

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL-04-14-T
TRIAL CHAMBER I

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

3 JUNE 2004
1001H
COMMENCEMENT OF TRIAL

Before the Judges:

Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For the Registry:

Mr. Robin Vincent
Mr. Geoff Walker

For the Prosecution:

Mr. David Crane
Mr. Luc Côte
Mr. Charles Caruso
Mr. Robert Petit
Mr. Joseph Kamara

For the Accused Samuel Hinga Norman:

Mr. James Blyden Jenkins-Johnston
Mr. Sulaiman Banja Tejan-Sie
Ms. Adejatu Tejan

For the Accused Moinina Fofana:

Mr. Michiel Pestman
Mr. Arrow Bockarie
Mr. Michael Uiterwaal

For the Accused Allieu Kondewa:

Mr. Charles Margai
Ms. Susan Wright
Mr. Thomas Briody
Mr. Yada Williams

Court Reporters:

Ms. Gifty C. Harding
Ms. Susan Humphries
Mr. Momodou Jallow

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Defence Exhibit 136

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MR. WALKER:

All persons having anything to do before the Special Court, draw near and give your attendance.

This is the Trial Chamber of the Special Court of Sierra Leone, held in Freetown in courthouse No. 1 on Thursday 3rd of June 2004. Case No. SCSL-2004-14, The Prosecutor vs. Sam Hinga Norman, Moinina Fofana and Allieu Kondewa, is listed for trial. Case No. SCSL-2004-15, The Prosecutor vs. Issa Hassan Sesay, Morris Kallon and Augustine Gbao is listed as a mention.

MR. PRESIDENT:

Proceed to taking the oath of the interpreters.

MR. WALKER:

Will the interpreters please take the oath?

(Interpreters sworn)

MR. WALKER:

Thank you very much.

MR. PRESIDENT:

Appearances please, we'll start with the CDF. May we have the appearances for the CDF trial? When I say appearances, I mean for the Prosecution first and then for the Defence. That has always been our order. I hope it is understood.

MR. CRANE:

Your Honours, for the Prosecution, David Crane, the Prosecutor, Mr. Luc Côte, Mr. Jim Johnson and Mr. Joseph Kamara.

MR. PRESIDENT:

Thank you. For the Defence?

MR. JENKINS-JOHNSTON:

My Lords, for Sam Hinga Norman, James Blyden Jenkins-Johnston, Sulaiman Banja Tejan-Sie, and Adejatu Tejan.

MR. PRESIDENT:

For Mr. Moinina Fofana?

MR. PESTMAN:

For Mr. Fofana, Arrow J. Bockarie, Michael Uiterwaal and Michel Pestman.

MR. PRESIDENT:

For Mr. Allieu Kondewa.

MR. MARGAI:

May it please you, My Lords, Charles Margai, Susan Wright, Yada Williams, Thomas Briody and Ansu Lansana.

1 MR. PRESIDENT:

2 Thank you.

3

4 For the RUF, may we have the appearances, please. The Prosecution?

5 MR. CRANE:

6 Again, Your Honour, for the Prosecution, David Crane, the Prosecutor, Mr. Luc Côte, Mr. Robert Petit,
7 Mr. Joseph Kamara.

8 MR. PRESIDENT:

9 The Defence for Mr. Issa Hassan Sesay?

10 MR. KAMARA:

11 Your Honours, for Issa Hassan Sesay, A.F. Serry-Kamal for today.

12 MR. PRESIDENT:

13 For Mr. Morris Kallon?

14 MR. MELRON-WILSON:

15 Your Honours, Shekou Toure, Raymond Brown and Melron Wilson.

16 MR. PRESIDENT:

17 And for Mr. Augustine Gbao?

18 MS. THOMPSON:

19 Your Honour, Glenna Thompson for Augustine Gbao.

20 MR. PRESIDENT:

21 Mr. Registrar, you have the floor for any remarks you want to make.

22

23 We understand that there is a sound system, you know, in the gallery and we want to check on that
24 technical defect. And to do this -- to do this we'll have to rise for a brief while to enable the
25 technicians to do the job. The Court will rise.

26 *(Court recessed from 1009H to 1032H)*

27 MR. PRESIDENT:

28 The session resumes. Mr. Registrar of the Special Court, you have the floor.

29 MR. VINCENT:

30 Your honour, I'm grateful. I thank you for your patience and also for everyone in the court, both inside
31 and outside, the strength of your patience. Then without further ado, Your Honour, Presiding Judge,
32 may I ask you to make your opening statement.

33 MR. PRESIDENT:

34 Thank you.

35

36 My Lord, justices and colleagues, learned counsel for the Prosecution and for the Defence, our
37 distinguished invitees, ladies and gentlemen. Today is a very memorable day in the history of this

1 country and the people of Sierra Leone as it marks the commencement of trials of some of those who
2 are alleged to bear the greatest responsibility for serious violations of international humanitarian law
3 and Sierra Leonean law, committed in the territory of Sierra Leone since the 30th of November 1996,
4 including those who in allegedly committing such crimes, threatened the establishment and the
5 implementation of the peace process in Sierra Leone.

6
7 It was for the purposes of bringing justice -- before justice and putting an end to impunity perpetrated
8 by this category of offenders that the Special Court, whose Trial Chamber is sitting today for the first
9 time to commence its trials was, pursuant to the Security Council Regulation No. 1315, 2000 of the
10 14th of August 2000, established by an agreement of the 16th of January 2002 between the United
11 Nations organisation, represented by His Excellency the Secretary General, Mr. Kofi Annan and the
12 Government of Sierra Leone.

13
14 The then crucial and important exercise of real trials we are embarking upon today is indeed a
15 landmark event and a novelty in the history of international criminal justice in Sierra Leone after
16 Rwanda in Africa, and it has been preceded by lengthy investigations and pre-trial procedures which
17 at that level have raised a presumption that those we are about to start trying today may have
18 committed the offences for which they are individually or collectively indicted.

19
20 Let me say here that we, as a Court, indeed as a Trial Chamber, are not bound by the findings or
21 conclusions of these investigations or the contents of the indictments, which so far are merely based
22 on allegations, and that our decisions will be based on the best oral, documentary and other evidence
23 that is advanced by the parties before us in the course of the proceedings.

24
25 The start today of the trials, I would like to recall, underscores the determination and strong resolve of
26 the international community to bring alleged perpetrators of serious violations of international
27 humanitarian law before justice so that those found guilty are convicted, whilst those adjudged not
28 guilty will be acquitted.

29
30 In fact, the mission of this Court and the process we are about to embark upon today is to contribute
31 to the peace and reconciliation process within Sierra Leone. And in the wording of the Security
32 Council Resolution No. 1315 of the 14th of August 2000, and I quote: "In particular circumstances of
33 Sierra Leone, a credible system of justice and accountability for the very serious crimes committed
34 there would end impunity and would contribute to the process of national reconciliation and to
35 restoration and maintenance of peace."

36
37 In affirming, therefore, our determination pursuant to our mandate to apply the provisions of the

1 Agreement and the Statute, which is an integral part of the said Agreement, we as a Chamber, would
2 like to reiterate our total commitment to the doctrine of presumption of innocence of all the indictees
3 as enshrined in Article 17 (iii) of the Statute until they are proved guilty, according to the provisions of
4 the Statute and of established, accepted and acceptable principles of law.

5
6 The burden of establishing this guilt, as is universally recognised -- and I would like to add, beyond
7 reasonable doubt -- lies squarely on the shoulders of the Prosecution. In discharging this burden, we
8 would like to draw the attention of the Prosecution and of the Defence to the rights of the Accused
9 persons *inter alia* to a fair and expeditious trial, particularly within the context of the mandate of the
10 Court to which we are committed and are bound to respect to the very best of our ability.

11
12 In making this observation, we are appealing to and calling on all parties to avoid involvements in
13 digressions or delays that might prejudice the precious rights of the Accused person to a fair and
14 expeditious trial on the one hand, and to frustrate on the other hand the determination of the Special
15 Court to respect its mandate, for as it has and is often said, "justice delayed is indeed justice denied."

16
17 In discharging our duties we commit ourselves to ensuring that the trials will be fair and expeditious
18 and that the rights of all parties will be respected within the framework of the principle of equality of
19 arms of the Statute or of the Rule of Procedure and Evidence and to constantly ensure that the
20 integrity of the judicial process is guaranteed. And I would say here that no conduct that will bring the
21 administration of justice into disrepute will be tolerated.

22
23 We would like at this stage to pay homage to the United Nations and its distinguished Secretary
24 General, His Excellency Mr. Kofi Annan and the entire international community for the costly and
25 sustained efforts deployed towards restoring peace and security in zones of civil strife.

26
27 We, as the pioneer occupants and tenants, acknowledge this magnificent edifice in which we are
28 sitting today which is being realised through contributions by donor nations and the effort of the entire
29 international community. Because, as we do appreciate, the building itself in which we are is clearly
30 another imposing landmark in this beautiful and picturesque capital and stands out as an instrument
31 as well as the distinguished symbol of justice for the restoration and the perpetration of the rule of law
32 in Sierra Leone; for there can be no lasting peace without justice in any society.

33
34 We would like to assure the international community of our determination to achieve the objectives
35 assigned to us as a court, to contribute *inter alia*, to the process of national reconciliation, to the
36 restoration and maintenance of peace, and to the re-establishment of the rule of law which is capital
37 for the survival and development of all contemporary societies and which we are convinced is the

1 aspiration and expectation of all Sierra Leoneans who are still recovering from the bitter realities of
2 civil conflict.

3

4 Mr. Walker, can you please call the first case on the list.

5 MR. WALKER:

6 This is Case No. SCSL-2004-14, the Prosecutor vs. Sam Hinga Norman, Moinina Fofana and Allieu
7 Kondewa which is listed for trial.

8 MR. PRESIDENT:

9 Appearances as before, I suppose. We recognise the listing of this case and it will be stood down
10 later in the next couple of minutes. The matter is accordingly stood down and it will be called up very
11 shortly.

12

13 Can you call the second case, please.

14 MR. WALKER:

15 This is Case No. SCSL-2004-15, the Prosecutor vs. Issa Hassan Sesay, Morris Kallon and Augustine
16 Gbao, which is listed as a mention.

17 MR. PRESIDENT:

18 I suppose the appearances are as they were before. We also recognise the presence of counsel and
19 the Accused persons in this Court. And as we indicated in our order dated the 11th of May 2004, this
20 matter is adjourned to Monday the 5th of July 2004 at 10:00 a.m..

21

22 The Court will now rise. It will resume sitting in the next couple of minutes. The Court will rise,
23 please.

24 *(Court recessed from 1045 to 1050H)*

25 MR. PRESIDENT:

26 Mr. Walker, can you call -- can you please call the case that we stood down.

27 MR. WALKER:

28 This is Case No. SCSL-2004-14, the Prosecutor vs. Sam Hinga Norman, Moinina Fofana and Allieu
29 Kondewa, which is listed for trial.

30 MR. PRESIDENT:

31 We take the appearances as they were before and we have the pleasure of inviting the Prosecutor of
32 the Special Court, in the person of Mr. David Crane, to present his opening statement.

33 MR. CRANE:

34 By your leave, Your Honours, this opening will be given in two parts. I will give the first part --

35 MR. PRESIDENT:

36 We would like you to take cognisance of the fact that what you are saying is being translated and that,
37 you know, you have to go a bit slower than you ordinarily would.

1 MR. CRANE:

2 Most assuredly.

3 MR. PRESIDENT:

4 Right.

5 MR. CRANE:

6 I will give the first part, introducing the conflict, speak of the crimes alleged, the general allegations,
7 discuss the individual criminal responsibility of the Accused, review how we will prove the case in
8 general and speak of the breach of duty of the indictees to their own citizens.

9

10 In part two, Mr. Joseph Kamara --

11 MR. PRESIDENT:

12 Your microphone is not -- they are complaining, you know, that they are not listening to you. Your
13 microphone is not on, yes, please. And more audibly, please, so that it can be relayed out there.

14 MR. CRANE:

15 It's good I have this brief opening so we can adjust, Your Honour. In part two, Mr. Joseph Kamara will
16 focus more specifically on the crimes alleged in the joint indictment against the leadership of the CDF.

17

18 May it please this Chamber, Your Honours. On this solemn occasion mankind is once again
19 assembled before an international tribunal to begin the sober and steady climb upwards toward the
20 towering summit of justice. The path will be strewn with the bones of the dead, the mourns of the
21 mutilated, the cries of agony of the tortured echoing down into the valley of death below. Horrors
22 beyond the imagination will slide into this hallowed hall as this trek upward comes to a most certain
23 and just conclusion. The long dark shadows of war are retreated. Pain, agony, the destruction and
24 the uncertainty are fading; the light of truth, the fresh breeze of justice moves freely about this beaten
25 and broken land. The rule of law marches out of the camps of the downtrodden onward under the
26 banners of never again and no more.

27

28 A people have stood firm, shoulder to shoulder, stirring down the beast, the beast of impunity. The
29 jackals of death, destruction and inhumanity are caged behind bars of hope and reconciliation. The
30 light of this new day, today, and the many tomorrows ahead are a beginning of the end to the life of
31 that beast of impunity which howls in frustration and shrinks from the bright and shiny spectre of the
32 law.

33

34 The law has returned to Sierra Leone and it stands with all Sierra Leoneans against those who seek
35 their destruction. The ghosts of thousands of the murdered dead stand among us. They cry out for
36 fair and transparent trial to let the world know what took place here, here in Sierra Leone. The tears
37 of the maimed, the mutilated and the violated will dampen these walls. These victims, their families,

1 their towns, their districts, their country, ask all of us here for a just accounting for the agony of those
2 ten long years in the valley of death.

3
4 Mankind has stepped back from the brink of chaos several times in the past 59 years. In 1945,
5 civilisation gasped in horror at its capacity to cause suffering. Again, in the early 1990s, reacting to
6 the horrors of Rwanda and Yugoslavia, the world joined in a further step away from the abyss, and
7 now in West Africa, in Sierra Leone, another bold and noble step has been taken away from the grand
8 jaws of the beast.

9
10 The Special Court for Sierra Leone, a hybrid international war crimes tribunal gives a new century,
11 indeed a new millennia a chance to face down the beast of impunity. Inpude with this new spirit
12 against impunity as noted in the Rome Statute which created the International Criminal Court, that
13 during this past century millions of children and women and men have been victims of unimaginable
14 atrocities that deeply shocked the conscience of humanity, and determined to put an end to impunity
15 for the perpetrators of such crimes, the Special Court on behalf of the international community and the
16 people of Sierra Leone, is now ready to prosecute those who bear the greatest responsibility for war
17 crimes, crimes against humanity and other serious violations of international humanitarian law.

18
19 Sierra Leone, among all the nations of the world, has stood up and said, "There must be justice for the
20 victims of this decade-long brutal internal armed conflict, fuelled by the greed of a joint criminal
21 enterprise that spread across the region." That greed, that avarice set in motion events that pushed
22 an entire nation over the cliff into wanton and malicious destruction. These events resulted in such
23 crimes as murder, torture, enslavement, terror, looting and burning, inflicted on an overwhelmed and
24 battered, terrorised people.

25
26 Despite the obvious political dimensions of this conflict, these trials -- this trial is about crimes and
27 these individuals are indicted for those crimes, the most grievous acts that a person can be charged
28 with by mankind: war crimes and crimes against humanity.

29
30 The persons sitting in the dock before you, before this nation, before the world, Samuel Hinga
31 Norman, the National Co-ordinator of the Civil Defence Force (*CDF*), Moinina Fofana, the National
32 Director of War for the *CDF*, and Allieu Kondewa, the High Priest of the *CDF* -- the top leaders of the
33 *CDF* -- have been indicted for the following international crimes: Crimes against humanity, violations
34 of Article 3 common to the Geneva Conventions and of Additional Protocol II and other serious
35 violations of international humanitarian law in violations in Articles 2, 3 and 4 of this Court's Statute.

36
37 We allege in the joint indictment of Norman, Fofana and Kondewa, the following counts: Unlawful

1 killing, Count 1; murder, as a crime against humanity punishable under Article 2(a) of the Court's
2 Statute and/or in the alternative, Count 2, violations to life, health and physical or mental well-being, in
3 particular, murder, a violation of Article 3 common to the Geneva Conventions and of Additional
4 Protocol II punishable under Article 3(a) of the Statute; physical violence and mental suffering,
5 Count 3, inhumane acts, a crime against humanity punishable under 2(i) of the Statute and/or in the
6 alternative, Count 4, violence to life, health, and physical or mental well-being of persons, in particular,
7 cruel treatment, a violation of Article 3 common to the Geneva Conventions and of Additional
8 Protocol II, punishable under Article 3(a) of the Statute.

9
10 It must be noted for all here today that women and children, particularly, bore the brunt of this conflict,
11 and we will most assuredly show this fact day in and day out as we give evidence regarding the
12 criminal allegations in the joint indictment.

13
14 Next, looting and burning, Count 5, pillage, a violation of Article 3 common to the Geneva Conventions
15 and of Additional Protocol II, punishable under Article 3(f) of the Statute.

16
17 Next, terrorising the civilian population and collective punishments; Count 6, acts of terrorism, a
18 violation of Article 3 common to the Geneva Conventions and of Additional Protocol II, punishable
19 under Article 3(d) of the Statute; and Count 7, collective punishment, also a violation of Article 3
20 common to the Geneva Conventions and of Additional Protocol II, punishable under 3(b) of our
21 Statute; and use of child soldiers, Count 8, enlisting children under the age of 15 years into armed
22 forces or groups or using them to participate actively in hostilities, another serious violation of
23 international humanitarian law, punishable under Article 4(c) of the Statute.

24
25 Highlighting the general allegations in the indictment against the Accused Norman, Fofana and
26 Kondewa, that the Civil Defence Force (*CDF*) was an organised armed faction, that there was a nexus
27 between the armed conflict and in all the acts or omissions as violations of Article 3 common to the
28 Geneva conventions and of Additional Protocol II and of other serious violations of international
29 humanitarian law; that the CDF was an organised armed faction comprised of various tribally based,
30 traditional hunters. These Accused and those that served in the CDF were required to abide by
31 international humanitarian law and the law and customs governing the conduct of armed conflicts. All
32 of these alleged offences charged were committed within the territory of Sierra Leone on the -- or after
33 30 November 1996. All of these acts or omissions charged in the indictment as crimes against
34 humanity were committed as part of a widespread or systematic attack directed against the civilian of
35 Sierra Leone, and that the words "civilian" or "civilian population" used in this indictment refer to
36 persons who took no active part in the hostilities or were no longer taking an active part in the
37 hostilities among other general allegations in the indictment.

1 Each and every indictee is individually criminally responsible for the acts or omissions charged under
2 6.1 or 6.3 of the Statute; in other words, they are each personally liable for these horrific crimes as if
3 they committed each and every crime themselves.

4
5 Essentially, the Accused sitting here today, either planned, instigated, ordered, committed, or
6 otherwise aided, abetted in the planning, preparation or execution of the crimes laid out in the
7 indictment, and/or in the alternative they, in their superior capacities, knew or should have known that
8 subordinates were about to commit the acts charged or failed to take the reasonable measures to
9 prevent such acts or to punish those who did.

10
11 As declared at Nuremberg in 1945, crimes against international law are committed by men, not by
12 abstract entities, and only by punishing individuals who commit such crimes can the provisions of
13 international law be enforced.

14
15 In Principle 1 of the Principles of International Law, recognised in the Charter of the Nuremberg
16 Tribunal and in the judgment of the Tribunal, any person who commits an act which constitutes a
17 crime under international law is responsible therefore and liable to punishment. Individualised guilt
18 serves the important purpose of not only punishing those found guilty of the crimes charged but also
19 of preventing a collective guilt syndrome. By diminishing the tendency to ostracise a specific ethnic
20 group or national group and the need for revenge, it contributes to the process of national
21 reconciliation. Individual responsibility serves the very important purpose of avoiding a collective guilt
22 syndrome, avoiding laying guilt upon a whole people, ethnic group or national organisation because of
23 the misdeeds and manipulation of perpetrators associated with that particular group. Likewise,
24 members of such groups are not individually criminally liable for acts or omissions committed by other
25 members or of their leaders. These considerations certainly can help heal the wounds of war.

26
27 In general, as alleged in their joint indictment, Norman was in overall command of the CDF as national
28 co-ordinator. His job was to establish, organise, support and promote the CDF. He was also the
29 leader of the *Kamajors* and had *de jure* and *de facto* command and control over the activities and
30 operations of the *Kamajors*.

31
32 Fofana acted as a leader of the CDF in the absence of the Norman and was considered his second in
33 command. As national director of war, he had direct responsibility for implementing the policy and
34 strategy for prosecuting the war. Fofana also commanded a battalion of the *Kamajors*.

35
36 Kondewa was -- as the high priest, had supervision and control over all initiations within the CDF,
37 including the initiation of children. He had direct command authority over special mission units in the

1 CDF.

2
3 In the positions referred to above, Norman, Fofana and Kondewa, individually or in concert, exercised
4 authority, command and control over all subordinate members of the CDF. Their plan and purpose,
5 and that of their subordinates, was to defeat by any means necessary the Revolutionary United Front
6 (*RUF*) to include the complete elimination of the RUF and members of the Armed Forces
7 Revolutionary Council (*AFRC*), their supporters, sympathisers and anyone who did not actively resist
8 the RUF/AFRC occupation of Sierra Leone.

9
10 Each of these Accused acted individually and in concert with subordinates to carry out this plan,
11 purpose or design. For these acts or omissions, we allege that Norman, Fofana and Kondewa are
12 each individually criminally responsible, pursuant to Article 6(1) of the Statute for the crimes alleged in
13 the indictment, which crimes each of them planned, instigated, ordered, committed or in whose
14 planning, preparation or execution each Accused otherwise aided and abetted or which crimes were
15 within a common purpose plan or design in which each Accused participated or were reasonably
16 foreseeable consequences of the common purpose, plan or design in which each Accused
17 participated.

18
19 Additionally, or alternatively, pursuant to Article 6(3), the Accused Norman, Fofana and Kondewa,
20 while holding these positions of superior responsibility and exercising command and control over their
21 subordinates, are individually criminally responsible for the crimes referred to in the indictment.

22
23 Each of these Accused is responsible for the criminal acts of his subordinates in that he knew or had
24 reason to know that the subordinate was about to commit such acts or had done so and each
25 Accused failed to take the necessary and reasonable measures to prevent such acts or to punish the
26 perpetrators thereof.

27
28 Now, it must be noted at this juncture that this is the opening statements, and the facts asserted are
29 illustrative of criminality. Certainly at trial, these allegations of fact will be proven beyond a reasonable
30 doubt.

31
32 During the course of the trial we will focus on various and critical crime bases where alleged criminal
33 acts or omissions took place. These crime bases are in Koribundo, Kenema, Base Zero in Bonthe
34 district, Moyamba, Bo and Tongo. Throughout the trial we will bring in children who fought in the CDF
35 who recount story after story of alleged horrors they committed. Out of a lost generation on both
36 sides of this conflict, they will bravely come forward to tell the world the tragic tale of the child soldier
37 in Sierra Leone.

1 As stated, the crime bases centred in the southern and eastern regions of Sierra Leone mainly in the
2 districts of Bonthe, Pujehun, Moyamba, Kenema and Bo. The time frame is generally focused
3 between November 1997 to March of 1998. This time period will most certainly capture the *res*
4 *gestae* of the crimes alleged to be committed by the Accused. The crimes will be proven in large part
5 by the people of Sierra Leone, witnesses to events that will make men of civility and reason recoil.
6 They will come before you one by one, damaged, proud, some afraid yet still brave and determined
7 citizens who shouted in the valley of death, "never again, no more." These citizens will testify to such
8 acts or omissions by the Accused, Norman, Fofana and Kondewa, as those alleged crimes committed
9 against a citizen of Sierra Leone in the town of Bradford.

10
11 The witness alleges that the CDF moved into the town and began to loot rice supplies throughout the
12 day and returned a few days later to do more looting. The witness, his wife and daughter hid in a
13 banana plantation to avoid capture by members of the CDF. They did capture his wife and robbed
14 her of their life savings of Le 600,000.00. They then shot her and left her for dead. The witness
15 recalls her calling his name as she died. After the CDF left, he went to her side but she was gone,
16 their five year old daughter sitting by her mother's corpse.

17
18 Other citizens will testify and allege that in Tongo in 1997 and 1998 in a time called Cyborg -- a period
19 where the Revolutionary United Front called themselves Cyborg and opened this Cyborg pit, the RUF
20 forced people to mine for diamonds. The *Kamajors* and the CDF took the mine after the RUF pulled
21 out. Allegedly throughout the day *Kamajors* picked people at random and hacked them to death, a
22 standard CDF tactic.

23
24 The witness will further testify that he was in a captured group that the CDF took to a location near
25 Pandebu. Later, released, the witness and those Sierra Leoneans with them were told to follow the
26 main highway to Kenema; others who had been hiding in the bush joined the group along the way and
27 walked until they were stopped at the fateful bridge at Kamboma where other *Kamajors* arrested them
28 for allegedly being collaborators. The excuse of collaboration was used frequently to justify their
29 criminal acts.

30
31 There were around 65 human beings taken out behind the house, the witness will testify. They were
32 told that anyone who used the road they had travelled on were to be killed. Separated into groups of
33 three to four, they were shot. Their bodies were then rolled down a hill into a valley below. At first the
34 CDF used their weapons to execute them until they got to the last ten. When the CDF realised that
35 they needed the rounds for combat, they began to cut the heads of the remaining ten, one at a time.
36 The witness was cut in the neck from behind and rolled down the hill. He was the last victim of the
37 group and had watched as those in front of him die one at a time. They were damaged and broken

1 men. He will be here in this Chamber to tell his story.

2
3 With the CDF, the numbers of the victims are not on the scale of Rwanda but there were thousands.
4 Regardless, there can be no impunity even for the death of one person. The pain and suffering of the
5 victims of crimes spelled out in the indictment against Norman, Kondewa and Fofana, were agonising,
6 the crimes beyond imagination.

7
8 The essential aspects of this case against these indictees, Norman, Fofana and Kondewa, is about a
9 breach of duty perverted into a killing frenzy against innocent civilians, non-combatants, their own
10 fellow citizens, even their own tribesmen, the *Mende* people.

11
12 The organisation called the CDF, an armed faction set up to counter the internal threat of the RUF and
13 later the AFRC, led by Norman and assisted by Kondewa, Fofana and largely supported by the
14 hunting society called the *Kamajors* who filled the ranks of the CDF, had a duty to defend and protect
15 the people of Sierra Leone in the southern and eastern regions of the country in particular. This duty
16 was even more manifest by the fact that the indictee Norman was a regent chief of Koribundo, a
17 location we will mention in a few moments as a crime scene. Norman, Kondewa and Fofana tragically
18 failed in that duty by being unable to push the other organised armed factions out, and in their
19 frustration turned on their own people, their fellow citizens and the *Mende* people whom they declared
20 to be collaborators of the RUF or AFRC in such districts and places as Bonthe, Pujehun, Bo, Kenema,
21 Moyamba, the killing field of Tongo, and the black hole of Base Zero.

22
23 The issues before you are not -- cannot be political. We have not charged political crimes. The court
24 of law -- this Chamber must focus on the alleged acts of these jointly charged indictees; politics must
25 remain barred from these proceedings.

26
27 Respectfully, you must focus your energy on whether beyond the reasonable doubt these accused
28 committed crimes, grievous crimes listed in the indictment against their own people, the people of
29 Sierra Leone. We allege that the Accused committed international crimes, their actions were criminal,
30 their mindset criminal, not political.

31
32 Now, defending one's nation is a just cause. It is accomplished by an honoured and necessary
33 profession, the profession of arms which for centuries has adhered to the laws of armed conflict. The
34 just cause of a civil defence force in Sierra Leone set up to defend a nation became perverted and
35 was twisted beyond measure by Norman, Kondewa and Fofana. Under their leadership, these
36 Accused war criminals turned what should have been a just cause into an unjust effect, serious
37 breaches of the laws designed to protect humanity. These so-called defenders of the nation were

1 really offenders of the nation looking out for their own self interests.

2
3 Again, they had a duty to defend and protect and they failed criminally in that duty and turned against
4 their own people and institutions such as the Sierra Leonean police, for example. Keep this in mind:
5 they are charged with crimes as individuals, jointly and severally, not with political acts.

6
7 This joint indictment is not an indictment of what could have been an important force for good, the
8 organisation called the CDF, the organisation that these indictees perverted. Nor did we indict the
9 cultural traditions or the concept of the centuries old hunting societies such as the *Kamajors*. In this
10 Chamber, in this indictment, we condemn alleged criminals for what they did as individuals: murder,
11 terror, looting, burning, collective punishment and recruiting child soldiers, among other war crimes
12 and crimes against humanity.

13
14 Let me cite an example of this breach of duty and indeed individual criminal responsibility as well as
15 this perversion of a just cause. On or about 13th February 1998, due to an attack by the *Kamajors* on
16 Koribundo, one of our witnesses will testify that he and others were advised to flee to Bo. The witness
17 fled to his brother's house in Bo, however, by then the *Kamajors* arrived, scouring the town for those
18 persons who fled from Koribundo. The witness will state that he was caught along with his brother
19 and taken to the *Kamajor* headquarters where they were beaten and tortured. The captors said that
20 they were going to kill and cook his brother that day. The witness will state that afterwards they took
21 them both out back and standing among other bodies, cut his brother's throat. The witness will state
22 that he tried to turn away, but his head was held and he was forced to watch his own brother die. The
23 witness you will hear testify will say that the *Kamajors* told him to go back and tell the people of
24 Koribundo what should happen if they collaborated with the Sierra Leonean Army, the SLA.

25
26 The witness returned to Koribundo noticing many graves along the road. A short time later the
27 witness will state that Hinga Norman himself came to Koribundo -- now recall he is their regent chief --
28 and held a meeting at the town barri. At this meeting, allegedly Norman told the townspeople that
29 they should not hold the *Kamajors* responsible for what they had done in the town but that they should
30 hold him responsible, that they were acting on his orders. This witness will state that Norman
31 declared that in fact he was disappointed in the *Kamajors* because he had ordered them to burn all
32 but three buildings in the town: the mosque, the barri and a house he was to stay in. He also stated
33 he was unhappy because the *Kamajors* did not kill every living thing, even the ants, he allegedly said,
34 and he rebuked them for being afraid to kill.

35
36 No one deserves to live in circumstances like this, to die like this, to witness the horrors perpetrated
37 by all sides, and most certainly by those Accused who twisted a just cause into an unjust perversion.

1 We will most assuredly show you, through witness after witness, what the result of these unjust acts
2 or omissions caused: the murder, mutilation and maiming of thousands, the looting and burning of
3 entire towns, terrorising an entire nation.

4
5 Anytime the citizens of a nation rise up to seek a just accounting for 10 years of painful war, the
6 international community must respond; and it has. Just look around you today.

7
8 If I may, I will close my portion of this opening statement with a poem from a Sierra Leonean, Sydnella
9 Shooter, published recently in Freetown entitled, "*Songs that Pour the Heart*." It is called "*My Root in
10 Flames*":

11
12 "Massive eruption everywhere consuming my town and bush my cherished cradle my ancestral shrine
13 all ablaze;

14
15 "I turned around, my eyes catch but a mound of ash, the ash of my kin's sweat:

16
17 "Blood can't quench this fire weeping through my blood. There is no fame in these flames but ash that
18 brings pain, ash with a stain, the ash of the slain;

19
20 "This ash that bleeds hearts has nothing on the screen but incinerating Sierra Leone vomiting and
21 flaring up;

22
23 "Can we read chronicles of ash and ash in chronicles when my foundation is razed to cinders and
24 ash, ash weakening hearts ash withering glories, ash that never buries atrocities eroding my root."

25
26 Let justice be done. Thank you.

27
28 With your permission, Your Honours, I will yield the podium to my colleague, Mr. Joseph Kamara from
29 Sierra Leone.

30 MR. PRESIDENT:

31 May we have your name, please.

32 MR. KAMARA:

33 Joseph Fitzgerald Kamara. May it please Your Honours.

34
35 This case, like others which will be tried by this Court, offers a signal opportunity to lay before the
36 people of Sierra Leone the cause of their present misery. I do not believe that these people have as
37 yet any conception of how deeply the criminal folly perpetrated by these Accused persons bit into

1 every phase of Sierra Leonean lives, or how utterly ravaging the consequences. It will be our task to
2 make these things clear.

3
4 We submit that this Court, representing the conscience of mankind, should, if it finds these acts
5 proved, hold such to be both criminal and barbarous. It is owed to the victims, the parents and the
6 children of the victims that punishment be imposed on the guilty. The mere punishment of the
7 accused can never redress the terrible injuries suffered by the victims. For them it is far more
8 important that this incredible event be established by clear and public proof so that no one can ever
9 be in doubt that they were facts and not fiction. Grave offences as they are, Your Honours it is our
10 obligation to all the peoples of Sierra Leone and humanity to show why and how these abominable
11 things happened. It is incumbent upon us to set forth with clarity the criminal intent and ambition
12 which motivated the Accused persons now in the dock to treat their fellow men as sub-human. The
13 savages of the war are still alive in the minds of the people. Humanity must not and will not allow
14 these savageries to share the conscience of mankind. It is vitally important that the brutality and
15 savagery of this war are exposed and chronicled so that we have an official record of the horrors that
16 befell this nation.

17
18 As an overview, Your Honours, following the AFRC coup in May 1997 and the flight of government
19 officials out of Sierra Leone, the first Accused Hinga Norman, while in exile in Liberia, was summoned
20 to organise the south and eastern wing of the CDF; namely, the *Kamajors*, which then was in disarray
21 and badly in need of leadership.

22
23 In a meeting at the Bo waterside and in the presence of second Accused Moinina Fofana and third
24 Accused Allieu Kondewa, Hinga Norman assumed leadership and pledged loyalty to the movement.
25 Several meetings were held at which the three Accused persons co-ordinated, directed and
26 commanded military operations in and around the Pujehun district. The Black December is an
27 example of a plot that was hatched and directed during the early stages of the restructuring of the
28 *Kamajor* movement.

29
30 It was later realised by this nucleus group that there was urgent need to beef up the strength, logistics
31 and strategies of the *Kamajors*. Hinga Norman promised governmental help and asked for a base for
32 operations. A place at Talia, Yawbeko Chiefdom, named Base Zero, was chosen and allocated for
33 Kamajor operations and training centre. Hinga Norman, via helicopter, came with arms and
34 ammunition together with soldiers referred to as Special Forces. I can see him smile, he remembers
35 that well.

36
37 Many other *Kamajors* in their thousands upon hearing the new base for *Kamajor* operations quickly

1 converged in and around Base Zero for logistical support, military operations and training and
2 direction. Hinga Norman, Moinina Fofana, planned and coordinated the training of *Kamajors*. Allieu
3 Kondewa performed rituals for the success of the military ventures and conscripted young men into
4 the -- and conscripted young men for initiation into the movement. Most of these young men once
5 initiated, were made to believe that they were immune from bullets and thereafter dispatched and
6 deployed into battlefield positions.

7
8 The *Kamajors*, it must be noted, were merely a group of ordinary local hunters before the emergence
9 of Allieu Kondewa; simple folks of the countryside used to hunting deer, rodents, and other bush
10 animals for domestic consumption. There were no special initiation rites, nor military objectives.
11 Hinga Norman, Moinina Fofana and Allieu Fofana, schemed to take a traditional spiritual belief system
12 and manipulated it to their own ends. Vulnerable young men, desperate for survival in a devilish war,
13 fell easy prey to these men.

14
15 Your Honours, evidence will show that it was at Base Zero that Hinga Norman, Moinina Fofana and
16 Allieu Kondewa, together planned, co-ordinated, directed, trained and commanded the attacks on Bo,
17 Koribundo and Tongo. The Black December operation was formally announced at Based Zero and
18 road ambushes intensified. Witnesses will testify before this Court as to meetings where military
19 operations were planned and directed. Hinga Norman provided logistics and arms to support the
20 attacks. It is a tragedy that Hinga Norman abandoned everything his training and education had
21 taught him. In the ultimate quest for power, these men, resolved as they were, let nothing stand in
22 their path to use any means necessary to defeat the RUF and AFRC forces and to gain and exercise
23 control over the territory of Sierra Leone.

24
25 With your permission, Your Honours, in local parlance we have a saying that, "*Power no to poyo wae*
26 *you dae gee person for taste; once you taste am, you no go lef am.*" Your Honours, what this means
27 is that power is a strong intoxicant and that it is not like palm wine which you can offer somebody to
28 taste before buying and then he has discretion whether to buy or not, that power once tasted is never
29 given up.

30
31 In this bid, Your Honours, by these men, so many innocent lives were lost, property and families
32 destroyed. The Prosecution will prove Hinga Norman as National Coordinator, Moinina Fofana as
33 National Director of War and Allieu Kondewa as High Priest of the CDF, were the principle force in
34 establishing organising, supporting, providing logistical support and promoting the CDF. They
35 collectively exercised command and effective control over this group and they enjoyed considerable
36 influence over the course of events in Sierra Leone and, as such as, exercised *de facto* and *de jure*
37 command over the CDF.

1 Hinga Norman was Deputy Minister of Defence. He was the leader and commander of the CDF and
2 as such, he had immediate, ultimate command and control over the activities and operations of the
3 CDF. He was able to enhance the capability and effectiveness of the CDF as a fighting force.
4

5 At this point I would like to draw your attention, Your Honour, to the screen on the right side to show
6 the command structure of the CDF.
7

8 Right at the top is Samuel Hinga Norman -- and my colleagues on the other side -- right at the top is
9 Samuel Hinga Norman, National Coordinator, and to the side is the War Council and that is where it
10 was. And underneath Samuel Hinga Norman, the National Coordinator, we have the Allieu Kondewa,
11 the High Priest, Moinina Fofana as the National Director of War, and then right under that we have
12 council of initiators right underneath Allieu Kondewa and then we have different levels of regionous --
13 regional commanders and right down to district administrators. This is, simply put, the structure of the
14 CDF when they were formed together.
15

16 So integral was Hinga Norman to the formulation and execution of the CDF policies in both Sierra
17 Leone and outside that he would represent their interests in meetings with members of the
18 international community and during several peace negotiations.
19

20 The Accused persons in the dock were all members and/or participants of the War Council of the
21 CDF. They usurped the powers of the Council and took decisions without reference or approval of the
22 council. Your Honours, again as you can see on the slide, the War Council was sidelined right down
23 and Hinga Norman, Moinina Fofana and Allieu Kondewa, formed the triangulate and then took charge
24 of matters.
25

26 For example, on one occasion the War Council took a decision to confine one Kemoh Hassan Sheriff
27 for refusing to carry out instructions of the Council. The instruction was for him and his fighters to
28 prevent the movement of AFRC by blocking Bo-Tiama highway. Instead, he went to Valunya
29 Chiefdom to carry out his own personal gold mining. Hinga Norman overturned that decision and
30 what did he do, he promoted him to the rank of General.
31

32 Another decision that Chief Hinga Norman overruled to show the highjack of the powers of the War
33 Council was the punishment for the killing of a pregnant woman by one *Kamajor* commander named
34 Vanjawai. The Council took a decision for that commander to be pegged at Base Zero. Hinga
35 Norman, with overwhelming powers as National Coordinator again overturned that decision.
36

37 Your Honours, following are highlights of evidence related to the charges in the indictment: The

1 Prosecution will lead evidence through a crime base approach, and that is, I will endeavour to guide
2 the panel from one crime base through another; namely, Koribundo -- to assist Your Honours and my
3 colleagues on the other side -- Kenema, Bonthe, Moyamba and Tongo.

4
5 Koribundo: six crime bases, Your Honours, and I will intend to guide the panel through each of these
6 crime scenes.

7
8 I will preface it with Operation Black December for sequence of events. Operation Black December
9 was Hinga Norman's initiative and was conceived at a meeting in the town of Zimmi, with Moinina
10 Fofana and Allieu Kondewa present. It is the case for the Prosecution that the Accused persons were
11 responsible for the planning, instigation, ordering or committing unlawful civilian killings during the
12 attacks in the course of Operation Black December, or the aiding and abetting thereof which resulted
13 from the common plan to use every means, including illegal and forbidden means, to defeat the RUF
14 and AFRC forces and to gain and exercise control over the territory of Sierra Leone.

15
16 As part of Operation Black December in the southern and eastern provinces of Sierra Leone, the CDF
17 unlawfully killed a number of civilians and captured enemy combatants in road ambushes at Gerehun,
18 Jembeh and the Bo-Matotoka highway.

19
20 Your Honours, as examples, the evidence will demonstrate that Hinga Norman, on behalf of the CDF
21 high command, announced that the military operation named the Black December was launched with
22 the objective to capture all main roads in Sierra Leone.

23
24 On or about the 14th November 1997, the *Kamajor* militia attacked a bus on the Bo-Kenema road
25 killing nine passengers.

26
27 On January the 16th, 1998, evidence will be led that travellers reaching the capital of Freetown
28 confirmed the death of 25 persons along the Bo-Freetown road. *Kamajors* also ambushed a
29 commercial truck near Bo town killing six passengers.

30 *(Pages 1 to 18 by Gifty C. Harding)*

1 1145H

2 MR. KAMARA: (*Continuing*)

3 The Prosecution will lead evidence, Your Honours, to prove that on or about January and February of
4 1998 in locations in the Bo district, including the district headquarter towns, Bo, the town of Kebi,
5 Koribundo, Kpeyama, Fengehun and Mongere, the *Kamajors* unlawfully killed a number of civilians,
6 including a man called Kafala, Ambrose Kortu, and one Abema, a *Kamajor* who was killed for failing to
7 operate as such.

8
9 A witness for the Prosecution will testify before this Court that he was in Koribundo when the
10 *Kamajors* attacked on a Friday in February 1998. He heard *Kamajors* talking to themselves that they
11 would kill everyone in Koribundo, even the cockroaches, and that they had received their commands
12 from Hinga Norman. That witness saw *Kamajors* kill five *Limba* people along Blama Road and these
13 are Sarah, Momoh, Ibrahim, Yana, and Sufiana. Two of these were shot and the other three were
14 beaten to death. That witness will further testify before this Court that he saw the killings of all the
15 people and their throats cut, and this included women, and their heads displayed at check points and
16 their bodies dumped at the water well inside that witness's compound. This witness will be here
17 before this Court.

18
19 Another witness for the Prosecution will give evidence that on that black Friday of February the 13th in
20 1998, he saw Chief Kafala arrested by *Kamajors* when they took him to their deputy commander, one
21 Tommy Lahai. Lahai then ordered that Chief Kafala be killed. At this point the witness saw
22 Chief Kafala killed with a cutlass by four *Kamajors* near the town junction. As Chief Kafala was being
23 buried, the witness also saw two other *Kamajors* shoot the corpse of the Chief. Evidence will be led
24 before his Court that Sarah Binkolo and Sarah Lamina were also killed by the use of a cutlass by two
25 other *Kamajors* while the others were busy singing.

26
27 These innocent people were believed to be collaborators in the testimony of that witness. He will
28 explain to this Court how he also saw Chief Lahai Bassie being beaten along Sumbuya Road in
29 Koribundo by *Kamajors*. Chief Lahai Bassie was tied with a rope, beaten and he was taken to the
30 *Kamajor* headquarters in Koribundo. Unfortunately, he died weeks after as a result of the violence.

31
32 The Prosecution will lead evidence to show that many houses were burnt and looted by *Kamajors* in
33 the town of Koribundo. Your Honours, the destruction that took place in Koribundo was done not only
34 to punish the people, but also to send the message across to all and sundry that a similar fate awaited
35 all those who, through no fault of theirs, had to cope and live with the presence of rebels in their
36 homes.

37

1 Your Honours, history will prove us right that the people of Koribundo had lived together with the
2 Sierra Leonean Army since 1991 through 1997; they co-habited, co-existed, and they were there to
3 protect them against the RUF. And for that, Your Honours, a death warrant was signed and they were
4 all labelled collaborators, and Hinga Norman, it will be proved, issued instructions for all collaborators
5 in Koribundo to be killed.

6
7 The Koribundo incident illustrates the absolute terror the people of Sierra Leone had to live with. Your
8 Honours, they had nowhere to go, no one to turn to when these so-called liberators turned their
9 weapons upon them and they became as ruthless and unforgiving as the rebels against whom they
10 were fighting.

11
12 Documentary evidence will be introduced by the Prosecution in support of the allegations contained in
13 the indictment, for example, showing that Hinga Norman supplied arms and ammunition, together he
14 issued war and attack instructions. Evidence will also show that he appointed general commanders
15 with the knowledge and the acquiescence of Moinina Fofana and Allieu Kondewa. This is a
16 supportive manifestation of Hinga Norman's role as a logistic provider and commander issuing
17 instructions for attack. It goes further to show the position, authority and powers of the national co-
18 ordinator, Hinga Norman.

19
20 Documentary evidence will also be introduced to support the charges of looting and acknowledgement
21 on the part of the CDF high command of the knowledge about these happenings and benefiting from
22 the loot.

23
24 We will further introduce evidence that Kondewa was not just a high priest, it is implicit, but he was a
25 key player and integral factor in the CDF and he had powers of appointment. And let me hasten to
26 point out, that Kondewa was the man responsible for the recruitment and initiation of the fighters.
27 Without those fighters there were no crimes; without fighters there is no *Kamajor* army; and without
28 Kondewa there were no fighters.

29
30 It is the case for the Prosecution, Your Honours, that Hinga Norman, Moinina Fofana and Allieu
31 Kondewa were responsible for the planning, instigation, ordering and committing of unlawful civilian
32 killings, physical violence, mental suffering, pillage, acts of terrorism, collective punishment and child
33 conscription, during the attacks in Tongo, Kenema, Bo, Bonthe, Moyamba, and all the aiding and
34 abetting thereof as a result of the common plan to use any means necessary and again, including
35 unlawful means necessary, to defeat the RUF/AFRC forces and to gain and exercise control over the
36 territory of Sierra Leone.

1 The *Kamajors* launched an attack on Kenema town on the 15th of February 1998 upon the directives
2 and instructions of Hinga Norman as a national co-ordinator, Moinina Fofana, National Director of
3 War, and Allieu Kondewa, High Priest, during which a number of Sierra Leonean police were killed.

4
5 As part of the campaign of terror the *Kamajors* particularly targeted police officers. These officers
6 were non-combatants. Their only crime, if at all, was that they dutifully served their nation at the time
7 the junta proclaimed its leadership over the state.

8
9 The Prosecution will lead evidence through the testimony of one of our witnesses who will say,
10 amongst other things, that she was a member of the Sierra Leone Police Force and was, as such, on
11 that date of February the 15th of 1998 when *Kamajors* forcefully entered and took control of the
12 Kenema township. That witness was in her quarter with her children when she heard gunshots. She
13 will testify before this Court that Sergeant Mason, Sergeant Samura and Corporal Fandai were all
14 shot and killed by *Kamajors* on that fateful day of February the 15th, 1998 at the Kenema police
15 barracks.

16
17 The witness will further give evidence that she directly saw and witnessed the killings of Assistant
18 Superintendent of Police, Kanu, who was the officer in command in Kenema, and S.S.D. Constable
19 Desmond Pratt at the police football field. These officers, it should be noted, were not engaged in any
20 combative role.

21
22 The witness also saw one Sergeant Turay run towards the *Kamajors* and try to prevent them from
23 killing both O.C. Kanu and Desmond Pratt, and when, at the spur of that moment, the *Kamajors*
24 opened fired, directly shot and killed him.

25
26 The witness, with the help of the other officers and civilians, buried the remains of seven human
27 bodies in one grave. The bodies of Sergeant Mason, Sub-Inspector Mimor, Sergeant Momoh
28 Samura, Assistant Superintendent of Police Kanu, Corporal Desmond Pratt, Sergeant 2506 Turay,
29 and one unknown military man. That grave is now what I will describe as Kenema's tomb of the
30 unknown soldier.

31
32 Another police witness for the Prosecution, Your Honours, will give evidence before this Court that on
33 the 8th February 1998 *Kamajors* attacked the town of Blama near Kenema where he was stationed on
34 official duties.

35
36 The witness, upon hearing sporadic gunshots and seeing the *Kamajors* slaughter, fled to the nearest
37 bush for cover. Unfortunately, a search was conducted for police officers in and around the township.

1 One Special Branch officer, Sergeant Fosonah and a witness were eventually apprehended by the
2 *Kamajors* and they were frog-marched to their commander, one Alhaji Mendama. At that point
3 instructions were then issued for them to be killed as it was a standing policy then that all police
4 officers were anti-CDF and that they were the enemy and the result is the enemy should be killed.

5
6 While awaiting execution, that witness will explain how Sergeant Fasonah was taken behind a building
7 along Koribundo Road and killed in cold blood. And when it was his turn to be killed, he was forced to
8 lie on the ground, his face downwards, pinned on the ground. One commander, Siaka Sheriff ordered
9 them to be slaughtered. He then felt a heavy blow with a sharp instrument on the nape of his neck
10 and while blood was gushing out, other parts of his arms and body were also cut by the *Kamajors*.

11
12 Your Honours, believing him to be dead, the witness was left to the mercy of the vultures. It is
13 incredible that he used his last vestige of energy to tear off his shirt and used it to bandage the wound
14 around his neck and hid himself in the bush and then -- it is incredible, but that's the fact and that
15 witness will be before this Court -- without food and shelter, the witness could handle it no more, and
16 he ventured out of the bush into a village called Duoyo. It was at that village that he met persons that
17 safely escorted him to a medical centre at Blama where he received treatment. He will be before this
18 Court to tell that story.

19
20 This was the reality of the war on the ground, Your Honours, and this is the evidence that this Court
21 will hear from the witnesses of fact. Such gross abuses of humanity should not go unpunished. The
22 Prosecution is alleging that the Accused persons are now in the dock by virtue of their position,
23 authority, command, directions; they bear the greatest responsibility for these atrocities. The
24 evidence will prove the nexus, intention and how the whole criminal enterprise was orchestrated.

25
26 The chain of callous human rights abuses on the part of these men who stand trial today, against the
27 innocent civilians continued unabated. Again, the Prosecution will adduce evidence that a group of
28 *Kamajors* attacked residents at Bonie Street in Kenema. One of the *Kamajors* named Jombobla
29 launched an RPG through the front door which set the house ablaze. That witness will testify that two
30 young miners, one Aruna and Ansu, were killed during that attack. Aruna tried to run away and was
31 shot, and he fell down. He was picked up and thrown into the burning fire.

32
33 The witness will testify that she heard the *Kamajors* saying that they have no bullets to waste on Ansu
34 and they started hitting him with cutlass all over his body until he died. Even valuable items and
35 properties that were salvaged from the fire were also looted by the *Kamajors*.

36
37 The Prosecution will also show, through the testimony of eye witnesses, that during the takeover of

1 Kenema town by *Kamajors*, alleged collaborators and captured rebels and juntas were systematically
2 and habitually detained, subjected to cruel treatment and, in many cases, summarily executed. Some
3 of these alleged collaborators were killed and burnt with tyres in the streets of downtown Kenema as a
4 public warning to the civilian population of the terror that may await them, any of them, and at any
5 moment.

6
7 Your Honours, let me now direct your attention to another important crime scene in the sequence of
8 events in analysing the criminal enterprise and that is Base Zero, which was the den and training
9 camp. Evidence will be led before this Court to show the use of brute force and subjecting a hopeless
10 and helpless population to constant fear and distress.

11
12 A Prosecution witness will testify that her mother and herself were captured by *Kamajors*, they were
13 forced to carry loads for them for a distance of about six miles. At Tihun, one of the *Kamajors* wanted
14 to be his wife -- wanted her to be his wife, but she refused and, in reward, she was threatened with
15 death. The *Kamajor* had her perform conjugal duties and that witness was held in sexual slavery for a
16 whole year. The witness was unable to escape because at every point in time there was a *Kamajor*
17 that stood guard to prevent her from doing so. It was at Talia the witness met her mother in captivity
18 and it was also the same place that she met the third Accused, Allieu Kondewa, who took her into his
19 bedroom and raped her many times into the night. That witness will be here to testify to that.

20
21 And on the next day, Kondewa took the witness out of his house and asked his boys to kill her mother.
22 Kondewa's boys killed the witness's mother by chopping off her head while she was made to watch,
23 the head was put on a stick and hung at the junction. Yes, Your Honours, she was forced to watch
24 and she saw it all happen. What greater mental anguish can one undergo than this horrific
25 experience? Here is a clear illustration of direct criminal responsibility on the part of the Accused
26 person, Allieu Kondewa, in that he had the requisite *mens rea*, participated, directed and ordered the
27 commission of offences.

28
29 The Prosecution intends to lead evidence also, through another witness of fact, who will explain to this
30 Court her ordeal in captivity. Some time in 1998 she was abducted by *Kamajors*, which was part of
31 their signature by then. The reason for her abduction was that she was suspected of being a rebel
32 collaborator. The *Kamajors* looted her parents' properties, even the sewing machine was taken away
33 from her mother, and they were taken to Talia village. All the properties were handed to Kondewa
34 who was then the *Kamajor* head at that time.

35
36 She will testify that she was raped by one *Kamajor*, who then forcefully took her as a wife. She spent
37 three months at Talia with the *Kamajors* and during her captivity she witnessed a lot of killings of

1 innocent civilians who were brought into town by these *Kamajors*.

2
3 It was also at Talia at that point in time when Kondewa was "reigning chief", and the witness will testify
4 that when they visited Kondewa -- Talia, he had a high pedestal stool and there was a little boy
5 playing a guitar underneath the seat. That is remindful of King David with the boy playing the harp
6 (*sic*) and that was the days of *Kamajor*, Kondewa, "King Kondewa", as he called himself, to show how
7 powerful he was and the authority which he commanded.

8
9 That witness saw the killing of six civilians suspected to be rebels, who were brought to Talia by
10 *Kamajors*. The witness will give evidence that one Jusu Saly was killed by *Kamajors* with a knife and
11 all his intestines were removed from his stomach and then roasted and eaten with cooked cassava.
12 Your Honours, it might sound strange, but this is what happened. Our evidence will lead to that fact
13 and that witness will be before this Court, that the intestines were removed from the stomach, they
14 were then roasted, eaten with cooked cassava.

15
16 Another civilian, Bagie-Vilkie, who was also killed, and the saddest thing about this incident for Bagie-
17 Vilkie was that his own killing was done by his own brother, Jokoi.

18
19 All of these incidents were happening at Talia. They were under the general directions of the *Kamajor*
20 leadership, Hinga Norman, National Director -- Hinga Norman, National Coordinator, Moinina Fofana,
21 National Director of War, Allieu Kondewa, High Priest. During the three months captivity of this
22 witness, another Lahai Lebbie of Gerehun village was also killed. Lahai Lebbie was burnt into ashes
23 with petrol.

24
25 The witnesses also testify that some girls and women were brought to Base Zero and they were
26 forced to have sex and they were raped and they were held in sexual slavery and subjected to
27 systematic sexual violence with *Kamajor* commanders like Kamoh Lahai and King Kondewa himself.

28
29 It was at Base Zero, Your Honours, that an execution group was formed, called the Dead Squad. This
30 group was only answerable to Hinga Norman and, of course, in his absence, Moinina Fofana. The
31 death squad, it will be revealed, was responsible for the execution of prisoners of war and
32 collaborators as well as policing Base Zero and intimidated any form of opposition to Hinga Norman.
33 Witnesses will testify before this Court as to the ruthless conduct and the *modus operandi* of the death
34 squad which made them the notorious and efficient killing machine that they were.

35
36 Two Liberian members of the death squad openly killed a prisoner of war in front of his mother and cut
37 off his head and stated that they were taking that head to Hinga Norman, as they were instructed.

1 This Court will hear testimonies of looting, raping and terrorising of civilians committed by this dreadful
2 death squad.

3
4 Your Honours, I crave your indulgence at this point to move on to the next stage of this sad catalogue
5 of events and of evidence, that is the Bo town crime base.

6
7 The Prosecution will lead evidence that the three Accused persons were physically present and
8 participated at meetings where the Bo attack was planned and directed. Hinga Norman bore the
9 ultimate authority for the execution of that plan. Moinina Fofana was not only the director of war, but
10 also the battlefield commander of the 17th Battalion of the CDF, and he had his own headquarters at
11 Mahi Boima Road in Bo. Allieu Kondewa, the high priest, prepared the fighters by purporting to
12 protect them against bullets by means of cultish rituals. He commanded great awe and authority
13 amongst those fighters. They believed that their lives depended upon him and that it is only through
14 his blessings and approval that the battle could be won such was his status that even -- that he was
15 even allowed to sit at war council deliberations where military operations were planned and directed.

16
17 Your Honours, the Prosecution will introduce evidence to show that police officers once again were
18 targeted during the course of the Bo attack. A witness will testify that they saw a colleague,
19 Corporal 997 Freeman, fatally shot by *Kamajors* while trying to escape. Another officer, E.G.G. Sam
20 was shot and he suffered grievous bodily harm. At Ngelehun Road, witnesses saw Sub-Inspector
21 James Vandy stabbed to death by *Kamajors*.

22
23 Another witness for the Prosecution will give evidence, that after the fall of Bo, these *Kamajors* moved
24 from one house to another in search of valuables and money and that on the 23rd of February 1998,
25 the husband went out in search of food to feed his family, which included his six weeks old baby.
26 Whence outside, *Kamajors* chased and arrested him and then stripped him of his clothes. About 15
27 of them randomly landed blows with machetes all over his body, after which he was left to die in his
28 own pool of blood.

29
30 The Prosecution will again lead evidence, through a witness of fact, of how his father was brought to
31 him tied, with his ears cut off, to bid him farewell. His father was accused of helping two civilians
32 escape that were wanted for execution by *Kamajors*. And his last words were that he is innocent of
33 any allegations, and that he sends his love to his wife and children. The witness's father was then
34 taken to a hut in the village -- in the village school compound, and he was burnt. His head was cut off,
35 placed on a stick and used in a dance around the village. That witness will be before this Court. He
36 will be here to tell the story.

1 These *Kamajors* had instructions to kill all persons deemed collaborators or members of the AFRC
2 and RUF. They arrested and executed for the flimsiest of reasons in pursuit of the orders received.
3 The three Accused persons now in the dock are responsible for those instructions and commands and
4 orders.

5
6 Your Honours, over and above that, they knew or had reason to know about these indiscriminate
7 killings of innocent civilians and destruction of property; they had knowledge of these happenings.
8 And that despite the clear and repeated notice that they had of the type and scale of crimes
9 committed by forces created, supported and directed, controlled by the Accused persons, they failed
10 woefully to take any adequate, necessary and reasonable measure to prevent or punish the
11 perpetrators of these horrific crimes. Indeed, not only did they fail to prevent the continuance of on-
12 going crimes and punish those that committed such crimes, they personally promoted or oversaw the
13 promotion of individuals who had committed these crimes.

14
15 In February 1998, just before the attack on Bo, Hinga Norman, in an address to the CDF at Dassamu
16 village, a witness for the Prosecution will testify that he issued specific instructions that all civilians
17 living in the village of Kebe were collaborating with the rebels and that he gave orders that anyone
18 who harboured a soldier should be killed and their houses destroyed. At that meeting, Moinina
19 Fofana was also present.

20
21 The witness for the Prosecution will further testify to the killings by machete on Mahi Boima Road, Bo,
22 of four civilians right at the same street where Moinina Fofana had his headquarters. Those bones
23 were subject to great forensic analysis and the report is available. The witness survived that
24 massacre, but rather unfortunately, his brother wasn't so lucky.

25
26 Witnesses will testify before this Court that early in February of 1998 at Base Zero, Hinga Norman
27 ordered that prominent people, such as the district officer, provincial secretary and others that stayed
28 in Bo town during the rebel occupation should be killed by the CDF. Again, here is a clear
29 manifestation of individual criminal responsibility. We see the Accused, Hinga Norman, issuing orders
30 to kill innocent non-combatant civilians with impunity or so it was thought. Now is the time to account
31 for those mistakes. Your Honours, that was the time to kill, now is the time to answer for those
32 deaths.

33
34 Your Honours, I again move this Court notionally to the reign of terror in Bradford and Moyamba which
35 is one of our crime bases, as you will see on the slide show.

36
37 At the Moyamba crime base, the evidence will show that between 1997 and December 1999, the CDF

1 attacked or conducted armed operations in the Moyamba district to include the towns of Sembahun,
2 Bradford, Mabang and Gbangbatoke. As a result of these actions, Your Honours, the CDF continued
3 to identify suspected collaborators and others suspected not to be supportive of the CDF and their
4 activities and unlawfully killed a number of civilians and wantonly destroyed properties.

5
6 The Prosecution will lead evidence before this Court that on May 11, 1998, the CDF entered Konta
7 village in Ribbi Chiefdom and demanded the whereabouts of a witness's father who was then a
8 successful businessman in the neighbourhood, claiming that he has been identified as a collaborator
9 -- and I wait for that day when the CDF will tell us who is a collaborator. Some of the witness's
10 brothers were arrested and made to sit on the floor while their personal belongings and properties
11 were looted. The commander of the group, one Amidou Mahoi, summoned the town's people to carry
12 the looted properties from Konta to another village called Big Mansanke. The witness was, however,
13 able to escape and went to Mabang village. Unfortunately, this same group re-emerged and arrested
14 the witness's father. He was beaten with the butt of a gun right on the head, and he was tied with
15 cable rubber and rope. Witnesses saw one *Kamajor* pull a dagger and stab the father right in the eye.
16 The commander took a knife and slashed the father's lips. The rest of the *Kamajors* started stabbing
17 the witness -- the witness's father all over his body until he became unconscious. The witness could
18 bear it no longer; he ran and sought help from ECOMOG. When they arrived for the rescue they were
19 only shown the water well where the remains of witness's father were deposited.

20
21 These scenarios, Your Honours, clearly show the systematic and widespread pattern of physical
22 violence, murder and looting, perpetrated by the *Kamajors* on the civilian population of Sierra Leone,
23 Your Honours, all on the instructions, direction and command of Hinga Norman, National Coordinator,
24 Moinina Fofana, National Director of War, and Allieu Kondewa, High Priest.

25
26 The Prosecution will lead evidence to show that one Mr. Thomas, a former treasury clerk of the native
27 administration in Moyamba was killed on suspicion that he was a rebel collaborator. This was during
28 the *Kamajor* reign of Ngobeh and Kinnie Torma in the town of Moyamba. Mr. Thomas was shot and
29 burnt right in the centre of the town with his head being paraded all over the town on top of a *Kamajor*
30 vehicle.

31
32 The evidence will also point out how on many occasions Moinina Fofana will visit Moyamba and make
33 speeches of encouragement, entreat and urge to fight at all costs, at any price. Was this the price
34 that we have to pay; at all cost, at any price?

35
36 Your Honours, I'll move to the use of child soldiers. Today is a historic moment, not only for our
37 country, but for international law jurisprudence as well. This case is the first ever prosecution for child

1 recruitment at an international war crimes court. The Appeals Chamber of this Court, a few days ago,
2 ruled that child recruitment was criminalised before it was explicitly set out as an international crime in
3 treaty law and certainly by the time frame relevant for the indictment. It brings the principle of legality
4 and the principle of specificity, they have both upheld.

5
6 Your Honours, at all times relevant to the indictment, the Civil Defence Force did, throughout the
7 Republic of Sierra Leone, initiate or enlist children under the age of 15 years into armed forces or
8 groups and used them to participate actively in hostilities.

9
10 Evidence will be led before his Court to show how children were intentionally deployed into battle front
11 positions. They were used as conveyors of war booty and looted properties and also assigned
12 surveillance and dangerous spy missions.

13
14 A witness for the Prosecution, himself a child combatant, will testify that on the 23rd of March 1997 he
15 was captured by the CDF. He was forcefully initiated into the *Kamajor* society at Mano Junction
16 where King Allieu Kondewa was graciously conducting his initiation practices between Kenema and
17 Mano Junction. There were about 28 other children initiated together with that witness. Thereafter,
18 Your Honours, evidence will show that that witness was enlisted with a group of *Kamajors* and
19 partook in three attacks in Koribundo.

20
21 The Prosecution will lead evidence again, that a ten year old boy was conscripted and trained in light
22 weaponry and was deployed with adult fighters on different battle fronts in Pujehun and Telu Bongor.
23 That witness will testify that he received instructions to fight, kill and maim. Your Honours, this is how
24 our sons and daughters were made to become the wretched of the earth; a life without hope.

25
26 The Prosecution intends to lead evidence on Tongo crime base. You can see it on the slide there.

27
28 It was in December of 1997 at a Base Zero meeting attended by all commanders in the Tongo axis
29 and, of course, including Hinga Norman, Moinina Fofana and Allieu Kondewa, where it was agreed
30 that all people in Tongo that stayed during the junta occupation should be regarded as the enemy. It
31 was also accepted then that civilians living in Tongo were CDF enemies because it was the belief that
32 they were mining diamonds for the rebels which was used to buy weapons, and the policy was that all
33 enemies should be killed.

34
35 The Prosecution will lead evidence that *Kamajors* attacked the town of Tongo and that all civilians
36 were then summoned to the National Diamond Mining Company and the NDMC headquarters which
37 was then referred to as "the camp". That witness will give evidence that civilians, ten at a time, were

1 removed from the rest of the group by *Kamajors*, especially headed by one that was nicknamed "Face
2 to Face". They were all armed with rifles, rocket propelled grenades, bombs and machetes. These
3 civilians were taken to a swamp where cows were slaughtered, and then that witness -- they heard
4 sporadic gun fire and wailing.

5
6 It was three batches of ten that were taken away and never to return. The *Kamajors* then proceeded
7 to systematically select alleged collaborators and junta supporters from among the terrified civilians
8 who had gathered at the NDMC headquarters in search of shelter and protection. These so-called
9 protectors turned their RPGs, their machetes, and everything they had on these hopeless,
10 defenceless people. Those that were selected were either slaughtered by *Kamajors* right on the spot
11 in front of their neighbours or family, or they were taken behind the NDMC and executed.

12
13 Evidence will be led before this Court that will show the surrounding circumstances that led to the
14 death of Chief Aruna Konowa and Chief Brima Conteh of Lower Bambara Chiefdom. Witnesses will
15 testify that the CDF took control of Tongo between February and March of 1998 and when they
16 arrived in the town of Lalehun, Chief Aruna Konowa was arrested and tied with a rope and paraded
17 around town with the *Kamajors*. They were saying that they were now the authority in the town and
18 that chiefs were no longer in control, and that the CDF were going to be in power for the next seven
19 years. The next morning the witnesses saw the remains of Chief Konowa with his intestines, parts of
20 his flesh, the vital organs missing. Witnesses will give evidence that the flesh and organs of
21 Chief Konowa were openly cooked and eaten by these *Kamajors* in the streets of Lalehun. That had
22 become a battle, Your Honours, and we will lead evidence to show that.

23
24 The witness will also say amongst other things that it was after the killing of Chief Konowa that
25 another chief, Brima Conteh, the Town Speaker, was brought into town under arrest by other
26 *Kamajors*. The Chief was undressed and likewise paraded round town with a block placed on his
27 head. What sort of cruel inhumane treatment can a traditional ruler endure than that imposed by
28 these *Kamajors*?

29
30 The Chief was later taken across the bridge only moments later for another *Kamajor* to emerge with
31 the Chief's head in his hand and boldly went from house to house demanding money from the people.
32 Another *Kamajor*, Fayah, alias Yarmoto, was holding a polythene bag containing the chief's intestines
33 and other organs. Once again, that package was cooked and eaten by those *Kamajors*.

34
35 Your Honours, this is a manifestation of a complete show of defiance and effrontery to traditional
36 values and structures. Chiefs, who occupy a respected place in the custom and administration of our
37 country, were not spared the carnage. For dutifully and continuing to represent their people in the

1 face of rebel control and atrocities, they were targeted.

2
3 Your Honours, before I conclude this opening, I would like to take this opportunity to acquaint the
4 Court with some thoughts on the personal nature of the witnesses who will be called to testify during
5 the Prosecution's case in chief. Although I believe that the experience of the judges of this Bench
6 already provides them with a great deal of insight into these matters, our personal observations,
7 garnered throughout the course of the investigation and trial preparation, may be of use to the Court
8 as it receives the testimony of these people.

9
10 Although they are highly intelligent, Your Honours, multi-lingual and articulate, the vast majority of the
11 testimony this Court will hear during the course of the Prosecution's case comes from persons who
12 are illiterate and from very simple backgrounds. Individuals native to the rural areas of southern and
13 eastern provinces of Sierra Leone, they are, in large majority, victims of the atrocities of which you will
14 be informed. They are a simple people whose nature is anything but violent and who, before the
15 occurrence of these events they are about to relate, were inexperienced in the receipt of such
16 violence.

17
18 They are quite understandably so, Your Honours, totally unfamiliar with all the proceedings in which
19 they are about to participate as well as the venue in which the proceedings will take place.

20
21 With that note, Your Honours, and in conclusion, I wish to draw your attention once again to those
22 crimes against humanity, violations of Article 3 common to the Geneva Conventions and of Additional
23 Protocol II, and other serious violations of international humanitarian law reflected in the widespread
24 and systematic killing, destruction of property, pillage and burning, and terrorising the civilian
25 population and the use of child soldiers. Your Honours, such was the experience of our nation at the
26 hands of these Accused persons. They are collectively and individually responsible for the
27 commission of these offences. And as prosecutors, we are determined that such grave offences
28 against the people of Sierra Leone and the conscience of humanity do not go unpunished. This is the
29 time that people in leadership positions all over the world realise that they can be held accountable for
30 human rights violations and breaches of international humanitarian law.

31
32 The infrastructure of the long arm of the law has been so strengthened and so reinforced so as to
33 reach the four corners of the world. Let that be known. We must never forget that the record on
34 which we judge these Accused persons today, Your Honours, will be the record on which history will
35 judge us tomorrow. It is now time to climb the summit of justice for the people, the victims of Sierra
36 Leone's tragedy.

1 As stated by President Roosevelt in his third annual message to Congress on December 7th, 1903,
2 when he said, "No man is above the law and no man is below it; nor do we ask any man's permission
3 when we require him to obey it. Obedience to the law is demanded as a right and not asked as a
4 favour."

5
6 Let me close with Steve Bantu Biko, citing Karl Jaspers, when he said, "There exists amongst men,
7 because they are men, a solidarity through which each shares responsibility for every injustice and
8 every wrong committed in the world and especially for crimes that are committed in his presence or of
9 which he cannot be ignorant. If I do not do whatever I can to prevent them, I am an accomplice in
10 them."

11
12 Let justice be done. I thank Your Honours.

13 MR. CRANE:

14 Your Honours, that concludes our opening statement.

15 MR. PRESIDENT:

16 Right. Thank you.

17
18 The Chamber has taken notes of all the facts that have been highlighted in the opening statement of
19 the Prosecution which is made pursuant to Rule 84 of our Rules of Procedure and Evidence. And
20 that is all we can say for now and we expect that the facts which you have highlighted will be adduced
21 concretely in evidence when the time comes. But at least you have given the Bench a picture of what
22 we expect from your witnesses, and when we referred in our opening statement to the best evidence
23 available we expect that you will produce before this Court the best and only the best evidence that
24 would help it to arrive at a conclusion one way or the other.

25
26 We need -- ordinarily the Defence would have been invited, you know, to make a statement at this
27 point in time, but, as we discovered during the status conference, the Defence reserved their right,
28 you know, to be mute at this point and to be active when they -- when the time comes. Does that
29 reflect the position and the sentiments of the Defence at this moment in time?

30 MR. JENKINS-JOHNSTON:

31 That is so, Your Honour.

32 MR. PESTMAN:

33 That's correct. But may I ask permission to raise two points of order before you adjourn this meeting,
34 if possible?

35 MR. PRESIDENT:

36 I am not hearing you at all.

37

1 MR. PESTMAN:

2 Would it be possible to raise two points of order before you adjourn this meeting? Maybe I can do it
3 now or later before you adjourn.

4 MR. PRESIDENT:

5 Points of order?

6 MR. PESTMAN:

7 Yes. Okay. The first one concerns the screen which I have noticed in court. I suppose the intention
8 is that the public will not see the witness when testifying this afternoon. We still live under the reign of
9 the old protective -- the decision on the -- the old decision on the protective measures, which does not
10 provide for a screen to protect witnesses from the public. So I would like you to order the screen to be
11 taken away. That was my first point of order.

12
13 My second point of order refers -- or concerns the photographer which I have noticed today, and I
14 have also seen the decision taken by Your Honours yesterday night, and I have noticed that the
15 photographer has also taken pictures of my client, Mr. Fofana. I strongly object to that, not only for
16 reasons of privacy, but also because, in my view, it affects his right to a fair trial. I do not and I would
17 not like to see pictures of my client in newspapers shown to witnesses who are going to testify here in
18 Court, and I especially don't like pictures of my client being distributed and seen by witnesses who
19 claim that they have seen my client at certain incidents while my client was not there. So I would like
20 you to change or amend the decision and ask the photographer not to publish any photos taken today
21 of my client. That was my second point of order.

22 MR. PRESIDENT:

23 Are you sure you are coming before the Court at the right time? You saw this photographer here and
24 we thought, you know, that you had tacitly -- the way we understand it, you know, that you tacitly
25 accepted, you know, that he takes the photographs. Are you sure you are coming to the Court at the
26 right time and in the right manner to make these applications?

27 MR. PESTMAN:

28 I'm sorry, I can't hear very well. I didn't understand the question, I'm sorry.

29 MR. PRESIDENT:

30 Is your application being made at the right time? And is it being made in the proper manner?

31 MR. PESTMAN:

32 It's an oral request. I've received -- I saw the order yesterday night and I took the first opportunity to
33 complain about the fact that photos were indeed taken of my client. If you wish me to present my
34 complaint in any other way I can do that, of course, but I am afraid that the photographer is going to
35 leave this Court building and take all the photos with him. So I am trying to raise it now so that the
36 photographer can be asked to not distribute the photos this afternoon.

37

1 MR. PRESIDENT:

2 In any event, what I want to tell you -- the order contains a section which directs, you know, that the
3 rights of the Accused persons, as spelt out in Article 17, should be guaranteed. Whatever
4 interpretation will be given to those orders is another matter; it could encourage a very, very lengthy
5 debate. I don't know if the Prosecution, you know, has any word, you know, to say about this. I don't
6 know at this stage --

7 MR. CRANE:

8 Your Honour, we do not at this stage.

9 MR. PRESIDENT:

10 Well, we have taken note of your comments and we will address them at the right time.

11

12 Counsel for the first Accused, I see your client's hand, you know, wagging upwards.

13 MR. JENKINS-JOHNSTON:

14 Yes, Your Honour.

15 MR. PRESIDENT:

16 Apparently he has a concern.

17 MR. JENKINS-JOHNSTON:

18 He wants to say something. I do not know what he wishes to say.

19 MR. PRESIDENT:

20 You don't know what he wants to say? We do advise that you consult with your client, you know,
21 during the break and that if you have any concerns they will be put across at the appropriate time.

22 MR. JENKINS-JOHNSTON:

23 As you please, Your Honour.

24 MR. PRESIDENT:

25 Right. The Court will rise and we shall resume at 1430 hours, 2.30 p.m..

26 *(Court recessed at 1242H)*

27 *(Pages 19 to 33 by Susan G. Humphries)*

28

29

30

31

32

33

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35

36

37

1 *(Court resumed at 1530H)*

2 MR. PRESIDENT:

3 This session resumes. Can you swear the interpreters please. How many of them?

4 MR. WALKER:

5 Five, Your Honour.

6 *(Interpreters sworn)*

7 MR. PRESIDENT:

8 Mr. Walker, where is he? Can you come in, please. Is he through because I see -- go ahead, please.

9 *(Two additional Interpreters sworn)*

10 MR. PRESIDENT:

11 And if those who were sworn in this morning are participating in the interpretational exercise, I remind
12 them that they are bound by -- they are still governed by the oath, you know, they took this morning.

13
14 I must say we are sorry we are starting a bit late because we had some technical problems with our
15 translation booths and I think things have been adjusted to suit the circumstances that have
16 presented themselves.

17
18 This said, the Chamber has been seized of a correspondence that is allegedly written and signed by
19 the first Accused. And incidentally before I continue, please, if there is any lawyer sitting on the booth,
20 you know, reserved for lawyers who is not properly dressed -- who is not properly dressed, please,
21 the Chamber would advise you to leave the courtroom or to find some space, you know, for you. I
22 see many of you, I don't want to call you individually, but I see you from here. And we know what we
23 mean to be properly dressed and to be entitled to sitting, you know, at places reserved for counsel. If
24 you know you are not, please, kindly leave. What of the gentleman there, do you think you are
25 properly dressed the way you are? Bring them out; we want to see them outside.

26
27 Well, we are still tied down with technical problems, please bear with us. Mr. Walker, please, would
28 you let us know as soon as you are through.

29
30 Are you -- are the Accused getting the interpretation? Is it coming through? Right, the interpretation
31 is part of the system; it is part of the Statutes so we have to ensure that it is being conducted properly.

32
33 We -- as I was saying earlier on, we've been seized of a letter which has allegedly been written by the
34 first Accused. The letter has been brought -- has been given to the Chamber. It is with us now.
35 Another technical problem, the audience over there is not getting the -- Mr. Walker, can you please
36 find out from one of them there what is happening because we can't -- they are using some sign
37 language, you know which --

1 You see, we are still -- it is off again. I was just saying that we have to be very indulgent, you know,
2 because these things will take some time. They are being installed and they will be perfect very
3 shortly. I think as time goes on, you know, the technology will be perfected. It is usually the case with
4 new installations. We all know this in our respective jurisdictions. So we will bear with the
5 technicians. Are you hearing me? They are hearing me now. Okay, good.

6
7 Right, as I was saying, we have a letter allegedly signed and submitted to the Defence office by the
8 first Accused person. The problem is with them behind there, they are not getting the audio over
9 there; that's the problem. Are you hearing me now? Soon it will be off. Are you hearing me now?
10 Right, you are hearing me.

11
12 We would like to confirm the origin and authenticity of this letter as a Chamber, so may we please call
13 on the first Accused to come forward because we want him to look at this letter. That's the original, as
14 we are told, of the letter.

15 ACCUSED:

16 My Lord, it is my writing. It is my letter and it is my signature.

17 MR. PRESIDENT:

18 Right. Can you please read it? Give it to him. Please can you read it, please -- please.

19 ACCUSED NORMAN:

20 Yes, My Lord. This is the letter I wrote to the Principal Defender, Special Court, Sierra Leone,
21 Freetown. "Dear sir/madam, self-defence: This is to inform you that I have, as indicated this morning
22 before the start of the trial in the case against me, finally decided to appear for myself, represent
23 myself and defend myself effective today, 3/6/04, and to state further that any representation by any
24 counsel on my behalf does not -- repeat -- not carry my consent nor have it. Regards, signed, Samuel
25 Hinga Norman, 3/6/04."

26 MR. PRESIDENT:

27 It would be correct to say that that is a letter voluntarily written by you.

28 ACCUSED NORMAN:

29 I was not under any pressure by anybody whatsoever.

30 MR. PRESIDENT:

31 We would like, as a Chamber to admit that letter into the records of the Court as an exhibit.

32 ACCUSED NORMAN:

33 Yes, My Lord.

34 MR. PRESIDENT:

35 You have no objection to this?

36 ACCUSED NORMAN:

37 I have no objection.

1 MR. BOCKARIE:

2 I'm sorry, My Lord, at this moment My Lord, with your leave, My Lord, this is very important and is not
3 being interpreted in *Mende* for the attention of our client, My Lord. So we will appeal if at all it is being
4 interpreted in *Mende*, My Lord.

5 ACCUSED NORMAN:

6 I will interpret it in *Mende* to your client.

7 MR. PRESIDENT:

8 They have understood.

9

10 Now, this letter is admitted in evidence. It has been tendered, it's admitted in evidence and it's
11 marked as Exhibit 1 for these proceedings. Take it.

12 *(Defence Exhibit 1 admitted)*

13 MR. PRESIDENT:

14 This morning we heard counsel who announced their appearances -- you can sit down, Mr. Norman.
15 The Counsel who announced their appearances for Mr. Norman this morning, I would like -- they are
16 in Court, I see them, Mr. Jenkins-Johnston. I would like them to -- I would like to invite their comments
17 on this letter which has been read to the hearing of everybody.

18 MR. JENKINS-JOHNSTON:

19 My Lord, we have no comments to make about that letter. We believe that Mr. Norman is entitled to
20 say what he has said and to do what he has done. We would not wish to say anything further on the
21 matter.

22 MR. PRESIDENT:

23 Mr. Sie.

24 MR. TEJAN-SIE:

25 My Lord, I adopt what my leader said. We do not wish to comment on this issue and we think it is
26 within the rights of the Accused to decide how he wants to conduct his defence. Thank you.

27 MR. PRESIDENT:

28 We would like to call on the Prosecution to see if they have any contribution to this debate on the
29 letter that has been written by the first Accused person and that I refer to as Exhibit 1.

30 MR. CARUSO:

31 Your Honour, Charles Caruso for the Prosecution. We have no comment to make relative to the letter
32 at this particular point.

33 MR. PRESIDENT:

34 You would all agree with me that Exhibit 1 impacts a lot on the continuation of this trial. And because
35 of its importance vis-a-vis the rights that are guaranteed to Accused persons under Article 17 of the
36 Statute, and because the first Accused now wants to divest himself of those rights that are granted
37 under the Statute, it is, the Chamber considers, a very fundamental issue which it would like to

1 address and would like to deliver a reasoned decision on the application of the first Accused.

2
3 This matter, we are afraid, cannot go on because we had scheduled, you know, that we were going to
4 take at least one or two witnesses this afternoon, that is why we are here today, but some
5 circumstances beyond our control that have overtaken us and we find ourselves under the obligation
6 to adjourn this matter with a view to coming up with a reasoned decision because counsel would
7 appreciate the fact that this has been a rather regular and controversial feature in international
8 tribunals. You would recall the case of Milosevic who assumed, you know, his Defence, himself and
9 there is a lot of literature on this. And we would like as a Chamber to address this issue which we
10 consider important and fundamental, and to come with a reasoned decision.

11
12 Accordingly, this matter is adjourned to Tuesday the -- what's the date please? The 7th, -- sorry,
13 Tuesday, the 8th This matter is adjourned to Tuesday the 8th of June and I would like to say, you
14 know, that whichever way the decision goes, whether the defendant, the first Accused is appearing for
15 himself or not, he would have the latitude on that day if he so wishes, if he so wishes, to make his
16 statement about the conduct of his Defence, the way the Prosecution did it this morning, if he so
17 wishes. He is not obliged, but if he so wishes, on Monday he will proceed with making a statement on
18 this -- on this issue. So the matter stands adjourned to the 8th of June -- to Tuesday the 8th of June
19 2004. The Court will rise.

20 *(Court adjourned at 1555H)*

21 *(Pages 34 to 37 by Momodou Jallow)*

CERTIFICATE

We, Gifty C. Harding, Susan G. Humphries and Momodou Jallow, Official Court Reporters for the Special Court for Sierra Leone, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*machine writer*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

_____ Gifty C. Harding

_____ Susan G. Humphries

_____ Momodou Jallow