

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

WEDNESDAY, 01 FEBRUARY 2006
9.42 A.M.
TRIAL

TRIAL CHAMBER I

| | |
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| Before the Judges: | Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe |
| For Chambers: | Ms Roza Salibekova Ms Anna Matas |
| For the Registry: | Ms Maureen Edmonds |
| For the Prosecution: | Mr Joseph Kamara Mr Kevin Tavener Ms Lynn Hintz (intern) |
| For the Principal Defender: | Mr Lansana Dumbuya |
| For the accused Sam Hinga Norman: | Dr Bu-Buakei Jabbi Mr Alusine Sesay Ms Claire da Silva (legal assistant) |
| For the accused Moinina Fofana: | Mr Arrow Bockarie Mr Michiel Pestman |
| For the accused Allieu Kondewa: | Mr Charles Margai Mr Ansu Lansana |

1 [CDF01FEB06A - EKD]
2 Wednesday, 01 February 2006
3 [Open session]
4 [The accused present]
09:33:19 5 [Upon commencing at 9.42 a.m.]
6 PRESIDING JUDGE: Good morning. Good morning, Mr Witness.
7 THE WITNESS: Thanks, My Lord.
8 PRESIDING JUDGE: Dr Jabbi, are you ready to proceed to
9 resume the examination-in-chief?
09:42:58 10 MR JABBI: Yes, My Lord.
11 PRESIDING JUDGE: Thank you. We are listening to you.
12 WITNESS: SAMUEL HINGA NORMAN [Continued]
13 EXAMINED BY MR JABBI: [Continued]
14 Q. Good morning, Mr Witness.
09:43:13 15 A. Thanks, My Lord.
16 Q. Yesterday we broke the relevant period into four phases, I
17 think.
18 A. Yes, My Lord.
19 Q. We were trying to look at the issues before us in respect
09:43:29 20 of each period and the combatant parties. I believe we almost
21 came to the close of the second phase and I just pose a few
22 questions there before transiting to the third. The second phase
23 being the period from April 1996 to 24 May to pre-1997.
24 A. Yes, My Lord.
09:44:24 25 Q. I want to remind you of a piece of evidence you gave on
26 Friday before posing the next question. That evidence related to
27 the soldiers adopting vigilantes for whom they provided military
28 uniforms in the Koribundu area. Do you remember that piece of
29 evidence?

1 A. I did, My Lord, but it was that it was an arrangement
2 between them and the township people of Koribundu.
3 Q. That what?
4 A. That the township people provided young men with
09:45:27 5 arrangement between them and the soldiers.
6 Q. Thank you.
7 A. Who were trained as vigilantes, My Lord.
8 Q. Thank you. So the first question on that piece of evidence
9 is which of our time frames adopted does it fall within? First,
09:45:51 10 second, third, fourth?
11 A. This was the time when I became regent chief in any time
12 between October 1994 and 30 June 1995.
13 Q. 1995.
14 A. So it could well be in the first phase.
09:46:14 15 Q. In the first phase.
16 A. Yes, My Lord.
17 Q. Now, you say it was young men that in fact were trained as
18 vigilantes and the military gave them, in that area, military
19 uniforms?
09:46:42 20 A. Yes, My Lords.
21 Q. Do you know if those young men included people under the
22 age of 15?
23 A. No, My Lords, I don't know.
24 Q. You do not know.
09:47:01 25 A. There were no requests for birth certificates.
26 Q. Do you know whether that group of young men certainly did
27 not include children of 15 or below?
28 A. No, My Lord.
29 Q. You do not know the negative, either?

1 A. I don't know.

2 Q. I will come once more to the second phase.

3 A. Yes, My Lord.

4 Q. About which you have said that young men, some perhaps 15
09:48:41 5 or less, actively participated in the hostilities. Now, I want
6 to refer briefly to a piece of evidence given by a witness for
7 the Prosecution. This is prosecution witness number 32, TF2-156,
8 who testified on 25th November 2004. Reading from my own notes
9 of that evidence, cross-examination on behalf of the third
09:50:28 10 accused of that witness, I recorded the following. He is talking
11 about the participation of young people at some phase of
12 operation during the junta regime. It slightly falls outside our
13 second phase but it is for analogical purposes I am bringing it
14 to your attention. I read from my own notes. "Youths resisted
09:51:10 15 juntas when the latter were in control in Bo, and it lasted
16 throughout the junta period. They were around the villages."
17 Sorry. "The youths were based in Bo but Kamajors were outside of
18 Bo during the junta period. They were around the villages. The
19 youths were also referred to as vigilantes. They didn't have
09:52:08 20 guns, but were using sticks, cutlasses. They dressed in ordinary
21 civilian attire. They were many. They resisted the juntas
22 because juntas were breaking shops and looting. RUF/AFRC would
23 kill any such youths they caught. They were not in agreement.
24 That was because juntas burnt houses, harmed people and stole
09:53:19 25 from the people. I did not see vigilantes do bad things to
26 people. I returned to Bo from Gbogboma because I thought ECOMOG
27 had taken over Bo, but no, the soldiers were still in Bo."

28 Now, the youths in question here --

29 JUDGE ITOE: Dr Jabbi, do you want us to take your personal

1 notes as an authentic record of the proceedings, or was it not
2 possible for you to lay your hands on the transcripts of these
3 proceedings, as far as that part is concerned?

4 MR JABBI: It wasn't easy for me, My Lord. I endeavoured
09:54:37 5 to, but --

6 PRESIDING JUDGE: Why? It is all available on the web
7 site.

8 MR JABBI: My Lord, practical, technical difficulties of
9 mine prevented me from getting the transcript and I don't want to
09:55:07 10 apply for a postponement of the cross-examination, especially of
11 this phase.

12 PRESIDING JUDGE: But how are we to assess that if what you
13 put to the witness now is not what came out in evidence but your
14 interpretation of it? Presumably you are putting this to the
09:55:33 15 witness so you ask the witness to respond to this or comment on
16 it and if what you put to him is not the evidence, how are we to
17 assess that?

18 MR JABBI: My Lord, that is why I have specified the piece
19 of evidence as clearly as possible, I hope, by referring to the
09:55:53 20 witness in question, to the day he testified, and to the portion
21 of his evidence.

22 PRESIDING JUDGE: We understand that, Dr Jabbi. We are not
23 disputing this. The question is you put this factual scenario to
24 the witness, you ask the witness to comment on that. If the
09:56:14 25 facts you are giving him is not what is in evidence and the
26 witness has commented on what you give him but not on the
27 evidence that was adduced, what is the value of his evidence?
28 How are we to assess that?

29 JUDGE THOMPSON: I don't think it is a complicated point.

1 I would think that -- and this is -- it would be unfair to unduly
2 burden the Prosecution with the task of having to verify the
3 authenticity of your own rendition of it. It would seem that the
4 compromise would be that if you could conveniently skip this
09:56:47 5 particular area and revisit it, then we probably would make some
6 progress. It would certainly be irregular for us to accept your
7 own rendition of it when even among the three judges on the Bench
8 we are not always united as to what the proper evidence is. We
9 all rely on the transcript. So it will be difficult for us to
09:57:19 10 make an exception here.

11 MR JABBI: Thank you very much, My Lords.

12 JUDGE THOMPSON: And I suggest that that would be the
13 compromise.

14 MR JABBI: Thank you very much, My Lords.

09:57:31 15 PRESIDING JUDGE: And I would suggest as well, Dr Jabbi,
16 that contrary to your statement that this is not so complicated.
17 You not talking here of the totality of the evidence for that
18 particular witness. That may be, I don't know, ten pages. You
19 are focusing on an area of vigilante, as such, and that witness's
09:57:46 20 evidence was more than just vigilante. Anyhow, the suggestion is
21 let's move ahead and if need be, we will allow you to come back
22 to that with the proper documentation in hand and reference. If
23 you want to.

24 MR JABBI: My Lord, I cannot do otherwise in the
09:58:05 25 circumstances.

26 PRESIDING JUDGE: Thank you.

27 MR KAMARA: Your Honours, if we may be heard on this
28 matter. We are grateful to the Bench. The Prosecution did speak
29 to Dr Jabbi about this issue yesterday and we did raise such

1 concerns. We were hoping that it might have improved in that
2 direction in the sense it was suggested to Dr Jabbi that if even
3 they forwarded the references to the Prosecution of the areas he
4 intends to cover, that is if they are extensive, we would have
09:58:34 5 done our homework and then come prepared. But again this morning
6 he is following the same trend as yesterday and previously and we
7 have been very much concerned about that. We are grateful, Your
8 Honours.

9 PRESIDING JUDGE: Thank you.

09:58:54 10 MR JABBI:

11 Q. Now, Mr Witness, just before we leave this second phase,
12 would you want to tell the Court the forms of participation by
13 young men of 15 or less in the hostilities in that phase, as you
14 noted?

09:59:29 15 A. My Lords, this is what I would like to say regarding the
16 active participation of young people in the conflict at that
17 phase. That young people indeed participated, but as I had said
18 yesterday, it was in assistance to their parents and guardians,
19 who were either civilians or conditional civilians, that is the
10:00:20 20 hunters. Those who the military requested for also participated
21 under the military, My Lords.

22 JUDGE ITOE: Excuse me. When you say those who were
23 requested -- those who the military requested also participated
24 under the military. When you say "those" --

10:01:15 25 THE WITNESS: I'm referring to the young people, My Lords.

26 JUDGE ITOE: The young people?

27 THE WITNESS: Yes.

28 MR JABBI:

29 Q. So let us take those young people who participated in that

1 way on the side of the military.

2 A. Yes, My Lords.

3 Q. What particular acts or forms of acts by them are you
4 calling participation?

10:01:57 5 A. Active participation, My Lords, meaning I saw them with
6 conventional weapons, and also in uniform, My Lords.

7 Q. During the second phase?

8 A. Yes, My Lords.

9 Q. Apart from their appearing in uniforms and carrying
10:02:57 10 conventional weapons, did you observe any other form of activity
11 among that particular group?

12 A. My Lords, I would that you are specific.

13 Q. I am specific in excluding two examples you have already
14 given. That is to say, they did appear in uniforms and they
10:03:32 15 carried conventional weapons. You have given those as instances
16 of active participation from your own observation. So my
17 question is: Apart from those two forms of active participation,
18 did you observe any other form of active participation?

19 A. Yes, My Lords.

10:04:00 20 Q. Can you name it?

21 A. I saw them being deployed alongside soldiers to battle
22 areas, My Lords.

23 Q. So that is at least a third form of their active
24 participation.

10:04:50 25 A. I wouldn't say third. I said I saw them again being
26 deployed. So I'm not saying third, My Lord.

27 Q. Okay. That is yet another.

28 A. I would prefer that, My Lord.

29 Q. Did your observation include yet another mode of active

1 participation of that group in that phase?

2 A. There were -- I saw them also being used wherever military
3 deployment was. That they were with them in the township --

4 Q. Doing what?

10:05:38 5 A. -- and participating in, at that time, military
6 activities. Meaning guarding the township or protecting the
7 township, alongside soldiers.

8 Q. So that is yet another mode of active participation?

9 A. Yes, My Lords.

10:06:16 10 Q. So if we make take the group referred to as civilians and
11 hunters. We are leaving the military for the moment.

12 A. Yes, My Lord.

13 Q. We take this group of hunters and civilians, of whom you
14 have said in evidence yesterday that --

10:06:47 15 JUDGE THOMPSON: Are we taking them as a composite group?

16 MR JABBI: My Lord, first of all, just to delimit the broad
17 area there, then I will pose individual questions to each
18 section.

19 JUDGE THOMPSON: Thank you.

10:07:04 20 MR JABBI: Thank you, My Lord.

21 Q. So taking this group, hunters and vigilantes -- sorry,
22 hunters and civilians, of whom you said in evidence yesterday
23 that the children and wards of parents and guardians joined in
24 assistance to them when there were attacks on them. So let us,
10:07:50 25 in that group, take the civilians, pure and simple. What modes
26 of participation by the children and/or wards did you observe in
27 their rendering assistance to their parents and guardians? The
28 modes of participation, just as we have outlined in the other
29 area.

1 A. Yes, My Lords.

2 Q. Yes?

3 A. These were people who were not armed with weapons of the
4 sort that the soldiers carried.

10:08:50 5 Q. Watch your pace, please.

6 A. Yes, My Lords. And so whenever --

7 JUDGE ITOE: You're referring to not carrying conventional
8 weapons?

9 THE WITNESS: Not carrying conventional weapons and not
10:09:03 10 carrying guns in respect of purely civilians, not mingled with
11 hunters. Whenever they were attacked, any type of implement that
12 they laid their hands on in the form of sticks, stones, or
13 whatever that were not guns that they did -- they had in their
14 hands, they used to protect themselves equally like their
10:09:50 15 guardians. Those who were able enough to lift their hands in
16 defence, My Lords.

17 MR JABBI:

18 Q. So they would use any local material they could lay hands
19 on in their own defence; is that what you're saying?

10:10:31 20 A. I would say anything defensive, local or otherwise,
21 excepting --

22 Q. Guns?

23 A. Guns.

24 Q. And conventional weapons?

10:10:39 25 A. Yes, My Lords.

26 Q. Thank you. Now we shift to the hunters themselves. The
27 question is: With respect to the young people, 15 or under, who
28 joined them in their resistance to attacks, what modes of
29 participation by those young people towards the hunters did you

1 observe in the second phase that we are dealing with?

2 A. I saw the young people supporting with carrying needful
3 requirements. Whether those were food, or gun cartridges, I
4 wouldn't tell. But I saw them with loads on their heads, taking
10:12:24 5 to the bush together with their guardian hunters. Some I saw
6 having sticks, things like staves or mortar pestle in their
7 hands.

8 Q. Mortar?

9 A. Pestle. It's in the use our woman who used to pound rice
10:12:57 10 in the mortar.

11 Q. P-E-S-T-L-E?

12 A. Well, pestle, yes, that's it.

13 Q. I want to be sure that --

14 A. Not pistol, but mortar pestle.

10:13:14 15 Q. Not P-I-S-T-O-L?

16 A. No, My Lord. Mortar pestle or staves or sticks.

17 Q. So there as well you have already described two modes of
18 participation. One carrying needful supplies and, the other,
19 objects of defensive nature.

10:13:47 20 A. Yes, My Lord.

21 Q. Did you observe any other mode of activity among that
22 group?

23 A. Of course they were often assisting in giving information
24 about the occupation or non-occupation of their villages and
10:14:35 25 towns, so that their parents or guardians can return or stay in
26 their hideouts.

27 Q. So their own mode of intelligence servicing; is that so?

28 A. [Indiscernible].

29 Q. You gave some name to such hideouts before. What name was

1 that, hideouts of civilians?

2 A. It's a Mende name. It could be called differently in other
3 dialects in Sierra Leone, but it's "sorkoihun" I called it, My
4 Lords.

10:15:44 5 Q. You have named three modes of activity with this group and
6 the hunters. Did you observe any direct fighting by the young
7 people in this group?

8 A. At this time, in this stage two that we are talking about,
9 no, My Lord.

10:16:13 10 Q. No observation of direct fighting. Talking about yourself,
11 for that phase what would you characterise your own role or
12 situation to have been in respect of those hostilities?

13 A. From 1991 to 1994, before I became regent chief in October
14 1994 --

10:17:27 15 Q. Please watch your pace.

16 A. From 1991 to the time I became regent chief in 1994 I had
17 no role. I only observed.

18 JUDGE ITOE: The month in 1994, please?

19 THE WITNESS: October, My Lords.

10:18:06 20 JUDGE THOMPSON: You said you had no role in the
21 hostilities?

22 THE WITNESS: No role, My Lord, at that time. Only
23 observed.

24 MR JABBI:

10:18:43 25 Q. That was up to 1994, October?

26 A. October 1994, My Lord.

27 Q. From October 1994 to April 1996?

28 A. From October 1994 to April 1996 I had become --

29 JUDGE ITOE: What is this date in April? Isn't it the 13th

1 or the 30th? You have been referring to this date. Anyway, go
2 ahead, go ahead. We have it in evidence somewhere. That's okay.

3 THE WITNESS: April 1994, that was the --

4 MR JABBI: 1996.

10:19:29 5 THE WITNESS: -- period of the non-military government,
6 April 1996 we are talking about. From April 1994 -- from October
7 1994 to the time of the military government handing over to the
8 civilian government, I was regent chief responsible for the
9 administration of the chiefdom of Jiama Bongor, and also

10:20:12 10 responsible to the protection of the people in that chiefdom. So
11 I became a participant in activities of defence and protection.
12 Also of administration of the chiefdom of Jiama Bongor, My Lords.

13 MR JABBI:

14 Q. In that capacity did you have anything to do with civilian
10:21:21 15 resistance and hunters -- or let's begin with civilian
16 resistance.

17 A. Yes, My Lord.

18 Q. With civilian resistance?

19 A. Yes, My Lord.

10:21:50 20 Q. Yes, what mode?

21 A. I met with the chiefdom authorities to make arrangement for
22 the defence of the various villages and towns by requesting for
23 able-bodied young people for the purposes of such defensive
24 arrangements, My Lords.

10:23:03 25 Q. Among such young people, did you enlist children under the
26 age of 15?

27 A. No, My Lord, there was no cause for enlistment.

28 Q. Did you also use -- in that capacity, did you use children
29 under the age of 15 and under to participate actively in the

1 hostilities?

2 A. I did not, My Lord.

3 Q. Did those young people you tried to obtain for helping the
4 civilians in the resistance, did those young people include
10:24:50 5 children of 15 or under?

6 A. You, meaning the chiefdom administration.

7 Q. Yes, indeed.

8 A. And these were for various villages and towns. Whether
9 they were used or not, I wouldn't know.

10:25:06 10 Q. Your pace, please. Yes, can you go over that slowly.

11 A. You, meaning chiefdom administration, for the various
12 villages and towns. And this, My Lord, I will say: Towns in
13 Jiama Bongor were 96 villages, 96 villages scattered all over.
14 And they were to assist in defending those villages.

10:25:37 15 JUDGE THOMPSON: The question was really whether the
16 request for able-bodied young people --

17 THE WITNESS: That's what I said.

18 JUDGE THOMPSON: -- included children under the age of 15
19 or under. Wasn't that the --

10:25:54 20 MR JABBI: Yes, My Lord, precisely.

21 JUDGE THOMPSON: Whether that category included that.
22 Because the question of whether they were used is a different
23 dimension. I thought that was the question and I don't know
24 whether the witness --

10:26:06 25 THE WITNESS: There was no request for children. There was
26 request for able-bodied young people, not old men.

27 MR JABBI:

28 Q. Notwithstanding, according to you, that there was no
29 request for children to be part of this able-bodied group of

1 young people, to your knowledge did the group of able-bodied men,
2 however, include --
3 A. No, My Lord.
4 Q. -- any children?
10:27:16 5 A. No children.
6 Q. If I may complete the question, please.
7 A. I am pre-emptive.
8 Q. Any children of 15 or less?
9 A. No, My Lord, not to my knowledge.
10:27:42 10 Q. Thank you very much. With respect to the hunter group, did
11 the able-bodied young men who assisted the hunters include any
12 children of 15 or less?
13 A. At the time we are talking about, there was no difference
14 between -- there was civilians who were to defend their villages
10:28:09 15 and the hunters. They are one and the same people.
16 Q. Thank you. If we may move to a completely different group,
17 but still in that same phase of time.
18 A. Yes, My Lords.
19 [CDF01FEB06B - CR]
10:28:37 20 JUDGE THOMPSON: This last question was that there was a
21 merger then.
22 MR JABBI: The answer was that they were operating as one
23 at that stage.
24 JUDGE THOMPSON: In other words, would this mean a merger?
10:28:50 25 THE WITNESS: No, not a merger, My Lord. There was no
26 difference at that time. They were the same village people --
27 JUDGE THOMPSON: Acting in --
28 THE WITNESS: In consonant, or in concert.
29 JUDGE THOMPSON: In concert, yes.

1 MR JABBI: The idea of a merger would presuppose that there
2 was a difference before.

3 JUDGE THOMPSON: Yes, but of course --

4 MR JABBI: He was trying to say that there was no
10:29:17 5 distinction at that stage.

6 JUDGE THOMPSON: At an earlier stage there was some kind of
7 slight distinction. There must have been some overlap at some
8 point.

9 MR JABBI: The phase we are dealing with, My Lord --

10:29:29 10 JUDGE THOMPSON: There was not.

11 MR JABBI: That is what he is saying.

12 JUDGE THOMPSON: Right. Okay, thanks.

13 MR JABBI:

14 Q. So if we may move now to a completely different group.

10:29:51 15 A. Yes, My Lord.

16 Q. And that is the groups of rebels or the attackers of those
17 various communities.

18 A. Yes, My Lord.

19 Q. During the period we are talking about, roughly up
10:30:11 20 to March/April 1996 -- during that period are you aware of the
21 use of children of 15 or less in the hostilities by the rebels?

22 A. Yes, My Lord.

23 JUDGE ITOE: When you say children, you mean children under
24 the age of 15?

10:30:43 25 THE WITNESS: Yes.

26 MR JABBI: 15 or less, My Lord.

27 PRESIDING JUDGE: On this issue, I wonder why you keep
28 asking the question of 15 and under when the charge has to do
29 with under the age of 15. So I don't know if you're intending to

1 make a difference here or not, because the charge clearly reads,
2 "under the age of 15". I think it is very plain language, as
3 under the age of 15 would not include 15.

4 MR JABBI: Yes, My Lord.

10:31:11 5 PRESIDING JUDGE: But you keep asking the question "15 and
6 under". Again, it is a question of clarity and property
7 understanding. Because maybe the witness is misled, because when
8 he answers, he answers to 15 and under rather than under 15. Do
9 you follow me?

10:31:26 10 MR JABBI: Yes. My Lord, thank you very much for that
11 clarification.

12 Q. So we are talking about young men, children under the age
13 of 15. Did you observe the participation in the hostilities on
14 the rebel side of children under the age of 15?

10:32:04 15 A. My Lords --

16 JUDGE THOMPSON: The first question was "aware". Have you
17 move away from that?

18 MR JABBI: I thought he had answered that. Okay, I will go
19 back to that with the clarification by --

10:32:16 20 JUDGE THOMPSON: Yes, because then the learned Presiding
21 Judge interjected.

22 MR JABBI: Yes, My Lord.

23 Q. So we'll go back to the first question on this area.

24 A. Yes, My Lord.

10:32:35 25 Q. Were you, or did you observe the participation in
26 hostilities on the rebel side of children under of age of 15?

27 A. I saw young people who, by my estimation, could be younger
28 than 15. And whenever we were attacked, we also lost mostly
29 young boys that were not even 10. We did not see their dead

1 bodies. Later, on observation --

2 Q. Pace, please. Pace, please.

3 A. Later, on observation --

4 JUDGE ITOE: Whenever you were attacked, please --

10:33:38 5 THE WITNESS: Whenever we were attacked, My Lord, by the
6 rebels we lost our very young boys, sometimes below even 10, and
7 by observation and in rear action later, some of them returned,
8 and some of them were caught in other actions and were brought to
9 us. So we developed --

10:34:29 10 MR JABBI:

11 Q. Sorry to --

12 JUDGE THOMPSON: That sounds like a convoluted answer to a
13 simple question. Probably you need to reformulate it, because I
14 thought we were going off tangent here. You are now precisizing
10:34:46 15 your question, but apparently the witness is expanding the scope
16 of your question. I would suggest that you reformulate it and
17 ask it again, otherwise, as I see, we get into a convoluted
18 situation.

19 MR JABBI: My Lord, I will take it from the first
10:35:13 20 affirmative answer to the narrow question where he said yes, he
21 observed young people below the age of 15 in the rebel outfit.
22 So from that --

23 JUDGE THOMPSON: The complication came when he said "we
24 lost". I think that was where he complicated the picture.

10:35:37 25 MR JABBI: Yes, My Lord.

26 Q. Now how did you come to know that children under the age of
27 15 were used in the rebel outfit in those hostilities?

28 A. My Lord, I'm sure I did not use the word "rebel outfit". I
29 used the word we saw -- I saw young people who I considered to be

1 below 15 in the group of attackers.

2 Q. That is even the original attackers; not so?

3 A. I don't quite understand "original attackers", My Lord.

4 PRESIDING JUDGE: I don't either. I was going to ask what
10:37:07 5 you meant by that. When you ask about the rebels, are we talking
6 now of a different group?

7 MR JABBI: No, My Lord. Well, they were over a phase, that
8 is why I used that terminology, but I will pose another question.

9 THE WITNESS: Thank you, My Lords.

10:37:27 10 MR JABBI:

11 Q. Now do you have any other evidence of people under the age
12 of 15 having been used by the rebels?

13 A. Beyond that stage, yes, My Lord.

14 Q. Yes. Can you explain?

10:37:54 15 A. These, I believe, were the ones I spoke about yesterday, My
16 Lord. That I requested government to have them transferred to
17 the care of authentic authorities.

18 PRESIDING JUDGE: So we're talking here about a different
19 period of time?

10:38:23 20 THE WITNESS: Yes, that's what I said.

21 PRESIDING JUDGE: Are you moving to a different period of
22 time, Dr Jabbi?

23 MR JABBI: Not yet.

24 PRESIDING JUDGE: We're still in the period up to 1996?

10:38:33 25 MR JABBI: Yes, My Lord.

26 Q. Indeed, you spoke about such an exercise yesterday, but
27 obviously of a much, much later period.

28 A. Yes.

29 Q. So the question at this stage is: Do you have any other

1 evidence -- apart from seeing young people among the rebels who
2 came to attack, do you have any other evidence of young people
3 below 15 years of age having been used by the rebels in the
4 attacks?

10:39:05 5 A. I only have evidence when I saw them in the attacks. I was
6 not with them.

7 Q. As a result of rebel attacks on your communities, the
8 chiefdom communities -- as a result of rebel attacks on those
9 communities, did your own communities lose or miss any children
10:40:09 10 under 15 years?

11 A. Yes, My Lord. Reports were made to me of children of
12 Jiama Bongor being carried away, resulting from various attacks,
13 My Lords.

14 Q. Did you ever recover any of those children?

10:41:07 15 A. No report was made to me whether those children who had
16 been carried away were ever recovered. There was no follow-up,
17 especially as all of us dispersed.

18 Q. Were any such children ever seen afterwards?

19 A. If I saw them, I wouldn't know. These were children
10:41:52 20 scattered all over the chiefdom and only reports were made.

21 Q. Were any reports made of children who had been taken away
22 being seen later on?

23 A. No such reports, My Lord.

24 JUDGE ITOE: What about deaths? Were any deaths reported
10:42:33 25 of these children?

26 THE WITNESS: Those whose bodies were seen, of course,
27 there were reports of deaths resulting from attacks from various
28 villages, including children, very young ones, also.

29 MR JABBI:

1 Q. Now, let us use the group called rebels to take us in the
2 next phase of time.
3 A. Yes, My Lords.
4 Q. That is to say, the period roughly between April 1996 and
10:43:33 5 24th May 1997.
6 A. Yes, My Lord.
7 Q. During that period, were you aware of any children under
8 the age of 15 being used in active hostilities on the side of the
9 rebels?
10:44:10 10 A. Yes, My Lord.
11 Q. Can you explain further?
12 A. Somewhere some of these children were captured and brought
13 to safety and were kept in some part of Bo.
14 JUDGE ITOE: Captured by who?
10:45:02 15 THE WITNESS: Captured by the hunters at first, then later
16 hunters and ECOMOG.
17 MR JABBI:
18 Q. That is in the period April 1996 to May 24 --
19 A. No, the ECOMOG had not come here at that time. It was the
10:45:44 20 military and the hunters who were operating together.
21 Q. So, you are saying that during this period, the military
22 and the hunters did capture children under the age of 15 from the
23 rebel --
24 A. Yes, My Lord.
10:46:09 25 Q. -- groups.
26 A. Yes.
27 Q. So what happened to them after their capture?
28 A. They were brought to a certain location far away from
29 Kailahun area down to Bo.

1 Q. How soon after their capture were they brought to the point
2 in Bo? How soon after their capture?

3 A. I don't know, My Lord.

4 Q. Do you know if, however, the captured children would be
10:47:42 5 with the soldiers or the hunters for a while before they would
6 arrive at the Bo point?

7 A. I know this was a battle terrain. It could take a long
8 time or a short time, so I don't know.

9 Q. So what you are saying, in fact, is that they were not
10:48:09 10 immediately brought to the Bo point after their capture, because
11 they were in a war situation?

12 A. It would be unsafe to say immediately or not immediately.
13 I just did not know how long it took.

14 Q. Now, do you have any specific example of such captured
10:48:37 15 children? Do you have any specific example?

16 A. Those children, when government became reinstated, were
17 eventually there and they were taken over by requisite
18 authorities. So these are areas of specific examples of children
19 like that.

10:49:18 20 Q. The question was intended to see if, for instance, you have
21 any particular said named person who was one of the such captured
22 people?

23 A. Oh, yes, My Lord. I myself had some of them that I took
24 and I made arrangement and sent them to school. One of them was
10:49:50 25 brought here as a witness, but under pseudonym. The other
26 remained, and I believe he is still going to school in Pujehun.
27 Another one that I sent to the seminary in Bo has just returned
28 to Freetown and is living here, waiting for my arrangement to
29 send him back.

1 Q. Now, Mr Witness, you have just mentioned somebody whom you
2 say was one of such children, and, according to you, he had
3 become a witness here by pseudonym. I wish to send you a piece
4 of paper so you can write down the name of that person.

10:51:11 5 A. Yes, My Lord.

6 Q. We'll repeat the warning yesterday that we should avoid
7 naming witnesses who have appeared with protected measures.

8 A. Yes, My Lord. Thank you.

9 MR JABBI: My Lords, before I pose the next questions on
10:53:01 10 this person whose name has been written by the witness, may I
11 tender it so it is marked and I can refer to the exhibit number
12 in asking the questions?

13 PRESIDING JUDGE: Very well. Any comment?

14 JUDGE ITOE: Is the pseudonym there? Do you per chance
10:53:17 15 have the pseudonym? TF whatever, whatever? You don't have it?

16 MR JABBI: There is nothing like that. It is just the name
17 itself.

18 JUDGE ITOE: You yourself, do you, perchance, have that?

19 MR JABBI: I do not, My Lord.

10:53:39 20 JUDGE ITOE: You don't?

21 MR JABBI: No, My Lord.

22 PRESIDING JUDGE: So this is the name that the witness said
23 of the person that you did send to school and who came here as a
24 witness for the Prosecution, a young person?

10:53:52 25 THE WITNESS: Yes, My Lord. I had a number of them that I
26 took charge of.

27 MR JABBI:

28 Q. No, this particular one whose name you have written.

29 A. Yes.

1 PRESIDING JUDGE: This is the one that came to testify for
2 the Prosecution?

3 THE WITNESS: Yes, My Lord.

4 MR TAVENER: I don't have that person as a witness, unless
10:54:10 5 there's more to his name than the one that is listed there.

6 MR JABBI: If I may just ask one or two questions to clarify
7 that.

8 Q. Mr Witness, do you, perchance, happen to have been present
9 yourself in the Chamber when this witness gave evidence?

10:54:31 10 PRESIDING JUDGE: You mean in the Court?

11 MR JABBI: In the Court, My Lord.

12 THE WITNESS: Yes, My Lord, I personally cross-examined
13 him.

14 PRESIDING JUDGE: We do recall, we do recall.

10:54:41 15 JUDGE THOMPSON: We recall that clearly.

16 THE WITNESS: Yes.

17 JUDGE ITOE: Very clearly.

18 PRESIDING JUDGE: But what appears to be happening now, the
19 Prosecution is saying that, in spite of that, the name that is
10:54:50 20 written down does not appear to coincide with the name that they
21 have. So there might be a certain difference, whatever it may be
22 I don't know.

23 JUDGE ITOE: That is why I was asking for the pseudonym.

24 THE WITNESS: I didn't know the pseudonym.

10:55:02 25 JUDGE ITOE: I know, you are not expected to.

26 THE WITNESS: Thank you, My Lords.

27 MR MARGAI: My Lords, perhaps if the witness could assist
28 us with the month, that might give us --

29 PRESIDING JUDGE: The month that the witness testified.

1 MR MARGAI: Indeed.

2 PRESIDING JUDGE: If the witness cannot, I think the
3 Prosecution can, because they know the order of the calling of
4 their witnesses. Mr Prosecutor?

10:55:58 5 MR TAVENER: The person who I believe they are referring
6 to, though it is not under that name, testified in the second
7 session and his evidence started at around page 65 of the
8 transcript in the second session. I will just try to find the
9 page. 14th September.

10:56:26 10 PRESIDING JUDGE: 2004.

11 MR JABBI: What Prosecution number? Prosecution witness
12 number?

13 MR TAVENER: That's what I'm waiting for you to tell me.

14 JUDGE ITOE: But the Prosecution should have the number at
10:56:43 15 least, because he was a witness. You should know the order in
16 which you called him.

17 MR TAVENER: I do know the number, Your Honour. What I'm
18 trying to confirm is the person we're speaking about, the name I
19 have seen is not the name I have of the witness whom I believe we
10:56:58 20 are talking about. I want to ensure we're talking about the
21 right person, because that name is different from the name I
22 have.

23 MR JABBI: My Lords, perhaps if we can also know if
24 Prosecution had more than one child witness or child soldier
10:57:21 25 witness whilst this witness was still coming to Court?

26 PRESIDING JUDGE: Yes, but there was one specific witness
27 that I clearly recall the witness knew of, cross-examined him,
28 and asked him, "Do you remember me?"

29 THE WITNESS: "I sent you to school."

1 PRESIDING JUDGE: "I sent you to school." So there were
2 not two witnesses like that, there was one.

3 THE WITNESS: Yes, My Lord.

4 MR TAVENER: That's correct. I think the words were, "I'm
10:57:52 5 glad to see you."

6 THE WITNESS: Yes.

7 MR TAVENER: All I want to do is confirm that we are
8 talking about -- the name written is the not the name I have. I
9 can give a TF number, but the witness may be speaking about
10:58:02 10 someone else.

11 MR JABBI: My Lord --

12 MR MARGAI: Sorry, if I could be of assistance here. I
13 think we are talking of TF2-140.

14 PRESIDING JUDGE: I'm sorry, Mr Margai, you just mentioned?

10:58:25 15 MR MARGAI: I'm sure it's TF2-140, but there is a slight
16 difference in the first name. The second name is in order, but
17 the first name has a variation.

18 MR JABBI: Also, My Lord, maybe if the Prosecution could be
19 kind enough to write down the Prosecution witness number, TF
10:58:46 20 number and the name of the witness they are referring to and show
21 it to the first accused. It might help a lot if that's the
22 person he is talking about.

23 JUDGE THOMPSON: That's your job.

24 MR JABBI: Yes, indeed, My Lord.

10:58:58 25 JUDGE THOMPSON: That's not the Prosecution's job.

26 MR JABBI: Let me not say much about that.

27 JUDGE THOMPSON: Well, I don't intend to enter into a
28 debate on that.

29 PRESIDING JUDGE: Mr Jabbi, we are getting close to the

1 normal time where we break for the morning. We are going to
2 break now for 15 minutes. If you can, please discuss with your
3 colleague from the Prosecution and try to sort out the problem so
4 we can proceed when we come back.

10:59:53 5 [Break taken at 11.00 a.m.]

6 [CDF01FEB06C-SV]

7 [Upon resuming at 11.25 a.m.]

8 PRESIDING JUDGE: Dr Jabbi, have you been able to clarify
9 the issue about this particular witness.

11:28:22 10 MR JABBI: Yes, My Lord. We now have the pages of the
11 transcript referring to the cross-examination of him by the first
12 accused.

13 PRESIDING JUDGE: And what's the pseudonym of that witness?
14 Was it TF2-140?

11:28:52 15 MR JABBI: 140, My Lord.

16 PRESIDING JUDGE: So, you had given to the witness a piece
17 of paper asking him to write a name on it --

18 MR JABBI: Yes, My Lord.

19 PRESIDING JUDGE: -- and that's where we were. So there
11:29:09 20 was some dispute as to whether or not it was the same as the
21 witness with the pseudonym TF2-140. Has that been clarified now?

22 MR JABBI: Yes, My Lord. The incident in the
23 cross-examination that the witness referred to concerns TF2-140
24 and the relevant evidence was on 14th September 2004 and the
11:29:42 25 pages of the transcript covering that cross-examination, page 103
26 to 106.

27 PRESIDING JUDGE: So this is the cross-examination by the
28 witness himself?

29 MR JABBI: Yes, My Lord.

1 PRESIDING JUDGE: Mr Norman doing the cross-examination at
2 the time.

3 MR JABBI: Yes, My Lord.

4 MR TAVENER: If I might just mention, the name on the paper
11:30:13 5 is still incorrect. I don't know whether that intends to be
6 clarified -- or the paper shouldn't be tendered until the correct
7 name is there. I'm happy if the correct name is put to the
8 witness and see if he agrees with that name.

9 MR JABBI: I will do exactly that now.

11:30:30 10 PRESIDING JUDGE: Very well.

11 MR JABBI:

12 Q. Now, Mr Witness, you wrote down a name on a piece of paper
13 saying that he was a witness here and you cross-examined him and
14 that information has been checked out except that there is a
11:31:14 15 slight difference in the name. I am sending the piece of paper
16 back to you with the name of the witness as recorded in the
17 transcript corresponding exactly with your cross-examination of
18 him and please look at it.

19 A. Thank you, My Lord.

11:32:02 20 Q. Is that the same person?

21 A. The same surname and the name I used to know him for was
22 the same person under the same name that is written here who was
23 brought here as a witness, My Lord.

24 Q. The second version?

11:32:23 25 A. The second name. The first name still stands because that
26 was what I knew him for. This name was a letter that came after
27 that name between the surname and the name I have used.

28 Q. I see. So you are in fact suggesting that he carries the
29 two names which now appear on the paper as first names?

1 A. Yes, My Lord.

2 Q. Thank you.

3 PRESIDING JUDGE: So, are you tendering that as an exhibit,
4 Dr Jabbi?

11:33:06 5 MR JABBI: Yes, My Lord.

6 PRESIDING JUDGE: So we were at that stage then,
7 Mr Prosecutor, other than the comment you've made which has been
8 modified now, you have no objection?

9 MR TAVENER: That's correct, Your Honour, thank you.

11:33:19 10 PRESIDING JUDGE: Mr Margai and Mr Pestman, any comment?
11 Mr Margai?

12 MR MARGAI: No, My Lord.

13 PRESIDING JUDGE: Thank you.

14 MR JABBI: My Lord, may I now tender it, and if I may --

11:33:34 15 PRESIDING JUDGE: I think we are now at 122. Yes, this
16 will be marked as Exhibit 122.

17 MR JABBI: Yes, My Lord.

18 PRESIDING JUDGE: So you have the cross-reference on this
19 document that this is TF2-140?

11:34:24 20 MR JABBI: Yes, My Lord, and I have headed it "name of
21 former child witness referred to by first accused in testimony of
22 1st February 2006" so that there is no doubt.

23 PRESIDING JUDGE: Thank you.

24 [Exhibit No. 122 was admitted]

11:35:03 25 MR JABBI:

26 Q. Now, Mr Witness, coming back to our series of questions,
27 what did you want to tell the Court about this person whose name
28 and particulars have now been clarified?

29 A. I'm watching the pens. Yes, My Lord, he is one of those

1 children who I am caring for and who I took to my own home to
2 discourage them, as children, not to pursue war or participate in
3 war.

4 Q. Just watch the pace and the pens, please.

11:36:05 5 A. The others --

6 Q. Let's stay with this one for the moment.

7 A. Okay, My Lord.

8 Q. Now, how did you come upon this particular child?

9 A. This child was among a lot of children in an institution
11:36:45 10 known as CAW, C-A-W, Children Affected with War.

11 Q. Pace, please. Pace, please.

12 A. They were being kept in Bo Town.

13 Q. When did you first come across them?

14 A. I learnt about them before the coup.

11:37:39 15 Q. Before the coup of May '97?

16 A. Of May 25, 1997, but I did not immediately have any
17 connection with them. Some time afterwards I paid them a visit.

18 Q. Can you say the rough time when that was?

19 A. This was soon before the coup. It was about May before the
11:38:38 20 coup.

21 Q. Earlier in May?

22 A. Earlier in May. Soon after that, the coup took place.
23 When --

24 Q. Sorry, please. Did you assume responsibility for him
11:39:04 25 before the coup took place?

26 A. No, My Lord, not at all.

27 PRESIDING JUDGE: So you're describing here, Mr Norman, the
28 CAW that you visited at the time?

29 THE WITNESS: Yes.

1 PRESIDING JUDGE: And do you mean to say that the witness
2 TF2 or the exhibit -- the one whose name is on the paper, as
3 such, you saw him at that time?

4 THE WITNESS: He was among them, My Lord.

11:39:27 5 PRESIDING JUDGE: Okay.

6 THE WITNESS: And two others whom I know are still in my
7 care were all there, but I had not indicated to them that I would
8 like to be responsible for them. So when the coup took place and
9 later, after His Excellency's reinstatement, I visited Bo and
11:40:16 10 went straight to the CAW compound. They were not there.

11 MR JABBI:

12 Q. How many of them are we talking about?

13 A. Anything about 30 or so.

14 Q. You mean all the children [overlapping speakers]

11:40:38 15 A. All the children that had been --

16 Q. Were not there?

17 A. Yes, they were not there at all.

18 Q. Thank you.

19 A. I was told that they had dispersed. Sometime after that I
11:41:03 20 got information that the children had started returning to the
21 CAW home. So around June 1998 I went on a visit to Bo and
22 consequently to CAW compound in Bo, together with a senior police
23 officer in Bo, whose name I cannot now remember, and the police
24 officer told me that these children were a problem in that place;
11:42:28 25 that they were in the habit of disarming police officers even in
26 the street. I asked the police officer to drive with me to the
27 pastoral compound on Old Gerihun Road. I met a reverend father
28 and inquired about the Catholic institution's responsibility to
29 those children and asked if there was anything that we could --

1 "we" meaning myself, as the deputy defence minister and him, as
2 the reverend father, could do to assist those children so they
3 cannot go back to war so that nobody can use them for the
4 purposes of war. The reverend father told me there was nothing
11:44:35 5 he could do with the exception of just providing for them food
6 and lodging, but he was complaining to me that every time they
7 provided bedding for the boys, every month they would sell
8 everything and then go back for more. It was then that I
9 promised the reverend father that I would inform His Excellency
11:45:30 10 about these children so that government can approach some
11 organisation to assist. This was how the UNICEF was approached
12 to assist. But, because the process took long time, I decided
13 that those children should be moved from Bo to Freetown and be
14 lodged at Brookfields Hotel so that supplies to the CDF -- part
11:46:59 15 of supplies to the CDF could be used to maintain them so they
16 cannot go back to war.

17 Among them, this young man and another one requested for me
18 to help them because they did not know their parents' whereabouts
19 and they would prefer to go back to school immediately. So I
11:47:51 20 arranged with the principal of the secondary school in Pujehun,
21 which was their choice, and took their responsibility for
22 teaching expenses and feeding expenses personally. Another one
23 requested to go to the seminary in Bo --

24 Q. What was the name of that one?

11:48:32 25 A. It's Moses, I think, Joseph M Tommy. He is in town here to
26 make arrangement for his further seminary education, which I had
27 undertaken for about two years. Right up to immediately before
28 my arrest, I had sent him to the seminary and he's still being
29 cared for by me. There was another, not part of CAW, but he was

1 captured by the ECOMOG during the Freetown invasion. A young
2 one, he was about 10, called Bolo Marah, who was rescued by one
3 of my bodyguards from the ECOMOG because he had been accused of
4 killing -- shooting and killing two ECOMOG soldiers, and he was
11:50:05 5 carrying a gun he could not even lift, he was just dragging like
6 that, when he was brought. I appealed to the ECOMOG soldiers
7 that that child was a child, not responsible for what he did, and
8 he should be released to me. He was released to me. I took him
9 into the family, sent him to the military primary school in
11:50:48 10 Wilberforce and he should be sitting the BECE this year; very,
11 very clever. It took us, my wife and myself and my children, a
12 long time --

13 Q. Please watch your pace.

14 A. Thank you, My Lord -- to get that child back to normal
11:51:12 15 behaviour, but he's all right now; he's part of the family. I
16 still have not found all the parents, but I have tracked and
17 traced a relative of his in Freetown. The child is still with my
18 family. These are some of the experiences.

19 Q. Now did you have clear evidence of these children having
11:52:04 20 been actively involved in war?

21 A. They told me their stories, My Lord, yes. They told me
22 their stories. They could tell this Court if they are allowed to
23 come here.

24 JUDGE ITOE: When you say they told you their stories, did
11:52:26 25 they tell you that they had actively been involved --

26 THE WITNESS: Yes, My Lord.

27 JUDGE ITOE: -- in hostilities.

28 THE WITNESS: Yes, My Lord.

29 MR JABBI:

1 Q. So if we take the one who gave evidence here and whose name
2 was on the first paper, on what side was he involved in the
3 activities?

4 A. These are all children who were involved on the side of the
11:52:57 5 RUF.

6 Q. All three of them?

7 A. On the side of the RUF, four of them. One of them whose
8 name I cannot now recollect is still going to school in Pujehun.

9 Q. That's a fourth one?

11:53:16 10 A. Yes. This name, together with another name, I sent to
11 Pujehun, two of them. Joseph Tommy, who is here, commonly called
12 a name that I will call to you later, and this Bolo Marah. Four
13 of them.

14 Q. Why do you defer the name of Tommy, the other name?

11:53:50 15 A. The other name is -- maybe he would want to be concealed.

16 Q. Thank you. Are those children, the ones in Pujehun, still
17 actively under your responsibility?

18 A. This one on this paper sat to his final examination, and
19 may have shifted now his responsibility to the Prosecution. The
11:54:39 20 other one that is there, my wife has not informed me of late of
21 his approaches for assistance. She continued assisting him in
22 the year 2003 and 2004. But when our means of livelihood was cut
23 off by me being sacked as a minister, I have not been informed of
24 his needs.

11:55:24 25 Q. Thank you. So we move now -- now, before moving to the
26 next phase, did any of these children go back into active combat
27 at any time?

28 A. No, My Lord, they have not gone back. They are still with
29 me.

1 Q. So we move to the phase of May 1997 to March 1998.
2 JUDGE ITOE: Why don't you specify 25th May?
3 MR JABBI: 25th May; yes, My Lord.
4 Q. 25th May 1997 to --
11:57:31 5 A. 10th March.
6 Q. -- 10th March 1998. We begin with, this time, the
7 military, the army.
8 A. Yes, My Lord.
9 Q. For that period, are you aware of participation by children
11:58:08 10 under 15 years in hostilities on the side of the military?
11 A. Yes, My Lord.
12 Q. Can you explain?
13 A. Yes, My Lord. After the coup, that is starting from 25th
14 May 1997, to the reinstatement of His Excellency, the military
11:59:07 15 had become a two-group organisation. One group was AFRC and the
16 other group was the loyal forces. The AFRC had linked up with
17 the RUF, forming a people's army, and this People's Army was
18 using very young boys and girls in their midst for military
19 purposes. The loyal soldiers who were under General Khobe were
12:00:53 20 never seen with young boys and girls in their midst for services.
21 This was the situation then and the regular police that had not
22 joined the services of the AFRC government were also observed by
23 me of not having young boys and girls in their midst for services
24 or activities militarily. This was the situation regarding the
12:02:03 25 soldiers regular and police regular, My Lord.
26 Q. Now, if we may move to another group in that period.
27 A. Yes, My Lords.
28 Q. This time the associated groups, the civilians and the
29 hunters, and we take them one after the other. Can you tell the

1 Court once more what relationship you had with the civilian and
2 hunters groups over this period, you personally?

3 A. Yes, My Lord, I can.

4 Q. That is from May 25 to 10th March -- May 25, 1997 to 10th
12:03:59 5 March 1998.

6 A. Yes.

7 Q. What was your role vis-a-vis the civilian and hunters
8 groups in the war?

9 A. Immediately after the coup, starting from 25th May 1997,
12:04:26 10 and one week thereafter, I had no contact with the fighting
11 groups, either the soldier, the police or the hunters. I had
12 very scanty contact with some civilians through whose assistance
13 I managed to escape. After one week I surfaced in Guinea,
14 Conakry and started straightaway having contact with displaced
12:05:37 15 Sierra Leonean civilians.

16 Q. Where?

17 A. In Conakry. Including, eventually, my colleague ministers
18 and His Excellency the President Alhaji Ahmad Tejan Kabbah. And
19 from then on to the reinstatement of the President and return of
12:06:20 20 government on 10th March 1998, I had constant contact with
21 civilians and, among them, hunters, My Lords.

22 Q. In what status and capacity?

23 A. At that time I was the deputy defence minister, acting
24 minister of internal affairs, and later appointed national
12:07:13 25 co-ordinator, civil defence. In those capacities, My Lord.

26 Q. In those capacities, or more especially those of deputy
27 defence minister and national co-ordinator of the Civil Defence
28 Forces, were you aware of children under the age of 15 years
29 actively being involved in hostilities on the side of the Civil

1 Defence Forces?

2 A. On the side of the civilians and Civil Defence Forces, yes,
3 My Lord.

4 Q. On the side of the civilians and the Civil Defence Forces.

12:08:49 5 JUDGE ITOE: Children under 15, is that what you mean?

6 MR JABBI: Pardon, My Lord?

7 THE WITNESS: Yes, My Lord.

8 JUDGE ITOE: Were used? Is it that they were used?

9 PRESIDING JUDGE: Involved.

12:09:06 10 JUDGE ITOE: Involved or used?

11 THE WITNESS: I knew that they were involved in the
12 hostility.

13 MR JABBI:

14 Q. Now, can you say whether this phenomenon of involvement by
12:09:40 15 the category of children in question -- I will rephrase it.

16 A. Thank you, My Lord.

17 Q. Do you know when this phenomenon of involvement by the
18 relevant category of children in the civilian and civil defence
19 war effort, do you know when it commenced?

12:10:14 20 A. The children involvement?

21 Q. The involvement of the children.

22 A. Yes, My Lord.

23 Q. Yes?

24 A. This was a development after the overthrow of the
12:10:44 25 government, of the civilian government, when part of the army had
26 joined forces with the RUF, the rebels, and there were constant
27 attacks of towns and villages by the combined forces of the AFRC
28 and the RUF, My Lords.

29 Q. Now, with you as national co-ordinator of the Civil Defence

1 Forces from the beginning almost of that period, what role, if
2 any, did you play in getting such children actively participating
3 in the hostilities on the side of the Civil Defence Forces and
4 the civilians -- what role did you play in getting them involved?

12:12:57 5 A. No role. I played no role in getting the children involved
6 in the active activities of the conflict.

7 Q. How did that participation come about then?

8 A. It came about as a result of the request by government in
9 the person of His Excellency making a national broadcast and a
12:14:09 10 general request --

11 Q. Watch your pace, please.

12 A. -- for all Sierra Leoneans to assist in every way possible
13 to reinstate the democratically elected government of Sierra
14 Leone led by him, My Lords.

12:16:00 15 Q. Now, apart from that broadcast, were there any specific
16 instructions to you, as national co-ordinator, to use children
17 under the age of 15 on the side of the civilians or the hunters
18 in those hostilities?

19 A. No, My Lord. I gave -- I received no such specific
12:17:00 20 instructions and gave no such specific instructions.

21 [CDF01FEB06D - SGH]

22 Q. Did you yourself actively do anything to ensure that
23 children under that age participated actively in those
24 hostilities on the side of the civilians and the hunters?

12:17:48 25 A. No, My Lord, I did not on the side of the soldiers, the
26 police, the civilians or the hunters.

27 JUDGE ITOE: Did not do what, give instructions?

28 MR JABBI: My question was --

29 JUDGE ITOE: Yes?

1 MR JABBI: -- whether he himself actively did anything to
2 ensure that the children of that category participated in the
3 hostilities on the side of the civilians and the hunters.

4 Q. Do you know how their involvement came about, apart from
12:19:09 5 the broadcast by His Excellency the President?

6 JUDGE ITOE: Did the broadcast from the President
7 specifically say that children should be recruited?

8 MR JABBI: My Lord, he used it in one of his answers just
9 now.

12:19:24 10 JUDGE ITOE: Is this a question, because he said all Sierra
11 Leoneans, you know. I mean, I'm referring to specifics. If I am
12 asking the President, it is whether the President specifically
13 said, mentioning all Sierra Leoneans, children should be
14 recruited in the process.

12:19:49 15 MR JABBI: My understanding is that that question is
16 directed to the witness - am I correct, My Lord? - and not to me.

17 JUDGE ITOE: Well, to whoever. It is for you to --

18 THE WITNESS: I would prefer to give -- I would prefer to
19 give the answer because it is in my own interest. The call by
12:20:17 20 His Excellency to all Sierra Leoneans neither excluded nor
21 included age limitation. But His Excellency is aware, by the
22 oath of office that he took to uphold the constitution and to
23 defend the constitution of Sierra Leone, makes him aware that
24 that constitution of Sierra Leone gives every Sierra Leonean,
12:21:21 25 without age limitation, the right of self-defence.

26 JUDGE THOMPSON: That is an opinion of law, is it?

27 THE WITNESS: It is the right of the --

28 JUDGE ITOE: It sounds like a submission.

29 THE WITNESS: No, My Lord, it is an evidence.

1 JUDGE ITOE: An illegal submission.

2 THE WITNESS: Maybe pre-emptively.

3 PRESIDING JUDGE: But the question was whether the
4 President specifically instructed about that.

12:21:53 5 THE WITNESS: I would consider those requests involved in
6 specifics because he knows the constitutional right of Sierra
7 Leonean.

8 PRESIDING JUDGE: You say you understood it to mean that,
9 but he did not -- he addressed himself to all Sierra Leoneans.

12:22:10 10 THE WITNESS: Yes, My Lord; it is true. Your Lordship to
11 consider all Sierra Leoneans, meaning some and not all.

12 JUDGE THOMPSON: I will just take that answer as expressing
13 an opinion of law.

14 THE WITNESS: Thank you, My Lords. And that if such
12:22:27 15 requests were made, and consequently Sierra Leoneans under the
16 age of 15 were seen in the effort of restoring their
17 democratically -- the democratically elected government of their
18 parents and guardians, that that was the duty of all
19 Sierra Leoneans that was requested by the President of
12:23:28 20 Sierra Leone of them.

21 MR JABBI:

22 Q. However, did the President in his broadcast expressly
23 mentioned --

24 PRESIDING JUDGE: I think you have covered that question,
12:24:03 25 Dr Jabbi.

26 MR JABBI: Thank you, My Lord.

27 JUDGE ITOE: The witness has been very explicit on this
28 issue. Don't complicate it further.

29 MR JABBI: Thank you very much, My Lords.

1 THE WITNESS: Thank you, My Lords.

2 MR JABBI: I also endeavour to be sure that Your Lordships
3 have reached the point of satisfaction.

4 JUDGE ITOE: Satisfaction at this stage. We are following
12:24:19 5 the evidence.

6 MR JABBI: At this stage, My Lord. At this stage.

7 PRESIDING JUDGE: But we need not to have repetitive
8 questions and or issues.

9 MR JABBI: Indeed, My Lord. Indeed, My Lord.

12:24:35 10 Q. Now, following this broadcast by His Excellency, how did
11 the participation of children actually evolve? The broadcast is
12 one thing, but the mechanics of that particular development
13 coming about is what I am asking now.

14 A. Yes, My Lord. I am of knowledge that students of all age
12:25:35 15 description took to the streets of the various towns and the city
16 of Freetown. Various towns around the country. In
17 demonstration, requesting - to some extent violently demanding -
18 the reinstatement of the President and the restoration of
19 democracy across the country, My Lords.

12:27:08 20 Q. Did that extend to active participation in hostilities at
21 any time?

22 A. That to me was part of the active participation in the
23 hostilities.

24 Q. Now, just for the sake of clarification, do you know if
12:27:59 25 children of the category in question participated in civilian and
26 hunters' war effort before the President's broadcast in question?

27 A. My Lords, I have, I believe, consistently and persistently
28 said they participated in support of their parents and guardians.

29 MR MARGAI: My Lords, I hate to interrupt the

1 evidence-in-chief by my learned friend Dr Jabbi, but I am a bit
2 concerned about his blending the civilian and hunters'
3 participation. This seems to be confusing somehow, because
4 looking at the indictment, no civilian is indicted here. It is
12:29:14 5 the CDF or the Kamajors, as the case may be. So maybe I ought to
6 seek your guidance.

7 PRESIDING JUDGE: Maybe you would like to hear from
8 Dr Jabbi before.

9 MR JABBI: My Lord, the particular charge in question is
12:29:54 10 talking about the indicted persons enlisting children or using
11 them to participate actively in hostilities. And My Lord, one
12 wants to adopt the perspective whereby, for example, their act in
13 that respect involved children, even on the civilian side or not,
14 so that clear categories are established for the purpose of
12:30:34 15 analysis and conclusion. It is certainly possible for an
16 indicted person, whether belonging to the hunters' group or not,
17 using children in the civilian category for these purposes. And
18 one is trying to ensure that --

19 PRESIDING JUDGE: I am not sure I follow you.

12:30:50 20 MR JABBI: I am not -- pardon, My Lord?

21 PRESIDING JUDGE: I am not sure I do follow you.

22 MR JABBI: I said it is not impossible that --

23 [Trial Chamber conferred]

24 PRESIDING JUDGE: Yes, Dr Jabbi, can we hear from you
12:33:49 25 again?

26 MR JABBI: Yes, My Lord. I started by saying that the
27 charge in question merely says "enlisting children in armed
28 forces or groups or using them to participate actively in
29 hostilities". The second half, in particular, My Lord, could

1 well be construed as an allegation that the indicted persons
2 across the board used children in hostilities. It is not clear
3 whether it is confined to children being used only among the
4 hunters. It is at least similarly open-ended and if factually it
12:34:54 5 is construed as the indicted persons having possibly used
6 children on the civilian side, then it needs to be answered and
7 that is why I have adopted a wide framework, and I make
8 distinctions as I go along so that I ultimately confine it to the
9 hunters' group. I have done that in the other periods that I
12:35:22 10 have used, sometimes using the two groups together, in the end,
11 distinguishing them and confining questions to the hunters' side.

12 JUDGE THOMPSON: With the leave of the Presiding Judge, may
13 I pose one question to learned counsel Margai. Mr Margai,
14 wouldn't this, your concern, be more appropriately taken care of
12:35:53 15 in cross-examination because it would seem to me that it is here
16 opening up an extremely complicated aspect of the proceedings
17 which may well involve legal argument at this stage, unless it is
18 formulated as an objection for the Chamber to rule upon. It
19 would seem to me that a tidier way procedurally to proceed is to
12:36:18 20 deal with it under cross-examination because the Bench is
21 sensitive to the fact that counsel is putting the case for his
22 client in examination-in-chief in response to the Prosecution's
23 case. If you express this concern, which I am prepared to agree
24 may well be a legitimate concern for the sake of argument,
12:36:54 25 whether you cannot deal with it adequately and comprehensively
26 during cross-examination. Probably as your prefatory kind of
27 segment. That is my question.

28 MR MARGAI: My Lord, I appreciate that, but my concern is
29 the fact that we are dealing with a joint criminal enterprise

1 situation and if this is not addressed at this stage, there might
2 be some irreparable damage by the time I come to
3 cross-examination. My Lord, my only worry here is the prefacy
4 because, I mean, the count is very clear. The count is referring
12:37:42 5 to Civil Defence Forces, in respect of which the three accused
6 persons are here. Other than the three accused persons who are
7 here by virtue of their being members, allegedly, of the Civil
8 Defence Forces; no civilian is charged.

9 JUDGE THOMPSON: The difficulty is can this Chamber, as a
12:38:04 10 court, preclude counsel for an accused person who is seeking to
11 present a defence from making some distinctions or, in fact,
12 trying to draw possible parallels in terms of the evidence.

13 MR MARGAI: Not at all, My Lord, not at all.

14 JUDGE THOMPSON: You see that is the difficulty which I
12:38:33 15 find myself in, whether counsel should now be foreclosed from
16 making distinctions which he, as from the evidentiary perspective
17 and from the legal perspective, may well consider to be germane
18 to the defence he is presenting. Albeit, of course, not being
19 oblivious of the fact that the Bench should protect the other
12:39:00 20 accused persons from any kind of line that may well affect their
21 own rights and interests. I am very sensitive of that, but
22 unless you guide me --

23 MR MARGAI: I was merely seeking guidance, My Lord, so that
24 we confine the examination-in-chief within the confines of the
12:39:15 25 indictment.

26 PRESIDING JUDGE: If I may add to that, I fully subscribe
27 to the comments by my brother Justice Thompson, but I could also
28 direct your attention to some of the general allegations. I
29 think it is quite proper for, certainly, the first accused and

1 any other accused to deal with this matter. I will just read in
2 part paragraph 6 of the general allegations that apply,
3 obviously, to the counts per se. "The CDF was an organised armed
4 force comprising various tribally-based traditional hunters et
12:39:52 5 al." Obviously this kind of evidence that has been led is to
6 counteract these kinds of allegations. So it is obviously
7 relevant, given the way the indictment has been worded. So
8 that's why I say the grounds for this Court not to allow these
9 would be the absence of relevance. On the face of it, they
12:40:11 10 appear to be certainly relevant. I understand we may get into
11 some difficulties and your remarks will be taken into
12 consideration, but although it may seem to be confusing, as such,
13 it is obviously to try to rebut some of the allegations made by
14 the Prosecution and we think it is only fair to allow the accused
12:40:32 15 to proceed that way, bearing in mind that they are jointly
16 accused and we will have to make those differences and
17 differentiation when we get there and we will certainly rely on
18 you to make proper representation at that time and to address
19 these issues in your own cross-examination of this particular
12:40:47 20 witness.

21 MR MARGAI: I appreciate that, My Lord, but let me just
22 clarify one issue. Maybe I did not make myself clearly
23 understood. My concern is, for example, "Are you aware that
24 civilians or hunters", you know, that's the concern. But be that
12:41:10 25 as it may, I shall take the cue from the Bench.

26 PRESIDING JUDGE: We understand the position of the Defence
27 of the first accused to lump them together as such. If we do get
28 into this kind of response to your precise argument, we are
29 getting to be asking for arguments.

1 MR MARGAI: As My Lords please.
2 PRESIDING JUDGE: That's the position we take.
3 MR MARGAI: As My Lords please. I take the cue.
4 PRESIDING JUDGE: Thank you. Dr Jabbi.
12:41:28 5 MR JABBI: Thank you, My Lords. I believe my last question
6 was --
7 PRESIDING JUDGE: If the witness was aware of any child
8 taking part -- being used in hostilities prior to the President
9 making his BBC broadcast.
12:42:05 10 MR JABBI: Yes, My Lord.
11 PRESIDING JUDGE: And the answer was yes.
12 MR JABBI: He started answering that.
13 PRESIDING JUDGE: Yes.
14 MR JABBI:
12:42:16 15 Q. Are you aware whether children in that category were used
16 in the hostilities on the side of the civilians or hunters before
17 the President's broadcast?
18 A. My Lords, I have made series of statements saying that
19 people or youngsters seen by me as children were being seen by me
12:42:56 20 assisting their parents and guardians. The difference between
21 the soldier and a civilian or a civilian and a hunter is for
22 Your Lordships.
23 JUDGE ITOE: The answer I have here from the witness is
24 that "before the President's broadcast I have said that they
12:43:38 25 participated".
26 THE WITNESS: Yes.
27 JUDGE ITOE: That is what Mr Norman said.
28 MR JABBI: Yes, My Lord.
29 Q. Now, before you became national co-ordinator of the Civil

1 Defence Forces, you are saying that there were children used in
2 hostilities on the side of the civilians and hunters; not so?
3 Before you became national co-ordinator of Civil Defence Forces.

4 A. Yes, My Lord.

12:44:55 5 Q. Since your becoming national co-ordinator, did you actively
6 enlist children in an organised fighting group?

7 A. I myself as the deputy defence minister and national
8 co-ordinator never enlisted, recruited or conscripted children
9 before, during or after the conflict in Sierra Leone.

12:46:21 10 Q. Since you became national co-ordinator of the Civil Defence
11 Forces, did you use children to participate actively in the
12 hostilities on the side of the civilians or hunters?

13 A. No, My Lord, I never used children in the hostilities.

14 Q. From your becoming national co-ordinator and deputy defence
12:47:39 15 minister, did you do anything to ensure that children were not
16 used in the hostilities?

17 A. Yes, My Lord, at the appropriate time I did.

18 Q. Can you explain, please? You said at the appropriate time
19 you did?

12:48:44 20 A. Yes, My Lord.

21 Q. Can you explain that; what you mean by that?

22 A. Meaning that after the reinstatement of the government,
23 that government was approached to discourage the use of children
24 in the hostilities.

12:49:36 25 Q. By whom?

26 A. Myself. I approached the President and approached the
27 minister of defence and I approached the commander-in-chief of
28 the armed forces. That it was not within my power to stop
29 Sierra Leoneans from defending themselves for whatever reason by

1 age group. I did not have the authority of state to do that.
2 The authority of state to do such an act belonged to
3 His Excellency the President and to the Government of
4 Sierra Leone.

12:51:54 5 Q. Now, Mr Witness, at this stage I wish to remind you that
6 this wider issue came up as the result of a particular
7 information in the evidence of Nallo. But the importance of the
8 subject by itself has run into all the ramifications we have had.

9 PRESIDING JUDGE: Are you arguing with the witness?

12:52:37 10 MR JABBI: My Lord, I am not arguing. I want to put him
11 back where we were when this issue arose. Having gone into it in
12 some detail, I want to bring him back in order to continue that
13 portion of evidence from which this branched.

14 JUDGE THOMPSON: But not to cross-examine him.

12:52:50 15 MR JABBI: No, I'm not cross-examining. I was just
16 taking --

17 JUDGE THOMPSON: Or not to try to establish previous
18 consistent testimony.

19 MR JABBI: No, My Lord, that is not what I was doing at
12:53:04 20 all. I was just trying to put to him that all this trail of
21 evidence about the children arose from the evidence --

22 PRESIDING JUDGE: If that's your position, it is not true.
23 There has been evidence other than Nallo that did discuss this
24 kind of evidence.

12:53:21 25 JUDGE THOMPSON: But your examination-in-chief.

26 MR JABBI: In my examination in chief. I have not
27 completed Nallo. So I just want to take him back there.

28 JUDGE THOMPSON: It is just we are not clear about your
29 purpose. If your purpose is to establish prior consistent

1 testimony, then you come close to falling foul of the rule.

2 MR JABBI: Not at all, My Lord.

3 JUDGE THOMPSON: If the purpose is to try to raise
4 argumentative questions, again, then you --

12:53:49 5 MR JABBI: No, not at all, My Lord.

6 JUDGE THOMPSON: All right. I will restrain myself.

7 JUDGE ITOE: Going back to Nallo, do you think that if you
8 revisit Nallo we are going to be through with that piece of
9 evidence in five minutes?

12:54:09 10 PRESIDING JUDGE: I thought, though, honestly, not
11 necessarily that Nallo was finished as you call as to whether he
12 is done or not, but I thought that for the last while we have
13 been discussing child soldier issues. In fact, you did ask very
14 general questions, nothing specific to Nallo. Or you in fact
12:54:23 15 alluded to more than a few other witnesses about child soldiers.

16 But if you want to go back to Nallo to explore different issues,
17 this is -- I mean, it is your witness and you are directing the
18 examination-in-chief. We will not interfere with that. We are
19 just trying to follow the logic and the sequence of your
12:54:45 20 questions. If you are now finished with the child soldier issue,
21 you want to go back to Nallo or complete the child soldier issue
22 with Nallo's evidence, fine.

23 JUDGE THOMPSON: Perhaps we should invite -- it may be an
24 appropriate time that you advise yourself whether the line that
12:55:04 25 you want to tread is really in line with what you have covered so
26 far. That is just my random thinking.

27 MR JABBI: It is just a time factor that constrains me at
28 this moment. Maybe I should not at this moment start a new
29 trend.

1 PRESIDING JUDGE: That is fine. I think it is almost the
2 time when we normally break anyhow. So we will just -- yes,
3 Mr Pestman?

4 MR PESTMAN: Your Honours, just quickly. Is there any
12:55:55 5 indication whether a judgment will be given or an order or a
6 ruling?

7 PRESIDING JUDGE: Mr Pestman, we have told you and we will
8 not change our mind. We will do the utmost we can to deliver
9 that as soon as we can. As you know, we are in court the same
12:56:08 10 time as you are in court and therefore we need some time to look
11 into these matters. We are not prepared to rush in order to make
12 that decision. As soon as we can is still the way we want to
13 proceed with it.

14 MR PESTMAN: Thank you.

12:56:24 15 JUDGE ITOE: Mr Pestman, do you think we can forget that
16 very important issue and we are not addressing our minds to that?
17 I don't think we need to be reminded about that. We know how we
18 are proceeding. Please.

19 MR PESTMAN: It was not a reminder; that was a question.

12:56:38 20 JUDGE ITOE: It was a reminder anyway. Whether you
21 characterise it as that or not, it was a reminder and we have not
22 forgotten about that very important issue.

23 MR PESTMAN: Thank you.

24 PRESIDING JUDGE: Thank you. Court is adjourned until 9.30
12:56:51 25 tomorrow morning.

26 [Whereupon the hearing adjourned at 12.57 p.m.,
27 to be reconvened on Thursday, the 2nd day of
28 February 2006, at 9.30 a.m.]

29

EXHIBITS:

Exhibit No. 122 29

WITNESSES FOR THE DEFENCE:

WITNESS: SAMUEL HINGA NORMAN 2

EXAMINED BY MR JABBI 2