

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

MONDAY, 15 MAY 2006
9.45 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Roza Salibekova Ms Andrea Marlowe (intern)
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Desmond de Silva Mr Joseph Kamara Mr Mohamed Bangura 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 Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Charles Margai Mr Yada Williams Mr Ansu Lansana

1 [CDF15MAY06A - RK]
2 Monday, 15 May 2006
3 [The accused present]
4 [Open session]
09:39:49 5 [Upon commencing at 9.45 a.m.]
6 WITNESS: HAROUN ARUNA COLLIER [Continued]
7 PRESIDING JUDGE: Good morning, counsel. Good morning,
8 Mr Witness. We are back to you this morning, Dr Jabbi, for the
9 resumption of your examination-in-chief of your witness. So you
09:48:01 10 had just completed your examination-in-chief of your witness
11 having dealt with the matter of complaints to the War Council and
12 you were moving to a different area when we left on Friday. Can
13 you take it from there, please?
14 MR JABBI: Yes, My Lord. Just before I begin this morning
09:48:31 15 I want to draw attention to the fact that our Witness 1 on the
16 list --
17 PRESIDING JUDGE: Dr Jabbi, we are very much familiar with
18 it and we are trying to do everything we can to dispose of
19 everything we have to deal with. We appreciate this is of
09:48:49 20 importance to you. It is of importance to us that this decision
21 comes out as soon as we can. That's the best I can tell you.
22 MR JABBI: Yes, My Lord. The point I want to make is that
23 it is very crucial to the strategy of the Defence and we will
24 soon come to a point when we will have to take certain decisions
09:49:09 25 as to what to do in the defence, and knowledge of whether or not
26 the decision on him is going to be available will be very helpful
27 to us. We do not want to waste the time of the Court at another
28 time.
29 PRESIDING JUDGE: Thank you, Dr Jabbi, we have noted that.

1 MR JABBI: Thank you.

2 Q. Good morning, Mr Witness.

3 A. Good morning.

4 THE INTERPRETER: Your Honours, it appears the witness is
09:49:43 5 not on the right channel. His response was in Krio.

6 PRESIDING JUDGE: Just a minute, Dr Jabbi. It appears that
7 the witness is not on the right channel. We want to make sure of
8 that. Mr Witness, is what is being said now in Court being
9 translated to you in Mende?

09:50:29 10 THE INTERPRETER: He says no. He's still not on the right
11 channel.

12 PRESIDING JUDGE: Madam Court Officer, it appears that this
13 is still not on the right channel. Can we try it again? This is
14 Mende now, Mr Witness?

09:50:53 15 THE WITNESS: Yes.

16 PRESIDING JUDGE: Thank you very much. Dr Jabbi, your
17 witness.

18 EXAMINED BY MR JABBI: [Continued]

19 Q. Good morning, Mr Witness.

09:51:02 20 A. Mr Jabbi and all, good morning.

21 Q. Now, I want to begin this morning by asking you some
22 specific question about the Death Squad.

23 A. It is okay.

24 Q. Now, what was your own status within the Death Squad?

09:51:46 25 A. I was the front line commander of the Death Squad. I was
26 the person who would lead at front line. I would take the
27 warriors to the war. That was my own position.

28 PRESIDING JUDGE: We have been through it, Dr Jabbi.

29 MR JABBI: My Lord, it is just an introductory. I just

1 want to ask a few specific questions.

2 Q. Now, what was your position of responsibility in respect of
3 Jegbeyama, who was the commander?

4 JUDGE ITOE: Is it Begjeyama or Jegbeyama?

09:52:31 5 MR JABBI: Jegbeyama.

6 JUDGE ITOE: What have you been calling him?

7 MR JABBI: Jegbeyama, My Lord.

8 JUDGE ITOE: Now I have to teach you the phonetics of it.

9 PRESIDING JUDGE: Maybe it would be simpler to refer to
09:52:45 10 Tucker.

11 MR JABBI: Bob Tucker.

12 Q. In respect of Bob Tucker as the commander of the Death
13 Squad, what was your own status?

14 A. Just like you say one, two, I was the second. I was in
09:53:10 15 control of everything. I would lead people to the front. He
16 himself never went to the front. He would send me there.

17 Q. So you were second in command to him?

18 A. Yes. I was the one taking the fighters to the front. He
19 wouldn't go.

09:53:48 20 Q. Can you tell the Court what duties the Death Squad had with
21 respect to Talia, Base Zero?

22 A. The Death Squad, whatever work we had in Talia, that was
23 not the only -- that wasn't the place where we were based. We
24 were based at Sumbuya junction.

09:54:20 25 Q. Mr Witness, please remember to be talking slowly.

26 PRESIDING JUDGE: And please remember to answer the
27 question asked of you. We don't want an explanation unless you
28 are asked for it. Just answer the question, please.

29 MR JABBI:

1 Q. So the question again is what duties did the Death Squad
2 have in respect of at Talia, Base Zero?

3 A. We had no work there.

4 Q. Now, taking it from the time that Chief Norman came to Base
09:55:28 5 Zero, from that time onwards, what duties in respect of Talia did
6 the Death Squad have?

7 A. We had no work. The Death Squad had no work in Talia,
8 because that was not where we were based.

9 Q. Now, again, taking it from the same time frame, from the
09:56:27 10 arrival of Chief Norman in Talia, do you know from whom the Death
11 Squad used to take its commands and orders?

12 A. Yes, I did know very well.

13 Q. From whom, please?

14 A. The War Council.

09:57:07 15 Q. More specifically, did you by chance ever as Death Squad,
16 did you by chance ever receive commands and orders from
17 Chief Norman?

18 A. No. That was what I was saying, we did not take any order
19 from him.

09:58:12 20 Q. And again taking it from the time after the arrival of
21 Chief Norman in Talia, to whom did the Death Squad report after
22 its exploits?

23 A. At that time -- when Chief Norman had not come, we were
24 reporting to the chiefdom people. At that time there was no
09:58:53 25 Council.

26 PRESIDING JUDGE: That is not the question. The question
27 is after Chief Norman was in Talia, to whom did you report?
28 We're not talking before.

29 MR JABBI:

1 Q. After Chief Norman had come to Talia, to whom were you
2 reporting as Death Squad?

3 A. When Mr Norman was in Talia, when we came with situation
4 report, we would present it to the War Council and the chiefdom
09:59:26 5 people.

6 Q. Again, more specifically, did you, as Death Squad, ever
7 make situation reports to Chief Norman directly?

8 A. Never, not a day did that happen.

9 Q. Now, do you remember or do you know if the Death Squad ever
10:00:43 10 went to Moyamba?

11 A. Yes. We, the Death Squad, went to Moyamba and from there
12 we went to Bangoma Kwelu.

13 Q. Now, was that before or after the arrival of Chief Norman
14 in Talia - the first arrival of Chief Norman in Talia?

10:01:22 15 A. We went first and it took so long before Chief Norman came.

16 Q. Are you saying that Death Squad had gone to Moyamba long
17 before Chief Norman came to Talia for the first time?

18 A. Yes, we went and it took long before Chief Norman came to
19 Talia.

10:02:11 20 Q. Who led the Death Squad on that particular venture?

21 A. When we went, I said we should go, but we went together
22 with my boss.

23 Q. Who is your boss?

24 A. Borbor Tucker, Jegbeyama.

10:02:44 25 Q. Did you return to Talia?

26 A. Yes. We returned there.

27 Q. To whom did the squad report on your return to Talia after
28 that trip?

29 A. We reported to the chiefdom people.

1 Q. Now, did you ever make another trip to Moyamba after the
2 arrival of Chief Norman in Talia?

3 A. No, no, no.

4 JUDGE ITOE: Did he ever meet what? Did you ever --

10:04:15 5 MR JABBI: Did the Death Squad ever make another trip to
6 Moyamba after --

7 THE WITNESS: I said no.

8 MR JABBI:

9 Q. Now, Mr Witness, I want to take you back to the time that
10:04:52 10 you said in your evidence before that the Kamajor controller was
11 demonstrated to General Khobe.

12 PRESIDING JUDGE: You remember my comments about this on
13 Friday. What is new about this that is so relevant to the issue
14 in dispute here?

10:05:26 15 MR JABBI: My Lord, there is nothing new about it, but I am
16 using it as a take-off point about something else.

17 PRESIDING JUDGE: I do not want to hear anything about the
18 controller. We've heard enough.

19 MR JABBI: My Lord, I'm only using it as a temporal point
10:05:43 20 of reference.

21 PRESIDING JUDGE: Fine, thank you.

22 MR JABBI:

23 Q. Now, after the departure of General Khobe, following the
24 demonstration about the controller - after the departure of
10:06:11 25 General Khobe - did anything else happen on that occasion?

26 A. Yes.

27 Q. Can you briefly tell the Court? Very briefly?

28 A. When Mr Khobe returned, the War Council had a meeting.

29 Q. [Overlapping speakers] yes.

- 1 A. Then they said it would be good for us to go to Koribundu.
- 2 Q. For whom to go to Koribundu?
- 3 A. For the Kamajors to go to Koribundu.
- 4 Q. Yes.
- 10:07:26 5 A. This Koribundu, it was a base for the rebels and the
6 soldiers.
- 7 Q. Yes.
- 8 A. It was a base that worried us. If we had not recaptured
9 it, we would not have got any peace.
- 10:08:16 10 Q. Yes.
- 11 A. Then all the commanders -- we the commanders agreed that we
12 would recapture there.
- 13 Q. Yes.
- 14 A. Then we convened an emergency meeting at the field.
- 10:08:54 15 Q. Who called this urgent meeting?
- 16 A. We, the commanders, and the War Council.
- 17 Q. Were you, yourself, present at that meeting?
- 18 A. We were the leaders at that meeting.
- 19 Q. You, yourself, were you present?
- 10:09:24 20 A. I, myself, was a leader at that meeting.
- 21 JUDGE ITOE: You were present?
- 22 THE WITNESS: Yes. I was there.
- 23 MR JABBI:
- 24 Q. Yes, briefly, please.
- 10:09:48 25 A. We organised it and we designed a date for which we would
26 capture Koribundu.
- 27 Q. Yes, did you in fact go?
- 28 A. Yes, we went.
- 29 Q. How did things go on your arrival in Koribundu?

1 A. We shared the front into three or four parts.

2 Q. Now, of the several attacks on Koribundu, which one was
3 this one you are talking about?

4 A. I'm talking about the third one.

10:11:30 5 Q. Yes, so what happened?

6 A. We divided into troops and said those others should some
7 from Sumbuya end and the others should come from the Pujehun end,
8 the others should come from the Blama end, and I and another
9 commander would come from the Bo end. They called the commander
10:12:12 10 Chuck Norris. We went up to --

11 Q. Was Bob Tucker with you on this occasion?

12 A. No, no he was at Tisana.

13 JUDGE ITOE: Who?

14 MR JABBI: Bob Tucker, My Lord.

10:13:05 15 Q. Yes?

16 A. By the time we got to the headquarter --

17 Q. Whose headquarter?

18 A. The rebels' and the juntas' headquarter. Before we could
19 reach there in Koribundu, then they intercepted us with an
10:13:54 20 anti-aircraft vehicle. They shot at me and they broke my leg.

21 Q. Who did that?

22 A. The rebels. The rebels and the juntas.

23 Q. Yes.

24 A. When we broke my leg, we all dispersed, the boys.

10:14:39 25 Q. Where did you say you sustained the injury?

26 A. My right leg, on my right knee. They shot at me and it
27 split open my leg.

28 Q. Then what happened?

29 A. My siblings took me out and we retreated, because on that

1 day when we launched that attack, we could not overpower
2 Koribundu.

3 Q. And then?

4 A. When they brought me to Talia, there were two doctors
10:15:36 5 there.

6 Q. Was that the end of the third attack on Koribundu?

7 A. Yes, that was the end. But there was another attack, but I
8 was not there. But the one I saw, that was the end of it.

9 Q. After that attack, did you personally ever engage in any
10:16:22 10 battle?

11 A. No, I didn't fight any other fights.

12 Q. Up until the end of the war; not so?

13 A. Yes, I didn't fight any more.

14 MR JABBI: My Lords, that is all for the witness.

10:17:04 15 PRESIDING JUDGE: Thank you, Dr Jabbi. Mr Bockarie for the
16 second accused.

17 MR BOCKARIE: I have no questions for this witness.

18 PRESIDING JUDGE: Thank you. Cross-examination by counsel
19 for the third accused.

10:17:17 20 MR WILLIAMS: Yes, My Lord.

21 CROSS-EXAMINED BY MR WILLIAMS:

22 Q. Mr Witness, did you see Albert Nallo quite often at Talia?

23 A. I used to see him in Talia.

24 PRESIDING JUDGE: The question is: Did you see him often
10:18:06 25 in Talia?

26 THE WITNESS: Well, the reason why I wouldn't say that,
27 because I was not in Talia, I was at Sumbuya Junction, but I
28 would see him when I went there.

29 MR WILLIAMS:

1 Q. Did you initiate together with him?

2 A. No. I was initiated on December 24th. I do not know when
3 he was initiated.

4 Q. Mr Witness, do you know whether the third accused,
10:19:11 5 Mr Kondewa -- do you know whether he had anything to do with the
6 Death Squad?

7 A. He had nothing to do with it at all.

8 Q. So would I be right to say that he never gave commands to
9 the Death Squad?

10:19:51 10 A. If you say so you would be very correct.

11 Q. You said the War Council met in your father's compound; is
12 that correct?

13 A. It's correct, yes.

14 Q. Did you ever sit in a War Council meeting?

10:20:40 15 A. Yes, they wouldn't ask anybody else.

16 PRESIDING JUDGE: Can you take that question, again,

17 Mr Williams. If the witness himself sat?

18 MR WILLIAMS: Yes.

19 Q. So you had non War Council members sitting in War Council
10:21:08 20 meeting; is that correct?

21 A. Yes, they would be there, they wouldn't drive you away.

22 Q. Were non War Council members allowed to participate in the
23 deliberations that took place?

24 A. Yes. Even the chieftom people, they would call them there.
10:22:05 25 Only that they wouldn't take a decision on their own.

26 Q. Is it correct to say that the third accused, Mr Kondewa,
27 was not a member of the War Council?

28 A. He had nothing to do with it. He was not among them at
29 all.

1 Q. The initiations that were done by the third accused at
2 Talia, could you tell --

3 JUDGE ITOE: Did the witness say he had nothing to do with
4 it? He had nothing to do with it, the War Council?

10:23:27 5 MR WILLIAMS: Yes, My Lord.

6 Q. The initiations that Mr Kondewa conducted at Talia, do you
7 know exactly where they took place?

8 A. Yes. He initiated in Mokasi.

9 Q. And you referred to a school compound where military
10:24:16 10 training took place. Where was that? Where was that school
11 located?

12 A. The school, you would go across a river. It was in Talia.
13 They were separated by a river.

14 PRESIDING JUDGE: Did the witness say it was in Talia or it
10:24:41 15 was not in Talia?

16 MR WILLIAMS: It was in Talia.

17 PRESIDING JUDGE: In Talia?

18 MR WILLIAMS: Yes.

19 Q. But that school compound was not in Mokasi?

10:24:53 20 A. Where we did the training, no. It was no Talia, not
21 Mokasi.

22 Q. How far is Talia from Mokasi, can you tell the Court?

23 JUDGE ITOE: Talia from Mokasi?

24 MR WILLIAMS: Yes.

10:25:18 25 JUDGE ITOE: I thought he said it was three miles, about
26 three miles.

27 THE WITNESS: It's about three miles.

28 JUDGE ITOE: I thought so.

29 MR WILLIAMS: I'm grateful, My Lord.

1 Q. Do you know of a body of fighters at Talia that they used
2 to call Special Forces?
3 A. No, I did not know about them.
4 Q. You said your son was an initiated Kamajor; is that
10:26:10 5 correct?
6 A. Yes.
7 Q. Why did you have to -- or why did you allow your son to be
8 initiated?
9 A. For him to protect himself in times of trouble.
10:26:54 10 Q. What was his age when he was initiated?
11 A. Ten years.
12 Q. Did he ever take part in combat?
13 A. In fact, the guns were not enough for we the older people,
14 so we wouldn't even give children.
10:27:40 15 JUDGE ITOE: Answer the question, Mr Witness.
16 THE WITNESS: No, sir. No, sir, he didn't go. He didn't
17 go.
18 MR WILLIAMS:
19 Q. So would it be right to say that you had lots of people who
10:28:01 20 were initiated as Kamajors but who did not opt for military
21 training?
22 A. They were more than those who went to fight.
23 Q. And you mentioned that at initiation ceremonies, and
24 whenever Kamajors congregate, the third accused will admonish you
10:28:53 25 about the evil -- I mean, will tell you not to do evil things
26 during combat; is that correct?
27 A. Yes, he would give us so many of those admonitions.
28 Q. Are you aware of anything called Kamajor ambush?
29 A. No, I don't know anything about that in the Kamajor.

1 Q. So that did not take place at initiation ceremonies; is
2 that what you're saying?

3 A. At all. I did not say a thing like that, not today.

4 PRESIDING JUDGE: Was your question making reference to
10:30:15 5 initiation or Kamajor ambush? I'm not talking your last
6 question, your previous question when you were asking the
7 question if he was aware of Kamajor's ambush.

8 MR WILLIAMS: Yes, My Lord.

9 PRESIDING JUDGE: You did so in the --

10:30:28 10 MR WILLIAMS: Context of initiation.

11 PRESIDING JUDGE: Context of initiations, okay.

12 MR WILLIAMS:

13 Q. Mr Witness, when Albert Nallo testified before this Court,
14 I just want to refer you to a portion of his evidence and then I
10:30:52 15 will ask you for your reaction. When he testified before this
16 Court on 10 March 2005, page 18 of the transcript, he said, "One
17 of the initiates -- we had one stage in our society that we had
18 to go through which we called a Kamajor ambush when you have been
19 initiated. In that particular ambush the man was not able to go
10:31:39 20 through. During that time one of his eyes got bust. You know,
21 he struck the eye on a palm tree. So when he struck the palm
22 tree, Kondewa and the others took him, carried him to secluded
23 area and they killed him. They burnt him. From the time when
24 Chief Winnie Bio understood that, he stood firmly that the
10:32:13 25 Kamajor movement should move from Tihun Sogbini. So we moved.
26 Moinina Fofana took us to MT Collier."

27 Could that be correct, Mr Witness? Any of what I have just
28 read, could that be correct?

29 A. Not in the least. It has no iota of truth. Nothing of

1 such happened.

2 MR De SILVA: My Lord, my objection is this: The witness
3 was asked whether he was there on that occasion and if the
4 witness wasn't, it is difficult to see how he could answer such a
10:33:02 5 question. The learned counsel should give him a time frame and a
6 place. If, of course, the witness was not there, it is hard to
7 see how he could answer the question.

8 PRESIDING JUDGE: I agree with you, Mr Prosecutor.
9 Mr Williams.

10:33:18 10 MR WILLIAMS: My Lord, I gave him a place, Tihun Sogbini.
11 The evidence is admissible in this Court, My Lord. He need not
12 be there.

13 PRESIDING JUDGE: I'm not saying he need not to be there.
14 He may be aware by other means, as such. But I think it is quite
10:33:33 15 important we understand how, if he does know, when he made that
16 statement, this is absolutely not correct. How does he know this
17 if he is not there?

18 JUDGE ITOE: He is very categorical in his reply. That
19 never, ever happened. Within that context, I think there is
10:33:55 20 something wrong there. We would appreciate that --

21 PRESIDING JUDGE: You have made reference to the evidence
22 of Nallo, on that page, as such. I don't know of the previous
23 pages that Nallo was giving a time frame. I don't know. The
24 objection has to do with time as well. As I say, I know you have
10:34:12 25 been quoting from that page, but it may be in the previous pages
26 that Nallo was giving a time frame. I don't know. I don't have
27 the transcript with me.

28 JUDGE THOMPSON: May I join in? My position would merely
29 be in the light of the purpose of putting the evidence of an

1 another witness to a witness who is testifying, undoubtedly the
2 purpose is to contradict. Clearly, if I remember my law rightly,
3 in the national system this was never allowed before 1893 in some
4 of the national systems. It wasn't even allowed. The practice
10:34:51 5 is now generally the case and you can put the question to the
6 witness. But the requirement of course, really, where you intend
7 to put that question - specificity. Because if a witness is
8 called upon to contradict the evidence of another witness who may
9 well have been present when it happened, but he was not present,
10:35:14 10 it is very difficult to see what value that evidence, the
11 contradiction would be, if it is just a generalised or it never
12 happened at all.

13 So, of course, as you cross-examine, I thought you were
14 more or less interested in the concept of Kamajor ambush, whether
10:35:36 15 he knows of that. I think you need to separate the two if you
16 are asking him to comment on the practice allegedly known as
17 Kamajor ambush, as distinct from the consequence in a particular
18 case. I think it would help the Court. Quite frankly, it is a
19 very delicate area as far as the law is. Just to say that it
10:36:03 20 never happened, I don't think, is really helpful.

21 MR WILLIAMS: I'm grateful, My Lord.

22 PRESIDING JUDGE: Also, you have asked the witness if he
23 had been initiated together with Nallo. He said no. So how
24 could he speak of Nallo's initiation if he wasn't there?

10:36:21 25 MR WILLIAMS: I take the cue, My Lord.

26 Q. You just mentioned that there is nothing in Kamajor
27 initiations called a Kamajor ambush; is that correct?

28 A. That is true. There is nothing called like that.

29 Q. Were you aware of the presence of Mr Kondewa at Tihun

1 Sogbini?

2 A. Yes, I used to know very well.

3 Q. Did you know that he carried out initiations at Tihun
4 Sogbini?

10:37:19 5 A. Yes, he carried out initiation in Sogbini.

6 Q. How far is Tihun Sogbini from Talia Yawbeko?

7 A. It's about 14 miles.

8 Q. Did you ever learn of the death of anybody during any of
9 the initiations Mr Kondewa did at Tihun Sogbini?

10:38:42 10 A. Nobody died. If somebody had died, everybody would have
11 known.

12 PRESIDING JUDGE: So you never learned of it? That is your
13 answer?

14 THE WITNESS: No, it didn't happen.

10:39:15 15 MR WILLIAMS:

16 Q. Mr Nallo also mentioned the use of human ashes during the
17 initiation process.

18 A. That did not happen. Maybe he was a high priest.

19 Q. Who?

10:39:51 20 A. The person who said so. Maybe he was doing the initiation.

21 Q. The initiation you went to, no human ashes were applied --

22 JUDGE THOMPSON: Yes, I think that's the context in which
23 any kind of evidence in this kind of -- resulting from this
24 cross-examination would be helpful.

10:40:12 25 THE WITNESS: There was no human thing --

26 JUDGE THOMPSON: Witness, please, restrain yourself. Just
27 a minute. Clearly, it is difficult to understand how the Court
28 could be assisted by a witness testifying as to what happened at
29 initiation ceremonies when he himself is not an initiator. He

1 has admitted that. And when it is clear that he could not have
2 witnessed every initiation ceremony. He probably might just be
3 speaking from his own experience, and to extrapolate his
4 experiences to a generalised situation, it is a little like a
10:41:05 5 quantum leap.

6 I am not familiar with initiations, but I think it's a safe
7 presumption that those who are practised in such a ritual would
8 be the ones who are in control of the ritual. It would seem to
9 me that it would be difficult, and I do not see how the Court
10:41:30 10 would be assisted by him extrapolating from his experience into a
11 generalised situation. That would be my own thinking on it and
12 after expressing those random thoughts, I will just restrain
13 myself further.

14 MR WILLIAMS: Albert Nallo did not restrict himself to his
10:41:50 15 own initiation.

16 JUDGE THOMPSON: That's the difficulty here. I raise it
17 because I find it worrying that we are, in fact, moving away into
18 areas which may well be problematic for the tribunal trying to
19 piece things together where, in fact, witnesses must confine
10:42:08 20 themselves to their own experiences. This is, as far as the
21 evidence seems to be, a very important ceremony, which is within
22 the peculiar knowledge of those who are characterised, who are
23 trained as initiators. I just express my person concern with
24 this line of cross-inquiry.

10:42:34 25 JUDGE ITOE: Mr Williams, you are laying your emphasis on
26 human ashes. What about removing the word "human". Were ashes
27 used in part of what was the ritual? Remove the word "human".

28 MR WILLIAMS: My Lord, it is a specific question.

29 JUDGE ITOE: Did he prepare the ashes for him to know

1 whether they were human ashes? I mean this witness.

2 MR WILLIAMS: I'm just doing an analogy, My Lord. Nallo
3 testified as to human ashes, he did not say he prepared them. It
4 is for the witness to say whether he took part in the preparation
10:43:18 5 or whether he did not. It is my opinion, My Lord, if human ashes
6 were used, My Lord, it would be common knowledge to every other
7 initiator.

8 PRESIDING JUDGE: I do have some -- I do not have the
9 transcript of Nallo here, but I do remember that Nallo testified
10:43:38 10 about the use of ashes and he explained why, because he had
11 observed many scenarios at that time. This is based on that as
12 he made that statement, as such. You have to referred to a
13 portion of the evidence of Nallo, as such, that is fine, but
14 Nallo testified about a ritual that was taking place as to how
10:43:54 15 ashes were obtained, as such. This is something that he said in
16 his evidence. I'm not saying we necessarily believe it, but I'm
17 just going from my own recollection. This is what he himself
18 observed at the time.

19 JUDGE THOMPSON: Clearly, I think one can take issue as a
10:44:13 20 matter of logic and logical reasoning that because it may well
21 have happened in one situation, it necessarily would have
22 happened in all situations. I think with the greatest respect to
23 learned counsel, one commits a fallacy of composition, perhaps,
24 there.

10:44:32 25 MR WILLIAMS: As My Lord pleases. I will move from that
26 subject matter, My Lord.

27 Q. Mr Witness, did you ever go to Sorgia?

28 A. I could not understand, properly.

29 Q. It is a village called Sorgia.

1 A. No, I do not even know there, let alone going there.

2 JUDGE ITOE: Maybe it is misspelt somewhere, Mr Williams,
3 you never know.

4 MR WILLIAMS: S-O-R-G-I-A.

10:45:39 5 Q. Do you know or can you tell the Court why Mr Kondewa left
6 Tihun Sogbini for Talia Yawbeko?

7 A. Yes.

8 JUDGE ITOE: Is it in evidence that he was with Kondewa in
9 Tihun Sogbini? Is it in evidence that this witness accompanied
10:46:18 10 him, accompanied Kondewa to Tihun Sogbini?

11 MR WILLIAMS: No, My Lord. I'm asking whether it is within
12 his knowledge the reason or the reasons why Kondewa left Tihun
13 Sogbini.

14 JUDGE ITOE: Yes, go on. I do not want to pursue that
10:46:38 15 matter further. You may proceed.

16 MR WILLIAMS:

17 Q. Carry on, Mr Witness.

18 A. All the chiefdom people came together and they called
19 Mr Kondewa. I myself, my father, Mr MT Collier, he was amongst
10:47:16 20 those who recalled him.

21 [CDF15MAY06B - EKD]

22 MR WILLIAMS:

23 Q. I don't seem to understand what you just said, Mr Witness.
24 Could you go over it?

10:47:30 25 A. I said Yawbeko, my own home town, Talia, if you are asking
26 for so many reasons, what I know and what I'm explaining. It was
27 the chiefdom people who came together, the chiefdom elders, the
28 speaker, all of them came together and recalled Mr Kondewa,
29 because that was his home town, Talia. They were the ones who

1 recalled him. At the time he was in Tihun, his house was broken,
2 they reconstructed his house and recalled him to come back. And
3 he came back and he was in his house.

4 Q. Mr Witness, Mr Nallo also said in evidence - that is on
10:48:50 5 11th March 2005, page 16 - that Vanjawai was attached to
6 Dr Allieu Kondewa. Lines 16 and 17. It says: "Under my region
7 he was not directly under my control. He was attached to
8 Dr Allieu Kondewa."

9 A. It's an ordinary lie.

10:49:36 10 Q. Did Kondewa have any commanders attached to him?

11 A. No, no, no. There was no commander who went around with
12 Kondewa, or even attached to him.

13 Q. Did Mr Kondewa have anything to do with Kamajors after they
14 had passed out from the initiation?

10:50:32 15 A. Nothing else would be there. In fact, he would hand you
16 over to your people and they would take you along. At that time
17 nothing would exist between the two of you, except if you come to
18 him for help and he would help you.

19 Q. Did Mr Kondewa have powers to punish fighters who
10:51:13 20 misbehaved themselves -- misconducted themselves in battle?

21 A. No, he had no power. He hadn't that power. The power was
22 bestowed upon the War Council.

23 Q. Would any commander report Kamajor atrocities to
24 Mr Kondewa?

10:52:39 25 A. No. Not a day did that happen.

26 MR De SILVA: My Lord, I take an objection here. The
27 question presupposes that there were atrocities that were not
28 reported. Did anyone report Kamajor atrocities to Kondewa
29 presupposes that there were atrocities. If that is the

1 presupposition of the question, I wouldn't disagree with my
2 friend. In fairness to him I don't think that is what he meant.

3 JUDGE THOMPSON: What is the prejudice to the Prosecution?

4 MR De SILVA: I am trying to be fair, My Lord.

10:53:31 5 JUDGE THOMPSON: I am sure that counsel considers it his
6 own exclusive jurisdiction to look after the interests of his
7 clients but I recognise that you are a minister of justice. I
8 would have thought counsel would have put the question in two
9 stages.

10:53:48 10 MR WILLIAMS: I thank my learned friend for his concern,
11 but it is for him to pursue whether actual atrocities did take
12 place, My Lord. I wouldn't want to go further than that,
13 My Lord, but I think it is a fair question and -- it is a fair
14 question, My Lord.

10:54:11 15 PRESIDING JUDGE: That's fine, we'll leave it there.
16 Mr Williams, can I inquire as to how long you may be again?

17 MR WILLIAMS: Not more than 30 minutes.

18 PRESIDING JUDGE: It is only that we have to attend to
19 certain issues in the next few minutes. If you have more than a
10:54:31 20 few minutes we will have to break now and we'll come back to your
21 cross-examination. Thank you very much. Court will adjourn for
22 half an hour.

23 [Break taken at 10.55 a.m.]

24 [CDF15MAY06C - EKD]

13:59:55 25 [Upon resuming at 2.15 p.m.]

26 PRESIDING JUDGE: Mr Williams, good afternoon.

27 MR WILLIAMS: Good afternoon, My Lord.

28 PRESIDING JUDGE: We are back a bit later than expected,
29 but we are ready to proceed and move ahead with your

1 cross-examination. Can you take it back to where you were with
2 your cross-examination of this witness and proceed ahead. Thank
3 you.

4 MR WILLIAMS:

14:16:31 5 Q. Mr Witness, was there somebody called Amara Sengay at
6 Talia Yawbeko?

7 PRESIDING JUDGE: What's the name again?

8 MR WILLIAMS: Amara, A-M-A-R-A. Sengay is S-E-N-G-A-Y.

9 THE WITNESS: I do not know that kind of person.

14:17:01 10 MR WILLIAMS:

11 Q. Did you know somebody called German?

12 A. I did not know him.

13 Q. I refer you to a portion again of the evidence of Albert
14 Nallo. When he testified on 14th March 2005 he had this to

14:17:36 15 say --

16 PRESIDING JUDGE: What is the date of that part?

17 MR WILLIAMS: 14th March 2005, page 43, My Lord.

18 PRESIDING JUDGE: Thank you.

19 Q. He said: "I that am sitting here, the

14:18:11 20 National Co-ordinator who is Chief Hinga Norman, the high priest
21 Kondewa and Moinina Fofana we did that action. Mustapha Fallon,
22 we killed him in the Pora bush. Other people were there with
23 us."

24 Did you learn of any such event at Talia Yawbeko?

14:18:40 25 A. Up to the time when these people went to Talia, up to the
26 time they left --

27 THE INTERPRETER: Your Honours, can the witness take that
28 again?

29 PRESIDING JUDGE: Mr Witness, please speak slowly so it can

1 be properly interpreted. Could you take your answer back again?

2 Just give the same answer, but slowly, please.

3 THE WITNESS: Up to the time these people went to Talia, up
4 to the time they left, except if somebody dies of a natural
14:19:35 5 death, but nobody died from an accident, let alone to kill
6 somebody.

7 JUDGE THOMPSON: Counsel, perhaps you should put that
8 question more specifically. There is a tendency of this witness,
9 even when you put specific questions, he has his own peculiar way
14:20:14 10 of answering these questions, probably even making it more
11 difficult to get at what you may be trying to get. Because that
12 was a very serious allegation in that piece of evidence. I think
13 you ought to put it to him in a way that would make him know that
14 you are focusing on that alone and not on some of his own kind of
14:20:45 15 analyses and commentary which he wants to place on some of these
16 allegations.

17 MR WILLIAMS: I'm most grateful, My Lord.

18 Q. Mr Witness, my question was this: Albert Nallo testified
19 before this Court that an individual called Mustapha Fallon was
14:21:12 20 killed and his skin removed by the first, second and third
21 accused persons at Talia Yawbeko. The first question is this:
22 do you know or did you know anybody called Mustapha Fallon at
23 Yawbeko?

24 A. There was nobody at Talia Yawbeko called Mustapha Fallon.

14:21:53 25 JUDGE ITOE: Did you know the names of everybody?

26 JUDGE THOMPSON: Yes, that's the difficulty.

27 JUDGE ITOE: When you say there was nobody in Talia Yawbeko
28 called Mustapha Fallon, there were so many people. Did you know
29 the names of everybody?

1 THE WITNESS: Except those who were not there, but those
2 who were there, I was born there. I grew up there. I knew all
3 of them and I know their names. We did not have that kind of
4 persons in our town.

14:22:15 5 MR WILLIAMS: Thank you very much.

6 PRESIDING JUDGE: We are not talking of your town. We are
7 talking of Base Zero. Talia, Base Zero, where thousands of
8 Kamajors assembled. So you knew all of them and their names? We
9 are not talking of your village here.

14:22:40 10 MR WILLIAMS: His village is Talia Yawbeko.

11 THE WITNESS: I do not know all of them.

12 PRESIDING JUDGE: I know his village is Talia Yawbeko. Is
13 your question only related to Talia Yawbeko, the village, not
14 Base Zero?

14:22:52 15 MR WILLIAMS: No, but Base Zero is in Talia Yawbeko.

16 PRESIDING JUDGE: That is what I'm talking about. Because
17 he said his village is a small village; he knew everybody in his
18 village. I said to him we are not talking only of your village,
19 we are talking of Base Zero. Did you know everybody at Base
14:23:10 20 Zero? That is my question and his answer has been no.

21 JUDGE ITOE: Of course he couldn't. Not with the sort of
22 evidence which has come from the Defence. There were very many
23 people assembled in Base Zero.

24 MR WILLIAMS: I am not quarrelling with that, My Lord.

14:23:24 25 Your Lordships are quite right on that.

26 PRESIDING JUDGE: We are not quarrelling with you, either,
27 Mr Williams. We are trying to have the witness answer the
28 question as you posed it, as such. Your question was not related
29 to the village where he was born at the time. We are talking of

1 Base Zero at the time of these events, otherwise his answer has
2 no meaning.

3 JUDGE THOMPSON: Perhaps now he has had the intervention of
4 the Bench, you might want to put it specifically again. It is
14:23:49 5 just to get specific answers, otherwise these answers become
6 impossible - speaking for myself - to evaluate in terms of their
7 factual value.

8 MR WILLIAMS:

9 Q. Mr Witness, did you know from any source, or did you who to
14:24:13 10 know from any source whatsoever that an individual called
11 Mustapha Fallon was killed in Talia Yawbeko?

12 A. That did not happen at all, not in the least.

13 PRESIDING JUDGE: How do you know that? Were you there all
14 the time?

14:24:52 15 THE WITNESS: If it happened I would know. We owned that
16 place, our parents are chiefs. If it had happened, I would have
17 known.

18 JUDGE THOMPSON: What is the name of the individual again?

19 MR WILLIAMS: Mustapha Fallon, My Lord. Fallon is
14:25:10 20 F-A-L-L-O-N.

21 Q. Apart from Mustapha Fallon, did any other killing of human
22 beings take place in Talia Yawbeko during the period 1997/1998?

23 PRESIDING JUDGE: May I suggest, Mr Williams, so there is
24 no confusion, that when you talk about Talia Yawbeko you add
14:25:50 25 Base Zero, because the witness seems to be focusing on his
26 village. We are talking here -- Base Zero was more than just the
27 Talia Yawbeko village. Base Zero was the main base where the CDF
28 Kamajor was.

29 MR WILLIAMS: As My Lord pleases.

1 PRESIDING JUDGE: We are trying to assess the evidence and
2 we will have to assess the evidence of the witness. I want to
3 make sure there is no confusion in the witness's mind. He seems
4 to be making a difference between the two, that is why I am
14:26:20 5 asking the question. If you can assist the Court to assess his
6 evidence properly.

7 MR WILLIAMS: As My Lord pleases.

8 Q. The question that I just put to you is this: that --

9 JUDGE ITOE: During the period.

14:26:40 10 MR WILLIAMS:

11 Q. -- in 1997/1998, did any killing of human beings take place
12 at Base Zero by Kamajors?

13 A. They did not kill anybody there.

14 Q. Also, I want to refer you to evidence that was adduced by
14:27:27 15 Borbor Tucker. He made specific allegations against Mr Kondewa.
16 I want to put them to you. When he testified on 10th February
17 2005, he said Mr Allieu Kondewa specifically ordered the attack
18 and capture of Bo from soldiers. What do you have to say about
19 that?

14:28:05 20 A. It's a lie. He hadn't that power.

21 Q. Did you take part in the attack of Bo?

22 A. I was not in the Bo attack.

23 THE INTERPRETER: Your Honours, can the witness take the
24 last bit again, please.

14:28:26 25 PRESIDING JUDGE: Mr Witness, would you repeat your last
26 answer please. You said you were not in the Bo attack.

27 THE WITNESS: At that time I was injured, but I was at the
28 meeting that was held.

29 JUDGE ITOE: That was held where? What was discussed?

1 THE WITNESS: The meeting was held at Base Zero, and it was
2 the War Council which held that meeting. In fact, their own
3 troop -- they didn't send their own troop to capture Bo, that
4 Death Squad. In fact, they sent them to Koribundu.

14:29:34 5 MR KAMARA: My Lords, if I may be heard. I think the
6 witness is confusing the evidence, probably as a result of the
7 question. The evidence we have in court, I'm sure from the cited
8 transcript, there are two attacks on Bo. One that was futile and
9 the other one which is the one I believe the witness is referring
14:29:54 10 to. The instructions from page 18, I am sure that is what my
11 learned friend is reading from the transcript, that is with the
12 first attack on Bo and not with regards to the second attack on
13 Bo. And the answers from this witness is suggesting the second
14 attack from Bo. So if my learned friend could just give us a
14:30:10 15 time frame. Is he referring to the first attack? So then we get
16 a clear understanding of the evidence.

17 PRESIDING JUDGE: Mr Williams, can you clarify the issue?

18 MR WILLIAMS:

19 Q. Do you know that there was more than one attack on Bo?

14:30:39 20 A. Yes, I knew it.

21 Q. Did Mr Kondewa order anybody to go on any of those two
22 attacks?

23 A. No, he did not do such a thing.

24 Q. Were you present when instructions were given for the first
14:31:27 25 and second -- for both attacks?

26 JUDGE THOMPSON: Keep them separate.

27 MR WILLIAMS: As My Lord pleases.

28 Q. Were you present when instructions were given in respect of
29 the first attack?

1 A. I'm not talking of the first attack. I am talking about
2 the second one, at which I was present.

3 PRESIDING JUDGE: So you were not present when the
4 instructions were given for the first attack; that's your answer?
14:32:01 5 The question was: Were you present when instructions were given
6 for the first attack? We are not talking of the second one now.
7 Yes or no?

8 MR WILLIAMS: My Lord, he has answered that he was not
9 present.

14:32:12 10 PRESIDING JUDGE: He says, "I was present for the second
11 attack."

12 MR WILLIAMS: Yes.

13 PRESIDING JUDGE: Well, that was not your question. Your
14 question was: Were you present when instructions were given for
14:32:21 15 the first attack?

16 JUDGE THOMPSON: He answered in a convoluted way. In fact,
17 you shouldn't encourage this witness to do that. He has a
18 tendency to do that.

19 MR WILLIAMS: As My Lord pleases.

14:32:30 20 Q. Let's move on, Mr Witness. I want to ask you about the
21 attack on Mobimbi. Did you -- sorry, the attack on Taiama. Did
22 you know anything about that?

23 A. Yes, very, very well indeed.

24 Q. Again Mr Borbor Tucker said, on page 21, that it was
14:33:17 25 Mr Kondewa that gave instructions for the attack on Taiama. Is
26 that correct?

27 A. It's a lie. It's a black lie. I led the troop.

28 JUDGE ITOE: When is a lie black and when is it white?

29 THE WITNESS: The one that has an iota of truth.

1 MR WILLIAMS:

2 Q. So what you are saying is that Borbor Tucker never took
3 part in the Taiama attack?

4 A. Not in the least. Not in the least he was at Taiama. I
14:34:27 5 went.

6 Q. Again, Mr Witness, this Borbor Tucker also said in evidence
7 that Mr Allieu Kondewa went to the commander of the Executive
8 Outcome at Mobimbi to ask for ammunition for that attack. Could
9 you confirm or deny that?

14:35:26 10 A. That too is a black lie.

11 Q. Where did you get ammunition for that attack?

12 A. I was the one who captured guns at a town called Gbangbama
13 Kwelu in the Fakunya Chiefdom.

14 PRESIDING JUDGE: What was the page for that reference to
14:36:11 15 Tucker?

16 MR WILLIAMS: The acquisition of arms from Mobimbi?

17 PRESIDING JUDGE: No, where you said that he had testified
18 that Kondewa went to Executive Outcomes.

19 MR WILLIAMS: Page 20, My Lords. Lines 21 to 29, My Lord.

14:36:40 20 JUDGE ITOE: And you say Gbangbama Kwelu is in what
21 chiefdom?

22 THE WITNESS: Fakunya Chiefdom, Moyamba District. The
23 paramount chief is called Chief Kavura Kongomoh. I was the
24 person who seized guns and left them there. Then I said we
14:37:24 25 should go back for them. We went through Moyamba. Then Mr Sheku
26 Bombawai gave us three guns. Then we reached Kwelu itself. Then
27 I spoke to the paramount -- the chiefdom people and they too gave
28 us guns. They gave us three RPG tubes and one tube mortar and so
29 many other guns for me to summarise. That's what we used to

1 attack Taiama.

2 MR WILLIAMS: That will be all for this witness, My Lords.

3 PRESIDING JUDGE: Thank you. Mr Prosecutor, any
4 cross-examination?

14:39:20 5 MR De SILVA: Yes, My Lords.

6 CROSS-EXAMINED BY MR De SILVA:

7 Q. Mr Witness, can you remember when you made a statement to
8 the Defence?

9 A. Yes, I can.

14:39:59 10 Q. Can you tell My Lords, please, when it was, in rough terms?

11 A. I gave a statement to them in Bo around January/February, I
12 believe so.

13 Q. Of this year?

14 A. Yes. I'm sorry, I'm sorry. I gave a statement to them in
14:40:45 15 November. I gave a statement to them in November last year, not
16 this year.

17 Q. Thank you very much. Did you make only one statement or
18 more than one statement?

19 A. I made more than one statement.

14:41:15 20 Q. Was the first statement made in November of last year, as
21 you've told us?

22 A. I am talking about all the statements, that I made them in
23 November.

24 Q. All the statements you made in November. How many
14:41:37 25 statements do you remember making in November of last year?

26 A. I do not know what you mean. Please make yourself clear.
27 Because they obtain statement from me only once.

28 Q. That sounds like one statement, doesn't it? Did you sign
29 that statement?

1 A. Yes, I used to sign them.

2 Q. I'm going to give you a piece of paper on which I would
3 like you to put your signature in the same way as you signed
4 those statements, or that statement.

14:42:36 5 A. It's okay.

6 Q. Thank you very much. I see this is written in English; is
7 that correct?

8 A. Yes.

9 Q. Mr Witness, you have told us that you were second in
14:43:15 10 command to Bob Tucker; that's correct, isn't it?

11 A. Yes.

12 Q. You must have got to know him really well?

13 A. Yes, I knew him very, very, very well.

14 Q. And likewise he must have known you well?

14:43:56 15 A. Yes, he knows me.

16 Q. As his number two you used to carry out orders he gave you?

17 A. Yes, he would give me orders.

18 Q. Would he ever give you orders --

19 JUDGE THOMPSON: Did he carry them out, was your question?

14:44:52 20 Your question was he used to carry out orders that he gave you
21 and his answer was he gave me orders.

22 MR De SILVA:

23 Q. You have heard what My Lord said. You have said he gave --
24 Bob Tucker used to give you orders; is that correct?

14:45:06 25 A. Yes, he would give me orders.

26 Q. Did you carry those orders out?

27 A. The good ones. The bad ones I wouldn't do.

28 Q. Because of the nature of warfare, I take it you sometimes
29 received orders from Bob Tucker on the radio or on the telephone

1 or something of that kind?

2 A. We had no telephone.

3 Q. Did you ever receive orders by way of radio?

4 A. No, he did not give me any orders through radio.

14:46:33 5 Q. Did you ever receive any orders from him in writing?

6 A. He did not write any letter that he gave to me.

7 Q. When Bob Tucker gave you an order, which you've told us
8 about - and could you please answer this question with a yes or
9 no, if you can - do you always know where he received those

14:47:13 10 orders from himself?

11 A. Where Bobbor Tucker got his orders from that he gave to me?

12 Q. I asked you a very specific question. Listen to it again.
13 Did you always know where the orders came from that Bob Tucker
14 gave you?

14:48:09 15 A. Yes, I would know because we would be together when he gave
16 those orders. He was not alone.

17 Q. Are you telling My Lords that in every instance that you
18 received an order from Bob Tucker you knew who gave him the
19 order? Are you saying that?

14:48:40 20 A. We would be there together when the order is given to us,
21 yes.

22 Q. In every single instance where you received an order from
23 him, you say you were present when the order was given to Bob
24 Tucker? Is that correct?

14:49:09 25 A. As long as it concerns the war, yes.

26 Q. If that were so, there would not have been any necessity
27 for Bob Tucker to give you an order, would there, if you were
28 there at the time when the order was given?

29 MR JABBI: My Lord, that's a hypothetical question calling

1 for an opinion, My Lord.

2 PRESIDING JUDGE: I don't see why it requires anything to
3 be given. It is a very factual scenario based on the answer
4 given by the witness. No opinion is being given. It is a
14:49:50 5 question that the witness can give without expressing an opinion.
6 If it was something that he was there to hear what was being
7 said, he heard it or he did not hear it. I do not know. I allow
8 the question anyhow.

9 MR MARGAI: Could I add, My Lord?

14:50:04 10 PRESIDING JUDGE: What is it you want to say?

11 MR MARGAI: What I want to say is --

12 JUDGE ITOE: Mr Margai, please, the Presiding Judge has
13 allowed the question and I think he beat the gun.

14 MR MARGAI: Who beat the gun?

14:50:18 15 JUDGE ITOE: The Presiding Judge beat the gun.

16 MR MARGAI: Well, I want to keep pace with the
17 Presiding Judge.

18 JUDGE ITOE: No, no, I don't think it would be right for us
19 to allow that.

14:50:33 20 MR MARGAI: As My Lords please.

21 MR De SILVA:

22 Q. You're telling My Lords, are you, that every military order
23 you received through Bob Tucker you were present when the orders
24 were given to Bob Tucker? Is that correct?

14:50:56 25 A. They would give it to both of us, yes.

26 JUDGE THOMPSON: You gave him a second chance and he seems
27 to be -- he wants to fine-tune that answer.

28 MR De SILVA: Yes.

29 JUDGE THOMPSON: You better stick to it because it would

1 seem as if otherwise we would not reach finality here. He has
2 stated twice that they always were together when he gave orders
3 and that I thought predicated your question to which an objection
4 was registered and overruled. It would seem to me we have not
14:51:36 5 really crossed that terrain yet.

6 MR De SILVA:

7 Q. Mr Witness, from your knowledge of Bob Tucker, can you look
8 at this document and tell us whether you recognise this signature
9 which has been highlighted?

14:52:31 10 PRESIDING JUDGE: Please show the document to Dr Jabbi.

11 MR De SILVA:

12 Q. Mr Witness, can you just tell us whether you recognise the
13 signature on the bottom right-hand side which has been
14 highlighted? Do you recognise the signature?

14:53:39 15 A. I don't know it. I know Borbor Tucker, I know his name,
16 but I do not know his signature.

17 Q. Thank you. Can I have that document back, please. You've
18 told My Lords that Bob Tucker was in Tisana - correct? - with the
19 Death Squad. Remember that?

14:54:23 20 A. Yes, he was based in Tisana. The Death Squad was at the
21 junction, Sumbuya junction.

22 Q. You told My Lords that you knew Bob Tucker well and he knew
23 you well. Both of you knew Chief Norman well, didn't you?

24 A. [No interpretation]

14:55:04 25 Q. Both of you knew Chief Norman well, didn't you?

26 A. We know Chief Norman. We used to see him.

27 Q. Chief Norman knew that Bob Tucker was the commander of the
28 Death Squad, didn't he, to your knowledge?

29 A. No, I don't know that. Bob Tucker used to know Mr Norman,

1 but I do not know whether Mr Norman knew Borbor Tucker.

2 Q. You have told us you knew Chief Norman. What did
3 Chief Norman know you as? What did he used to call you?

4 A. He did not call me. I know Mr Norman as a senior person,
14:56:06 5 as a big man you would know him. I know you, but you would not
6 know me. So that was the relationship between myself and
7 Mr Norman. I don't know whether he knows me but I know him
8 because he was a big man, he was an important man to me. But him
9 knowing me is not something important to him.

14:56:24 10 Q. If you referred to him, would you call him Chief?

11 A. There are so many names I have called him with. Sometimes
12 I would call him Mr Norman, Chief Norman.

13 Q. Would you call him Chief ever?

14 A. Yes.

14:56:46 15 Q. When Bob Tucker spoke of him, didn't he often call him
16 Chief?

17 A. That is what I'm saying, that there were so many names they
18 used to call him. They called him Pa Norman, Chief Norman,
19 Mr Norman.

14:57:09 20 JUDGE ITOE: [Overlapping speakers] Mr Witness.

21 MR De SILVA:

22 Q. I am not asking about other names. I am asking about
23 whether you have heard Bob Tucker refer to Chief Norman as chief?

24 A. He used to call him Mr Norman.

14:57:34 25 PRESIDING JUDGE: Does that mean that he never called him
26 Chief? The question was not whether he used to call him
27 Mr Norman. The question was: Did he call him Chief at any time?

28 THE WITNESS: That's what I have said and you said I should
29 just answer the question.

1 PRESIDING JUDGE: The question was: Did he call him Chief?

2 MR De SILVA:

3 Q. Did he ever call him Chief? It is not a difficult
4 question.

14:58:08 5 A. That's what I'm saying. Sometimes we call him Chief Norman
6 sometimes we call him Mr Norman and sometimes we call him
7 Chief Norman.

8 PRESIDING JUDGE: But the question to you, Mr Witness, was
9 a simple question. Did Tucker call Mr Norman Chief? That was
14:58:22 10 the question. Your answer to that was he called him Mr Norman.
11 That is not the question. The question was: Was Tucker calling
12 Chief Norman Chief. Now you are saying yes.

13 THE WITNESS: Yes, he used to call him so.

14 MR De SILVA:

14:58:42 15 Q. Can you tell us why you take so long to answer simple
16 questions?

17 A. Yes, I can talk about it a little.

18 Q. Would you agree with it this: Everybody knew that you were
19 second in command of the Death Squad? Would you agree with that?

14:59:34 20 A. So many people knew, yes.

21 Q. It was widely known at Base Zero, for example, that you
22 were the second in command of the Death Squad. It was widely
23 known. Do you agree with that?

24 A. That position, in fact, we got it in the barri. Yes, I
15:00:09 25 agree that all my people knew because they were there when they
26 were giving it. Yes, all my people.

27 Q. So is the answer to my question that it was widely known at
28 Base Zero that you were number two in the Death Squad, it was
29 widely known. You agree with that?

1 A. Yes, indeed, that's how it was. The chiefdom people, all
2 of them knew.

3 [CDF15MAY06D - CR]

4 Q. And it was widely known that Bob Tucker was the commander
15:00:41 5 of the Death Squad.

6 A. The chiefdom people, indeed, yes, they knew.

7 PRESIDING JUDGE: If I may suggest, Mr Prosecutor, maybe
8 you can clarify an issue for me because the witness keeps
9 answering the chiefdom people, and then you ask a question of
15:01:10 10 were they known. So I thought that at Base Zero, there were
11 people other than just the chiefdom people. So there might be
12 some confusion.

13 MR De SILVA:

14 Q. I'm asking my questions, Mr Witness, specifically in
15:01:24 15 relation to Base Zero so would you answer my questions in
16 relation to Base Zero. Is it correct that it was widely known at
17 Base Zero that you were the second in command of the Death Squad;
18 yes or no?

19 JUDGE THOMPSON: Perhaps you might want to add not just the
15:01:50 20 people of the chiefdom, or your people.

21 MR De SILVA: Yes.

22 JUDGE THOMPSON: Because that's what's causing the impasse
23 here.

24 MR De SILVA:

15:01:59 25 Q. Taking all the people - not just your own people, you
26 understand - was it widely known at Base Zero that you were the
27 second in command of the Death Squad, in your view?

28 A. I wouldn't say everybody knew at that time when Base Zero
29 was. I wouldn't say everybody knew, because there was a large

1 crowd there.

2 JUDGE ITOE: He did not say everybody. Listen to -- I hope
3 it is properly translated to him, because it might well not be
4 his fault. Widely known, not that everybody knew him. Widely
15:02:46 5 known.

6 MR De SILVA:

7 Q. Is your answer yes or no?

8 A. Yes, people used to know.

9 Q. Was it equally well known that Bob Tucker was --

15:03:18 10 JUDGE ITOE: Can you use the word same word, please,
11 "widely," Mr Prosecutor.

12 MR De SILVA:

13 Q. Was it also widely known that Bob Tucker was the commander
14 of the Death Squad?

15:03:49 15 A. Yes.

16 Q. I would like you to comment on the evidence given by
17 Chief Norman on 6th February, page 34, line 15 and 16, that he
18 was unaware of the existence of the Death Squad. I'd like you to
19 comment on that.

15:04:09 20 JUDGE THOMPSON: I hope not at the risk of a lecture for an
21 answer.

22 THE WITNESS: I wouldn't know that, because not a day did
23 he go to talk to us. If he said that he does not know anything
24 about that, I would believe him.

15:04:27 25 MR De SILVA:

26 Q. Good. He must have been very badly informed then?

27 A. No, no, I wouldn't know that. I didn't know whether they
28 were telling him or not. We were right at Sumbuya Junction and
29 Mr Norman was at Talia.

1 Q. One reason for denying the existence of the Death Squad is
2 because the Death Squad carried out numerous acts of murder,
3 looting and torture.

4 MR JABBI: Objection, My Lord. The witness has not denied
15:05:21 5 the existence of the Death Squad, so asking him for a reason why
6 he denies the existence of the Death Squad certainly does not
7 arise.

8 PRESIDING JUDGE: Mr Prosecutor?

9 MR De SILVA: I was asking him to comment, as indeed the
15:05:39 10 Defence have asked witnesses to comment, on the evidence of other
11 witnesses. I put to this witness the evidence of the defendant
12 on whose behalf he has come to testify. In the same way as he
13 has been called upon to comment on other witnesses, in my
14 respectful submission, he is entitled to comment on the evidence
15:06:05 15 of Chief Norman. It's as simple as that. I don't propose to
16 take it any further.

17 PRESIDING JUDGE: I think you've added to those comments
18 the qualifications that the Death Squad was responsible for
19 murders, atrocities and so on.

15:06:21 20 MR De SILVA: Correct.

21 PRESIDING JUDGE: So this is not really the question that
22 was given -- if you refer to the evidence of Mr Norman, as such,
23 that is not what you put to the witness. You're adding to it
24 some qualifications that were not there.

15:06:35 25 MR De SILVA: I'm not adding to any qualification given by
26 Chief Norman. I'm asking this witness, and he's entitled to
27 comment, as to having said to us that it was widely known at Base
28 Zero that the Death Squad existed, I'm putting to him, in effect,
29 that one reason for the denying of the existence of the Death

1 Squad by whosoever it is may be an attempt to conceal the fact
2 that that witness is fully alert to and aware of the activities
3 of the Death Squad.

4 JUDGE THOMPSON: But is it fair not to let him know by whom
15:07:22 5 was the alleged denial?

6 MR De SILVA: I put to this witness -- I gave him a date,
7 page and line that Chief Norman denied knowing --

8 JUDGE THOMPSON: I think that's where you and counsel for
9 the first accused are at cross-purposes. He probably thought
15:07:37 10 that you were attributing the alleged denial to the witness.

11 MR De SILVA: No, no, My Lord. I'm sorry if we were at
12 cross-purposes, but I hope I have explained what my position is.

13 MR JABBI: My Lord, in that case, really in fairness to the
14 witness it would be the proper thing to name the person to whom
15:07:58 15 that denial is attributed. Then the witness would be very clear
16 in giving an answer.

17 PRESIDING JUDGE: I think the denial is clearly attributed
18 to Mr Norman, who has said in his evidence that he did not know
19 of the existence of the Death Squad. That's the question that
15:08:17 20 was put to the witness, and the witness said he didn't know that.
21 Then there was an added question to say that the Death Squad --
22 the ignorance of the existence of the Death Squad was caused by
23 the fact that they were responsible for murders and so on. So
24 that's basically the following question to the first question and
15:08:38 25 I thought it was to that one that you were objecting.

26 MR JABBI: Yes, My Lord. My objection was that it was not
27 clear from that question to whom the denial was being attributed,
28 notwithstanding the previous questions that were asked. And it
29 was so easy to attribute it correctly so that the witness would

1 be able to answer.

2 MR De SILVA: My Lord, in my respectful submission, it was
3 quite clear I was relating the denial to Chief Norman.

4 PRESIDING JUDGE: Yes, but the denial of Chief Norman in
15:09:15 5 his evidence, as such, when he was asked a question about the
6 existence of the Death Squad, he said that he didn't know of its
7 existence. In his evidence there was no relationship put to him
8 where he denied that murders, atrocities and so on might have
9 been committed by the Death Squad. At least, not in that part of
15:09:30 10 the transcript that you referred to. That seems to be the
11 difference between your position and that of the Defence.

12 MR De SILVA: Yes, My Lord, I accept that. I shall allay
13 my learned friend's fears, I hope, in a while.

14 Q. Mr Witness, you were telling us on Friday when you were
15:09:53 15 giving evidence that the Death Squad was something you were proud
16 to belong to; am I right? Have I summarised you correctly?

17 A. You asked me yesterday if I was in the Death Squad and I
18 said I was second in command and up till now I was in it and I
19 can even accept it, even in this Court.

15:10:30 20 PRESIDING JUDGE: That's not the question. The question
21 was: Were you proud to belong to the squad? It's not disputed
22 you were part of the squad or second in command. The question is
23 a very specific one.

24 THE WITNESS: Yes, yes, I could be proud of it.

15:10:43 25 PRESIDING JUDGE: Just answer the question. We have been
26 telling you many, many times now, please, listen carefully to the
27 question and try to answer the question.

28 THE WITNESS: Yes, I can be proud of it.

29 PRESIDING JUDGE: Were you proud or were you not proud?

1 Not can you be proud, were you proud or not?

2 THE WITNESS: Yes, I would be proud of it.

3 MR De SILVA:

4 Q. One of the things you told us --

15:11:31 5 JUDGE THOMPSON: Can I ask the interpreters, why do we get
6 an answer in the subjunctive to a question about the past? Why
7 do we get that answer when the question was, "Were you proud of
8 it," and then we get a response, "I would be." That is
9 subjunctive.

15:11:50 10 THE INTERPRETER: Yes, Your Honours, it's the way we get
11 the answers in Mende.

12 JUDGE THOMPSON: I see, in other words, the subjunctive
13 answer comes in response to a question asked in the past tense,
14 or referring to the past tense?

15:12:06 15 THE INTERPRETER: Yes.

16 JUDGE THOMPSON: Is that how it is in Mende?

17 THE INTERPRETER: Yes, that's what we get from the witness.

18 JUDGE THOMPSON: I see.

19 PRESIDING JUDGE: But in Mende, you cannot say, "I was"?

15:12:15 20 THE INTERPRETER: No, you can.

21 JUDGE ITOE: Or to say, "I am proud," is there nothing in
22 Mende that can be translated to, "I am proud"?

23 THE INTERPRETER: Yes, there is.

24 MR JABBI: My Lord, the answer that the interpreter is
15:12:26 25 giving --

26 JUDGE ITOE: Why are there all these "woulds" and so on?

27 JUDGE THOMPSON: I will restrain myself, lest we have an
28 exposition on linguistics. I just wanted to know because it
29 intrigued me that a question is asked referring to the past and

1 we get an answer in the subjunctive.

2 THE INTERPRETER: Your Honours, maybe we could ask the
3 witness again and let's get the answer from him.

4 MR JABBI: My Lords, if I may make this point, please:

15:13:04 5 One, the answer that the interpreter gave was, "That is how we
6 are getting it from the witness," but the question that the Court
7 is asking is, "How has it been getting to the witness before
8 that," and that is where the problem lies.

9 PRESIDING JUDGE: No, no, that was not the question. The
15:13:22 10 question was: Has the answer "would," or he said, "I did," or,
11 "I did not"? The question is clear and simple and the response
12 we got twice was, "I can be," and then, "I would be". My
13 question has been to the interpreter is in Mende the word "I was"
14 not in existence, and I am told no, it's part of the language.

15:13:46 15 MR JABBI: So the next question is: How was the
16 translation done to the witness?

17 JUDGE THOMPSON: No, Mr Jabbi, that was not my intervention
18 and I don't think that was the Presiding Judge's intervention. I
19 wanted to know simply whether when you ask the question, "Are you
15:14:02 20 proud of it," or, "Were you proud of it," because one is present,
21 the other is past, the answer that came was in the subjunctive.
22 And if it is true that the answer that came was in the
23 subjunctive, I just wanted to know whether this amounts to an
24 equivocation, or whether it is a structure of the Mende language.

15:14:23 25 MR JABBI: Or whether the translation to him was in the
26 subjunctive.

27 JUDGE THOMPSON: That's your addition.

28 PRESIDING JUDGE: That was not our question. I think it is
29 quite simple, we have our answers, we can move ahead. Thank you.

1 MR De SILVA:

2 Q. And proud you were of belonging to the Death Squad, because
3 you told us on Friday that the Death Squad had certain rules,
4 operated certain --

15:15:04 5 THE INTERPRETER: My Lord, can learned counsel go over the
6 question slowly, please.

7 MR De SILVA:

8 Q. You told us on Friday, because you were asked by learned
9 counsel, Dr Jabbi, to tell us about the rules that related to the
15:15:16 10 Death Squad. Do you remember that question being asked of you on
11 Friday?

12 A. Yes.

13 Q. You told My Lords that there were specific rules that
14 applied to the Death Squad; is that correct?

15:15:50 15 A. All the laws were there for the Kamajors. When they
16 created the Death Squad, there were laws, too, for us.

17 Q. Yes, that's what I'm asking about. There were specific
18 laws relating to the Death Squad. Specific rules, I think more
19 appropriately they should be called. Specific rules applying to
15:16:10 20 the Death Squad. Is that correct?

21 A. No, Death Squad had no laws on its own. Except those that
22 they were given, they were given as admonitions. All the laws
23 for the Kamajors were one, were the same.

24 Q. So you're saying the Death Squad had no special laws or
15:16:39 25 rules; is that correct?

26 A. There was no special laws. We had no laws on our own. The
27 laws were all the same, like, for the laws of the country. No,
28 we had no individual laws.

29 Q. On Friday, when you were talking about the rules that

1 applied to the Death Squad, there were no specific rules applying
2 to the Death Squad; is that correct?

3 A. I did not say so, and there are no such laws. There are no
4 individual laws. As I said, there are other laws that they told
15:17:24 5 us about, like, to reinforce something. If you arrange something
6 and you say after that, "This is what this thing is to be like."
7 But there were no laws that were particular to the Death Squad.

8 JUDGE ITOE: This is what this thing should be like, to
9 reinforce something, where does that leave us, Mr Witness?

10 MR De SILVA: My Lord, if I can help.

11 Q. You remember on Friday, My Lord Boutet, who is the
12 Presiding Judge, asked you if there were any laws outside the
13 Kamajors that the Death Squad had to obey that were different to
14 what applied to the Kamajors generally. Do you remember that
15:18:12 15 question being asked?

16 A. That's not how they asked me. They asked me whether the
17 initiation laws and those laws by our parents are different.
18 That's what they asked me and I clarified that.

19 MR De SILVA: My Lords, I'm going to seek to put in a
15:18:55 20 document on the basis of questions I asked this witness a little
21 while ago. I'm going to pass copies up to My Lords. There are
22 copies for my learned friends. My Lords, might I indicate why I
23 want to cross-examine the witness on this document and the
24 foundations upon which I wish to do so.

15:20:06 25 Firstly, Your Lordships will see prima facie the signature
26 of the commander of the Death Squad. If Your Lordships go up to
27 the left-hand side of the page, one sees it's the Death Squad
28 Unit at Tisana. Your Lordships heard that evidence from this
29 witness alone. Your Lordships have also heard - that was the

1 purpose of my cross-examination - that Chief Norman has been
2 known to be called "the Chief". In my respectful submission,
3 that is a sufficient nexus that has been established on the
4 evidence to permit me to go into the contents of this document
15:21:00 5 with this witness on the basis of what this witness has already
6 admitted.

7 PRESIDING JUDGE: What do you intend to do this document,
8 if I may again? You want to cross-examine him on the content of?

9 MR De SILVA: I want to take this witness through the
15:21:17 10 content to confront him, because he has been at pains to indicate
11 that there were no orders taken from Chief Norman, nor were there
12 any reports made to Chief Norman. And there, in the second line,
13 one sees --

14 MR JABBI: My Lord --

15:21:41 15 JUDGE ITOE: Can I ask --

16 PRESIDING JUDGE: No, no, let's wait until --

17 MR JABBI: But, My Lord, he is already beginning to go into
18 the content.

19 PRESIDING JUDGE: No. Dr Jabbi, please sit down. We have
15:21:48 20 asked a question, we will have the answer and we will let you
21 speak after that.

22 MR JABBI: As Your Lordship pleases, but he is already
23 going into the content.

24 PRESIDING JUDGE: Well, I have asked the question.

15:22:00 25 JUDGE THOMPSON: Only preliminarily and counsel of course
26 are permitted to go preliminarily into the contents of documents
27 to indicate what they intend to do with a piece of evidence. I
28 want to ask the question in the ultimate analysis, what would you
29 want to do with this document?

1 MR De SILVA: My Lord, depending on his answers -- it would
2 depend on his answers.

3 JUDGE THOMPSON: What option in law would you be adopting?
4 Would you be tendering it?

15:22:34 5 MR De SILVA: I could be tendering it, yes.

6 JUDGE THOMPSON: I think the question for me now, and I
7 hope for the Bench, is whether, looking at the document, just the
8 first word there, "Chief", and then "Death Squad", you have laid
9 the proper legal foundation for its reception into evidence.
10 That would be the question for me, because you already, as you
11 said, asked the witness about some matters there, even without
12 reference to the document.

13 MR De SILVA: That, in my respectful submission, is the
14 proper way to do things, and I hope the foundations of
15 admissibility have been laid for this purpose, the nexus.

16 JUDGE THOMPSON: Subject to any objection or what my
17 learned brothers would say, I think we are on the same radar
18 screen.

19 MR De SILVA: I'm grateful, My Lord.

15:23:29 20 PRESIDING JUDGE: Dr Jabbi, you wish to make some comments
21 about this?

22 MR JABBI: My Lord, counsel has said a few things to
23 Your Lordships. I do not know how he intends to proceed in
24 coming to the point of his objective. I will wait a little bit
15:23:48 25 and see how he wants to proceed.

26 PRESIDING JUDGE: I thought he had stated how he intended
27 to proceed, but very well. Mr Prosecutor.

28 MR De SILVA:

29 Q. Now, before I go into the details of this, I want to give

1 you a chance to reconsider the answer you have given us.

2 Mr Witness, you have told us that there were no reports made to
3 Chief Norman. Do you still maintain your position? No reports
4 by the Death Squad.

15:24:43 5 A. Even now, I still stand by my word.

6 Q. Did you know of any circumstances in which the Death Squad
7 appealed to Chief Norman for a supply of food to keep them going?

8 A. It never happened, that's why I can't remember.

9 Q. Let me try to refresh --

15:25:34 10 JUDGE THOMPSON: Shouldn't we have these answers precisely,
11 because we are really treading on very delicate ground. He said,
12 "It's never happened, that is why I can't remember." Is that his
13 final answer? His true answer?

14 MR De SILVA: My Lord, I'm hesitant to be too critical
15:25:52 15 because of the problems which we may or may not be having with
16 interpreting.

17 JUDGE THOMPSON: It is because we, the Tribunal, have to
18 evaluate facts, and sometimes when facts appear a little
19 convoluted, they become very difficult to evaluate. So I'm just
15:26:13 20 asking for clarification.

21 MR De SILVA: I hope it will be clarified in a moment when
22 I go through this document with this witness.

23 Q. Mr Witness, can you look at that document, please. Look at
24 the left-hand side. It has got "Death Squad Unit, Tisana." Now,
15:26:35 25 the Death Squad, as you already told us, was once in Tisana. Do
26 you agree with that? Do you agree with that fact that appears on
27 the document?

28 A. I've not read the document, but I want to answer the
29 question before reading the document.

1 PRESIDING JUDGE: The question is not whether you've read
2 the document. The question has been simply, at the top of the
3 document it says, "Death Squad Unit, Tisana." Question: the
4 Death Squad was at Tisana --

15:27:16 5 MR De SILVA: At some point.

6 PRESIDING JUDGE: At some point.

7 MR De SILVA:

8 Q. Do you agree with that?

9 PRESIDING JUDGE: No, don't look at the document. The
15:27:24 10 question is to you, Mr Witness, not for the document.

11 THE WITNESS: Death Squad never got sent to Tisana. It was
12 the Sumbuya junction. It was only Borbor Tucker that was there.
13 Death Squad itself was based at Sumbuya Junction.

14 MR De SILVA:

15:27:51 15 Q. You have just said something which is sufficient for me.
16 Borbor Tucker was at Tisana; is that correct?

17 A. Yes, we used to go there. Cockerill.

18 Q. Right. And this letter, apparently written by the
19 person -- is, therefore, apparently written by the person who you
15:28:11 20 know was at Tisana and was the head of the Death Squad. Correct?

21 JUDGE THOMPSON: Why not break it down. Take it step by
22 step. Of course the risk of --

23 THE WITNESS: No, I can't say who wrote it. I told you
24 just now I don't know his handwriting or even his signature.

15:28:39 25 MR De SILVA:

26 Q. I'm not asking whether he wrote it. Look at the name at
27 the bottom right-hand side, Bob Tucker. You have told us that he
28 was based -- he was at some point in Tisana, which is the very
29 place that is shown on the top of the letter. Do you agree with

1 that? Do you agree with that?

2 A. I've seen the same, Bob Tucker, and I've also seen
3 Death Squad Unit, Tisana.

4 Q. And you know he was at Tisana at some point?

15:29:16 5 A. Yes, I've said it. I said he was at Tisana and Death Squad
6 itself was based at Sumbuya Junction.

7 Q. Let's look at this letter. "Dear Chief" - I find it
8 difficult to read the next word - "you that we have never
9 reported to you about"--

15:29:50 10 MR JABBI: My Lords --

11 JUDGE ITOE: "I am informing you" --

12 MR JABBI: My Lords.

13 PRESIDING JUDGE: Yes, Dr Jabbi.

14 MR JABBI: So far as we know, this letter is not yet an
15:30:00 15 exhibit before this Court.

16 PRESIDING JUDGE: Not yet.

17 MR JABBI: I believe my learned friend is already beginning
18 to treat it as an exhibit by beginning to go into the full
19 content.

15:30:08 20 MR De SILVA: My Lords, if that is my learned friend's
21 argument, I would submit that I've established sufficiently to
22 have this document admitted as an exhibit.

23 PRESIDING JUDGE: Well, any objection that this document be
24 tendered as an exhibit then? Dr Jabbi?

15:30:29 25 MR JABBI: Yes, My Lord.

26 PRESIDING JUDGE: What is your objection?

27 MR JABBI: The Prosecution has not indicated through
28 questioning of the witness any relationship between the witness
29 and this document, or, indeed, his knowledge --

1 PRESIDING JUDGE: Is this a criteria that this Court has
2 applied, Dr Jabbi? I am making reference to 89(C). We have said
3 all along what is important for admissibility is relevance.
4 Don't you think there has been prima facie -- we're not
15:31:02 5 discussing here the authenticity and so on, we're just talking
6 prima facie, the witness, through the Prosecution, through the
7 witness, established that the Death Squad commander was at Tisana
8 and the Death Squad commander was named Bob Tucker.

9 MR JABBI: Well, My Lord, in that case, counsel has to
15:31:22 10 offer to tender it through 89(C) and not through this witness.

11 PRESIDING JUDGE: You have got me completely lost now. I
12 would imagine if he is tendering this, it is through 89(C).

13 MR JABBI: He is wanting to tender the document.

14 PRESIDING JUDGE: Absolutely not. He has just said if you
15:31:47 15 are objecting to the use of the document, then I am tendering it
16 as an exhibit. In any event, I don't see whether there is any
17 difference if it is through this witness, or without this
18 witness, he is tendering as it an exhibit. If this is your
19 objection, Dr Jabbi, it is overruled. Second accused.

15:32:04 20 MR BOCKARIE: We have no objection, Your Honour.

21 PRESIDING JUDGE: Thank you. Third accused, please.

22 MR WILLIAMS: We have an objection. Firstly, this document
23 is undated.

24 PRESIDING JUDGE: Again, we're talking relevancy,
15:32:19 25 Mr Williams. We are not talking weight to be attached,
26 authenticity. This is the issue. I pointed out to Dr Jabbi,
27 we're dealing here with 89(C), relevancy. What's your objection
28 on this?

29 MR WILLIAMS: My Lord, on the point of relevancy, my

1 learned friend is seeking to draw a nexus between this document
2 and the first accused. It merely refers to their chief. That
3 is, I would suggest, My Lord, there were several chiefs around at
4 the time.

15:32:51 5 PRESIDING JUDGE: Don't you agree that it goes to weight
6 rather than admissibility at this time?

7 MR WILLIAMS: Relevance as well, My Lord.

8 PRESIDING JUDGE: Well --

9 MR WILLIAMS: My Lord, Borbor Tucker testified. There was
15:33:01 10 ample opportunity for them to tender it through Borbor Tucker.
11 Chief Norman testified. It could have been presented to him.
12 They failed to do that. This is not the proper witness to tender
13 this document. He does not know anything about the document. It
14 merely refers to chief.

15:33:17 15 PRESIDING JUDGE: Thank you, Mr Williams.

16 JUDGE THOMPSON: I will ask one question: Who is the
17 proper person to tender this document?

18 MR WILLIAMS: Borbor Tucker.

19 JUDGE THOMPSON: [Microphone not activated] that flies in
15:33:30 20 the face of the law. There is no blanket prohibition that, in
21 fact, the admission of a document can only be tendered by the
22 author of the document. There is no such law.

23 MR WILLIAMS: I agree, My Lord, custodian, authorship and
24 every other --

15:33:46 25 JUDGE ITOE: There is also the notion of the extensive
26 admissibility.

27 MR WILLIAMS: Yes, I agree, My Lord.

28 JUDGE THOMPSON: In the context of international --

29 JUDGE ITOE: From whatever source.

1 PRESIDING JUDGE: It may be, Mr Williams, that you are
2 right as to the weight to be attached that, that if they had
3 tendered that through Tucker, it might have allowed the Court to
4 give a different assessment. Whatever the purpose of the motive
15:34:11 5 for the Prosecution not to have done it then, I don't know. At
6 this stage, I don't want to go beyond that. Certainly, your
7 arguments will be quite welcome when we deal with the weight to
8 be attached to that and what you're pointing out now will
9 certainly be well listened to at that particular moment. This is
15:34:29 10 not the issue, Mr Williams. This is only whether or not this
11 document could be admitted as being relevant. That's all. If
12 you say that there were 25 chiefs at that time, you may be
13 absolutely right. We will see at that time. If it is not
14 Chief Norman, well, it's not Chief Norman.

15:34:48 15 JUDGE THOMPSON: My short point is clearly what you say
16 would apply in the context of national laws of evidence. One of
17 the overriding principles here is that we are not bound by
18 national rules of evidence. Clearly as the Presiding Judge has
19 said, authenticity, proof of authorship, et cetera, et cetera,
15:35:07 20 they go to weight in the context of the laws of evidence of
21 international tribunals.

22 MR WILLIAMS: If it please Your Lordships.

23 PRESIDING JUDGE: We thank you, Mr Williams. Obviously
24 your objection is overruled for the reasons stated.

15:35:25 25 JUDGE ITOE: I must say, it was a very strong objection,
26 indeed.

27 PRESIDING JUDGE: Mr de Silva, just wait, please. We will
28 have this document marked as an exhibit.

29 MR De SILVA: Yes, of course.

1 PRESIDING JUDGE: I think it is 153. This document which
2 has Court Management numbers on them of 0194 and 0195, a document
3 with the heading Death Squad unit, Tisana, with a signature, a
4 name at the bottom of Bob Tucker. This document is marked as
15:36:04 5 Exhibit 153.

6 [Exhibit No. 153 was admitted]

7 MR De SILVA: My Lord, I'm grateful and to help my learned
8 friend who said there's no date, there appears to be a date above
9 the name Bob Tucker, the ninth of the eighth, 9 August. I think
15:36:21 10 my learned friend concedes that now.

11 JUDGE ITOE: I don't see it that way.

12 PRESIDING JUDGE: I thought it was DS for Death Squad, Bob
13 Tucker.

14 JUDGE ITOE: You see there are many interpretations,
15:36:47 15 Mr de Silva.

16 PRESIDING JUDGE: That goes to weight as well for you,
17 Mr Prosecutor.

18 MR De SILVA: I'm glad there are so many fertile minds in
19 Court.

15:37:00 20 Q. But, looking at the language of it. Now, Mr Witness,
21 please follow me. It looks like, "I am informing you that I
22 have" --

23 JUDGE ITOE: That we have --

24 MR De SILVA:

15:37:17 25 Q. "That we have never reported to you about our feeding since
26 our lengthy stay. But now things have got bad and we have
27 not afforded food for sometime now. Please inform your
28 elders and all those concerned that we should have food
29 tomorrow without fail. Please, Chief, to maintain the good

1 relationship between us, we ask that you provide 3 bags of
2 rice and (100,000 Le). We know that you people don't like
3 us partaking on digging. We will refrain from it, but as
4 from now onwards, our feeding is your responsible and you
15:38:36 5 know what it means for a warrior to be hungry."

6 I suggest, Mr Witness, that you know perfectly well that
7 Chief Norman was the undisputed head of the Death Squad, to whom
8 the Death Squad reported.

9 A. Even that one is a black lie. This document, as well, is
15:39:20 10 not authentic, because if it were so, it would have been written
11 by the secretary.

12 PRESIDING JUDGE: Has been written by whom, you say?

13 THE WITNESS: The secretary that we had, Yasim Collier, he
14 would have written it, because he used to write everything that
15:39:42 15 we did.

16 PRESIDING JUDGE: Would you take this answer again, but
17 slowly.

18 THE WITNESS: I said this document is not correct
19 because --

15:39:59 20 PRESIDING JUDGE: You said first it was a lie. Now you say
21 it's not correct because --

22 JUDGE ITOE: It's a black lie.

23 PRESIDING JUDGE: Black lie, yes. This is not correct.
24 Why?

15:40:09 25 THE WITNESS: Yes. If such a letter were to be written,
26 Death Squad had a secretary called Yasim Collier.

27 PRESIDING JUDGE: Yes.

28 THE WITNESS: He would write any letter to the War Council
29 or to the chiefdom people for whatever thing that we needed. If

1 it were not so and Bob Tucker is now saying this is his signature
2 on this document, then this document is a false document.

3 Q. Is it your position, Mr Witness, that this document is a
4 forgery, so far as you are concerned? That's a false document?

15:41:21 5 A. Well, I can't say that, because this Court is an
6 international court, but if this document was authentic, our
7 secretary would have written it.

8 Q. Who?

9 A. Secretary, secretary. We had a secretary. His name was
15:41:44 10 Yasim Collier.

11 Q. Are you familiar with the secretary's handwriting?

12 A. Yes, yes, I know Yasim's handwriting very well.

13 Q. You're familiar with the secretary's handwriting, but
14 you're not familiar with your boss's handwriting; is that it? Is
15:42:06 15 that the position?

16 A. Yes, but there is a reason.

17 Q. Is that because Bob Tucker cannot write?

18 A. No, no. Yasim is my brother from the same mother, but this
19 man was my boss. I have not seen him written anything.

15:42:31 20 Q. I suggest you know perfectly well, Mr Witness, that, in
21 fact, Chief Norman was the one the Death Squad answered to and
22 the person of whom the Death Squad made requests. You know that
23 perfectly well. You disagree with that?

24 A. I would not agree with that today or tomorrow. You can't
15:43:06 25 just be seeing Chief Norman like you'd be watching a video.

26 Q. Right. There is one other thing I want to ask you, and
27 that is this: You took a long time on Friday telling us about --

28 JUDGE ITOE: Mr de Silva, let me get one point from the
29 witness. Mr Witness, what you're saying is that Exhibit 153 is

1 false, it's not true, because it is neither written nor signed by
2 the secretary. Those are your reasons. It is false because it
3 is neither written or signed by the secretary, Mr Yasim Collier,
4 your maternal brother?

15:44:02 5 THE WITNESS: Yes, I'm still saying this Court is an
6 international court. I am not saying he is telling a lie, but
7 this document is not true. If it were so, it would have been
8 written by the secretary, bearing his signature underneath.
9 Whatever letter would come to us, would be read by him, and
15:44:17 10 whatever letter that would go from us would be written by him.

11 JUDGE ITOE: In that case, I think the question is
12 answered. I will not press it any further. I don't want any
13 stories.

14 MR De SILVA:

15:44:28 15 Q. You remember on Friday you were telling us about initiation
16 and immunisation? Do you remember?

17 A. Yes, I said so on Friday.

18 Q. You told us that there was this immunisation process that
19 would protect Kamajors from death in battle; correct?

15:44:57 20 A. This thing is two-folded. Give me some time to explain.
21 Kamajor is different from civil defence.

22 PRESIDING JUDGE: That's not the question. You are being
23 asked a question about initiation and immunisation, as such, and
24 the effect in battle.

15:45:26 25 MR De SILVA:

26 Q. Was that a process of immunisation to prevent people dying
27 in battle; yes or no?

28 A. Yes, there was immunisation that when you go to war, you
29 will not die.

1 Q. All right. Have you watched immunised people being tested
2 by being shot at?
3 A. Yes, I saw that. They were shooting at people and the
4 bullets will never pierce the people. You just see smoke or
15:46:36 5 ordinary water.
6 Q. Water?
7 A. Yes.
8 Q. The water coming out of the gun?
9 A. Yes, draining from the gun. I saw that.
15:46:48 10 Q. You saw that with your own eyes?
11 A. I saw that very well with my own eyes.
12 Q. How many times have you seen water coming out of the end of
13 a gun with your own eyes?
14 A. I saw that matter three times. Even myself, I can do that.
15:47:19 15 Q. Oh, you can do it?
16 A. Yes, yes.
17 Q. It would be very useful in the dry season. Now, you're
18 very familiar with guns, aren't you? You're very familiar with
19 guns, aren't you?
15:47:45 20 A. Very well. I know guns very well.
21 Q. You've fired shotguns, haven't you?
22 A. Yes. I used to fire, even before the war.
23 Q. Yes. Now, you know what I'm holding in my hands?
24 MR MARGAI: My Lords, may I ask how that get into this
15:48:13 25 Court with all the security?
26 PRESIDING JUDGE: Is this an objection, Mr Margai?
27 MR MARGAI: No, no, it's an observation for the
28 preservation of all of us. I would have thought that
29 security-wise, such a --

1 PRESIDING JUDGE: Object for the time being.

2 MR MARGAI: -- object ought not to be here, without the
3 cognisance of the Bench or approval.

4 MR De SILVA: I'm drawing the attention of the Court to it.

15:48:39 5 MR MARGAI: At this stage?

6 MR De SILVA: Yes.

7 MR MARGAI: As My Lords please.

8 PRESIDING JUDGE: It may be empty and therefore has...

9 MR MARGAI: It may be. It might not be.

15:48:46 10 PRESIDING JUDGE: I don't know.

11 MR MARGAI: As long as My Lords feel safe, I feel safe.

12 MR De SILVA: I don't propose any assassinations.

13 PRESIDING JUDGE: I would not have the same confidence that
14 you have in that, Mr Margai.

15:48:58 15 JUDGE ITOE: I don't, not in these circumstances.

16 MR De SILVA:

17 Q. Mr Witness, you know what I'm holding in my hand very well,
18 don't you?

19 A. Yes, I know it.

15:49:15 20 Q. It's a shotgun cartridge.

21 A. Yes, it's a shotgun cartridge.

22 Q. Can I have this handed to you, please? If you look down
23 one end of it, you will see the shot that is within the
24 cartridge; correct?

15:49:42 25 A. Yes, I can see it.

26 MR De SILVA: My Lords, can I pass it up to the Bench,
27 otherwise Mr Margai will complain that I'm denying the Court of
28 the benefit of handling this exhibit.

29 MR MARGAI: I'm getting more worried.

1 PRESIDING JUDGE: You did ask the witness a technical
2 question. I'm not sure I understood. He looked at the
3 cartridge.

4 MR De SILVA: He could see the shot in it. It is
15:50:12 5 apparent -- you can see the lead shot within the cartridge.

6 JUDGE ITOE: I'm very familiar with it. I am very familiar
7 with this object.

8 MR De SILVA: I'm glad Your Lordship is.

9 JUDGE ITOE: My father was used to using it.

15:50:42 10 MR De SILVA: Yes. Can I have that back, please? I
11 promise not to do anything dangerous with it.

12 JUDGE ITOE: Mr Margai is not insisting to see that this
13 time.

14 MR MARGAI: I have no problems, My Lord, I'm quite all
15:50:54 15 right. I'm a Kamajor.

16 PRESIDING JUDGE: That's why you were quite prepared to
17 have the Bench look at it.

18 MR MARGAI: I was only concerned about the Bench's safety.

19 MR De SILVA:

15:51:12 20 Q. Now, Mr Witness, if you are experienced with guns, you can
21 help us with this. If I fired a single shotgun and I raised the
22 gun above my head - please look at me - and I pulled the trigger,
23 two things would happen. One, there will be a big explosion;
24 correct?

15:51:46 25 A. Yes.

26 Q. And if I was pointing the gun at the ceiling, there would
27 be a hole in the ceiling; correct?

28 A. Yes.

29 Q. I hand you another cartridge. Can you take a look at this,

1 please?

2 MR MARGAI: Where is the first one?

3 MR De SILVA: There we are.

4 MR MARGAI: Very well.

15:52:28 5 MR De SILVA: You don't trust me, do you?

6 Q. Now, that cartridge is slightly different, isn't it? The
7 shot has been removed.

8 A. Yes, there's nothing in it.

9 MR De SILVA: Can I have that, please?

15:53:27 10 Q. Now listen to this carefully. If I loaded this into --

11 MR WILLIAMS: Can I make an objection to this line of
12 cross-examination, My Lord. This witness is not a ballistic
13 expert, and my learned friend is seeking to --

14 PRESIDING JUDGE: Mr Williams, first, you did cross-examine
15:53:46 15 this witness. This is not your witness, therefore, why should
16 you object now?

17 MR WILLIAMS: My Lord, for the same reason that we took
18 objections to questions being put to witnesses for the
19 Prosecution. We cross-examined those witnesses and Your
15:54:01 20 Lordships permitted us to --

21 PRESIDING JUDGE: On occasion, depending on the objection
22 and the issue. Why would you be allowed to object to this? This
23 is not your witness. This is a witness for the first accused.

24 MR WILLIAMS: My Lord, with respect, we say, My Lord, that
15:54:16 25 does not have any bearing to whether counsel can object or not.

26 PRESIDING JUDGE: You're not allowed to object. I will not
27 allow you to object.

28 MR WILLIAMS: It is an obstruction of justice, My Lord.

29 PRESIDING JUDGE: Mr Williams.

1 MR JABBI: My Lord, may I object then?

2 PRESIDING JUDGE: I must say, this is not a fun game here.
3 This is a serious forum and I don't take that very lightly, I
4 must say. Mr Williams, when I speak to you and I say you are not
15:54:45 5 allowed the objection, you should sit down at that time. I don't
6 want to hear any further arguments. Now, Mr Jabbi, if you want
7 to object, you should have objected before he did, not because I
8 have admonished counsel.

9 MR MARGAI: I apologise, My Lord.

10 15:55:01 MR JABBI: He just beat me to the mic at that time.

11 PRESIDING JUDGE: What is your objection?

12 MR JABBI: My Lord, the objection is the evidence being
13 sought to be led is of an expert nature --

14 PRESIDING JUDGE: The witness has said he knows guns very
15:55:18 15 well. He is quite familiar with guns and he has used guns all
16 his life, even when he was young. I allow this question. Your
17 objection is denied.

18 MR JABBI: As Your Lordship pleases.

19 MR De SILVA:

15:55:29 20 Q. Mr Witness, if I were to put the second cartridge I showed
21 you into a shotgun and I were to pull the trigger with the gun
22 pointing at the ceiling, there will be a big bang, but no hole in
23 the ceiling. That's correct, isn't it?

24 A. Yes, will you not see any hole.

15:56:18 25 Q. I suggest to you that that is how people were tricked into
26 believing that immunisation was a valid, workable process.

27 Now --

28 A. Was that the same thing that is to do with the military
29 guns?

1 PRESIDING JUDGE: Let the witness answer the question,
2 please, Mr Prosecutor. You put it to him that is how they were
3 tricked. Do you agree with that or not, Mr Witness?

4 THE WITNESS: No, I don't agree. Because they used to do
15:56:54 5 it with even G3, AK-47, they sent the soldiers to fire at us. I
6 want to know if they were removing --

7 MR De SILVA: My Lord, I put those questions because the
8 first accused - and I can get the exact reference in the course
9 of cross-examination - indicated that it was always shotguns that
15:57:19 10 were used for the purpose of demonstrating the effects of
11 immunisation.

12 PRESIDING JUDGE: You say that the first accused, in his
13 cross-examination --

14 MR De SILVA: Yes.

15:57:34 15 PRESIDING JUDGE: That's fine.

16 MR De SILVA: The exact page, date and line will be
17 supplied to the Court.

18 MR JABBI: My learned friend, that is a very crucial piece
19 of information. It would be good if counsel can, in fact, verify
15:58:01 20 it so that it is immediately attached to the information in
21 question. It certainly would not be difficult for counsel to
22 trace it.

23 MR De SILVA: My learned friend, I know that, because I
24 wrote the question out for Mr Tavener to ask. I know the
15:58:26 25 question was asked and I know the answer that was given. Before
26 the end of today we will give you --

27 PRESIDING JUDGE: Before the end of your cross-examination.

28 MR De SILVA: Hopefully before the end of
29 cross-examination.

1 Q. Now, I just want to ask you this: you've told My Lord and
2 the jury that Chief Norman --

3 MR MARGAI: Observation, there is no jury here.

4 PRESIDING JUDGE: Indeed.

15:59:22 5 MR MARGAI: As my Lords please.

6 JUDGE THOMPSON: Common law tradition. The ghost haunts
7 us.

8 JUDGE ITOE: There is a jury.

9 MR MARGAI: As My Lord please.

15:59:37 10 PRESIDING JUDGE: Mr de Silva, please.

11 MR De SILVA:

12 Q. Is it right that Chief Norman used to go to Conakry from
13 time to time to see President Kabbah?

14 A. Yes, when he would come, that is what he would tell us, he
16:00:02 15 was coming from there.

16 [CDF15MAY06E - SV]

17 Q. And you've told us that messages were handed over --
18 perhaps you can confirm this. Were messages ever handed over to
19 the War Council by Chief Norman when he had returned from
16:00:30 20 Conakry?

21 A. He would give it to War Council and the whole chiefdom, not
22 just the War Council.

23 Q. And these would be messages in writing or verbal messages,
24 or both?

16:01:04 25 A. I used to see him saying it orally. I didn't know whether
26 he was taking it from a document.

27 Q. And you heard Chief Norman pass on these messages orally;
28 is that correct?

29 A. He will say these messages.

1 Q. You also overheard, I think -- I may be wrong, but did you
2 overhear any telephone conversations between President Kabbah and
3 Chief Norman?

4 MR JABBI: My Lords, this is not an objection.

16:02:03 5 JUDGE ITOE: The witness has said so, that the telephone
6 was hanging on the window of his room and that on one occasion
7 President Kabbah called and when he noticed that he went and
8 called Chief Norman but he did not remain on the scene.

9 MR De SILVA: I'm grateful.

16:02:23 10 MR JABBI: Mr Lords, the first accused is asking to be
11 excused.

12 PRESIDING JUDGE: Mr Norman, we will break now, so that's a
13 good signal that we should break. Thank you very much. So the
14 Court will recess.

16:02:58 15 [Break taken at 4.03 p.m.]

16 [Upon resuming at 4.35 p.m.]

17 MR De SILVA: My Lord, might I tender these cartridges as
18 exhibits.

19 PRESIDING JUDGE: I think if it is to be of any full use,
16:36:17 20 we've seen them, I mean for the trial per se. We've seen them,
21 if it's not an exhibit, then it has little value to the
22 demonstration you're attempting to make.

23 MR De SILVA: Then I shall put these in.

24 JUDGE ITOE: In that event it should be A and B.

16:36:41 25 MR De SILVA: A and B, My Lord. One full cartridge and one
26 cartridge with shot removed.

27 PRESIDING JUDGE: Dr Jabbi?

28 MR JABBI: We have no objection, My Lord.

29 MR BOCKARIE: No objection.

1 PRESIDING JUDGE: Third accused, Mr Margai.

2 MR MARGAI: No objection, only the condition under which
3 that particular one is kept, the one with the --

4 PRESIDING JUDGE: With the shotguns in it.

16:37:09 5 MR MARGAI: Yes, that's my only concern.

6 JUDGE ITOE: It's potentially dangerous. In fact, if you
7 use any hard metal and you knock one end it goes.

8 MR MARGAI: That's my only concern. I have no objection.

9 JUDGE THOMPSON: [Microphone not activated]

16:37:30 10 JUDGE ITOE: Mr Margai, you will be very far from the
11 scene. I think it's Court Management that will be caught in the
12 conflagration.

13 MR MARGAI: Well, we are all working here together. I
14 think we should be concerned for one another.

16:37:41 15 PRESIDING JUDGE: Your concerns are noted, indeed.

16 MR JABBI: My Lords, may we know which of them is A or B.

17 PRESIDING JUDGE: Yes, if you please give us the time,
18 we're going to do that.

19 The full cartridge will be marked as 154A which was the
16:37:56 20 first one shown around and 154B will be the one with no shotguns
21 in it.

22 [Exhibit No. 154A was admitted]

23 [Exhibit No. 154B was admitted]

24 MR De SILVA: No shot in it, My Lord, I think.

16:38:10 25 PRESIDING JUDGE: No shot. Mr Court Officer, ensure that
26 the one that is fully loaded is kept in an appropriate place for
27 safeguarding.

28 MR WALKER: We will, Your Honour.

29 MR De SILVA: My Lord, the reasons why I was asking about

1 shotgun cartridges, as I indicated to Your Lordships before Your
2 Lordships retired, was because of the evidence of Chief Norman on
3 7th February 2006, page 69. There are copies for Your Lordships
4 because I need to --

16:39:03 5 PRESIDING JUDGE: Could you give me the page and the date
6 again, please.

7 MR De SILVA: Yes, 7th February 2006, page 69, lines 1 to
8 13, as Your Lordships can see there, Chief Norman is dealing with
9 the testing to which he himself was subject, so it was part of
16:39:26 10 the testing after the immunisation. "Witness: Part of the group
11 that was tested after being immunised." Then the learned
12 Presiding Judge: "And in the group you're being shot at, fired
13 at." "Witness: Shots were fired at us. None of us was hit by
14 the missiles." "Mr Tavener: Were you fired at by a shotgun."
16:39:49 15 "Shotgun, yes, you're right." Then the question was: "Had the
16 cartridges been tampered with," and so on.

17 My Lord, that was the object of these questions, because
18 that, as I indicated, was the evidence given that the
19 immunisation in Chief Norman's case was performed with a shotgun,
16:40:10 20 the testing was done with a shotgun.

21 PRESIDING JUDGE: Thank you, Mr Prosecutor.

22 MR De SILVA:

23 Q. Now, because you gave us evidence, Mr Witness, about
24 hearing Chief Norman bring back messages from President Kabbah
16:40:46 25 can you please confirm in this case the following evidence.
26 My Lord, it is 6th February 2006, given by Chief Norman, page 26,
27 line 26. I'm going to read you the whole question.

28 "Q. Did President Kabbah ever give you any military
29 directions? That is, any orders about how the war should

1 be conducted?

2 "A. The President Kabbah did not give me orders how to
3 conduct a war."

4 Now, the reason I'm asking you this question: Can you
16:41:39 5 confirm, Mr Witness, that you never heard Chief Norman ever say
6 that he had received military instructions from President Kabbah?
7 Can you confirm that the evidence of Chief Norman is correct?

8 A. I don't have any idea about this thing you're talking
9 about.

16:42:18 10 Q. Finally, Mr Witness, I want to put to you that as the
11 deputy head of the -- deputy commander of the Death Squad,
12 Witness TF2-008 on 16th November 2004, pages 60 to 61, gave
13 evidence that the Death Squad was answerable to Hinga Norman and
14 Allieu Kondewa. What do you say about that?

16:43:20 15 A. That is a black lie.

16 Q. TF2-068 on 17th November 2004, pages 90 to 91, "the Death
17 Squad was under the control of Hinga Norman, Fofana and Kondewa".
18 Do you disagree with that?

19 A. That's another black lie.

16:43:59 20 Q. Bob Tucker on 10th February '05, page 34, he said he was
21 only finally answerable to Hinga Norman?

22 JUDGE ITOE: Tucker on what date?

23 MR De SILVA: My Lord, 10th February '05, page 34.

24 Q. He was answerable to Hinga Norman. Disagree with that?

16:44:34 25 A. That's also another black lie.

26 Q. On the same day 10th February 2005, page 75, Tucker told
27 the Court that he received commands directly from Hinga Norman.

28 A. That's also a lie.

29 Q. Right. TF2-014 on 10th March 2005 at page 38, told the

1 Court that the Death Squad was notorious for killing and
2 torturing people. What do you have to say about that?

3 A. It's a lie. We were just there to protect people and their
4 property.

16:45:47 5 Q. TF2-079 on 26th May 2005, page 48, complaints were made to
6 Norman, Fofana and Kondewa that members of the Death Squad were
7 killing civilians and looting their property. Again, something
8 that is completely new to you, is it?

9 A. I don't know about that. It did not happen.

16:46:24 10 Q. So far as you are concerned - I just want to understand -
11 are you saying that the Death Squad committed no atrocities?

12 A. At all. They never did anything wrong. We never did
13 anything wrong. We only did good for this country.

14 Q. Never did anything wrong. Is that your final answer that
16:47:09 15 you want My Lords to remember, that the Death Squad did nothing
16 wrong? Is that it?

17 A. Death Squad, we never did any wrong. We only did good for
18 this country. We never did anything wrong.

19 Q. Is that the answer by which you would like the truth of
16:47:47 20 your evidence to be judged?

21 A. Yes.

22 MR De SILVA: Thank you. My Lord, that's all I have.

23 PRESIDING JUDGE: Thank you, Mr De Silva. Dr Jabbi, any
24 re-examination?

16:48:22 25 MR JABBI: Yes, My Lord. My Lord, just before I start, I
26 wish to make a statement about one of our witnesses. I have just
27 been informed that yet another witness, who is number 17 on the
28 list, witness number 17, Fallah Bindi -- you want the listed
29 number?

1 PRESIDING JUDGE: Seventeen, yes.

2 MR JABBI: Yes, My Lord, is bereaved and he would want to
3 go there. I have not spoken to him, of course, but it may well
4 be that he would want to go almost right away. I didn't want to
16:49:15 5 wait until tomorrow morning to check this with him before coming
6 back to the Court.

7 PRESIDING JUDGE: He was not, if I'm not mistaken,
8 Dr Jabbi, the witness to follow this witness. He's two or three
9 witnesses down.

16:49:32 10 MR JABBI: Yes, but it may well be that by the time he's
11 coming his time may be due and we want the Court to be aware of
12 that beforehand.

13 PRESIDING JUDGE: We'll try to show as much understanding
14 as possible. Obviously in those circumstances we will certainly
16:49:49 15 not object that he attends. I would hope that the other parties
16 will accept that you follow with the witness next listed, should
17 the need arise.

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

16:50:09 20 PRESIDING JUDGE: If Fallah Bindi is not available at that
21 time you would follow with Chief Lahai Koroma. That's the next
22 one. That's the one you have listed as number 16.

23 MR JABBI: Yes, My Lord.

24 PRESIDING JUDGE: Just make sure, Dr Jabbi, that that
16:50:24 25 witness, Chief Lahai Koroma, is indeed available should the need
26 arise because your number 17 might not be available at that time.

27 MR JABBI: Yes, My Lord. Thank you very much, My Lord.

28 PRESIDING JUDGE: Is number 17, Fallah Bindi, a standby
29 witness at this time?

1 MR JABBI: Not yet, My Lord. It's quite possible he'll be
2 back before then, but we just wanted to --

3 PRESIDING JUDGE: That's fine. I thank you for informing
4 the Court. So we hope with this information at this time we will
16:51:01 5 avoid any unnecessary delay and we can proceed. Thank you. Your
6 re-examination.

7 MR JABBI: Yes, indeed, My Lord. My Lord, may I be given
8 Exhibit 154A and B, the shotgun cartridges. I am not a Kamajor
9 and I'm also not very good with cartridges. Also, Exhibit 153,
16:51:49 10 please. If 153 can meanwhile be given to the witness.

11 RE-EXAMINED BY MR JABBI:

12 Q. Now, Mr Witness, can you have another look at Exhibit 153?

13 A. I have looked at it.

14 Q. Do you see a date on that exhibit?

16:52:52 15 A. There is no date on it.

16 Q. Look at the salutation reading "Dear Chief".

17 A. I've seen it as well.

18 Q. Do you know any people who were called chief in Talia?

19 A. Many.

16:54:03 20 Q. Can you give a few examples, please?

21 A. Yes. Even the War Council --

22 Q. Talk slowly, please.

23 JUDGE ITOE: We have had an enumeration of those chiefs.

24 MR JABBI: My Lord, just --

16:54:19 25 JUDGE ITOE: The previous evidence -- no, we had those
26 chiefs who were members of the War Council. There were other
27 chiefs and so on and so forth. The point is taken. You want to
28 show that it was not addressed to a particular -- or the chief to
29 whom it is addressed is not identified. Is that not the point

1 you're making? Is that not the point you want to make?

2 MR JABBI: Yes.

3 JUDGE ITOE: Yes, it is, indeed. As counsel I would do the
4 same thing and I did the same thing when I was one.

16:54:48 5 MR JABBI: My Lord, I just want him to give one or two
6 examples, not a very long list.

7 JUDGE THOMPSON: Let me ask one question: Do you accept
8 the witness's evidence that this document tells a lie about
9 itself as a forgery?

16:55:03 10 MR JABBI: Whether I accept it, My Lord?

11 JUDGE THOMPSON: Yes, remember under cross-examination he
12 said it's a forgery.

13 MR JABBI: That is what he has said in evidence.

14 JUDGE THOMPSON: But what's your theory? You're
16:55:16 15 re-examining. It's your witness. If you want him to go into the
16 accuracy of the portrayal of the matters contained therein, you
17 cannot, in my own estimation, approbate and reprobate at the same
18 time. Having said that, I'll restrain myself.

19 MR JABBI: As Your Lordship pleases.

16:55:43 20 Q. Now, Mr Witness, generally in Talia, do you know --

21 A. There are chiefs there.

22 Q. Do you know the people who were --

23 MR De SILVA: My Lord, I really must object. The case, as
24 put by the witness, is this document is a forgery. My learned
16:56:03 25 friend is trying to extract some benefit from this forgery and I
26 find it hard to see on a legal basis he can do so. Either legal
27 or logical.

28 JUDGE THOMPSON: I was merely thinking aloud.

29 MR De SILVA: I must have heard Your Lordship.

1 MR JABBI: No doubt the Prosecution accepts the witness's
2 evidence that it is a forgery. My Lord, the question I am asking
3 is of a general nature.

4 JUDGE ITOE: What is the serious response to this; the
16:56:40 5 Prosecution accepts that document Exhibit 153 as a forgery?

6 MR De SILVA: The Prosecution, of course, don't accept it's
7 a forgery, but the witness says it's a forgery, so my learned
8 friend, I'm afraid, is confronted by the evidence of his own
9 witness and therefore he cannot try to extract material from that
16:56:59 10 which the witness himself says is a forgery.

11 MR JABBI:
12 Q. Now, Mr Witness, generally speaking, do you know any
13 persons in Talia who were called Chief?

14 A. Yes.

16:57:26 15 MR De SILVA: My Lord, again I object. What is the
16 relevance in re-examination?

17 JUDGE ITOE: I have stated the relevance as far as his case
18 is concerned.

19 PRESIDING JUDGE: Your objection is noted but overruled.
16:57:42 20 Proceed, please.

21 JUDGE ITOE: If Dr Jabbi wants me to give him a catalogue
22 of them, I could, but go ahead with your witness. I have them --

23 MR JABBI: My Lord, I just want a few --

24 JUDGE ITOE: Those chiefs who have been called, I know
16:57:56 25 them.

26 PRESIDING JUDGE: Dr Jabbi, please don't abuse the patience
27 of the Court. We know there are many chiefs. You have asked a
28 question. Please proceed.

29 MR JABBI: Just a few examples, for example, My Lord.

1 Q. Can you give the Court a few examples?
2 A. Chief Charles Caulker, Chief Tucker, Chief Quee.
3 Q. Go slowly.
4 A. Chief Charles Caulker, Chief Tucker, Chief JD Murana, Chief
16:58:37 5 Tucker.
6 Q. You have named Chief Tucker?
7 JUDGE ITOE: No, Caulker. He said Caulker.
8 THE WITNESS: Quee, Tucker, JD Murana.
9 MR JABBI:
16:58:53 10 Q. Thank you. Now, Mr Witness, in answer to a question during
11 the cross-examination concerning orders that you were given by
12 Bob Tucker, you said you would carry out the good ones but not
13 the bad ones. Do you remember that answer?
14 A. Yes, I said that.
16:59:36 15 Q. Do you in fact have any examples of bad orders given to you
16 by Bob Tucker which you did not carry out?
17 A. Yes. I can give many examples.
18 Q. Yes, can you give a few, please?
19 A. When NGOs used to come -- when the NGOs used to come with
17:00:11 20 items for supply to our people, he told me that when they bring
21 the other time I should have flogged them and we utilise it. And
22 the other we'll sell it for money. When I refuse doing so, he
23 sent boys from his place, Cockerill, to me at Sumbuya Junction so
24 they would arrest me and take me to him.
17:01:18 25 Q. What place is Cockerill?
26 A. Tisana.
27 Q. Yes?
28 A. But I didn't accept because I knew our people did not sent
29 us there to do bad things. We had gone there to do good things.

1 The other one, market women brought a vehicle full of oil.

2 PRESIDING JUDGE: Who did bring a vehicle?

3 THE WITNESS: Market women.

4 PRESIDING JUDGE: Thank you.

17:02:11 5 THE WITNESS: He told me -- he told us to offload the
6 vehicle. So if someone didn't give 25,000 for a drum of oil,
7 that person should forfeit the oil. That also I did not do.

8 MR JABBI:

9 Q. Just one more please, if any?

17:03:06 10 A. He also said that we should go to Sumbuya, we should go and
11 to ask the business people to give us money or food. I also said
12 I would not tarnish my character for that. I told my boys not to
13 do it.

14 Q. Okay. Thank you very much. Now just for clarification,
17:03:35 15 Mr Witness, how far is Tisana from Sumbuya Junction, where the
16 Death Squad was based?

17 A. About a mile and a half or, I should say, two miles.

18 Q. Thank you. Now, Mr Witness, I want you to have yet another
19 look at these favourite exhibits, the shotgun cartridges. The
17:04:32 20 full one is A and the other is B.

21 A. I have looked at it.

22 Q. Now, were cartridges of that nature used in testing
23 Kamajors after initiation?

24 A. They were not using this type.

17:05:22 25 Q. Which one was not being used?

26 A. This one you called B, this empty one, the empty shell was
27 not used. They would use this and show it to everybody. They
28 would give it to a civilian and the civilian would load the gun
29 and they would fire it. Or the soldiers, or they would ask the

1 soldier to fire it.

2 PRESIDING JUDGE: So, for the records, so it is clear, when
3 the witness says they would use this one and he was showing
4 something in his hand, he had in his hand the full one, 154A.

17:06:00 5 MR JABBI: 154A, that is what he says they would use. And
6 154B is the one that he says was not used.

7 PRESIDING JUDGE: Okay.

8 MR JABBI: Thank you, My Lord.

9 Q. Now, apart from shotguns were any other weapons used to
17:06:30 10 test Kamajors after initiation?

11 A. Yes, they were using other guns, like AK-47, AK-58, G3 and
12 others.

13 Q. Finally, Mr Witness, if a Kamajor after initiation who was
14 to be tested was in fact suspended in the ceiling there above us,
17:07:23 15 and Exhibit 154A, the shotgun cartridge that is the full one, was
16 used to test that Kamajor after initiation hanging in the ceiling
17 and it was shot at him, would there be a hole in that ceiling?

18 A. Kamajors were not suspended. Or if he were suspended, no,
19 it would not even harm him. There would be no holes.

17:08:12 20 MR JABBI: Thank you very much. That's all for the
21 witness, My Lord.

22 PRESIDING JUDGE: Thank you, Mr Witness. That completes
23 your evidence in this Court.

24 THE WITNESS: Okay.

17:08:22 25 PRESIDING JUDGE: So you may proceed back to your home
26 place. Thank you for coming here.

27 THE WITNESS: Okay.

28 PRESIDING JUDGE: So your next witness now, Mr Counsel, is
29 witness 11 on your list?

1 MR SESAY: Yes, My Lord, he's 11.
2 PRESIDING JUDGE: It's BJK Sei.
3 MR SESAY: He's the 17th witness, My Lord.
4 PRESIDING JUDGE: Your 17th witness in total.
17:09:09 5 MR SESAY: Yes, My Lord.
6 PRESIDING JUDGE: So you're ready to proceed with him now?
7 MR SESAY: Yes, My Lord.
8 PRESIDING JUDGE: And what's the language the witness will
9 use in his evidence?
17:09:18 10 MR SESAY: Mende, My Lord.
11 PRESIDING JUDGE: Mende?
12 MR SESAY: Yes, My Lord.
13 JUDGE ITOE: And this will be your 16th witness?
14 PRESIDING JUDGE: 17th.
17:10:08 15 MR SESAY: 17th.
16 JUDGE ITOE: 17th, okay.
17 PRESIDING JUDGE: Mr Court Officer, please proceed to take
18 the oath of this witness.
19 WITNESS: BJK SEI [Sworn]
17:12:29 20 [The witness answered through interpreter]
21 PRESIDING JUDGE: Mr Sesay, I know you've just looked at
22 the clock. We intend to adjourn at 5.30. So you have 20
23 minutes.
24 MR SESAY: My Lord, I was just looking to know whether I
17:12:46 25 should say good evening or good afternoon, Mr Witness.
26 EXAMINED BY MR SESAY:
27 Q. Good evening, Mr Witness.
28 A. Yes.
29 Q. Now you may proceed to state your full names to the Court?

1 A. My name is BJK Sei.
2 Q. What is the B, J and K? Can you state the meaning of BJK?
3 A. Brima John Kineh Sei.
4 Q. And where do you live?
17:13:41 5 A. Panguma, Lower Bambara Chiefdom.
6 Q. Your occupation, please?
7 A. I do farming.
8 Q. How old are you, Mr Witness?
9 A. I am 60 years old.
17:14:25 10 Q. Now, you're married?
11 A. Yes.
12 PRESIDING JUDGE: I'm sorry, how old did the witness say he
13 was?
14 MR SESAY: Sixty, My Lord.
17:14:41 15 PRESIDING JUDGE: Sixty.
16 MR SESAY: Yes, My Lord.
17 PRESIDING JUDGE: In the document that you have provided
18 his date of birth is 1942. That's why I'm just asking.
19 MR SESAY: As My Lord pleases. Much obliged.
17:15:03 20 Q. You said you're married?
21 A. Yes.
22 Q. A wife or wives?
23 A. I have three wives.
24 Q. How many children?
17:15:34 25 A. Fourteen children.
26 Q. Are you a Kamajor?
27 A. Previously, yes.
28 Q. When did you become a Kamajor?
29 A. It was in 1996.

1 JUDGE ITOE: When he says, "Previously, yes," what does
2 that mean? I'm a Kamajor previously, yes. Is he no longer a
3 Kamajor?

4 THE WITNESS: Yes, we have been disarmed. We are no longer
17:16:16 5 Kamajors.

6 MR SESAY:

7 Q. You said you became a Kamajor in 1996. Where was that?

8 A. I was at Tongo Field, Lower Bambara Chiefdom.

9 Q. What's your status? What was your status as a Kamajor?

17:17:10 10 A. I became the chiefdom commander, Kamajor commander.

11 Q. Who appointed you or made you a chiefdom Kamajor commander?

12 A. My chiefdom people.

13 Q. You've just told the Court that you were based in Tongo
14 Field; not so?

17:17:54 15 A. Yes.

16 Q. In 1996, do you know who was in occupation of Tongo Field?

17 A. Yes, the soldiers were based there together with us.

18 Q. Can you state the relationship at that time between the
19 soldiers and the Kamajors? Briefly, please.

17:18:41 20 A. Yes. May I proceed?

21 Q. Yes, you can proceed.

22 A. At the time the soldiers were based in Tongo --

23 PRESIDING JUDGE: Yes, please.

24 THE WITNESS: -- we were together, we had peace amongst us.
17:19:17 25 We liked each other.

26 MR SESAY:

27 Q. Yes?

28 A. Whilst that unity was on between us, the friendship was
29 one -- was on when we were initiated into the Kamajor society.

1 Q. What happened after that?

2 A. We combined and went, and we dislodged rebel bases at
3 Nyandehun, Peyama, Gandorhun, Laoma, Wima, Number 9 and Jakundoma
4 [phon].

17:20:35 5 JUDGE ITOE: Let him start his enumeration,

6 MR SESAY:

7 Q. Can you go slowly, Mr Witness? Can you state the areas in
8 which you said the rebel bases were destroyed by the Kamajors and
9 the soldiers? Can you repeat those areas, please, for the Court?

17:20:55 10 And slowly, please.

11 A. Okay.

12 Q. Can you state them?

13 A. Nyandehun, rebels were based there.

14 Q. Yes, the next?

17:21:13 15 A. Number 9, rebels were based there.

16 Q. Yes, the next?

17 A. Peyama, rebels were based there.

18 Q. Yes?

19 A. Gandorhun, rebels were based there.

17:21:42 20 Q. Yes?

21 A. Laoma, rebels were based there.

22 Q. And where else?

23 A. And Jakundoma.

24 Q. Now, after you said you'd destroyed the rebel bases in all
17:22:08 25 those areas together with the soldiers, the Kamajors and the
26 soldiers. Now did that relationship continue between yourself
27 and the soldiers, the Kamajors and the soldiers?

28 A. It came to a time when we had a quarrel with them.

29 Q. What was the reason for that quarrel between yourself and

1 the soldiers?

2 A. They said we were government -- they were government
3 soldiers and that now the government don't know them. The
4 government only knew the Kamajors, the government only respected
17:23:02 5 the Kamajors.

6 Q. Slowly, please.

7 A. That was where the quarrel started.

8 Q. Now, was that problem resolved?

9 A. Yes, it was resolved and we started working once again very
17:23:35 10 well.

11 Q. What happened after that?

12 A. It came to a time when we heard that the soldiers had
13 overthrown Mr Tejan Kabbah's government.

14 Q. Would I be right, Mr Witness, if I say it was in May 1997?

17:24:16 15 A. Yes, that was what happened.

16 Q. Yes.

17 A. Then we also heard that the soldiers and the rebels had
18 come together.

19 Q. What were they doing with this merger between the soldiers
17:24:50 20 and the rebels after the coup in Tongo?

21 A. We, the Kamajors, were driven away from there and we ran
22 away into the bush. We left them there.

23 Q. Hold it there for now. The next question for you is a
24 specific question for you. You said the Kamajors ran into the
17:25:35 25 bush. Where did you go as chiefdom commander?

26 A. I said we ran into the bush. We, the Kamajors, all of us.
27 Even myself, I ran into the bush.

28 Q. The bush you say that you ran into, was it in any village
29 whatsoever or any town?

1 A. When we would go, we would not base in a town, but the bush
2 was nearer the town. We would hide in it.

3 PRESIDING JUDGE: I have a problem. I don't have any of
4 that translation any more.

17:26:40 5 MR SESAY: Yes, My Lord, I'm having the same problem.

6 PRESIDING JUDGE: Yes, let's try it again, please.

7 MR SESAY: Yes.

8 Q. You said you ran into the bush within a particular town;
9 not so?

17:27:07 10 A. Yes.

11 Q. For how long did you remain in the bush? You said you
12 yourself ran away into the bush.

13 A. We were there for up to nine months.

14 Q. What happened after that in relation to Tongo?

17:27:48 15 A. When we were in the bush, the rebels were burning the town.
16 They were burning houses, taking out property, killing people.

17 Q. Yes.

18 A. After that, they chased us in the bush.

19 Q. Who chased you into the bush?

17:28:29 20 A. The rebels followed us in the bush.

21 Q. What happened?

22 A. Wherever we would go and we rent a hut, they would meet us
23 there and drive us, take our property. If they meet anyone, they
24 would kill that person and they would burn the house.

17:29:15 25 Q. Now, having gone through all what you have just narrated
26 that you said the rebels inflicted on you, what did you decide to
27 do?

28 A. We the Kamajors were in the bush. We met and said we
29 should fight against these rebels at Tongo so that we would

1 protect our lives.

2 Q. Did you in fact agree to attack Tongo?

3 A. Yes.

4 Q. And how did you plan that?

17:30:33 5 A. When we planned -- when we said we should attack Tongo,
6 before we went to Tongo we sent a message to the civilians so
7 that they would leave the town.

8 Q. By what means did you send messages to the civilians to
9 move out of Tongo, can you explain to the Court, briefly, please?

17:31:21 10 A. We had people we used to call spies.

11 Q. And who were these people?

12 A. They would go and spy on the rebels to see their locations,
13 whatever they would tell the [indiscernible], they would write a
14 letter, they would drop the letter there, their bases, and they

17:32:08 15 would come back. They were also Kamajors.

16 Q. Now, what was the purpose of sending these messages to the
17 civilians? Can you be explicit, please?

18 A. We took up arms to fight for them, so for them not to be
19 killed. So that's why we sent those messages.

17:32:48 20 Q. Now, how many attacks were there in all on Tongo?

21 A. Twice, and on the third occasion we captured the place.

22 PRESIDING JUDGE: Would that be an appropriate time to
23 stop, Mr Sesay?

24 MR SESAY: As My Lord pleases.

17:33:28 25 PRESIDING JUDGE: Thank you. So the Court will adjourn its
26 proceedings to tomorrow morning at 9.30. Thank you very much.

27 [Whereupon the hearing adjourned at 5.34 p.m.,
28 to be reconvened on Tuesday, the 16th day of
29 May, 2006, at 9.30 a.m.]

EXHIBITS:

Exhibit No. 153	55
Exhibit No. 154A	67
Exhibit No. 154B	67

WITNESSES FOR THE DEFENCE:

WITNESS: HAROUN ARUNA COLLIER	2
EXAMINED BY MR JABBI	3
CROSS-EXAMINED BY MR WILLIAMS	10
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