



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

THURSDAY, 05 OCTOBER 2006
9.43 A.M
TRIAL

TRIAL CHAMBER I

Before the Judges:

Bankole Thompson, Presiding
Pierre Boutet
Benjamin Mutanga Itoe

For Chambers:

Ms Roza Salibekova
Ms Anna Matas

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Joseph Kamara
Mr Mohamed Bangura
Ms Miatta Samba
Ms Lynn Hintz (Case manager)

For the accused Sam Hinga
Norman:

Dr Bu-Buakei Jabbi
Mr Alusine Sesay
Mr Kingsley Belle (legal assistant)

For the accused Moinina Fofana:

Mr Arrow Bockarie
Mr Andrew Ianuzzi
Mr Steven Powl es

For the accused Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams
Mr Ansu Lansana
Mr Martin Michael (legal
assistant)

1 [CDF05OCT06A - CR]

2 Thursday, 5 October 2006

3 [The accused present]

4 [The witness entered Court]

09:30:09 5 [Open session]

6 [Upon commencing at 9.46 a.m.]

7 PRESIDING JUDGE: Good morning, counsel. Mr Margai, I
8 reckon we can now, without any hindrance, proceed with the
9 presentation of the case of the third accused?

09:46:40 10 MR MARGAI: Good morning, My Lords. That is correct.

11 PRESIDING JUDGE: And on the understanding that the
12 completion of the presentation of the case for the second accused
13 is being held in abeyance and pending, of course, the arrival of
14 their expert witness. I also note from your latest filing, that
09:47:04 15 is a filing of yesterday's date, that your witness list is
16 reduced to 12; am I correct?

17 MR MARGAI: Yes, My Lord.

18 PRESIDING JUDGE: Including a witness in respect of whom
19 the Bench gave leave to add on the 3rd of October.

09:47:23 20 MR MARGAI: That is correct, My Lord.

21 PRESIDING JUDGE: And I also note that you intend to call
22 the witnesses in the sequential order in which they're listed.

23 MR MARGAI: Yes, My Lord.

24 PRESIDING JUDGE: Subject to unforeseen circumstances.

09:47:36 25 MR MARGAI: That is correct.

26 PRESIDING JUDGE: Which, if they do happen, you will in
27 fact, in good time, apprise the Prosecution, the Bench and the
28 members of the other Defence team.

29 MR MARGAI: That assurance is given.

1 PRESIDING JUDGE: These matters, thus being established to
2 our satisfaction, and if you're not availing yourself of your
3 Rule 84 option, we'll proceed to hear your first witness.

09:48:06 4 MR MARGAI: My learned friend, Mr Williams, will address
5 that, My Lord.

6 PRESIDING JUDGE: In what language is this witness going to
7 testify?

8 MR MARGAI: English, My Lord.

9 PRESIDING JUDGE: Let the witness be sworn.

09:48:18 10 WITNESS: Brima Tarawally [Sworn]

11 EXAMINED BY MR WILLIAMS:

12 Q. Good morning, Mr Witness.

13 A. Good morning.

09:49:13 14 Q. I'll be asking you some questions, and you will be required
15 to -- I think he's having problem with his headset.

16 PRESIDING JUDGE: Will somebody make the adjustment for
17 him, and check whether he's on the right channel, and that
18 there's no malfunctioning of the technology, please.

19 MR WILLIAMS:

09:49:54 20 Q. Good morning, Mr Witness.

21 A. Good morning.

22 Q. I'll be asking you a few questions, and you are required to
23 provide answers to those questions. You will kindly speak slowly
24 so The Lordships can take you down; is that okay?

09:50:12 25 A. I will do that.

26 Q. Thank you. Could you tell the Court your names?

27 A. I am Brima Tarawally.

28 Q. Can you spell Tarawally for the Court?

29 A. T-A-R-A-W-A-L-L-Y.

1 Q. Where do you live?

2 A. Telu, Jiama Bongor Chiefdom

3 Q. Where were you born?

4 A. Koyama Village, Jiama Bongor Chiefdom

09:51:13 5 Q. How old are you?

6 A. I'm 60 plus.

7 Q. Did you go to school?

8 A. Pardon?

9 Q. Did you go to school?

09:51:28 10 A. Yes, of course.

11 JUDGE ITOE: Where would he have learnt such good English.

12 Certainly not in Koyama.

13 MR WILLIAMS:

14 Q. Could you tell the Court where you were on the 25th of May

09:51:51 15 1997; that is, the date of the coup?

16 A. Before proceeding with any testimony in respect of the
17 statements in your possession, I had insisted, during arguments
18 and counter-arguments between yourself and I, why I was at the
19 Zulu centre, insisting that --

09:52:39 20 Q. Mr Witness, there will be a time for that --

21 A. No.

22 Q. I assured you that --

23 A. No, I insisted that --

24 PRESIDING JUDGE: Witness, witness, if you have a statement

09:52:51 25 to make to this Court prior to your testimony, you should have
26 sought leave to do that. The process of examination-in-chief
27 consists of questions and answers from your lawyer, and answers
28 to questions relating to the matters for which this Tribunal has
29 been set up. As to modalities or strategies as to what precluded

1 your coming here, this Court is not particularly interested,
2 unless there may be some possibility of some difficulties that
3 you may have had with giving your statement that may impact upon
4 the smooth running of the trial.

09:53:42 5 In this regard, counsel, is it appropriate at this point to
6 have a short stand down so you adjust any differences that may
7 exist, or appear to exist, between you and your witness -- your
8 side and the witness.

9 MR WILLIAMS: My Lord, there are no differences between the
09:54:04 10 two of us.

11 PRESIDING JUDGE: But probably miscommunication, perhaps.

12 MR WILLIAMS: No, My Lord, nothing of that nature, My Lord.
13 He expressed that in concerns to me and told him and I assured
14 him that, at the end of his testimony, I will crave the
09:54:18 15 indulgence of the Bench for him to be allowed to air those
16 concerns.

17 PRESIDING JUDGE: Out of an abundance of caution, let us --
18 no time is going to be lost if we give a five-minute stand down
19 for some understanding and accommodation to be reached on that,
09:54:35 20 rather than having to interrupt the trial with these
21 interjections. I will adjourn for a brief while.

22 MR MARGAI: My Lords, I'm sorry, just for the record --

23 PRESIDING JUDGE: Let the Prosecution --

24 MR MARGAI: -- given that the witness has been sworn and he
09:55:00 25 is a protected witness, do we have access to him to resolve --

26 PRESIDING JUDGE: You can stay here with the witness, and
27 the Prosecution be present, and the Court Management supervise
28 what's going on.

29 MR MARGAI: Thank you very much.

1 PRESIDING JUDGE: It is important. I do not intend to have
2 any technicalities stand in the way of a discovery of the truth.

3 MR MARGAI: Thank you.

4 [Break taken at 9.48 a.m.]

10:13:27 5 [Upon resuming at 10.10 a.m.]

6 PRESIDING JUDGE: Counsel, we resume the proceeding and we
7 advise that there may be an appropriate application at this
8 stage.

9 MR WILLIAMS: We have spoken with the witness and together
10:13:42 10 -- all parties involved, and we most respectfully requesting that
11 we go into closed session to hear the concerns the witness has
12 raised -- had raised with me, My Lord.

13 PRESIDING JUDGE: Very well. So both sides are agreed for
14 a closed session hearing?

10:14:04 15 MR KAMARA: Yes, My Lord.

16 PRESIDING JUDGE: Right, we'll waive the idea of a closed
17 session application being made in a closed session and assume, in
18 fact, that it has been made. Let the witness be escorted outside
19 for a while. Would the representative of victims and witness --

10:14:54 20 [The witness stood down]

21 PRESIDING JUDGE: Members of the public, we're about to go
22 into a closed session hearing to hear some very important
23 matters. This, of course, is the usual exception to the rule
24 that criminal proceedings must be conducted in open, but there
10:15:12 25 are times when the law requires that certain competing interest,
26 in terms of publicity and privacy should, in fact, be balanced.
27 In this regard, we'll ask you to retire for a while. Probably
28 about -- estimated time would be something like an hour?

29 MR WILLIAMS: Perfectly, My Lord.

1 PRESIDING JUDGE: About an hour when we'll resume Court in
2 open session and continue with the proceedings. I will now ask
3 the experts to set in place the machinery for us to move from
4 open session to closed session.

10:15:54

5 [At this point in the proceedings, a portion of the
6 transcript, pages 7 to 27, was extracted and sealed under
7 separate cover, as the proceeding was heard in a closed session]

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1 [Open session]

2 [Upon resuming at 11.50 a.m.]

3 PRESIDING JUDGE: Counsel, proceed. We'll continue with
4 the testimony of the witness. The witness is still under oath.

11:52:46

5 MR WILLIAMS:

6 Q. Mr Witness, I asked you where were you on the 25th of May,
7 1997, the date that the coup occurred.

8 A. I was in Liberia. I was in Liberia at the time of the
9 coup.

11:53:11

10 Q. What were you doing in Liberia?

11 A. I was there working.

12 Q. Thank you very much. Did you come to Sierra Leone after
13 that date?

14 A. I came to Sierra Leone after that date.

11:54:08

15 Q. Why did you have to come to Sierra Leone?

16 A. After the coup, I came to understand that the AFRC/RUF were
17 causing mayhem and atrocities in this country and I was obliged
18 to come in order to see whether my mother was safe.

19 Q. Where was your mother at that time?

11:55:18

20 A. My mother was living in Telu and she is still living there.

21 Q. Did you find her at Telu?

22 A. Pardon?

23 Q. When you came to Sierra Leone, did you find your mother at
24 Telu?

11:55:47

25 A. Yes, I did find my mother. She was living in horrible
26 conditions in hideout, called sorkoei in Mende.

27 Q. Can you spell that for the Court?

28 A. Sorkoei, S-O-R-K-O-E-I.

29 Q. And you said that means hideout?

1 A. Hi deout.

2 Q. Thank you. Did you subsequently go back to Liberia?

3 A. After assessing the situation with the CDF elements in the
4 Jiama Bongor Chiefdom as a result of shortage -- shortages of
11:57:21 5 arms and ammunition, I returned there with the intention of
6 locating and joining Chief Norman and others who were there.

7 JUDGE ITOE: Returned there; where?

8 THE WITNESS: To Monrovia, Liberia.

9 MR WILLIAMS:

11:58:18 10 Q. Did you find Chief Norman in Liberia?

11 A. Yes, I did find him at a place called Ricks Institute in
12 Virginia, outside Monrovia.

13 Q. Could you spell Ricks for the Court?

14 A. What?

11:58:33 15 Q. You said, "Ricks, in Monrovia" --

16 A. Ricks, Ricks Institute. R-I-K-S [sic], Ricks Institute.

17 Q. Did you and Chief Norman discuss anything?

18 A. Yes, I demanded from Chief Norman that the Kamajors in the
19 Jiama Bongor Chiefdom --

11:59:37 20 Q. Go on.

21 A. -- were having some difficulties in terms of the shortages
22 of arms and ammunition.

23 Q. Go on.

24 A. Accordingly, the chief told me that ECOMOG, the former West
12:00:12 25 African intervention force, which was based in Liberia --

26 Q. Go on.

27 A. -- under whose protection he, Chief Norman, and others --

28 Q. Go on.

29 A. -- could be the possible channel of assistance in that

1 direction.

2 Q. What did you request from Chief Norman that led to that
3 answer?

4 A. Pardon?

12:01:23 5 Q. What did you request of Chief Norman that led to that
6 answer?

7 A. I requested for arms and ammunition.

8 Q. And he told you ECOMOG was responsible for that?

9 A. He told me the possible channel for such request was

12:01:41 10 ECOMOG.

11 Q. Did you speak with ECOMOG on the issue?

12 A. I further demanded from him --

13 Q. From Chief Norman?

14 A. Chief Norman, that who could be the possible element --

12:02:38 15 Q. Carry on.

16 A. -- to render such assistance, inasmuch as I was not
17 familiar with those officials of ECOMOG who could be, perhaps, of
18 help to me.

19 Q. Did he provide you with names?

12:03:26 20 A. Yes.

21 Q. What did he say? What were the names that he told you --
22 mentioned to you?

23 A. He told me that the man who was in charge of logistics, to
24 assist me in that direction, was one Mustapha Lumeh.

12:03:58 25 Q. Mustapha Lumeh is the name?

26 A. Mustapha Lumeh.

27 Q. Could you spell Lumeh for the Court?

28 A. L-U-M-E-H.

29 Q. Did Mustapha Lumeh work -- was he working for ECOMOG?

1 A. Mustapha Lumeh was responsible for collecting logistics
2 from ECOMOG.

3 Q. Did you speak with Mustapha Lumeh?

4 A. I did speak with him.

12:04:50 5 Q. What did he say to you?

6 A. He told me that there were no supplies, at that time,
7 available, at that time, and that supplies recently been given
8 him to be delivered to fighting forces at Gendema had been taken
9 there.

12:05:47 10 Q. Did he tell you who gave him the ammunition that was taken
11 to Gendema?

12 A. He said ECOMOG.

13 Q. Thank you. Mr Witness, do you know Talia in the Yawbeko
14 Chiefdom?

12:06:13 15 A. Pardon?

16 Q. I said, "Do you know Talia, in the Yawbeko Chiefdom"?

17 A. I do know Talia very well.

18 Q. Did you ever go to Talia?

19 A. I was frequent there.

12:06:35 20 Q. When was the first time you went to Talia?

21 A. Do you mean the date?

22 Q. Yes.

23 A. It would be difficult for me to actually tell you when I
24 first went there by telling you the exact date.

12:07:01 25 Q. Was it after you spoke with Mustapha Lumeh in Monrovia?

26 A. Yes, it was after that.

27 Q. Was it after the coup that you went to Talia?

28 A. It was after the coup that I went to Talia.

29 Q. Can you tell the Court how you travelled from Monrovia to

1 Talia?

2 A. Not I alone, but we travelled by air.

3 Q. Travelled by air?

4 A. By helicopter.

12:07:52 5 Q. You said there were other people with you. Can you tell
6 the Court who those people were?

7 A. Well, I travelled to Talia with one Kandeh G Samai.

8 MR WILLIAMS: Samai is S-A-M-A-I, My Lords.

9 Q. Go on.

12:08:31 10 A. One Chief Vandi Soka.

11 Q. Can you spell Soka for the Court, please?

12 A. I think it's S-O-K-A or S-O-K-A-I -- I don't know.

13 Q. And who else?

14 A. There were other people whose names who I cannot recall,
12:09:14 15 but we travelled together.

16 Q. Were all of them Sierra Leoneans?

17 A. They were all Sierra Leoneans, but the pilot and other
18 security personnel, who were escorting the helicopter, were
19 foreign nationals.

12:09:44 20 Q. Did you have any military personnel on that flight?

21 A. We had the ECOMOG military personnel in full uniform.

22 Q. Do you recall the number of ECOMOG personnel that were on
23 the flight?

24 A. There were about six in number. Six, excluding the pilot
12:10:11 25 and co-pilot. There were six in number.

26 Q. Mr Witness, do you know the third accused in this matter,
27 Allieu Kondewa?

28 A. I do know him very well.

29 Q. When did you first meet Mr Kondewa?

1 A. I first met him at the time we arrived at Talia.

2 Q. You said you know the third accused very well. I mean,
3 what do you mean by that; how well do you know him?

12:11:26

4 A. Knowing somebody very well, to my understanding, somebody
5 that I can identify him in person and by name.

6 Q. Thank you. Now you said you came to Talia after the coup.
7 Do you recall when you left Talia finally?

8 A. Upon arrival there, I decided --

12:12:15

9 Q. No, Mr Witness. I mean, it's a simple question. You first
10 went to Talia immediately -- well, after the coup, right? When
11 did you finally leave? I just want the date, if you can recall?

12 A. That was in October.

13 Q. You left finally and never came back?

14 A. No, no, no. I said I was very frequent.

12:12:33

15 Q. Answer my question, Mr Witness. You came to Talia after
16 the coup on board a chopper. When did you finally leave Talia
17 and never return?

18 A. Oh, that happened in February.

19 Q. February of which year?

12:12:52

20 A. 1998.

21 Q. Thank you very much.

22 PRESIDING JUDGE: When he said he left in October would
23 that be earlier -- said he left in October. Would that
24 be October 1997?

12:13:10

25 MR WILLIAMS: My Lord, I will come to that, My Lord.

26 Q. Between your arrival and February '98, did you have cause
27 to leave Talia periodically?

28 A. Yes. Let me explain something.

29 Q. Go on.

1 A. When we arrived there in October 1997, I left from there
2 and went to Telu in the Jiama Bongor Chiefdom and I used to be
3 very frequent from Jiama Bongor Chiefdom to Talia, to and
4 through. But finally, I left Talia in February 1998.

12:14:00 5 Q. Mr Witness, on those occasions that you had to leave Talia,
6 you recall how long you would stay out of Talia before returning
7 back?

8 A. I was having a bicycle. A bicycle, a furnished bicycle
9 with gears. In time, sometime in urgent matters, I used to ride
12:14:25 10 from Telu to Talia in a day. Then returned the other day. I was
11 very frequent.

12 Q. So when you leave Talia, you would spend a day and then
13 return back to Talia?

14 A. Yes, that was the case. That was the case.

12:14:44 15 Q. Are you a member of the Kamajor society, Mr Witness?

16 A. Of course I'm a member of the Kamajor society.

17 Q. Can you recall when you were initiated?

18 A. I was initiated in the Kamajor society in December 1997.

19 Q. That was after the coup?

12:15:32 20 A. After the coup.

21 Q. And could you tell the Court who initiated you?

22 A. It was Kamoh Lahai Bangura.

23 Q. And did you have any particular reason for joining the
24 Kamajor society?

12:15:52 25 A. Yes, I had particular reasons.

26 PRESIDING JUDGE: Do you want him to spell them out?

27 MR WILLIAMS: Yes, My Lord.

28 PRESIDING JUDGE: Well, let's go on.

29 MR WILLIAMS:

1 Q. Go on. Go on, tell the Court your reasons.

2 A. Okay. My first reason for joining the Kamajor society was
3 my personal protection in order to render me invulnerable to
4 gunshots.

12:16:57 5 Q. What else?

6 A. Another reason was to ensure that my people are rendered
7 assistance and protection from chaos and anarchy, which were
8 existing in this country. My third reason was to ensure that I
9 joined forces in order to fight the enemies to restore back to
10 power the democratically elected Government of Sierra Leone.

12:18:12

11 Q. Thank you very much, Mr Witness. Thank you. Could you
12 tell the Court whether Kamoh Lahai Bangura told you the laws of
13 the Kamajor society at your initiation.

14 A. Pardon?

12:18:45

15 Q. Whether, Kamoh Lahai Bangura, at your initiation, whether
16 he told you the laws of the society?

17 A. Yes, he did.

18 Q. Can you tell the Court just one or two of those laws?

19 A. One of the most important laws attached to the Kamajor
20 society was that a member of the Kamajor society should not get
21 involved in rebel acts.

12:19:24

22 Q. What do you mean by rebel acts, or what did he mean? Did
23 he tell you what he meant by rebel acts?

24 A. By rebel acts at that time, he said one shall not carry out
25 practises that bear resemblance to those of our former enemies.

12:20:03

26 Q. And what were the practices of your former enemies?

27 A. He said one shall not kill innocent civilians; one shall
28 not loot civilians' properties.

29 Q. That would be fine, Mr Witness. Did he tell you the

1 consequences of breaching those laws?

2 A. He did tell me the consequences. He said the first
3 consequence that will arise, and definitely arise, will be the
4 initiate will be vulnerable to gunshots.

12:21:40 5 Q. And what else?

6 A. He said another consequence would be punishment for that
7 initiate, should it be established beyond all doubt, that the
8 initiate had violated, and that punishment would be carried out
9 by Kamajors themselves and other relevant authorities.

12:22:08 10 Q. Thank you very much. Mr Witness, you said you knew Kondewa
11 when you were at Talia. Can you tell the Court what he was doing
12 at Talia between October 1997 and February 1998?

13 A. Mr Kondewa, my first observation upon arrival there was
14 that he was engaged in cultural activities.

12:23:04 15 Q. What type of cultural activities?

16 A. He had a group of young men and women who used to be behind
17 him dancing by performing in tactical ways.

18 Q. Was he doing it for fun or money?

19 A. No, he was doing it in the form of pleasure.

12:23:44 20 Q. What else was he engaged in doing?

21 A. Pardon?

22 Q. What else was he doing, apart from this cultural --

23 A. From my understanding, at the time we arrived there, I mean
24 Talia, he was not engaged in any other activities, to my
12:24:17 25 knowledge.

26 Q. You said -- after your initiation, did you opt for any form
27 of military training.

28 A. Whether I opted for --

29 Q. Any form of military training.

1 A. No, my age did not permit me to do so.

2 Q. Did you observe any form of military training going on at
3 Talia between October 1997 and February 1998?

4 A. I did observe training.

12:25:40 5 Q. What form of training was it?

6 A. That training was militia training. You want to
7 distinguish military training from militia training?

8 Q. Yes - go on?

9 A. Although I am not a military man, but I have been observing
12:26:13 10 military trainings elsewhere, and the training at Talia was not
11 characteristic of that of military training because they were
12 using sticks instead of weapons.

13 Q. Was Mr Kondewa in any way connected to that militia
14 training that went on at Talia?

12:27:01 15 A. Mr Kondewa was not connected with that militia training.

16 Q. Did he have anything to do with that training that was
17 going on?

18 A. Who?

19 Q. Mr Kondewa.

12:27:19 20 A. He didn't have anything to do with that.

21 Q. Can you tell the Court who was responsible for the militia
22 training at Talia?

23 A. What I saw and whom I saw, it was one MS Dumbuya who was
24 the head of that training. Furthermore, there were other
12:28:20 25 subordinates to MS Dumbuya, but I can only remember the name of
26 one of them, and that is one Mr Mbogbah. I don't remember the
27 first name.

28 Q. Can you spell that?

29 A. Mbogbah?

1 Q. Yes.

2 A. M-B-O-G-B-A-H.

3 Q. Mr Dumbuya or Mbogbah, did they collaborate in any way with
4 Mr Kondewa, as far as the war was concerned?

12:29:19 5 A. I want to tell you that it never happen, but the fact that
6 that Mr Dumbuya, who was the head of that training, was not able
7 even to communicate with Mr Kondewa, in that he did not, or he
8 was not somebody who could speak Mende fluently, unlike
9 Mr Mbogbah.

12:29:57 10 Q. Do you know of any place at Talia called Base Zero?

11 A. There is no distinction between Base Zero and Talia. There
12 is absolutely no distinction.

13 Q. Mr Witness, do you know exactly where Mr Kondewa stayed
14 whilst he was at Talia?

12:30:36 15 A. If I know exactly --

16 Q. The house --

17 A. -- the house he was staying in?

18 Q. The house, Who owned the house, for example. Where it was
19 located?

12:30:41 20 A. Who owned the house?

21 Q. Yes.

22 A. I don't know the owner of that house.

23 Q. Mr Witness, you mentioned that you periodically left Talia
24 for --

12:31:08 25 A. Jiama Bongor.

26 Q. -- Jiama Bongor. Right. What was the reason for your
27 leaving?

28 A. I used to constantly monitor the activities of Kamajors in
29 the Jiama Bongor Chiefdom and also report on those activities to

1 appropriate authorities at Base Zero.

2 Q. Did you hold any position within the Kamajor movement or
3 the CDF movement?

4 A. Yes.

12:31:56 5 Q. What was it?

6 A. I was the chiefdom field supervisor in the CDF for the
7 Jiama Bongor Chiefdom in Bo District.

8 Q. And what were your functions as -- what were your
9 functions?

12:32:34 10 A. My functions were purely administrative in nature.

11 Q. You mentioned -- let me ask you this, Mr Witness: Was a
12 War Council formed at Talia?

13 A. Yes.

14 Q. When was that?

12:33:21 15 A. The War Council of the former CDF was formed at Base Zero,
16 some time in December 1997.

17 Q. Was Mr Kondewa a member of that War Council?

18 A. It would be difficult for me to tell whether Mr Kondewa was
19 a member of the War Council for a very important reason.

12:34:08 20 Q. What is the reason?

21 A. Mr Kondewa used to come or visit the place where members of
22 the War Council were constantly converging. So, in my opinion,
23 it would be difficult to tell whether he was a member of the War
24 Council.

12:34:50 25 JUDGE BOUTET: Can you explain that for me, please. I
26 don't understand what you mean by this.

27 THE WITNESS: Now, seeing someone visiting people, or a
28 group of people in an organisation visiting them, or being in
29 company with them, will not be conclusive evidence to indicate

1 that that person is a member of that organisation.

2 JUDGE ITOE: Mr Witness, do you know whether Mr Kondewa was
3 a member of the War Council or not?

4 THE WITNESS: Not, I do not know.

12:35:25

5 MR WILLIAMS:

6 Q. Thank you very much. Whose idea was it to form the War
7 Council, do you know?

8 A. Pardon?

9 Q. Do you know whose idea it was to form the War Council?

12:35:48

10 A. Yes.

11 Q. Tell the Court.

12 A. After the arrival of traditional authorities from various
13 locations in this country, in Base Zero, it was suggested by one
14 JW Quee to Chief Norman that they deem it extremely necessary for
15 the War Council to be established at Base Zero.

12:37:01

16 Q. Do you know the functions that the War Council performed
17 when it was finally formed?

18 A. Pardon?

19 Q. Do you know the functions the War Council performed when it
20 was finally formed?

12:37:31

21 A. The War Council at Base Zero was the highest
22 decision-making body in the CDF, and the War Council was
23 responsible for appointment as some positions in the CDF but
24 subject to the approval of the national co-ordinator, Chief
25 Norman.

12:38:43

26 Q. Mr Witness, do you know -- can you describe life at Talia
27 around that period?

28 A. Life at Talia; in what sense?

29 Q. I mean social life at Talia.

1 A. The township of Talia, which was commonly referred to as
2 Base Zero, was a place where traditional authorities were
3 functioning normally. There were also people there who were not
4 members of the CDF, including the elderly, women and children,
12:39:59 5 and we were all intermingling with one another.

6 Q. And you mentioned that the chiefdom authority was intact
7 during that period. Do you know who was the chief was at that
8 time?

9 A. I don't know the name of that chief.

12:40:52 10 JUDGE ITOE: He doesn't know the name of the chief of
11 Talia?

12 THE WITNESS: The town chief of Talia, I don't know his
13 name.

14 JUDGE ITOE: Thank you.

12:41:01 15 MR WILLIAMS:

16 Q. Did other people come to Talia from other places?

17 A. Other people?

18 Q. I mean people, they did come to -- other people, I mean
19 apart from --

12:41:14 20 A. Other people used to come to Talia from other places.

21 Q. What -- do you know the reason why they came to Talia?

22 A. Other people used to come to Talia to give information,
23 intelligent information on the war.

24 Q. Do you know Makossi?

12:42:07 25 A. Makossi?

26 Q. Yes, a place called Makossi?

27 A. Yes, I know Mokossi.

28 MR WILLIAMS: M-O-K-O-S-S-I, My Lords.

29 Q. Did Mr Kondewa carry out any initiations at Mokossi?

1 A. Yes.

2 JUDGE BOUTET: Mr Williams, I know there is no objection,
3 but I want to remind you this is your witness and you are asking
4 questioning him in chief so you are somewhat leading a lot on
12:42:33 5 some of those issues. I know some, most of them, as such, are
6 not contested and debated as such, but you are moving in an area
7 where it may be a little more slippery.

8 MR WILLIAMS: Most grateful for the advice, My Lord.

9 Q. Yes, tell the Court.

12:43:00 10 A. As I mentioned earlier, when the War Council was formed, PC
11 JW Quee, requested that they, the chiefs, the traditional chiefs
12 who had arrived, including some other people who were not members
13 of the Kamajor society, to be initiated into the Kamajor society
14 so that they can have authority over Kamajors. When this
12:43:43 15 suggestion was made, Mr Allieu Kondewa, in my own presence,
16 indicated that the chieftom authorities of Yawbeko had earlier
17 decided to suspend initiation exercises in that chieftom. And he
18 went on further to say that if the chief, Chief JW Quee, wanted
19 him to carry out initiation, he and the others interested should
12:44:57 20 prevail on chieftom authorities in order to grant him the
21 permission and authority to do so.

22 Q. Was that authority sought and given?

23 A. Pardon?

24 Q. The authority to carry out the initiation at Makossi, was
12:45:38 25 it sought and given?

26 A. The authority was given by the chieftom people upon demand
27 from the War Council.

28 Q. Mr Witness, you mentioned earlier that Mr Kondewa did not
29 have anything to do with the militia training that was going on

1 at Talia. Can you tell this Court whether Mr Kondewa had troops
2 under his command?

3 A. Mr Kondewa did not have troops under his command. He had
4 people who were responsible to assist him with his initiation
12:46:39 5 process.

6 Q. Did he control any fighting forces?

7 A. Not to my own knowledge.

8 Q. How long did -- the initiation process that Kondewa carried
9 out, how long did it last for?

12:47:28 10 A. The initiation process where; at Makossi?

11 Q. I mean generally.

12 A. Normally, initiation process last for only one or two days.
13 Normally, the Kamajor initiation process last for one or two
14 days.

12:48:09 15 Q. Did he have any business to do with those Kamajors after
16 the initiation process?

17 A. He did not have any business to do with initiates after the
18 initiation process, and not only he, any other initiator in the
19 CDF, or any other initiator was not responsible for the
12:48:45 20 activities of Kamajors after initiation.

21 Q. Do you know anything about the Death Squad, Mr Witness?

22 A. The Death Squad. Yes, I do.

23 Q. Please tell the Court.

24 A. The Death Squad comprised of Kamajors, which group was
12:49:47 25 headed by a man called Borbor Tucker, alias Jegbeyama.

26 Q. Were they in any way answerable to the third accused,
27 Mr Kondewa?

28 A. No.

29 Q. Do you know the origin of the Death Squad?

1 A. The origin of the Death Squad. I do know the origin of the
2 death squad.

3 Q. Could you tell the Court, please?

4 A. The Death Squad. I first want to tell this Court that the
12:50:50 5 name Death Squad derived from an operation which was carried out
6 by those group at the time when the AFRC decided to mount an
7 operation in areas in the Bumpe Chiefdom, which were occupied by
8 Kamajors. At that time, during the heavy encounter with the
9 AFRC/RUF and the Kamajors, the AFRC/RUF suffered heavy casualties
12:52:02 10 and therefore they were self-styled Death Squad.

11 Q. Who was self-styled the Death Squad?

12 A. They, who carried on the operation in Bumpe Chiefdom,
13 headed by Jegbeyama. That was the time that name derived.

14 Q. Do you know where they were based during the time that you
12:52:36 15 were at Talia?

16 A. Yes. The Death Squad was based at a junction on the
17 highway between Matru Jong and Bumpe, leading to a town called
18 Tisana. Tisana. Tisana is a town, a single township with two
19 chiefdoms. A single township with two chiefdoms Fanda Kamoh and
12:53:26 20 Bumpe Chiefdom.

21 Q. Can you tell the Court what were the functions of the Death
22 Squad.

23 A. Excuse me, please. I have not completed.

24 Q. Oh, sorry. Very sorry, sir.

12:53:53 25 A. The commander of the Death Squad, Borbor Tucker, alias
26 Jegbeyama, was residing in Tisana while some of his men were
27 manning a checkpoint at the junction just described.

28 Q. Please go on. Do you want to tell the Court the functions
29 of the Death Squad now.

1 A. At the time I used to be very frequent from Jiama Bongor
2 Chiefdom to Base Zero, the Death Squad, which was stationed at
3 that junction, was responsible for disarming all Kamajors,
4 incoming Kamajors from other locations travelling to Base Zero.

12:55:40 5 And, in so doing, after the surrender of such weapon, the Kamajor
6 was issued a slip to indicate that, upon return, the weapon would
7 be given back.

8 Q. Mr Witness -- is that all?

9 A. Now, when the Kamajor returns, the weapon would be given
12:56:25 10 back.

11 Q. Mr Witness, somebody came and testified on behalf of the
12 Prosecution. My Lords, I refer the Court to the evidence of
13 PW 27, TF2-008, on page 51 of the transcripts, My Lord. He said,
14 "Hinga Norman, Moinina Fofana and Allieu Kondewa formed the
12:56:53 15 executive of the Kamajor society" -- sorry, I referred My
16 Lordships to the wrong page.

17 JUDGE BOUTET: And what's the date of the transcript, if I
18 may ask, Mr Williams?

19 MR WILLIAMS: 16 November 2005, My Lord.

12:57:14 20 JUDGE BOUTET: Thank you.

21 MR WILLIAMS: On page 60 and 61, My Lords. It says,
22 "Jegbeyama was leader of the Death Squad a CDF fighting group.
23 Death Squad reported to Allieu Kondewa."

24 Q. "Death Squad reported to Allieu Kondewa;" what do you have
12:57:36 25 to say about that?

26 A. It is ridiculous. Allieu Kondewa's functions at Base Zero
27 did not relate to combat activities but, rather, to initiation
28 activities.

29 Q. Are you in a position to tell the Court who the Death Squad

1 reported to?

2 A. The Death Squad, the Death Squad and any other fighting
3 force within the CDF at the time -- we were not in control of
4 this country -- reported to the War Council.

12:58:56 5 Q. You are saying that the Death Squad and any other fighting
6 force reported to --

7 A. To the War Council.

8 Q. Thank you very much. Mr Witness, whose business was it to
9 discipline fighters that misbehaved, Kamajor fighters who
10 misbehaved?

12:59:28

11 A. Whose business or whose responsibility?

12 Q. It is one and the same, in my opinion.

13 A. The person who was responsible to discipline Kamajors or
14 fighters was one Dr Gibao. Dr Gibao was responsible for
15 disciplinary committee set-up. He was the head of the
16 disciplinary committee.

12:59:51

17 Q. Where was that committee based?

18 A. The disciplinary committee was based at Base Zero, at that
19 time.

13:00:37

20 Q. Which time was that?

21 A. That was before the intervention, from October 1997
22 to December 1997, or up to January 1997 [sic]. Just before the
23 intervention, started from that time.

24 Q. And you said that Dr Gibao was the head of the committee?

13:00:56

25 A. The committee, the disciplinary committee.

26 Q. Can you tell the Court who formed that committee, the body
27 that set up that committee?

28 A. The War Council. The War Council set up that committee.

29 Q. Did Mr Kondewa have anything to do with that body, with the

1 committee that was set up?

2 A. Mr Kondewa did not have any business to do with combatants
3 after initiation. He did not have any business to do with
4 combatants or initiates after initiation.

13:01:47 5 JUDGE ITOE: They're asking you of the disciplinary
6 committee.

7 THE WITNESS: He was not connected. The disciplinary
8 committee was a committee comprising.

9 MR WILLIAMS:

13:02:11 10 Q. Did that committee carry out its functions effectively?

11 A. You mean discipline?

12 Q. Yes.

13 A. Yes, they did carry out.

14 Q. Can you give us one or two examples?

13:02:36 15 A. There was a time, in my own presence, when two Kamajors
16 were engaged in fighting and when someone went there, a civilian,
17 who was not a member of Kamajor society or was not a member of
18 the fighting group, went there to intercept them, and one of them
19 turn against him, beat him severely. So the disciplinary
13:03:11 20 committee intervened by imposing disciplinary action which was
21 even above the one the Kamajor carried out. I saw that happen.

22 Q. I don't quite understand the last bit of your --

23 A. What I'm trying to say, two Kamajors were fighting each
24 other and somebody, a civilian, went to divide them. So one of
13:03:42 25 the Kamajors turned to the civilian and beat him. So when it was
26 reported to the disciplinary committee, that Kamajor who did the
27 act was severely punished, even more than the way he, let me say,
28 assaulted the civilian.

29 PRESIDING JUDGE: Perhaps, counsel, that is an appropriate

1 point at which we will recess for lunch.

2 JUDGE ITOE: Maybe he was coming to the close of his
3 examination-in-chief.

4 PRESIDING JUDGE: The Court will resume at 2.30 p.m.

13:04:22 5 MR WILLIAMS: Most grateful, Your Honour.

6 [Luncheon recess taken at 1 p.m.]

7 [Upon resuming at 2.52 p.m.]

8 PRESIDING JUDGE: Mr Williams, you will continue with your
9 examination-in-chief of this witness.

14:52:02 10 MR WILLIAMS: As Your Honour pleases.

11 Q. Mr Witness, before the break, you were testifying about
12 instances in which you said the war can be -- the disciplinary
13 committee carried out their functions effectively and gave one
14 example. Do you have any other example to give to the Court?

14:52:30 15 JUDGE BOUTET: Did the witness say "effectively," or he
16 just said, "it carried out its function"? I have didn't have the
17 qualification "effectively," but maybe he did.

18 THE INTERPRETER: Your Honour, the witness does not seem to
19 be getting the English version of the --

14:52:42 20 PRESIDING JUDGE: Can you find out what the difficulty
21 exists there for him? Let's try again.

22 MR WILLIAMS: My Lord, to answer Justice Boutet, I believe
23 I asked him whether they effectively carried out what they were
24 supposed to be doing.

14:53:13 25 JUDGE BOUTET: Your question, you mean?

26 MR WILLIAMS: Yes.

27 JUDGE BOUTET: That was your question and the answer was:
28 They did carry out their function.

29 MR WILLIAMS: As My Lord pleases.

1 JUDGE BOUTET: That's okay.

2 MR WILLIAMS: Thank you very much, My Lord.

3 JUDGE ITOE: But you did ask him also whether he gave one
4 instance of their effectively carrying out their functions?

14:53:33 5 MR WILLIAMS: Yes, My Lord.

6 JUDGE ITOE: Were you asking him to back it up with another
7 one?

8 MR WILLIAMS: Yes, My Lord.

9 THE WITNESS: You mean whether besides the disciplinary
14:53:44 10 action taken against that Kamajor, whether there was another
11 incident of disciplinary action. Yes, it happened at the
12 training base where the militia training was going on again, but
13 that did not involve fighting. Food was prepared for the
14 recruits and somebody who claimed to be in charge of the recruits
14:54:15 15 or maybe senior for some of them happened to seize the food;
16 thereby preventing them from eating, and what -- when that report
17 was made to the disciplinary committee at that time, action was
18 taken on that man for depriving others of their right to eat.

19 MR WILLIAMS:

14:54:47 20 Q. Do you know anybody by the name of Vanjawai?

21 A. Yes, I do know Vanjawai.

22 Q. Did you at any time, whilst you were at Base Zero, have
23 cause to face the disciplinary committee?

24 A. Let me come in, not the disciplinary committee, but the War
14:55:17 25 Council. The War Council.

26 Q. Go on.

27 A. Before elaborating on that, Vanjawai was a man who was
28 reported to the War Council by me and nobody else. And after
29 that report --

1 Q. What did you report to the war -- what did you allege that
2 he had done?

3 A. Okay, thank you. There is an important human exhibit, an
4 important human exhibit which will justify what I'm trying to say
14:56:08 5 now. Vanjawai committed atrocities.

6 PRESIDING JUDGE: Yes -- now, we just wanted you to narrate
7 the facts and then you can postulate later on.

8 JUDGE ITOE: Did you want to tender the human exhibit?

9 THE WITNESS: Yes, it would be appropriate. Not I, but by
14:56:30 10 virtue of your powers, maybe you could make that possible, but I
11 don't have the means, but I can locate where that person is.

12 MR WILLIAMS:

13 Q. Mr Witness --

14 PRESIDING JUDGE: Well, let's proceed then.

14:56:44 15 MR WILLIAMS:

16 Q. Tell the Court what report you made against Vanjawai to the
17 War Council.

18 A. Yes. Vanjawai was a commander in the Jiama Bongor
19 Chiefdom. He was authorised to reside in that chiefdom by the
14:57:19 20 chiefdom authorities.

21 JUDGE ITOE: Yes.

22 THE WITNESS: At one time, to be brief, he committed a very
23 horrible crime, but at that time, I was not present.

24 PRESIDING JUDGE: Give us details [overlapping speakers] --

14:57:53 25 THE WITNESS: [Overlapping speakers] very horrible crime.

26 PRESIDING JUDGE: Yes, you have given that
27 characterisation. Go to details.

28 THE WITNESS: Okay, he cut off one of the ears of one Foday
29 Vandy for having an affair with an illegal regime, AFRC/RUF. At

1 another time, he went with his troops, some of his troops, to a
2 town called Kponima in the Jiama Bongor Chiefdom

3 MR WILLIAMS:

4 Q. Could you spell that for the Court.

14:59:00 5 A. K-P-O-N-I-M-A, Kponima.

6 Q. Yes, go on.

7 A. And while there, the AFRC/RUF launched an attack on that
8 township while he was there. In that process, he did not, in any
9 way, defend the civilian population even though he had the means
10 to do so.

15:00:06

11 Q. So was it you that reported these two incidents to the War
12 Council?

13 A. I reported the incident to the War Council.

14 Q. And did they do anything about it?

15:00:24 15 A. The War Council decided --

16 JUDGE ITOE: Were you present at this Kponima where he
17 failed to defend the civilian population, and where you allege
18 that he had the means to do so, were you present?

19 THE WITNESS: Yes.

15:00:45 20 JUDGE ITOE: Were you present at the attack?

21 THE WITNESS: I was not present, but I was at Telu, from
22 Kponima to Kangama to Telu. So when I heard of the incident, I
23 mobilised men and we went there. We came across him, just on the
24 outskirts of the town. Here, his troop was stationed there and we
15:01:04 25 asked him "why"? So, after that exercise, someone came and
26 informed us that Vanja had betrayed them to the enemies. That is
27 how it happened.

28 MR WILLIAMS:

29 Q. You said you reported this matter to the War Council.

1 A. The War Council.

2 Q. Did they do anything about it?

3 A. The War Council decided that Vanja be executed, for two
4 reasons.

15:01:49 5 JUDGE BOUTET: Proceed. Proceed, please.

6 THE WITNESS: For failing to prevent enemy attack on
7 civilians and for carrying out acts or for committing acts which
8 were against the norms of the CDF.

9 MR WILLIAMS:

15:02:28 10 Q. You mean the sentence that was passed on Vanjawai, you said
11 it was the death penalty; right?

12 A. Death penalty.

13 Q. Was he executed?

14 A. No, he was not executed. As the War Council took the
15:02:42 15 decision, Chief Norman cautioned the War Council that even though
16 the CDF was legitimised by an act of Parliament, Parliament did
17 not make any provision to create any judicial system within the
18 CDF, thereby granting it demanded to carry out execution; that it
19 would be legal -- it would be illegal for him to accept the
15:03:37 20 position of the War Council. In his words, "I have not even been
21 ordered by ECOMOG to grant you such permission."

22 Q. Thank you, Mr Witness. Was -- did the War Council suggest
23 or impose any other form of punishment in place of the death
24 penalty for Vanjawai?

15:04:11 25 A. He was detained there, at Base Zero. Furthermore, he was
26 relieved of all his positions and was told he will never again be
27 given any responsibility in the CDF.

28 Q. And do you know anybody by the name of Kovei?

29 A. Kovei. Kovei is dead now, ever since -- I know him very

1 well.

2 MR WILLIAMS: K-O-V-E-I, My Lords.

3 THE WITNESS: K-O-V-E-I.

4 MR WILLIAMS:

15:05:18 5 Q. Did he ever -- did he at any time face the disciplinary
6 committee?

7 A. Yes, but before facing the disciplinary committee, Kovei
8 was arrested by nobody else, but I, for killing an innocent
9 civilian in the Jiama Bongor Chiefdom, by the name of Juma Jobet.

15:06:09 10 Q. Could you spell the name of the person you said was killed
11 by Kovei?

12 A. The spelling is Juma, J-U-M-A.

13 PRESIDING JUDGE: Proceed counsel.

14 JUDGE ITOE: I thought you gave the other name.

15:06:38 15 THE WITNESS: Jobet, J-O-B-E-T.

16 MR WILLIAMS:

17 Q. Yes, go on.

18 A. So when he was arrested, I travelled together with him,
19 along with the brother of the deceased, by the name of Musa
15:07:06 20 Jobet. He's still alive, the brother of the deceased, the man
21 who was killed. The brother of the man who was killed, the man
22 who did the killing, myself and some other Kamajors --

23 Q. Yes, go on.

24 A. -- travelled together and arrived at the town called
15:07:36 25 Kpetewoma in the Lugbu Chiefdom.

26 Q. Yes, go on.

27 A. Other commanders present there at that time were duly
28 informed about a situation, and in the presence of Juma Jobet's
29 brother, Musa Jobet, Kovei was severely punished to an extent

1 that, when we arrived at Base Zero, his condition was seen by the
2 War Council to be critical. Even though he managed to recover,
3 but it was rather unfortunate that after few days, he pass away.

15:09:16 4 Q. Thank you very much, Mr Witness. Were you involved in the
5 planning of the attack on Koribundu?

6 A. I was not involved directly but I know those who were
7 directly involved.

8 Q. Can you tell the Court the names of those that were
9 directly involved in that?

15:09:48 10 A. The planning of the taking of Koribundu, or the planning of
11 assault on Koribundu by the CDF was planned at Base Zero,
12 involving one Albert Nallo, IMF Kanneh, Saliji Rogers, and a man
13 who is now deceased, Vincent Gbondo.

14 Q. Mr Witness, the -- were you involved in any combat
15:11:17 15 operation to take over Koribundu?

16 A. I was involved.

17 Q. Before going into details, did -- did

18 JUDGE ITOE: He said earlier on, I hope I got him, he said
19 "I was not directly involved in the attack on Koribundu."

15:11:39 20 MR WILLIAMS: The planning.

21 PRESIDING JUDGE: In the planning. He said planning. He
22 agrees now he was involved in the actual attack; is that it?
23 Counsel?

24 MR WILLIAMS: Yes, My Lord.

15:11:49 25 PRESIDING JUDGE: Is his answer he was involved in the
26 actual attack?

27 MR WILLIAMS: Yes, My Lord.

28 PRESIDING JUDGE: Let him explain. He can expand on that.

29 [Overlapping speakers]

1 MR KAMARA: I thought he said he was not involved directly
2 in the taking of Koriundu.

3 PRESIDING JUDGE: The planning, planning.

4 JUDGE ITOE: [Overlapping speakers].

15:12:08 5 MR KAMARA: But initially, the question -- the response was
6 I was not involved directly in the taking of Koriundu.

7 PRESIDING JUDGE: I was not directly involved in the
8 planning of Koriundu. The planning of the taking of Koriundu
9 was done at Base Zero. The emphasis seemed to be on planning.
10 He said it was done by others. That was the question; wasn't it?

11 MR WILLIAMS: It was, My Lord.

12 PRESIDING JUDGE: You wanted to know whether he was
13 involved in the planning?

14 MR WILLIAMS: Yes, My Lord.

15:12:33 15 PRESIDING JUDGE: And he said, "no."

16 MR WILLIAMS: He said, "no," My Lord.

17 PRESIDING JUDGE: And then he volunteered to say he knew
18 those who were involved in the planning.

19 MR WILLIAMS: Exactly, My Lord.

15:12:43 20 PRESIDING JUDGE: At no point did he say he was involved in
21 the attack up till this point now.

22 MR KAMARA: That's all right [overlapping speakers]

23 JUDGE BOUTET: Mr Counsel, could you clarify it for me,
24 because that's what I heard, but at the same time, when he gave
15:12:55 25 the answer to your question that it was planned at Base Zero, he
26 gave a series of name. I thought that he mentioned that there
27 was Nallo, Daramy Rogers and I heard him to say, "I and Kanneh,"
28 or maybe was --

29 MR WILLIAMS: He said IMF Kanneh. Initials are IMF.

1 PRESIDING JUDGE: He said Nallo. IMF Kanneh,
2 Alhaji Rogers--

3 MR WILLIAMS: Saliji.

4 PRESIDING JUDGE: Saliji Rogers and Gbondo, now deceased.

15:13:32 5 JUDGE BOUTET: [Indiscernible] So the "I" was the initial
6 of Kanneh?

7 PRESIDING JUDGE: Yes, IMF Kanneh.

8 MR WILLIAMS: Yes, My Lord.

9 JUDGE BOUTET: That's why I asked you for clarification.

15:13:38 10 Thank you.

11 PRESIDING JUDGE: Let's proceed counsel.

12 MR WILLIAMS:

13 Q. Go on, Mr Witness. You said that you took part in the
14 actual attack of Kori bundu.

15:13:54 15 A. I did take part in the actual attack on Kori bundu for very
16 important reason. The man who led the Kamajors, by the name of
17 Joe Gassimu, alias Joe Tami dey, was led into that chiefdom by
18 nobody else but I. And he didn't know the terrain. And,
19 therefore, as a citizen of that chiefdom and as an administrative
15:15:20 20 authority of the former CDF in that chiefdom, it was necessary
21 for me to be part of the fighting forces who were in readiness to
22 confront the enemies, at that time.

23 Q. Thank you, Mr Witness. Do you know of anybody by the name
24 of Mustapha Fallon?

15:16:04 25 A. This is interesting.

26 PRESIDING JUDGE: Guide him away from these comments, you
27 know. [Overlapping speakers] I mean -- we're looking at facts.
28 This is -- guide him away from these comments because --

29 MR WILLIAMS: Restrain from --

1 A. I did not know Mustapha Fallon in person, but we got very
2 important information about Mustapha Fallon.

3 PRESIDING JUDGE: Counsel, direct him. As much as I
4 appreciate the folklore tendency here of some of these witnesses,
15:16:38 5 but, really, we are not collecting material for folklore
6 purposes, we are trying to gather the facts -- [indiscernible] so
7 as I am not discouraging him completely some of these things have
8 been with us since we were young, but just try and see if you can
9 make things easier for us.

10 MR WILLIAMS:

11 Q. Mr Witness, if you can kindly try to avoid making side
12 comments, please.

13 A. Okay.

14 Q. Please.

15:17:02 15 A. Okay, okay. Thank you, I'll avoid that.

16 Q. You said you know, you did not -- what did you say about
17 Fallon?

18 A. I did not know him personally.

19 Q. Yes. Is he still alive?

15:17:14 20 A. No.

21 Q. Do you know how he died?

22 A. He died in the hands of the AFRC/RUF, according to
23 information.

24 Q. And where did that incident take place?

15:17:37 25 A. That incident took place in Koribundu.

26 Q. Mr Witness, it is alleged by Nallo -- you have mentioned
27 that name before. I'll just tell you what he had to say about
28 that incident and I invite your comment.

29 MR WILLIAMS: I refer Your Lordships to the evidence of

1 TF2-014, 10th of March 2005, page 52 to 54 of the transcript, My
2 Lord.

3 Q. I will just tell you in brief what he said. He said, [As
4 read] the killing of Mustapha Fallon, Hinga Norman, Moinina
15:19:17 5 Fofana and Allieu Kondewa were in the Poro Bush near Talia.
6 Witness was present that Albert Nallo was present. Allieu
7 Kondewa say that Fallon was needed as a human sacrifice to
8 protect the fighters. Fallon was a Kamajor from Kati. Also
9 present were Junisa, Giama, Gibrilla, Arama Senge and two of
15:19:38 10 Fallon's brothers. The brothers pleaded but -- I'm sorry, I'm
11 sorry.

12 THE INTERPRETER: Your Honours, the counsel is reading too
13 fast for the interpreter.

14 PRESIDING JUDGE: Counsel, take the interpreter's advice.

15:19:50 15 MR WILLIAMS: Thank you very much.

16 Q. [As read] also present were Junisa, Giama, Gibrilla, Amara
17 Senge and two of Fallon's brothers. The brothers pleaded, but
18 Allieu Kondewa said when they had laid hands on somebody, he
19 would never be released. Fallon's throat was cut, we took his
15:20:13 20 parts, the other part, the male body was burnt to ash. The liver
21 was cooked with some medicine, some herbs which Chief Allieu
22 Kondewa brought out and mixed with it. All of us ate that and we
23 took an oath not to tell anyone what happened. What do you have
24 to say about that?

15:20:49 25 A. That never happened at Base Zero.

26 Q. Did this happen anywhere else?

27 A. That never happened anywhere else.

28 Q. Mr Witness, I'm going to refer you -- I'm going to refer
29 you to bits of testimony that were presented by the Prosecution

1 and I'll invite your comments. Before doing that, Mr Witness,
2 you said you were present in Talia between October '97
3 to February of '98, save for periodic visits out of Talia; is
4 that correct?

15:22:18 5 A. Yes.

6 Q. This is the evidence of TF2-005. This is the testimony of
7 15 February 2005. He was asked this question, Mr Witness -- that
8 witness was asked the following question.

9 JUDGE BOUTET: Sorry, what's the date -- February 05?

15:22:52 10 MR WILLIAMS: 15.

11 JUDGE BOUTET: 15 - 1 February?

12 MR WILLIAMS: No 15th February, My Lord.

13 JUDGE BOUTET: Well which, sorry -- thank you.

14 MR WILLIAMS:

15:22:58 15 Q. The question was this:

16 "Q. Now, you've said, 'decide where and when to go
17 to war'. Who had the responsibility for deciding --
18 planning how the war was to be fought?

19 "A. That was the duty of the national coordinator,
15:23:18 20 director of war and his deputy, director of
21 operations and his deputy and the high priest. "

22 My concern is about the high priest. The high priest --
23 person referred to as the high priest was Mr Kondewa. Did
24 Mr Kondewa plan or send troops to fight?

15:23:44 25 MR KAMARA: Objection, My Lord. That question is leading.

26 PRESIDING JUDGE: Sustained. Rephrase it.

27 MR WILLIAMS: As My Lord pleases.

28 PRESIDING JUDGE: You prefaced your question to him by
29 saying you would put these pieces of evidence to him and then

1 invite his response.

2 MR WILLIAMS: Most grateful for the assistance, My Lord.

3 Q. Yes, Mr Witness, what do you have to say about what was
4 said in relation to the high priest, Mr Kondewa?

15:24:31 5 A. Mr Kondewa, the high priest, as I said earlier on, was only
6 solely, totally committed to the initiation process, and not
7 warfare.

8 JUDGE ITOE: You can now answer the question. Did he order
9 troops?

15:24:57 10 THE WITNESS: He did not order troops.

11 MR WILLIAMS:

12 Q. Mr Witness, you have said also in chief earlier on that
13 troops or combatants that came to Talia had to leave their
14 weapons at some checkpoint. Are you in a position to tell the

15:25:27 15 Court whether any arms were in Talia?

16 A. Yes.

17 Q. Yes, go on.

18 A. Whenever the national director of logistics, Mustapha Lumeh
19 collected arms and ammunition and other logistics from ECOMOG,
15:26:00 20 there was a place, a courthouse, there was a room there meant for
21 storage of arms and ammunition.

22 Q. Thank you very much. Another question on the issue
23 ammunition: Did combatants carry -- move around with guns at
24 Talia?

15:26:25 25 A. Because the community -- no. No, anyway.

26 Q. Go on. You can explain.

27 A. Because the community comprised civilians, women, children
28 and Kamajors, it was forbidden for anyone to hold guns in that
29 townshi p.

1 PRESIDING JUDGE: Was that your question?

2 MR WILLIAMS: Yes, My Lord. It answers it.

3 PRESIDING JUDGE: Was it? It answers it?

4 MR WILLIAMS: Yes, My Lord.

15:26:56 5 PRESIDING JUDGE: In other words -- well, I'll let it rest.

6 MR WILLIAMS:

7 Q. All throughout your period at Talia, did you hear a
8 gunshot?

9 A. No.

15:27:16 10 Q. I'll refer you to the evidence of TF2-096, testified before
11 this Court on 8 November 2004. Pages 25 through to 27 of the
12 transcript, My Lord. That witness said that on one occasion she
13 saw Kondewa leading a dance troupe. There were two people in
14 front of them. Two men were in front of the dance troupe and
15:28:14 15 that, in her presence, one of them was shot by Kondewa and, the
16 following day, she saw two graves and she was told that those
17 graves bore the corpses of those two gentlemen. What do you have
18 to say about that?

19 A. That never happened.

15:28:59 20 Q. Would you have known if that had occurred?

21 A. Yes, I would have known. Not only I, but people within the
22 vicinity, because Base Zero was overcrowded, almost. So anything
23 that happened there of that nature would be made known to the
24 public.

15:29:29 25 Q. I'll also refer you to the evidence of TF2-222, testified
26 on 17 February 2005. He had this to say in answer to a question
27 by my learned friend, Mr Kamara. He said --

28 PRESIDING JUDGE: At what page?

29 MR WILLIAMS: 91, My Lord, lines 6 through 10.

1 PRESIDING JUDGE: Thank you.

2 MR WILLIAMS:

3 Q. He said, "What do you mean by an effective command and
4 control?" That was the question that came from the Prosecutor.

15:30:09 5 The witness said, "Okay, I looked at the situation fearing -- we
6 had a lot of -- everybody was a commander, everybody was a
7 commander. Even the initiators served as commanders." What do
8 you have to say about that in relation to Mr Kondewa?

9 A. Mr Kondewa was not a commander, and initiators were not
15:30:43 10 commanders.

11 Q. That same witness, on page 92, in answer to another
12 question by the Prosecutor, had this to say -- the question was
13 this:

14 "Q. Who was it then who was doing the necessary
15:31:05 15 deployment?

16 "A. There was no one individual that was in control
17 of the deployment, because I was thinking that could
18 have been the role of the Director of War. But the
19 high priest was doing his deployment. Every
15:31:25 20 commander would just say, 'Well, can we have -- to be
21 deployed in that area.' And, you know, something
22 like that. So almost anyone who could command up to
23 10 or 15 men will just think of an area, say, 'Okay,
24 we are going to deploy there.'"

15:31:46 25 But my question is this: Did Allieu Kondewa deploy troops
26 at all during the entire period, October '97 to February '98?

27 A. It did not happen.

28 Q. Did that ever happen before or subsequent to the period
29 that I mentioned?

1 A. With reference to whom?

2 Q. The high priest. I mean, Mr Kondewa.

3 A. It never happened.

4 Q. Another witness, TF2-079, testified on 26 May 2005, page 43
15:32:55 5 of the transcript. The question was this that was put to that
6 witness by the Prosecution:

7 "Q. You earlier mentioned that you were introduced
8 to Allieu Kondewa as a High Priest. What were his
9 functions at Base Zero as far as you knew?

15:33:32 10 "A. He was the High Priest. That is, he was the
11 heard of all the initiators in the CDF Sierra Leone
12 organisation, and he was initiating when we got to
13 Base Zero. He also provided logistics. He requested
14 for and provided logistics for commanders with
15:33:51 15 fighting groups -- commanders of fighting groups of
16 his own choice."

17 My first question is this: Do you know whether Mr Kondewa
18 was high priest whilst at Base Zero?

19 A. I don't know that he was high priest while at Base Zero.

15:34:16 20 Q. Secondly, did he provide logistics for any troops?

21 A. No, he didn't.

22 Q. Whose duty was it to provide logistics for troops?

23 A. It was the duty of the national director of logistics,
24 Mustapha Lumeh.

15:35:04 25 Q. Mustapha?

26 A. Lumeh.

27 Q. Thank you. I'll refer you also to the evidence of TF2-108.
28 He testified before this Court on 30 May 2005. My Lords, pages 7
29 through 17 of the records.

1 PRESIDING JUDGE: Are you going to take the entire chunk of
2 that? You'll take some samples?

3 MR WILLIAMS: Yes, My Lord. And the evidence of TF2-109,
4 he testified on 30 May 2005, pages 3 through 35.

15:36:23 5 Q. These two witnesses testified about the killings of three
6 people: Mr Jusu Shalley, J-U-S-U S-H-A-L-L-E-Y; and Baggie
7 Vai ey, B-A-G-G-I-E V-A-I-E-Y; and Lebbie, Mr Lebbie. Firstly,
8 did you know anybody by the name of Jusu Shalley at Base Zero?

9 A. No, I didn't know.

15:37:14 10 Q. Did you know anybody by the name of Baggie Vai ey at Base
11 Zero?

12 A. No, no, I didn't know.

13 Q. And Lebbie?

14 A. I didn't know, at all.

15:37:26 15 Q. It's alleged that Kamajors had killed these people at Base
16 Zero; what do you have to say about that?

17 A. I had said earlier that Base Zero was arms free. I don't
18 know by what means those people were killed.

19 JUDGE ITOE: Please, answer the question directly.

15:37:56 20 THE WITNESS: It never happened, My Lord. It did not
21 happen.

22 JUDGE ITOE: There were no weapons, you don't know how the
23 persons were ever killed. Do you need weapons to kill somebody?

24 JUDGE BOUTET: You had testified there were no weapons, as
15:38:11 25 such, not that there was no different type of instruments that
26 could be used to kill.

27 MR WILLIAMS:

28 Q. I also refer you to the evidence of TF2-188, pages 14 to
29 18. The witness said that Mr Kondewa ordered his boys to kill

1 his mother. He said, "She was killed. I was there when she was
2 killed. She was hit with a stick on her side and she
3 subsequently died." Did that incident take place at all at
4 Talia?

15:39:16 5 A. That never happened.

6 Q. Did Mr Kondewa ever go to Koribundu?

7 A. I never saw Mr Kondewa in Koribundu.

8 Q. I'll refer you to the evidence of TF2-082. He said, "Hinga
9 Norman, Moinina Fofana and Allieu Kondewa came to Koribundu to
10 collect a particular person," and later on he also said at a
11 meeting of the Koribundu court barri, Hinga Norman told the court
12 that he had sent the Kamajors. Witness did not see Moinina
13 Fofana or Allieu Kondewa at this first meeting. Did Allieu
14 Kondewa attend any meetings that were held at Koribundu?

15:40:28 15 A. It never happened.

16 JUDGE BOUTET: What never happened; that Kondewa was at any
17 meeting or there was any meeting at Koribundu? Counsel read to
18 you a portion or referred to a transcript about a meeting in
19 Koribundu and he gave you names. You said it never happened.

15:41:02 20 What never happened; the meeting or that Kondewa attended, or
21 none of that?

22 THE WITNESS: When he said Kondewa attended a meeting at
23 Koribundu, I said that never happened.

24 JUDGE BOUTET: So he never attended a meeting; that's what
15:41:30 25 you're saying? You're saying he never attended a meeting at
26 Koribundu.

27 THE WITNESS: He never attended a meeting at Koribundu, to
28 my knowledge.

29 JUDGE BOUTET: At the court barri.

1 THE WITNESS: At the court barri, to my knowledge.

2 MR WILLIAMS: My Lord, there will be no further questions
3 for this witness.

4 PRESIDING JUDGE: Thank you. Learned counsel for the first
15:42:21 5 accused, do you wish to cross-examine the witness?

6 MR SESAY: No, Your Honour.

7 PRESIDING JUDGE: Lead counsel for the second accused?

8 MR POWLES: We have been spared the need to ask this
9 witness any questions, Your Honour.

10 PRESIDING JUDGE: Very well. Mr Prosecutor, your witness.
15:42:36

11 MR KAMARA: Yes, My Lord. My Lord, before starting the
12 cross-examination, I wish to inform the Bench that matters raised
13 this morning, were pursued by us, and we seek direction from the
14 Bench whether to hand over certain documents --

15 MR MARGAI: May it please you, My Lords.
15:43:03

16 PRESIDING JUDGE: Yes, counsel.

17 MR MARGAI: The matters were addressed in closed session.

18 PRESIDING JUDGE: I think it's appropriate that we -- in
19 fact, I would probably like to say to counsel that we already
15:43:17 20 have taken this matter on advisement and would be coming out with
21 a disposition some time early next week.

22 MR KAMARA: Yes, My Lord. These were documents that would
23 help the Court in its --

24 PRESIDING JUDGE: You think so?

15:43:34 25 MR KAMARA: Yes, My Lord. And also help the Prosecution in
26 cross-examination.

27 PRESIDING JUDGE: You mean cross-examination of the
28 substantive evidence of this witness?

29 MR KAMARA: Yes, My Lord.

1 PRESIDING JUDGE: Nothing do with what was dealt with in
2 closed session.

3 MR KAMARA: Both. My Lord, there are matters that will
4 assist the Court with its decision with regards to matters raised
15:43:54 5 this morning and there are also issues -- a couple of
6 documents -- there are also issues that would go to the credit.
7 My Lord, I wouldn't want to use those matters until I've served
8 the other side and these are documents that have just come into
9 my custody.

15:44:11 10 PRESIDING JUDGE: Well, the position properly should be,
11 that if you have documents in your possession, which you intend
12 to use to cross-examine this witness on the testimony that he's
13 given in Court here today, that should be perfectly acceptable.
14 This Court cannot impose any restraints on that. But if these
15:44:36 15 matters or these documents touch and concern also what, in our
16 characterisation was a collateral matter this morning in closed
17 session, we trust, in your ingenuity to make sure that, whilst
18 attacking the substantive testimony, nothing is brought in that
19 prejudices what we might want to do in terms of disposition of
15:45:12 20 the collateral question that came out this morning.

21 MR KAMARA: As My Lord pleases.

22 PRESIDING JUDGE: Because that's the only way we can
23 proceed. We cannot impede the progress of this -- your
24 cross-examination, which you are entitled to do without undue
15:45:28 25 restraint, but, at the same time, caution you not to travel
26 unwarily into those matters which you think might prejudice the
27 disposition of the Court in respect of what we discussed in
28 closed session this morning. I know it's a very difficult thing.

29 MR KAMARA: I know, My Lord. It is difficult. I will

1 commence and if I get to a point, I will crave the indulgence of
2 the Court for an adjournment.

3 PRESIDING JUDGE: Yes. So let me also say, thinking aloud,
4 speaking for myself, that once you raise issues in documents in
15:46:10 5 your possession, which clearly go to credit, or might, in fact,
6 be useful in establishing prior inconsistencies, at the
7 appropriate time, I don't see why you cannot ask the Court to
8 receive them in evidence, if you want them to be part of this
9 exhibit, subject to any objection that may be raised.

15:46:35 10 MR KAMARA: Certainly, My Lord.

11 PRESIDING JUDGE: At this point in time, perhaps we would
12 like to take a short break and give you time to reorganise your
13 thoughts and probably get yourself organised to start your
14 cross-examination.

15:46:52 15 MR KAMARA: Thank you.

16 PRESIDING JUDGE: A short break. When I say short break, I
17 hope nobody will leave the precincts of the Court to go for some
18 repast or something.

19 MR MARGAI: My Lord, before the short break, let me just
15:47:12 20 caution here that I hope the other side would not attempt
21 pre-emptorily to bring into focus documents that were referred to
22 in closed session, otherwise we would be seeking leave of the
23 Court to have the source of those documents cross-examined by us.

24 PRESIDING JUDGE: Well, when we get to that hurdle, we'll
15:47:42 25 certainly make the appropriate judicial determination.

26 MR MARGAI: As My Lord pleases.

27 PRESIDING JUDGE: All right. We will take a short break.

28 [Break taken at 3.50 p.m.]

29 [Upon resuming at 4.05 p.m.]

1 PRESIDING JUDGE: Let the Prosecution proceed.

2 MR KAMARA: Thank you, My Lord.

3 CROSS- EXAMINED BY MR KAMARA:

4 Q. Good afternoon, Mr Tawarally.

16:08:45 5 A. Good afternoon.

6 Q. You hail from the same chiefdom as Hinga Norman, that is
7 Jiama Bongor; correct?

8 A. No.

9 Q. Where were you born, what chiefdom?

16:08:52 10 A. Jiama Bongor Chiefdom.

11 Q. That's the question I'm asking you. I said you came from
12 the same chiefdom, you hail from the same chiefdom as Chief
13 Norman, that is Jiama Bongor?

14 A. But Chief Norman does not hail from Jiama Bongor Chiefdom.

16:09:08 15 Q. All right.

16 A. Yes.

17 Q. Where does he hail from?

18 A. From Valunia Chiefdom.

19 Q. Valunia Chiefdom?

16:09:16 20 A. Yes.

21 Q. Thank you. But he was regent chief for Jiama Bongor?

22 A. Yes.

23 Q. Correct?

24 A. Yes.

16:09:23 25 Q. Thank you. And you had a very close relationship with
26 Chief Norman; am I correct?

27 A. Not very close.

28 Q. Partially close?

29 A. Partially close.

1 Q. Thank you. I take it you have known Chief Norman all your
2 life; am I correct?

3 A. Not all my life.

4 Q. The greater part of your life?

16:09:57 5 A. No.

6 Q. When did you know Chief Norman?

7 A. I only came to know Chief Norman when he became regent
8 chief of Jiama Bongor, in 1994.

9 Q. In 1994?

16:10:13 10 A. Yes.

11 Q. Since 1994, you had direct dealings with Chief Norman; is
12 that correct?

13 A. I have never had direct dealings with Chief Norman, other
14 than when he was regent chief of Jiama Bongor Chiefdom.

16:10:40 15 Q. The question is: You said he became regent chief in 1994.

16 A. Yes.

17 Q. I posed the question to you that, after he became regent
18 chief, you had direct dealings with --

19 A. Yes, yes, yes. Of course.

16:10:59 20 Q. I am not trying to confuse you.

21 A. I was thinking before.

22 Q. It's all right. I am suggesting to you, Mr Tarawally that,
23 over the course of the years, you have developed a personal
24 relationship with Mr Norman; is that correct?

16:11:28 25 A. There has been no personal relationship between myself and
26 Chief Norman.

27 Q. Mr Tarawally.

28 A. Yes.

29 Q. Are you a member of the concerned Kamajors?

1 A. I am a member of the Kamajors.

2 Q. Concerned Kamajors.

3 A. Concerned?

4 Q. Yes.

16:11:57 5 A. Which are the concerned Kamajors?

6 Q. These are Kamajors that believe in the defence of Chief

7 Norman?

8 A. Yes, I am a member.

9 Q. Thank you. And you did attend meetings summoned by

16:12:15 10 Kamajors since the year 2000.

11 A. From the year 2000?

12 Q. Since the year 2000.

13 A. I did attend meetings summoned by Kamajors.

14 Q. Thank you. And, therefore, is it correct to state that you

16:12:40 15 now have a personal interest in Chief Norman's defence?

16 A. Personal interest?

17 Q. Yes.

18 A. In Chief Norman's defence?

19 Q. Yes.

16:12:54 20 A. Yes, I do.

21 Q. Thank you. You recently granted an interview to a

22 newspaper called The News; is that not so?

23 A. The News?

24 Q. Yes, it's the name of a newspaper.

16:13:14 25 A. I was not interviewed by anyone linked with any newspaper

26 called The News.

27 Q. Take a look at this document. Mr Thomas, could you give

28 him the copy that I gave you. I'm sorry. The document you have

29 in your hand is a newspaper called The News.

1 A. Yes.

2 Q. Hang on to it.

3 A. Yes.

4 Q. Is this the first time you've seen it?

16:14:15 5 A. This is my first time seeing it.

6 Q. It was written by someone, Peter Hindolo Trye. Do you see
7 his name on the right-hand corner?

8 A. Yes, I see the name.

9 Q. Did he ask you questions regarding what he has written?

16:14:37 10 A. I have never come in contact with him.

11 Q. You never came in contact with him?

12 A. Never. I don't even know him in person.

13 Q. And you never granted an interview to him [overlapping
14 speakers] --

16:14:59 15 A. Never. Never. It has never happened.

16 Q. Thank you. That document you hold in your hands is dated
17 3rd October 2006; correct?

18 A. Yes. Tuesday, 3rd October --

19 Q. 2006.

16:15:29 20 A. -- 2006.

21 Q. And it's titled "Kamajor Supervisor joins PMDC"; is that
22 correct?

23 A. Yes.

24 Q. Mr Tarawally, that document refers to one CDF supervisor
16:15:53 25 Brima Tarawally; is that correct?

26 A. Yes.

27 MR KAMARA: My Lord, at this point, the Prosecution seeks
28 to tender the document, the newspaper article "Kamajor Supervisor
29 Joins PMDC."

1 PRESIDING JUDGE: Counsel for the third accused, what's
2 your response?

3 MR WILLIAMS: I'm opposed to the document going in, My
4 Lord, for several reasons, My Lord. This is a Court of law and
16:16:42 5 we're here to talk law and not politics. This documents speaks
6 of a Kamajor supervisor joining politics, My Lord. That does not
7 in any way have any bearing on the case before Your Lordships.
8 This is completely irrelevant. It does not go towards proving
9 any of the elements in the offences the Prosecution is seeking to
16:17:21 10 prove.

11 PRESIDING JUDGE: Yes.

12 MR WILLIAMS: There is no nexus between this document and
13 the witness, My Lord. He has clearly stated I don't know the
14 author, I've never seen him, I've never been interviewed. And,
16:17:58 15 furthermore, My Lord, this is a witness for the third accused who
16 came to testify on behalf of the third accused and not on behalf
17 of Mr Norman.

18 PRESIDING JUDGE: Yes.

19 MR WILLIAMS: My Lord, that is all I intend to say at this
16:18:23 20 stage.

21 PRESIDING JUDGE: Right. Learned counsel for the first
22 accused, do you have any --

23 MR SESAY: Yes, Your Honour. My objection, My Lord, is
24 based on the nature of the document, which, in fact, has been
16:18:39 25 shown to this witness. I recall when the Prosecutor was asking
26 the witness, he did ask him whether, in fact, he had an interview
27 in respect of the 3rd October 2006. The document he is now
28 seeking to tender before this Court is not in a form of an
29 interview. The nature of the document has not clearly been

1 defined by the Prosecutor.

2 PRESIDING JUDGE: Now, you were given the opportunity to
3 also reply because of your client's alleged reference in the
4 cross-examination that led to the document being sought to be
16:19:32 5 tendered.

6 MR SESAY: Yes, Your Honour.

7 PRESIDING JUDGE: Yes.

8 MR SESAY: Your Honour, I wish to go further than that, in
9 that it has no nexus whatsoever in relation to the first accused.
16:19:55 10 It will therefore be highly prejudicial to the case of the first
11 accused if this document were to be tendered in this Court.

12 PRESIDING JUDGE: Is that all?

13 MR SESAY: Yes, Your Honour.

14 PRESIDING JUDGE: Learned counsel for the second, any
16:20:14 15 interest in this?

16 MR POWLES: It's a fascinating article, but other than the
17 reference to the Defence team for the second accused in the first
18 paragraph, it doesn't appear this impacts on the defence for the
19 second accused in any way.

16:20:27 20 PRESIDING JUDGE: So you're --

21 MR POWLES: We have no dog in this fight, Your Honour.

22 PRESIDING JUDGE: You have no query?

23 MR POWLES: No.

24 PRESIDING JUDGE: All right. Mr Kamara, your response to
16:20:42 25 the arguments of both counsel for the first and third accused
26 persons.

27 MR KAMARA: Yes, My Lord. With regard to the third
28 accused's defence, My Lord, under Rule 89(C) the criteria for
29 admission is relevance. My Lord, this document speaks of a

1 Kamajor supervisor, and we have evidence this morning that this
2 witness that is now before the Court agrees that he was a Kamajor
3 supervisor and this document, in the question posed to the
4 witness, mentioned a Brima Tarawally, a CDF supervisor. We have
16:21:26 5 evidence before this Court that here is a Brima Tarawally, a CDF
6 supervisor.

7 The relevance of this document is clear, to my mind and I
8 believe to any other reasonable mind, that we are trying to
9 establish bias as the purpose of this document. And the fact
16:21:46 10 that the witness refuses to acknowledge this document would not
11 preclude it from it being admitted if the Bench finds it's
12 relevant for the proceedings this afternoon.

13 My Lord, the issue of nexus also, the Prosecution wishes to
14 establish the fact that the witness seated there has given
16:22:11 15 evidence to his support for the first accused, in particular, in
16 his defence, by being a member of the concerned Kamajors,
17 attending meetings. My Lord, we are seeking to establish that
18 connection that over and above the meetings he attended, certain
19 proclamations have been made, and we're trying to draw that nexus
16:22:34 20 as contained in this document. And I wouldn't have referred to
21 the contents of this document until I tendered the document. My
22 Lord, after its submission, I'll seek to lead evidence before
23 this Court to establish the actual connection between this
24 document and the evidence of this witness.

16:22:52 25 My Lord, apart from bias, it also goes to the credit of
26 this witness, and that we would seek to do as we continue the
27 cross-examination. The threshold for admission, but it is
28 relevance, and I believe the Prosecution has established that and
29 we've laid the necessary foundation.

1 PRESIDING JUDGE: On the issue of bias, as a matter of law,
2 you're saying that you're entitled to put to a witness the issue
3 of bias in cross-examination, particularly where a defence
4 witness denies he's biased in favour of the Defence? That would
16:23:32 5 be, as a matter of law, you should be able to put that question
6 to him; is that what you're saying?

7 MR KAMARA: My Lord, if I understand you, even though he
8 has denied bias, I can still put questions to him?

9 PRESIDING JUDGE: Yes. Well, that's what I'm saying, you
16:23:47 10 are entitled to do that.

11 MR KAMARA: Yes, My Lord.

12 PRESIDING JUDGE: Just in much the same way where a
13 Prosecution witness denies that he's biased in favour of the
14 Prosecution, the Defence can put a question to him on that same
16:24:00 15 basis. So, as far as the law is concerned, I have no doubt in my
16 mind that the issue of bias can properly be put.

17 MR KAMARA: Yes, My Lord.

18 PRESIDING JUDGE: The question is, to what extent, from my
19 perspective, is this document going to be of assistance to the
16:24:22 20 Court, because I remember his answer and, correct me if I am
21 wrong, he says, yes, he's a concerned citizen, interested in the
22 defence of the first accused.

23 MR KAMARA: Yes, My Lord.

24 PRESIDING JUDGE: That's a question that I just posed to
16:24:39 25 you.

26 MR KAMARA: Yes, My Lord.

27 PRESIDING JUDGE: To what extent is this document going to
28 be of assistance to the Court.

29 MR KAMARA: My Lord, that comes to the issue of weight. I

1 wouldn't go into it until it has been admitted and the threshold
2 of admission is relevance, and when it comes to the weight to be
3 attached to the document, then that is the time that that
4 question comes into play.

16:24:59 5 PRESIDING JUDGE: I see.

6 MR KAMARA: At the moment, there are issues in this
7 document, My Lord, that have so much relevance to the Court to
8 establish bias or credit or discredit this witness. I wouldn't
9 go into those at the moment until the document is --

16:25:13 10 PRESIDING JUDGE: On the question of that, isn't the answer
11 itself that I am a concerned citizen interested in the defence of
12 the first accused? Doesn't it give that evidential foundation
13 upon which a tribunal can apply its mind whether there was bias
14 or no bias?

16:25:34 15 MR KAMARA: Yes, My Lord, it does lay the foundation. That
16 is why we are moving forward beyond that as well, beyond his
17 answer.

18 PRESIDING JUDGE: Yes.

19 MR KAMARA: My Lord, that is why we are seeking to put this
16:25:46 20 in.

21 PRESIDING JUDGE: All right. Those are my questions.

22 MR KAMARA: Thank you, My Lord.

23 PRESIDING JUDGE: This is the ruling of the Bench.
24 Consistent with our principle of flexibility with regard to the
16:26:51 25 admission of evidence and the fact that this Court has always
26 functioned on the basis that even where there may be valued
27 arguments raised in respect of admissibility, yet the ultimate
28 question for the Court to determine in the process of the
29 receptivity of evidence is what weight, if any, to attach to

1 documents when they are sought to be admitted in evidence and
2 faithful to our several decisions and rulings on this particular
3 question, we will receive the document in evidence and determine
4 at the appropriate stage what, if any weight, to attach to it.
16:27:39 5 So, it will be marked Exhibit 162.

6 [Exhibit No. 162 was admitted]

7 MR KAMARA: Thank you, Your Honour.

8 Q. Mr Tarawally, you will agree with me that recently you made
9 a declaration in Bo --

16:28:05 10 JUDGE BOUTET: Mr Prosecutor, I thought the procedure is
11 always to make available to the Bench copies of --

12 PRESIDING JUDGE: Yes, that was an omission which I --

13 MR KAMARA: Yes, My Lord, I'm sorry.

14 PRESIDING JUDGE: We were shut out of that process.

16:28:17 15 MR KAMARA: [Overlapping speakers] and they took them away
16 from me.

17 JUDGE ITOE: But we're entitled to copies as well.

18 MR KAMARA: Yes, My Lord. I made seven copies, but I had a
19 personal plea from the first and third accused to oblige that.

16:28:28 20 PRESIDING JUDGE: I see.

21 MR KAMARA: That is how I got short.

22 PRESIDING JUDGE: Then of course the Bench had to suffer.

23 MR KAMARA: I'm sorry, My Lord.

24 JUDGE ITOE: I would have to say that the Bench had to be
16:28:38 25 sacrificed by the Prosecution.

26 PRESIDING JUDGE: I think you will now appreciate that,
27 notwithstanding the prejudice we suffered by not having a copy of
28 the document, we still were consistent in applying our principle,
29 not to your prejudice.

1 MR KAMARA: Thank you, My Lord. I apologise, My Lord.

2 PRESIDING JUDGE: Continue, counsel.

3 MR KAMARA: Thank you, My Lord.

4 Q. Mr Tarawally.

16:29:14 5 A. Yes.

6 Q. You made a declaration in Bo, not too long ago, that you
7 believe --

8 MR MARGAI: Your Honour, sorry, My Lords. May I appeal to
9 the Bench for copies to be made available so that we could
16:29:33 10 follow. If the Prosecution made seven copies, then the Bench
11 should have three; and, one, seven.

12 PRESIDING JUDGE: Mr Prosecutor, you will accord your
13 colleagues the reciprocity which they usually extend to you.

14 MR MARGAI: I think what he did was he served the
16:29:51 15 indictees.

16 JUDGE ITOE: They should hand them over to you.

17 PRESIDING JUDGE: They will be generous enough to let you
18 have them.

19 MR MARGAI: I have already written something on mine, so if
16:30:06 20 that could be --

21 JUDGE ITOE: I'm sure this is yours, that was given to me.
22 Is that your handwriting?

23 MR MARGAI: That is my handwriting, My Lord.

24 JUDGE ITOE: Okay.

16:30:16 25 PRESIDING JUDGE: It may be something that you didn't want
26 the Bench to see.

27 MR MARGAI: No, no.

28 PRESIDING JUDGE: All right. Let's proceed then.

29 MR KAMARA: Yes, My Lord.

1 Q. You did make a declaration in Bo recently that you believe
2 that only the Defence team of Allieu Kondewa and Moinina Fofana
3 can free Chief Hinga Norman from detention; did you not?

4 A. I didn't.

16:30:39 5 Q. You didn't say that?

6 A. No. In an interview.

7 Q. Don't qualify it.

8 A. No, repeat your question, please.

9 PRESIDING JUDGE: Well, give him a chance to answer. If he
16:30:50 10 wants to amplify on that, I think it's fair enough that he should
11 do that.

12 MR KAMARA: All right, My Lord.

13 PRESIDING JUDGE: Let him answer the question. Put the
14 question again.

16:31:01 15 MR KAMARA:

16 Q. Mr Witness, you made a declaration in Bo, not too long ago,
17 that you believed that only the defence team of Moinina Fofana
18 and Allieu Kondewa can free Chief Sam Hinga Norman from
19 detention; did you not make such a declaration?

16:31:23 20 A. No. In Bo, no.

21 Q. Did you make such a declaration elsewhere?

22 A. If I did make that declaration elsewhere?

23 Q. Yes.

24 A. Yes, I did.

16:31:36 25 PRESIDING JUDGE: That's why you needed to give him a
26 chance to answer. He wants to make a distinction here.

27 MR KAMARA:

28 Q. And where?

29 A. It was Telu, Jiama Bongor Chiefdom

1 Q. When?

2 A. Sometime in September. I can't remember the date.

3 Q. 2006, last month?

4 A. Yes, September 2006.

16:32:03 5 Q. Two weeks ago?

6 A. I cannot remember the exact date.

7 Q. All right. And you are here today, Mr Witness, giving
8 evidence to bring that belief of yours into reality; correct?

9 A. Yes, based on my understanding of the activities and what
16:32:28 10 really transpired during the war.

11 Q. Thank you. Mr Witness, I suggest to you that you are here
12 today in a political crusade, and not to volunteer the truth; is
13 that not so?

14 A. I am not here as a political crusade.

16:32:55 15 Q. In a political crusade.

16 A. No. Definitely no.

17 Q. Thank you. You gave evidence that you were in and out of
18 Base Zero between October of 1997 to some time in October of '98,
19 thereabout; is that correct?

16:33:30 20 A. No, not October. I said --

21 Q. When?

22 A. From October 1997 to February --

23 Q. Yes, February 1998.

24 A. '98.

16:33:39 25 Q. Thank you. There were times when you were not at Base
26 Zero.

27 A. I was very frequent there, I was very --

28 JUDGE ITOE: Please, answer the question. There were
29 times. Listen to the question: There were times when you were

1 not there?

2 THE WITNESS: Yes, of course.

3 MR KAMARA: Thank you, My Lord.

4 Q. Times when you were not at Base Zero, things happened at
16:34:08 5 Base Zero; right?

6 A. Yes.

7 Q. Those times you were at Telu, are you in a position to know
8 what is happening in Talia, Base Zero?

9 A. When I was at Telu?

16:34:37 10 Q. Yes, when you were at Telu?

11 A. If anything happened at Base Zero, I would not know while
12 at Telu, but when I get to Base Zero, I will know, definitely.

13 Q. Thank you. You testified this afternoon that you went to
14 Base Zero, together with one Kandeh Samai and Chief Vandy Soka;
16:35:07 15 not so?

16 A. Yes.

17 Q. You went on board a helicopter?

18 A. Yes.

19 Q. The times you were at Base Zero, did you see weapons come
16:35:19 20 via a helicopter to Base Zero?

21 A. Yes.

22 Q. Thank you. Food supplies?

23 A. Yes.

24 Q. These arms and ammunition would be stored at a particular
16:35:45 25 place; correct?

26 A. Yes.

27 Q. And where was that?

28 A. That was the court barri.

29 Q. And the second accused, Moinina Fofana, was responsible for

1 that store; is that correct?

2 PRESIDING JUDGE: Counsel, just a minute. Yes.

3 MR POWLES: Your Honour, I don't know what the witness is
4 going to say, but it is fair to say there was no evidence in
16:36:12 5 relation to the second accused during this witness's testimony in
6 chief, and no issues were explored with this witness on behalf of
7 the second accused in cross-examination. In those circumstances,
8 I would submit it's not appropriate for my learned friend for the
9 Prosecution to seek to elicit from this witness evidence in
16:36:29 10 relation to the second accused in those circumstances.

11 PRESIDING JUDGE: Counsel, what's your response?

12 MR KAMARA: My Lord, it is the Prosecution's theory of a
13 joint criminal enterprise.

14 PRESIDING JUDGE: Yes.

16:36:43 15 MR KAMARA: My Lord, we have to establish the case of the
16 Prosecution through Defence witnesses, and we are not limited to
17 any particular defence.

18 PRESIDING JUDGE: Yes. In other words, the allegations in
19 the indictment relate to three modes of alleged -- three modes of
16:37:00 20 liability.

21 MR KAMARA: Yes, My Lord.

22 PRESIDING JUDGE: I think the best we can do, in the
23 circumstances, is to allow you to continue your
24 cross-examination, guided by a sense of balance and fairness, but
16:37:13 25 assuring the Court that the Bench is quite vigilant in its
26 sensitivity to the fact that any evidence emanating from
27 witnesses called on behalf of one accused person, and which may
28 have a potential of incriminating another accused person would,
29 in fact, be examined at the appropriate time with utmost

1 circumspection, having regard to the fact that each of these
2 accused persons here is facing not just a trial as alleged
3 multiple offenders, but also that they are being tried
4 separately, and the guarantees will be applied. I want to assure
16:38:11 5 counsel that our sensitivity is at its highest.

6 MR POWLES: I'm very grateful for that, Your Honour.

7 PRESIDING JUDGE: Right. Continue.

8 MR KAMARA: Thank you, My Lord.

9 Q. Mr Witness, I suggested to you that the second accused was
16:38:30 10 in charge of the store where these items were kept. Do you agree
11 with me?

12 A. He was not in charge; he was given the key. Somebody else
13 was in charge.

14 Q. He had the keys; is that what you're telling this Court?

16:38:47 15 A. Yes, he had the keys.

16 Q. So you'll agree with me that, without him delivering the
17 keys, the stores cannot be opened?

18 A. The keys were given to him on condition by the director of
19 logistics, because the director of logistics was somebody who
16:39:11 20 hailed from Pujehun District, and he didn't know the terrain. He
21 did not know who were criminals in that area. So, therefore, he
22 gave him the keys so that in case anything was missing there, he
23 would be held responsible, because that was the place they used
24 to keep food and other logistics, including arms and ammunitions
16:39:34 25 upon arrival from [overlapping speakers] --

26 Q. Thank you, Mr Witness.

27 A. Yes.

28 Q. Are you suggesting to this Court that holding the key to
29 the store has anything to do with knowing the terrain?

1 A. Yes. What happened was --

2 Q. Yes or no. That's okay.

3 A. Repeat yourself, please.

4 MR WILLIAMS: My Lord, may I take an objection, My Lord.

16:39:54 5 PRESIDING JUDGE: What's the objection?

6 MR WILLIAMS: My learned friend is stifling the witness, My
7 Lord. His answer cannot be restricted to yes or no.

8 PRESIDING JUDGE: I think the principle of orality and also
9 fairness require that we hear the entire answer and determine
10 whether the answer is appropriate or whether it, in fact, answers
11 your question. Give him a chance to answer.

12 MR KAMARA: Thank you, My Lord.

13 PRESIDING JUDGE: The question itself is not as clear as it
14 could be, but I know exactly what you're trying to get it. Put
15 it to him again.

16 MR KAMARA: Thank you, My Lord.

17 Q. Mr Witness, are you suggesting to this Court that, to be in
18 charge of a store -- are you suggesting to this Court that
19 keeping items in a store has anything to do with knowledge of the
20 terrain?

21 A. In certain circumstances, yes. Because the township of
22 Base Zero was congested and there were so many Kamajors coming in
23 and out. Because of scarcity of food, arms and ammunition,
24 anything brought in by the national director of logistics were
25 stored there, keys handed over to the second accused, on the
26 ground that he hailed from that area, and that he understood
27 most -- I mean, many people there. So that when anything got
28 missing, he, Mustapha Lumeh, was definitely going to look up to
29 the second accused. So that was the reason, because he didn't

1 know the type of people or who were all -- I mean, people who
2 were there, like the Kamajors, whether they were criminals among
3 them, because that's where they used to store the food and arms
4 and ammunition, and even medicines.

16:42:10 5 Q. Are you suggesting now that the second accused knew the
6 criminals at Base Zero?

7 A. No, because Kamajors were coming in and out from various
8 parts of the country. So you cannot rule out the possibility of
9 criminals being among them.

16:42:27 10 Q. Thank you.

11 A. Yes.

12 Q. The second accused worked closely with Chief Norman; you
13 know that, don't you?

14 A. He did not only closely work with Chief Norman, his
16:42:43 15 function there was not restricted only to Chief Norman. He
16 worked with the War Council, he worked with Chief Norman, he
17 worked with Kamajors that used to come there and go back.

18 Q. Thank you, Mr Witness. He worked closely with Chief
19 Norman; right?

16:43:02 20 A. Now, I want you to please explain the closeness that you
21 are telling me.

22 Q. Mr Witness, Moinina Fofana was the director of war;
23 correct?

24 A. He was a director of war.

16:43:24 25 Q. Chief Sam Hinga Norman was the national co-ordinator?

26 A. Yes, he was the national co-ordinator.

27 Q. I now suggest to you that the national director of war
28 worked closely with the national co-ordinator; is that correct?

29 A. At the time we were at Base Zero.

1 Q. Yes.

2 A. At the time we were at Base Zero.

3 Q. Yes.

4 A. The national -- the director of war, who was appointed by
16:43:50 5 the War Council, was not functioning as director of war.

6 Q. That is not the question. The question -- again, I'll pose
7 it to you. Be patient. Listen to the question, okay?

8 A. Well your question has to be very short and precise.

9 PRESIDING JUDGE: No, no, you're not to guide counsel.

16:44:13 10 It's counsel who's going to try --

11 THE WITNESS: I'm sorry.

12 PRESIDING JUDGE: -- and elicit questions from you. Please
13 show counsel that courtesy. He's certainly asking questions
14 which, in his judgment, are the proper questions. When things do
16:44:32 15 not work well, we, the judges, will guide the Court.

16 THE WITNESS: Okay.

17 PRESIDING JUDGE: Please restrain yourself. Continue,
18 learned counsel.

19 MR KAMARA: Much obliged.

16:44:45 20 Q. Moinina Fofana was the national director of war; correct?

21 A. It's correct.

22 Q. Chief Sam Hinga Norman was the national co-ordinator;
23 correct?

24 A. It's correct.

16:44:57 25 Q. The national director of war worked closely with the
26 national co-ordinator; is that correct?

27 A. That's not correct.

28 Q. Mr Witness, Moinina Fofana, in his capacity as director of
29 war, settled disputes between Kamajors; is that not so?

1 A. I did not witness that.

2 Q. Thank you. Are you aware that, at one time, he settled a
3 major conflict between the Kamajors from Bumpé Chiefdom?

4 MR POWLES: Your Honours, he's already answered the
16:45:42 5 question he's not aware of that. I've already voiced my concerns
6 about a witness for the third accused being used to explore
7 issues in relation to the second accused. Given the indication
8 of Your Honours, I'm not sure it's appropriate for my learned
9 friend to continue to explore additional matters with this
16:46:00 10 witness in relation to the second accused, especially given that
11 counsel for the second accused will not have an opportunity to
12 re-examine this witness or cross-examine this witness after the
13 exploration by my learned friend for the Prosecution, and certain
14 issues are being raised for the first time through this
16:46:18 15 cross-examination which could, and I emphasise could, impact upon
16 the second accused, and he will not have an opportunity, through
17 his counsel, to explore those issues hereafter.

18 PRESIDING JUDGE: Actually, counsel what's your response to
19 this?

16:46:37 20 MR KAMARA: Thank you, My Lord. I posed the general
21 question and now I'm going to the specific. Maybe he's not aware
22 of the general question. Now I'm taking a single event that
23 might just jog his memory. I think it's proper to put that issue
24 to the witness. Also, My Lord, these are not novel issues before
16:46:54 25 the Court, the issue of the dispute between the Kamajors in Bumpé
26 is evidence before this Court. It is unfortunate that my learned
27 friend was not here; we are not responsible for that. It is not
28 a novel issue before the Court and it is not new to the Defence.
29 My Lord, I've asked the general question. It is but proper now I

1 put a specific issue to him. He can deny or accept it.

2 PRESIDING JUDGE: I'm minded to say that we -- to repeat in
3 fact what we said earlier on -- what I said earlier on on behalf
4 of the Bench at this juncture, and to allow counsel to continue
16:47:34 5 to explore this area without prejudice to any well-crafted
6 objection that you might want to formulate at some later stage if
7 you think the Bench needs to rule upon this precise issue. But,
8 at this stage, I think I will restate what I said earlier in
9 respect of the objection that you took earlier on.

16:48:11 10 MR POWLES: Your Honour, I've already raised my concerns --

11 PRESIDING JUDGE: Yes. Before I do that, my learned
12 brother Justice Boutet wants to make a point.

13 [Trial Chamber conferred]

14 JUDGE ITOE: Mr Powles, why don't you sit down, please
16:49:00 15 until Their Lordships are ready for you?

16 MR POWLES: Thank you very much.

17 [Trial Chamber conferred]

18 PRESIDING JUDGE: Mr Prosecutor, could you enlighten the
19 Bench on the precise purpose and objective of this line of
16:49:52 20 cross-examination? Much as it is conceded with, of course, the
21 necessary caution here that the accused persons stand charged
22 also in the context of joint criminal enterprise, but it is also
23 important to remember that the doctrine of fundamental fairness
24 is the overarching doctrine, and the Court has the duty to make
16:50:28 25 sure that no procedure adopted by either side unduly prejudices
26 the other party and therefore tilts the balance unevenly, in a
27 sense. So perhaps we need to be guided by you as to the precise
28 destination that you're trying to reach as you tread this part,
29 which we think is extremely delicate, and we need to be guided.

1 Let me give you the opportunity to try.

2 MR KAMARA: Thank you, My Lord. I am humble in the
3 circumstance, but I will try --

4 PRESIDING JUDGE: You shouldn't be.

16:51:11 5 MR KAMARA: My Lord, it is the Prosecution theory of a mode
6 of liability of a 6.3, My Lord, and that is there is a superior
7 subordinate relationship between the accused persons and those
8 they were commanding. My Lord, these questions go to show that
9 the ability of the second accused to settle disputes is as a
16:51:37 10 result of that superior subordinate relationship.

11 JUDGE BOUTET: If I may interrupt you, Mr Kamara, this is
12 exactly what we want to know. You are not probing the witness in
13 asking this question to challenge the credibility -- it does not
14 go to the credit and you're not trying to attack the credibility
16:51:58 15 of the witness through these questions. What you're trying to do
16 now is establish, through this evidence, some substantial support
17 for some of your positions of a joint criminal enterprise. For
18 example, this is -- and, through that, you are trying to
19 establish some liability of the second accused -- this is the
16:52:13 20 purpose of this question. This is exactly what the Presiding
21 Judge has been asking you: What is the purpose of you asking
22 this line of question? Is it simply to attack credibility or,
23 and I take it from what you're saying, it's not credibility of
24 the witness you're dealing with with these questions, but,
16:52:30 25 rather, trying to establish some liability on the part of the
26 second accused. Am I misquoting?

27 MR KAMARA: No, My Lord, we are on the same radar screen,
28 not as to discredit the witness in these questions.

29 JUDGE BOUTET: This line of questioning is not to discredit

1 but to establish some other purposes for your own case?

2 MR KAMARA: Yes, My Lord, the case of the Prosecution
3 through the defence witnesses.

4 PRESIDING JUDGE: Right. Yes, counsel.

16:52:57 5 MR POWLES: Your Honour, I need to say this: It was of
6 course open for the Prosecution during its case to call witnesses
7 to establish its case pursuant to any mode of liability, whether
8 be it JCE or pursuant to command responsibility under Article 6.3
9 of the Statute. Had the Prosecution done that, of course, the
16:53:17 10 Defence would have been given notice of what those witnesses
11 would be saying on behalf of the Prosecution and, thereafter,
12 have an opportunity to cross-examine those witnesses. Where a
13 witness is called on behalf of another accused and the
14 Prosecution seeks to elicit information from that witness, the
16:53:32 15 Defence is denied the opportunity from, first of all, having
16 notice of what that witness may or may not say in relation to
17 one's own client and, second of all, denied the opportunity to
18 cross-examine and challenge the evidence of that witness.

19 Now, of course, I note what Your Honour said earlier about
16:53:48 20 the circumspection with which such evidence will be --

21 PRESIDING JUDGE: Scrutinised.

22 MR POWLES: Scrutinised, Your Honour, exactly. However, it
23 seems to me, in those circumstances, it is not really appropriate
24 for my learned friend to seek to explore and expand upon any
16:54:06 25 issues that could impact upon any of the other accused in this
26 case. And I'll give an example in relation to the difficulties
27 that may be raised. This witness, in cross-examination, said
28 that although the second accused had the title director of war,
29 he was not active in that function. Of course, I'm not in a

1 position it explore with the witness what that means and it is
2 left entirely in the hands of the Prosecution at this stage, and
3 it was not something that was explored by my learned friend and
4 is left, in a sense, hanging in the air, eliciting only that the
16:54:41 5 second accused had such a title, but was not functioning pursuant
6 to such a title.

7 If I'm not going to be given an opportunity to expand upon
8 that and explore exactly what the witness meant by that, it is
9 unfair, in my respectful submission, for the Prosecution to be
16:54:58 10 able to open up such issues when the Defence are not able to
11 properly challenge them accordingly.

12 PRESIDING JUDGE: Gentlemen, we in fact have been keeping
13 our eyes on the clock and we have some other equally pressing
14 engagement and, at this stage, it would be appropriate for us to
16:56:01 15 bring the proceeding to a close and to come back tomorrow with
16 some appropriate ruling on the subject. We'll think about it.
17 We've heard your arguments, you know. We don't need to ask you
18 to formulate a further objection on the matter, and we'll give
19 appropriate directives tomorrow before we proceed further with
16:56:30 20 the cross-examination of the Prosecution.

21 [Whereupon the hearing adjourned at 4.55 p.m., to be
22 reconvened on Friday, the 6th day of October 2006, at
23 9.30 a.m.]

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EXHIBITS:

Exhibit No. 162

78

WITNESSES FOR THE DEFENCE:

WITNESS: Brima Tarawally

3

EXAMINED BY MR WILLIAMS

3

CROSS-EXAMINED BY MR KAMARA

69