

THE SPECIAL COURT FOR SIERRA LEONE

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

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

Friday, 11 February 2005  
9.45 a.m.  
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding  
Bankole Thompson  
Pierre Boutet

For Chambers:

Ms Roza Salibekova  
Ms Sharelle Aitchison

For the Registry:

Ms Maureen Edmonds  
Mr Geoff Walker

For the Prosecution:

Mr Raimund Sauter  
Mr Kevin Tavener  
Ms Adwoa Wiafe  
Mr Mohamed Stevens  
Ms Crispina Fynn (intern)

For the Principal Defender:

Ms Haddijatou Kah-Jallow  
Mr Ibrahim Yillah  
Mr Kingsley Belle

For the Accused Sam Hinga Norman:

Mr John Wesley Hall  
Mr Claire Da Silva

For the Accused Moinina Fofana:

Mr Arrow Bockarie  
Mr Victor Koppe  
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Charles Margai

1 [HN110205A - JM]  
2 Friday, 11 February 2005  
3 [Open session]  
4 [The accused not present]  
5 [On commencing at 9.45 a.m.]  
6 PRESIDING JUDGE: Good morning, learned counsel. We are  
7 resuming our session. And Mr Tavener.  
8 MR TAVENER: Thank you, Your Honour.  
9 PRESIDING JUDGE: Would you call your next witness, please.  
10 MR TAVENER: This is Witness TF2-015. I understand he's the  
11 41st witness. If he could be sworn.  
12 PRESIDING JUDGE: The pseudonym?  
13 MR TAVENER: TF2-015.  
14 PRESIDING JUDGE: And it's your 41st.  
15 WITNESS: TF2-015 [Sworn]  
16 [The witness answered through interpreter]  
17 EXAMINED BY MR TAVENER:  
18 Q. Mr Witness, can you hear me? I'm going to ask you some  
19 questions.  
20 A. Yes, I can hear you sir.  
21 Q. We'll go slowly, and I'm going to ask you some questions  
22 about what happened to you over a period of time.  
23 Firstly, can you tell the Court your occupation, please.  
24 JUDGE BOUTET: Mr Prosecutor, we are hardly hear you when you  
25 speak. I don't know if it's because your mic is too far  
26 away from you. But there's a problem. Let's try it  
27 again. Are you on the right channel?  
28 THE WITNESS: I'm a businessman.  
29 MR TAVENER: I may have to speak up louder. Is that better?

1 JUDGE BOUTET: Yes, much better.  
2 PRESIDING JUDGE: You may not have to strain yourself so much.  
3 MR TAVENER: Thank you.  
4 Q. And how old are you?  
5 A. I'm 35.  
6 Q. Are you married?  
7 A. No.  
8 Q. Did you attend school?  
9 A. No. Yes, I went to school but Arabic.  
10 Q. How long did you go to school?  
11 A. Well, I took eight years there.  
12 Q. Where do you live now?  
13 A. I live in Freetown.  
14 Q. When you're not in Freetown, where do you live?  
15 A. I used to live in Kenema.  
16 Q. Have you lived anywhere else besides Kenema?  
17 A. Yes, in Tongo.  
18 Q. When did you live in Tongo?  
19 PRESIDING JUDGE: Mr Tavener, you're going very, very fast.  
20 Please.  
21 MR TAVENER: Thank you.  
22 Q. When did you live in Tongo?  
23 A. I lived in Tongo before the war enter there.  
24 Q. Do you recall the coup against the Kabbah government?  
25 A. Yes.  
26 Q. Were you living in Tongo then?  
27 A. I was in Kenema.  
28 Q. How long had you lived in Kenema at that time?  
29 A. It was there I grown up.

- 1 Q. You said you lived in Tongo for some time?
- 2 A. Yes, it was there I used to do business.
- 3 Q. Did you say that you were there when the war came to  
4 Tongo?
- 5 A. Yes.
- 6 Q. What do you mean the war came to Tongo?
- 7 A. It was there it met me, and it was there I used to carry  
8 on business.
- 9 Q. When you lived in Tongo, who was in charge of Tongo?
- 10 A. Which ones?
- 11 Q. Yes. I'll start again. When you lived in Tongo, were  
12 there soldiers in Tongo?
- 13 A. There were soldiers there during the time.
- 14 Q. Okay. Were they in charge of Tongo?
- 15 A. Yes.
- 16 Q. Did the soldiers remain in charge of Tongo?
- 17 A. Yes.
- 18 Q. Did the soldiers stay in Tongo the entire time that you  
19 were in Tongo?
- 20 A. They were there.
- 21 Q. Did any other groups come to Tongo?
- 22 A. It was the soldiers that they were there during that  
23 time.
- 24 Q. Have you heard of the expression cyborg, C-Y-B-O-R-G?
- 25 A. Yes.
- 26 Q. What does that mean to you?
- 27 A. Cyborg, they said they were Cyborg. They came to Tongo,  
28 and they were in charge of Tongo.
- 29 PRESIDING JUDGE: Mr Tavener, spell Cyborg.

- 1 MR TAVENER: C-Y-B-O-R-G, Cyborg.
- 2 JUDGE THOMPSON: B-O-R-G?
- 3 MR TAVENER: B-O-R-G.
- 4 JUDGE THOMPSON: Cyborg.
- 5 MR TAVENER: Yes.
- 6 Q. When you say they said they were Cyborg, what do you  
7 mean? Who said that?
- 8 A. It was the guy that came to Tongo. They said they were  
9 the Cyborg.
- 10 Q. And who were they?
- 11 A. The rebels.
- 12 Q. Do you know when the rebels came to Tongo?
- 13 A. It was there they met us. It was there they met us in  
14 Tongo.
- 15 Q. When the rebels came to Tongo, were the soldiers still  
16 there?
- 17 A. The soldiers? Yes, they were there.
- 18 Q. When the rebels came to Tongo, did the soldiers stay in  
19 Tongo?
- 20 A. Some ran away. Some stayed with them.
- 21 Q. How long did the rebels stay in Tongo?
- 22 A. When the rebels were in Tongo I cannot remember, but they  
23 stayed there for some time.
- 24 Q. Did the rebels leave Tongo?
- 25 A. No. They captured Tongo.
- 26 Q. Did another group come to Tongo later?
- 27 A. Yes.
- 28 Q. Who were they?
- 29 A. Kamajors.

- 1 Q. Do you remember when the Kamajors came to Tongo?
- 2 A. Yes.
- 3 Q. Do you know what month or year the Kamajors came to  
4 Tongo?
- 5 A. I cannot remember. I cannot remember the day they came  
6 to Tongo.
- 7 Q. Had you seen Kamajors before they came to Tongo on that  
8 occasion?
- 9 A. One day.
- 10 Q. I'm now going to ask you about --
- 11 PRESIDING JUDGE: What does that mean?
- 12 JUDGE THOMPSON: It means never. Never.
- 13 PRESIDING JUDGE: One day.
- 14 JUDGE THOMPSON: Yes.
- 15 PRESIDING JUDGE: I'm sure my Krio vocabulary will be quite  
16 large by the time I leave. One day, okay.
- 17 MR TAVENER:
- 18 Q. Mr Witness, we'll now speak about the time that the  
19 Kamajors came to Tongo, okay? What were you doing that  
20 day?
- 21 A. I was carrying on business, doing business.
- 22 Q. Where did you carry on that business?
- 23 A. I was a hawker trader, moving one place to another,  
24 everywhere, around the vicinity of Tongo.
- 25 Q. When the Kamajors came into -- came to Tongo, did the  
26 rebels stay in Tongo?
- 27 A. It was on Wednesday they entered, five o'clock, rebels  
28 were there.
- 29 Q. Was there fighting between the rebels and the Kamajors?

- 1 A. No.
- 2 Q. Where were you when you saw the Kamajors for the first  
3 time?
- 4 A. I was in Wema [phon]. After I had worked and came back  
5 to Wema I was there, I was in Wema. They came there,  
6 they came and attacked.
- 7 Q. Did you stay there?
- 8 A. I did not stay because they fired everywhere. The  
9 Kamajors emerged from all directions in Tongo.
- 10 Q. Did anything happen to you at that time?
- 11 A. Yes.
- 12 Q. What happened?
- 13 A. We ran. We went to the headquarters because they were  
14 firing everywhere. A lot of us were running. Amongst us  
15 were women, and bullets hit three women, and I also was  
16 shot. The bullet pierced my stomach. I ran. I took my  
17 clothes and tied myself up, and I ran to the  
18 headquarters. I stayed at the headquarters.
- 19 PRESIDING JUDGE: He said he was also shot in the stomach and  
20 he tied?
- 21 MR TAVENER: Himself up.
- 22 Q. Why did you tie yourself up?
- 23 A. Blood was spilling from me everywhere.
- 24 Q. Whereabouts was the blood coming from?
- 25 A. From my stomach, down to my feet, all my body, my hands.  
26 I have the mark there.
- 27 Q. Where did you run to?
- 28 A. To the headquarters. We all run with the people.
- 29 Q. When you say "headquarters", can you say more? What do

- 1           you mean by "headquarters"?
- 2    A.    NDMC headquarters.
- 3    Q.    When you went to headquarters, were there other people
- 4           there?
- 5    A.    There were plenty. All the people from Tongo went there.
- 6    PRESIDING JUDGE: [Previous translation continues]
- 7    MR TAVENER: NDMC.
- 8    Q.    When you were at the headquarters with all these people,
- 9           did something happen?
- 10   A.    Bullets were fired from different directions.
- 11   Q.    Who were firing the bullets, or who was firing from all
- 12           directions?
- 13   A.    The Kamajors.
- 14   Q.    Did the Kamajors do anything else?
- 15   A.    Some bullets hit some people. Some were killed. We are
- 16           plenty. Some were at the headquarters.
- 17   Q.    Were there any rebels at the headquarters?
- 18   A.    Yes, they captured some rebels. Yes, they captured some
- 19           rebels.
- 20   Q.    What happened to the captured rebels?
- 21   A.    They held them and put them in one side. They went with
- 22           them.
- 23   Q.    Did you stay at the camp overnight?
- 24   A.    It was there we slept Wednesday night.
- 25   Q.    The next morning, did anything happen at the camp?
- 26   A.    Yes. Kamajors came from Bumie.
- 27   Q.    And then what happened?
- 28   A.    They saved us and placed us in groups. They put us in
- 29           two lines, and they took us to Bumie. They left the



1           headquarters.

2   Q.   Before you left, did anything happen?

3   A.   Yes.  Some men were fired in amongst the people in the

4           lines as we were going.

5   Q.   What do you mean some people were fired?

6   A.   Killed.  They were killed.  They killed them.  Kamajors

7           stood by.

8   Q.   Who killed them?

9   A.   The Kamajors.

10  Q.   Who did they kill?

11  A.   They would look at you as you're in the line.  They will

12           just call you and kill you.

13  Q.   How did they kill those people?

14  A.   They fired at them.

15  Q.   How many people were killed in that line?

16  A.   Well, I cannot count.  There were many.  I did not count

17           them.

18  Q.   You said from the camp, you went to Bumie; is that

19           correct?

20  A.   From the headquarters, they took us to Bumie.

21  Q.   And how far is Bumie from headquarters?

22  A.   I can say about two miles.

23  JUDGE BOUTET:  How do you spell Bumie?

24  MR TAVENER:  Subject to correction, B-U-M-I-E.

25  Q.   At Bumie, did anything happen?

26  A.   Yes.

27  Q.   What happened?

28  A.   Well, they separate us; men were put on one side and

29           women were put on the other side.

- 1 Q. Whereabouts in Bumie were you?
- 2 A. When they take us?
- 3 Q. Yes.
- 4 A. They took us by Kamboma to go to Kono.
- 5 Q. Sorry. I'll start again. You were taken to Bumie, the  
6 men and the women were separated; is that right?
- 7 A. Yes.
- 8 Q. Did anything else happen after that at Bumie?
- 9 A. The women were put behind the house, they put us in the  
10 veranda.
- 11 Q. The women were behind the house; is that right? Put  
12 behind the house?
- 13 A. Yes.
- 14 Q. Did anything happen to the men on the veranda?
- 15 A. Yeah.
- 16 Q. What happened?
- 17 A. Well, the Kamajors came. They asked us to look the sun.  
18 If they see anyone that they want, they will just remove  
19 him from the line and took him and kill him.
- 20 Q. How did they kill the people they took from the line?
- 21 A. They fired them.
- 22 Q. How many people did they take from the line?
- 23 A. I saw five that were removed from us.
- 24 Q. Were those five killed?
- 25 A. They were killed, and they took them behind the house.
- 26 Q. How long did you stay in Bumie?
- 27 A. Well, we were there -- they took us from headquarters at  
28 7.00. We were there up to 3.00. We were in the sun.
- 29 Q. You mentioned Kenema. Did you go to Kenema?

- 1 A. Well, when they captured us at Bumie, from there they  
2 took some men, they asked them to carry their loads.  
3 They fired me. I tied my stomach. I said I could not do  
4 anything.
- 5 Q. You indicated your side. Were you still bleeding at that  
6 time?
- 7 A. Yes. I was still bleeding. As the sun was coming up, so  
8 I was bleeding.
- 9 Q. Did you carry any loads for the Kamajors?
- 10 A. I could not. Anyone who saw me he saw that I'm bleeding,  
11 he left me.
- 12 Q. From Bumie, where did you go?
- 13 A. Well, when they captured us, they said some men should  
14 carry a load for them. I said I could not. From there,  
15 we dispersed and I stood up and entered a bush.
- 16 Q. Did you stay in the bush?
- 17 A. As I entered the bush, I went away little by bit little.
- 18 Q. Where did you go to?
- 19 A. I went towards Bo, and Kamajor held me back again.
- 20 Q. Sorry. You tried to go to where?
- 21 A. I was trying to go to Kenema.
- 22 Q. And what happened? What stopped you from going there at  
23 that time?
- 24 A. Kamajor recapture me again.
- 25 Q. And then where did you go after you were captured?
- 26 A. Where they based, where they gathered, it was there that  
27 they took me, where they gathered all women. They said I  
28 should stay there.
- 29 Q. And from that place, where did you go?

- 1 A. We slept in that place on Thursday.
- 2 Q. Okay. The next morning, did you go somewhere?
- 3 A. The next morning, they said we should follow Kenema Road.
- 4 Q. Okay. Who told you to follow the Kenema Road?
- 5 A. The Kamajor leader.
- 6 Q. And did you go to Kenema, or towards Kenema?
- 7 A. We followed the Kenema Road.
- 8 Q. And when you say "they", were you by yourself or were you  
9 with other people?
- 10 A. We were with women and men. We were 15 in number.
- 11 Q. So you walked along the main road to Kenema.
- 12 A. As far as Kenema. They told us to follow the line.
- 13 Q. Did you do that?
- 14 A. Yes. We followed the main road.
- 15 Q. As you walked along the main road, did anything happen?
- 16 A. Yes.
- 17 Q. What happened?
- 18 A. Well, we reached Kamboma, we cross the bridge. The  
19 Kamajors attacked us with guns, with weapons, at the end  
20 of the bridge.
- 21 MR TAVENER: I understand the spelling of Kamboma is  
22 K-A-M-B-O-M-A.
- 23 Q. When you were at the bridge at Kamboma, you said you were  
24 attacked by Kamajors. Is that right?
- 25 A. Yes. They were at the side of the bridge. As we were  
26 crossing the bridge, they came out and they attacked us.
- 27 Q. When you say they attacked you, what did they actually  
28 do?
- 29 A. They captured us and took us to Kamboma.

- 1 Q. How far was Kamboma from the bridge?
- 2 A. It is about half a mile.
- 3 Q. What happened there?
- 4 A. When they enter Kamboma, on the right at the first house,  
5 they took us there behind that house.
- 6 Q. How many people were with you at that time? Not  
7 Kamajors, but how many people were in your group at that  
8 time?
- 9 A. We were 15 people that were left. There were other  
10 people who as we were coming, they joined us. So as we  
11 reached Kamboma, we were about 65. When people were  
12 coming, they add. We were 15 that came from Kamboma the  
13 Kamajor released.
- 14 Q. So as the group of 15 walked along the highway, other  
15 people joined them?
- 16 A. Yes.
- 17 Q. What happened at the house?
- 18 A. They took us behind the house, and they interrogated us.  
19 We told them that the Kamajors release us, and the  
20 Kamajor told us to follow the line, the main line.
- 21 Q. And when you told the Kamajors that, did any of them say  
22 anything to you or to the group?
- 23 A. They did not say anything. They said anybody that passed  
24 by Kamboma should be killed.
- 25 Q. And what happened next?
- 26 A. So we were with elders, so we pleaded to them -- with  
27 them to release us. We told them we are civilians. They  
28 said no. They said that Kamajors had ordered them to  
29 kill anybody that passed through Kamboma.

- 1 Q. And then what happened?
- 2 A. So they put us in two lines.
- 3 Q. Once you were in two lines, did something happen?
- 4 A. Yes. They began by killing behind that house. There's a  
5 swamp -- there's a swamp behind that place, so anybody  
6 that is fired, he rolled and goes to that swamp.
- 7 Q. Where were you in the line?
- 8 A. I was at the back. I was the last man.
- 9 Q. What happened to the people in front of you?
- 10 A. They put you right up the hill. They shoot at you. Then  
11 you roll down, and you die.
- 12 Q. Were all the people in the line fired upon? Shot?
- 13 A. Yes, they shot at them. Eight of us remained.
- 14 Q. What happened to the last eight people?
- 15 A. The last people that left --
- 16 THE INTERPRETER: Your Honours, would the witness please speak  
17 a little bit slower so as to give the interpreter time to  
18 interpret.
- 19 MR TAVENER: Sorry.
- 20 Q. Mr Witness, could you start that answer again. What  
21 happened to the last eight people, but could you just go  
22 very slowly.
- 23 PRESIDING JUDGE: Let him be told that he should speak slowly  
24 because the interpreters are complaining.
- 25 Mr Witness, you speak slowly because the  
26 interpreters are having difficulties translating what  
27 you're saying. So you speak slowly. Don't go -- don't  
28 rattle. Don't go too fast.
- 29 MR TAVENER:

- 1 Q. So if we can just do it in sections, Mr Witness. What  
2 happened to the eight people in front of you, just in  
3 small sections?
- 4 A. The CO who was at Foindu Junction, the CO came and met  
5 the Kamajors.
- 6 PRESIDING JUDGE: He has gone to the other extreme.
- 7 MR TAVENER: That's right.
- 8 Q. And then what happened? What did the CO do?
- 9 A. The CO said they should not spoil the cartridges.
- 10 Q. Did he say anything else?
- 11 A. He said it's an ambush that they are working on.
- 12 Q. And what else did he say?
- 13 A. They said they should use knives on us.
- 14 Q. Okay. And did -- were knives used on the remaining  
15 people?
- 16 A. They used knives on us. I was the last individual on  
17 whom they used a knife.
- 18 Q. Whereabouts on your body was the knife used?
- 19 A. It was the back of my neck.
- 20 Q. When you were struck on the back of the neck, what  
21 happened to you?
- 22 A. Well, I fell down and I was pushed. And I rolled, and I  
23 fell on other dead corpses.
- 24 Q. How long did you stay there?
- 25 A. One hour.
- 26 Q. What happened after one hour?
- 27 A. Well, the rebels came out from Mano Junction and they  
28 came and attacked at Mamboma.
- 29 JUDGE BOUTET: Mr Tavener, before you go on, I'd like you to

1 expand a bit if you can. He said he was hit on the back  
2 of the neck with the knife. What kind of injury, if I  
3 may? If you could expand on that bit before you move to  
4 the rebel attack.

5 MR TAVENER: I was going to do that at the end. It just  
6 requires the witness to stand up.

7 JUDGE BOUTET: As you wish.

8 MR TAVENER: Thank you.

9 Q. When the rebels came, where were you?

10 A. I was lying down on the corpses. I was lying on the  
11 corpses. It was on top of them that I was lying down.

12 Q. When the rebels came, did they do anything to you?

13 A. They met all of us lying down. They were turning the  
14 corpses. They wanted to make sure whether people are  
15 dead, and that made the Kamajors run away.

16 Q. Did you go somewhere from where you had been lying?

17 A. I was not able to because when they came, they saw that  
18 there was still life in me. I was still breathing.

19 Q. Were there any other people still breathing in that group  
20 of 65 who were with you?

21 A. No. It was only I alone.

22 Q. From there, did you go somewhere else?

23 A. Yes, because there was one SLA soldier who was with the  
24 rebels, and he asked me where I was born. And I told him  
25 that I was born in Kabala, and he said he also was born  
26 in Kabala. After that, he tied my neck. He did not  
27 leave me. He took me right up to Mano Junction. After  
28 Mano Junction, he tried. He took me to Kenema, and he  
29 took me to the hospital.



- 1 Q. So just to clarify that, did you go to Kenema hospital?
- 2 A. Kenema hospital. He took me right up to Kenema hospital,  
3 from Kamboma to Kenema.
- 4 Q. Did you stay at Kenema hospital?
- 5 A. I was there for three months.
- 6 Q. Who looked after you at Kenema hospital?
- 7 A. Well, it was the good people that knew I was not a bad  
8 individual. They were the people that contributed money,  
9 and they helped in curing me until I became well.
- 10 Q. And after three months, did you go somewhere else? Don't  
11 say where, just say -- did you go somewhere else after  
12 you left hospital?
- 13 A. Yes, I went to Kabala, to my mother.
- 14 Q. You spoke about being struck on the neck with a knife.  
15 Is it possible for you just to turn in that chair so that  
16 the Court can see. Can you indicate -- firstly, can you  
17 indicate where you were struck by the knife.
- 18 A. Yes, sir.
- 19 Q. Point to the area, please.
- 20 A. [Indicates]
- 21 JUDGE BOUTET: I can't see from here.  
22 Don't stand up.
- 23 MR TAVENER: That's the difficulty, Your Honour. I don't  
24 know. Perhaps it might be easier -- if you stand, but  
25 just keep your head down, please.
- 26 PRESIDING JUDGE: Stand. Stand.
- 27 MR TAVENER: If he turns -- can Your Honours see?
- 28 JUDGE BOUTET: Okay.
- 29 MR TAVENER: Once he moves his head, it's quite -- a very

1 distinctive mark. Thank you.

2 JUDGE BOUTET: Thank you.

3 MR TAVENER:

4 Q. Did you fight in the war?

5 A. I was a civilian.

6 MR TAVENER: Thank you. There's nothing further at this stage

7 from this witness.

8 JUDGE BOUTET: That completes your examination-in-chief?

9 MR TAVENER: Yes.

10 JUDGE BOUTET: Cross-examination, first accused.

11 MR HALL: Yes, Your Honour. Thank you.

12 CROSS-EXAMINED BY MR HALL:

13 Q. Mr Witness, was your brother an SLA soldier?

14 A. My brother not a day had he been in Tongo.

15 Q. Your brother was not a soldier?

16 A. My brother was not a soldier. He was not a soldier.

17 MR TAVENER: I don't want to interrupt my friend's

18 cross-examination, but the word "brother" may have a

19 different meaning.

20 MR HALL: Thank you. I won't pursue it any further, then.

21 Thank you. That could be a translation problem -- not

22 problem, but difference.

23 Q. Was Tongo an RUF stronghold until the Kamajors came to

24 town?

25 A. Yes.

26 Q. How long was Tongo held by the RUF?

27 A. No, I wouldn't know the day.

28 Q. Was it for quite a while, many months or more?

29 A. I think so. I don't know the month, but they were there

1 for a while.

2 Q. You talked about going to headquarters. Did you mean RUF  
3 headquarters?

4 A. It was NDMC headquarters.

5 Q. And could you explain to the Court what NDMC means.

6 A. NDMC is a company. It was the headquarters where they  
7 were based.

8 JUDGE BOUTET: Mr Witness, you say NDMC is a company?

9 THE WITNESS: Yes, because they were the one that made that  
10 plant.

11 MR HALL:

12 Q. Was it a diamond mining company?

13 A. Yes.

14 Q. National Diamond Mining Company?

15 A. Yes.

16 Q. And did the RUF have control of the NDMC?

17 A. It was they that were there because they were in charge  
18 at the time they were in Tongo.

19 Q. Was the RUF mining diamonds to finance their war?

20 A. Well, they were -- they had been mining for diamonds.

21 PRESIDING JUDGE: Was that translation complete?

22 MR HALL:

23 Q. They were just mining for diamonds --

24 PRESIDING JUDGE: I'm talking to the interpreter. Are you  
25 assuring us that your translation was complete, that you  
26 translated to the tail end?

27 THE INTERPRETER: Would the witness please repeat what he just  
28 said.

29 JUDGE BOUTET: Mr Witness, can you please repeat your last

1 answer, if you can.

2 THE WITNESS: The RUF had been mining for diamonds.

3 MR HALL:

4 Q. And do you know what the RUF was doing with the diamonds?

5 A. I don't know because I was not with the RUF. I was --

6 I'm a civilian. I was doing my business.

7 Q. And when you were doing your business, was it with the

8 RUF as well?

9 A. No. I did not do anything with the RUF. I was dealing

10 with civilians.

11 Q. After you were attacked and they chopped your neck, an

12 RUF soldier picked you up, took you to the hospital.

13 A. It was a soldier. It was not an RUF.

14 JUDGE BOUTET: [Microphone not activated] never used.

15 THE WITNESS: He was born in Kabala.

16 MR HALL:

17 Q. He was born in Kabala?

18 A. Yes. He told me that he was born in Kabala, and I told

19 him that I also was born in Kabala. And he went with me.

20 Q. After you got out of the hospital, did you report to

21 anybody in the government what had happened to you?

22 A. Whether I reported to the government at that time? The

23 whole country was mixed up, you know. I had nobody to

24 complain. My mother said she wanted to see me. When I

25 was discharged, I went to Kabala to my mother. I was

26 there for some time.

27 Q. So you did not report this to anybody in the government?

28 Or the CDF? Or the Kamajors? What they did to you.

29 A. There was no chance for me to go and report to anybody.

1 So when I went to the hospital, my mother said she wanted  
2 to see me, so I went. After I left the hospital, I was  
3 not feeling bright, so I went to my mother. I had no  
4 chance to go and report to anybody.

5 MR HALL: Thank you, sir. That completes my cross.

6 JUDGE BOUTET: Counsel for second accused.

7 MR KOPPE: Your Honour, we have no questions.

8 JUDGE BOUTET: Thank you. Mr Margai for the third accused.

9 MR MARGAI: Yes.

10 CROSS-EXAMINED BY MR MARGAI:

11 Q. Mr Witness.

12 A. Yes.

13 Q. You said you were asked by the Kamajors to head for  
14 Kenema.

15 A. Yes, it was Pendembu, Friday.

16 Q. The Kamajors told you to go to Kenema. Not so?

17 A. Yes, that very day.

18 Q. And this was because they wanted to save your life?

19 A. Yes. Yes, that was where we were captured, by Pendembu.

20 Q. Please understand the question. You told this Court that  
21 you were advised by the Kamajors to follow the road  
22 leading to Kenema.

23 A. Yeah, that was the road that we followed, the main line  
24 to go to Kenema.

25 MR MARGAI: My Lords, I'm not sure the witness is clearly  
26 understanding the question. My question is whether it's  
27 true that he was advised by the Kamajors to follow the  
28 main road leading to Kenema.

29 JUDGE BOUTET: Yeah, I know, that's the question you asked.

1 And his evidence-in-chief, too, was they were told to  
2 follow the line, whatever it means. I don't think he  
3 ever used road, but whether road and line means the same  
4 thing I don't know. That's my recollection.

5 MR MARGAI: No, the point here is whether he was so advised by  
6 the Kamajors, as distinct from the SLA or the rebels.  
7 That is the point.

8 JUDGE BOUTET: You're not disputing --

9 MR MARGAI: Okay, I'll use his own terminology, "the line."

10 Q. Now, was it the Kamajors who advised you to use the line  
11 leading to Kenema?

12 A. Yes, they advised us. It was not I alone. We were 15.  
13 They said we were to follow the main line, and --

14 Q. Thank you, thank you.

15 PRESIDING JUDGE: It's okay. We have the answer. They  
16 advised you.

17 MR MARGAI: Yes.

18 PRESIDING JUDGE: We know you were not alone.

19 MR MARGAI:

20 Q. And this advice was surely for your safety, wasn't it?

21 A. Yes, but -- yes, but the Kamajors that we met at the  
22 hotel at Kamboma did not agree.

23 Q. Again, here, it seems to me that he's not quite  
24 following. There were two sets of Kamajors. We're not  
25 talking about the Kamajors you met at Kamboma. We're  
26 talking about the Kamajors who advised you to follow the  
27 line to Kenema.

28 PRESIDING JUDGE: He's going too fast.

29 MR MARGAI: I see.

1 PRESIDING JUDGE: He's going too fast. I mean, yes. He's  
2 going --

3 MR MARGAI: I really want to be fair to him so that he  
4 understands the questions.

5 PRESIDING JUDGE: Bring him back to the first set.

6 MR MARGAI: Yes.

7 PRESIDING JUDGE: Of Kamajors.

8 MR MARGAI:

9 Q. Now, I'm here talking about the first set of Kamajors who  
10 advised you to follow the line to Kenema.

11 PRESIDING JUDGE: And he has agreed it was for their safety.  
12 He has agreed.

13 MR MARGAI: For their safety.

14 Q. When you got to Kamboma, you met another set of Kamajors.  
15 A. We told them, we told them that it was Kamajors who told  
16 us that we should use this route. They said no.

17 Q. Before telling them, you met another set of Kamajors at  
18 Kamboma as distinct from those who had advised you to  
19 follow the line.

20 A. It was the same group. It was the same group.

21 PRESIDING JUDGE: You cannot say so.

22 MR MARGAI: They were all Kamajors, but these were different  
23 groups.

24 PRESIDING JUDGE: Yes, different groups.

25 MR MARGAI:

26 Q. They were all Kamajors, but they were in different  
27 groups. Not so?

28 A. I don't know because I know that they were the same  
29 Kamajors. We told them, we told them that the Kamajors

- 1           asked us to follow the line.
- 2   Q.   All right. Let me help you.
- 3   JUDGE BOUTET: It's the same people.
- 4   MR MARGAI:
- 5   Q.   Now, these Kamajors who told you to follow the line,  
6           where were they?
- 7   A.   At Pendembu.
- 8   Q.   Now, these Kamajors who were at Pendembu, were they the  
9           same people at Kamboma?
- 10  A.   Yes, because I would say because they wear the same  
11           clothes because they had Kamajor clothes. They did not  
12           have anything that was different.
- 13  PRESIDING JUDGE: When, Mr Margai? Ask him when they  
14           left -- after the Kamajors in Pendembu, were they  
15           escorted?
- 16  MR MARGAI:
- 17  Q.   Now, when you left Pendembu for Kamboma, I mean the  
18           group, was there any Kamajor amongst the group?
- 19  A.   There was no Kamajor. They only told us to follow the  
20           main line.
- 21  MR MARGAI: We're getting there. Thank you, My Lord.
- 22  PRESIDING JUDGE: Yes.
- 23  MR MARGAI:
- 24  Q.   When you followed the main line, you left the Kamajors at  
25           Pendembu behind, meaning you left them at Pendembu? Not  
26           so?
- 27  A.   Yes, that was the place we left them.
- 28  Q.   Thank you.
- 29  A.   They said we should follow the main road.



1 PRESIDING JUDGE: Wait, wait. Softly, huh, softly.

2 THE WITNESS: They told us that we should follow the main  
3 road, and that is what we did.

4 MR MARGAI:

5 Q. Now, the Kamajors you left at Pendembu did not go with  
6 you people to Kamboma? Surely not. Did they?

7 A. No, they not follow us.

8 Q. Thank you. So when you got to Kamboma, you found another  
9 set of Kamajors. Is that correct?

10 PRESIDING JUDGE: Tell him at the bridge.

11 MR MARGAI:

12 Q. At the bridge. At the bridge.

13 A. Yes, we met other Kamajors. And they attacked us.

14 Q. Yes. We're coming to that. And even though you told  
15 these Kamajors at Kamboma at the bridge that you were  
16 advised by their colleagues to follow the main line, they  
17 went on to commit the atrocities you have testified to?

18 A. Yes.

19 Q. Thank you.

20 A. We told them.

21 Q. Thank you.

22 A. They did not listen.

23 Q. Thank you. Now, Pendembu and Kangama -- and Kamboma,  
24 sorry, are in the eastern region of Sierra Leone, not so?  
25 The Eastern province of Sierra Leone?

26 A. Yes.

27 Q. And Kenema is the provincial headquarter of the Eastern  
28 province. Isn't that correct?

29 A. That was the Kamajor town. Was it not the place where

- 1 the Kamajors were based? Was it not the place that they  
2 came from and attacked?
- 3 Q. Is Kenema the headquarter of the Eastern province?  
4 A. Yes.
- 5 Q. Thank you. Now, what year did this attack take place at  
6 Kangama [sic], this incident? What year?  
7 A. I don't know.
- 8 Q. Please try and help us. Was it before the overthrow of  
9 President Kabbah's government, or was it after?  
10 A. No, I don't know. Because all I know is that the time  
11 when -- at the time we were in Tongo, it was the Kamajors  
12 that attacked, you know. That is all I know. I do not  
13 know.
- 14 Q. Mr Witness, please try and assist the Court. There are  
15 very good reasons for so asking. Was this -- did this  
16 incident by the Kamajors at Kangama [sic] --  
17 PRESIDING JUDGE: Kamboma.
- 18 MR MARGAI: Kamboma, sorry. My Lord, thank you.
- 19 Q. -- take place before President Kabbah's government was  
20 overthrown, or was it after it had been overthrown?  
21 A. Well, I just know it was during the Pa Kabbah's  
22 government that it happened.
- 23 Q. It was during Pa Kabbah's government that it happened.  
24 That was before the coup. Thank you.
- 25 A. Yes.
- 26 Q. Now, you'll agree with me that at that time when this  
27 incident happened, there was a police station in Kenema,  
28 wasn't there?  
29 A. Yes, it was there.

- 1 Q. And it was functioning?
- 2 A. No, I didn't know whether they were working.
- 3 Q. Okay. Now, when you left the hospital, did you go to the  
4 police station to make a report of this incident?
- 5 A. Where would I go and report? From the hospital, I went  
6 --
- 7 Q. [Previous translation continues]
- 8 A. I did not report. I went to my home. I did not report  
9 because the whole place was bust up.
- 10 Q. Thank you. And you have told this Court that Kenema was  
11 the home of the Kamajors. Not so? Shortly; you said so.
- 12 A. It was their home.
- 13 Q. Thank you. Thank you. And because it was the home of  
14 the Kamajors, you would expect their big men, the  
15 authorities, to be in Kenema, would you not?
- 16 A. Their dignitaries were there? I don't understand what  
17 you're saying.
- 18 Q. That the authorities of the Kamajors would be in Kenema  
19 because that was their home, in your own words.
- 20 A. Yes, the Kamajor leaders were there, and even their  
21 bossmen were there.
- 22 Q. Thank you. Thank you. Now, when you left the hospital,  
23 how long did it take you before you left to see your  
24 mother in Kabala? One day? Two days? One week? One  
25 month?
- 26 A. I discharged Thursday from Kamboma hospital. Friday,  
27 2.00, I went to Kabala.
- 28 Q. You were discharged on Thursday, and you left for Kabala  
29 on Friday.

- 1 A. Yes. Because I had a vehicle that would convey me  
2 freely.
- 3 Q. Thank you. Were you discharged in the morning hours, the  
4 afternoon, or in the evening?
- 5 A. In the evening.
- 6 Q. Thank you. Now, did you, before you left for Kabala,  
7 report this incident you have deposed to any of the  
8 Kamajor bosses in Kenema?
- 9 A. I was not bold enough to go near a Kamajor because I had  
10 problems with my neck. I did not go near a Kamajor.
- 11 Q. So I take it you did not report.
- 12 A. I was not bold enough to go near a Kamajor.
- 13 Q. I appreciate that. But did you report? Yes or no?
- 14 A. I did not report. How would I have reported?
- 15 Q. Thank you.
- 16 A. They wanted to kill me, how would I report to them again?
- 17 Q. My sympathy. Thank you. Now, did you return to Kenema  
18 from Kabala at any time?
- 19 A. My father was there. It was not a long time since he  
20 died. My mother is there. So I was there until I became  
21 well, when everything finished, when all the Kamajors  
22 dispersed, that is the time I came back.
- 23 Q. Thank you. When did you go back to Kenema from Kabala?
- 24 A. What happened?
- 25 Q. When you returned to Kenema from Kabala?
- 26 JUDGE BOUTET: From Kamboma?
- 27 MR MARGAI: Kenema. Kenema, My Lord.
- 28 JUDGE BOUTET: You say --
- 29 MR MARGAI: From Kabala.

1 Q. When did you return to Kenema from Kabala?

2 A. I took one year in Kabala before I return to Kenema.

3 Q. Thank you. Now, when you returned to Kenema, did you  
4 report this incident to the Kamajor authorities, after  
5 your return from Kabala?

6 A. Where would I report?

7 Q. Did you report? Yes or no.

8 A. I did not report to any Kamajor.

9 MR MARGAI: Thank you. That would be all for this witness.

10 THE WITNESS: I'm afraid of going near a Kamajor. I did not  
11 report. I know Kamajors.

12 JUDGE BOUTET: Thank you, Mr Witness. Re-examination?

13 MR TAVENER: Very briefly.

14 RE-EXAMINED BY MR TAVENER:

15 Q. Mr Witness, you mentioned in your recollection this event  
16 happened when the Kabbah government was in power. Do you  
17 know when the Kabbah government was in power? What year?

18 MR MARGAI: I'm sure Your Lordships will take judicial notice  
19 of that. And besides, I do not see the essence for that  
20 question coming within the ambit of re-examination,  
21 knowing full well the parameters within which one should  
22 operate.

23 JUDGE BOUTET: Mr Tavener, any comment?

24 MR TAVENER: Yes, Your Honour. In terms of judicial notice,  
25 I'm sure Your Honours know when that event occurred, but  
26 it's a question of whether the witness knows. And it's  
27 obviously, we would say, a matter that does arise in  
28 re-examination because my friend has attempted to date  
29 this particular event by using a well-known time. What

1 is important is what the witness understands that time to  
2 be, not whether the Court has judicial notice of that  
3 time.

4 JUDGE THOMPSON: Suppose it's a matter of common knowledge.  
5 Will the Court take judicial notice?

6 MR TAVENER: I'm not disputing Your Honours know the time.  
7 The question is what does the witness understand was the  
8 time?

9 JUDGE THOMPSON: Well, again, I want to ask the question. If  
10 it's a matter of common knowledge and we have a conflict  
11 between what we know as a matter of common knowledge and  
12 what a witness says, how does the Court proceed?

13 MR TAVENER: I'm not seeking to use this witness as a way to  
14 lead evidence identifying the time of the Kabbah  
15 government; what I'm trying to do is, as a result of my  
16 friend's question, establish what this witness understood  
17 the time to be.

18 JUDGE THOMPSON: What I want guidance on as a matter of law is  
19 that if I as a judge regard a particular fact as a matter  
20 of common knowledge, but then a witness testifies as to  
21 his own particular impression, how does the Court proceed  
22 when I come to do the evaluation? As a matter of law,  
23 guide me.

24 MR TAVENER: As a matter of law, what Your Honour takes as  
25 judicial knowledge remains correct, and the Prosecution  
26 doesn't dispute the time of the Kabbah government. But  
27 in this instance, because we're using the witness's  
28 understanding of what the timing was, it's important to  
29 identify that actual time as he understands it. Whether

1 he's right or wrong does not matter because as a matter  
2 of judicial notice we know the right time.

3 JUDGE THOMPSON: How does that help the Court in evaluating  
4 the evidence at the end of the day?

5 MR TAVENER: It doesn't help in terms of when the Kabbah  
6 government was in power; what it does do, however, is  
7 help establish when the timing of the event as this  
8 witness understands it to be.

9 JUDGE THOMPSON: Suppose this witness does not even understand  
10 it. That's what I'm trying to say. I'm trying to ask  
11 you the question that at the end of the day, when the  
12 records are put before me for judicial evaluation of the  
13 evidence, and I have, as a matter of common knowledge,  
14 some particular fact, but then I see that the witness  
15 seems to hypothetically get it wrong, what am I bound by  
16 as a matter of law?

17 MR TAVENER: Firstly, it doesn't matter whether this witness  
18 knows or does not know.

19 JUDGE THOMPSON: That's the point I'm trying to clarify.

20 MR TAVENER: That doesn't matter, because we know the actual  
21 date. It's a matter of record, a matter of judicial  
22 notice. So we put that aside.

23 The only matter that is important in respect of this  
24 witness is his understanding of when a particular event  
25 happened. So if he thinks a particular event happened,  
26 the Kabbah government was at a particular time, that then  
27 relates to the event that he has now spoken about.

28 JUDGE THOMPSON: But does that bind the Court?

29 MR TAVENER: Not in terms of the time of the Kabbah

1 government; only in terms of what the witness understands  
2 the timing of the event.

3 JUDGE THOMPSON: It's like the chicken and the egg.

4 MR TAVENER: No, no, they are two different issues,  
5 Your Honour.

6 JUDGE BOUTET: It is to allow the Court to assess the evidence  
7 of this witness in context. That's what you're saying.

8 MR TAVENER: Exactly. If a person believes man landed on the  
9 moon in 1971, and that's how he dates an event, and he  
10 says, Man on the moon, 1971, I know it's 1971 because  
11 that's when man landed on the moon. I'll stop saying  
12 that now. He may be wrong because it actually happened,  
13 off the top of my head, in 1969. But if he says 1971,  
14 that's how he dates an event, the fact that he's wrong  
15 about when man landed on the moon doesn't matter. What's  
16 important is that he remembers 1971 as being the  
17 appropriate date, and that's the same issue here.

18 The fact of when something happened doesn't really  
19 matter because it's a question of judicial notice. The  
20 importance is this witness's understanding of when it  
21 happened because we're trying to --

22 PRESIDING JUDGE: Do you want to pin him down to a specific  
23 time frame? Because, you know, the Defence counsel,  
24 learned counsel Margai, wanted to pin this witness down.  
25 First of all, he said -- he asked him the question, you  
26 know, whether he knows that Kenema is the provincial  
27 capital of the Eastern province. He said -- he went into  
28 some explanation, and then he brought him back. And then  
29 he accepted.



1           And then he asked him, When did this incident take  
2           place? He said -- he hesitated, hesitated, and said he  
3           doesn't know. He doesn't know. Then counsel pressed and  
4           said, You have to help us. Was it, you know, before or  
5           after Kabbah's overthrow? He said it was before the  
6           coup. I remember, you know, that that is what he said.  
7           But he couldn't volunteer some other --

8   JUDGE BOUTET: It was not his answer. It was, as I say, It  
9           was during Pa Kabbah's government.

10   PRESIDING JUDGE: Before the coup. He said it was before the  
11           coup. That was when we concluded that it was during the  
12           Kabbah government.

13   JUDGE BOUTET: No, he said that in his evidence-in-chief. In  
14           cross-examination, he said it was during Pa Kabbah's  
15           government.

16   PRESIDING JUDGE: That was before the coup.

17   MR TAVENER: That's point, Your Honour. Mr Margai, quite  
18           inadvertently I'm sure, is relying upon the judicial  
19           notice of when Mr Kabbah -- President Kabbah was in  
20           power. That's not point. That's a fallacy.

21           What you have to look at is what this witness  
22           understands to be the timing of the government, not  
23           relying upon judicial notice because they are two  
24           different issues. If the witness is wrong, then he's  
25           indicating an incorrect time. And therefore, the purpose  
26           of re-examination is to ensure that the Court is not left  
27           with a false impression of a witness's evidence.  
28           Therefore, all I'm asking for is to be allowed to clarify  
29           what this witness's understanding of the timing of the

1 Kabbah government.

2 JUDGE BOUTET: I would allow the question on re-examination  
3 for that very limited purpose.

4 MR TAVENER: Thank you.

5 Q. Mr Witness, just one question: Do you know what  
6 year -- or do you know the years that the Kabbah  
7 government was in power?

8 A. I don't know.

9 Q. Thank you.

10 JUDGE THOMPSON: So then what -- following that up, as a  
11 matter of law, what does the Court do?

12 MR TAVENER: We know that the witness is not good with dates.

13 JUDGE THOMPSON: All right. So are we back to the  
14 situation --

15 PRESIDING JUDGE: [Microphone not activated].

16 JUDGE THOMPSON: That was the message I was trying to get to  
17 you. Or are we bound by his answer?

18 MR TAVENER: Yes, he does not know. He's not good with years.

19 JUDGE THOMPSON: So in other words, we suspend our own  
20 appreciation in terms of the judicial-notice mechanism?

21 MR TAVENER: The Kabbah government was in power. We know when  
22 that was. This witness doesn't know. We look at other  
23 evidence to see if we can establish, as we can, when the  
24 events occurred.

25 JUDGE THOMPSON: Very interesting, novel response.

26 MR TAVENER: It's not that novel, Your Honour. Thank you.

27 JUDGE BOUTET: So that concludes your re-examination?

28 MR TAVENER: Yes, Your Honour.

29 JUDGE BOUTET: Are you ready to proceed with your next

1 witness?

2 MR TAVENER: Yes, we are. It requires a small break, but we  
3 are.

4 PRESIDING JUDGE: You'll have it.

5 MR TAVENER: Thank you.

6 JUDGE BOUTET: Which witness is it, the next one?

7 MR TAVENER: TF2-022.

8 JUDGE BOUTET: Has the Defence been notified of that one being  
9 the next one, and any problem with that?

10 MR HALL: We have, Your Honour, yesterday.

11 JUDGE BOUTET: So you have no problem if we proceed with that  
12 witness now?

13 MR HALL: Not at all, Your Honour.

14 JUDGE BOUTET: Okay.

15 MR HALL: For Judge Boutet's information, they gave us a list  
16 of the next five witnesses, how they would be called, the  
17 next four or five witnesses, yesterday, and we are  
18 prepared for them.

19 JUDGE BOUTET: For these five witnesses, you're prepared for  
20 them as they come along?

21 MR HALL: Correct.

22 JUDGE BOUTET: Thank you. The reason I was asking is looking  
23 at the witness list that has been filed, this is not  
24 quite in the same order. But they're on the list. That  
25 was the purpose of my questions.

26 MR HALL: Yes. They are changing their witness list slightly,  
27 and I don't know --

28 JUDGE BOUTET: In the order of calling them. But that's all.

29 MR HALL: They told us who is next for the next five

1 witnesses.

2 JUDGE BOUTET: That's fine. Thank you.

3 MR TAVENER: The Prosecution has had some difficulties with  
4 one or two witnesses, and that's why we have had to  
5 slightly rejig with the assistance of the Defence  
6 counsel. We have three witnesses available today. This  
7 is the first witness; there are two others. After that,  
8 we do have difficulties. But if we proceed through three  
9 witnesses, that's not doing too badly.

10 JUDGE BOUTET: It will be a good day. Thank you.

11 PRESIDING JUDGE: All right. We'll recess to allow the  
12 Prosecution to bring the next witness in because we are  
13 through with this witness.

14 Mr Witness, we want to thank you for coming to give  
15 evidence before the Tribunal. And we thank you for the  
16 assistance because what you've said will help us to  
17 determine the truth in this matter. We are discharging  
18 you now. But necessity may arise for us to call you  
19 back. We do not know. We are saying we are going to  
20 call you back. But necessity may arise. If it does, we  
21 will get in touch with you through the appropriate  
22 channels. And we count on you to come back, if we need  
23 you back here. Have you understood me?

24 THE WITNESS: I understand.

25 PRESIDING JUDGE: Is the translation still on? My God.  
26 Anyway, we wish you a safe journey to your place of  
27 abode, and we wish you all the best as well.

28 The Court will rise for some minutes. When the next  
29 witness is ready, please call us in.

1 [The witness withdrew]  
2 [Recess taken at 11.12 a.m.]  
3 [HN110205B EKD]  
4 [The witness entered Court]  
5 [Upon resuming at 11.25 a.m.]  
6 MS WIAFE: The Prosecution calls TF2-022.  
7 PRESIDING JUDGE: Can you hold on, please. Can you hold on  
8 please. Yes, please.  
9 MS WIAFE: The Prosecution calls TF2-022. He will testify in  
10 Temne.  
11 PRESIDING JUDGE: And this would be your 42nd witness?  
12 MS WIAFE: Yes, Your Honour.  
13 JUDGE BOUTET: Yes, proceed.  
14 WITNESS: TF2-022 [sworn]  
15 [Witness answered through interpretation]  
16 EXAMINED BY MS WIAFE:  
17 MS WIAFE:  
18 Q. Mr Witness, how old are you?  
19 PRESIDING JUDGE: Learned counsel, the witness is testifying  
20 in?  
21 MS WIAFE: In Temne.  
22 PRESIDING JUDGE: In Temne.  
23 MS WIAFE: Yes.  
24 Q. Mr Witness, how old are you?  
25 A. Forty years.  
26 Q. Are you married?  
27 A. I have two wives.  
28 Q. Do you have any children?  
29 A. Yes.

- 1 Q. How many children do you have?
- 2 A. I have two children.
- 3 Q. Mr Witness, have you ever had any form of formal  
4 education?
- 5 A. Yes.
- 6 Q. How far did you go?
- 7 A. Well, I started from two.
- 8 Q. So can you read and write?
- 9 A. Well, I write a little and I read a little.
- 10 Q. What language do you write little and read a little?
- 11 A. Well, in English I can write my name and I can read a  
12 little.
- 13 Q. Mr Witness, what work do you do?
- 14 A. Well, I mine for diamonds and I do some trading, some  
15 petty trading, because that is from where I get my  
16 living.
- 17 Q. Mr Witness, I would like to focus your attention on May  
18 1997?
- 19 A. Yes.
- 20 Q. Where were you at this time?
- 21 A. I used to be in a town that is called Tongo.
- 22 Q. What district is Tongo?
- 23 A. In Kenema District.
- 24 Q. In what chiefdom?
- 25 A. Lower Bambara Chiefdom.
- 26 Q. Mr Witness, did anything happen in Tongo Field in May of  
27 1997?
- 28 A. Certainly something happened.
- 29 Q. Could you tell this Court what happened?

- 1 A. Yes, I will tell this Court what I saw and what I heard.
- 2 Q. Please go ahead.
- 3 A. In 1997 -- in May 25, 1997 in the morning I heard six  
4 people who went to our place of work.
- 5 Q. Was this in Tongo Field? This place of work, was it in  
6 Tongo Field?
- 7 A. Yes, it was there. We are in this place of work, I had a  
8 small radio in my hand that I used to listen to. On this  
9 radio I heard that the government of Pa Tejan Kabbah had  
10 been overthrown. When I heard this information I told my  
11 children that, "Oh, trouble, there is trouble. So what  
12 we going to do, we should prepare."
- 13 Q. Did you do anything as a result of this information?
- 14 A. I told my children, you know, to prepare so as to go back  
15 to town.
- 16 Q. Did you go back to town?
- 17 A. Yes, we returned to town. I and my children, we returned  
18 to town.
- 19 Q. Mr Witness, what did you see when you went back to town?
- 20 A. When I arrived in town we had the people that were  
21 guarding us.
- 22 Q. Who were these people who were guarding you?
- 23 A. They called them Kamajors.
- 24 Q. Who were these Kamajors?
- 25 A. These were people who were taken from different houses in  
26 all the chiefdoms.
- 27 Q. When you say "all the chiefdoms," which chiefdoms are you  
28 referring to?
- 29 A. The Lower Bambara Chiefdom chiefdom.

- 1 Q. Mr Witness, you said the Kamajors were defending you.  
2 Who were they defending you against?
- 3 MR BOCKARIE: Your Honour, I thought I heard him say  
4 "guarding", not "defending".
- 5 MS WIAFE: I will rephrase the question.
- 6 Q. Mr Witness, you said the Kamajors were guarding you. Why  
7 were they guarding you?
- 8 A. Well, at that time they said they were guarding us  
9 against rebels.
- 10 Q. And who were these rebels?
- 11 A. Well, these were people that came from the bush to come  
12 and make atrocities in town. These were the people that  
13 we refer to as rebels.
- 14 Q. Mr Witness, you said that on May 25th, 1997 the Kamajors  
15 were guarding you in Tongo Field. How long had the  
16 Kamajors been in Tongo Field before that time?
- 17 A. They had been there from '96 unto 1997.
- 18 Q. Mr Witness, after May 25, 1997 did the Kamajors continue  
19 to guard you?
- 20 A. Yes, it was certainly so, because they were the ones that  
21 were there.
- 22 Q. How long did they guard you?
- 23 A. It was for three months.
- 24 Q. Three months from May 25, 1997?
- 25 A. Yes.
- 26 Q. After the three months what happened?
- 27 A. Well, on the third month -- within the third month,  
28 within these three months that was when we got  
29 information from them.



- 1 Q. When you say "them", who are you referring to?
- 2 A. We got information from the Kamajors.
- 3 Q. What was this information?
- 4 A. The Kamajors told us that those people who overthrew the  
5 government of Freetown, they said that they would go to  
6 Tongo so as to establish their government there.
- 7 Q. Do you know the people who overthrew the Tejan Kabbah  
8 government?
- 9 A. I did not know them, but I heard that they were soldiers.
- 10 Q. Apart from being soldiers, do you know any other name by  
11 which they were referred to?
- 12 A. Well, they told us that they combined with those people  
13 that were in the bush who were called the RUF. Both of  
14 them came together.
- 15 Q. Who combined with the RUF?
- 16 A. The soldiers that were referred to SLA, these were the  
17 ones that they said combined with the rebels that were in  
18 the bush.
- 19 Q. Mr Witness, what happened in Tongo Field after you  
20 received this information?
- 21 A. The Kamajors told us that we should not be worried and  
22 that God willing --
- 23 Q. Go on, Mr Witness.
- 24 A. Let us sit down and be relaxed.
- 25 PRESIDING JUDGE: Started with "God willing". God willing let  
26 us sit and relax or -- what is that?
- 27 MS WIAFE: I suppose he abandoned that.
- 28 THE WITNESS: Let us don't be worried at all, nothing will  
29 happen to us because they will not allow those men to go

- 1 into Tongo.
- 2 MS WIAFE:
- 3 Q. Mr Witness, after you received this information did the  
4 soldiers and the RUF ever come to Tongo Field?
- 5 A. Yes, within the third month they went there.
- 6 Q. How did they, the RUF and the SLA, enter Tongo Field?
- 7 A. Well --
- 8 PRESIDING JUDGE: Did he mention the RUF? He said soldiers, I  
9 thought you talked of soldiers.
- 10 MS WIAFE: Before that he said the information had been that  
11 the soldiers and the RUF were coming to Tongo Field, and  
12 I asked him did they ever come to Tongo Field? But I can  
13 clarify that.
- 14 PRESIDING JUDGE: Please clarify that.
- 15 MS WIAFE:
- 16 Q. Mr Witness, the people who came to Tongo Field, who were  
17 they?
- 18 A. We are told that they were a combined force, the RUF and  
19 the SLA. These were the people that entered Tongo Field.
- 20 Q. How did the RUF and SLA enter Tongo Field?
- 21 A. They entered there with their guns and while they were  
22 coming they had been firing.
- 23 Q. Where were the Kamajors when the RUF and SLA were  
24 entering Tongo Field?
- 25 A. At that time we did not see any Kamajors, because they  
26 fought for the whole of the day on the road.
- 27 Q. When you say "they fought for the whole of the day," who  
28 are you referring to?
- 29 A. It was the Kamajors that left the town and went on the

1 road, and they said they were going to intercept the SLA  
2 and the RUF. And they fought for the whole of the day  
3 and we have been hearing shooting throughout.

4 Q. Mr Witness, when did the fighting stop?

5 A. It was around the evening hours. That was the time that  
6 we saw the soldiers and the RUF coming towards the town.

7 Q. Did the soldiers and the RUF finally enter the town  
8 itself?

9 A. Yes, they enter right into the heart of the town.

10 Q. What happened when the AFRC and the RUF -- sorry, when  
11 the soldiers and the RUF entered the town?

12 PRESIDING JUDGE: I was going to say you were in the wrong  
13 chamber and that you have just to walk across and see  
14 Honourable Justice Doherty for your representation. You  
15 may proceed, please.

16 MS WIAFE:

17 Q. Mr Witness, should I repeat the question?

18 A. Yes, I am listening to you. It is just because they were  
19 talking, that's why I did not say anything.

20 Q. I said what happened when the soldiers and the RUF  
21 entered Tongo Field?

22 A. Well, when they entered, what happened, they burnt all  
23 our property.

24 Q. Anything else happen?

25 A. When they received that evening and when we had received  
26 them -- when we had received them for our safety because  
27 we knew that when they had taken over the town, so they  
28 started taking our property. For instance if one had a  
29 watch, they would take it; if they met you with a very

1 good shirt, they would take it off you; if you had money,  
2 they will take it from you. I was totally confused. So  
3 we are there for some time in the evening -- in the  
4 evening the other groups of the RUF --  
5 Q. [Microphone not activated]  
6 A. Okay. Can I go on?  
7 Q. Yes, you can go on.  
8 A. In the evening I sat in my house with my wives because  
9 there was no way of moving anymore.  
10 Q. Mr Witness, how long did the SLA and the RUF stay in  
11 Tongo Field?  
12 A. They enter there in August; up to November they were  
13 there.  
14 Q. When you say November, do you mean November of 1997?  
15 A. 1997, November.  
16 Q. In November 1997 what happened to the SLA and RUF?  
17 A. Well, they had a place which they established in order to  
18 do some mining.  
19 Q. Mr Witness, I'm talking about November of 1997. You said  
20 the RUF/SLA stayed in Tongo Field from August to November  
21 1997. In November of 1997 what did the SLA and the RUF  
22 do?  
23 A. Well, they had been mining for diamonds from August until  
24 November. This was the place where they were.  
25 Q. Mr Witness, did the RUF/SLA ever leave Tongo Field?  
26 A. Yes.  
27 Q. When did they leave Tongo Field, the RUF and SLA?  
28 A. It was during the month that is called November. It was  
29 during the Muslim month of fasting.

- 1 Q. 1997?
- 2 A. Yes.
- 3 Q. Why did the RUF and SLA leave Tongo Field?
- 4 A. It was the Kamajors that came and fought against them.
- 5 Q. Where were you when the Kamajors came and fought against  
6 the RUF and SLA?
- 7 A. At that time I was in the mosque. I was standing by a  
8 friend when I came from my place of work.
- 9 Q. How did you know the Kamajors had come to fight the  
10 RUF/SLA?
- 11 A. I was standing with my friend, we are discussing. So we  
12 heard some shooting.
- 13 Q. Where was this shooting coming from?
- 14 A. It was towards the end of the town that is called  
15 Kpandebu area.
- 16 Q. What else happened on that day?
- 17 A. Well, when we heard these gunshots I became very  
18 confused, because all my children and wives were in the  
19 house.
- 20 Q. What did you do, Mr Witness?
- 21 A. It was a considerable distance from where we were  
22 standing to the house, so I told my colleague that I had  
23 to go and check what was going on with my family.
- 24 Q. Did you go back home?
- 25 A. Yes, I went. But when I was going I was intercepted by a  
26 large crowd of people. So it was almost impossible for  
27 me to go back to the house.
- 28 Q. Where was this crowd coming from?
- 29 A. They were coming from the part from where these gunshots

- 1 were coming from.
- 2 Q. Who were these people, this crowd that you refer to?
- 3 A. It was the civilians who within the township. These were  
4 the people that were coming with their bundles and all  
5 other types of loads.
- 6 Q. Mr Witness, what did you do at this point?
- 7 A. At that time I was totally confused. I couldn't go to my  
8 house anymore because there was a lot of shooting.
- 9 Q. Where did you go, Mr Witness?
- 10 A. I joined the civilians and we went to the headquarters.
- 11 Q. When you say "headquarters", what are you referring to?
- 12 A. There are buildings. It was a company called NDMC that  
13 build these houses, they had a field there.
- 14 Q. What did the NDMC company do in Tongo Field?
- 15 A. It was used for mining. But when the soldiers and the  
16 RUF entered there, it was in these quarters that they  
17 resided.
- 18 Q. Mr Witness, why did you go to the NDMC headquarters?
- 19 A. The commander of the SLA, called Seth Marah, told us that  
20 the men first attacked them in town so he told us that at  
21 any time we had an attack before one went into the bush,  
22 go where they were, they would protect us. It was for  
23 that reason that all of us -- I went to the headquarters.
- 24 Q. What did you see when you got to the headquarters?
- 25 A. I saw the Kamajors and the RUF. Some, the others, were  
26 coming, the others were shooting.
- 27 Q. Mr Witness, who was shooting and who was coming, can you  
28 clarify that?
- 29 A. The Kamajors, they were coming to the field where we are,

- 1 that is at the headquarters. The RUF and the soldiers,  
2 they were firing so that their enemies would not reach  
3 where they are.
- 4 Q. Mr Witness, can you tell the Court what happened at the  
5 headquarters?
- 6 A. Yes. There is a big field. That was where we, the  
7 civilians, slept during that time. During that time the  
8 RUF were firing shots, the Kamajors as well were firing,  
9 moving towards to capture where we were.
- 10 Q. Did the firing stop at any point?
- 11 A. Yes. When it intensified the SLA and the RUF dispersed.
- 12 Q. Do you know where the SLA and RUF went to?
- 13 A. No, I didn't know, because that time I didn't see them.
- 14 Q. What happened after the SLA and the RUF left?
- 15 A. That time we were left there, we the civilians in the  
16 field, and we saw the Kamajors. They were dressed with a  
17 gunmen attires, small mirrors and a hat.
- 18 Q. What did the Kamajors do?
- 19 A. Where I was lying, I saw one Kamajor with a cutlass.
- 20 Q. This Kamajor with a cutlass, what if anything did he do  
21 with a cutlass?
- 22 A. I saw him using the cutlass, chopping the people that  
23 were lying in the field.
- 24 Q. How many people did you see this Kamajor hacking?
- 25 A. I saw where he started. He hacked two and the third one  
26 was closer to me.
- 27 Q. Do you know what happened to these two people after they  
28 were hacked?
- 29 A. I couldn't know what exactly happened with them.

1 Q. Mr Witness, did anything else happen at the headquarters  
2 that day?

3 A. Yes, yes.

4 Q. Please tell this Court what happened.

5 A. After we are left, just we the civilians and them on that  
6 day.

7 Q. When you say "them", who are you referring to?

8 A. We and the Kamajors, we are left -- we the civilians and  
9 the Kamajors. So we were there until nightfall. We were  
10 there at the headquarters until a ceasefire was called.  
11 When they called for ceasefire --

12 Q. Mr Witness, who called for this ceasefire?

13 A. A Kamajor CO, he was the head of the Kamajors. He  
14 normally passed command.

15 Q. What happened after this ceasefire was called?

16 A. Well, there was some calm until we stayed throughout the  
17 night. But midnight I saw --

18 MR MARGAI: My Lords, I'm sorry, I seem to be completely lost.

19 Because when he gave his testimony he said as the  
20 Kamajors were advancing towards the NDMC headquarters the  
21 RUF/SLA open fire and the Kamajors responded. And it got  
22 to a stage when there was a stop in the fighting and the  
23 SLA/RUF dispersed. He didn't know where they went to.  
24 And from there he narrated the story about seeing a  
25 Kamajor with a cutlass hacking some people. Now we are  
26 going back to ceasefire. I am completely lost, I don't  
27 know --

28 JUDGE BOUTET: We are in the same situation as you. We are  
29 just trying to follow.



1 PRESIDING JUDGE: We are following it. I think we better  
2 exercise some patience and follow.

3 MR MARGAI: Very well.

4 JUDGE BOUTET: [Overlapping speakers] but that's where we are.

5 MR MARGAI: All right, as My Lords please.

6 MS WIAFE: Your Honour, the witness testified that there was  
7 fighting going on between the SLA and RUF, at that point  
8 no ceasefire was called. It was after a while, after the  
9 SLA had dispersed, that they called for that ceasefire.

10 PRESIDING JUDGE: Please proceed.

11 MS WIAFE:

12 Q. Mr Witness, at what time was the ceasefire called?

13 A. That time it was at night, we were only left there, the  
14 civilians and the Kamajors, knowing that the RUF and the  
15 SLA have left. We are just there with them and they said  
16 they should stop shooting.

17 Q. Before the ceasefire was called, was there shooting?  
18 Before the time that the CO you said called the  
19 ceasefire, had there been some shooting?

20 A. No, it ceased, because that time they were in control.  
21 So they too were just listening. We were also listening.  
22 So there was no firing at all.

23 Q. Did the firing stop when the ceasefire was called or  
24 before the ceasefire was called?

25 A. After they have fought with the guys and they have  
26 captured the place, their commander asked for ceasefire.  
27 It was their commander who passed the order that there  
28 should be a ceasefire after they have captured the area.  
29 This Kamajor CO asked for a ceasefire.

- 1 Q. And at this point where there any RUF/SLA around?
- 2 A. No.
- 3 Q. What happened after this ceasefire was called?
- 4 A. Well, we didn't hear any gunshot again. We are sitting  
5 there in the fields, we're sitting in the field. Later I  
6 saw a Kamajor came and took one man and took him along.  
7 After some time --
- 8 Q. [Microphone not activated]. Did you know this man?
- 9 A. The one that they took or --
- 10 Q. The one who was taken by the Kamajor.
- 11 A. I didn't know him, but he was a civilian.
- 12 Q. How did you know he was a civilian?
- 13 A. He didn't have uniform and we are living together in the  
14 town. You see, we are living together but since the town  
15 was so big there are times you will see somebody in the  
16 town but you didn't know him. That is it. But I know he  
17 was a civilian.
- 18 Q. Mr Witness, what happened to this man when he was taken?  
19 Do you know what happened to this man when he was taken?
- 20 A. No, I didn't know what happened with him. I only saw  
21 when he was taken away.
- 22 Q. Did anything else happen after this incident?
- 23 A. Well, we sat there, nothing happened. We are just  
24 sitting there listening. They too were jubilating,  
25 dancing.
- 26 Q. When you say "they", who are you referring to?
- 27 A. The Kamajors. That time they were dancing, singing.
- 28 Q. Mr Witness, how long did you stay at the NDMC  
29 headquarters?

- 1 A. I slept there and I stayed there till midday, because at  
2 that time I didn't have a watch with me. But I slept  
3 there. I was there till midday.
- 4 Q. Midday the next morning?
- 5 A. Yes.
- 6 Q. In the morning what did you see?
- 7 A. In the morning I saw many corpses.
- 8 Q. Where did you see these corpses?
- 9 A. In the field where we were. This was a large field.
- 10 Q. How did these corpses look?
- 11 A. Some, some -- the ones I looked some were hacked by  
12 machete. Others there was nothing wrong with them, no  
13 marks on them, but they were dead.
- 14 Q. Mr Witness, did anything happen that morning, the day  
15 after the attack -- in the morning of the day after the  
16 attack?
- 17 A. Yes.
- 18 Q. Please tell this Court what happened.
- 19 A. In the morning I saw they took some people -- the  
20 Kamajors took some people. The Kamajors, some were  
21 standing on the right-hand side, the others were standing  
22 on the left-hand side. These people were in the middle.
- 23 Q. Mr Witness, who were standing on the right-hand side and  
24 on the left-hand side?
- 25 A. The Kamajors were standing on the left-hand side and the  
26 others on the right-hand side. The Kamajors were on both  
27 sides. And the people that they took were in the middle.  
28 Some of the Kamajors had guns, the others had machetes.  
29 They took these people.

- 1 Q. How many people were taken?
- 2 A. I saw 20. They told us --
- 3 Q. Mr Witness. Where did they take these people from?
- 4 A. They brought them openly in the field.
- 5 Q. Mr Witness, you were going to talk about what they told
- 6 you. When you say "they", who are you referring to?
- 7 A. The Kamajors. We were together with them at that time.
- 8 Q. What did they tell you?
- 9 A. They told me that these 20 people were captured soldiers.
- 10 Q. They told you personally?
- 11 A. They said that openly. They said they were captured
- 12 during the fighting. With four women.
- 13 Q. Do you know who these four women were?
- 14 A. I don't know them, but they said they are wives of
- 15 soldiers, the Kamajors.
- 16 Q. Did they also tell you who these 20 other -- these 20
- 17 people were?
- 18 A. Yes, they said they are SLA soldiers.
- 19 Q. Mr Witness, did you know any of these people?
- 20 A. Among these 20 people, I knew one of them.
- 21 Q. Who was he, the one that you knew?
- 22 A. He was a fellow that I knew for a long time. He is an
- 23 SLA soldier. He was called soldier -- Cobra, that was
- 24 the name that I knew he was called.
- 25 Q. And where was Cobra based at the time that you knew him?
- 26 A. He was in town. In fact, he was one of the men that was
- 27 in the headquarter.
- 28 Q. When you say "town", are you referring to Tongo Field?
- 29 A. Yes, I knew him as a soldier in Tongo.

- 1 Q. Mr Witness, these 20 people who were taken, were they  
2 carrying anything?
- 3 A. Please make me understand.
- 4 Q. These 20 people that you said the Kamajors said were  
5 soldiers, were they holding anything?
- 6 A. No, they didn't have anything in their hands.
- 7 Q. And the four people who they said were the wives of  
8 soldiers, were they holding anything?
- 9 A. No, they had nothing on them.
- 10 Q. Mr Witness, did anything happen to these 24 people?
- 11 A. Yes.
- 12 Q. Please tell the Court what happened to them?
- 13 A. These 24 people, the 20 who are men, they took them --  
14 they took them one after the other. When they take one  
15 from where the group was standing, they took one to an  
16 area that is called MP office, but it was an open place.  
17 So when they were taking him, you will see him being  
18 hacked. They took them one after the other and they  
19 hacked all of them. We are not that near, I and they.  
20 See, because the place was very open, but the only thing  
21 is that we were a little bit isolated where we were  
22 standing. But we saw all that had been happening.
- 23 Q. Mr Witness. Mr Witness, you were talking about these  
24 people being hacked one after the other. Was that what  
25 happened to all of them or some of them?
- 26 A. All of them were hacked.
- 27 Q. Did you see what happened after they were hacked?
- 28 A. Yes.
- 29 Q. What happened to them after they were hacked?

- 1 A. All of them lay there and they left them there.
- 2 Q. Were they alive at the time that they were left there?
- 3 A. They were not alive. They were all dead.
- 4 Q. Mr Witness, did anything else happen the morning after  
5 the attack?
- 6 A. Yes.
- 7 Q. Please tell the Court what happened.
- 8 A. After this had happened, while we were sitting --
- 9 Q. Go on, Mr Witness.
- 10 A. -- then a CO Kamajor came.
- 11 Q. Did he do anything when he came?
- 12 A. When he came, first of all, he told all of us we had to  
13 be careful with what we thought we were doing. That we  
14 the civilians -- say that we, the civilians, we knew how  
15 we had been taking control from the RUF and SLA when they  
16 were in town. So they themselves had they had come,  
17 although we said initially that they had nothing, they  
18 had gone into the bush, they had gone into the bush and  
19 there had been suffering in the bush without any weapons  
20 to fight with. But like today, we knew that what they  
21 refer to as Kamajor, they themselves, that where they  
22 were they had not been suffering at all. They used to  
23 have helicopters that used to bring food for them. That  
24 when we are laughing at them saying they had gone into  
25 the bush suffering and that they used to bring ammunition  
26 for them.
- 27 Q. Mr Witness, take your time. Please carry on. What else  
28 did they say?
- 29 A. They said because of that, that is why they are telling

1 us that. Because they did not see that, that we want to  
2 take their control. But now they know that if they kill  
3 anybody nobody would ask them.

4 Q. Mr Witness, you said the Kamajors told you that when they  
5 were in the bush they were receiving ammunition. Did  
6 they also tell you where this ammunition was coming from?

7 A. Yes.

8 Q. What did they say?

9 A. They told us that it was their boss that was giving them  
10 these guns and food, whose name was Sam Hinga Norman.  
11 Because they also used to bluff with Sam Hinga Norman,  
12 just like the RUF had been bluffing with Foday Sankoh.

13 Q. Mr Witness, did the Kamajors say anything else to you  
14 that morning, apart from they received ammunition and the  
15 fact that you were under their control?

16 A. Yes.

17 Q. What did they say?

18 A. After telling us that, they told us that, see, what would  
19 make us believe, as we had been laughing at them, that  
20 they were in the bush suffering, they had been fighting  
21 so as to organise themselves. Because they are telling  
22 us this: If you are related to anybody that is a  
23 soldier, go and call him so as to test them. The team  
24 that has entered into town, we should not feel that it is  
25 a team that is weak. It was organised from Kenema, Bo  
26 District, Bonthe, part of the Kailahun District. That is  
27 why there were over 50,000 according to --  
28 52,000 according -- 15,000, I'm sorry. That is why there  
29 are over 15,000, according to what the CO told us. That

1 is to tell us that if the soldiers and the rebels wanted  
2 to come and test us, they have a very, very strong force  
3 to confront them. At that time whatever they said we  
4 accepted, we saw, but we had no marks with which to  
5 reply. Well, the only thing is that we knew that the  
6 town was so big and in any area of the town, wherever you  
7 turned you would see them. Well, see, I reflected on  
8 that. See, that is what they told us.

9 Q. Mr Witness, did you leave the NDMC headquarters at any  
10 time?

11 A. Well, I did not leave the place at any time. Because by  
12 then they had a right to tell you what to do and what not  
13 to do.

14 Q. So did you stay at the headquarters the whole day the day  
15 after the attack?

16 A. I was there in the evening hours and I slept there. Then  
17 I stayed there until noon. It was afternoon when a CO  
18 Kamajor came.

19 Q. Are you still talking about the day after the attack?

20 A. Yes.

21 Q. Carry on. What happened?

22 A. So when we were there up to noon, one CO came -- CO  
23 Kamajor and told us that from now we wouldn't like to see  
24 any civilian here. They said we should leave. So we got  
25 up. So we got up, the population rose up. We are going.

26 Q. You are leaving the headquarters at this time?

27 A. Yes, because during that time when he had commanded us to  
28 leave, so we decided to move out of the place.

29 Q. Where did you go?



1 A. We are trying to leave the headquarters to go towards  
2 Kenema.

3 Q. Did you leave the headquarters yourself?

4 A. Yes, I rose up, I moved a little, but those who stood  
5 before, we got information from another CO Kamajor asking  
6 us who gave us the permission to leave.

7 Q. What happened when they asked you who gave you permission  
8 to leave?

9 A. Well, when they saw us, they saw the crowd -- because  
10 there was a large crowd. Then the CO commanded that they  
11 should start shooting.

12 Q. The CO commanded who to start shooting?

13 A. That is his followers. He said they should shoot.

14 PRESIDING JUDGE: Which CO, because one asked them to leave?

15 They got up en masse and they were now leaving. Another  
16 one came and questioned why they were leaving. So let's  
17 get it clear from that point, please.

18 MS WIAFE:

19 Q. Which CO? Was it the same CO who had told you to leave?

20 A. No, it wasn't he. When this very first CO came and told  
21 us that not want to see anymore civilian, so his own  
22 group went away. We were almost trying to leave,  
23 everybody worrying to go out, it was another CO that came  
24 and gave this order. So they opened fire and they shot  
25 sporadically and we lay down on the ground. Because this  
26 fire, these were the people that were intimidating us.  
27 These were the people that were making us to take their  
28 control.

29 Q. Mr Witness, did the firing stop at any point?

- 1 A. Yes. Later another CO came when he heard the gunshots.  
2 That is the third one. He came.
- 3 Q. Did he do anything when he came?
- 4 A. Yes, he ordered for a ceasefire. He said the people are  
5 so many. But during the time when they were shooting,  
6 they did not point at somebody. But the people are so  
7 many, so a lot of them were struck by a stray bullet.  
8 Even I myself, where I was standing, one man was struck  
9 by a stray bullet. They did not point at him, but when  
10 it struck him he fell down.
- 11 Q. Mr Witness, so what happened after this shooting  
12 incident?
- 13 A. After the shooting they ceased fire, so there was calm.  
14 We sat down again. So there I saw the one who was hit by  
15 a bullet struggling. Out of the pain that he had been  
16 suffering, I also identified myself with him. Because  
17 during the time when he was hit by this bullet, he was  
18 struggling to die. Then the Kamajor came and took a  
19 machete, you see, and chopped him on his back, and he  
20 took his belt from his hip and he hit him with the belt  
21 and he told him, "Get up and let's go." See, I felt  
22 very, very sympathetic with him. Because the life that  
23 he had, I also is what I have.
- 24 Q. Mr Witness, so what eventually happened to this man who  
25 was shot and chopped as you say?
- 26 A. He died.
- 27 Q. Mr Witness, did you leave the headquarters at any time?
- 28 A. Please say it again.
- 29 Q. I just wanted to know whether you finally left the

- 1 headquarters?
- 2 A. Yes. After this incident it was they that gave us the  
3 okay. You couldn't have left that place without their  
4 okay. It was their own right that allowed me to leave  
5 the headquarters.
- 6 Q. So did they give you the okay to leave?
- 7 A. Yes.
- 8 Q. Did you leave the headquarters?
- 9 A. Yes, and all of us -- all the crowd moved out.
- 10 Q. Where did you go from the headquarters?
- 11 A. We went along the line, trying to go away.
- 12 Q. Did anything happen along the way?
- 13 A. Yes, I saw it, it happened.
- 14 Q. What happened along the way?
- 15 A. When I was going, Kamajors were on the left and the  
16 right. We, the civilians, were at the middle. They had  
17 a first checkpoint.
- 18 Q. Who had this checkpoint?
- 19 A. The Kamajors. At this checkpoint which was mounted by  
20 the Kamajors, I was going along the line, they told me  
21 that there was a checkpoint right ahead of me, because we  
22 were worried.
- 23 Q. Mr Witness did anything happen at this checkpoint?
- 24 A. Yes.
- 25 Q. Please tell the Court what happened at this checkpoint.
- 26 A. Well, at this checkpoint, if you had a bag -- because  
27 some people had been running away. That is those people  
28 who escaped from their houses had been running away with  
29 their bags. If your bag was beautiful and it had

1 anything that was valuable in it, well, it had -- when  
2 they finished checking it they would say, "Okay, leave it  
3 here, then go away."

4 Q. Mr Witness, did you see anybody whose bag was taken at  
5 that checkpoint?

6 A. Yes, yes, because I see a lot of them.

7 Q. What else happened at that checkpoint?

8 A. After the bags they would again check -- see, we had some  
9 of our colleagues who had pictures, pictures wherein you  
10 have soldier's pictures. If they saw it in your bag and  
11 they met it there, then you'll not be allowed to pass  
12 that checkpoint.

13 Q. Mr Witness, hold on. Was a soldier's picture -- was a  
14 picture of a soldier found on anybody at that checkpoint?

15 A. Yes. Those men who are ahead of us, one of them had a  
16 bag. When they searched this bag they found the picture  
17 of a soldier. There were five people that were ahead of  
18 me. They raise this picture.

19 Q. Who raised the picture?

20 A. The Kamajor that was at the checkpoint. When he raised  
21 the picture, then he said, "When I was telling you people  
22 that these particular people, these civilians are for the  
23 soldiers, well, this one is dead." See, I had not  
24 reached checkpoint but I was almost close to it. On the  
25 other side -- they took him on the other side and they  
26 hacked him to death.

27 Q. Mr Witness, did you see this happen?

28 A. Yes, yes, I stood on the queue and I saw all that  
29 happened.

- 1 Q. Do you know this man? This man who was killed, did you  
2 know him?
- 3 A. I knew him, I knew him by face because the place -- the  
4 town was so big. I couldn't say that I could identify  
5 him to me, but I knew him very well.
- 6 Q. Who was he?
- 7 A. He was a diamond miner.
- 8 Q. Mr Witness. Mr Witness, hold on. Mr Witness, what  
9 happened when you got to that checkpoint?
- 10 PRESIDING JUDGE: Learned counsel, you think you have how much  
11 more time?
- 12 MS WIAFE: About 10 minutes.
- 13 PRESIDING JUDGE: Ten minutes. Yes, please.
- 14 MS WIAFE: Thank you, Your Honours.
- 15 Q. Mr Witness, what happened when you got to that  
16 checkpoint?
- 17 A. Well, I reached the checkpoint. I had practically  
18 nothing, I only had sports pants on me. I did not have  
19 anything, so they did not do anything to me, so I passed.
- 20 Q. From there where did you go?
- 21 A. We went again and we met another checkpoint.
- 22 Q. Who was at this checkpoint, this second checkpoint?
- 23 A. It was these Kamajors that had these checkpoints.
- 24 Q. Did anything happen at this second checkpoint?
- 25 A. Yes.
- 26 Q. Please tell the Court what happened.
- 27 A. They themselves did the same thing in this second  
28 checkpoint. They were always there to check for items,  
29 these little things, pictures. We used to have wallets.

1 They resemble the combat -- the military fatigue of the  
2 SLA. We used to have wallets and these wallets resemble  
3 the military fatigue of the SLA. In his second  
4 checkpoint, in fact, they took this wallet from a boy, a  
5 man that I knew very, very well. They met it in his  
6 pocket. He was called Sule and they said he was a  
7 soldier.

8 Q. Mr Witness, when this wallet was found did anything  
9 happen to this man?

10 A. Yes.

11 Q. Please tell the Court what happened.

12 A. When they took this wallet from him they said he was a  
13 soldier. He was denying that he was a soldier. By then  
14 I was right at the back. This very Sule, this was the  
15 place where he was hacked.

16 Q. How far were you from the place where he was hacked?

17 A. It was from where I am sitting here to the door, because  
18 it is not that too long. Because when you reach the  
19 checkpoint you have to wait and wait so that others could  
20 be searched.

21 Q. Mr Witness, when you yourself got to that checkpoint did  
22 anything happen to you?

23 A. For me, nothing happened to me. Because by then I had  
24 nothing for which I should be checked, because all I had  
25 was shorts. So if you see me except if God had decide  
26 that I should be killed. But practically I had nothing.

27 Q. Mr Witness, from Tongo Field where did you go that day?

28 A. I was going to Kenema, little by little. But you cannot  
29 just go like that, you know, you had to go in gradual

1 steps.

2 Q. [Microphone not activated] that day?

3 A. No, I was not able to reach. You know, I had to sleep  
4 somewhere.

5 Q. And eventually you went to Kenema?

6 A. Yes.

7 Q. Mr Witness, when you were in Tongo did you ever come to  
8 learn why the people at the headquarters were killed?

9 A. Those at the headquarter, the reason for which they were  
10 killed, I did not know the reason -- those that were  
11 killed during the night, whom I saw in the morning.

12 Q. Did the Kamajors ever tell you why these people were  
13 killed?

14 A. Yes. They said -- the Kamajors, they said three things,  
15 those what remain in my ear.

16 Q. Please tell this Court what they told you.

17 MR MARGAI: My Lords, I am objecting to that. I mean, surely  
18 that is not evidence that my learned friend intends this  
19 Court to act on.

20 JUDGE BOUTET: As you know we do accept hearsay evidence. I  
21 do not know why we would not accept this particular one.

22 MR MARGAI: Yes, I know, My Lord. The question of procedure  
23 governing the reception of evidence is rather flexible  
24 when it comes to international tribunals. But at the  
25 same time hearsay is still an exception, especially where  
26 it is prejudicial. I mean, here we are talking about  
27 deaths which he himself cannot ascertain, and my learned  
28 friend wants him to tell you what he was told as to why  
29 they were killed.

1 JUDGE BOUTET: I say to you that this evidence is indeed  
2 acceptable; we have accepted it and it is a question of  
3 how much weight this tribunal will accord to this  
4 evidence. Admissibility, Mr Margai, is not to be mixed  
5 nor confused with probative value and whatever value we  
6 will accord this evidence. I want that to be clear.

7 MR MARGAI: My Lord, I appreciate the distinction between  
8 admissibility and probative value, but my objection is  
9 not related to what value is to be placed on the  
10 evidence. I'm talking about the very admissibility of  
11 this piece of evidence in the context.

12 JUDGE BOUTET: I understood your objection to be that. I am  
13 just telling you that we have admitted, we will admit  
14 this one, but our concern is more not admissibility but  
15 the weight we are going to be attaching to that. I know  
16 you are aware of that but I am just restating our  
17 position.

18 MR MARGAI: As My Lord pleases.

19 JUDGE THOMPSON: I merely wanted to say clearly that it is  
20 different sides of the same coin. In the national system  
21 the principle is the -- the general rule is against the  
22 admissibility of hearsay evidence unless you can bring  
23 the particular piece of evidence within the recognised  
24 exceptions. In the international tribunals the principle  
25 is in favour of the admission of hearsay evidence. In  
26 other words, per se it is not inadmissible. So the rule  
27 here is not an exclusionary rule, but there is a  
28 safeguard which, as it were, brings in the national  
29 systems. But when it comes to weight of probative value,



1 then the Court would in fact be very careful and probably  
2 will treat it with some degree of circumspection so as to  
3 determine what weight it should have. So I think that is  
4 the kind of scenario we have here and you have stated it  
5 quite rightly. We are enjoined to adopt a doctrine of  
6 flexible admission of evidence so as to not get bogged  
7 down in the technicalities that would have rendered this  
8 piece of evidence inadmissible if it were in Sierra Leone  
9 jurisdiction or in Canada or perhaps even in the United  
10 Kingdom. That's the way we understand the law.

11 MR MARGAI: As My Lord pleases.

12 JUDGE BOUTET: So Madam Prosecutor, you want to carry on with  
13 or are you finished with --

14 MS WIAFE: I'm almost finished with.

15 JUDGE BOUTET: Thank you.

16 MS WIAFE:

17 Q. Mr Witness, before the break I asked you if the Kamajors  
18 had told you why those civilians at the headquarters were  
19 killed?

20 A. Yes, because they said -- they talked and we heard them.  
21 I heard -- I got some reasons.

22 Q. Please state those reasons.

23 A. The first thing, they went to the part of Akim.

24 Q. Who was Akim?

25 A. He was an SLA soldier. He was the one that was in Tongo  
26 as a lieutenant. He was a local. Then they said when he  
27 was in Tongo with the Kamajors he killed their brothers.

28 Q. Did they say anything else?

29 A. Because of that if they were -- if they came, that was

1 the time they were coming to repay the debt on the side  
2 of the locals.

3 MR BOCKARIE: Objection, Your Honour. Your Honour, I am a  
4 little bit worried about this particular piece of  
5 evidence. When one looks at the indictment there is no  
6 count bordering on genocide.

7 JUDGE BOUTET: It has nothing to do with genocide. He can  
8 still speak of the particular tribe without talking of  
9 genocide. Genocide is a very specific crime as such.

10 MR BOCKARIE: It is, Your Honour.

11 JUDGE BOUTET: We are not talking of genocide, we are just  
12 speaking of local. I agree with you and we have said  
13 that in the past we will not allow, because there is no  
14 specific count of genocide and we are not dealing with  
15 genocide. But this evidence per se, as I understand it  
16 now, does not go to genocide and evidence about genocide  
17 will not be accepted.

18 MS WIAFE: Thank you, Your Honour. The Prosecution has no  
19 intention of leading any evidence on genocide. As the  
20 Defence is aware, the indictment alleges that AFRC/RUF  
21 supporters were targeted by the Kamajors and it is for  
22 that purpose that this evidence is being elicited.

23 Q. Mr Witness, you were saying something about Akim and the  
24 Kamajors telling you why locals were targeted. Please  
25 continue.

26 A. Well, that was the question that I have answered. They  
27 said that they came and that they were going to retaliate  
28 what Akim had done to their brothers.

29 Q. Apart from this did they say anything else?

1 A. I told you that I was going to give you three reasons. I  
2 have given one; now you have two more. The Limbas. They  
3 said if the RUF and the SLA had based in Tongo Town, it  
4 was they that were tapping palm wine for them. So they  
5 themselves should know that it was their time to be  
6 repaid in their own coin. So now have we not got two  
7 reasons. The third one, the Temne man, he -- they said  
8 they were revenging on them because they were the ones  
9 that were supporting the RUF and the soldiers. These  
10 were the three conditions which they mentioned to  
11 everybody in these circumstances. These things were  
12 engrafted in our ears.

13 MS WIAFE: Your Honours, can I just have one minute to confer  
14 with co-counsel? Thank you, Your Honour. The witness  
15 earlier talked about the distance between where he was  
16 sitting to the door, and I just wanted to give an  
17 estimate of say perhaps 20 metres.

18 PRESIDING JUDGE: Take us back to the event. In relation to  
19 what event? He was describing the distance of the scene  
20 of crime and his position at the time?

21 MS WIAFE: Yes, at the second checkpoint.

22 JUDGE BOUTET: He was on the line waiting for --

23 MS WIAFE: Yes.

24 JUDGE BOUTET: So the distance you assess to be about 20  
25 metres?

26 MS WIAFE: About 20 metres, yes.

27 JUDGE BOUTET: There seems to be no big dispute from the  
28 Defence on that, so for the record it will be estimated  
29 to be 20 metres.

1 MS WIAFE: Thank you very much, Your Honour. Your Honour, I  
2 have no further questions for this witness.

3 PRESIDING JUDGE: We will be recessing for lunch and we'll  
4 resume the session at 2.30 -- at 2.45. We'll resume the  
5 session at 2.45, please.

6 [Luncheon recess taken at 1.20 p.m.]  
7 [HN110205C-SGH]  
8 [On resuming at 2.58 p.m.]

9 PRESIDING JUDGE: Good afternoon learned counsel. We are  
10 resuming the session.

11 JUDGE BOUTET: Mr Hall, you are ready to proceed for the  
12 cross-examination of the first accused?

13 MR HALL: Yes, Your Honour. Surprisingly, I have no questions  
14 for this witness.

15 PRESIDING JUDGE: Well, this is fine.

16 MR HALL: I will let Mr Margai --

17 JUDGE BOUTET: Thank you very much. The second accused?

18 MR KOPPE: Yes, Your Honour, I do have a few questions.

19 JUDGE BOUTET: Okay. Please proceed.

20 MR KOPPE: Thank you.

21 Q. Mr witness, could you please tell this Court  
22 how long the fighting lasted between the  
23 Kamajors and the RUF and the soldiers?

24 THE INTERPRETER: Your Honours, the interpreters do not get  
25 the question from the counsel. Please repeat. Would  
26 you please repeat?

27 PRESIDING JUDGE: Mr Koppe, you had better put the questions  
28 again.

29 MR KOPPE: I will repeat the question again.

1 JUDGE BOUTET: [Microphone not activated]

2 PRESIDING JUDGE: And you are very tall over there.

3 MR KOPPE: Yes, sometimes it's cold up there.

4 Q. Mr witness, when the Kamajors came to Tongo and  
5 started fighting with the soldiers and rebels,  
6 do you know how long this fighting lasted?

7 A. I cannot know the extent it took because --

8 JUDGE BOUTET: Go on, Mr witness.

9 THE WITNESS: At that time I didn't have a watch on me. We  
10 only look at the position of the sun.

11 MR KOPPE:

12 Q. But, Mr witness, did the fighting --

13 PRESIDING JUDGE: Tell him to forget about the sun. Let him  
14 talk to us in terms of days or hours.

15 MR KOPPE:

16 Q. Mr witness, did the fighting last for a few  
17 days, for a few hours or a few weeks?

18 A. No, the fighting began after we paraded what we called  
19 Lansara [phon], that is at 4 o'clock.

20 Q. The fighting started at 4 o'clock. Until when did the  
21 fighting last?

22 A. At about 5 o'clock, when the sun is almost setting, we  
23 did not see the soldiers again.

24 JUDGE BOUTET: So by 5 o'clock in the afternoon, when the sun  
25 was setting, you did not see soldiers. In other words,  
26 the fighting was finished. That is my interpretation of  
27 what he --

28 THE WITNESS: In the evening. In the evening.

29 PRESIDING JUDGE: In Sierra Leoneans is 5 o'clock the hour for

- 1 sunset? He gave, you know, this sunset?
- 2 JUDGE BOUTET: It's the time that the sun was -- it was
- 3 sunset, at 5 was -- he did not see any more soldiers.
- 4 THE WITNESS: You will see that the victory is coming, but it
- 5 is still clear.
- 6 JUDGE BOUTET: That's why it was 5 o'clock.
- 7 MR KOPPE:
- 8 Q. So, Mr witness, am I correct in saying that the
- 9 fighting started and finished on the same day?
- 10 A. The fighting between the two people, yes, because if the
- 11 one withdrew, if we are only left with the one who met
- 12 us, I will say so.
- 13 Q. So, Mr witness, would you agree with me that there was no
- 14 heavy fighting between the Kamajors on the one hand and
- 15 the soldiers and rebels on the other hand?
- 16 A. It was intensive at the time the attack took place.
- 17 Q. Mr Witness, could you please clarify to this Court what
- 18 you mean by intensive?
- 19 A. Yes.
- 20 Q. Please do.
- 21 A. The sounds of the guns were very deep within that time.
- 22 Because of that deepness we were confused within that one
- 23 hour and we took it that the fighting was very fierce.
- 24 Q. Could you please tell again when the Kamajors came to
- 25 Tongo, in which month?
- 26 A. The Kamajors entered there in November.
- 27 Q. In which year?
- 28 A. In 1997.
- 29 Q. Mr Witness, are you sure it was not January 1998?

- 1 A. No, in 1997.
- 2 Q. Mr Witness, you have been giving evidence this morning  
3 that you went to the headquarters.
- 4 A. Yes.
- 5 Q. And that the next morning you saw many corpses in the  
6 field.
- 7 A. Yes.
- 8 Q. Have you heard or is there a possibility that these  
9 people, the corpses of these people, were there because  
10 they got hit by cross-fire due to the heavy fighting?
- 11 A. Well, I don't know about that. In the morning I just saw  
12 them. I saw some of them had a wound behind. Others did  
13 not have wounds. So I didn't know how they died because  
14 during that time everybody was confused.
- 15 Q. Mr witness, I understand, of course, that everybody was  
16 confused, but it is very well possible that the corpses  
17 that you saw lying in the field were casualties because  
18 of the cross-fire?
- 19 A. Yes.
- 20 Q. Mr Witness, I would like to --
- 21 PRESIDING JUDGE: Did you say the casualties or some of the  
22 casualties?
- 23 MR KOPPE: The casualties.
- 24 PRESIDING JUDGE: The casualties.
- 25 MR KOPPE:
- 26 Q. Mr witness, do you recall giving testimony this morning  
27 that at a certain moment in time one of the commanders of  
28 the Kamajors said that he would not like to see any more  
29 civilians in the field?

- 1 A. Yes.
- 2 Q. And that subsequently this commander told all the people  
3 to leave?
- 4 A. Yes.
- 5 Q. And you said that the whole population rose when that was  
6 ordered; correct?
- 7 A. Yes.
- 8 Q. But if I have understood you correctly, you gave evidence  
9 to the effect that another commander was asking the  
10 question why the people have left; am I correct?
- 11 A. Yes.
- 12 Q. Could you please expand on that a little bit more? What  
13 were the exact words of this commander, for instance?
- 14 A. The reason why the commander asked that question, it was  
15 because we were under the control of the commander who  
16 just saw us rose altogether and everybody was going. It  
17 resembled that we did not take their command and we were  
18 under their command. But he was not present when the  
19 command was given for us to leave.
- 20 Q. Mr witness, you speak about the commander who gave the  
21 order to the population leave, and another commander  
22 asking the question, "Why did people leave?"
- 23 A. Yes.
- 24 Q. How could you tell that these two commanders were in fact  
25 commanders?
- 26 A. Well, we had their names that they are called CO. At  
27 times one would come with his own group. They come by  
28 groups.
- 29 Q. Mr witness, did it seem to you at the time that the



- 1 second commander didn't know anything about the order of  
2 the first commander?
- 3 A. Well, that is what I thought because he wasn't there.  
4 This one who gave the second command.
- 5 Q. Mr witness, am I correct in saying that this morning you  
6 gave testimony to the effect that right after the  
7 intervention of the second commander shooting started?
- 8 A. Yes. He gave that command. The second commander, that  
9 CO.
- 10 Q. When that happened, did any of the people who were being  
11 shot at shouted the soldiers or shouted the Kamajors that  
12 you were allowed to walk?
- 13 A. We did not shout. Everybody lay down because the  
14 shooting was on when he had given the command. So I lay  
15 down. I saw my other colleagues lying down so that a  
16 stray bullet would not hit them.
- 17 Q. Mr witness, was it your perception at the time that this  
18 second commander was contravening the first order?
- 19 A. Yes, that was because the commander of the first  
20 commander was the one that we accepted. We obeyed.
- 21 Q. Thank you. Now, Mr witness, I recall --
- 22 A. Yes.
- 23 Q. I recall you giving testimony this morning that there was  
24 also a third commander.
- 25 A. Yes.
- 26 Q. And if I have understood your testimony correctly, this  
27 third commander was in his turn contravening earlier  
28 orders; am I correct?
- 29 A. It is not denied that he came and called a cease-fire.

- 1 That's for them to stop shooting.
- 2 Q. So the third commander was effectuating the order of the  
3 first commander?
- 4 A. Yes.
- 5 Q. My last question, Mr witness, do you have the impression  
6 that anybody was at that time really in effective control  
7 of all the Kamajors?
- 8 A. Well, I cannot say that there were many. I only heard  
9 say CO, CO, because there are many who came.
- 10 Q. So what you are saying, Mr witness, is that there were  
11 many groups with --
- 12 A. Yes.
- 13 Q. -- as many commanders?
- 14 A. Yes.
- 15 Q. Thank you.
- 16 JUDGE BOUTET: Mr Margai, would you like to proceed for the  
17 third accused?
- 18 MR MARGAI: Yes, My Lord, thank you.
- 19 JUDGE BOUTET: Thank you.
- 20 CROSS-EXAMINED BY MR MARGAI:
- 21 Q. Now, Mr witness --
- 22 A. Yes.
- 23 Q. -- you will agree with me that before the May 25th, 1997  
24 coup that toppled President Kabbah's government, the  
25 military and the police were in charge of security  
26 throughout Sierra Leone including Tongo?
- 27 A. I would like you to repeat it well so I will have time to  
28 answer it. You are talking to me.
- 29 Q. Thank you. My question is you would agree with me that

1 before President Kabbah's government was overthrown on  
2 the 25th May 1997 --

3 JUDGE BOUTET: Pause there, Mr Margai, pause there.

4 THE WITNESS: Yes.

5 MR MARGAI:

6 Q. The military and the police were in charge of security  
7 throughout Sierra Leone and I mean including Tongo?

8 A. Yes.

9 Q. Thank you.

10 A. Yes.

11 Q. And you would also agree with me, would you not, that  
12 before the military coup the soldiers and the Kamajors  
13 fought on the same side against the rebels?

14 A. Yes, it was true.

15 Q. And you would further agree with me that before the  
16 overthrow of President Kabbah's government, the SLAs and  
17 the Kamajors worked amicably in Tongo to secure the  
18 people of Tongo and its environs?

19 A. Well, there was a conflict that took place there so they  
20 removed one of the parts, that's the SLA. Before the  
21 overthrow, the SLA was not there, it was only the  
22 Kamajors that were there.

23 Q. So what you are in effect saying is that before the  
24 overthrow of President Kabbah there was no SLA in Tongo  
25 Field; is that what you are saying?

26 A. No, they were not there at that time that having been  
27 brought to Freetown they said they were transferred.

28 Q. When did the SLAs first go to Tongo Field?

29 A. In August. In August in the rainy season.

- 1 Q. August of what year?
- 2 A. In 1997. The same year.
- 3 Q. Mr witness, do you recall an interview with the  
4 investigators of the Special Court, to be precise, on  
5 27th of January 2004?
- 6 A. I want you to repeat it again so that I understand it.  
7 When you talk fast I would not get it well.
- 8 Q. What I am saying is that were you interviewed by  
9 investigators from the Special Court at Tongo Field on  
10 27th of January 2004 in connection with this matter?
- 11 A. Yes, people went and interrogated me.
- 12 Q. And did you make a statement to them?
- 13 A. Yes, I explained to them -- I showed them what I saw and  
14 what I heard.
- 15 Q. And this particular statement was to correct statements  
16 you had made earlier, to be precise, on 16th of  
17 October 2002; is that correct?
- 18 A. Yes, because --
- 19 Q. Thank you. In what language did you make the statement  
20 of 27th January 2004? Was it in Krio?
- 21 A. Who interviewed me, I spoke to him in Krio.
- 22 Q. In Krio?
- 23 A. Yes.
- 24 Q. You don't, I take it, remember the persons who  
25 interviewed you such as Thomas Lahun, counsel Bobby  
26 Gboyor? You don't remember their names?
- 27 A. No, I couldn't remember their names.
- 28 Q. Thank you.
- 29 A. Welcome.

- 1 Q. Thank you. The statement you made was written down; was  
2 it not?
- 3 A. Yes. When I was talking they had me writing.
- 4 Q. And at the conclusion of your statement was it read over  
5 to you and explained in the Krio language to you?
- 6 A. Yes, they explained that to me.
- 7 Q. Yes. And you admitted the contents to be true and  
8 correct; did you not?
- 9 A. Yes, that is what I said; the thing that they read back  
10 to me.
- 11 Q. You did not sign that statement, did you?
- 12 A. They gave me a paper and I wrote on it.
- 13 Q. Please have a look at that document - with your leave My  
14 Lords - and tell me whether you do recognise that  
15 document?
- 16 A. Yes. I cannot say that I will be able to read  
17 everything but I can still remember what the  
18 questions that they asked me.
- 19 Q. Is that document reflective of the questions that were  
20 asked and the answers given by you?
- 21 THE INTERPRETER: Your Honours, the mic is not on.
- 22 JUDGE BOUTET: Yes and I will just caution you, Mr Margai, if  
23 I am not mistaken the witness has said when he was  
24 questioned by the Prosecution that he had some knowledge  
25 of English.
- 26 MR MARGAI: Up to Form 2, He said.
- 27 JUDGE BOUTET: He was educated up to Form 2 --
- 28 MR MARGAI: Form 2.
- 29 JUDGE BOUTET: -- but when asked if he could read English he

1           said a little.

2   MR MARGAI: Well, let him just, with the little reading

3           ability he has, just look at it.

4   JUDGE BOUTET: Fine.

5   MR MARGAI: Just to guide us, My Lord.

6   Q. Do you agree that that is what you said?

7   A. Well, I'm still looking at it.

8   Q. Please take your time, I'm sorry.

9   JUDGE BOUTET: Mr Margai, again you know the discussion we

10           had yesterday about statements and I know you are

11           familiar with that issue. Is it your intent at this

12           time is to ask witness to read the statement and ask him

13           to refresh his memory or his recollection or do you want

14           to show him --

15   MR MARGAI: No, I merely want him to identify the statement

16           and then I am going to -- the purpose of putting that

17           statement is to establish inconsistency. That is it.

18   JUDGE BOUTET: Okay, that's fine.

19   MR MARGAI: [Microphone not activated] to follow the procedure

20           as agreed upon by Your Lordships.

21   JUDGE BOUTET: That's fine. But I can tell you at this stage

22           I have not too many problems to accept, given the

23           background you have established, that -- it sounds to me

24           to be the statement in question. So if you want to

25           pursue that, that's fine. That's why I was asking the

26           question of what was the purpose.

27   MR MARGAI: I appreciate that, My Lord. I appreciate that,

28           thank you.

29   Q. Have you finished?

- 1 A. Yes sir. I will look at it a little and I will read it a  
2 little, then I will tell you the outcome.
- 3 Q. Was that what you told the investigator?
- 4 A. Yes, when some I read and -- yes, I read and saw that  
5 there are some areas that were true and some areas that  
6 were not correct.
- 7 Q. I see. Now, please listen very carefully and I shall put  
8 the areas to you very slowly and tell me whether you  
9 accept saying that to the investigators or not. Did you  
10 say to the investigator that from June 1997 it was the  
11 RUF/AFRC that had control of Tongo Field?
- 12 A. No.
- 13 Q. And not the CDF; Did you say that?
- 14 A. It was the CDF that were in control.
- 15 Q. No, did you say this, what I'm reading to you. Just say  
16 whether you said it or you did not?
- 17 A. You see, what I said to the white lady that took  
18 statements from me, May, June, July it was the CDF that  
19 were in control.
- 20 Q. So you never said to the investigator that from June 1997  
21 it was the RUF/AFRC that had control of Tongo Field and  
22 not the CDF? You didn't say that at all?
- 23 A. If it was not a mistake on the side of the woman who took  
24 the statement, I told them it was May, June and July.  
25 The white woman who came and obtained statement from me,  
26 I did not get her clearly and she also did not get me  
27 clearly but I told her that it was -- on the 25th it was  
28 the CDF that were in control. Even after the overthrow  
29 they were in control.

1 Q. Thank you?

2 A. Welcome.

3 Q. Now, did you also --

4 JUDGE BOUTET: Mr Margai, what is the page you have?

5 MR MARGAI: It is the first page, My Lord. It is the first  
6 page, paragraph 3 I am referring to.

7 JUDGE BOUTET: Is that the handwritten one or the typed?

8 MR MARGAI: The typed one I have. That is the additional  
9 interview notes. Would your Lordship --

10 JUDGE BOUTET: Okay. Sorry.

11 BY MR MARGAI:

12 Q. Now did you also say to the person who interviewed you --  
13 you see here the way it is reported: "The witness  
14 deleted from his statement references to the CDF as the  
15 group in control of Tongo Field from June 1997 to  
16 January 1998".

17 Did you say to the person who interviewed you that  
18 in fact it not your true in your earlier statement that  
19 CDF was in control of Tongo from June 1997 to  
20 January 1998? Did you or did you not tell them that?

21 A. I did not tell them that.

22 Q. I am putting to it you that you did on both occasions?  
23 Mr Witness?

24 A. I am telling you that I did not say so.

25 Q. Thank you.

26 MR MARGAI: My Lords, having satisfied the requirements, I am  
27 tendering this document for what it may be worth on the  
28 basis that it is inconsistent with the witness's oral  
29 testimony.



1 JUDGE THOMPSON: You submit that [inaudible].

2 MR MARGAI: Yes, My Lord.

3 JUDGE THOMPSON: Learned counsel for the Prosecution, what is  
4 your response?

5 MR TAVENER: There is more of a request as to how to proceed  
6 at this stage. The witness subsequently was  
7 re-interviewed and additional notes prepared in which he  
8 addresses some of the issues raised by Mr Margai. Now,  
9 is it appropriate that that is dealt with in  
10 re-examination as to what the witness subsequently said?  
11 He changed some of what has already been said.

12 It has now been put to the Court that here are  
13 inconsistencies that you said and the Prosecution has no  
14 difficulty with the statements going in. However, it is  
15 also suggested that is contrary to what he told the  
16 prosecutors and ultimately there was another statement, a  
17 later statement, in which he addressed those issues.

18 So what I am suggesting is -- what I am seeking  
19 advice upon is should the final statement go in as well  
20 so Your Honours have the complete record of what this  
21 witness said to the Prosecution or should it wait until  
22 re-examination?

23 JUDGE BOUTET: Well, I would like to understand how many  
24 statements are we talking about here? I was under the  
25 impression that we were talking of two statements, not  
26 three.

27 MR TAVENER: That's correct and that may lead to some  
28 misunderstanding. There was two statements and  
29 subsequently on the --

1 JUDGE BOUTET: I see. Two statements, by statement I include  
2 interview notes.

3 MR TAVENER: So there was a subsequent interview on 31st  
4 January 2005 in which the witness made a number of  
5 alterations. That statement hasn't been raised with the  
6 witnesses as yet.

7 MR MARGAI: I am afraid I don't have that statement. All the  
8 information I have here is that this particular witness  
9 made only two statements; the original statement of 16th  
10 October 2004 and the additional statement of 27th January  
11 -- sorry, 2002 and the additional of 2004. I am not sure  
12 whether my colleagues have that third statement.

13 Perhaps, My Lords, we could solve this impasse if I  
14 could get my colleague properly. The statement you are  
15 referring to, this third statement, what is the date?

16 MR TAVENER: 31st of January 2005.

17 MR MARGAI: And the only statement --

18 JUDGE THOMPSON: Well, let me ask him a question.

19 MR MARGAI: Sorry.

20 JUDGE THOMPSON: Let me ask him a question before you probably  
21 should reply to us. Mr Tavener, were you suggesting  
22 there was a corrigendum to the -- on 31st January 2004 to  
23 the two previous statements.

24 MR TAVENER: There is an additional --

25 JUDGE THOMPSON: A corrigendum to which statement? Which  
26 previous statement was the 31st of January 2004 a  
27 corrigendum to?

28 JUDGE BOUTET: It is 2005 not 2004.

29 JUDGE THOMPSON: 2005, yes.

1 MR TAVENER: Ms Wiafe is in a better position; she has the  
2 documents.  
3 MS WIAFE: Your Honours, the witness made a corrigendum to the  
4 two previous statements that he had given.  
5 JUDGE THOMPSON: On what date?  
6 MR TAVENER: On the 31st of January 2005.  
7 JUDGE THOMPSON: So the corrigendum is in respect of the  
8 previous two statements?  
9 MS WIAFE: Yes, in which he specifically addresses this point.  
10 JUDGE THOMPSON: Good. And the question really from my  
11 perspective, and I am sure the whole Bench is interested,  
12 is was the corrigendum disclosed to the other side?  
13 MS WIAFE: According to the receipt that we have, the  
14 corrigendum was disclosed and it's signed.  
15 JUDGE BOUTET: When?  
16 MS WIAFE: On 4th February 2005, that is what the receipt  
17 says.  
18 JUDGE THOMPSON: So in other words, there is a presumption  
19 here that the other side was served with that -- that  
20 that corrigendum was disclosed to the Defence.  
21 MS WIAFE: Yes, Your Honour.  
22 JUDGE THOMPSON: Which means they have it in their possession  
23 according you.  
24 MS WIAFE: According to what the receipt says.  
25 JUDGE THOMPSON: What is your response?  
26 MR MARGAI: My Lords, the only additional document that was  
27 served on us in respect of this witness is dated 10th  
28 February 2005 -- date of interview 10th February 2005.  
29 That is the one we have, and I think it was yesterday we

1           were given it.

2   JUDGE THOMPSON:  So you don't have one dated --

3   MR MARGAI:  No, we don't.

4   JUDGE THOMPSON:  -- 31st of January 2005?

5   Mr MARGAI:  Yes, My Lord.  May I see this document please?

6   JUDGE BOUTET:  I am informed as well, based on the information

7           you provided the Court with, when dealing with this

8           witness in listing the order of witnesses in the fourth

9           trial session as such, you do have the witness and you

10          have in the date of interview listed the number of

11          interviews and statements in there and this statement is

12          not even referred to.

13  MR MARGAI:  And not only in that.  I am looking at this

14          receipt; I am not sure whose signature it is.  It is not

15          mine anyway.

16  JUDGE BOUTET:  Has it been filed with the Court?  And if it

17          has been filed what number does it have at the top?

18  PRESIDING JUDGE:  I think the crucial here is for us to be

19          certain as to whether this statement, which was made on

20          the - is it on 31st January 2005 - was disclosed to the

21          Defence.

22  MR MARGAI:  Quite frankly, My Lords, I have no objection to

23          the request by my learned friend Mr Tavener for both

24          documents to be in for what they are worth.  After all,

25          we are here to seek justice.

26  JUDGE BOUTET:  You mean both the two -- they are asking for

27          the three documents.

28  MR MARGAI:  No, what he is saying is that the document I

29          sought to be tendered - that is, the statement of 27th of

1 January 2004 - be tendered alongside with the subsequent  
2 one of January 2005. I have no objection with that, I  
3 have no problems.

4 JUDGE BOUTET: If you have no objection, that's fine.

5 MR MARGAI: No, no, no, My Lord. I mean, we are in pursuit of  
6 justice.

7 JUDGE BOUTET: Well, that's fine.

8 PRESIDING JUDGE: We were getting disturbed because we are  
9 very bothered about some transparency around disclosure  
10 of vital statements. Because if the witness was making a  
11 statement on the 31st of January 2005 refuting what he  
12 had said before, it would not have been nice for the  
13 Tribunal to --

14 MR MARGAI: It is a question of interpretation. It's a  
15 question of interpretation, whether this one refutes  
16 that.

17 PRESIDING JUDGE: Right.

18 MR MARGAI: But we will leave it until the appropriate time to  
19 address Your Lordships.

20 PRESIDING JUDGE: That's fine, okay.

21 MR MARGAI: In fairness, I have no objection to both going in  
22 if that is convenient for the Court.

23 JUDGE BOUTET: We'll do that for now. Mr Tavener, I see him  
24 up and down, so what is --

25 MR TAVENER: That comes back to the original question, that  
26 there is some information that has been now put that we  
27 would like to re-examine the witness on.

28 JUDGE BOUTET: You will make the application in due course and  
29 we will deal with it.

1 MR TAVENER: Address it in that way.  
2 JUDGE BOUTET: Yes.  
3 MR TAVENER: Thank you.  
4 PRESIDING JUDGE: We have taken note of the fact it has arisen  
5 in the course of cross-examination, and, furthermore,  
6 learned counsel Mr Margai says he sees no reason to  
7 object to the admission of that statement.  
8 MR MARGAI: My only predicament, My Lords, is that again I  
9 have to bring my concern to the Bench about the provision  
10 of the photocopier, because this is the only document I  
11 have in my file.  
12 PRESIDING JUDGE: What is happening to this photocopier  
13 business?  
14 JUDGE BOUTET: Well, I thought --  
15 PRESIDING JUDGE: I thought it was solved and a forgotten  
16 issue.  
17 JUDGE BOUTET: No. Well, there is a photocopy machine I  
18 understand. I have not checked it, but I was told by the  
19 Principal Defender that for the Defence office you do  
20 have a photocopier.  
21 MR MARGAI: It's broken down, I am told. That is not the  
22 complaint right now. It is one to be here, for example,  
23 before this document could be tendered it could be  
24 photocopied; at least I will retain a copy in my file for  
25 reference purpose.  
26 JUDGE BOUTET: It is true that you had suggested that, that  
27 was the second part of your request.  
28 MR MARGAI: And you addressed it, My Lord.  
29 JUDGE BOUTET: Yes, I know.

1 MR MARGAI: Quite frankly. But it has not been --

2 PRESIDING JUDGE: We will take note of that request, see what  
3 we will do. For the time being --

4 JUDGE BOUTET: Well, Mr Margai - I am sorry, my Presiding  
5 Judge - I am informed that, indeed, there is one in this  
6 building now as of two weeks ago. Not here, but  
7 somewhere.

8 MR MARGAI: There should be one here. For example, as I'm  
9 about to photocopy -- [Overlapping speakers]

10 PRESIDING JUDGE: Maureen, is it functioning? Mr Margai, you  
11 have no problems.

12 MR MARGAI: Sorry?

13 PRESIDING JUDGE: Your problem appears to have been solved and  
14 we didn't even know that it was solved anyway. We are  
15 only being informed now.

16 MR MARGAI: It still has not been solved. My request, My  
17 Lord, is for the photocopier to be here, because as I say  
18 this is the only document I have.

19 PRESIDING JUDGE: They say it is here.

20 JUDGE THOMPSON: In the building.

21 PRESIDING JUDGE: In the building, yes. Maureen, where is it?

22 JUDGE BOUTET: Court Management will make a copy.

23 MR MARGAI: Thank You, My Lords.

24 JUDGE BOUTET: While the copy is being made, Mr Margai, you  
25 are asking that these three statements - the first one,  
26 the second interview and now the third interview - all be  
27 marked as an exhibit?

28 MR MARGAI: Yes, My Lord, if that is convenient to my  
29 colleagues on the other side.

1 JUDGE BOUTET: And just for greater certainty about the dates,  
2 one is 16 October 2002, one is 27 January 2004 and the  
3 third one is 31 January 2005.  
4 MR MARGAI: One is 10th February.  
5 PRESIDING JUDGE: 10 February 2005.  
6 MR MARGAI: 2005.  
7 JUDGE BOUTET: 10th February?  
8 MR MARGAI: Yes, My Lord. There is one 10th February 2005  
9 which was given to us yesterday.  
10 THE INTERPRETER: Your Honours, Mr Margai's mic is not on.  
11 MR MARGAI: Sorry. 10th February 2005.  
12 JUDGE BOUTET: Mr Tavener, now I'm totally confused. Do we  
13 have a fourth statement now? Mr Tavener?  
14 MR TAVENER: I am in agreement with Mr Margai's number of  
15 statements.  
16 JUDGE BOUTET: There's four statements, not three.  
17 MR TAVENER: 31 January and 10 February 2005. If they go in  
18 as a bundle, plus the ones he has mentioned already.  
19 JUDGE BOUTET: So the statements again are 16 October 2002, 27  
20 January 2004, 31 January 2005 and now 10 February 2005.  
21 MR TAVENER: That's correct.  
22 MR MARGAI: Yes, My Lord.  
23 MR TAVENER: Thank you.  
24 JUDGE THOMPSON: Mr Tavener, is the fourth statement relevant  
25 to the issue which counsel is addressing as a perceived  
26 inconsistent statement? Is the fourth one a corrigendum  
27 also?  
28 MR TAVENER: In effect, and I think both sides agree --  
29 [Overlapping speakers]



1 JUDGE THOMPSON: Does it relate to the specific issue?  
2 Because it would seem to me from my perspective that if  
3 it has nothing to do with the issue that has been raised  
4 under cross-examination, then why put it in because you  
5 have a bundle of statements? I mean, it would not make  
6 any sense to me. I would not want to evaluate a document  
7 which has nothing to do with the issue raised.  
8 MR TAVENER: I agree with Your Honour. At least now we know  
9 how many statements there were. And Your Honour is  
10 correct, the fourth statement is not necessary for the --  
11 [Overlapping speakers]  
12 JUDGE THOMPSON: Precisely and it's a limited purpose.  
13 JUDGE BOUTET: Because it is admitted for the purpose  
14 underlined by the Defence as to inconsistency with the  
15 question he asked about AFRC, RUF and so on, which was  
16 addressed in statement number two and statement number  
17 three. But if it is not that in statement number four,  
18 we're not interested. I mean, we're not admitting  
19 statements just for the sake of statements here.  
20 MR TAVENER: I initially took the view completeness may be  
21 useful, but in the light of Your Honour's view, which is  
22 appropriate, there is no need for the fourth statement to  
23 go in, thank you.  
24 MR MARGAI: When you talk of the fourth statement, are you  
25 talking of the statement of the 10th of February?  
26 JUDGE BOUTET: Yes.  
27 MR MARGAI: Because it has no relevance?  
28 JUDGE BOUTET: That's what --  
29 JUDGE THOMPSON: That's my own point.

1 JUDGE BOUTET: That is what I was saying.  
2 JUDGE THOMPSON: Yes.  
3 JUDGE BOUTET: Because of that we are not prepared to admit  
4 that as an exhibit. If it is not relevant we don't want  
5 to see it.  
6 JUDGE THOMPSON: And they're coming in as single statements  
7 even though they are part of a series. But if it is not  
8 relevant to the issue that you raised why do we need to  
9 admit it? For what purpose?  
10 MR MARGAI: Well, I mean, even the other statement, if  
11 properly looked at, is not relevant as well.  
12 JUDGE THOMPSON: Which other one? The one dated the 31st  
13 of --  
14 MR MARGAI: Dated the 31st.  
15 JUDGE THOMPSON: But that's the one that they say is a  
16 corrigendum to the one which you in fact have referred  
17 to.  
18 MR MARGAI: It is a corrigendum in respect of issues that are  
19 not presently raised by me.  
20 JUDGE THOMPSON: I am confused.  
21 MR MARGAI: Perhaps I should wait for the document to come,  
22 then I will address Your Lordship's appropriately.  
23 PRESIDING JUDGE: Well, this said, we shall rise. Let the  
24 documents come and we will sort out the issue once and  
25 for all. Court will rise, please.  
26 [Break taken at 3.55 p.m.]  
27 [HN110205D - RK]  
28 [On resuming at 4.27 p.m.]  
29 PRESIDING JUDGE: Yes, we're resuming the session.

1 JUDGE BOUTET: Mr Tavener.

2 MR TAVENER: Just before Mr Margai recommences. I understand  
3 that the reason why the additional statements aren't  
4 contained on the order which is filed is that they didn't  
5 exist at that time. These statements have occurred  
6 subsequent. They've now been filed with the court. I've  
7 also spoken with Defence counsel and the issue of  
8 disclosure is not a problem here. Mr Margai will  
9 identify a number of statements and I understand he will  
10 highlight the issues he wants raised according to what's  
11 been said, and on that basis, there's no objection to  
12 those statements going in.

13 JUDGE BOUTET: Mr Margai, you have all the copies you needed.

14 MR MARGAI: Yes, My Lord. I'm grateful to Your Lordships.

15 PRESIDING JUDGE: He has maximally had the initial use of the  
16 photocopier.

17 MR MARGAI: Well, I --

18 PRESIDING JUDGE: You fought for it; you were the loudest.

19 MR MARGAI: I fought for it, My Lord. I think I deserve to be  
20 the first to use it.

21 PRESIDING JUDGE: You are the first beneficiary.

22 MR MARGAI: Thank you

23 My Lords, my learned friend on the other side having  
24 conceded that statement of 10 February 2005 is not  
25 germane to the issue, I now apply to tender the statement  
26 of 27th January 2004 with particular reference to  
27 paragraph 3. 27 January 2004.

28 JUDGE BOUTET: So that is a one-page statement.

29 MR MARGAI: Two pages.

1 JUDGE BOUTET: Two pages. Okay.

2 PRESIDING JUDGE: With reference to paragraphs?

3 MR MARGAI: Paragraph 3, on the first page, starting from June  
4 1997 and ending with "to January 1998".

5 JUDGE BOUTET: That is the third paragraph.

6 MR MARGAI: Furthermore, My Lords, to also tender the  
7 statement of 31st January 2005, again two pages.  
8 Paragraph 2, line 4, starting with the words: "When the  
9 RUF took over Togo around August 1997."

10 JUDGE BOUTET: Good.

11 MR MARGAI: Thank you.

12 JUDGE BOUTET: It is only two? I thought you had three.

13 MR MARGAI: I'm coming to the third.

14 JUDGE BOUTET: We'll mark them as the same exhibit A, B, and  
15 C.

16 MR MARGAI: Well, very well, My Lord, sir. If -- Mr Tavener  
17 do you have any objection to the original?

18 MR TAVENER: No, Your Honour.

19 MR MARGAI: No? May I then apply to have it tendered?

20 JUDGE BOUTET: Yes.

21 MR MARGAI: That is the statement of --

22 JUDGE BOUTET: Because those statements that you have tendered  
23 now are complement to that one, and presumably the same  
24 issue has been raised or discussed in the statement you  
25 have in your hands now.

26 MR MARGAI: That is correct, My Lord. That is the statement  
27 of the 16th of October 2002.

28 JUDGE BOUTET: Okay, so 16 of October --

29 MR MARGAI: 2002. First paragraph.

1 JUDGE BOUTET: Page? First page?  
2 MR MARGAI: First page, lines 2 to 8 starting the words "in  
3 May 1997." And ending with, "we are based here".  
4 PRESIDING JUDGE: We will take this to -- somehow. The  
5 statement of the 16th of October 2002 will be the first  
6 one followed by -- A, B, C -- it will be the A, and then  
7 the B will be the --  
8 JUDGE BOUTET: 27th.  
9 PRESIDING JUDGE: Of 2004.  
10 MR MARGAI: Yes, My Lord.  
11 PRESIDING JUDGE: Then the one on the 31st of January 2005  
12 will be the C.  
13 MR MARGAI: In that sequence. Much obliged.  
14 JUDGE BOUTET: We are at 57.  
15 MS EDMONDS: Yes, sir, 57.  
16 JUDGE BOUTET: So for your information so this is exhibit 57,  
17 16 of October 2002 is 57A, 27 January 2004 will be B and  
18 31 January 2004 will be C.  
19 [Exhibit No. 57 was admitted]  
20 MR MARGAI: Much obliged, My Lord.  
21 JUDGE BOUTET: Thank you. So that concludes that part.  
22 MR MARGAI: Yes, it does, My Lord.  
23 JUDGE BOUTET: Please proceed.  
24 MR MARGAI: Thank you.  
25 Q. Now, Mr Witness --  
26 THE INTERPRETER: The witness's mic is not on, Your Honours.  
27 MR MARGAI: The witness's mic, sorry.  
28 Q. Mr Witness, at the time when these 20 people were hacked  
29 to death, according to your testimony, was there a police

- 1 station in Tongo Field?
- 2 A. No. There are no policemen. If you meant policemen,  
3 there were no policemen.
- 4 Q. And also at the time when the two people were killed at  
5 the checkpoints, I take it there were no policemen in  
6 Tongo at the time?
- 7 A. No, we didn't have any policemen. There were SSDs, but  
8 for them when the attacks, we did not see them at all.
- 9 Q. Thank you.
- 10 A. Welcome.
- 11 Q. You said you were present when the 20 people were hacked  
12 to death, were you not?
- 13 A. Yes, certainly so.
- 14 Q. Do you know whether they were buried? Meaning the 20  
15 people.
- 16 A. Before my eyes, I did not know whether they buried them,  
17 because I was not there.
- 18 Q. I see. And did you know any of these 20 people, any one  
19 of them?
- 20 A. I knew one of them.
- 21 Q. You knew one of them.
- 22 A. Yes.
- 23 Q. From the time when they were allegedly killed to the  
24 present date, did anybody call you to identify this one  
25 you knew, the remains?
- 26 A. No, nobody told me so.
- 27 Q. I'm putting it to you, Mr Witness?
- 28 PRESIDING JUDGE: Mr Margai, please.
- 29 MR MARGAI: I'm so sorry.

1 Q. I'm putting it to you that you were not called to  
2 identify the remains, because no such killing took place,  
3 none whatsoever?

4 A. I want to get the question properly so as to give you an  
5 appropriate answer.

6 PRESIDING JUDGE: Mr Witness, Mr Witness, it is not a  
7 question. The lawyer is putting it to you. He is  
8 telling you something, he says. This is what he's  
9 telling you. It is for you to follow him and to answer.  
10 Mr Margai, please, very slowly put it to him. It is not  
11 a question, you understand?

12 THE WITNESS: Okay.

13 PRESIDING JUDGE: You follow careful and you will answer. You  
14 will give us a reply. Yes.

15 MR MARGAI:

16 Q. You have told this Court that you knew one of the 20  
17 people hacked to death.

18 A. Yes, I told this Court that I knew him and I said that he  
19 was a soldier.

20 Q. And you have also told this Court that from the time when  
21 this soldier, according to you, was hacked to death, to  
22 date, nobody called you to go and identify his remains.  
23 You said so.

24 A. Yes, yes, nobody told me that. Nobody has come to tell  
25 me that.

26 Q. And I'm putting to you that this is so, in other words,  
27 you were not called to identify the remains or the body  
28 of this soldier, because no such death took place.

29 A. They killed people right in front of my eyes.

- 1 Q. And Mr Witness, the same goes for the two people  
2 allegedly killed at the checkpoint, that no such killing  
3 took place.
- 4 A. I'm telling you that I saw with my own eyes that they  
5 killed people.
- 6 Q. And Mr Witness, I'm putting to you that these killings  
7 that you have proposed to are nothing but figments of  
8 your imagination?
- 9 A. It is certainly true they killed people right in front of  
10 my eyes, they did kill them.
- 11 Q. I thought he was stopping at "Yapee"?
- 12 JUDGE BOUTET: I thought you meant you were finished your  
13 cross-examination.
- 14 MR MARGAI:
- 15 Q. Thank you, Mr Witness.
- 16 A. Welcome.
- 17 MR MARGAI: I'm wrapping up just one or two more questions.
- 18 Q. Now, Mr Witness, did you report these killings to any of  
19 the CDF -- not CDF, the Kamajor authority as soon as?
- 20 A. No I'm telling you were there was no opportunity for me  
21 to talk to these people that if something happened to  
22 you, you would report to them, no.
- 23 Q. During that time.
- 24 A. Yes.
- 25 Q. Thank you.
- 26 A. Welcome.
- 27 Q. Now, from that time to date, have you reported those  
28 incidents to any Kamajor authority?
- 29 A. No, during that time there was no chance for you to go



1 and explain to these people.

2 Q. Now -- sorry.

3 MR MARGAI: That will be all for this witness. Thank you,  
4 Mr Witness.

5 JUDGE BOUTET: Thank you, Mr Margai. Any re-examination?

6 THE WITNESS: I also say thanks to you.

7 PRESIDING JUDGE: Mr Margai, the witness sounded relieved,  
8 relieved and released from your talons. He had a huge  
9 expression of liberation from your grip.

10 JUDGE BOUTET: Madam Prosecutor?

11 MS WIAFE: No re-examination, Your Honours.

12 JUDGE BOUTET: Thank you, very much.

13 THE WITNESS: I also wish to say thanks to you.

14 PRESIDING JUDGE: Mr Witness, you leaving us with a smile on  
15 your face. I see you're very happy that you've come to  
16 the end of your testimony. So we thank you very much for  
17 coming to assist the tribunal with the evidence that you  
18 have given, which of course will contribute to our  
19 knowing and getting at the truth of this matter. We're  
20 very grateful to you. We are releasing you now to go to  
21 wherever you live with your family, but necessity may  
22 arise, we're not saying it will but it could that we call  
23 you back here. We're very sure and certain that if we  
24 do, through the right channels, you will come and talk to  
25 us again. If we need any further help in relation to  
26 what you know about the incident you went through. So we  
27 thank you very much and we wish you all the best and a  
28 safe journey back to your place of residence.

29 THE WITNESS: Amen.

1 PRESIDING JUDGE: We would like to take on at least another  
2 witness, even if we have to end up with the  
3 examination-in-chief. I mean, can we finish with the  
4 examination-in-chief in the next one hour if we started?  
5 Mr Koppe, you rose up as if in protest.

6 MR. KOPPE: Not at all, Your Honour, but there is a matter  
7 I would like to discuss before we start with the next  
8 witness and there's a point that I would like to have  
9 some clarification on from your court.

10 I -- before this fourth trial session started, I was  
11 under the impression that Your Honours had access to the  
12 statements given by the witnesses to the investigators of  
13 the prosecutions office. I'm very much used to that  
14 fact, because in civil law systems, judges will always  
15 read reports of witness statements beforehand. However,  
16 during the course of this first week of this trial  
17 session, I got the impression that Your Honours did not  
18 have access to, or at least did not read the statement,  
19 redacted or unredacted statements, but --

20 JUDGE BOUTET: Just to correct your perception on that. These  
21 statements are filed with the Court Management and they  
22 are distributed to the judges so we all have a copy of  
23 those statements, but none of us read those statements  
24 before we come to court. I have referred to one of them  
25 today because I have a copy -- we read them as you read  
26 them in court. In fact, not we, I'm the only one that  
27 does it, because my two brothers has not done it. So I'm  
28 the only one on the bench that will refer to a paragraph.  
29 If you refer to a paragraph, I'm the one.

1 MR. KOPPE: That is what I was seeking clarification for.

2 That is something that we have to take into consideration  
3 when cross-examining the witnesses, whether --

4 JUDGE BOUTET: Take for granted that none of the judges have  
5 read those statements before you allude to them, and if  
6 you do refer to the statements, that's why we ask all  
7 these questions, which paragraph and so on. Because we  
8 need to find our way through it, and none of us has read  
9 these statements before they are referred to in court.

10 JUDGE THOMPSON: Let me clarify this. It is not just simply  
11 that none of us has read it, but I as a rule do not want  
12 to read statements before I come to court. It's  
13 consistent with my principle that what should govern is  
14 the principle of orality, and I don't want to come here  
15 having anything in my subconscious about what I may have  
16 read in a statement and then probably asking a witness to  
17 clarify something. It may well be something is in my  
18 subconscious there. I'm avoiding that and I don't do  
19 that. I think it is the proper thing is for counsel to  
20 refer us to the passages and then we have the statement  
21 before us, but not for us to read beforehand. I think it  
22 is a practice which I have always found extremely useful.  
23 I come to these proceedings with a clearly open mind, not  
24 what I have heard, and I'm sure we have all adopted that  
25 approach.

26 PRESIDING JUDGE: Let me concur with the comments made by my  
27 learned brother Justice Bankole Thompson and also the  
28 comments made by my learned brother Justice Pierre  
29 Boutet. The bottom line is we have not read those

1 statements, for reasons which have been provided for.  
2 I'm not used to it in my own national system because we  
3 don't want to come here with preconceived ideas as to  
4 what witnesses have said. You yourself would see certain  
5 discrepancies; what comes out orally is not necessarily  
6 what is in those statements. So I do not think as judges  
7 we want to pollute our minds with what has happened with  
8 investigators. We are determining these issues on what  
9 investigators have factored into their paper, but on what  
10 the witnesses are saying. Of course, when it comes to  
11 drawing our attention to concern inconsistencies, which  
12 are material in the process of determining the  
13 credibility of these witnesses, we would look into those  
14 statements at the appropriate time. So this is what we  
15 want to say on this particular matter. It should not  
16 surprise you.

17 MR. KOPPE: Thank you very much for your answer. Just may I  
18 ask one last question on this issue.

19 PRESIDING JUDGE: Please do. You can ask another one after  
20 this.

21 MR. KOPPE: That is for completeness' sake. That would be if  
22 once the testimony has been given by the witness, whether  
23 then afterwards you would go ask read the statement?

24 JUDGE BOUTET: No.

25 JUDGE THOMPSON: Speaking for myself.

26 PRESIDING JUDGE: If you don't tender the statement --

27 JUDGE THOMPSON: We will not look at it.

28 PRESIDING JUDGE: We won't look at it. We don't read it.

29 JUDGE BOUTET: We will eventually look at those portions of

1 the statement that you have underlined and asked us to  
2 look at -- but whatever other 25 statements the witness  
3 may have given is not there as far as we're concerned.

4 PRESIDING JUDGE: Our decisions will be based on what we refer  
5 generally to as judicial evidence, that is evidence which  
6 is adduced in court under oath. This, of course, will  
7 include those statements which we have in evidence like  
8 57A, B, and C, which we have received now, and others  
9 which have preceded these ones, so that's the situation,  
10 but we will never go back to read all those statements.  
11 We will read the evidence and those statements which are  
12 in evidence.

13 JUDGE BOUTET: The statements are read only for the portions  
14 that you have produced them for, as we have stated all  
15 along. It is admitted for the limited purpose of  
16 establishing whatever has been said on the one is  
17 contrary to. That is why we asked which portion you're  
18 talking about. So you say it's line 25 in paragraph so  
19 -- these portions, we're going to look at them to see  
20 indeed if it is or it is not. But that's all.

21 JUDGE THOMPSON: Let me make one short point: That clearly at  
22 the end of the day in ascertaining the truth, it should  
23 be based on the judicial evaluation of the testimony in  
24 court, not statements made out of court. That is why, in  
25 fact, judges are sworn to administer justice impartially,  
26 objectively, on the basis of the evidence led in court.  
27 And this is why, if these statements are intended to be  
28 part of the evidence here, they must go through the  
29 channel of being received as exhibits. Otherwise, I shut

1 my mind off completely from what this witness may have  
2 said to some other institution, if it is not judicially  
3 brought to my attention.

4 PRESIDING JUDGE: Let me add before we conclude, that this  
5 tribunal will act on evidence before it, like my learned  
6 brother has said and not on what we would refer to as  
7 extra-judicial evidence. These statements are  
8 extra-judicial because they are not made on oath, they  
9 are not -- they don't have any guarantees that they are  
10 accurate or correct in their contents. So they have to  
11 be treated with a lot of caution.

12 Mr Margai: Before we move on, I don't know what your  
13 disposition will be in an application to have before this  
14 court to testify, under oath, the individual who took  
15 exhibit 56B. Your Lordships will recall that when the  
16 document was shown to the witness, he denied making the  
17 portion that has been tendered and then we now have  
18 Exhibit 56C which is a corrigendum to exhibit 56B, the  
19 portion of which the witness has disputed. I find myself  
20 -- 57B -- I find myself in a predicament as to how that  
21 will be addressed when we do come to address  
22 Your Lordships. This is why I'm raising it now.

23 PRESIDING JUDGE: We cannot reply to that now. I mean, are  
24 you coming with a motion to have -- on anything at all?  
25 Are you coming up with a motion on this issue?

26 MR MARGAI: Since this is a Friday, if Your Lordships are  
27 disposed to entertaining an application, I mean, we were  
28 told we could do it orally, except if Your Lordships  
29 insist it be done in writing, in the interests of justice

1 PRESIDING JUDGE: Because in the decision which preceded this  
2 one on which I'm sure you are going to rely on, we placed  
3 ourselves, you know -- we surrendered ourselves with a  
4 lot of caution on applications like this. You remember  
5 what we did say at the time was that the granting of that  
6 application will not open the doors wide.

7 MR MARGAI: I'm in total agreement with your ruling.

8 PRESIDING JUDGE: For witnesses, because otherwise --

9 MR MARGAI: No, it has to be on a case-by-case basis.

10 PRESIDING JUDGE: That's right.

11 MR MARGAI: I mean, if the witness had not denied it, and if  
12 this corrigendum had not come up, then there would be no  
13 need for such an application. It is just because of  
14 Exhibit 57C that I'm constrained to make this application  
15 otherwise there would have been no need. Because my  
16 learned friend there is saying if I understood him  
17 correctly, that 57C is correcting Exhibit 57B, which the  
18 witness denies making.

19 PRESIDING JUDGE: Before that -- Mr Margai, can you sit down  
20 please?

21 Mr Tavener, is there a witness?

22 MR TAVENER: Yes, there is, Your Honour.

23 PRESIDING JUDGE: There is a witness. So we would rise,  
24 release the witness and then resume to take Mr Margai's  
25 application very briefly, the oral application, and then  
26 we can start off with the witness. Is that possible? Is  
27 that scenario possible.

28 MR TAVENER: Yes, the witness is possible. I would ask that  
29 Mr Margai put his motion in writing. It confuses me the

1 way in which he's approaching the matter.

2 PRESIDING JUDGE: Mr Tavener, please. We want to move  
3 expeditiously. We would like to take it orally, and  
4 I would like to dispose of it as quickly as we can,  
5 because when we get into writing, we get into time limits  
6 and it drags and drags and drags, so please. Well, we  
7 shall rise for -- as soon as the witness leaves, please  
8 call us in. We'll rise, please.

9 [The witness withdrew]

10 [Break taken at 5.00 p.m.]

11 [On resuming at 5.10 p.m.]

12 PRESIDING JUDGE: We're resuming the session.

13 JUDGE BOUTET: Mr Margai, we're listening to you and we will  
14 ask you to be as short as you can on your application,  
15 please.

16 MR MARGAI: My Lords, this is an application -- sorry, this is  
17 an application on behalf of the third accused for this  
18 honourable court to order that a subpoena be issued for  
19 Thomas Lahun, an investigator, who obtained a statement  
20 from TF2-022, PW-42, in this trial, to appear before this  
21 Court and to testify as to the veracity and authenticity  
22 of the statement therein contained, with particular  
23 reference to paragraph 3 thereof, which contents have  
24 been denied to have been made by PW 42, TF2-022, in the  
25 pursuit of justice.

26 And, My Lords, this application is made as of  
27 necessity, because Exhibit 57 C has been represented to  
28 this Court as an addendum -- or sorry, corrigendum to  
29 paragraph 3 of Exhibit 57 B, which is in issue. As such



1 an application will tend to the interest of justice,  
2 which is, no doubt, the hallmark of a criminal trial.

3 My Lords, I'm relying -- I've just sent for the  
4 recent authority delivered by this Chamber. I did not  
5 anticipate this. I have just sent for it, but I'm  
6 relying on a recent authority -- decision, I'm sorry. Do  
7 you have it? May I make use of it just to save time?  
8 Maureen. I'm grateful. There is indeed the spirit of  
9 cooperation, as it should be.

10 My Lords, I'm relying on the ruling of this Chamber  
11 in SCSL 2004-14-T in the case of the Prosecutor against  
12 Sam Hinga Norman and others, case number SCSL-04-14-PT  
13 delivered on the 7th of December, 2004 where Your  
14 Lordships gave been approval, subject of course, to the  
15 qualification that it must not be applied generally, but  
16 on a case-by-case basis. My Lord, that is the purport of  
17 my application, except if Your Honour wishes me to  
18 address you further.

19 PRESIDING JUDGE: That's okay. That is your application?

20 MR MARGAI: Yes, My Lord.

21 JUDGE BOUTET: Mr Tavener, you're prepared to address that.

22 MR TAVENER: The decision Your Honours reached on the 7th of  
23 December, the Prosecution likewise rely upon that at that  
24 time Your Honours established a particular procedure and  
25 the Prosecution would say that procedure only applies  
26 whether a significant and highly contentious issues --

27 PRESIDING JUDGE: Mr Tavener, you're wanting to tell us you're  
28 objecting to this application?

29 MR TAVENER: I'll start there, Your Honour. The Prosecution

1 objects to the application based on the decision of the  
2 7th of December 2004 of this Court, referred to by  
3 Mr Margai. As mentioned in that decision, the procedure  
4 established relates to significant and highly contentious  
5 issues. Here the Prosecution will submit the main issue  
6 appeared to be the witness's recollection of certain  
7 dates and when certain organisations were in control of  
8 Tongo. So revolves around dates and who was in charge of  
9 Tongo. It is not a significant and highly contentious  
10 issue in terms of understanding the nature of the  
11 witness's evidence. We had a number of out-of-court  
12 statements, we had the corrigendum and then we had the  
13 witness testify in court. So in the Prosecution's  
14 submission, nothing exceptional has happened, that is  
15 nothing exceptional has happened that warrants or  
16 justifies the utilisation of the procedure established  
17 under the 7th of December 2004.

18 All that has happened in court is that the witness  
19 has testified. He has been challenged about his  
20 testimony using out-of-court statements, which is a  
21 normal procedure. As has been mentioned by Your Honours,  
22 the Court will then consider his evidence in the light of  
23 those statements now tendered. As you would appreciate  
24 the Prosecution does not oppose the tendering of those  
25 statements because it assists the Court in assessing the  
26 credibility to apply to the witness, witness in  
27 particular, particular areas and generally. So the  
28 Prosecution's submission is what has happened here, there  
29 is a procedure in existence, a normal procedure to deal

1 with discrepancies between out-of-court statements and in  
2 court statements, the principle of orality. There is no  
3 need, in the light of those circumstances, to apply what  
4 is in effect an exceptional procedure. There is nothing  
5 that justifies that response by the Court at this time.

6 Those are the Prosecution's submissions, thank you.

7 JUDGE BOUTET: Thank you. You wish to reply, Mr Margai?

8 MR MARGAI: Just a brief reply. Your Honours, the exceptional  
9 circumstances here are that Exhibit 57 C, which is the  
10 corrigendum, purports to correct an error in Exhibit 57  
11 B, which error has not been accepted by the purported  
12 maker of Exhibit 57 B. It would have been otherwise if  
13 the witness had said: "Yes, I did make the statement  
14 contained in paragraph 3 of Exhibit 57 B." Then of course  
15 the question of this application would not arise, then  
16 the Court may have to look at Exhibit 57 C, which is a  
17 corrigendum and decide on the weight to be placed, if at  
18 all, on the question of inconsistency. But here the  
19 predicament is that there is a lacuna here in that the  
20 very witness has denied making the contents of paragraph  
21 3 of Exhibit 57 B, which Exhibit 57 C purports to  
22 correct. And that is what corrigendum is will about.  
23 That is all I wish to say, Your Honours.

24 JUDGE BOUTET: Thank you. We'll take this motion under  
25 advisement and we will report some time next week.

26 MR MARGAI: Very well.

27 JUDGE BOUTET: Not this afternoon. Are we --

28 MR MARGAI: My Lords, before we move on to taking another  
29 witness, since this is a Friday and Fridays are reserved

1 for motions in addition to taking of witnesses, My Lords,  
2 there was an application filed before Your Lordships. We  
3 raised that issue during the status conference, that is  
4 the issue dealing with conjugal rights. I'm under  
5 tremendous pressure from my client as to what Your  
6 Lordships' decision is on that. Justice Boutet did say  
7 that the matter was receiving very serious consideration  
8 from Your Lordships and that a ruling should be expected  
9 in the shortest possible time.

10 JUDGE BOUTET: It is still true.

11 MR MARGAI: It is true.

12 PRESIDING JUDGE: And we confirm what Justice Boutet said,  
13 that it is a receiving all the attention that it  
14 deserves.

15 MR MARGAI: Because I remember I considered at an earlier  
16 stage an application for bail on behalf my client and he  
17 said to me that I should suspend that and pursue the  
18 matter of their conjugal rights.

19 JUDGE BOUTET: But, Mr Margai, I would just like to draw your  
20 attention to the fact that that motion -- these motions  
21 -- that motion, pardon me, has been filed on a  
22 confidential ground, as such, and it is not known  
23 publicly what you've just described.

24 MR MARGAI: I apologise.

25 JUDGE BOUTET: It has been filed on behalf of these accused on  
26 a confidential matter, so that is why I and we have  
27 referred to this as to be a motion on detention, but if  
28 you want to do it publicly and remove the confidential  
29 aspect --

1 MR MARGAI: Your Lordship will just take it that I have not  
2 said anything of the sort. I was merely thinking aloud.

3 PRESIDING JUDGE: We'll come back to you in not too distant  
4 future.

5 JUDGE BOUTET: We are hoping to be able to take at least an  
6 examination-in-chief of another witness provided it is  
7 likely not to go beyond an hour. At this time it is  
8 5.30, so is it a reasonable expectation or difficult?

9 [HN110205E 5.17 p.m. - JM]

10 MR TAVENER: The estimate of the examination-in-chief is an  
11 hour and a half to two hours, so we wouldn't complete in  
12 that time.

13 PRESIDING JUDGE: I think for the neatness of the procedure  
14 and the proceedings and the records as well, it would in  
15 these circumstances be preferable to start the  
16 examination-in-chief on Monday morning.

17 MR MARGAI: My Lords, may we be guided as to the duration of  
18 daily trials because I think -- I am not sure whether I  
19 heard Your Lordship correctly at the start of the  
20 session, that 5.00 should be the optimum, or was it last  
21 session? Because there was some problem about staff or  
22 something of the sort. I may be mixing it up.

23 JUDGE BOUTET: That was the last session.

24 MR MARGAI: That was last session.

25 JUDGE BOUTET: But the problem of staff has been resolved.

26 MR MARGAI: May we seek your guidance.

27 PRESIDING JUDGE: We will give you the guidance.

28 MR MARGAI: So that we can prepare ourselves mentally.

29 PRESIDING JUDGE: That's right. I will give you the guidance.

1 MR MARGAI: Whilst not over-tasking Your Lordships' endurance.

2 PRESIDING JUDGE: Yes, exactly. Since we still have some

3 time, I would like to inform learned counsel on both

4 sides that the Chamber, at the end of the cases for the

5 Prosecution and the Defence, would certainly entertain

6 addresses. These addresses, you know, should be put in

7 written submissions. First of all, we would like to have

8 them. We are giving this indication well in advance

9 because we would like to have -- we have told your

10 colleagues of the RUF, you know, as to how we intend to

11 proceed. We would like to receive written submissions on

12 the arguments to be presented by both sides, but this, of

13 course, will not exclude oral submissions in certain

14 areas where counsel may wish to expound on this or that

15 issue. It is only for us to have a record in advance

16 because it will be a resume of the judicial evidence

17 which we have taken, and it will not be something like

18 witness statements. I mean, we would focus ourselves on

19 your arguments in your written submissions, and also, of

20 course, in oral submissions that will come in to

21 supplement them. So we would like learned counsel on

22 both sides, you know, to take note, particular note of

23 this.

24 MR MARGAI: My Lord, I welcome that, but I just wish to seek

25 your guidance as to whether the written submissions

26 should be a resume or rather comprehensive. Even if it

27 were a resume, I'm sure we would be expected to furnish

28 the Bench with supporting authorities.

29 PRESIDING JUDGE: We wouldn't want it to be a resume. We

1 would want it to be at least as complete as possible so  
2 that we know precisely what issues we have to address.  
3 Because when you do resumes, you know, we might tend to  
4 have a touch on the problems which you are raising. So  
5 we would like to have them.

6 But it does not preclude you from making oral  
7 arguments on certain issues or to clarify those arguments  
8 which are in your written submissions. We would like to  
9 have it that way because it will assist us -- it narrows  
10 the issues and also narrows the scope of the oral  
11 addresses at times and gives the Court enough time in  
12 advance and, of course, the parties enough time in  
13 advance to appreciate the issues that are being raised by  
14 both the Prosecution and the Defence.

15 JUDGE THOMPSON: The closest that one can come to in terms of  
16 existing mechanisms is it would be something analogous to  
17 briefs; in other words, comprehensive and exhaustive  
18 statement of the points that are likely to be raised and  
19 with supporting authorities and, as the Presiding Judge  
20 has said, not precluding the possibility of expanding on  
21 the arguments in oral submissions. I think just to be  
22 able to have the Bench being prepared beforehand, and I  
23 think it's only in the interests of judicial economy that  
24 when we come here and listen to elaborate oral arguments,  
25 not having had the opportunity to digest some of the  
26 material as it comes up peremptorily, it takes a lot more  
27 time; whereas if we have these written submissions ahead  
28 of time, we, too, would go through in advance the  
29 authorities and have a very exhaustive and thorough

1 exchange of ideas and thoughts on the law and the facts.

2 Of course, our Rules do not provide for that, but  
3 this does not mean that even though we suggest this, we  
4 do not think it's inconsistent with the Rules or the  
5 Statute. That's my own kind of random perception.

6 PRESIDING JUDGE: If necessary, we will publish a practice  
7 directive under the Rules in this respect, if it becomes  
8 necessary.

9 MR MARGAI: My Lord, I'm not definitely not averse to that,  
10 because I believe it will help all of us and will, in  
11 fact, facilitate the whole process. My only concern is  
12 that because of the nature of this trial and it having  
13 been prosecuted publicly, I think it behoves us to  
14 address orally whilst at the same time giving  
15 Your Lordships advance notice, albeit in writing, of the  
16 points that will be canvassed, supported by  
17 authorities because my only worry --

18 PRESIDING JUDGE: Mr Margai, I don't want to cut you short.  
19 It's just to let you know that in addition to a  
20 comprehensive brief, which we're asking for, you may  
21 address us on everything on that brief if you want to  
22 satisfy your audience.

23 MR MARGAI: Very well. It's not the audience; the clients.

24 PRESIDING JUDGE: The clients. I hope they will be there then  
25 to listen --

26 MR MARGAI: Mine will be here shortly.

27 PRESIDING JUDGE: Well, anyway, I hope that this assurance,  
28 you know, at least takes care of your preoccupation, your  
29 concerns. It is to enable the Court, you know, like my



1 colleague, you know, said, it's for purposes of judicial  
2 economy. Let us have these arguments in advance so that  
3 we know how we plan and put ourselves, you know, and our  
4 agenda together, to be able to meet up with the addresses  
5 and eventually with the judgements which we will have to  
6 be writing.

7 So has the Prosecution any observation to this? No,  
8 Mr Tavener?

9 MR TAVENER: No, thank you, Your Honour. Thank you.

10 PRESIDING JUDGE: In the absence of any other issues, we would  
11 rise. And let me take this opportunity to wish each and  
12 every one of you a very happy weekend. Thank you. The  
13 Court rises.

14 [Whereupon the hearing adjourned at 5.30 p.m., to be  
15 reconvened on Monday, the 14th day of February, 2005, at  
16 9.30 a.m.]

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

EXHIBITS:

Exhibit No. 57 92

WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-015	1
EXAMINED BY MR TAVENER	1
CROSS-EXAMINED BY MR HALL	17
CROSS-EXAMINED BY MR MARGAI	20
RE-EXAMINED BY MR TAVENER	28
WITNESS: TF2-022	36
EXAMINED BY MS WIAFE	36
CROSS-EXAMINED BY MR MARGAI	73