

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

TUESDAY, 09 MAY 2006
9.50 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Elena Martin-Salgado Ms Roza Salibekova
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Joseph Kamara Ms Bianca Suciu Ms Miatta Samba
For the Principal Defender:	NO APPEARANCE
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Aluseine Sesay Ms Claire da Silva (legal assistant) Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Victor Koppe Mr Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Charles Margai Mr Ansu Lansana Mr Martin Michael (legal assistant)

1 [CDF09MAY06A - CR]
2 Tuesday, 09 May 2006
3 [Open session]
4 [The accused present]
09:48:32 5 [Upon commencing at 9.50 a.m.]
6 PRESIDING JUDGE: Good morning. Good morning, Madam
7 Witness.
8 THE WITNESS: I also greet you.
9 PRESIDING JUDGE: Mr Defence Counsel, are you ready to
09:50:00 10 proceed with your next witness?
11 MR JABBI: Yes, My Lord. Good morning, My Lord.
12 PRESIDING JUDGE: Good morning.
13 THE WITNESS: Good morning, too.
14 WITNESS: WUIYATTA SHERIFF [Sworn]
09:51:12 15 [Witness answered through interpreter]
16 PRESIDING JUDGE: Dr Jabbi, this is your 13th witness?
17 MR JABBI: Yes, My Lord.
18 PRESIDING JUDGE: And this witness is giving evidence in
19 Mende?
09:51:09 20 MR JABBI: Yes, My Lord.
21 EXAMINED BY MR JABBI:
22 Q. Madam Witness, good morning.
23 A. Good morning, Mr Jabbi.
24 Q. Let me begin by advising that when you are answering
09:51:41 25 questions, you talk slowly.
26 A. Okay.
27 Q. Don't talk too fast.
28 A. Okay.
29 Q. Because when you say something, they will translate it into

1 English, or some other language. So you wait a bit, please.

2 A. Okay.

3 Q. Can you tell the Court your full names?

4 A. My name is Wuiyatta Sheriff.

09:52:31 5 Q. Where do you live?

6 A. I live at Koribundu.

7 Q. What sort of work do you do?

8 A. I do farming.

9 Q. Are you married?

09:53:09 10 A. Yes.

11 Q. Now, whilst you were in Koribundu, did you have experience

12 of soldiers?

13 A. Yes.

14 Q. Can you explain, please?

09:53:47 15 A. We were in Koribundu together with the soldiers.

16 Q. Around what time?

17 A. I can't recall a date now, but we were all there together.

18 MR JABBI: My Lord, it seems that the seat the witness is

19 sitting on needs some adjustment. I don't know if she herself

09:54:30 20 thinks that way.

21 PRESIDING JUDGE: Is there anybody from the Witness

22 Protection Unit here?

23 JUDGE ITOE: Let him ask her whether she is comfortable the

24 way she is sitting. Is she comfortable?

09:54:43 25 MR JABBI:

26 Q. Madam Witness, are you comfortable the way you are sitting

27 now or do you want the chair to be slightly changed or altered?

28 A. I'm not comfortable.

29 MR JABBI: Her feet, they are suspended.

1 PRESIDING JUDGE: It's too high?

2 MR JABBI: Yes. Then adjust the mic for her, please.

3 PRESIDING JUDGE: She should stand up, because if the chair
4 goes down, she may be hurt. You're okay now, Madam Witness?

09:55:49 5 THE WITNESS: Yes.

6 MR JABBI:

7 Q. Yes, you spoke about soldiers in Koribundu. What were they
8 doing there?

9 A. We were there together happily -- living together happily.

09:56:10 10 MR JABBI: My Lord, you were about to say something?

11 PRESIDING JUDGE: Yes. Your last question was to do with
12 time, I'm not sure I got the response.

13 MR JABBI: Yes.

14 Q. Can you tell the Court around what time you say there were
09:56:19 15 soldiers in Koribundu?

16 A. I said we were living there for some very long time.

17 Q. Are you able to say roughly what time?

18 A. During the first month.

19 Q. Could it be before the coup against the government, against
09:56:57 20 the elected government? Could it be before that?

21 A. Yes, we were there then.

22 Q. Apart from the soldiers, were there any others at that
23 time?

24 A. We were there together when we heard that there was the
09:57:28 25 Kamajor initiation southwards.

26 Q. Yes. Did anything happen about that in Koribundu itself?

27 A. Whilst we were there, the townspeople gathered their
28 children together and asked them to be initiated into the Kamajor
29 society.

- 1 Q. Did that happen, the initiation?
- 2 A. An initiation went on and the initiates were graduated.
- 3 Q. Do you know where the initiation took place?
- 4 A. It was Telu.
- 09:58:46 5 Q. And the Koribundu initiates after Telu, where did they go?
- 6 A. They returned to Koribundu. All of us were there again.
- 7 Q. Were you yourself, by chance, initiated?
- 8 A. No, I was not initiated into the society. I am a civilian.
- 9 Q. And when the initiates returned to Koribundu, did you work
- 09:59:42 10 together with the soldiers at all?
- 11 A. Yes, initially they were living peacefully.
- 12 Q. What happened then?
- 13 A. That is between men. I couldn't tell, but they had a
- 14 quarrel. I don't know what happened.
- 10:00:14 15 Q. Now you said earlier on that you were married. Were you
- 16 married by that time? At that time, were you married?
- 17 A. Yes. I was married to that same husband.
- 18 Q. Was your husband a Kamajor?
- 19 A. Yes.
- 10:00:57 20 Q. Now, you say that after some time the relationship was not
- 21 so good between the soldiers and the Kamajors. What happened as
- 22 a result of that?
- 23 A. In fact, my husband left the town.
- 24 Q. Your husband left Koribundu?
- 10:01:47 25 A. Yes, he left Koribundu.
- 26 Q. You mean as a result of the differences between the
- 27 soldiers and the Kamajors?
- 28 A. Yes.
- 29 Q. Do you know roughly when that happened?

- 1 A. At the time of that quarrel between them, no, I can't
2 remember the dates now, can't recall.
- 3 Q. To help your memory, was it before or after the coup
4 against the elected government?
- 10:03:08 5 A. It was after the coup.
- 6 Q. Where did your husband go?
- 7 A. He went to a town called Mandu, Bagbo.
- 8 MR JABBI: Mandu, M-A-N-D-U. Bagbo Chiefdom, B-A-G-B-O.
9 Bagbo Chiefdom.
- 10:04:17 10 Q. Do you know how long your husband stayed away?
- 11 A. He was there up to three months.
- 12 Q. Whilst he was away, were you able to see him at all?
- 13 A. Yes, I used to visit him.
- 14 Q. Did you used to stay there for any length of time?
- 10:05:07 15 A. I would take up to one week at times, two days and I would
16 return.
- 17 Q. What was your husband doing in Mandu Bagbo after you had
18 left Koribundu?
- 19 A. When he went to Bagbo, he met his colleagues there and in
10:06:00 20 the morning they were going to the bush to work.
- 21 Q. What colleagues are you talking about, his colleagues?
- 22 A. His colleague Kamajors, they were there. In the morning,
23 they will go and mine for diamonds.
- 24 Q. Did you used to go with them in the bush in the day time?
- 10:06:53 25 A. No.
- 26 Q. And that night when he returned to town, would you stay
27 with him?
- 28 A. When he would come in the evening, we would sit together,
29 but he would stay a little further from me.

1 Q. Did you pass the night together?
2 A. No, I would sleep together with my companions.
3 Q. Which companions?
4 A. Women.
10:08:27 5 Q. Why were you not sleeping together with your husband at
6 that time?
7 A. Because by then they were forbidden. They had rules
8 forbidding that.
9 Q. What were they forbidden to do?
10:08:49 10 A. That they should not have sex with women.
11 Q. So even when you went to him, that law was enforced?
12 A. Yes.
13 Q. Do you remember how many times you went to your husband
14 when he was away from Koribundu?
10:09:53 15 A. Yes.
16 Q. Yes, can you tell the Court how many times?
17 A. I went there up to three times.
18 Q. Now, whilst you were in Koribundu and your husband and
19 other Kamajors were outside sometimes working in the bush,
10:10:30 20 according to you, but you were going there frequently and coming
21 back, did anything happen to you as a result of that?
22 A. Yes.
23 Q. Can you tell the Court, please?
24 A. The last time that I went there, when I returned, I had a
10:11:13 25 problem.
26 Q. What was the problem?
27 JUDGE ITOE: She said the last time that she returned there
28 or that she went there?
29 MR JABBI: Pardon, My Lord?

1 JUDGE ITOE: Is it the last time that she returned there or
2 she went there? Let's have -- she went there first. She said
3 the last time that she returned there she went there. I mean, is
4 it --

10:11:56 5 MR JABBI: The last time that she went to the husband in
6 Mandu Bagbo, when she returned to Koribundu, according to her,
7 she had a problem.

8 JUDGE ITOE: Okay.

9 THE WITNESS: Yes.

10:12:13 10 MR JABBI:

11 Q. Can you explain the problem that you had after you came
12 back from Mandu Bagbo?

13 A. When I returned, I met a complaint from the soldiers. They
14 said I had been visiting my husband. So I was reported to the
10:12:36 15 soldiers. That I was taking information to my husband -- this
16 information to my husband.

17 Q. What happened?

18 A. So we met at headquarters on the issue.

19 Q. With whom?

10:13:18 20 A. With several elders.

21 Q. For example?

22 A. Adu Bio.

23 Q. Who was Adu Bio?

24 A. He's along the Blama Road. Adu Bio.

10:13:40 25 Q. Was he a chief or what?

26 A. He is my host in that chiefdom.

27 Q. Yes, any others?

28 A. Alhaji Alpha.

29 Q. Yes.

1 A. And Chief Siaka.
2 Q. Yes.
3 A. And Chief Sondofu Bassie.
4 Q. What was the outcome?
10:14:29 5 A. After we had met and discussed the issue --
6 PRESIDING JUDGE: Yes.
7 MR JABBI:
8 Q. Yes.
9 A. -- and those people as well spoke to the other people so
10:14:53 10 that I would be released.
11 Q. Those people spoke to whom?
12 A. The chief spoke to the soldiers so that I would be
13 released.
14 Q. Yes.
10:15:16 15 A. Because I had come there for so very long a time and I had
16 done nothing to them ever since.
17 Q. Was the matter resolved?
18 A. Yes.
19 Q. So what did they --
10:15:49 20 JUDGE ITOE: The matter was resolved. Was it that she was
21 released thereafter?
22 MR JABBI: That was what she said, My Lord.
23 Q. Yes, were you released?
24 A. I was released afterwards.
10:16:19 25 Q. Now, with this absence of Kamajors from Koribundu at that
26 time --
27 JUDGE THOMPSON: Counsel, are these all background matters,
28 in terms of the issues in controversy between the parties? Are
29 these just background matters?

1 MR JABBI: No, My Lord. I have, for example, let her
2 narrate what pertained between her and her husband.

3 JUDGE ITOE: Abstinance, in respect of the oath.

4 MR JABBI: For obvious reasons, My Lord, some of these
10:17:04 5 issues --

6 JUDGE THOMPSON: They are in controversy between the
7 parties? You mean these are issues in controversy, or they are
8 just --

9 MR JABBI: Like the question of sexual abstinence --

10:17:22 10 JUDGE THOMPSON: I thought they probably -- given they're
11 germane to the issues and controversies, but they are not
12 necessarily directly in controversy between the parties.

13 MR JABBI: In that sense, they will be called background,
14 in that sense. But, My Lord, the relevance of the compliance
10:17:47 15 with sexual abstinence in the circumstances, the obvious
16 relevance would be there, My Lord.

17 JUDGE THOMPSON: Well, I yield on the question of
18 relevance.

19 MR JABBI: Thank you very much, My Lord.

10:18:04 20 Q. Now, with this long absence of the Kamajors from Koribundu,
21 did the soldiers do anything about it?

22 A. They used to go on patrols, but I can't say exactly what
23 they did or what was happening there.

24 Q. What about inside Koribundu itself; did the soldiers do
10:18:43 25 anything concerning the absence of the Kamajors from town?

26 A. Yes.

27 Q. What did they do?

28 A. When we deliberated on that issue, so I also stopped going
29 to him.

- 1 Q. Yes. Did the soldiers in Koribundu do anything about the
2 absence of the Kamajors from town after that?
- 3 A. Yes.
- 4 Q. Yes.
- 10:19:26 5 A. So on their own, they held a meeting and asked us to
6 tell -- to let the Kamajors to return.
- 7 Q. Whom do you refer to as "us"; "they asked us"?
- 8 A. I said it was them that held a meeting and said the
9 Kamajors should come back to town. They were their colleagues,
10:19:54 10 so they should mend fences.
- 11 Q. Do you know with whom they held that meeting, the soldiers?
- 12 A. Yes. They held a meeting together with the town elders.
13 At that time RSM Samai was alive.
- 14 Q. Who was alive?
- 10:20:37 15 A. RSM Samai.
- 16 Q. After that meeting with the elders asking for people to go
17 and call the Kamajors back to town, did you yourself do anything?
- 18 A. Yes.
- 19 Q. Yes, what did you do?
- 10:21:16 20 A. I got up that day and went to Mandu Bagbo for my husband.
- 21 Q. Yes.
- 22 A. When I went, I didn't meet him in town. They said he had
23 gone to the bush.
- 24 Q. What did you then do?
- 10:21:50 25 A. So the women I met there, I asked the madam to give me
26 somebody to accompany me to him.
- 27 Q. Did you go to him? Did you meet him?
- 28 A. Yes.
- 29 Q. Did you get him to come back with you?

1 A. Yes, I appealed with him for us to come back, but he said
2 he would not come back.
3 Q. So what happened then?
4 A. So we returned and reached that Koribundu very late in the
10:22:47 5 night.
6 Q. Yes, back in Koribundu with your husband, did anything
7 happen?
8 A. When we reached Koribundu at night, I planned to hand him
9 over in the morning.
10:23:32 10 Q. In the morning, what happened, if anything?
11 A. Yes, and they attacked.
12 Q. Who attacked?
13 A. The Kamajors.
14 Q. They attacked where?
10:23:54 15 A. Koribundu.
16 Q. Now, can you tell the Court roughly when this happened,
17 this attack on Koribundu, by the Kamajors?
18 A. I can't remember the day, but it was in the morning.
19 Q. Can you remember the month or year?
10:24:27 20 A. No.
21 Q. So far as you can tell, was there any attack on Koribundu
22 by the Kamajors before this particular one, ever?
23 A. If it happened, I can't remember now. I can't recall.
24 Q. So far as you can remember, this was the first attack by
10:25:22 25 the Kamajors on Koribundu; is that what you are saying?
26 A. Yes, that was what they stopped me the most. That is what
27 I know.
28 Q. Can you tell the Court anything more that happened during
29 that attack?

1 A. Yes.

2 Q. Yes.

3 A. During that attack, I opened all the doors and I asked him
4 to go under the bed.

10:26:24 5 Q. Yes.

6 A. After he had gone under the bed, he was there. After some
7 time I would go and check if he's still there.

8 Q. Yes.

9 A. After sometime, the firing quieted down a little.

10:26:57 10 Q. Yes.

11 A. There was a soldier with whom we were all in the same
12 compound. His name --

13 THE INTERPRETER: Your Honours, may the witness repeat the
14 last name she just called?

10:27:18 15 PRESIDING JUDGE: Can you have the witness to repeat the
16 last time, Dr Jabbi?

17 MR JABBI:

18 Q. What was the name of this soldier you were talking about?

19 A. He was called Moriba.

10:27:33 20 Q. Yes. What about him?

21 A. I came to search for my husband and we met.

22 Q. When you came to check on your husband, you met up with
23 this soldier called Moriba?

24 A. Yes.

10:28:06 25 Q. Did anything happen?

26 A. Yes.

27 Q. Yes.

28 A. It was then that he said, "You, baby, today is the end of
29 your life."

1 Q. Yes.

2 A. It was then that I ran away and I went to the section
3 chief, Joe Mamawa. To the area chief.

4 Q. Did the soldiers do anything else with you?

10:28:43 5 A. Whilst I was going there, he was using invectives against
6 my mother. My husband was under the bed listening.

7 Q. Did he do anything else with you apart from all what you
8 have explained?

9 A. No, he did not do any other thing.

10:29:24 10 Q. Now on that occasion, you said the Kamajors attacked
11 Koribundu. Did they enter Koribundu? Did you see Kamajors in
12 Koribundu on that occasion?

13 A. No, they did not enter into the centre of the town.

14 Q. What happened to the Kamajors then on that occasion?

10:30:00 15 A. They returned.

16 Q. Now apart from this attack by the Kamajors on Koribundu,
17 did you witness any other attack by Kamajors on Koribundu after
18 that?

19 A. Yes.

10:30:35 20 Q. When was that?

21 A. It was on a Friday.

22 Q. Do you know how long after that other one?

23 A. Yes.

24 Q. Can you tell the Court how long, roughly?

10:30:56 25 A. In fact, during that one, the gunshot didn't take any long
26 time.

27 Q. My question was: After the first attack, how long did it
28 take for this other attack you are now talking about to take
29 place?

1 A. It was a month in between.
2 Q. You say on this occasion the exchange of fire didn't take
3 too long - not so? - on that Friday.
4 A. Yes.
10:31:47 5 Q. What happened then?
6 A. In that afternoon, after the gunshot had been fired, the
7 shooting didn't last long.
8 Q. What happened then?
9 A. Then the soldiers left the town in the evening.
10:32:34 10 Q. Did they say anything before pulling out?
11 A. When they were going, they asked the civilians to follow
12 them so that all of them would go together.
13 Q. Did the civilians do that?
14 A. Some of them followed them.
10:33:02 15 Q. Some civilians followed the soldiers leaving Koribundu that
16 Friday?
17 A. Yes.
18 Q. Were you among the civilians who followed the soldiers out
19 of Koribundu that day?
10:33:27 20 A. We went back towards the Blama Road.
21 JUDGE ITOE: Was she among those or not?
22 MR JABBI: Her answer was that --
23 JUDGE ITOE: She was not.
24 MR JABBI: She went towards --
10:33:53 25 JUDGE ITOE: So her answer was --
26 MR JABBI: She was not one of those who followed the
27 soldiers out of town.
28 PRESIDING JUDGE: Is this your interpretation, or is this
29 what she said?

1 MR JABBI: This is the import of what she said.

2 PRESIDING JUDGE: I would like to hear her what she said.

3 I heard her to say we went back to Blama Road. That doesn't tell
4 me if she is on her own or with the soldiers.

10:34:17 5 JUDGE ITOE: That's precisely why I put the question.

6 MR JABBI: I will put the question again, My Lords. Thank
7 you very much, My Lords.

8 Q. Now, I asked you whether you were one of the civilians who
9 followed the soldiers out of town. Were you?

10:34:30 10 A. No.

11 Q. Now, apart from talking to civilians and asking them to
12 leave town with them, did the soldiers do anything else when
13 leaving town?

14 A. Yes.

10:35:01 15 Q. Can you tell the Court, please?

16 A. They set fire even on my mother's house.

17 Q. When you say they set fire even on your mother's house, are
18 you suggesting they did so to other houses?

19 A. Yes.

10:35:37 20 PRESIDING JUDGE: May I remind you this is your witness and
21 you are in examination-in-chief. There is a limit. I know there
22 has been no objection to that, but --

23 MR JABBI: As Your Lordships please. It is just use of the
24 word "even."

10:35:52 25 JUDGE THOMPSON: It's accepted that's not contentious.

26 PRESIDING JUDGE: Indeed, none of that has been contentious
27 up to now, because there has been many suggested leading
28 questions, but, fine, there's no objection. We just want to warn
29 you, Dr Jabbi, that this is, indeed, quite leading.

1 MR JABBI: Thank you very much, My Lord. I'm sorry, My
2 Lord, it wasn't contentious either.
3 PRESIDING JUDGE: That's why we didn't intervene.
4 MR JABBI: Thank you.
10:36:24 5 Q. Yes. Can you explain this last statement you have made?
6 A. I said even my mother's house was set on fire.
7 Q. Did they do anything else?
8 A. That was when we left and went into one village called
9 Gbulimi.
10:36:54 10 Q. Thank you. How long did you stay at --
11 MR JABBI: May I spell it?
12 PRESIDING JUDGE: That's okay.
13 JUDGE THOMPSON: We'll take it phonetically.
14 PRESIDING JUDGE: Let's proceed, Dr Jabbi, please.
15 JUDGE ITOE: The white colleague is surrounded by two
16 Africans.
17 MR MARGAI: Dr Jabbi has been away from the lecture room
18 for quite some time now.
19 JUDGE ITOE: He wants to transform this court into a
10:37:48 20 lecture room.
21 MR JABBI: Well, for some 20 years, I've not taught
22 linguistics.
23 PRESIDING JUDGE: It shows, Dr Jabbi. It shows. Let's
24 proceed, please.
10:37:49 25 MR JABBI:
26 Q. Now, this Gbulimi, were you alone there?
27 A. No, no. We were many there in that village. It's a town.
28 Q. How long did you stay at Gbulimi?
29 A. We were there up to three days.

1 Q. Did anything happen whilst you were there?

2 A. They said Kamajors had come into the town. In fact, they
3 were the ones who took us away from the bush.

4 Q. When they took you away from the bush, where did they take
10:38:43 5 you?

6 A. They took us back to the town.

7 Q. Which town?

8 A. Koribundu.

9 Q. When you came back to Koribundu, were there any soldiers
10:39:02 10 there?

11 A. No, I did not see a soldier.

12 Q. What about Kamajors?

13 A. They were there.

14 Q. Did soldiers return to Koribundu thereafter?

10:39:35 15 A. No.

16 Q. Now, Madam Witness, you said you were living in Koribundu
17 for a long time, even before the coup against the elected
18 government. Did you, during that time, know any person by the
19 name of Hinga Norman?

10:40:21 20 A. No. I used to hear his name.

21 Q. Have you ever seen him at all in your life?

22 A. Ever since, I've only seen him from the back. I've never
23 seen his face.

24 Q. I wish I could let her identify the back. When did you see
10:41:17 25 his back?

26 A. Only once.

27 Q. Can you tell the Court when that was?

28 A. I can't remember the date or the month.

29 Q. Was it, perhaps, after this last attack by the Kamajors on

1 Koribundu or before?

2 A. At that time the Kamajors were in Koribundu.

3 Q. Do you mean after the Kamajors had captured Koribundu from
4 the soldiers? And settled there?

10:42:17 5 A. Yes.

6 Q. What happened on this occasion that you say you only saw
7 him when he was turned away from you?

8 A. We were there when our husbands told us that Chief Norman
9 had gone to Pujehun, had passed and gone to Pujehun.

10:43:02 10 PRESIDING JUDGE: Can you have the witness repeat that,
11 please. I did not understand.

12 MR JABBI: Yes.

13 Q. Can you repeat what you said just now?

14 A. We were in our house when our husbands told us that
10:43:18 15 Chief Norman had passed and gone to Pujehun.

16 Q. One day you were informed by your husband that Chief Norman
17 had passed and gone to Pujehun?

18 A. Yes.

19 Q. Where were you?

10:43:38 20 A. I was at the house.

21 Q. Where?

22 A. My house, my husband's house.

23 Q. [Microphone not activated].

24 A. Koribundu.

10:43:52 25 Q. Yes, did anything happen after that?

26 A. Yes.

27 Q. Can you tell the Court?

28 A. In the evening when he was returning, they stopped him.

29 Q. "They," meaning?

- 1 A. The Kamajors.
- 2 Q. The Kamajors stopped him on his way back from Pujehun?
- 3 A. Yes.
- 4 Q. Yes, what happened?
- 10:44:33 5 A. And so we met at the barri.
- 6 Q. Was Chief Norman there?
- 7 A. When he came, he met us there.
- 8 Q. What happened at the barri that day, so far as you can
- 9 remember?
- 10:45:12 10 A. When I met him saying, he was admonishing the Kamajors in
- 11 relation to their relationship with the civilians.
- 12 Q. What specifically did you hear him say?
- 13 A. What I heard was that he said the Kamajors shall treat the
- 14 civilians well.
- 10:45:56 15 Q. Anything more?
- 16 A. And the civilians too should treat the Kamajors well and
- 17 there should be no problem between them.
- 18 Q. Yes, anything more?
- 19 A. That was the day he stepped down and left and then there
- 10:46:30 20 was dancing.
- 21 Q. There was dancing after he left, or when he was leaving?
- 22 A. When he stepped down from the barri, they started the
- 23 dancing and they were dancing until they reached the junction.
- 24 Q. What happened at the junction?
- 10:46:58 25 A. He entered the vehicle and went towards Bo.
- 26 Q. Now as far as you could tell on that occasion, what was the
- 27 attitude of the people around the barri towards Chief Norman and
- 28 what he said at the barri?
- 29 A. In fact, when he said that word, they clapped.

1 Q. Did you go with a crowd to the junction?
2 A. No, I returned to the house.
3 Q. Have you seen Chief Norman any time after that incident?
4 A. Up to date, I have not seen him.
10:48:19 5 Q. Thank you very much.
6 MR JABBI: My Lords, that is all for the witness.
7 PRESIDING JUDGE: Thank you. Cross-examination by the
8 second accused?
9 MR KOPPE: None, My Lord.
10:48:43 10 PRESIDING JUDGE: Cross-examination by the third accused?
11 MR MARGAI: None, My Lord.
12 PRESIDING JUDGE: Cross-examination by the Prosecution?
13 MR KAMARA: My Lord, Ms Suciu will do the
14 cross-examination.
10:48:48 15 MS SUCIU: Good morning, Your Honours. My name is Bianca
16 Suciu. I can spell that for you. S-U-C-I-U.
17 CROSS-EXAMINED BY MS SUCIU:
18 Q. Good morning, Madam Witness.
19 A. Good morning.
10:49:15 20 Q. I'll be asking you some questions this morning. If you
21 don't understand the questions, please let me know and I'll
22 repeat them.
23 A. Okay.
24 Q. Where do you reside in Koribundu?
10:49:33 25 A. I live along the Kandor Road.
26 Q. Was this your address during the intervention in 1998 at
27 well?
28 A. Yes.
29 Q. Are you familiar with the main junction in Koribundu?

1 A. Yes, the main junction.

2 [CDF09MAY06B - SV]

3 Q. Now, can you tell this Court where your house is located in
4 relation to this junction?

10:50:22 5 A. Yes.

6 Q. Please go ahead.

7 A. My house is located along the Blama Road.

8 Q. And are you able to see the junction from your house?

9 A. Yes.

10:51:02 10 Q. Can you tell this Court where you were when the Kamajors
11 attacked the second time in Koribundu on the Friday in 1998?

12 A. In fact I was at my mother's house.

13 Q. And where is the house?

14 A. Along the Blama Road.

10:51:27 15 Q. And what did you do when you heard heavy firing in town?

16 A. We ran away to Gbulimi.

17 Q. Can you tell this Court how long after you heard firing you
18 ran away?

19 A. In fact that last attack, the shooting didn't last long.

10:52:12 20 Q. You said the soldiers retreated the same night on that
21 Friday night?

22 A. Yes.

23 Q. Is that when you also escaped to go into hiding,
24 Madam Witness?

10:52:30 25 A. Yes.

26 Q. And did you bring your family with you when you escaped?

27 A. Yes.

28 Q. Did you bring anything else with you when you escaped?

29 A. No.

1 Q. Can you tell how far you walked to go into hiding,
2 Madam Witness?
3 A. It could take up to three miles. It's in the bush.
4 Q. And how long did it take you to get there, do you remember?
10:53:38 5 A. No.
6 Q. According to your testimony you stayed in hiding for
7 approximately three days; is that correct?
8 A. Yes.
9 Q. So, just to make it clear for the Court, if you left on
10:54:09 10 Friday night and you stayed in hiding for three days, you must
11 have returned to Koribundu on Monday?
12 A. Yes, when we were searched for and we returned.
13 Q. Was this at night, Madam Witness?
14 A. Yes. In the evening. Late in the evening.
10:54:42 15 Q. You have testified that your husband was a Kamajor; is that
16 correct?
17 A. Yes.
18 Q. Do you know, Madam Witness, if he had any specific rank as
19 a Kamajor?
10:55:13 20 A. Yes.
21 Q. Can you tell this Court what that was?
22 A. He was an RSM.
23 Q. And do you know what that means?
24 A. No. I didn't go to school.
10:55:37 25 Q. Do you know what your husband's specific duties were as a
26 Kamajor in Koribundu?
27 A. You mean bad things?
28 Q. No, I mean do you know what he did as a Kamajor, what was
29 his role?

1 A. He would take his boys and they would go on patrols.

2 Q. Was he also in charge of investigating reports made against
3 the Kamajors?

4 A. Yes.

10:56:37 5 Q. And did you hear about any of those reports, Madam Witness?

6 A. You mean negatively? No, it never happened.

7 Q. So if the Kamajors did something bad to the people, your
8 husband would have been in trouble, wouldn't he?

9 A. Yes.

10:57:17 10 Q. Madam Witness, you were in charge of cooking for the
11 Kamajors whenever they came to Koribundu; is that true?

12 A. Yes.

13 Q. And you and your family never suffered at the hands of the
14 Kamajors; is that correct?

10:58:04 15 A. Yes.

16 Q. I'm suggesting to you, Madam Witness, that the reason why
17 you were spared from the hands of the Kamajors is because your
18 husband was a Kamajor commander in Koribundu?

19 A. He was a Kamajor commander. Nobody would say we would not
10:58:42 20 suffer.

21 Q. What I'm saying is that the Kamajors didn't do anything to
22 you because you were married to a Kamajor commander?

23 A. We had been married for a very long time, even before the
24 inception of the Kamajor business.

10:59:17 25 Q. But, Madam Witness, there were other people in Koribundu
26 whose husbands were not Kamajors; do you agree?

27 A. Yes.

28 Q. And do you agree that these people were not as lucky as you
29 were?

1 A. Everybody had his or her own position. Some people were
2 married to Kamajors and others were married to soldiers.
3 Q. Isn't it true, Madam Witness, that people who were junta
4 collaborators suffered a lot in Koribundu?
11:00:15 5 A. No, in fact, I don't know that sort of people that you're
6 referring to. I am not a white man, I am just a Mende person.
7 Q. Did you ever hear of Sarah Binkolo and Sarah Lamina,
8 Madam Witness?
9 A. No.
11:00:40 10 Q. If I tell you that they were palm wine tappers, does that
11 ring a bell to you?
12 JUDGE ITOE: What name did you --
13 MS SUCIU: Sarah Binkolo.
14 THE WITNESS: Is he a Temne man or a Mende man?
11:01:04 15 MS SUCIU: They were Limba.
16 THE WITNESS: I don't know him.
17 PRESIDING JUDGE: So you did mention two names?
18 MS SUCIU: Two names. The second name is Sarah --
19 THE WITNESS: I said if they were Mende people or Limba
11:01:20 20 people.
21 MS SUCIU: And I responded they were Limba people.
22 JUDGE ITOE: Sarah Binkolo and who?
23 MS SUCIU: Sorry, Your Honour, Sarah Lamina.
24 PRESIDING JUDGE: So you're suggesting they were both palm
11:01:37 25 wine tappers, both of them.
26 MS SUCIU: Both of them.
27 PRESIDING JUDGE: Madam Witness, what's your answer?
28 THE WITNESS: Sir?
29 PRESIDING JUDGE: If you know these two persons. They were

1 Limba.

2 THE WITNESS: I said I did not know them.

3 MS SUCIU:

4 Q. Koribundu is a very small town, isn't it, Madam Witness?

11:02:13 5 A. No.

6 Q. Do you know around how many people live in Koribundu?

7 A. No, I can't -- the town is a very big town. I can't state
8 the number.

9 Q. Thank you. Now the two people that I've just mentioned,
11:02:39 10 did you know that they were killed by the Kamajors?

11 A. You want me to tell a lie? No, I don't know. I won't tell
12 a lie or I will explain exactly what I know.

13 Q. So you wouldn't know that they were killed by the Kamajors
14 at the junction on the Sunday after the attack took place on the
11:03:02 15 Friday in 1998?

16 A. No. No, I did not hear about any killings.

17 Q. I am putting it to you, Madam Witness, that there were five
18 other people who were identified junta collaborators who were
19 also killed at the junction by the Kamajors on the same Sunday.

11:03:47 20 A. I did not know about that.

21 Q. I am also putting it to you that Kamajors burnt a number of
22 houses on Blama Road on Saturday after the attack?

23 A. No.

24 Q. Madam Witness, in fact, you don't know what happened in
11:04:25 25 Koribundu for most of that weekend in 1998 because you weren't
26 there. You said it yourself you were away hiding, weren't you?

27 A. It's a lie.

28 PRESIDING JUDGE: What is a lie, that you were not there?

29 JUDGE ITOE: Or that you were there?

1 THE WITNESS: I was there.

2 MR JABBI: My Lord, I'm sorry to intervene. I am not
3 hearing the interpretation, but the counsel was quite specific
4 about the timing and I don't know how that timing was conveyed in
11:05:12 5 the interpretation.

6 PRESIDING JUDGE: Well, we'll ask the Prosecutor to repeat
7 that question so there is no confusion in the understanding and
8 the interpretation. Would you please take your question again
9 about that particular weekend.

11:05:29 10 MS SUCIU: Yes, Your Honour.

11 Q. So I'm putting it to you, Madam Witness, that the reason
12 why you don't know what happened in Koribundu on that weekend,
13 the weekend of the second attack by the Kamajors that started on
14 Friday, is because you were not there. Like you said in court
11:05:54 15 today, you returned to Koribundu on Monday, late in the evening.

16 A. I was at present even when my mother's house was set on
17 fire.

18 Q. Madam Witness, I'm asking --

19 PRESIDING JUDGE: Sorry, please. Did the witness say, "I
11:06:20 20 was not present," or "I was present"? Mr Interpreter, can you
21 repeat your answer?

22 THE WITNESS: I said, "I was at present even when my
23 mother's house was set on fire."

24 MS SUCIU:

11:07:06 25 Q. Madam Witness, if I remember correctly, you said that your
26 mother's house was set on fire on Friday night as the soldiers
27 retreated; is that correct?

28 A. Yes.

29 Q. But my question --

1 PRESIDING JUDGE: What was your answer, Madam Witness?

2 THE WITNESS: I said when we were pulling out, while they
3 were going, it was then that they set fire on my mother's house.
4 It was then that we went to Gbulimi to hiding.

11:07:53 5 PRESIDING JUDGE: Thank you.

6 MS SUCIU:

7 Q. So you weren't there on the Saturday and Sunday and Monday
8 morning until Monday evening?

9 A. Yes.

11:08:18 10 PRESIDING JUDGE: Yes, you were there, or, yes, you were
11 not there?

12 THE WITNESS: I came back on Monday.

13 MS SUCIU:

14 Q. Madam Witness, you said that when the soldiers retreated on
11:08:47 15 the Friday of the attack that you said that they burnt houses on
16 their way out?

17 A. Yes.

18 Q. Can you tell this Court where these houses were burnt? Was
19 this on Blama Road?

11:09:28 20 A. I said my mother's house was set on fire. I have shown the
21 place.

22 Q. But you didn't see any other houses being burnt?

23 A. I can only speak about mine.

24 Q. So the only house that you saw being burnt by the soldiers
11:09:48 25 was your mother's house?

26 A. Yes, that is what I can say something about.

27 Q. So you wouldn't know if the Kamajors also burnt houses on
28 that Friday?

29 A. No, they were not there.

1 Q. In your testimony you've said that you attended a meeting
2 at the barri where Chief Hinga Norman spoke?
3 A. Yes.
4 Q. Can you repeat what he said?
11:10:54 5 A. He was admonishing the Kamajors in relation to the
6 civilians.
7 Q. Has this always been your position, Madam Witness?
8 A. What happened is what I have just said.
9 Q. Do you remember ever giving a statement to members of the
11:11:31 10 Office of the Prosecutor?
11 A. No.
12 Q. So you don't remember speaking with two investigators from
13 the Office of the Prosecutor on March 24, 2006?
14 A. No.
11:12:16 15 Q. Madam Witness, can you remember what you did on that day?
16 PRESIDING JUDGE: What's the date again? March 24, 2006?
17 MS SUCIU: Yes, Your Honour.
18 THE WITNESS: No. I'm in the bush. I go to the farm. I
19 can't remember.
11:12:50 20 MS SUCIU:
21 Q. But, Madam Witness, this was a little bit over a month ago.
22 A. No.
23 Q. Do you remember being at the police station in Koribundu on
24 that date?
11:13:17 25 A. No.
26 Q. Madam Witness, I am putting it to you that you gave a
27 statement to two investigators from the Office of the Prosecutor
28 on March 24, 2006.
29 A. No.

1 Q. Madam Witness, are you denying having made that statement
2 because what you said in that statement contradicts what you said
3 here today?

4 A. If I spoke there I would have said so.

11:14:30 5 Q. Madam Witness, can I refresh your memory? In that meeting
6 with the investigators you said that you had never set eyes on
7 Chief Hinga Norman. You also said that when --

8 MR JABBI: I wish to object at this stage, My Lord. Apart
9 from the witness having consistently said that she did not in
11:15:14 10 fact make any such statement, the counsel for the Prosecution is
11 in fact already going into the content of what she alleges this
12 witness said, and that whatever the document may be is not yet in
13 evidence and no attempt has been made to lay sufficient
14 foundation for the purpose of tendering. She cannot be going
11:15:47 15 into the content of the statement at this stage if she has any
16 such document, My Lords.

17 PRESIDING JUDGE: Madam prosecutor, do you wish to respond
18 to that?

19 MS SUCIU: Yes, Your Honours. We do have a statement from
11:15:58 20 this witness -- that appears to be from this witness. All I want
21 to do is to show that this witness's credibility is not reliable.
22 I'm not trying to prove what it says in this statement. I'm just
23 trying to show that at one point there might have been an
24 inconsistency to what the witness has said today in court.

11:16:23 25 PRESIDING JUDGE: But how will you achieve that? My
26 recollection is that the witness is illiterate.

27 MS SUCIU: Well, the statement is not signed but it is,
28 nevertheless, relevant to what the witness has testified to today
29 and there is a nexus between the statement and the testimony of

1 the witness.

2 JUDGE THOMPSON: But clearly there is -- is it the
3 intention to tender the statement to show prior inconsistency
4 between what she is saying now and what she might have told the
11:17:11 5 investigators, or is it just to put in issue her credibility? I
6 would see that there is a distinction between putting in issue
7 her credibility, in which case, as far as I understand the scope
8 of cross-examination, it is clearly permissible to put to the
9 witness an allegation that she had made a previous statement,
11:17:41 10 even inconsistent with what she's saying now as distinct from
11 tendering a statement, parts of which you'd like to use
12 substantively to show inconsistency, which of course would
13 clearly now go to the facts in issue. So if the question is
14 directed merely to impairing the credit, just to challenging
11:18:11 15 exclusively the credit of the witness, it would seem to me that
16 this is permissible. But if it's meant to show prior
17 inconsistency between what she's saying now and what she told the
18 investigator, then these would be matters that would go to the
19 facts in issue, which would require that the statement be
11:18:31 20 tendered. That's how I understand the law.

21 MS SUCIU: Thank you, Your Honour. My intention is not to
22 have this statement admitted as an exhibit. It is merely to
23 attack the witness's credibility.

24 JUDGE THOMPSON: But in that regard then, of course, once
11:18:48 25 you're able to elicit an answer from the witness one way or the
26 other, the finality rule comes into issue, except if you're
27 trying to show that she may be biased in terms of her testimony,
28 which would be one exception to the finality rule. So you can
29 pursue it further as you can. Because if she gives you an answer

1 which is final on the matter, even though you may contradict
2 this, you can't go beyond that unless you try to prove that she
3 may be biased in her testimony. That's my understanding of the
4 law.

11:19:35 5 MS SUCIU: Can I have a second, Your Honours?

6 PRESIDING JUDGE: Yes.

7 JUDGE ITOE: Well, I think that the statement, if it can be
8 linked to this witness, could examine the possibility of treating
9 it as a prior inconsistent statement, on the one hand, and also a
11:20:55 10 statement which puts her credibility into question. That is my
11 view on this matter.

12 MS SUCIU: Thank you, Your Honour. I would just like to
13 use the statement to refresh the witness's memory, if that's
14 allowed.

11:21:10 15 PRESIDING JUDGE: That's fine, you can do that. If your
16 objection, Dr Jabbi, was to that issue. We're not talking here
17 of having the statement admitted in evidence, at least this is my
18 understanding of the position of the Prosecution, but simply to
19 put to the witness that she would have, on some other occasion,
11:21:26 20 made a statement. So that's basically what she's putting to the
21 Court. And if your objection was to that, your objection is
22 overruled. But I say if it was to that.

23 MR JABBI: My Lord, my objection was, of course, to that,
24 thinking that she was putting the content in issue. If, however,
11:21:52 25 that is not the case, then I will wait for another answer before
26 I raise the next objection.

27 PRESIDING JUDGE: I'm not sure what you mean in those
28 circumstances by "content". Obviously the Prosecutor is
29 attempting to put at least a portion of that statement, which

1 would mean to me part of the content, to the witness and
2 suggesting to the witness that she has on some other occasion
3 made that statement. That's what the Prosecution is attempting
4 to do. I'm just trying to follow your argument on that.

11:22:28 5 MR JABBI: That is why I have said, My Lord, that I will
6 wait for one more question to put my next objection. I do
7 certainly have another objection.

8 PRESIDING JUDGE: Thank you. Madam Prosecutor.

9 MS SUCIU: Thank you, Your Honour.

11:22:40 10 Q. Madam Witness, did you ever say that you never set eyes on
11 Chief Hinga Norman when he came to Koribundu?

12 A. Yes. Say, for example, if you meet together with someone
13 and you sit together with him, it never happened like that.

14 Q. Madam Witness, I am talking about the time he came and gave
11:23:21 15 a speech at the court barri. Did you ever see him then?

16 A. Yes, but he did not even sit, sit down.

17 Q. Madam Witness, did you ever say that by the time you got to
18 the court barri Chief Norman had already left?

19 A. Yes, I met him stepping down. I saw him from the back.

11:24:08 20 MR JABBI: My Lord, I am really concerned. One, it's not
21 very clear as to whether the question is put accurately to the
22 witness in the interpretation. There seems to be -- I'm not
23 hearing the interpretation so I'm not casting any aspersion on
24 it.

11:24:31 25 JUDGE ITOE: But how do you come by knowing the nuances in
26 the translation if you're not hearing the translation? How are
27 you perceiving this when we are not perceiving it the way you are
28 doing?

29 MR JABBI: My Lord, I am hearing the question clearly put

1 by the counsel. I also hear, in the original language of the
2 witness, the answer she gives and the interpretation by the
3 interpreter. My concern is that this question, for example, as
4 she put just now, it may well be -- because of the limited aspect
11:25:20 5 to which the witness has answered, it may well be that the
6 question is not completely put to the witness in the
7 interpretation, My Lord.

8 PRESIDING JUDGE: Well, Dr Jabbi, we've been living with
9 these interpreters for almost three years now and unless you come
11:25:39 10 with very substantial reason to ask that they be disqualified
11 because they do not properly give interpretation, we're not
12 prepared to listen to that. I have to rely on the ability and
13 the professionalism of these interpreters to do their work. It
14 is always open to you to challenge their ability to do so and
11:26:04 15 that they didn't do their job properly. Otherwise we cannot go
16 on speculation in these matters. As I say, we have accepted
17 these interpreters as being duly qualified and professional in
18 their art. But they may make mistakes and if you think that what
19 they've done now is not accurate, then you can challenge it, but
11:26:27 20 it's not on speculation. That's all I have to say.

21 MR JABBI: My Lord, in that case, since the Court is in
22 pursuit of the truth, the basic truth, I will want the questions
23 put again to the witness, please.

24 PRESIDING JUDGE: Madam Prosecutor, can you put the
11:26:50 25 question again to the witness?

26 MS SUCIU: Yes, Your Honour.

27 Q. Madam Witness, did you ever say that you have never set
28 eyes on Chief Hinga Norman when he came to the meeting in
29 Koribundu?

1 MR JABBI: My Lord --

2 THE WITNESS: No.

3 MR JABBI: Again, My Lord, this time it's not even the
4 interpretation I'm talking about, but the form of the question.
11:27:22 5 She said, "Did you say that you have never set eyes on Chief
6 Norman when he came to the barri?" The beginning of the question
7 is open-ended, but it ends specifically.

8 PRESIDING JUDGE: I should say to you this is the very same
9 question that she asked before.

11:27:45 10 JUDGE ITOE: This is the same question she asked before,
11 Dr Jabbi. This is the same question.

12 MR JABBI: My Lord, that is why -- at least if the question
13 can be put consistently, that is to say it is specific all
14 through, rather than having that open-ended beginning - "Did you
11:28:05 15 say you have never set eyes on Chief Norman at the time he came
16 to the barri?" - I think it cannot be put.

17 JUDGE THOMPSON: Counsel, what is wrong if somebody says
18 "Did you ever say at any time that you've never set eyes" --
19 under cross-examination what is wrong with saying "Have you ever
11:28:27 20 said at any point in time that you've never set eyes on Chief
21 Norman?" What's impermissible about that in cross-examination?

22 MR JABBI: My Lord, the way you have put it is totally
23 permissible.

24 PRESIDING JUDGE: But this is exactly the question that was
11:28:44 25 asked.

26 MR JABBI: No, My Lord. There is an element that My Lord
27 has -- the element when he came to the barri is not in
28 Your Lordship's question.

29 JUDGE THOMPSON: Your complaint to us, Dr Jabbi, was that

1 the question was too open-ended, but there are some open-ended
2 questions that are clearly permissible in cross-examination
3 because of two reasons: One, sometimes -- and we adopt what we
4 call the open system of cross-examination here. And in this
11:29:18 5 particular case, if counsel's purpose is to challenge the credit
6 of the witness on the grounds of some prior inconsistency, then I
7 do not see how impermissible the question, "Have you ever said at
8 any point in time" -- it's like saying "Oh, did you at some point
9 in time say to a newspaper correspondent" so and so and so and
11:29:56 10 so. So what is wrong with that in cross-examination?

11 MR JABBI: My Lord, I have explained just now that
12 Your Lordship is rendering the question partially only so far as
13 its open aspect is concerned. But what I have said is that after
14 that open aspect, the specific comes in and there is necessarily
11:30:20 15 some confusion there.

16 JUDGE THOMPSON: I will tell you something. My own
17 understanding of the law is that perhaps sometimes when it comes
18 to open-ended questions they are permissible in cross-examination
19 unless they are of such a nature as they offend the sense of
11:30:41 20 fairness. I'm talking about cross-examination.

21 MR JABBI: Yes, indeed, My Lord, I have said that. I agree
22 entirely, My Lord.

23 JUDGE THOMPSON: They're permissible and I don't know a
24 rule or principle that renders them impermissible. That's my
11:30:52 25 difficulty.

26 MR JABBI: My Lord, it may well be that the point I have
27 made is not completely grasped.

28 JUDGE THOMPSON: I stand to be educated.

29 MR JABBI: I have not objected to the open-ended aspect of

1 the question. That is not what I objecting am to. But what I
2 have said is that after that open-ended aspect the end of the
3 question becomes specific, it ties it down to a specific occasion
4 which reduces the open-ended nature of it. And that this, the
11:31:29 5 presence of both elements in the question, can be a cause for
6 confusion.

7 JUDGE THOMPSON: Renders it impermissible? A cause for
8 confusion in what sense?

9 MR JABBI: Confusion for the witness as to what answer to
11:31:42 10 give, as to whether to answer to the open-ended aspect or to the
11 specific aspect, or, indeed, whether the other aspect is present
12 at all in the question.

13 JUDGE THOMPSON: In other words, you're saying that a
14 conjunctive question has been put and the witness may be confused
11:32:01 15 by that. Is that what you're suggesting?

16 MR JABBI: Practically. Notwithstanding that the
17 conjunction --

18 JUDGE THOMPSON: Well, I did not interpret it --

19 MR JABBI: -- was not used.

11:32:12 20 JUDGE THOMPSON: I didn't interpret it to be that.

21 JUDGE ITOE: How was the question conjunctive?

22 MR JABBI: Thank you very much, My Lord.

23 PRESIDING JUDGE: I don't think it was a confusing question
24 either.

25 JUDGE ITOE: It wasn't.

26 PRESIDING JUDGE: Your objection is overruled, Dr Jabbi.

27 MR JABBI: Thank you, My Lord.

28 MR SESAY: Sorry, My Lord. My concern really is not so
29 much --

1 JUDGE ITOE: Are you coming back to this same issue,
2 Mr Sesay?

3 MR SESAY: No, My Lord. Just, My Lord --

4 JUDGE ITOE: If it is on this issue, we have ruled, and you
11:32:29 5 are not permitted to come back to that issue. We must move on
6 with these trials.

7 MR SESAY: As My Lord pleases.

8 PRESIDING JUDGE: It is 11.30 in any event and it is normal
9 recess time. So we will recess now and come back at that
11:33:06 10 particular time. Thank you very much.

11 [Break taken at 11.33 a.m.]

12 [Upon resuming at 12.03 p.m.]

13 PRESIDING JUDGE: Madam Prosecutor.

14 MS SUCIU: Yes, Your Honours. I just want to clarify it
12:04:23 15 for the record that the witness has already responded that when
16 she went to the meeting she saw Hinga Norman stepping down. This
17 is in my notes and it's in the transcript.

18 PRESIDING JUDGE: I don't necessarily have that part. All
19 I have in my notes is - and it may be that my brothers and
12:04:54 20 colleagues have something more - I have that when he was there he
21 did not even sit down. But it may be something before that that
22 she said.

23 MS SUCIU: I think it was her answer to my question when I
24 asked it the second time.

12:05:13 25 PRESIDING JUDGE: Well, ask the question again so we'll see
26 where we go.

27 MR JABBI: My Lords, I would want to, with your indulgence,
28 raise this issue so that it is considered by Your Lordships and a
29 decision taken on it before we proceed with this line of

1 questioning.

2 PRESIDING JUDGE: Is this something new or it is the same
3 matter you're raising again?

4 MR JABBI: I'm not raising the same matter, but I'm raising
12:05:56 5 a matter in connection with it.

6 PRESIDING JUDGE: Before we proceed, I would like to have
7 the earphones removed from the witness so we can discuss that
8 without the knowledge of the witness.

9 MR JABBI: As My Lord pleases. Yes, My Lord, it's a
12:06:27 10 general issue I wish to raise in connection with the use of
11 statements obtained by the Prosecution from a defence witness
12 after the disclosure of the name of that witness as indeed a
13 defence witness, such statements having been obtained from the
14 Defence witness at an alleged interview of that witness by the
12:07:55 15 Prosecution without the Defence having been apprised of the
16 intention of the Prosecution to interview the said witness or of
17 the fact of having obtained such a statement, any intimation
18 thereof only being made to the other side or to the Court during
19 cross-examination.

12:08:58 20 PRESIDING JUDGE: Could you just repeat that last part?

21 MR JABBI: Any intimation of the said fact being only made
22 to the other side or to the Court for the first time during
23 cross-examination.

24 My Lord, I have of course checked the Rules of Procedure
12:09:49 25 and no specific rule exactly covers this situation. But,
26 My Lords, I believe there is an issue of basic principles and
27 ethics involved which the Chamber may wish to consider and
28 determine.

29 My Lord, I would like to cite Rule 89(B) under the general

1 provisions of Rules of Evidence which runs as follows, if I may
2 read it aloud to the court, My Lord.

3 PRESIDING JUDGE: Yes.

4 MR JABBI: It reads: "In cases not otherwise provided for
12:11:20 5 in this section, a Chamber shall apply rules of evidence which
6 will best favour a fair determination of the matter before it and
7 are consonant with the spirit of the statute and the general
8 principles of law."

9 My Lord, my submission is that it would be more in accord
12:12:13 10 with the general principles of fairness to ensure that contact
11 and interviews between a known prospective witness of the Defence
12 and Prosecution personnel after the close of the Prosecution case
13 and during the presentation of the Defence would be
14 inappropriate, unfair and contrary to principles if it indeed
12:14:51 15 occurs without the knowledge of the Defence in the circumstances.

16 My Lords, it was clear from prosecuting counsel that
17 prosecuting investigators had interviewed this witness on 24
18 March 2006.

19 PRESIDING JUDGE: The witness has denied that.

12:16:06 20 MR JABBI: No, that is what they allege, My Lord.

21 PRESIDING JUDGE: Yes.

22 MR JABBI: The Prosecution counsel stated this morning that
23 she was putting it to the witness that prosecuting investigators
24 had interviewed her in a police station.

12:16:37 25 PRESIDING JUDGE: Dr Jabbi, if you allow me at this
26 particular moment, it's not that I want to cut you off, it's only
27 that given the nature and substance of what you're raising at
28 this particular moment, as such, and to what appears to be an
29 important matter -- what you're alleging is indeed important, and

1 we would like to be able to look at this in the appropriate forum
2 and not necessarily in a verbal argument now. I think the
3 Prosecution and the other parties should be allowed to speak
4 about that and provide enough background information. May I
12:17:17 5 suggest to you that you proceed by a written motion on this with
6 distribution to all and we will deal with that in due course
7 rather than listen to your arguments at this particular moment.

8 MR JABBI: My Lord, that is welcome. In that case,
9 My Lords, may I suggest that further questioning in
12:17:47 10 cross-examination be also suspended until that is done, My Lord.

11 JUDGE ITOE: Maybe only in relation to this issue that
12 you've raised. Only in relation to this issue.

13 MR JABBI: Yes, My Lord. Only in relation to the question
14 of the alleged interview on 24 March 2006, My Lord. The
12:18:10 15 cross-examination can continue on other fronts not touching on
16 that. I am not objecting to that. But if counsel --

17 JUDGE ITOE: Unless of course that interview impacts on
18 what has to follow in the cross-examination.

19 MR JABBI: Yes, indeed, My Lord.

12:18:29 20 JUDGE ITOE: That is the call to be made by prosecuting
21 counsel.

22 MR JABBI: Yes, My Lord. If further cross-examination is
23 not affected by this issue, then it can go on. All I'm saying is
24 that if any aspect of it is to be affected by this issue, then if
12:18:46 25 it can be suspended until the said motion comes and is
26 determined, My Lord.

27 PRESIDING JUDGE: Before we respond to Dr Jabbi on this
28 issue, do you wish to say anything in respect of what I have
29 raised with counsel that we would like to see this particular

1 application and issue put in writing, Mr Prosecutor, or --

2 MR MARGAI: I don't know, My Lords, whether you would wish
3 to hear us before the Prosecutor. Because, I mean, it's
4 something which might affect us as the trial progresses and I
12:20:47 5 think it's a very important issue coming up for the first time
6 which we would appreciate very much --

7 PRESIDING JUDGE: Yes, Mr Margai. The issue at this stage,
8 what I want to hear about, is what is being proposed is that we
9 discontinue the cross-examination of this witness on this issue.
12:21:03 10 That's all I want to raise now, not the substance of it.

11 MR MARGAI: No, that was what I was going to comment on.

12 PRESIDING JUDGE: Fine. We'll go with Mr Koppe first.

13 MR KOPPE: Your Honour, thank you. I would like to make an
14 observation because, although it's not a witness of the second
12:21:20 15 accused, I find this matter quite troublesome.

16 PRESIDING JUDGE: Which matter?

17 MR KOPPE: The matter of witnesses of the Defence being
18 approached --

19 PRESIDING JUDGE: I don't want to get into argument,
12:21:29 20 Mr Koppe.

21 MR KOPPE: No, my point is on the procedure because I think
22 it is not only troublesome, I think it's also an urgent matter,
23 so I would --

24 JUDGE ITOE: Mr Koppe, I think there has been an indication
12:21:41 25 that this motion, if it is filed, will be served on all the
26 parties and you will have all the time, instead of getting into
27 details about how you are worried. Yes, you have cause to be
28 worried about that. And I think that when the motion is made, it
29 will be served on all the parties and you will be given the right

1 to reply. I suppose what we want to know from the Prosecution is
2 their stand on our decision to -- on our option to ask for a
3 written motion on this and, when it does come, it will certainly
4 be served on all the parties.

12:22:19 5 MR KOPPE: I understand, Your Honour, but my difficulty is
6 that before the motions are filed, before the various viewpoints
7 of the parties concerned are being rendered and before a decision
8 is made, this whole process of the Prosecution approaching
9 Defence witnesses might continue and there I have some trouble
12:22:41 10 because I would like to have an urgent decision on this matter
11 because I do not see how it is possible, or even ethical, that
12 Defence witnesses are being approached by the Prosecution without
13 the Defence knowing such a thing. Therefore if we go into the
14 process of written motions, decisions, et cetera, we might very
12:23:06 15 well be almost in the end of this trial session. I think this
16 matter is of such importance that I would like to have an urgent
17 decision. So I'm not going into the content of it, but I'm
18 merely going on the procedural vehicle in which we pursue this
19 matter.

12:23:23 20 PRESIDING JUDGE: Very well. Mr Margai?

21 MR MARGAI: My Lords, my own contribution will be as
22 follows: Considering the importance of this matter and the
23 urgency, I am comfortable with submitting a written motion. I
24 believe on this side it will be a joint motion. If
12:23:44 25 Your Lordships are mindful, perhaps we could have the rest of the
26 day, both sides, to file the motions and, since tomorrow is a
27 half day, Your Lordships could gracefully consider the motions by
28 tomorrow, because we do not know how many of such interviews are
29 still on the floor. So I am quite comfortable with submitting

1 written motions.

2 PRESIDING JUDGE: Thank you, Mr Margai.

3 MR MARGAI: Thank you.

4 PRESIDING JUDGE: Mr Prosecutor?

12:24:21 5 MR KAMARA: Yes, My Lord. We will be prepared to respond
6 to any motion filed, whether joint or singly, by the first
7 accused. Just as a matter of practicality and history of the
8 proceedings before this Court, My Lords: You will recall that
9 the Defence did the same thing in the course of the Prosecution.

12:24:43 10 JUDGE ITOE: You will have time to reply to that in your
11 submissions.

12 MR KAMARA: We will wait for the submissions, My Lord.

13 PRESIDING JUDGE: We don't want to get into the merit of
14 it. What we want to know is what has been proposed --

12:24:55 15 MR KAMARA: Okay, we will wait. We'll wait to see the
16 motion filed and we'll respond accordingly.

17 PRESIDING JUDGE: But it means if we go that route that the
18 cross-examination of this witness -- it was suggested by Dr Jabbi
19 that at least that part of the cross-examination of this witness
12:25:10 20 that deals with and relates to a statement should be postponed.
21 If we are doing this we will not postpone only that part but
22 postpone the remaining of the cross-examination of this witness
23 to be carried on at a future time.

24 MR KAMARA: Yes, My Lord. As a matter of fact,
12:25:26 25 cross-examination had completed. Beyond that question no more
26 questions were going to be asked. I was just waiting for counsel
27 to round that up. No more questions were going to be asked of
28 this witness. Just like my co-counsel did mention, the records
29 have suggested that she has already answered that question and we

1 will rely on the records.

2 PRESIDING JUDGE: So she had no further questions?

3 MR KAMARA: I will let her answer that.

4 MS SUCIU: No, Your Honours, I have no further questions
12:25:52 5 for this witness.

6 PRESIDING JUDGE: Just a moment. Thank you.

7 MR JABBI: My Lord, I just want to make a short response to
8 the view of things as put by the Prosecution that they were not
9 going to ask any further questions. My Lord, insofar as this
12:29:07 10 issue is concerned, the best approach, having decided to go by
11 motion, would be not to consider any responses to questions
12 related to such a statement to be part of the record before a
13 decision on the motion is made.

14 PRESIDING JUDGE: Well, it is on the record now, Dr Jabbi,
12:29:39 15 and it was done at the time and you did not -- you had made an
16 objection, we overruled your objection. So it is part of the
17 record now. Now if you're making a motion, we will look at the
18 motion and if you want to raise that as part of your motion,
19 you're welcome. You can do that at that time.

12:29:55 20 MR JABBI: Secondly, My Lord, the importance of this has of
21 course been observed by practically all concerned. We would also
22 want to request that in subsequent cross-examination if this sort
23 of issue concerning the basis of any questioning until such a
24 decision comes, because it is quite possible that in some other
12:30:25 25 cross-examination whilst we proceed that sort of approach could
26 also be adopted. So I would want it to be conveyed to all that
27 asking that this issue be treated by way of motion means that
28 similar practice should not be adopted in the case of subsequent
29 cross-examination. Thank you very much, My Lord.

1 PRESIDING JUDGE: So to speed up the process we will
2 shorten the time to respond and reply. If you file a motion, if
3 it is a joint motion, presumably you're going to file that today
4 or tomorrow and the time will be two days for the response and
12:31:08 5 two days for the reply. So this is what we expect to see and
6 then we'll take it from there.

7 So given what the Prosecution has said, they have no
8 further questions for this witness, we're now back to you,
9 Dr Jabbi, with re-examination, if you have any. Given if, and it
12:31:30 10 is a big if -- if you make an application and if there is a
11 motion and when we rule upon that particular motion, depending on
12 the ruling, it may be that this witness may be recalled at that
13 time if needed. So we'll see. But for the time being the
14 Prosecution has indicated that in the existing circumstances,
12:31:48 15 given the state of the evidence as they have it, they have no
16 further question. You will make your motion, if you want to make
17 it, we'll deal with it and then we'll see about this witness.
18 But, having said that, do you have any re-examination, leaving
19 aside that issue?

12:32:06 20 MR JABBI: My Lord, my re-examination is one question which
21 is basic to this issue, My Lord.

22 PRESIDING JUDGE: So your question will relate to statement
23 or no statement?

24 MR JABBI: Yes, My Lord, but just one question.

12:32:25 25 PRESIDING JUDGE: Fine.

26 JUDGE ITOE: And I think, in the light of the comments
27 which have been made by Dr Jabbi, the Prosecution may well be
28 admonished in the calling of the witnesses or, rather, the
29 Defence -- the Prosecution should put on hold these issues in

1 case they have other statements recorded from Defence witnesses
2 after the close of the Prosecution's case. I hope that other
3 witnesses will not be affected by this particular hurdle that we
4 are now trying to jump over.

12:32:46 5 [CDF09MAY06C-RK]

6 MR KAMARA: Yes, My Lord. We take your point in good
7 faith. The only situation we have here, the Prosecution, we
8 conducted our own investigations. Once the list of witnesses
9 were disclosed to the Prosecution, the Prosecution conducted its
10 own investigations, which included, amongst others, obtaining
11 statements from persons that know the witnesses and including
12 witnesses themselves that volunteered to make statements to the
13 Prosecution.

14 PRESIDING JUDGE: We don't want to get into -- I do
12:33:47 15 understand that, but --

16 MR KAMARA: It is for subsequent cross-examination.

17 PRESIDING JUDGE: This is part of the merit. What
18 Justice Itoe has just raised is to avoid, if at all possible and
19 feasible, same problem with witnesses to come. On the one hand,
12:34:05 20 we would like to ask you to suspend interviewing and obtaining
21 statements from now on, until we have decided on this matter,
22 witnesses that appear on the witness list for the Defence. I
23 don't know if you have many more of those or not. I'm not
24 talking of witnesses, of individuals that you have interviewed
12:34:23 25 about witnesses. I'm talking about individuals that have been
26 listed, disclosed as witnesses and that are coming to testify.
27 That is what I'm talking about. If you are still investigating,
28 I suggest to you that you suspend obtaining statements from these
29 individuals - from these individuals, I mean those listed as

1 witnesses listed on the witness list that has been disclosed -
2 until this matter is disposed of.

3 MR KAMARA: Yes, Your Honour.

4 MR JABBI: My Lord, I have only one question in
12:34:57 5 re-examination. If the earphones could be put back on the
6 witness, My Lord.

7 PRESIDING JUDGE: Yes, thank you.

8 RE-EXAMINED BY MR JABBI:

9 Q. Madam Witness, have you been interviewed by any people from
12:35:44 10 the Prosecution side after you last came to the VWS unit?

11 A. No.

12 MR JABBI: Thank you, My Lords. That is all.

13 PRESIDING JUDGE: Madam Witness.

14 THE WITNESS: Yes.

12:36:05 15 PRESIDING JUDGE: This concludes your appearance and your
16 evidence in court at this particular moment. You might be
17 subject to be called back later on. In the meantime your
18 evidence in court is completed, but the Court has been asked to
19 decide on a particular issue and it may be that as a result of
12:36:29 20 that you might have to be called back. So we thank you very much
21 for coming and we wish you a safe trip back home. Thank you.

22 THE WITNESS: In God's name.

23 PRESIDING JUDGE: Thank you.

24 [The witness withdrew]

12:36:59 25 PRESIDING JUDGE: Dr Jabbi, you have other witnesses ready?

26 MR JABBI: Yes, My Lord.

27 PRESIDING JUDGE: If I may, I would like to just make a few
28 comments on your application on the motions you are going to be
29 filing. I would appreciate that you clearly outline the issues,

1 the issue being the use of statements, but you have raised many
2 matters, one being basic principles, ethics of the Court, and so
3 on. So make sure in your application, if it is a joint motion,
4 that the issues are clearly spelled out, as to what it is and
12:37:33 5 why. And if at all possible, if you have case law to support
6 your position, would be most welcome.

7 MR JABBI: We will endeavour to do so, My Lord.

8 PRESIDING JUDGE: Thank you. It rests with you now. We
9 have told you that we want to see that in writing, so if you can
12:37:49 10 produce that after lunch, that is fine. If it is tomorrow
11 morning, that is fine. It is up to you as to when.

12 MR JABBI: We will do it as soon as possible, My Lord.

13 PRESIDING JUDGE: Thank you.

14 JUDGE ITOE: I'm sure you can file this motion today.
12:38:03 15 There isn't much at stake. Can't you? You cannot concert with
16 the other defence teams and be able to file it today? No. Well,
17 I leave that to you.

18 MR JABBI: My Lord, it is safer to leave it open with the
19 awareness of the need for urgency.

12:38:23 20 PRESIDING JUDGE: Do you have any other witness we can
21 start now?

22 MR JABBI: Yes, My Lord. We have a witness, Bobor Brima;
23 he is ready. But I have just been informed, My Lord, that the
24 witness who was supposed to give evidence in Mende now prefers to
12:38:45 25 give evidence in Krio.

26 PRESIDING JUDGE: You are talking of Bobor Brima?

27 MR JABBI: Bobor Brima, My Lord. I've just been informed
28 this very minute that that is his preference now. I'm sorry that
29 we have not communicated that information to the other side.

1 PRESIDING JUDGE: It may be, indeed, that because of that
2 there are no interpreters available for Krio at this moment. I
3 know there are some in the Court.

4 THE INTERPRETER: Your Honours, Krio interpreters are
12:39:13 5 available now.

6 PRESIDING JUDGE: So we can proceed.

7 MR JABBI: Thank you very much.

8 PRESIDING JUDGE: Thank you, Mr Interpreter. So your next
9 witness is Mr Bobor Brima. Can this witness be called, please?

12:40:23 10 WITNESS: BOBOR BRIMA [Sworn]

11 [Witness answered through interpreter]

12 PRESIDING JUDGE: So the witness having been sworn now, you
13 are ready to proceed with your examination-in-chief, Dr Jabbi?

14 MR JABBI: Yes, My Lord.

12:41:40 15 PRESIDING JUDGE: This is your witness number 14?

16 MR JABBI: Yes, My Lord.

17 PRESIDING JUDGE: Thank you.

18 EXAMINED BY MR JABBI:

19 Q. Good afternoon, Mr Witness.

12:42:19 20 A. Good afternoon, sir.

21 Q. I'm suggesting to you to be talking slowly when you're
22 answering the questions to be put to you.

23 A. Yes, sir.

24 Q. That is to allow what you say to be interpreted and taken
12:42:55 25 down before you say the next thing, okay?

26 A. Yes.

27 Q. Now, can you tell the Court what your full names are?

28 A. My full name is Bobor Brima.

29 Q. Where do you live?

1 A. Koribundu Town.

2 Q. What work do you do?

3 A. I'm a business person.

4 Q. Did you go to school?

12:44:05 5 A. I went to school. I stopped at Form 4.

6 Q. Now, can you tell the Court where you were living in the

7 year 1996?

8 A. Yes. In 1996 I was living in Koribundu. I was there when

9 the town chiefs and the chiefdom elders said they needed

12:45:21 10 volunteers in order to join the Kamajors.

11 Q. When was that? What year was that, do you know?

12 A. It was in 1996.

13 Q. Did they get the volunteers they wanted?

14 A. They got. For instance, myself sitting here, my father

12:46:03 15 chose me on my behalf, but by then, when I came, I was told.

16 Then I said I was willing to join the Kamajor. I said that

17 presently I'm doing something that will not allow me to join.

18 Q. So you did not join?

19 A. I did not join, but there was a time when they were ready

12:47:01 20 to join the society it was announced to us. We were contributing

21 money per house in order for us to assist them so as for them to

22 join the society.

23 Q. Thank you.

24 A. Thank you.

12:47:38 25 Q. Now, can you tell the Court very briefly, please, the

26 Kamajors and the soldiers at that time after the initiation, how

27 they related to each other?

28 A. Well, after they had joined the society and they had

29 graduated. We saw the Kamajors, they came. The Kamajors and the

1 soldiers, they were living amicably, fighting together, fighting
2 the rebels. We saw them. We went to the war front, they
3 returned. They came jubilating. They were very happy.

4 Q. How often did that happen?

12:49:02 5 A. It was during 1996. During 1997 we started observing some
6 changes that occurred between them.

7 Q. Can you give a rough idea when in 1997 that change started
8 becoming obvious?

9 A. That was at a time when we heard over the radio that all
12:49:52 10 the Kamajors, any Kamajor with an arm should report to the
11 nearest police station. A few turned up. Many of them did not
12 turn up. It was not too long, then we saw the Kamajors. We did
13 not see the Kamajors again at all. We only remained with the
14 soldiers. Then we saw the soldiers, they came with some people

12:50:41 15 in Koribundu. They were called, the People's, those were the
16 rebels. They were called the People's Army. They were the
17 people that were there in Koribundu at the time.

18 Q. Now, just to help you with the timing, this time that
19 you're talking about when the change of the type of relationship
12:51:13 20 between the Kamajors, is that connected with the time the elected
21 government was overthrown?

22 A. Exactly. After the overthrow, that was the time that
23 occurred.

24 Q. Thank you.

12:51:36 25 A. Yes.

26 Q. Now you have just spoken about some people whom you called
27 the People's Army, coming to Koribundu with the soldiers after
28 that time. Who are the People's Army? Who were the People's
29 Army, do you know, apart from being called that?

1 A. Yes, I know them. They were the rebels. They were the
2 ones that were called the People's Army. When they came, we
3 observed that the system changed. There was control over the
4 arms, especially the firearms. You will not just shoot, the time
12:52:42 5 when the soldiers were with the Kamajors, were together. But
6 when they came, they could fire without control at night. So at
7 night, the people became panic-stricken not to walk at night at
8 all. There was a time when we were sleeping at night, late in
9 the night we heard some gunshots.

12:53:06 10 Q. Go slowly, please. Go slowly. Yes, carry on.

11 A. We could hear gunshots fire off, like 4, 6 miles away from
12 Koribundu. An example, Grima, a town near Koribundu.

13 MR JABBI: A town, Grima, My Lords, G-R-I-M-A.

14 PRESIDING JUDGE: Proceed, please.

12:53:50 15 MR JABBI:

16 Q. Carry on.

17 A. So one night we were sleeping, we heard firing within that
18 area. Then we understood that they went and killed people there,
19 looted a lot of property. They came with it.

12:54:19 20 Q. Who were they, they?

21 A. The rebels, the rebels themselves. Sometimes when they
22 came, they dodge away from the headquarter so that they could not
23 be seen by the soldiers. They used the bush path so that they
24 could enter where the soldiers were not. They looted the
12:54:48 25 property from the Bo area.

26 Q. Yes, did the soldiers do anything about that?

27 A. They came to understand -- that made everybody in the town
28 became panic-stricken and everybody had wanted to leave the town,
29 so there was a bitter understanding [as interpreted] ensued

1 amongst them. But they did not stop that. Later they applied
2 another method. I cannot tell where they were able to obtain the
3 Kamajor gear. That was what they used to go to villages so that
4 the people would feel that it was the Kamajors. That was --
12:55:59 5 people came to realise that too, so there was an alarm all over,
6 yes.

7 Q. Now, was anything done about that?

8 A. Like who?

9 Q. You have just narrated some of these attempts by rebels,
12:56:41 10 you say, to pose as if they are Kamajors and go and cause certain
11 atrocities. Did the Kamajors, for example, do anything about
12 things like that?

13 A. It was the time when the Kamajors started saying that they
14 were going to attack Koribundu. They sent messages, many people
12:57:16 15 became afraid, some started panicking and hid in the town.
16 During that time they did not come. They forgot about it for the
17 meantime and then the people came back to the town. Again, they
18 sent the same message. The wives of the Kamajors were the ones
19 that were sent to deliver these messages to the civilians in the
12:57:59 20 town.

21 Q. Did the Kamajors ever, in fact, follow up on their message?

22 A. Yes.

23 Q. When?

24 A. That was during 1997, June.

12:58:18 25 Q. During June 1997?

26 A. 1997.

27 Q. What did the Kamajors do?

28 A. That was the time they attacked. They launched their fist
29 attack at Koribundu. During that attack the only person that I

1 observed had a problem there was one soldier woman that was hit
2 by a fragment in her stomach. She was rushed to the hospital;
3 nothing wrong with her. But the most serious problem where it
4 was observed on the Kamajor side, they had very serious problem.
12:59:29 5 Those, the ones that were wounded during the attack, the soldiers
6 came with them and placed them at the junction, like myself I
7 went there. I saw. Some of them I knew them. Some I did not
8 know. That was the time I saw a vehicle came from the Bo end who
9 were the people I saw alighted the vehicle --

13:00:06 10 Q. Go slowly, please.

11 PRESIDING JUDGE: Dr Jabbi, it is 1.00. Maybe it is a
12 suitable time to pause for lunch and we will take it from there
13 after the break. The Court will adjourn, recess for lunch and
14 resume at 2.30. Thank you.

13:00:44 15 [Luncheon recess taken at 1.00 p.m.]

16 [CDF09MAY06D - RK]

17 [Upon resuming at 2.50 p.m.]

18 PRESIDING JUDGE: Dr Jabbi, you are ready to resume the
19 examination-in-chief of your witness.

14:50:50 20 MR JABBI: Yes, My Lord.

21 PRESIDING JUDGE: Please proceed.

22 MR JABBI: My Lord, may I be guided as to where exactly I
23 was at the time we broke off.

24 PRESIDING JUDGE: The witness had testified that soldiers
14:51:06 25 had been placed at the junction and it was the first attack on
26 Koribundu. The witness testified that the woman had been rushed
27 to the hospital for treatment. This is where we were. Do you
28 have that in your notes?

29 JUDGE ITOE: Is it a woman? I think it's a woman, she was

1 hit in her stomach and then rushed to the hospital. That on the
2 Kamajor side there were serious problems. There were wounded
3 people left by soldiers around the junction.

4 PRESIDING JUDGE: That's right, soldiers were placed at the
14:51:55 5 junction.

6 MR JABBI: Thank you, My Lords.

7 Q. Yes, Mr Witness, good afternoon.

8 A. Good afternoon, sir.

9 Q. When we broke off you were explaining some of the incidents
14:52:25 10 you observed during the first attack on Koribundu by the Kamajors
11 and you were, in fact, talking about what happened to the
12 Kamajors during that encounter. Would you like to continue,
13 please?

14 A. Yes. That was after the attack, the Kamajors that were
14:53:08 15 wounded were brought to the junction. They put them there. They
16 were six in number. The man about whom I was talking who came
17 from Bo, he was Mosquito.

18 Q. Please talk slowly. Don't be in too much haste, please.
19 Yes, carry on, please.

14:53:31 20 A. Okay.

21 PRESIDING JUDGE: What was it about Mosquito that you were
22 saying?

23 THE WITNESS: He was the one that alighted from the
24 vehicle. When he alighted, he had a pistol in his hand and he
14:53:48 25 was dressed in jeans.

26 PRESIDING JUDGE: So this is something you saw at the
27 junction? What is it about the vehicle? I know you testified
28 about a vehicle but where was it when you saw that vehicle?

29 THE WITNESS: Yes, right at the junction. They came with

1 them there and they put them at the junction.

2 MR JABBI:

3 Q. You mean Kamajors were brought in a vehicle to the
4 junction; is that what you're saying?

14:54:24 5 A. No.

6 Q. Be clear, please.

7 A. It was the rebel who was called Mosquito. He was the one
8 that alighted from the vehicle, he had bodyguards and he went
9 towards the Kamajors that were wounded. He had a pistol on his
14:55:07 10 side. He took the pistol, all those that were sitting down and
11 he started firing at them, one after the other, and all of them
12 fell down and died.

13 Q. Who are "all of them that fell down and died"?

14 A. The Kamajors. I myself, I was afraid and I went to the
14:55:48 15 house. The second attack --

16 Q. Do you know when that second attack was?

17 A. That date, no, it is not in my memory, but it was in June
18 still. June 1997.

19 Q. So you are still talking about the attack in June 1997?

14:56:39 20 PRESIDING JUDGE: Second attack.

21 MR JABBI:

22 Q. The second attack in June 1997?

23 PRESIDING JUDGE: This is what the witness just said.

24 THE WITNESS: Yes.

14:56:48 25 MR JABBI:

26 Q. Carry on, please.

27 A. Before they came, the Kamajors came again to attack, they
28 sent this message so that the civilians could leave the town.
29 Those who heard, they left. They went to the nearby villages.

1 They went and hid there. Those who did not hear the message,
2 they did not go. They attacked again in the morning. By then I
3 was afraid. I was in a room. When the attack was over, it was
4 then that one soldier ran and went to me in the house. He said
14:58:35 5 he had fired at one Kamajor man. He said he was at the junction.
6 He said he was fired at in his stomach and his guts came out. He
7 said, "You are his uncle." He said, "Come, let's go there.
8 Don't be afraid of anything. Let's go there." I went with him
9 at the junction. We met people gathered. Soldiers, people, the
15:00:02 10 rebels, all of them were gathered there with some civilians
11 again. I went in their midst. The one that I saw was my elder
12 sister's child lying down. When they had called my name, some
13 people that knew my name, they took him, laid him and they took
14 some clothes and put it on his guts and when they were dragging
15:00:48 15 him, his guts, they burst.

16 Q. What was the name of your elder sister's son?

17 A. Brima Lansana. Then they said -- they said, "Your uncle
18 has come." When he raised up his eyes and watched at me when I
19 called him, when I said, "Brima," you know, he put down his eyes,
15:01:28 20 that was the end. He did not say anything and he died.

21 Q. Okay. Now, Mr Witness, you were, according to you just
22 now, interacting with the soldiers. Did you ever have any
23 problem with soldiers at all in Koribundu, you yourself?

24 A. Yes. Where you have a lot of people, you would have
15:02:10 25 friends amongst them and you would have who would hate you. So
26 problems used to arise between I and them.

27 Q. Yes, can you tell the Court of any?

28 A. Like the time -- at the time that the People's Army
29 arrived, my child was sweeping. He was --

1 THE INTERPRETER: Your Honours, would the witness please
2 clarify the gender of the child that was sweeping.

3 MR JABBI:

4 Q. Mr Witness, can you repeat what you were saying just now
15:03:08 5 about your child? Can you begin?

6 PRESIDING JUDGE: Was your child a boy or a girl?

7 THE WITNESS: Yes. The child that died was a boy. He was
8 called Brima Lansana.

9 PRESIDING JUDGE: But the one sweeping.

10 MR JABBI:

11 Q. The one about the sweeping?

12 A. The one that was sweeping was a boy. He was called Albert.

13 Q. How old was he?

14 A. He was eight years old.

15:03:47 15 Q. Yes, what happened?

16 A. They said that the child had swept and that the dust was
17 raised and they asked and when they were rushed at the boy, when
18 they wanted to beat him, the old man rose up and said, "Fellow,
19 stop." The soldier rose and went to the old man and said why was
15:04:21 20 the old man talking to them when he did not refer to him, when he
21 was referring to the child who did the havoc.

22 Q. Watch your pace, please. You are talking too fast. Who
23 was the old man?

24 A. He was my father. My father's younger brother. Pa Shek
15:04:47 25 Jenekeh.

26 Q. Yes, what did he say?

27 A. He said, "Fellow, don't beat this child." He said it was
28 his compound. So the soldier became angry. He went angrily
29 towards the old man. In my absence he said he did not -- he

1 molested the old man.

2 Q. How did he molest the old man?

3 A. When I came, the old man told me that. He said he was
4 standing over him and he was talking and when he told him he was
15:05:56 5 to leave his veranda, he did not. He talked and he was pointing
6 his hand towards him. When I came, when they told me, I went to
7 ask him.

8 Q. To ask whom?

9 A. The soldier. The soldier man. I went to ask him. He rose
15:06:48 10 up from the veranda and said -- he said, "If I should reach where
11 you are standing." He took the gun and cocked it. He said he
12 was going to fire it at me. So I myself, I became afraid. Some
13 men held me and they talked to me. They said I was to go and
14 encourage the old man. After that, he restricted my movement and
15:07:33 15 he said --

16 Q. Who restricted your movement?

17 A. The soldiers, because of my child who was brought dead.
18 They said I was the one that was giving information to Kamajors,
19 when it was not true.

15:08:03 20 Q. How was your movement restricted?

21 A. Where I used to go to the villages to buy jerrycans of palm
22 oil, I was not allowed to go there any more. Except if a vehicle
23 came, we would come to Bo. That was the only area where I was
24 allowed to go. I myself, I became afraid. The way I used to
15:08:37 25 walk in the town, I couldn't move so any more. We came, we met.
26 The third attack, by then I was not there. But the last
27 attack --

28 Q. Before you go to the last attack, you have just said that
29 you were not present during the third attack. Where were you?

1 A. I went to Bo to my sister. I left from my sister and I was
2 staying with my sister and they told me that they had attacked
3 Koribundu again.

4 Q. How long were you away with your sister?

15:09:39 5 A. It took some time. It took -- my sister, when I went to
6 her in Bo, it took up to one to two years without seeing each
7 other. We used not to see each other at all, because she
8 herself, she was in Freetown. She just went to Bo.

9 Q. My question was: How long were you with your sister when
15:10:12 10 you went to her to Bo? How long did you stay with her?

11 A. Just for this. I spent four days with her and then I
12 returned.

13 Q. Now, for this time that you were in Koribundu with the
14 soldiers, did you have any other form of interaction with the
15:10:39 15 soldiers?

16 A. The first place, I used to play football with them because
17 I am a footballer, because we used to play football with them as
18 civilians. They could come and play, soldiers with soldiers, and
19 they could ask me to play with them in their team. All of us
15:11:07 20 would play.

21 Q. Any other form of interaction with them?

22 A. Yes, because it came to a certain time by then that we were
23 not able to go anywhere. So they would ask us to play bingo and
24 I would play with them. We would sit together when we had left
15:11:57 25 the field. We would have palm wine. We would sit together and
26 drink. That was the way we used to do when we were on good
27 terms.

28 Q. Okay. Thank you. Now, you started talking about the last
29 attack. Do you know when that was?

1 A. Last attack, it was in 1998, February, 12th or 13th. But
2 it was in February 1998. That was the last time that the last
3 attack took place.

4 Q. Were you in Koribundu?

15:12:58 5 A. I was there. There I was when the attack took place. It
6 was on Friday at around 1.00. People were in the mosque by then.
7 They were praying, praying the Juma prayers. That was the time
8 that they attacked. The attack did not last for long. Twenty to
9 30 minutes, that was the time that the attack took place. That
15:13:28 10 was the time that the soldiers said that -- they said, "Come
11 out," because the attack was over.

12 Q. Mr Witness, please talk slowly. You are being interpreted
13 and the judges are also writing down what you are saying. If you
14 talk too fast they will miss some of what you are saying.

15:13:56 15 A. Okay.

16 Q. Yes, the attack was around 1 o'clock in the daytime?

17 A. Yes, day, afternoon. It did not last for long, 20 to 30
18 minutes. That is what it took. That was the time that they said
19 "You come out. You come out." That the fight was over.

15:14:38 20 Q. To whom were they talking?

21 A. They were talking to us, the civilians, that were in the
22 rooms. It was the soldiers that were telling us to come out. We
23 went out. That day I only saw one single Kamajor who was killed,
24 who was at Gbetema.

15:15:12 25 Q. Did you know this Kamajor before?

26 A. I used to know him. I used to go to them at Gbetema, 6
27 miles from Koribundu.

28 Q. Where did you see him killed?

29 A. It was by that Blama Road. Blama Road. And they went with

1 him to the junction. And later they ordered that civilians take
2 him and bury him. In the evening hours, at around 5 o'clock, we
3 started hearing faint news going around. They said that the
4 soldiers were going. They said that the soldiers were going.
15:16:36 5 They said they were going. That was the time that I saw some
6 people, they started making their bundles, who would pack a bag
7 and make a bundle.

8 Q. Which people?

9 A. The civilians. The civilians, they started packing. I
15:17:03 10 rushed. I went to the junction. There was a brother who joined
11 the soldier, who was called Senesie. He was the one that
12 confirmed that to me. He said it was true. He said, "We are
13 going." He said Johnny Paul -- they said they had taken Johnny
14 Paul off the chair.

15:17:38 15 Q. Did you go?

16 A. I ran and went back to the house and I told my wife. I
17 said, "It is not a question of sitting down." I said, "It is
18 true." I said we were to go. At that time it was around 6.30 by
19 then. So then we took our bundles on our heads, we ourselves,
15:18:06 20 and we went. As we are going, we reached at Kandor Road
21 Junction, where the People's Army --

22 THE INTERPRETER: Your Honours, would the witness move a
23 bit slower so as to give the interpreter time to interpret?

24 MR JABBI:

15:18:24 25 Q. I told you to speak slowly because you are being
26 interpreted and also recorded. Please. So can you go over what
27 you said just now. You left Koribundu and went. In what
28 direction did you go, by the way?

29 A. Bo Road. That is the one that I took. So we are going to

1 Bo. We reached Kandor Road Junction. That was the time that the
2 people's -- the rebels, they launched one RPG.

3 Q. Where is Kandor Road Junction, by the way?

4 A. At Bo Road.

15:19:26 5 Q. Yes?

6 A. Then we all returned, the whole population returned. Above
7 300 by then. With bundles. Some people threw their bundles.

8 They ran back where they came from. We did not reach. Where we
9 came from, we heard them say -- it was the time that some

15:20:29 10 civilians that were behind us say, "Let us go, let us go." So at
11 that time nobody would say anything to his companion. We went to
12 Bo.

13 Q. Now, on this occasion of leaving Koribundu and going along
14 Bo Road, were you only civilians?

15:21:04 15 A. Yes, in our own batch, we were civilian only, all of us
16 that were going.

17 Q. Did you see, in fact, any soldiers leaving Koribundu?

18 A. We saw the first soldiers, they borrowed a vehicle and they
19 went. They were up to four in that vehicle and those were the
15:21:43 20 only ones that we saw going. The rest, all of them, we did not
21 know where we left them. Everybody was fighting for his or her
22 head by then. That was the time that we left the town.

23 Q. What day was that, just to be sure? This final pull-out by
24 you, what day was that?

15:22:07 25 A. It was Friday.

26 Q. When did you arrive in Bo?

27 A. I arrived in Bo late, early in the morning. I went to the
28 house, to my sister. When she saw us, she said, "My brother."

29 Q. What was your sister's name in Bo?

1 A. Ajatu Brima.

2 Q. Where was the house?

3 A. It is at 37 C Line.

4 Q. Did anything happen?

15:23:19 5 A. When she saw us, she said, "Don't explain anything. We,
6 ourselves, are searching for a place where to go."
7 Q. Did she say why?

8 A. Yes. She said, "The encounter that you had, ours is much
9 better than yours." Then I said, "Well, this sort of trip that
15:24:18 10 we made," I said, "Sister, I will not be able to leave this place
11 and go further." She said, "Let's pass the night here and let us
12 search for ideas." They gave us a room - I, my wife, my mother
13 and my child.
14 Q. Yes.

15:25:29 15 A. Late in the night we were lying down. We were already
16 asleep and they started firing sporadically. What I saw, I
17 just -- I heard somebody firing at the veranda. Little did I
18 know that the veranda room, he had opened it and taken the
19 Cellotex and, you see, cut it. He entered through that and he
15:26:10 20 went inside. Where we were, there was a mat which was spread up.
21 Q. You mean the ceiling?

22 A. Yes, inside. It was not a Cellotex, it was a mat that was
23 spread there. When he stepped on it, he and the mat, they
24 dropped on us in the room. When he came down he cocked the gun.
15:26:54 25 Who did I see? These same boys, these rebels who were at
26 Koribundu, those are the people that I saw. He was the one that
27 came down.
28 Q. Did anything happen further?
29 A. Yes. When I saw him, at that time they used to call him

1 Sergeant Amara. When I called him Sergeant he hit me with a
2 grenade - it was a long one - on my chest. He said, "I am a
3 lieutenant, don't call me like that." I said, "Fellow, we all
4 came from Koribundu." He said "I did not want to know". Said,
15:27:51 5 "You do not even know me." Said, "Open the door."

6 Q. Talk slowly, please.

7 A. Okay. He said, "Open the door." I opened the door. I
8 wanted to go out. I did not know that the three were standing at
9 the veranda. Four of them came. Before the others would talk to
15:28:29 10 me now, the other one, what he came with and what he did not come
11 with is what he started taking, the last money that we had in our
12 hands which was 384,000. It was in the trousers which my wife
13 was wearing. And he put his hand into the pocket and took the
14 money. There was a bicycle, a tape and other things. All, he
15:29:13 15 took. He took them. Some other boys took it and they went with
16 it.

17 Q. What did the other boys take, according to you?

18 A. The bicycle that he took from the room, the tape with the
19 foam that was given to me by my sister on which we lay, because
15:29:43 20 the old man was lying on the bed. They took it away. When I
21 wanted to enter, he said, "Pass and go and push that motor car."
22 There was one old man who was --

23 THE INTERPRETER: Your Honours, would the witness go a
24 little bit slow.

15:30:15 25 MR JABBI:

26 Q. Mr Witness, I have said many times that you talk slowly.
27 The interpreter has to interpret what you are saying before you
28 make the next statement. So can you go over what you have just
29 said after he asked you to push a vehicle?

1 A. Yes. Yes, sir.

2 Q. First of all, which vehicle was that?

3 A. A Toyota.

4 Q. He asked you to go and push it. Did you?

15:30:58 5 A. He said we were to go and push it. I went and met. They
6 had got some other boys, they were pushing it and I myself went
7 there and all of us started to push.

8 Q. Yes.

9 A. We were helped by God. We did not go that far, then the
15:31:58 10 motor car started.

11 Q. Then what happened?

12 A. I saw them going into the vehicle, they that were
13 concerned, and they went away. And I myself, I returned to the
14 house.

15:32:15 15 Q. Now, Mr Witness, how long did you stay in Bo on that
16 occasion?

17 A. Nearly two months. From that February, April 14th, that
18 was the time that I returned to Koribundu. That is it was I that
19 was the first individual that went there. When I went --

15:32:45 20 Q. The first among whom? You said you first went, among whom?

21 A. Among my family with whom I went to Bo.

22 Q. On the 14th of February, did you say?

23 A. April 14th.

24 PRESIDING JUDGE: So you were the first of your family to
15:33:07 25 return to Koribundu?

26 THE WITNESS: Yes, sir. When I went, I alighted. Who did
27 I see? Kamajors. They were the ones that I saw. They asked me,
28 they said, "Where did you go? Where did you go?" I told them
29 that, "Well, I went on a stroll." They said, "Don't go anywhere

1 any more." I said, "Fellow, I myself have come to settle down."
2 Then they went on a short patrol. Then they said let my other
3 brothers like Rashidu, Ibrahim -- they said, "Fellow, we are
4 really happy that we have seen you." They said, "We have a game
15:34:38 5 that we are supposed to play with the civilians." Then I said,
6 "Fellow, this is not a question of a game." Then they said,
7 "Fellow, we are telling the truth. It is not a joke. We are
8 going to play against the civilians. But you are not going to
9 play for civilians, you are going to play for the Kamajors." I
15:35:16 10 asked them, I said, "What time?" They said it was to be on 17th.
11 Then I said okay.

12 Q. Did you in fact play the game at all ultimately?

13 A. All of us went and played the game at Bendugu. After the
14 game we started singing and dancing until we came to Bendu. We
15:35:46 15 went, we danced, we left there and we went to Koribundu finally.

16 Q. On this occasion, your first visit to Koribundu after the
17 last attack of the Kamajors, how long did you stay in Koribundu?

18 A. It was just after we had played a game. We danced at
19 night.

15:36:12 20 JUDGE ITOE: Dr Jabbi, your witness looks like he likes
21 telling stories. You had better tie him down to the relevance.

22 MR JABBI: I'm trying to curtail it, My Lord.

23 JUDGE ITOE: To issues which are relevant. Football
24 matches, dancing and so on and so forth, I don't know what we are
15:36:43 25 doing with that.

26 MR JABBI: Thank you, My Lord.

27 JUDGE ITOE: It was nice, at least they were happy in a
28 very tense environment anyway. So it's good.

29 MR JABBI:

1 Q. Mr Witness, you said you spent three days in Koribundu on
2 this occasion?

3 A. Four days when I arrived. Then I decided to return.

4 Q. What did you observe in Koribundu during those four days?

15:37:13 5 A. When I saw even our own compound, I found out that some
6 houses were burnt in our own compound. It was only one single
7 house. There were five houses. I only saw four, all of them
8 burnt.

9 Q. How many houses were burnt in your compound?

15:37:39 10 A. Four, sir.

11 Q. Do you by any chance know who burnt them?

12 A. I cannot tell now because I was not there.

13 Q. Did you make any other observations in the town during
14 those four days?

15:38:03 15 A. I did not see any other thing, except the fact that I saw
16 people selling at the junction and some other things.

17 Q. And you said you went away after the four days?

18 A. I returned to Bo and I collected my family. We came back
19 to Koribundu.

15:38:31 20 Q. When did you come back to Koribundu with your family?

21 A. When I went I said I only spent two days in Bo and I came
22 back. It was within the same April.

23 MR JABBI: Thank you very much. My Lord, that is all for
24 the witness.

15:38:54 25 PRESIDING JUDGE: Thank you. Mr Koppe?

26 MR. KOPPE: No questions for this witness, Your Honour.

27 PRESIDING JUDGE: Thank you. Mr Margai?

28 MR MARGAI: None, My Lords.

29 PRESIDING JUDGE: Thank you. Prosecution?

1 MR KAMARA: Yes, My Lord, just a few questions.

2 CROSS-EXAMINED BY MR KAMARA:

3 Q. Mr Witness, you testified before this Court that you are
4 not a Kamajor; is that right?

15:39:34 5 A. Yes, sir.

6 Q. And that supposes you do not know the secrets of the
7 Kamajor society?

8 A. Not at all.

9 Q. Now, Mr Witness, in your evidence this afternoon you did
15:40:10 10 mention about one man called Mosquito; is that not so?

11 A. Yes.

12 Q. And the incident of which you said he took out a pistol and
13 killed wounded Kamajors; am I right?

14 A. I don't get your question.

15:40:40 15 Q. I'm trying to get what you said this afternoon about
16 Mosquito. You gave evidence to the Court that he alighted a
17 vehicle, took out a pistol and Kamajors that were wounded, he
18 shot each and every one of them. Am I restating the evidence
19 correctly?

15:41:03 20 A. No. It was -- can I say what happened?

21 PRESIDING JUDGE: Yes.

22 THE WITNESS: It was Mosquito that fired at these men with
23 the pistol which he took from his side.

24 MR KAMARA:

15:41:23 25 Q. That's what I'm saying. Is that not an important fact for
26 you? It is?

27 A. Yes.

28 MR KAMARA: My Lords, at this point I seek to make an
29 application for the statement of this witness to be provided to

1 the Prosecution, My Lord. The summaries that were given to the
2 Prosecution did not contain any episode about that crucial fact
3 which this witness has deposed to. My Lord, the Prosecution had
4 made several requests and, as I recall, we were advised to make
15:42:05 5 such an application on a case-by-case basis as deemed fit. My
6 Lords, we have looked at the summary provided by the Defence for
7 this witness and his evidence, oral testimony, this afternoon and
8 it is my submission that this is a crucial aspect of this
9 witness's evidence and that the Prosecution ought to have been on
15:42:33 10 notice about it. And, My Lords, in the light of the fact that it
11 is an information that we would like to explore under
12 cross-examination, I do make the request that the Prosecution be
13 served with a statement of this witness.

14 PRESIDING JUDGE: I would like to know a bit more as to why
15:42:56 15 you say this is a crucial aspect of the evidence of this witness.

16 MR KAMARA: Yes, My Lord. My Lord, the facts of the
17 indictment as alleged within the time frame suggest atrocities
18 committed by the Kamajors within the period of 1997 and 1998
19 particularly the attacks on Koribundu. The indictment was more
15:43:25 20 specific as to the fourth attack. The case of the Defence, as I
21 see it unfold, is that atrocities were committed by soldiers and
22 by members of the RUF. And if I am right with regards to the
23 line of defence, it is our position to rebut that nature of an
24 evidence coming before this Court if we have an opportunity to do
15:43:46 25 so. It is part of the Prosecution's case to state our case
26 through even the witnesses of the Defence. And, My Lord, if we
27 are not given an opportunity wherein we could put our case
28 through the witnesses of the Defence, our hands are tied behind
29 our back. That is why at this point we do not know what else is

1 in that statement that may be of crucial importance to the Court,
2 not even to the Prosecution. That is why we're making this
3 application that let us have a look at the statement and see if
4 there this fact alleged in the statement or if it is not, what is
15:44:24 5 in that statement that might be of benefit even to the Court in
6 analysing the facts in issue.

7 PRESIDING JUDGE: Let me ask the Defence counsel if he has
8 any comment to make about that first.

9 MR JABBI: Yes, My Lord. My Lord, my learned friend has
15:44:47 10 not provided any basis whatsoever for the application. He is not
11 by any means saying that summaries are expected to be 100 percent
12 replications of statements. And the particular fact that has
13 prompted his application, My Lords, relates to a character whose
14 conduct is not of the essence on this occasion. It is an
15:45:41 15 incidental part of the narrative of the witness. And, My Lords,
16 statements made within the context of the principle of orality --

17 JUDGE ITOE: Dr Jabbi.

18 MR JABBI: Yes, My Lord.

19 JUDGE ITOE: Would you admit that the indictment is that
15:46:04 20 the atrocities were committed by Kamajors, that is what is
21 alleged in the indictment, but that the evidence is shifting
22 grounds and creating the impression that if there were any
23 atrocities at all, they were committed by the members of the RUF
24 or of the AFRC?

15:46:35 25 MR JABBI: Yes, My Lord.

26 JUDGE ITOE: Would you still say that in those
27 circumstances it isn't relevant to delve into what has come out
28 ex improviso as far as the Prosecution is concerned relating to
29 the atrocities committed by Mosquito of the RUF?

1 MR JABBI: My Lord. I'm sorry, can you put the question
2 again, please.

3 JUDGE ITOE: A fact that Mosquito shot five people has
4 surfaced ex improviso in the sense that what the Prosecution is
15:47:23 5 saying is that in the summary there is no such allegation. And
6 this allegation seeking to shift the grounds of the atrocities
7 from the Kamajors to the junta, the RUF and so on and so forth.
8 Don't you think that in these circumstances they are entitled to
9 probing into the evidence as has been provided by this witness?

15:47:50 10 MR JABBI: My Lords, strictly speaking the particular
11 allegation does not, with respect, seek to shift the
12 responsibilities for the atrocities charged in the indictment.
13 There is no charge in the indictment as to the killing of
14 Kamajors. So the particular fact does not seek to shift the
15:48:27 15 responsibility for the killings alleged in the indictment to the
16 character in question, because it deals with the killing of
17 Kamajors and that is not the subject matter of the indictment.
18 My Lord, having said that, I started by saying that summaries are
19 not 100 per cent comprehensive replications of the statements
15:48:59 20 that are made by the witnesses.

21 JUDGE ITOE: But the Tribunal wanted you to be not 100 per
22 cent but at least as much as possible to be forthright in these
23 summaries and to indicate facts which are crucial. I agree with
24 you that it wasn't supposed to be 100 per cent of the evidence
15:49:23 25 that the witness was supposed to give or the statement which he
26 provided to you, but at least you admit, you should -- I would
27 imagine that the vital aspects of this evidence, like killings
28 and so on, should normally have featured in the witness summaries
29 which are provided to the Defence and at the request of the

1 Court. The Court did order that your summaries were vague and
2 that you needed to make yourself clearer in those summaries.
3 Because the Court, at that stage, was not prepared to compel the
4 Defence to produce witness statements that were in its
15:50:13 5 possession -- that are in its possession.

6 MR JABBI: My Lord, I also submit that with reference to
7 the evidence given by this witness, the summary is completely
8 ample and that it cannot be said --

9 PRESIDING JUDGE: This is not the issue, Dr Jabbi. Let's
15:50:31 10 stick to the issue. The issue is not whether it is complete or
11 not. The issue is in the summary there is no disclosure of this
12 particular incident. This is what it is all about. Therefore
13 the summary is not complete in this respect. When the
14 Prosecution was giving evidence, as you know, new matters that
15:50:49 15 could come up that had not been disclosed were often the subject
16 of discussion as well.

17 MR JABBI: Yes, indeed, My Lord. That is why I said
18 earlier on that those matters in question are those matters that
19 are charged in the indictment and there is a lot of incidental
15:51:06 20 stuff that is not necessarily part of the indictment which
21 sometimes comes into the narrative and because it is not of the
22 essence, the principle of disclosure is not applied to them.
23 That is exactly what I'm saying about this incident. This is an
24 incident relating to the shooting of Kamajors by one of the
15:51:31 25 rebels. But the shooting of Kamajors is not a subject matter of
26 this indictment, My Lord. It is purely an incidental matter.

27 PRESIDING JUDGE: There's no argument that this is not the
28 issue. The problem is this is -- the Prosecution claims this is
29 an important issue and that fact and that matter has not been

1 disclosed. This is a new matter being raised by the witness at
2 this particular moment in his evidence and this fact has not been
3 disclosed to them before. Therefore they claim they should be
4 entitled to the disclosure of the statement to see if this matter
15:52:07 5 was in the statement or not.

6 DR JABBI: My Lord, the new matter --

7 JUDGE ITOE: It also goes to credibility, Dr Jabbi, to
8 determining the credibility of this witness. What credit do we
9 give to his evidence?

10 MR JABBI: My Lord, I want to make a small comment on the
11 Presiding Judge's observation before --

12 JUDGE ITOE: Go ahead.

13 MR JABBI: Thank you, My Lord. My Lord, this incident that
14 is being referred to is not material to the case either of the
15:52:47 15 Prosecution or of the Defence in this particular case. It is
16 just an incidental narrative element. So if it is not material,
17 I cannot see why it is necessary that it should have been part of
18 a summary, unless, of course, the summary was supposed to be 100
19 percent replication of what the witness is, in fact, coming to
15:53:16 20 say. My Lord, there is the principle --

21 PRESIDING JUDGE: Dr Jabbi, if I follow your argument, then
22 you will give me ample justification to say maybe in the future
23 to avoid these discrepancies and this problem we will order
24 disclosure of statements. We have not ordered disclosure of
15:53:28 25 statements to avoid these kind of problems, as such. If you are
26 saying to avoid that then we should be disclosing the statement
27 then we'll avoid all of these arguments. I mean, we have tried
28 to be as fair as possible and not order you to disclose all
29 statements of all witnesses that you have. Obviously if that

1 statement has been disclosed, we would not be in this argument
2 today. If you are saying now that you do not have to in a
3 summary give all necessary information, well, maybe so, then
4 maybe we should review our decision and order the disclosure of
15:53:57 5 all statements.

6 MR JABBI: Well, My Lord, it has always been in the cards
7 that Your Lordships might, in fact, take that turn of mind, but
8 I'm only saying that it is entirely probable that some incidental
9 matter may enter oral evidence when a summary of a statement made
15:54:27 10 to the --

11 PRESIDING JUDGE: I agree with you on this, Dr Jabbi.

12 MR JABBI: That is all I'm saying. I want to draw the
13 attention of this Court to the principle of orality.

14 JUDGE THOMPSON: Yes, quite. Let me take it up from there.
15:54:40 15 I wanted to know from Mr Kamara whether the principle of orality
16 does not entitle the Defence to allow their witnesses to expand
17 on issues or expand on their testimony in relation to what they
18 may well have given the Defence by way of a statement. In other
19 words, should the Prosecution have the liberty under the
15:55:09 20 principle of orality to expand, amplify, elaborate on statements
21 which their witnesses give to them and the Defence not have the
22 same latitude to do that. I want to be guided on that from your
23 perspective. Do they not enjoy the same degree of latitude,
24 subject to the rules and exceptions and the principles that we
15:55:39 25 enunciated in our previous decision. I remember in one of our
26 decisions we said that if what the Prosecution is bringing before
27 the Court is entirely new, then, of course, we will say that the
28 Defence is entitled to disclosure. So what is your position on
29 this one? Are you saying that this is an entirely new allegation

1 only related to matters alleged in the indictment?

2 MR KAMARA: My Lord, I agree with you that --

3 JUDGE THOMPSON: I mean, why should what one thing be good
4 for the Prosecution and not good for the Defence?

15:56:22 5 MR KAMARA: My Lord, we are in agreement in the sense that
6 they can amplify, I agree. But the issue here is not just an
7 amplification. It is the fact that counsel has led evidence into
8 the issues that are totally new.

9 JUDGE THOMPSON: New in what sense?

15:56:40 10 MR KAMARA: New in the sense of the indictment and not only
11 in the sense of the indictment, new in terms of the summaries
12 provided to the Prosecution.

13 JUDGE THOMPSON: But the point I'm making about the
14 summaries is that whether we're talking about inadequacy or the
15 adequacy of the summaries, that is not for me now in issue. What
16 is in issue is, if you are asking for the statement of this
17 witness, are you saying that this witness -- even if we agree to
18 order a production of the statement, is the witness bound only by
19 what he stated in the statement?

15:57:16 20 MR KAMARA: No, My Lord only. He is not bound only. He
21 can expand and amplify. But just like His Honour Justice Itoe
22 was saying, these are matters that go to his credit, and that is,
23 could it be a recent fabrication?

24 JUDGE THOMPSON: Isn't -- the question really is: Have you
15:57:42 25 so suggested that this a recent fabrication?

26 MR KAMARA: My Lord, I don't want to take it to that level
27 as yet because it might be presumptuous at that point. That is
28 why I am merely stating that we have not been provided with the
29 necessary tools, especially when this witness has moved out of

1 the trend for which he has been led. Now from that point then I
2 can go further to put to him issues as to his credit. I might
3 have been very premature if I had insisted at that point that it
4 is a recent fabrication. I'm not sure as yet, because I have not
15:58:10 5 had access to the statement.

6 JUDGE ITOE: My difficulty is that the Prosecution was
7 allowed to expand on statements which had been disclosed to the
8 Defence. In this particular case, the Court has up to now not
9 given any order that statements of the Defence be disclosed to
15:58:36 10 the Prosecution. So there is a gap there which I see and which
11 is that whilst the Defence enjoyed being -- enjoyed the
12 possession and the exploitation of statements which were provided
13 by the Prosecution, it is not the case now with the Prosecution,
14 as far as Defence witnesses statements are concerned. They are
15:59:03 15 summaries and because the Tribunal was not satisfied with the
16 content of those statements, we did ask for further particulars
17 to be provided in those statements. Even then, that is where the
18 complaint is.

19 MR KAMARA: Yes, My Lord.

15:59:18 20 JUDGE THOMPSON: But the law remains the point and we
21 stated in our decision on the -- this was given on the --

22 JUDGE ITOE: In fact, the Defence can expand on it. They
23 can go beyond their statements --

24 JUDGE THOMPSON: May I continue?

15:59:37 25 PRESIDING JUDGE: Yes.

26 JUDGE THOMPSON: The decision of 21 February we indicated
27 clearly that as a matter of law, the Rule 73ter (B) does not, in
28 fact, give the Prosecution any right to disclosure of witness
29 statements. The rules as they are, clearly, I would say in

1 familiar vocabulary, lean in favorem libertatem in favour of the
2 Defence in this sense. If it were the intention of the
3 legislative organ to put the Defence and the Prosecution on a
4 level of parity in terms of disclosure, the rules would have made
16:00:31 5 that quite clear. So my understanding of the law as it is now,
6 is that there is no a priori entitlement of the Prosecution to
7 disclosure of the witness statements from the Defence.

8 [CDF09MAY06E - EKD]

9 MR KAMARA: I agree with you.

16:00:46 10 JUDGE THOMPSON: It only a discretionary authority in the
11 Chamber to authorise such disclosure in exceptional cases.

12 MR KAMARA: That is why I am appealing to the discretion of
13 the Chamber, and that now it is more or less an exceptional
14 circumstance.

16:01:04 15 JUDGE THOMPSON: Precisely. And so we cannot really say --

16 MR KAMARA: Not as of right.

17 JUDGE THOMPSON: Yes, quite right. That is my difficulty
18 unless we are reading the law wrongly, unless --

19 JUDGE ITOE: No, no, it is not a right.

16:01:16 20 JUDGE THOMPSON: Shall I -- Shall I --

21 JUDGE ITOE: It isn't a right at all.

22 JUDGE THOMPSON: Presiding Judge, may I have --

23 PRESIDING JUDGE: Yes, it isn't a right please,
24 Justice Thompson.

16:01:22 25 JUDGE THOMPSON: My position is that the law clearly tilts
26 in favour of the Defence. The reason is simple, it is logical.
27 Because the persuasive burden of proving the case is always on
28 the Prosecution.

29 MR KAMARA: Yes, My Lord.

1 JUDGE THOMPSON: It is always on the Prosecution. So if
2 there would have been reciprocal disclosure here, then, of
3 course, the presumption of innocence would be slightly modified,
4 and I am sure that is the whole thrust of this position. But, of
16:01:55 5 course, it gives the Court an overriding discretion where we
6 think probably the principle of fundamental fairness is being
7 undermined, or may be in fact eroded, to order disclosure if we
8 think perhaps the Prosecution has been taken by surprise. So I
9 don't know whether we have yet agreed on some of the
16:02:22 10 considerations that would justify the exercise of our discretion
11 under Rule 73ter. It is not just because this is new. I would
12 need to be satisfied to the extent of which this is really new
13 and is outside the indictment.

14 MR KAMARA: Yes, My Lord, in my initial --

16:02:44 15 PRESIDING JUDGE: And that you would be prejudiced in your
16 position in this respect.

17 MR KAMARA: Yes, My Lord and the fact of prejudice as well.
18 If it may not relate to issues in the indictment on the face of
19 it, in matters of address this is definitely an aspect of the
16:02:59 20 evidence that will be used. As I was suggesting initially, the
21 case of the Prosecution is that Kamajors committed atrocities
22 against civilians, captured combatants, and the theory of the
23 Defence as it unfolds is suggesting otherwise. And in the course
24 of that, that is why evidence has been led to show what Mosquito
16:03:18 25 did. My Lord, it was deliberate leading of evidence for that.

26 JUDGE THOMPSON: And you say that nothing like this is in
27 the indictment?

28 MR KAMARA: Not that -- not in [Overlapping speakers].

29 JUDGE THOMPSON: Because the indictment did say there were

1 different warring factions in this whole thing. There were
2 different warring factions, including the RUF, the CDF and all of
3 that. The indictment says that.

4 MR KAMARA: Yes, My Lord, very well.

16:03:44 5 JUDGE THOMPSON: So it is not new.

6 MR KAMARA: Not quite new in the light --

7 JUDGE THOMPSON: Not new.

8 MR KAMARA: Not new in the light of what is in the
9 indictment, but in the light of the nature of the evidence that
16:03:54 10 has been led.

11 JUDGE THOMPSON: I am happy you make the point, because the
12 suggestion originally was that this is entirely new in the
13 context of the indictment. It is not. This indictment is full
14 of allegations that there was more than one warring faction.

16:04:05 15 MR KAMARA: It is new by nature of the evidence, My Lord.
16 That is why I am appealing to the discretion of the Bench that an
17 exceptional threshold has been crossed, wherein now we are in a
18 position we don't know what is in that statement, and if what is
19 in that statement could also help the Prosecution and the Court,
16:04:22 20 it is for the benefit of the Court to see and search for the
21 truth. If the truth is in that statement, then let it be shown
22 to the Court.

23 JUDGE THOMPSON: That is fine, but is the Prosecution taken
24 by surprise by the Defence theory that, in fact, there are other
16:04:38 25 warring factions in this case that committed atrocities?

26 MR KAMARA: No, My Lord.

27 JUDGE THOMPSON: When in fact the indictment alleges that
28 atrocities were committed by not just one warring faction.

29 MR KAMARA: My Lord, I seek the --

1 JUDGE THOMPSON: That is my own position as far as I
2 understand the law, and also as far as I can see the situation.
3 Because clearly if the Defence had come and said one group called
4 whatever, some Funa Pukana [phon] group, committed all the
16:05:18 5 atrocities, and Funa Pukana is not laid in the indictment, that
6 would be new. But they say that in fact -- they are alleging
7 that RUF also committed atrocities. How is that new?

8 MR KAMARA: My Lord, we disagree and I make my application
9 to the Bench seeking its discretion for the Prosecution to see
16:05:38 10 this statement by this witness.

11 PRESIDING JUDGE: Why would the Court order that the
12 statement be produced? That is what I would like to be convinced
13 of. Why in those circumstances? The fact that the witness has
14 testified to that, that in itself is no justification to order
16:05:55 15 the production of the document.

16 MR KAMARA: My Lord, the matter that has been led in
17 evidence is not only new ex improviso, but also it affects the
18 nature of the Prosecution's theory, it undermines the
19 Prosecution's theory. If we had access to that information, we
16:06:08 20 would have better prepared ourselves to cross-examine this
21 witness as to those issues that have been raised. Now we cannot,
22 because we are taken completely by surprise. There could also be
23 other matters in that statement for the benefit of the Court and
24 we wish to let truth prevail. There is nothing harmful,
16:06:28 25 prejudicial to the Defence in letting the statement -- the
26 Prosecution see the statement or the Court have access to the
27 statement.

28 JUDGE THOMPSON: But what is the Prosecution's theory here
29 of liability? What is the Prosecution's theory?

1 MR KAMARA: The Prosecution's theory of liability --

2 JUDGE THOMPSON: Yes, is that?

3 MR KAMARA: Are we looking at murder or we are looking at
4 looting - which theory - or the general trend of the theory,

16:06:50 5 My Lord?

6 JUDGE THOMPSON: In respect of the alleged atrocities.

7 MR KAMARA: Yes, My Lord, that Kamajors committed
8 atrocities including murder, unlawful killing --

9 JUDGE THOMPSON: And their theory is what?

16:06:58 10 MR KAMARA: Their theory is Kamajors did not commit these
11 atrocities. The atrocities were committed by the other factions,
12 such as the RUF and AFRC.

13 JUDGE THOMPSON: So you are taken by surprise that by?

14 MR KAMARA: Not that per se, My Lord. It is the nature and
16:07:12 15 context of this evidence.

16 JUDGE THOMPSON: That is what the evidence is about. That
17 is what it is. They are alleging that the RUF committed
18 atrocities and you say this is new to the Prosecution, this is
19 ex improviso. In other words, the Prosecution could not have
16:07:28 20 anticipated that the Defence would come up with that theory.

21 MR KAMARA: That Mosquito shot five people; that is what is
22 new. We didn't know that. There could be evidence for us to
23 rebut that, that it never happened. How would we know, My Lord?
24 That is the application, My Lord.

16:07:48 25 PRESIDING JUDGE: We will consult on this matter and come
26 back. Thank you. Court will recess.

27 [Break taken at 4.08 p.m.]

28 [Upon resuming at 4.33 p.m.]

29 PRESIDING JUDGE: We have had some discussion and

1 consultation on this issue. Before we can make a decision on the
2 matter, we need to have some additional information. The
3 information to help us make a determination in this matter at
4 this stage, we are talking of the principle of orality or we are
16:34:12 5 talking of a different matter? The information we would like to
6 have is I would like to know from you, Mr Jabbi, if this matter
7 that the witness has talked about, this particular issue, was
8 contained and is contained in a statement that he has given to
9 you, or this is a new matter that came out when he was giving
16:34:33 10 evidence? I'm not talking of the summary. I am talking of the
11 statements -- has he given a statement to you, the witness?

12 MR JABBI: Certainly, My Lord.

13 PRESIDING JUDGE: In his statement, presumably, in writing,
14 does he talk in a statement to you about this incident with
16:34:59 15 Mosquito?

16 MR JABBI: Yes, My Lord.

17 PRESIDING JUDGE: Why isn't it contained in the description
18 then, because this is a matter that is in issue? Why isn't it
19 contained in the summary?

16:35:23 20 MR JABBI: Sorry, My Lord, I did not get all of your
21 question. Sorry, My Lord.

22 PRESIDING JUDGE: My question was: This matter, this
23 information that the witness gave in court about Mosquito coming
24 out of this vehicle and shooting these five Kamajors with his own
16:35:42 25 pistol, was this contained in a statement he has given to you?

26 MR JABBI: My Lord, there is no specific mention of
27 Mosquito as a character, but of rebels' conduct during the --

28 PRESIDING JUDGE: Leaving aside Mosquito, is there
29 information in the statement that rebels would have come to that

1 junction and killed these five Kamajors? I mean, this is a very
2 specific incident that the witness is talking about. These were
3 five or seven Kamajors - I'm not sure now, but five or more - at
4 this junction that were shot in the head by rebels, in this case
16:36:27 5 Mosquito.

6 MR JABBI: My Lord, just a few minutes for me to --

7 PRESIDING JUDGE: Yes.

8 JUDGE ITOE: Dr Jabbi, maybe you will need some time to
9 read that statement before you come out with a reply, because we
16:37:54 10 don't have the impression that you have consulted that statement.

11 MR JABBI: My Lord, there is a general statement of
12 atrocities committed by the rebels in broad terms. It is in that
13 context that the witness specified a particular incident.

14 PRESIDING JUDGE: So nowhere in his statement has he
16:38:43 15 mentioned to you about -- because this is a very specific
16 incident we are talking about here. He has testified about the
17 vehicle that he saw, and that Mosquito came out of the vehicle
18 and went to the junction and pulled out his pistol and killed
19 these Kamajors. I mean, this is quite specific.

16:39:09 20 MR JABBI: It is indeed specific, My Lord. But what I have
21 said is that the witness talks in broad terms of atrocities
22 committed by rebels who were working together with the soldiers,
23 and he has mentioned many specific incidents of that broad
24 nature.

16:39:35 25 PRESIDING JUDGE: But does he mention in those atrocities
26 the killing of those Kamajors at the junction, being shot in the
27 head, whether he mentions Mosquito or not?

28 MR JABBI: Yes, My Lord. There is a place where he
29 mentions the killing of Kamajors in Koribundu during the attack

1 by Kamajors on the town. Yes, My Lord. Yes, My Lord.

2 PRESIDING JUDGE: So there is a description in the
3 statement by the witness of Kamajors being shot in the head at
4 the junction?

16:41:04 5 MR JABBI: No, My Lord, not necessarily shot in the head.
6 But there is a description in this statement of Kamajors killed
7 at Koribundu by rebels during the attack by the Kamajors on
8 Koribundu. But not specifically saying this was shot in the head
9 or this was --

16:41:31 10 PRESIDING JUDGE: Or that these Kamajors were killed at the
11 junction, for example. Is there any connection between Kamajors
12 that were injured and had been killed at the junction by rebels
13 or soldiers or junta, whatever?

14 JUDGE ITOE: I am worried, because Dr Jabbi is reading this
16:41:55 15 statement as questions are being put to him. Would Dr Jabbi need
16 time to read that statement, because we don't want to have
17 replies which are incomplete. This is my worry. We still have
18 time. If you want to read that statement and you needed some
19 time, why not? Because when you are reading it so hastily, you
16:42:21 20 mightn't get into the truth of the document, to all the contents
21 of the document.

22 MR JABBI: Well, My Lord, I was tracing those areas where
23 that evidence is mentioned. I didn't want to just pounce on a
24 particular area. Well, My Lord, there is no harm in proceeding
16:42:48 25 the way Your Lordship is suggesting. I don't mind having some
26 time in order to give a direct and definitive answer. But what I
27 have said so far is that the incident is described as part of a
28 broad set of atrocities that were committed.

29 PRESIDING JUDGE: If that were the case -- we will give you

1 the time to look at it; we need to have a very definitive answer
2 on that. But if that is the case, I would like as well that you
3 tell us where in the summary of this statement -- of the evidence
4 of this witness that could be tracked down. Because, looking at
16:43:37 5 his summary, and even forgetting the Mosquito issue per se, those
6 atrocities that may have been committed, where is this alleged in
7 this description of the summary.

8 MR JABBI: Well, My Lord, as Your Lordships are suggesting,
9 I didn't expect this specific question so if I am given some time
16:44:02 10 certainly I --

11 PRESIDING JUDGE: Well, this is an important matter and we
12 will give you the time to do this. Thank you, Dr Jabbi, that is
13 it for you for now. Justice Thompson has a question for the
14 Prosecutor. Mr Prosecutor.

16:44:18 15 JUDGE THOMPSON: Learned counsel, my own position is --
16 and, of course, you might well want to, if we are able to put
17 this matter on hold for today whichever way we go. My position
18 would be this, in terms of an inquiry from you as to on the law
19 and also the position you're taking since you might be asking
16:44:56 20 this Court pursuant to Rule 73ter to exercise its discretion in
21 favour of ordering a production of the statement to the
22 Prosecution. If that is still your intention, depending on the
23 outcome of counsel's own studying of the document, I want to
24 direct your attention to paragraphs 12 and 13 of our recent
16:45:34 25 decision on the subject.

26 "The Chamber wishes to emphasise that given the prominence
27 in the presentation of evidence at international criminal
28 tribunals, consistent with the letter and spirit of the
29 prescribed Rules of Procedure and Evidence of the principle

1 of orality, meaning that the ascertainment of the truth
2 depends primarily upon witnesses being heard at trial in
3 the presence of the accused, it is not perceived to be
4 necessary to insist upon reciprocal disclosure of witness
16:46:16 5 statements on the part of the Defence, especially where the
6 Rules do not so stipulate except where the Prosecution will
7 suffer undue, irreparable prejudice by such nondisclosure."
8 And 13 says,
9 "For the Prosecution to succeed in its application for such
16:46:40 10 disclosure pursuant to the Chamber's discretionary
11 authority, the Prosecution must demonstrate by prima facie
12 evidence that by failure to disclose such defence witness
13 statements the Prosecution will suffer undue or irreparable
14 prejudice."

16:47:02 15 I would in fact want you to satisfy me at some later stage
16 to what extent the alleged incident as disclosed by the witness
17 in his oral testimony here would in fact, if disclosure of the
18 statement is not ordered, cause the Prosecution undue or
19 irreparable prejudice. That would be my homework to you, so that
16:47:39 20 you can educate me, enlighten me on this, so that I can see my
21 way clear to coming along with you if you're able to persuade me
22 that this is the case.

23 MR KAMARA: My Lord, I will work on that.

24 PRESIDING JUDGE: Given your homework as well, Dr Jabbi, we
16:48:04 25 will adjourn on this matter to tomorrow morning because it is
26 already quarter to five. So we will come back tomorrow morning
27 at 9.30 and we hope and expect a precise answer to my question
28 and questions from the Bench, and we will take it from there and
29 if need be we will ask for representation by the Prosecution.

1 MR MARGAI: Just for clarification, My Lord. I take it the
2 assignment is for Dr Jabbi and Mr Kamara.

3 PRESIDING JUDGE: Yes.

4 MR MARGAI: Thank you.

16:48:34 5 PRESIDING JUDGE: This is a statement obtained by Dr Jabbi.
6 I don't think you are involved in this at all.

7 MR MARGAI: No, I don't want to go and do any extra work.
8 That is all I was thinking.

9 PRESIDING JUDGE: We are not imposing extra work to you,
16:48:47 10 Mr Margai.

11 MR MARGAI: I suppose you have more than enough to handle.

12 PRESIDING JUDGE: Thank you very much. The Court is
13 adjourned to 9.30 tomorrow morning.

14 [Whereupon the hearing adjourned at 4.50 p.m.,
16:49:19 15 to be reconvened on Wednesday, the 10th day of
16 May 2006, at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: WUIYATTA SHERIFF	2
EXAMINED BY MR JABBI	2
CROSS-EXAMINED BY MS SUCIU	21
RE-EXAMINED BY MR JABBI	48
WITNESS: BOBOR BRIMA	50
EXAMINED BY MR JABBI	50
CROSS-EXAMINED BY MR KAMARA	70