviewing them." Do you
20 recall saying that?

21 A. Yes.

22 Q. Thank you, Mr Witness. Mr Witness, having admitted
23 saying so to the investigator, do you now say that
24 Massa's husband was present when you spoke to them about
25 your son?

26 A. Massa told me, informed me about my son, and her husband
27 came and confirmed that that was how it happened. That
28 was how I explained to this Court.

29 Q. Mr Witness --

1 PRESIDING JUDGE: It means that the husband was not there. He
2 was still with Massa.
3 MR YILLAH: So he's still denying it, My Lord?
4 PRESIDING JUDGE: Yes.
5 JUDGE BOUTET: No, he's not denying. He says when Massa
6 informed him about his son she was alone. Later her
7 husband joined her.
8 PRESIDING JUDGE: That is what he was saying, and that Massa's
9 husband was not there.
10 MR YILLAH: As My Lord pleases. I take the cue, My Lord. I
11 will move forward.
12 Q. Mr Witness, when you arrived in Kenema, do you -- let me
13 ask you this: Was there a Kamajor office in Kenema at
14 the time you arrived there?
15 A. No. That same day there was no Kamajor office.
16 Q. But did you say there for some time?
17 A. Yes, sir.
18 Q. And did they establish an office during your stay there?
19 Did the Kamajors establish an office in Kenema during
20 your stay there?
21 A. Well, I did not know that office.
22 Q. Thank you very much, Mr Witness.
23 MR YILLAH: That will be all for this witness.
24 JUDGE BOUTET: Thank you.
25 [Trial Chamber confers]
26 JUDGE BOUTET: Mr Bockarie, are you ready to proceed with your
27 cross-examination?
28 MR KOPPE: Yes, Your Honour, I am. Just a few questions.
29 CROSS-EXAMINED BY MR KOPPE:

1 Q. Mr Witness, you said earlier today that you have seen
2 AFRC soldiers undressing themselves and hiding
3 themselves, and then they sneaked away. Do you recall
4 saying that?

5 A. Yes, sir.

6 Q. Could you please tell us what --

7 PRESIDING JUDGE: Mr Koppe, I'm sorry, I missed the question,
8 I'm sorry. What was the question?

9 MR KOPPE: I was just rephrasing what he said earlier about
10 the AFRC soldiers undressing themselves and hiding
11 themselves.

12 PRESIDING JUDGE: Okay.

13 MR KOPPE:

14 Q. My question is, Mr Witness, what did these soldiers do
15 with their guns or arms?

16 A. Well, they took off their uniform, and I found out they
17 had all sneaked away. I do not know whether they went
18 with their arms. Where they hid them, I do not know.
19 The only thing was that I saw that they all sneaked away.

20 Q. So when you saw them sneaking away, they did not carry
21 any arms?

22 A. When they came to take off their uniform, they had their
23 guns on.

24 Q. But is it possible that although they were not carrying
25 -- they were not wearing their uniforms any more, they
26 were still carrying guns?

27 A. Well, I saw them taking off their uniform and they
28 sneaked away. I don't know whether they went with their
29 guns or not. The only thing that I saw was that they

1 were taking off their uniform and they sneaked away.

2 Q. So it is very possible that they were still carrying
3 arms, although they were not in uniform any more?

4 JUDGE THOMPSON: Why would that be necessary? He's interested
5 in what he perceived, giving direct evidence of what he
6 saw. Why would we need the possibility? For what
7 purposes in evaluating evidence in this kind of
8 situation? Because he's not testifying circumstantially,
9 remember; he's telling you that he saw them go away, but
10 he did not know. He has told us what he knew, that is
11 they undressed and sneaked away. But he did not know
12 whether they went away with their guns. So why would he
13 be invited to speculate? Why not leave that as a matter
14 of inference.

15 MR KOPPE: Very well, Your Honour.

16 JUDGE THOMPSON: That would be my own thinking. Because if he
17 gives me an answer, I don't even know what to do with it
18 in terms of evaluating the answer.

19 MR KOPPE: There's a possibility that he might have looked
20 very closely or not. But apparently he hasn't.

21 JUDGE THOMPSON: But he leaves it open, doesn't he?

22 MR KOPPE: He does, yes.

23 JUDGE THOMPSON: He did not say they went away with their
24 guns. "I do not know whether they went away with their
25 guns."

26 MR KOPPE: Thank you, Your Honour. I'll move on to my next
27 point.

28 Q. Mr Witness, you were telling this Court earlier about
29 people being picked from a crowd by two women. Do you

- 1 recall saying that?
- 2 A. Yes, sir.
- 3 Q. And that these women were picking alleged rebels from the
4 crowd?
- 5 A. Yes, sir.
- 6 Q. Could you tell us who these women were?
- 7 A. Well, they wore civilian clothes.
- 8 Q. Yes, but do you know who they were? Do you know their
9 names?
- 10 A. No, I did not know their names. The only thing was that
11 they wore civilian clothes.
- 12 Q. Mr Witness, I'm trying to find out how these two women
13 were able to pick out rebels from a crowd. Could you
14 enlighten us?
- 15 A. Yes, sir.
- 16 Q. Please do.
- 17 A. The commander told them that "Go and search for a rebel.
18 If you see him or her, bring him or her." So she would
19 just go and hold somebody's hand and say, "Okay, come."
20 And the other would go and hold somebody else's hand and
21 say, "Come." That was all that I knew.
- 22 Q. But, Mr Witness, were these women in your opinion picking
23 rebels randomly, or did they know that these people were
24 actually rebels?
- 25 JUDGE BOUTET: It's the same issue that we had before about
26 the possibility of carrying guns or not. He has just
27 told you what he has observed.
- 28 JUDGE THOMPSON: And Mr Koppe, really, I would think that what
29 that answer seems to suggest, it seems to raise the issue

1 in a veiled sort of way of a random selection, and it
2 would be a matter of inference.

3 PRESIDING JUDGE: It could also be that those women identified
4 real rebels. Who knows?

5 JUDGE THOMPSON: Who knows? But the two hypotheses would seem
6 valid to me. He is virtually in a veiled way in his
7 answer suggesting that it may well have been random
8 selection, random picking.

9 MR KOPPE: Also on this point, maybe these two women said
10 something to make him believe --

11 JUDGE THOMPSON: That's all right. I wouldn't press further.
12 I just wanted to let you know my own thinking.

13 PRESIDING JUDGE: After all, we have evidence before us here
14 where a lady identified a rebel who was killed and she
15 herself was identified and was killed. Do you remember
16 that, Mr Koppe?

17 MR KOPPE: Yes, I do.

18 PRESIDING JUDGE: Okay.

19 MR KOPPE:

20 Q. Mr Witness, did these women say anything --

21 PRESIDING JUDGE: So hunter became the hunted.

22 MR KOPPE:

23 Q. Mr Witness, did these women say anything when they picked
24 these people from the crowd?

25 A. No. I did not hear their voices. I would not say they
26 did not say anything, but I did not hear them say
27 anything.

28 Q. And these people who were picked from the crowd, did you
29 recognise them to be rebels?

1 A. Well, I wouldn't know. The only thing, the only thing I
2 saw was that they held them and took them to the
3 commander. But I did not know them.

4 Q. Okay, Mr Witness. I will move on to my last point.
5 You've told this Court about your house being burnt. Do
6 you recall?

7 A. Yes, sir.

8 Q. Do you know how your house was burnt?

9 A. I don't know. I say the only thing was that it was burnt
10 by fire.

11 Q. And you also don't know who burnt your house? You don't
12 know how your house was burnt or who burnt your house?

13 A. I don't know who burnt the house. I saw my house being
14 burnt with fire.

15 PRESIDING JUDGE: He didn't say so. He did not say so.

16 THE INTERPRETER: Your Honours, would the attorney please ask
17 the question again so that it could come out clearly?

18 PRESIDING JUDGE: Even now, he didn't say so here.

19 JUDGE BOUTET: Would you repeat your question, Mr Koppe,
20 please?

21 MR KOPPE: I'm not sure if I have the exact question.

22 Q. But my question was you don't know how and who -- you
23 don't know how your house was burnt and you don't know
24 who burnt your house; correct?

25 A. I don't know who burnt my house. They burnt the house
26 with fire.

27 Q. Yes, but you're referring to "they." But if you don't
28 know how the house was burnt, it might not be "they" who
29 burnt the house?

1 PRESIDING JUDGE: Mr Koppe.
2 JUDGE BOUTET: Maybe he -- [overlapping speakers]
3 PRESIDING JUDGE: What does -- what does "they" --
4 MR KOPPE: Lightning or somebody cooking or --
5 PRESIDING JUDGE: Do you find --
6 THE WITNESS: I said "they." When you asked me if I knew the
7 man who burnt the house, that is why I said I did not
8 know the one who burnt it.
9 PRESIDING JUDGE: The man knows that it is fire that burnt his
10 house. He came and saw it and saw that it was fire that
11 burnt his house.
12 MR KOPPE: That's usually what burns houses. I rest, thank
13 you, Your Honour.
14 PRESIDING JUDGE: Okay, Mr Koppe. Thank you.
15 JUDGE BOUTET: Thank you.
16 [Trial Chamber confers]
17 JUDGE BOUTET: Mr Margai, you're ready to proceed with
18 cross-examination of the witness?
19 MR MARGAI: Very much so, My Lord.
20 JUDGE BOUTET: Thank you.
21 CROSS-EXAMINED BY MR MARGAI:
22 Q. Mr Witness.
23 A. Yes, sir.
24 Q. What is the chiefdom within which Tongo is? What
25 chiefdom?
26 A. It is Lower Bambara Chiefdom.
27 Q. Now, do you know BJK Sei, a commander -- sorry, Kamajor
28 commander?
29 A. Yes, sir. I know him.

- 1 Q. Was he the overall commander for the Kamajors in Lower
2 Bambara Chiefdom?
- 3 A. Yes, sir.
- 4 PRESIDING JUDGE: I was going to say he appeared to have said
5 so, but just for the records he has answered yes.
- 6 MR MARGAI: Yes. Emphasis. Thank you. I won't be long,
7 My Lord.
- 8 PRESIDING JUDGE: That's all right.
- 9 MR MARGAI:
- 10 Q. Now, did you report to him the killings of these two
11 supposedly rebels who were identified by these women?
12 Did you report to him?
- 13 A. Me?
- 14 Q. You.
- 15 A. During that time, I did not know whether I was in Hades
16 or in this world. So I did not have that opportunity at
17 all.
- 18 Q. Thank you very much. Did you report to him, yes or no?
- 19 A. No, sir.
- 20 Q. Thank you. Did you report to him about the group of ten
21 who were led towards the direction of Dodoma?
- 22 A. No, sir.
- 23 Q. Thank you. And you told this Court that you learned from
24 someone that Kamabote struck your son's head with a
25 machete. Is that correct?
- 26 A. Yes.
- 27 Q. Did you report this incident to CO Sei?
- 28 A. No, sir.
- 29 Q. Thank you. And finally, you testified about houses that

1 were burnt in Tongo. Did you report this incident to CO

2 Sei?

3 A. No, sir.

4 PRESIDING JUDGE: Nine, nine including his.

5 MR MARGAI:

6 Q. To be precise, nine, including your own. Did you report

7 this incident to CO Sei?

8 A. I did not report to anybody.

9 MR MARGAI: Thank you very much. That will be all from me,

10 My Lord.

11 JUDGE BOUTET: Thank you, Mr Margai.

12 Mr Bangura, any re-examination?

13 MR BANGURA: Your Honour, just one question, one or two.

14 RE-EXAMINED BY MR BANGURA:

15 Q. Mr Witness.

16 A. Sir.

17 Q. In answer to questions posed by counsel for the third

18 accused, Mr Margai, you said that you did not report any

19 of the incidents which he asked you about to BJK Sei. Is

20 that correct?

21 A. Yes, sir.

22 Q. Why were you not able to do so?

23 A. Well, I'm a civilian. They are armed people, so I

24 wouldn't even go near them.

25 MR BANGURA: Thank you, Mr Witness. That will be all for this

26 witness.

27 JUDGE BOUTET: Thank you.

28 [Trial Chamber confers]

29 PRESIDING JUDGE: Mr Witness.

1 THE WITNESS: Yes, sir.

2 PRESIDING JUDGE: We have finished with you.

3 THE WITNESS: Yes, sir.

4 PRESIDING JUDGE: We have finished with you. Thank you for
5 coming to assist us with your testimony. We are
6 discharging you now to go home to your place of abode.
7 But we may need you here again some other time. We don't
8 know yet. We are not saying you will come here again
9 now. But if necessity arises, we'll have to call you
10 back, and we hope you will be with us if we do call you
11 back. We will send for you. But for the time being, we
12 thank you very much for coming. And we wish you a safe
13 journey back to your place of abode.

14 THE WITNESS: Yes, sir.

15 PRESIDING JUDGE: Right.

16 Mr Tavener, we will be taking Ms Chitanda tomorrow
17 at 9.30.

18 MR TAVENER: Thank you.

19 PRESIDING JUDGE: Tomorrow at 9.30. And of course, you know
20 we are sitting for just half a day. I do not know how
21 long her testimony will take, but you may well be advised
22 to have a witness by, a short witness. You never know.
23 We may -- we may just want to have a short witness so
24 that if necessity arises, we can go on with that witness
25 after wrapping up with her.

26 MR TAVENER: Thank you. Yes.

27 PRESIDING JUDGE: Well, learned counsel, I don't think we
28 would take any further evidence today. We would like to
29 rise and go and do some office work.

- 1 MR YILLAH: Just one observation, My Lord, before Your
2 Lordship rises.
- 3 PRESIDING JUDGE: I saw, yes, yes.
- 4 MR YILLAH: Yes, My Lord. I just wanted to inquire from my
5 learned friend whether we shall -- because in the past he
6 has been varying the list of witnesses. I just want to
7 know whether we are proceeding in the normal order or
8 whether he's going to vary the list again so we can
9 prepare in advance.
- 10 PRESIDING JUDGE: We are presuming that they know the witness
11 who is likely to be called tomorrow. Can you guide the
12 Defence, please, as to the witness who might be called
13 tomorrow.
- 14 MR TAVENER: After Ms Chitanda, there will be Witness TF2-073.
- 15 PRESIDING JUDGE: Is that okay by the Defence?
- 16 MR YILLAH: Very well, My Lord.
- 17 PRESIDING JUDGE: Mr Koppe? Mr Margai? Is that okay?
- 18 MR MARGAI: Yes, My Lords.
- 19 PRESIDING JUDGE: We may well not take that witness tomorrow,
20 but that's a witness who will be on standby.
21 Is there any other observation?
- 22 THE INTERPRETER: My Lord, in what language would the witness
23 be testifying?
- 24 PRESIDING JUDGE: What language?
- 25 MR BANGURA: Your Honour, the witness will be testifying in
26 English.
- 27 PRESIDING JUDGE: In English.
- 28 MR BANGURA: Yes.
- 29 PRESIDING JUDGE: I see, okay. Well, learned counsel, have a

1 nice night. We are rising early today. I hope we have
2 more time to rest today than we have ever had.

3 The Court will rise, and we resume at 9.30 tomorrow.
4 [Whereupon the hearing adjourned at 4.54 p.m., to be
5 reconvened on Wednesday, the 2nd day of March 2005, at
6 9.30 a.m.]

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