

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

FRIDAY, 3 JUNE 2005
9.50 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Sharelle Aitchison Ms Roza Salibekova
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Joseph Kamara Mr Kevin Tavener Ms Adwoa Wiafe Mr Mohamed Stevens
For the Principal Defender:	No appearances
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Ibrahim Yillah Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Victor Koppe Mr Andrew Ianuzzi Ms Cora True-Frost (legal assistant)
For the accused Allieu Kondewa:	Mr Yada Williams Mr Ansu Lansana

1 [Friday, 3 June 2006]
2 [Open session]
3 [The accused not present]
4 [The witness entered Court]
09:51:07 5 [Upon commencing at 9.50 a.m.]
6 PRESIDING JUDGE: Good morning. Good morning, Madam
7 Witness. Prosecutor, you are ready to start with your next
8 witness?
9 MS WIAFE: Yes, Your Honour.
09:52:48 10 PRESIDING JUDGE: And what will be the language used by the
11 witness?
12 MS WIAFE: Mende.
13 PRESIDING JUDGE: Mende.
14 MS WIAFE: She'll be sworn on the Koran.
15 PRESIDING JUDGE: Koran. Okay. Mr Walker.
16 JUDGE ITOE: This is witness number?
17 MS WIAFE: I believe it is number 67.
18 JUDGE ITOE: Sixty-seven. Okay. And it's TF?
19 MS WIAFE: TF2-189.
09:53:15 20 WITNESS: TF2-189 [Sworn]
21 [Witness answered through interpreter]
22 MS WIAFE: May I proceed?
23 PRESIDING JUDGE: Yes, proceed.
24 EXAMINED BY MS WIAFE:
09:54:32 25 Q. Madam Witness, good morning.
26 A. Good morning.
27 Q. Madam Witness, I'll be asking you some questions.
28 A. Yes.
29 Q. In answering your questions, please go as slowly as you

1 can, because you are being recorded by the Court.

2 A. Okay.

3 Q. Madam Witness, where were you born?

4 A. I was born in XXXXXXXXXXXXXXXX.

09:55:08 5 MS WIAFE: Malima Yawbeko. Your Honours, I believe the
6 spelling is M-A-L-I-M-A. Yawbeko is Y-A-W-B-E-K-O.

7 Q. What district is XXXXXXXX District found?

8 A. Bonthe District.

9 Q. Madam witness, are you married?

09:55:44 10 A. Yes.

11 Q. Apart from in husband you are married to, have you ever had
12 any other husband?

13 A. Yes.

14 Q. Where is that husband now?

09:56:16 15 A. He is in XXXXXXXXXXXXXXXX.

16 Q. Madam Witness, I'm referring to the previous husband. You
17 said you've been married before.

18 A. Yes.

19 Q. Where is that previous husband now?

09:56:39 20 A. He was killed.

21 Q. Do you have any children at all, Madam Witness?

22 A. Yes.

23 Q. How many children do you have?

24 A. Two children.

09:57:09 25 Q. What work do you do?

26 A. I do soap making.

27 Q. Have you ever gone to school?

28 A. No.

29 Q. Apart from Mende, do you speak any other languages?

1 A. I speak Krio.

2 Q. Madam Witness, apart from the village that you live now,
3 have you lived in any other location in the Bonthe District?

4 A. Yes.

09:58:21 5 Q. What are these locations?

6 A. I was in Gbap buying soap -- buying fish and from there I
7 went to Yawbeko and then Talia.

8 Q. Madam Witness, can you go slowly. Where else have you
9 lived?

09:58:44 10 A. I went to Jaigba Sogbeni, Gbap in Nongoba Bullom, Talia
11 Yawbeko.

12 MS WIAFE: Your Honour, I believe Gbap is G-B-A-P. I will
13 attempt to spell Jaigba Sogbeni, J-A-I-G-B-A S-O-G-B-E-N-I, and
14 then Talia.

09:59:50 15 Q. Madam Witness, I will draw your attention to ~~XXXXXXX~~.

16 A. Yes.

17 Q. How did you come to live in Talia?

18 JUDGE ITOE: Let's be clear. Is that Talia Yawbeko, or is
19 it another Talia? Let us be very clear, please.

10:00:05 20 MS WIAFE:

21 Q. Madam Witness, when you say Talia, which location are you
22 referring to?

23 A. Talia Yawbeko.

24 Q. Madam Witness, how did you come to live in Talia Yawbeko?

10:00:30 25 A. It was a black Kamajor who brought me to Talia Yawbeko. It
26 was Kamajor Nulele who brought me to Talia Yawbeko.

27 Q. Madam Witness, where were you when you were brought to
28 Talia Yawbeko?

29 A. I was in Malima Yawbeko.

1 Q. Could you tell us what happened on the day that you were
2 taken from Malima Yawbeko to Talia?
3 A. Five Kamajors went to Malima Yawbeko and there were five in
4 number who went to Malima Yawbeko.

10:02:01 5 Q. Where were you in Malima Yawbeko on the day that these five
6 Kamajors came?
7 A. We were in bed. It was the dawn of the day.
8 Q. Who were you with at that time?
9 A. I was in bed with my husband.

10:02:39 10 Q. What happened that morning?
11 A. Nulele Kamajor come and knocked on the door and got my
12 husband.
13 Q. What did you do when you heard that knock?
14 A. We rose up, myself and my husband.

10:03:24 15 Q. Did anything happen at that time?
16 A. My husband rose up and opened the door.
17 Q. What happened after your husband opened the door?
18 A. Immediately he opened the door, then they held on his
19 clothes.

10:03:50 20 Q. Madam Witness, you said they held on his clothes. Who are
21 you referring to?
22 A. Nulele Kamajor.
23 Q. Did anything happen after that?
24 A. Yes.

10:04:29 25 Q. What happened?
26 A. They asked us to assemble outside.
27 Q. When you say "they", do you mean the Kamajors?
28 A. Yes, it was the Kamajor that asked us to assemble outside,
29 the Nulele Kamajor that captured me.

1 JUDGE ITOE: Let's get this clear. Nulele Kamajor, is
2 Kamajor another name, or is it a qualification that Nulele was a
3 Kamajor? Please.

4 MS WIAFE:

10:05:15 5 Q. Madam Witness, when you say Nulele Kamajor, what do you
6 mean by that?

7 A. That is his Kamajor name, the Kamajor name is Nulele.

8 Q. Was this the name of one person?

9 A. Yes, it was one person's name.

10:05:43 10 Q. Madam Witness, you said the Kamajors asked you to assemble
11 at a particular place. Did you go there?

12 A. Yes.

13 Q. Apart from you, who else was there?

14 A. His colleagues were there and also we, the civilians, were
10:06:22 15 there.

16 Q. When you say "his colleagues", who are you referring to?

17 A. I'm talking about the Kamajor colleagues, his colleagues
18 Kamajors.

19 Q. What happened after you assembled at this place?

10:06:55 20 A. They showed us some laws.

21 Q. After they showed you these laws, what happened?

22 A. They did not do anything bad to us. They asked us to go to
23 Talia.

24 Q. How many of you went to Talia?

10:07:49 25 A. We, the women, we were ten in number.

26 Q. Madam Witness, did you agree to go with the Kamajors to
27 Talia?

28 A. Yes.

29 Q. Why did you agree to go with them?

1 A. He said he would not leave me alone, but he went along with
2 me.
3 Q. When you say he said, who said he would go along with you?
4 A. The Nulele Kamajor.
10:08:47 5 Q. Were there any other Kamajors apart from the five that
6 you've mentioned?
7 A. Yes.
8 Q. Madam Witness, the Kamajors who came to Malima, were they
9 carrying anything?
10:09:24 10 A. Yes.
11 Q. What were they carrying?
12 A. There was a single barrel with them, and a club.
13 Q. You say single barrel; what is that?
14 A. It's a gun.
10:10:06 15 Q. Madam Witness, did you go to Talia that day?
16 A. Yes.
17 Q. What happened to your husband whom you were with in Malima?
18 What happened to him?
19 A. He came to me in Talia.
10:10:47 20 Q. Did he go with you to Talia at that time?
21 A. No.
22 Q. Madam Witness, in what season were you captured?
23 A. It was in the rainy season.
24 Q. Madam Witness, you said your husband came to you in Talia.
10:11:50 25 Why did he visit you in Talia?
26 A. He went and told me to go back to him.
27 Q. Did you go back to him?
28 A. No.
29 Q. Why did you not go back to him?

1 A. The Kamajor that captured me didn't allow me to return to
2 my husband.

3 Q. Madam Witness, this husband that you've talked about, did
4 anything happen to him?

10:12:59 5 A. Yes.

6 Q. Would you tell this Court what happened to him?

7 A. He came and met me on the verandah.

8 Q. Where did he meet you?

9 A. He met me sitting down on the verandah, the verandah of the
10:13:41 10 same Kamajor who captured me.

11 Q. In what place?

12 A. Talia Yawbeko.

13 Q. What happened when he came?

14 A. He asked him. He said, "Didn't I tell you that you should
10:14:07 15 never come back to this woman?"

16 Q. Who said that?

17 A. It was Nulele Kamajor.

18 Q. What happened after Nulele said this?

19 A. My husband ran away.

10:14:52 20 Q. Do you know where he went to?

21 A. Yes.

22 Q. Where did he go?

23 A. He went into the bush and fell down.

24 Q. What happened after he fell down?

10:15:21 25 MR YILLAH: My Lordships, I want to raise an objection on
26 an observation, because I see no nexus between the previous
27 evidence and this question that has just been asked by my learned
28 friend. I'm a bit confused, because the evidence, as I have it,
29 is that she was seated on the verandah and then said that her

1 husband left and he ran into the bush and fell down, but no --
2 your Lordship will see that there is a gap in the evidence, she
3 cannot say --

4 PRESIDING JUDGE: Let the witness explain. I don't see the
10:15:58 5 nature or value of your objection at this time. We'll see.
6 Maybe she was not in a position to see.

7 JUDGE ITOE: You should establish the link.

8 MS WIAFE:

9 Q. Madam Witness, where were you when your husband ran into
10:16:17 10 the bush?

11 A. The house that was there, it was close to the bush; it was
12 not far away from the bush.

13 Q. Did you see what happened when he ran into the bush?

14 A. Yes.

10:16:48 15 Q. Madam Witness, you were telling this Court that your
16 husband fell as he ran into the bush.

17 A. Yes.

18 Q. What happened after that?

19 A. I saw him coming back with his hands tied together with the
10:17:09 20 Kamajor, returning, with the Nulele Kamajor in the bush.

21 Q. Apart from Nulele, were there any other Kamajors present?

22 A. No, he was alone, holding on to him.

23 Q. Madam Witness, where was your husband taken?

24 A. I heard Nulele Kamajor saying that he was taking my husband
10:18:07 25 to Kondewa.

26 Q. Do you know who Nulele was referring to when he mentioned
27 Kondewa?

28 A. Yes.

29 Q. Who was he referring to?

1 A. Nulele told me he was taking him to Kondewa, the initiator,
2 the chief initiator, and it was Kondewa that initiated him. That
3 is why I knew he was the man referred to.

4 Q. Did Nulele take your husband away after he said that?

10:19:16 5 A. I saw him take him out.

6 Q. Did you go with them?

7 A. No.

8 Q. After Nulele took your husband away, did he come back with
9 him?

10:19:53 10 A. I saw him returning with him, singing.

11 Q. Was he alone when he came back, Nulele?

12 A. He was not alone. I saw him come back together with his
13 colleagues Kamajors and they were singing as they came along with
14 him.

10:20:35 15 Q. When they came back, what happened, Madam Witness?

16 A. They were singing [speaks Mende]. Tomorrow morning is
17 going to be a cutthroat tomorrow morning, that was the meaning of
18 the song.

19 Q. Madam Witness, did anything happen to your husband that
20 day?

21 A. Yes.

22 Q. Madam Witness, do you wish to take a break, or should I go
23 on?

24 PRESIDING JUDGE: Can she be provided with some assistance?

25 THE WITNESS: Let's proceed.

26 PRESIDING JUDGE: Before you do, I will ask that the people
27 from the Witness Protection Unit --

28 MS WIAFE: Your Honours, I have been informed that the
29 witness wishes to take a break.

1 PRESIDING JUDGE: Very well. The Court will adjourn for 10
2 minutes.

3 [Break taken at 10.21 a.m.]

4 [Upon resuming at 10.35 a.m.]

5 PRESIDING JUDGE: Madam Witness, can we continue with your
6 evidence now?

7 THE WITNESS: Yes.

8 PRESIDING JUDGE: Thank you. You may proceed.

9 MS WIAFE: Thank you, Your Honour.

10 Q. Madam Witness, just before the break, you were telling this
11 Court what happened to your husband after they brought him back.

12 A. Yes.

13 Q. What happened?

14 A. Well, he was taken away.

15 Q. Where was he taken?

16 A. They took him under the Yemani tree.

17 Q. And where was that?

18 A. Talia Yawbeko.

19 Q. Where were you at the time that they took him to that tree?

20 A. Immediately they took him under the Yemena tree, we, the
21 civilians, followed them.

22 Q. Where did you go, the civilians, you mean?

23 A. We went there. We were standing there on one side and the
24 Kamajors were standing on the other side.

25 Q. What happened when you got there?

26 A. The Kamajor Nulele that captured my son -- who captured my
27 husband, they were in the centre and we surrounded them.

28 Q. Did anything happen to your husband?

29 A. Yes.

1 Q. Please tell this Court what happened to him.

2 A. He asked my husband to say goodbye, to say his last prayers
3 and then say goodbye to the civilians and to the Kamajors.

4 JUDGE ITOE: Who?

5 MS WIAFE:

6 Q. Who was that?

7 A. Nulele told my husband. Nulele told my husband to say
8 goodbye to the civilians and to say goodbye to the Kamajors.

9 Q. What did your husband say --

10 JUDGE THOMPSON: To say his last prayers.

11 MS WIAFE:

12 Q. What did your husband do, Madam Witness?

13 A. He said goodbye to the Kamajors and also said goodbye to
14 we, the civilians.

15 Q. When he said that, what happened? Who asked him?

16 A. Nulele asked my husband.

17 Q. What did Nulele say?

18 A. "Now you are to make a choice, whether to kill you with the
19 gun or with the knife."

20 Q. Did your husband say anything?

21 A. He said something.

22 Q. What did he say?

23 A. He said, "You have the power now. However you want to kill
24 me, I will be willing."

25 Q. Did Nulele do anything to your husband after that?

26 A. Yes.

27 Q. What did he do?

28 A. I saw him cut his throat and remove the head.

29 Q. Madam Witness, after your husband's throat was cut, was

1 anything done to the body?

2 A. When he died, I saw them take his body and proceed towards
3 the bush.

4 Q. Did you follow them?

10:44:26 5 A. We, the civilians, dispersed.

6 [HN030605B-JM]

7 Q. Madam Witness, did you ever come to learn about what
8 happened to your husband's body after they took him to the bush?

9 A. I didn't know anything because at that time I had come back
10:45:08 10 to the house.

11 Q. Madam Witness, do you know why your husband was killed?

12 A. Yes.

13 Q. Why was he killed?

14 A. When he went to me once and he was told not to come back.
10:46:01 15 And when he came back, that's when they captured him.

16 Q. When you say "they," do you mean the Kamajors?

17 A. The very Kamajors.

18 Q. Madam Witness, how long did you live in Talia at that time?

19 A. I was there for up to four months.

10:46:53 20 Q. At the time you lived in Talia, could you tell this Court
21 what was happening in Talia, what were your observations about
22 Talia at that time?

23 A. Yes.

24 Q. What was happening in Talia?

10:47:35 25 A. I did see the plane -- a plane going round and round.

26 Q. Where did you see this plane?

27 A. This aircraft was going round and round Talia Yawbeko.

28 Q. Did this aircraft ever come to Talia Yawbeko?

29 A. Yes.

1 Q. Did you ever come to know why this aircraft was coming to
2 Talia Yawbeko?
3 A. Yes, I asked my husband.
4 Q. When you say your husband, who are you referring to?
10:49:03 5 A. That Nulele Kamajor.
6 Q. What did you ask Nulele Kamajor?
7 A. I asked him, this aircraft that comes and you people go
8 there, what does it come with?
9 Q. Did Nulele say anything about that?
10:49:48 10 A. Yes.
11 Q. What did he say?
12 A. He said it is Hinga Norman that comes with guns and bullets
13 and food. He brings them for Kondewa.
14 Q. Did you know this man, Hinga Norman?
10:50:27 15 A. I just heard his name, but I never saw him.
16 Q. You also mentioned Kondewa. Did you know who your husband
17 was referring to?
18 A. He said to me that he was their leader and he was the one
19 who initiated him into the Kamajor society.
10:51:18 20 Q. Madam Witness, apart from the aircraft that you mentioned,
21 did you make any other observations while you were at Talia?
22 A. Yes.
23 Q. What did you see?
24 A. My husband told me that they were going on training, that
10:52:09 25 it was Kondewa who was giving them training at the big field and
26 that's where they were going.
27 Q. Madam Witness, you say your husband. Who are you referring
28 to?
29 A. Kamajor Nulele.

1 PRESIDING JUDGE: You said that you were going for training
2 with Kondewa? Can you please repeat that last answer you gave.
3 MS WIAFE:
4 Q. Madam Witness, can you repeat what you said, what you just
10:52:57 5 said about training in the big field?
6 A. My husband said when I asked him where he was going, he
7 told me they were going for training at the big field. And when
8 I asked him who was giving him training, he said Kondewa.
9 PRESIDING JUDGE: Thank you.
10:53:18 10 MS WIAFE:
11 Q. Madam Witness, where was this big field?
12 A. I was not going there. I just saw him come out and go.
13 Q. Madam Witness, I asked you about the location. Where was
14 it? In what place was this big field?
10:53:56 15 A. In Talia Yawbeko.
16 Q. Madam Witness, you said you stayed in Talia for about four
17 months. After the four months, did you leave Talia?
18 A. Yes.
19 Q. Where did you go?
10:54:46 20 A. I went to Kalleh Wanjama.
21 MS WIAFE: Your Honours, I believe the spelling is Kalleh,
22 K-A-L-L-E-H; Wanjama, W-A-N-J-A-M-A.
23 Q. Why did you go to Kalleh Wanjama?
24 A. My husband told me, that Kamajor who captured me, he told
10:55:20 25 me that he should go to Kalleh Wanjama so that I wouldn't hide.
26 Q. How long did you stay in Kalleh Wanjama?
27 A. I was there for up to five months.
28 Q. During that time, who were you with?
29 A. There were many Kamajors there, as well as civilians.

1 Q. Madam Witness, this Nulele that you mentioned, where is he
2 now?

3 A. He went back to Talia Yawbeko.

4 Q. Madam Witness, my question was where is Nulele at this
10:57:10 5 particular time?

6 A. Nulele is dead.

7 Q. Do you know where he died?

8 A. Yes.

9 Q. Can you tell this Court where he died?

10:57:48 10 A. They came and told me that Kondewa had sent them to
11 Koribundu to go and fight. That's where they went. When they
12 went there, he never returned.

13 Q. Who came and told you about this?

14 A. His colleagues, the Kamajors.

10:58:06 15 Q. Who told you that Kondewa had sent them to Koribundu to
16 fight?

17 A. The very Nulele Kamajor told me.

18 Q. What did you do when you were told that Nulele had died in
19 Koribundu?

10:58:55 20 A. Well, I was there for him. So when that happened, I
21 returned to my hometown, Malima Yawbeko.

22 Q. Madam Witness, after you were told that Nulele had died,
23 did you ever see him again?

24 A. Since then, I've never seen him.

10:59:43 25 Q. Madam Witness, during the time that you were with Nulele,
26 the Kamajor, did you suffer any injury?

27 MR WILLIAMS: I take an objection, My Lord. I see my
28 learned friend has been stealthily leading evidence which
29 Your Lordships have ruled inadmissible. Now she is progressing

1 into other grounds. I take an objection, My Lords.

2 PRESIDING JUDGE: What's the basis of your objection?

3 MR WILLIAMS: My Lord, even the evidence of this witness
4 time with Nulele, My Lord, implies some sort of marriage, which
11:00:48 5 Your Lordships have ruled inadmissible. Now she is going into
6 what did she suffer whilst she was with that Kamajor?

7 PRESIDING JUDGE: Before we rule upon that, I would ask if
8 the Prosecution has any comment.

9 MS WIAFE: Yes, Your Honour. Indeed, Your Honour, this
11:01:26 10 witness in her testimony refers to Nulele as her husband. That
11 is how this witness characterises whatever relationship she had
12 with Nulele. There's no suggestion that she was forced into any
13 marriage. There's no suggestion that rape took place. That is
14 the witness's evidence. And I think the elements of sexual
11:01:45 15 violence are clear and the Prosecution has not led anything to
16 that effect. So I don't see why my learned friend is objecting.

17 Secondly, I asked the question did she suffer any physical
18 injury. There's no suggestion that she's going to talk about
19 sexual violence. I don't see where my learned friend is coming
11:02:04 20 from.

21 JUDGE ITOE: Supposing she does. If she does --

22 MS WIAFE: Your Honours, this is our case.

23 JUDGE ITOE: I'm not saying that she would, necessarily.
24 But supposing she does.

11:02:17 25 MS WIAFE: Your Honours, this is the Prosecution's case.
26 We are very mindful of Your Honours' ruling and we do not intend
27 in any way to go against your ruling.

28 PRESIDING JUDGE: Mr Williams.

29 MR WILLIAMS: Your Honours, what my learned friend is

1 saying is this lady went into the relationship with consent
2 because if she is saying it's not forced --

3 JUDGE THOMPSON: Perhaps you can ask the lady to take off
4 her earphones. Could somebody ask -- somebody remove her
11:02:46 5 earphones for her.

6 MR WILLIAMS: Yes, My Lord. Basically my learned friend is
7 saying that the witness went to the relationship with consent,
8 that it was consensual. Why would the Court want to know what
9 happened in a consensual relationship, My Lord?

11:03:14 10 PRESIDING JUDGE: But consensual relationship doesn't mean
11 necessarily to agree - I'll give you an example - to be beaten if
12 that were the case.

13 MR WILLIAMS: That is domestic violence, My Lord.

14 PRESIDING JUDGE: But whether you call it domestic
11:03:32 15 violence, does that allow you to beat your wife, because it's
16 domestic violence?

17 MR WILLIAMS: Your Lordships are not investigating that,
18 with respect. If a Kamajor went into a relationship which is
19 consensual and he beats up his wife, that does not come within
11:03:51 20 your mandate. It is not an offence before Your Lordship. It
21 does not constitute an offence before this Court. What is the
22 relevance of that bit of evidence?

23 PRESIDING JUDGE: Very well. We will retire to deliberate
24 on this objection. Thank you.

11:04:10 25 [Break taken at 11.04 a.m.]

26 [On resuming at 11.30 a.m.]

27 PRESIDING JUDGE: The decision on the objection will be
28 delivered by Honourable Justice Thompson.

29 JUDGE THOMPSON: This is the ruling of the Chamber on the

1 objection raised by learned counsel for the third accused:
2 Having carefully considered the objection by counsel for the
3 third accused and the arguments in support and also the
4 Prosecution's response thereto, it is the majority ruling of this
11:31:32 5 Chamber, Honourable Justice Pierre Boutet, Presiding Judge,
6 dissenting, that the objection be sustained. It is accordingly
7 upheld, it is the order of this Chamber that the question put by
8 learned counsel for the Prosecution is impermissible.

9 PRESIDING JUDGE: For the record, I am dissenting for the
11:32:00 10 reasons I have stated before in my previous dissent, and in my
11 opinion this evidence is admissible and should be led in that it
12 relates to what the Prosecution has stated as to physical
13 violence this witness would have sustained, the witness being
14 described as a civilian member of the community, and therefore in
11:32:23 15 my opinion it should be admissible. But the majority decision is
16 it is not admissible and therefore, Prosecution, you have to
17 amend yourself accordingly.

18 MS WIAFE: Thank you, Your Honours. In light of this
19 decision, I have no further questions for this witness.

11:32:43 20 PRESIDING JUDGE: Counsel for the first accused.

21 MR YILLAH: I have no questions for this witness,
22 Your Honour.

23 PRESIDING JUDGE: Counsel for the second accused.

24 MR KOPPE: I have no questions, Your Honour.

11:32:54 25 PRESIDING JUDGE: Counsel for the third accused.

26 CROSS-EXAMINED BY MR WILLIAMS:

27 Q. Madam Witness, you said your husband told you that Kondewa
28 was responsible for the training of Kamajors; is that correct?

29 THE INTERPRETER: Her microphone is not on.

1 PRESIDING JUDGE: Can you just repeat your question,

2 Mr Williams.

3 MR WILLIAMS:

4 Q. Madam Witness, you mentioned that Nulele told you that

11:33:51 5 Kondewa was responsible for training -- for giving them training.

6 Is that correct?

7 A. Yes.

8 Q. Did he describe the type of training that Kondewa was

9 giving to them at the big field?

11:34:24 10 A. I didn't ask him that.

11 Q. Was it -- would you say that it was a military training?

12 JUDGE ITOE: She said she didn't ask. She said she didn't

13 ask him that.

14 PRESIDING JUDGE: So obviously --

11:34:50 15 JUDGE ITOE: I mean, she did not ask him that.

16 MR WILLIAMS: As My Lord pleases.

17 Q. Did you ever meet Kondewa?

18 A. Yes.

19 Q. Do you recall the year in which this incident took place?

11:35:20 20 JUDGE THOMPSON: Which incident?

21 MR WILLIAMS: I mean the capture and taking to --

22 JUDGE THOMPSON: Why don't you be specific.

23 JUDGE ITOE: Be specific.

24 JUDGE THOMPSON: Because otherwise --

11:35:30 25 MR WILLIAMS:

26 Q. Do you recall the year that you were captured and taken to

27 Talia Yawbeko?

28 A. I didn't go to school, so I wouldn't be able to remember

29 the year.

1 Q. Apart from what your husband told you, did you know from
2 other sources what was going on at the big field?

3 A. No.

4 MR WILLIAMS: No further questions, My Lord.

11:36:30 5 PRESIDING JUDGE: Thank you. Any re-examination?

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

7 PRESIDING JUDGE: Thank you. Madam Witness, that concludes
8 your evidence. We thank you for having come to give your
9 evidence to this Court and we wish you good luck in the future.

11:36:50 10 Thank you very much.

11 THE WITNESS: Amen.

12 PRESIDING JUDGE: Do you have another witness ready?

13 MS WIAFE: Yes, Your Honour.

14 [The witness withdrew]

11:38:25 15 PRESIDING JUDGE: So your next witness is TF2-134? Or 133?

16 MS WIAFE: TF2-134.

17 PRESIDING JUDGE: 134, thank you.

18 [The witness entered court]

19 PRESIDING JUDGE: Madam Prosecutor, what's the language the
11:40:00 20 witness will be testifying in?

21 MS WIAFE: Mende.

22 PRESIDING JUDGE: Mende. And she is to be sworn on the
23 Koran?

24 MS WIAFE: On the Bible, the Bible, yes.

11:40:11 25 PRESIDING JUDGE: The Bible. Mr Walker, you heard this, on
26 the Bible.

27 WITNESS: TF2-134 [Sworn]

28 [Witness answered through interpreter]

29 PRESIDING JUDGE: Thank you. You may proceed.

1 MS WIAFE: Thank you, Your Honour.
2 EXAMINED BY MS WIAFE:
3 Q. Good morning, Madam Witness.
4 A. Good morning.
11:41:08 5 Q. Madam Witness, I'll be asking you some questions.
6 A. Okay.
7 Q. Please take your time when answering the questions because
8 you're being recorded by the Court.
9 Madam Witness, where were you born?
11:41:38 10 A. Bonthe.
11 Q. Are you married?
12 A. No.
13 Q. Madam Witness, what work do you do?
14 A. I'm doing gara dying.
11:42:09 15 Q. Madam Witness, have you ever gone to school?
16 A. Yes, I went to school, but I had left long ago.
17 Q. How far did you get to?
18 A. I stopped in Form 1.
19 Q. Can you read and write English?
11:42:46 20 A. No. As of this time, even if you write A as big as this
21 house, I would not know.
22 Q. Apart from Mende, do you speak any other languages?
23 A. No.
24 Q. Madam Witness, what district do you reside now?
11:43:25 25 A. I'm still in Bonthe.
26 Q. Madam Witness, apart from the place where you currently
27 reside, have you lived in any other place in Bonthe?
28 A. Yes.
29 Q. Where else have you lived?

1 A. I went to Matru and a village near Bonthe called Talia.

2 And another town called Talia.

3 Q. Matru and Talia. Is that what you said?

4 A. I said Matru and a village near Bonthe and Talia.

5 MS WIAFE: Matru, Your Honours, is M-A-T-T-R-U.

6 JUDGE ITOE: Is that the same village as Matru Jong?

7 MS WIAFE:

8 Q. Madam Witness, is that the same village as Matru Jong?

9 A. Yes.

10 Q. And you also mentioned Talia.

11 A. Yes.

12 Q. Is this Talia Yawbeko in Bonthe?

13 A. Yes.

14 Q. Madam Witness, how did you come to live in Talia?

15 A. I was captured and taken away by Kamajors.

16 Q. Where were you captured from?

17 A. In Bonthe, one village near Bonthe.

18 Q. Madam Witness, I'm going to direct your attention to the
19 day of your capture. You said you were in a particular village
20 in Bonthe. Where specifically were you in that village when you
21 were captured?

22 JUDGE ITOE: May we have the name of the village, please.

23 THE WITNESS: The town -- the house -- the house in which I
24 was where I was captured, I was sitting down outside.

25 MS WIAFE: Your Honours, for protective reasons --

26 JUDGE ITOE: I see, okay. Sorry.

27 MS WIAFE:

28 Q. Madam Witness, could you go over your answer again.

29 A. Where I was captured, in the village I was captured, I was

1 outside, sitting outside the house where I was.

2 Q. Was there anybody else with you at that time?

3 A. Yes.

4 Q. Who was there?

5 A. We were two women and a man.

6 Q. What happened on that day as you sat outside your house?

7 A. We were -- while we were sitting down there, we saw
8 Kamajors come.

9 Q. How did you know these were Kamajors?

10 A. Well, the outfit they had on, and they also carried
11 cutlass, and that is the reason why I knew that they were
12 Kamajors.

13 Q. What outfit did they have on?

14 A. There is a clothes called ronko. That is what they had on.

15 Q. Madam Witness, how many Kamajors came to your village or to
16 your verandah at that time?

17 A. Those that came to the verandah where I was, they were
18 three in number.

19 Q. And these three Kamajors, were they holding anything?

20 A. Yes.

21 Q. What were they holding?

22 A. They had matches.

23 Q. These three Kamajors, did they say anything to you when
24 they met you on the veranda?

25 A. Yes.

26 Q. What did they say?

27 A. They told me that, "Stand up, you, we are taking you to
28 Talia."

29 Q. Did they say anything else?

1 A. No.

2 Q. What did you do when you were told that?

3 A. I stood up and went along with them.

4 Q. What happened to the two other people who were with you on
5 the verandah?

6 A. Well, I wouldn't know the route they took.

7 Q. Madam Witness, did you agree to go with these Kamajors to
8 Talia?

9 A. Yes.

10 Q. And why did you agree to go with them?

11 A. At that time, whether you agree or not, you have to go with
12 them.

13 [HN030605C 11.50 a.m. - AD]

14 Q. Did you get to Talia that day?

11:51:50 15 A. Yes.

16 Q. Was there anybody else with you who was taken from your
17 village to Talia?

18 A. They came with people, along with people, but they were not
19 from the same village with me.

11:52:21 20 Q. Madam Witness, when you got to Talia, what did you see?

21 A. Well, I saw so many Kamajors there.

22 Q. Apart from Kamajors, were there any other people there at
23 that time?

24 A. Yes, there were civilians there.

11:53:22 25 Q. Madam Witness, when you went to Talia do you remember how
26 long you stayed in Talia?

27 A. No, I wouldn't know.

28 Q. Could you say whether you stayed there for days or months?

29 A. I wouldn't know because it was along time, but I was really

1 in Talia.

2 Q. Madam Witness, while you were staying in Talia did you ever
3 come to know whether these Kamajors had leaders in Talia?

4 A. Yes.

11:54:37 5 Q. And how did you come to know that these Kamajors had
6 leaders in Talia?

7 A. Well, later we have seen that they had their leaders there.

8 Q. Did they mention any of the names of these leaders there?

9 A. Yes.

11:55:09 10 Q. What names did they mention?

11 A. Moinina Fofana --

12 THE INTERPRETER: Can she repeat the last name?

13 THE WITNESS: Moinina Fofana, Sildia.

14 MS WIFE: I will attempt to spell Sildia: S-I-L-D-I-A.

11:55:54 15 Q. Apart from Moinina Fofana and Sildia were any other names
16 mentioned?

17 A. Yes.

18 Q. Which other names were mentioned?

19 A. They said they had their papay. His name was Allieu

11:56:22 20 Kondewa.

21 Q. Madam Witness, did you ever come to know Moinina Fofana?

22 A. I did not see him physically.

23 Q. How about Sildia?

24 A. He too was not seen physically.

11:57:02 25 Q. Did you see Allieu Kondewa?

26 A. I saw him once.

27 Q. What was he doing at the time that you saw him?

28 A. The time I saw him there?

29 Q. Yes.

1 A. That was the time when they were assembling the Kamajors
2 for the early morning parade.
3 Q. Where were you at this time when you saw him?
4 A. Well, we were sitting -- standing by the bush, close to
11:58:18 5 where they were, on the outside.
6 Q. Did anybody say anything in your hearing?
7 A. While they were doing the early morning parade, I did not
8 hear anything.
9 Q. Did you hear anything thereafter?
11:59:02 10 A. Yes.
11 Q. And what did you hear?
12 A. At one time I was there, a man came and he was really
13 grumbling.
14 Q. And where were you at that time? You said you were there,
11:59:58 15 where?
16 A. At that time we were many, I was there together with some
17 other people. We were standing by a hut.
18 Q. And this man who came grumbling, did you know him?
19 A. I don't know his name.
12:00:38 20 Q. Was anybody else there, apart from you and the other
21 people?
22 A. There were some Kamajors there.
23 Q. What happened?
24 A. He came and asked them about their leader -- their boss
12:01:27 25 man.
26 Q. You say they asked "them". Who are you referring to?
27 A. The man who came grumbling, he asked the Kamajors.
28 Q. And do you know whether he asked for any particular boss
29 man?

1 A. Yes, we heard him when he called the name of the boss man.
2 PRESIDING JUDGE: Who is the "him"?
3 MS WIFE:
4 Q. When you say you heard "him", who are you referring to?
12:02:26 5 A. I heard that man who came grumbling. When he said the name
6 of the person I heard him mention the name.
7 Q. What name did he mention?
8 A. I said "Kondewa".
9 Q. What happened after the man who came grumbling asked this
12:03:28 10 question?
11 A. Well, we saw Kondewa come outside.
12 Q. When you say "Kondewa", who are you referring to?
13 A. Kondewa is a Kamajor.
14 Q. And was this a boss man that you were referring to?
12:03:41 15 A. Yes.
16 Q. You said Kondewa came outside. Where did he come from?
17 A. From the initiation booth -- from the initiation bush.
18 Q. Where did he go when he came out?
19 A. There is a house close to the initiation bush entrance and
12:04:26 20 that was the house where they were standing.
21 Q. You said "that is the house where they were standing". Who
22 are you referring to when you say "they" were standing?
23 A. They and the very man who was standing outside that house.
24 JUDGE ITOE: They who?
12:05:01 25 MS WIFE: He said Konde and the man who was grumbling were
26 standing outside the house.
27 Q. Madam Witness, who was Konde?
28 A. He is the Kamajors' papay, the Kamajors' boss.
29 Q. What happened when Konde came outside?

1 A. The man came grumbling -- the man who came to make the
2 report, that was the time he came out to him.

3 Q. Did you hear the man say anything to Konde?

4 A. Yes.

12:06:30 5 Q. What did the man say?

6 A. He was really angry, saying that Konde should advise his
7 children. Because they said they were coming to assist them, but
8 his boys were going about stealing their properties.

9 Q. Do you know who the man referred to as Konde's boys?

12:07:48 10 A. They were Kamajors.

11 Q. Did you hear Kondewa saying anything in response?

12 A. I heard him say -- I heard him ask the man to go back, that
13 he was going to talk to them -- to his boys.

14 Q. Madam Witness, do you know if Konde spoke to his boys after
12:08:54 15 that?

16 A. Yes, in the evening. I saw them all outside.

17 Q. Madam Witness, you said you saw them all outside. Who were
18 you referring to?

19 A. The Kamajors.

12:09:34 20 Q. And where were you?

21 A. We were still standing on the outside of that hut.

22 Q. Did anything happen during that time?

23 A. Yes.

24 Q. What happened?

12:10:38 25 A. I did hear Konde talking, but I didn't see him in person.

26 Q. How do you know it was Konde who was talking?

27 A. He had a heavy voice.

28 Q. Apart from him having a heavy voice, how were you able to
29 recognise that it was Konde talking?

1 A. Please repeat the question.

2 Q. You said you recognised Konde's voice because he had a
3 heavy voice.

4 A. Yes.

12:11:38 5 Q. Apart from that, how were you able to know that it was him?

6 A. Because he had said after they had made their report to him
7 that when his boys come he would warn them.

8 Q. And what did he say, the voice that you heard -- Konde?
9 What did he say?

12:11:59 10 A. He told his boys that he has been telling them to stop
11 harassing civilians, to stop stealing civilian property.

12 Q. Did he say anything else?

13 A. Yes, he said they should stop stealing civilian property
14 because they have said that they were there to assist civilians,
12:12:48 15 but they were still bringing reports relating to them.

16 Q. Did he say anything else?

17 A. That was what he said.

18 Q. What was the reaction of the Kamajors after Konde said
19 this?

12:13:28 20 A. Well, we did see them -- we did see some of them grumbling
21 after that. They were saying that civilians were making reports
22 about them, that they were going to town stealing their property.

23 Q. Anything else? Did the Kamajors say anything else?

24 A. At that time they didn't say anything. That is what I
12:14:48 25 heard.

26 Q. Madam Witness, during the time that you were in Talia, did
27 you make any other observations?

28 A. I didn't see any other thing.

29 Q. Did you leave Talia at any time?

1 A. Yes.

2 Q. How did you leave Talia?

3 A. I escaped; there was a bypass route that I used and I went
4 to one village. That village is close to Talia.

12:15:20 5 Q. When you got to that village, did anything happen?

6 A. Yes.

7 Q. What happened?

8 A. I met Kamajors there.

9 Q. How did you know these were Kamajors?

12:16:03 10 A. Because I did see them at the base and they were dressed in
11 the Kamajor attire.

12 Q. Madam Witness, you refer to the base, where was that?

13 A. In Talia.

14 Q. What happened when you met these Kamajors?

12:16:48 15 A. They call me and asked me if I was making an escape.

16 Q. What was your response to that?

17 A. I told them I was not escaping.

18 Q. Did anything happen to you?

19 A. They just said that if I was not escaping I should just
12:17:34 20 return, together with them.

21 Q. Did you go with them?

22 A. Yes.

23 Q. Where did you go?

24 A. We returned to Talia.

12:18:01 25 Q. How many Kamajors did you go with to Talia?

26 A. I would not remember their number, but there were many.

27 Q. Why did you go back with them to Talia?

28 A. Because at that time we were scared of them.

29 Q. After you went back to Talia, did you leave again?

1 A. Yes.

2 Q. Why did you leave?

3 A. Because I still wanted to return to my home town.

4 Q. How did you leave Talia?

12:19:17 5 A. There was a bypass route that I used.

6 Q. Why did you use that bypass route?

7 A. I didn't want to meet them on the highway.

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

9 A. The Kamajors.

12:20:05 10 Q. Where did you go when you left Talia?

11 A. There was one village that was further away from Talia.

12 Q. What happened when you got there, to this village?

13 A. I met Kamajors there and they called me and asked me where

14 I was going. They asked me if I was trying to escape. I told

12:20:49 15 them I was not escaping; I told them I was going to find food.

16 Q. Madam Witness, take your time. What else did you tell

17 them?

18 A. I told them I was not escaping, I was going to fine food.

19 Q. Did they say anything to you when you told them that?

12:21:29 20 A. Yes.

21 Q. What did they say?

22 A. They said we should return, because that was not the place

23 for me to find food.

24 Q. Did you go back with them?

12:21:53 25 A. Yes.

26 Q. Where did you go to?

27 A. We returned to Talia.

28 Q. Did anything happen when you returned to Talia?

29 A. Yes.

1 Q. Tell the Court what happened.

2 A. When I returned to Talia, they captured me --

3 Q. Who captured you?

4 A. The Kamajors. They tied my hands behind my back.

12:22:50 5 Q. What did they tie you with?

6 A. There was a cord which they called "FM".

7 Q. What happened after they tied you?

8 A. They were beating me up and giving me some blows in my

9 chest, and I started vomiting blood.

12:23:24 10 Q. How many Kamajors did this to you?

11 A. I can't remember their number because I was lying

12 facewards.

13 Q. Now, what happened after they beat you?

14 A. They placed me in a guardroom.

12:24:01 15 Q. What kind of guardroom was this?

16 A. There was a place which was constructed with palm fronds.

17 It was like a coop; they call it a coop.

18 Q. How long did you stay in that guardroom?

19 A. I didn't spend the day there, but I spent a long time

12:24:45 20 there.

21 Q. You said you didn't spend a day there, were you taken out

22 of the guardroom that same day?

23 A. Yes.

24 Q. Who took you out?

12:25:11 25 A. One Kamajor came and untied me.

26 Q. After he untied you what did you do?

27 A. I laid down there for some time because I was unable to

28 come out.

29 Q. What did you do after some time?

1 A. Another Kamajor came and entered and ordered me out.
2 Q. So, did you leave the guardroom?
3 A. Yes.
4 Q. Where did you go?
12:26:27 5 A. I went where the hut was, where we had been.
6 Q. Madam Witness, do you know why this was done to you?
7 A. Yes.
8 Q. Why?
9 A. Because I was attempting to escape.
12:27:12 10 MS WIFE: Your Honours, I have no more questions for this
11 witness.
12 PRESIDING JUDGE: Thank you. Cross-examination for the
13 first accused?
14 MR YILLAH: I have no questions for this witness.
12:27:24 15 PRESIDING JUDGE: Thank you. Counsel for the second
16 accused?
17 CROSS-EXAMINED BY MR KOPPE:
18 MR KOPPE: Good afternoon Madam Witness.
19 A. Good afternoon.
12:27:39 20 Q. Could you please tell the Court what your age is?
21 A. No, I don't know.
22 Q. You don't know how old you are?
23 A. No.
24 MR KOPPE: No further questions.
12:28:21 25 PRESIDING JUDGE: Thank you. Counsel for the third
26 accused?
27 CROSS-EXAMINED BY MR WILLIAMS:
28 MR WILLIAMS:
29 Q. Madam Witness, you said Kondewa assembled his boys after

1 somebody had complained to him about the conduct of some
2 Kamajors. Is that correct?

3 A. Yes.

4 Q. Could you tell the Court the size of the crowd that was
12:28:55 5 assembled -- I mean the size of the Kamajors that was assembled?

6 A. I cannot tell that, but there were many.

7 Q. Did Kondewa also tell this group of Kamajors that they
8 would be punished if such reports were made against anybody in
9 the future?

12:30:05 10 A. I didn't hear him say that.

11 Q. Do you know a Kamajor commander called Jegbeyama?

12 A. Yes.

13 MR WILLIAMS: That is J-E-G-B-E-Y-A-M-A.

14 JUDGE ITOE: We have come by that name.

12:31:10 15 MR WILLIAMS: Several times.

16 JUDGE ITOE: Several times, yes.

17 MR WILLIAMS:

18 Q. Did you hear -- was Jegbeyama present at this meeting?

19 A. Yes.

12:31:25 20 Q. Did you hear Kondewa tell Jegbeyama that if any reports of
21 looting were made against any Kamajors in the future that
22 Kamajors should be punished?

23 A. I didn't hear him say that.

24 Q. How many statements did you make to investigators?

12:32:55 25 A. It has been a long time now, I can't tell.

26 Q. But you do recall making at least one statement to
27 investigators?

28 A. Yes.

29 Q. And on that occasion you spoke through an interpreter; is

1 that correct?

2 A. Yes.

3 Q. And what you said was reduced into writing; is that
4 correct?

12:34:29 5 A. Yes.

6 Q. After that, they read over to you what they had recorded --
7 what they had written down.

8 A. Yes.

9 Q. You might not recall, but I am suggesting to you that one
12:35:15 10 such statement was made on the ninth of October 2003.

11 A. I can't remember.

12 Q. And in that statement you had this to say to
13 investigators -- page 12328 --

14 PRESIDING JUDGE: I think, Mr Williams, you have
12:36:09 15 established the necessary background to get into that at this
16 moment? What are you trying to do --

17 MR WILLIAMS: To put it in evidence.

18 PRESIDING JUDGE: For what purpose?

19 MR WILLIAMS: Inconsistency.

12:36:22 20 PRESIDING JUDGE: Well, we will see where you go.

21 [HN030605D-SGH]

22 MR WILLIAMS:

23 Q. On the second paragraph I will just read what you have said
24 to investigators and you tell the Court whether you agree to what
12:36:22 25 is here now. You said, "Witness," that you saw Allieu Kondewa
26 again addressing the Kamajors.

27 A. At what time?

28 Q. It is not stated here, it is stated here, so it is not
29 stated here, but I proceed. He said that he had all -- you told

1 the investigators that Allieu Kondewa said he had already advised
2 the Kamajors to stop looting. Did you say that to the
3 investigators?

4 A. I didn't say that.

12:37:13 5 Q. And that Allieu Kondewa said he was unhappy that they had
6 not stopped.

7 JUDGE ITOE: Mr Williams, doesn't that not surface in her
8 viva voce testimony already?

9 MR WILLIAMS: My Lord, the entire -- the evidence about
12:37:55 10 that episode, My Lord, that [indiscernible] that I am reading
11 over to her. But I stand guided by what Your Lordship's
12 direction.

13 PRESIDING JUDGE: But she still does not remember making
14 that statement.

12:38:08 15 MR WILLIAMS: She said she recalled making at least one
16 statement.

17 PRESIDING JUDGE: Yes, but you asked her about 9 October,
18 she said she cannot remember.

19 MR WILLIAMS: Yes, My Lord. But that does not preclude me
12:38:17 20 from proceeding the way I am proceeding.

21 PRESIDING JUDGE: You have informed the Court that you
22 would like to tender this for the purpose you have stated, as
23 such.

24 MR WILLIAMS: Yes, My Lord.

12:38:31 25 PRESIDING JUDGE: I will view that if she does not
26 recognise that to be her statement.

27 MR WILLIAMS: My Lord, we have admitted statements in this
28 Court.

29 PRESIDING JUDGE: Yes, yes, we have admitted them.

1 MR WILLIAMS: Even in cases where witnesses have said, "I
2 do not recall making those statements. I do not recall signing
3 those statements." I mean these statements are provided by the
4 Prosecution and the position of this Court, My Lord, has been
12:39:01 5 that we would tend to lean towards --

6 JUDGE THOMPSON: Flexible admission of documents.

7 MR WILLIAMS: Yes, My Lord, I am giving credibility to what
8 the Prosecution presents to us.

9 PRESIDING JUDGE: Well, I do not agree.

12:39:17 10 MR WILLIAMS: No, I mean, as far as disclosure is
11 concerned, My Lord.

12 PRESIDING JUDGE: I would say to you that is not a reality.
13 We have not admitted that we are giving credibility to what the
14 Prosecution has done by disclosing statements. Absolutely not.
12:39:31 15 Show me a statement where we may have said that.

16 MR WILLIAMS: My Lord, the Prosecution would not --

17 PRESIDING JUDGE: You may have stated that, but this Court
18 has not made any such statement.

19 MR WILLIAMS: I am entirely in your Lordships' hands on
12:39:50 20 this, but my attitude has been that --

21 PRESIDING JUDGE: Mr Williams, it is simply to say that we
22 have, as you know, in this particular case, the CDF, made rulings
23 and described the procedure that is to be followed for statements
24 when you are intending to do that. And yes, I recognise and
12:40:07 25 fully agree that we have taken a fairly flexible approach, but
26 there are some minimum requirements before we go there. That is
27 what I am telling you. Yes, we are quite flexible in this and we
28 do not make any decision that would impose undue restriction, but
29 if it is tendered for the purpose of mentioning, it has to have

1 some semblance of validity vis-a-vis this witness, otherwise what
2 is the purpose?

3 MR WILLIAMS: My Lord, if I cannot establish that through
4 this witness, then I will have to call the investigators. That
12:40:42 5 is time-consuming, My Lord. So that is why I say there is this
6 presumption that what they present was regular.

7 JUDGE THOMPSON: Yes, well, of course what I think my
8 learned brother is saying, the Presiding Judge, that we need some
9 kind of legal nexus between the document and the witness. And
12:41:02 10 the question is whether you have laid sufficient legal foundation
11 for the reception of the document into evidence. I do not think
12 the point is whether there is consistency between what the
13 statement contains and what the Prosecution has laid in evidence.
14 That is not the issue. Your issue is that you are trying to
12:41:31 15 establish possible prior inconsistency between an out-of-court
16 statement and her testimony here on certain particulars. And the
17 procedures, the learned Presiding Judge said, that we only
18 receive documents in evidence for that limited purpose if
19 sufficient foundation is laid to establish the nexus between the
12:41:54 20 document and the witness.

21 MR WILLIAMS: Yes, My Lord. My response was that if a
22 witness denies making a statement, that does not, I mean,
23 preclude the statement from going in. Nor is it tantamount to
24 saying that because of that it will be said that sufficient
12:42:16 25 foundation has not been laid. Because, I mean, we know how
26 unsophisticated some of the witnesses are. They are illiterate,
27 they are, you know, I mean, it is a long time ago they made these
28 statements.

29 JUDGE THOMPSON: But in your mind there are some missing

1 links now between the statement and the witness in terms of the
2 foundational elements from your perspective.

3 MR WILLIAMS: My Lord, I don't think so, My Lord. I don't
4 think I could do more than I have already done to create the
12:42:46 5 nexus.

6 MR KAMARA: Your Honours, if the Prosecution may be of some
7 help here. The issue here is now the few aspects that my learned
8 friend has pointed out to the witness is all right. But the
9 foundation has not been laid as to when the statement was made,
12:43:07 10 where was it made and who was present and those are the issues I
11 believe the Court is looking forward to hearing from my learned
12 friend. Once those have been established then we can go back to
13 the statement.

14 JUDGE THOMPSON: In other words, he has put the cart before
12:43:20 15 the horse, so to speak.

16 MR KAMARA: Yes.

17 MR WILLIAMS: My Lord, I will stand by -- but I don't know
18 whether I can do better.

19 JUDGE THOMPSON: Well, you could see -- that is why I am
12:43:35 20 saying that perhaps you should take stock of what you have done
21 so far and see what the missing links are. So learned counsel
22 for the Prosecution is right, you know, we need the nexus by way
23 of legal foundation.

24 MR WILLIAMS: As My Lord pleases.

12:43:54 25 Q. Madam witness --

26 A. Yes.

27 Q. -- was Ms Wiafe present whilst you made one of these
28 statements?

29 A. I can't remember.

1 Q. Where were these statements were obtained from you?

2 A. I was in Matru.

3 Q. Where was the statement obtained or where was the statement
4 obtained from you?

12:45:08 5 A. Where I was doing my apprenticeship.

6 Q. And you recall that at least on one occasion that you spoke
7 with investigators there were at least two ladies present.

8 PRESIDING JUDGE: Are you asking her the question or a
9 statement?

12:45:43 10 MR WILLIAMS: No, it is a question, My Lord.

11 Q. It is a question.

12 A. Well, do you want me to recall whether there were two men?

13 Q. At least two ladies present on at least one occasion that
14 you spoke with the investigators.

12:46:36 15 A. Even if they were there, I can't remember.

16 Q. Madam Witness, I will make an application, My Lord, that
17 those who took down the statement be interposed before I proceed
18 with this witness.

19 JUDGE ITOE: Don't rush. Don't rush to that.

12:46:53 20 Q. But, Madam Witness, the statements were taken from you. I
21 know it is a long time and you cannot remember that people of
22 your own sex were present at the time they were taking these
23 statements from you.

24 A. I was making the statements to women, but to say that there
12:47:29 25 were two women when they were talking to me in that house I can't
26 remember.

27 Q. Whether there were two or not is not really material now
28 that she has accepted she was making a statement in the presence
29 of women. Whether there were two or 10.

1 PRESIDING JUDGE: Well, I suggest as well, that you go
2 through some of the procedure, Mr Williams, because presumably
3 you will want this Court to give again some credibility to make
4 the assessment in the sense that was the statement read to her
12:48:12 5 afterwards? And if it was read to her, was it all done? Or, I
6 know you said that the witness has said - and that she could
7 repeat that - that it was reduced to writing.

8 MR WILLIAMS: My Lord, I will just ask her firstly whether
9 it was read over to her after it was recorded and she said yes.
12:48:34 10 And I really don't think that I can go further than what I have
11 already done, My Lord. I mean, in terms of establishing a
12 foundation for this document to be admitted.

13 PRESIDING JUDGE: But the question, when we moved to that
14 at that time, the question you were asking, as my brother Justice
12:48:54 15 Itoe was [indiscernible], is not the question that -- why the
16 question is disputed, because she has testified in that. Indeed
17 she said that Kondewa addressed this group and said, "Stop
18 looting." Not necessarily these words, but she said it was the
19 message he conveyed to his boys was to stop harassing the
12:49:24 20 civilians and stop stealing from civilians. So she has said that
21 in her examination-in-chief, so if that is the portion you were
22 reading from her statement, she has testified to that already.

23 MR WILLIAMS: I will just say, I replied earlier on, My
24 Lord, by saying that I was reading what she said or what she said
12:49:43 25 in relation to that episode. But I will come to the portion that
26 I want to have admitted soon, My Lord.

27 PRESIDING JUDGE: Because you are asking now to admit a
28 statement because for the time being there is no dispute to my
29 knowledge.

1 MR WILLIAMS: I will, My Lord.

2 PRESIDING JUDGE: So, your request is a bit premature in
3 this respect.

4 MR WILLIAMS: For the document to be admitted?

12:50:09 5 PRESIDING JUDGE: Yes, admitted for what at this moment
6 there is no dispute.

7 MR WILLIAMS: No, My Lord. I suppose I was stopped because
8 your Lordship thought I had not established a proper foundation,
9 but I have not finished -- I haven't yet finished reading the
12:50:19 10 document.

11 PRESIDING JUDGE: Everything you say is accurate. Proceed.

12 MR WILLIAMS: As My Lord pleases.

13 Q. Madam Witness, did Allieu Kondewa tell the Kamajors that he
14 was unhappy because they had not stopped looting civilian
12:50:48 15 properties? Sorry --

16 JUDGE THOMPSON: Is that just part of your regular
17 cross-examination or are you adverting to the document?

18 MR WILLIAMS: I am sorry, My Lord, I was adverting to the
19 document.

12:50:57 20 JUDGE THOMPSON: Well please --

21 MR WILLIAMS: I am sorry.

22 JUDGE THOMPSON: Yes, quite.

23 MR WILLIAMS:

24 Q. Did you tell investigators that Allieu Kondewa said that he
12:51:12 25 was unhappy because the Kamajors had not stopped looting civilian
26 properties.

27 MR KAMARA: Your Honours, I am sorry. I don't know if he
28 is reading exactly from the same page. I do not see there any
29 civilians, the word was civilians there.

1 PRESIDING JUDGE: I don't know.

2 MR KAMARA: If he is reading exactly, let him show me the
3 paragraph because there is nothing there to show or indicate
4 civilians. It seems like that is an insertion.

12:51:43 5 JUDGE THOMPSON: Well, I would hate to think that such a
6 procedure would be adopted because I am of the mind that when
7 counsel wants to put allegedly prior inconsistent statements to
8 the witness there should not be any paraphrasing.

9 MR KAMARA: Exactly so.

12:52:02 10 JUDGE THOMPSON: Or abbreviating of the statement but the
11 exact statement, so that the Court would be properly guided as to
12 whether there is in fact alleged or perceived inconsistency
13 because that is something we will do later on. But the procedure
14 seems to be quite clear that you don't put to the witness any
12:52:26 15 excerpt from his or her statement in a form which amounts to
16 paraphrasing.

17 MR WILLIAMS: My Lord, the problem with this particular
18 statement, I have seen so many other statements it is not made in
19 the first person.

12:52:46 20 JUDGE THOMPSON: Yes. So are you definitely trying to
21 paraphrase it?

22 MR WILLIAMS: Yes, My Lord.

23 JUDGE THOMPSON: Well, we have had statements like this
24 before and I think we have followed the question and answer. If
12:53:01 25 that is it. We have gone exactly, you know in that manner.
26 Because if you try to paraphrase then you do get the kind of
27 response from the Prosecution saying, "We don't agree with your
28 paraphrase since there might be some kind of ellipsis in your
29 paraphrase".

1 MR WILLIAMS: Is your Lordship indicating that I should --

2 JUDGE THOMPSON: So, what do you have there? Something in
3 the form of question and answer?

4 MR WILLIAMS: No, My Lord, I think it is not reported in
12:53:34 5 the first person. The exact --

6 JUDGE THOMPSON: It is reported in the third person?

7 MR WILLIAMS: Yes, My Lord. "Witness saw Allieu Kondewa
8 again addressing the Kamajors. He said that he had already
9 advised them to stop looting and that he was ..."

12:53:50 10 JUDGE THOMPSON: Yes, well why shouldn't the translators
11 help us with that? Translate from third to first or some other
12 method that is acceptable.

13 MR WILLIAMS: As My Lord pleases.

14 PRESIDING JUDGE: And had you just given the quote, you
12:54:02 15 would have said - and I quote - A B C and D, as such. Did you or
16 did you not say this? I mean this is the only way we can do a
17 proper assessment of what you are trying to establish,
18 Mr Williams, otherwise.

19 MR WILLIAMS:

12:54:14 20 Q. I mean, did you tell the investigators that Allieu Kondewa
21 said he was unhappy that they, the Kamajors, had not stopped
22 looting?

23 A. I didn't say that. All that I said is what I have repeated
24 here.

12:54:54 25 Q. And did you tell investigators that Allieu Kondewa told
26 Jegbeyama that if anyone came to report that a Kamajor had looted
27 someone's property, that Kamajor would be punished?

28 A. I didn't hear him say that.

29 JUDGE ITOE: It is a question of hearing.

1 Q. Did you tell the investigators? Did you tell the
2 investigators? That is where we are?

3 A. I didn't say that.

4 Q. She didn't tell the investigators that Kondewa told
12:56:10 5 Jegbeyama that what, Mr Williams?

6 MR WILLIAMS:

7 Q. That if anyone came to report that a Kamajor had looted
8 someone's property, that Kamajor would be punished?

9 A. All what I said in my statement is what I have said here
12:56:43 10 today.

11 JUDGE THOMPSON: I am not sure how much we can get beyond
12 that, it would seem, and perhaps this is one reason why, speaking
13 for myself, it may be to continue to adopt our practice of
14 flexibility in admitting these documents and taking all these
12:57:06 15 factors and circumstances into consideration. That these are
16 witnesses who were interviewed by some process, which may well
17 have created some problems in terms of being able to figure out
18 or fathom what they told the investigators and what they did not
19 tell the investigators. Because applying, for my part,
12:57:39 20 presumption of irregularity. So, this kind of encounter or

21 impasse would convince me that this Tribunal is right in adopting
22 a flexible approach to admission of these statements made by
23 persons who are not as sophisticated as us and who may not have
24 been too familiar with the process and method of investigation.
12:58:08 25 Just speaking for myself and I will restrict --

26 JUDGE ITOE: Are there any inconsistencies you are
27 referring to?

28 MR WILLIAMS: [Overlapping speakers] I wish to tender, Your
29 Honour. It is lines 5,6,7 and 8, on page 12328.

1 JUDGE ITOE: What page?

2 MR WILLIAMS: 12328, a statement made by this witness
3 9 October 2003. My Lord, I highlight the portion. Mr Walker --

4 PRESIDING JUDGE: To alleviate some of the concerns of my
12:59:43 5 brother Justice Thompson, I certainly concur with the
6 appreciation that he has made with the approach this Tribunal
7 about flexibility and admissibility of documents. My concern is
8 to do with if there is not sufficient background to it, it is of
9 almost of no value and therefore why do we proceed? So that is
13:00:02 10 why I was putting these questions to you, Mr Williams. Obviously
11 we are not putting anybody to a very rigid test otherwise we
12 would never achieve any purpose. But unless you establish some
13 background that is of some value for us to make this assessment,
14 then the assessment you are asking the Court to make, even if we
13:00:21 15 admit the document is really of no assistance. So that was my
16 purpose, but I fully completely concur with the statement when my
17 brother Justice Thompson and the flexibility of it.

18 Mr Walker, we are at Exhibit 94?

19 MR WALKER: 94, Your Honour.

13:00:51 20 PRESIDING JUDGE: 94. So this document is marked as
21 Exhibit 94 and again for the limited purpose, as such, sought by
22 counsel for the third Accused it has to do with lines in the
23 second paragraph, Mr Williams, is it?

24 MR WILLIAMS: Yes, My Lord.

13:01:12 25 PRESIDING JUDGE: And it is at page 12328 of a two pages
26 document, which is a document -- is this the first page of the
27 statement, because you made reference to a date. I do not see a
28 date on it, but I see on the first line, "Witness was interviewed
29 on 9-10-03". Yes, thanks.

1 MR WILLIAMS:

2 Q. Madam Witness, Jegbeyama was a military commander; is that
3 correct?

4 A. I didn't know whether he was a military commander, but I
13:02:13 5 heard them calling him Commander Jegbe.

6 Q. Was it a most senior military commander at Talia around
7 that time?

8 JUDGE THOMPSON: Counsel.

9 MS WIAFE: Objection, Your Honour.

13:02:50 10 JUDGE THOMPSON: That is sustained. Why would this woman
11 know? She has already said that --

12 PRESIDING JUDGE: She didn't know.

13 JUDGE THOMPSON: She said that, "I heard them call him".

14 MR WILLIAMS: Commander.

13:02:58 15 JUDGE THOMPSON: Yes. So why was the question, "Was he the
16 most senior?" He could have been called the most senior, but she
17 does not know that.

18 MR WILLIAMS: My Lord --

19 JUDGE THOMPSON: How would she know those things?

13:03:11 20 PRESIDING JUDGE: The question was: "Do you know if he was
21 a military commander?" Answer, "I didn't know. All I know is he
22 was" [overlapping speakers]

23 JUDGE THOMPSON: I heard them call, and so there is a world
24 of difference between hearing people call other people by certain
13:03:25 25 titles, and whether they actually are. I mean, I don't know what
26 you are trying to elicit. Are you trying to elicit her own --
27 what she heard other people say or whether he was actually --

28 MR WILLIAMS: What she said -- what she heard other people
29 say.

1 JUDGE THOMPSON: Other people say.

2 MR WILLIAMS: The Prosecution have led evidence from
3 witnesses and lay witnesses to say this was Papay and boss and
4 Kamajor boss.

13:03:48 5 JUDGE THOMPSON: No, no, no, no.

6 MR WILLIAMS: I am almost working on the same wavelength.

7 JUDGE THOMPSON: I am in fact saying here is a witness who
8 - and I don't know, you can correct me if I am wrong - maybe
9 presume not to be familiar with a military organisation. And if
13:04:09 10 you are going to assist this Court as to whether A was a military
11 commander or not a military commander or a senior military
12 commander, it seems difficult to see how witnesses like these
13 will be the ones to assist the Court because they would only hear
14 what others tell them. She is giving evidence that there were
13:04:35 15 many Kamajors there. They were calling these people by different
16 names. And so where are we in world of fiction or in a world of
17 aliases or in a world of reality, in terms of actual military
18 organisation?

19 PRESIDING JUDGE: As I say, Mr Williams, she has answered
13:04:54 20 your question to say, "I didn't know," but she tried to assist
21 you by saying, "However, I have heard that he was being called".

22 JUDGE THOMPSON: So it really depends on what you are
23 trying to elicit, because, I mean, I am just saying we are trying
24 to ascertain the truth and in terms of the military organisation
13:05:11 25 or whether somebody was a real commander or a fictitious
26 commander or whatever or an alias commander, would not be a
27 matter for ordinary witnesses, who, according to their evidence,
28 were in a state of alleged captivity. But it depends on what you
29 are trying to elicit.

1 MR WILLIAMS: My Lord, this witness testified without any
2 objection from us, you know, from the Bench, My Lord. About
3 people being categorised as bosses of the CDF, of the Kamajor.

4 PRESIDING JUDGE: Yes, but she was asked if she knew and
13:05:47 5 she said yes.

6 [Multiple Speakers - transcript incomplete]

7 PRESIDING JUDGE: Please, please, when I speak, don't
8 speak at the same time.

9 MR WILLIAMS: I take the cue, My Lord.

13:05:56 10 PRESIDING JUDGE: So what she testified to she said she
11 knew and eventually she gave that description. In your case she
12 said, "I don't know". So why are we moving in that direction
13 when she has already told you, "I don't know". She does not even
14 know if he was a military commander, so how would she know that
13:06:11 15 he was the top military commander?

16 JUDGE THOMPSON: Yes, and even if she knew, even if she
17 answered that, of what value is that to the Tribunal when she is
18 not called upon here to come and testify as to organisational
19 structure in the military. In other words, we expect this
13:06:28 20 witness to testify to things that she actually saw and heard in
21 purported proof of the charges in the indictment. But it is your
22 case. I mean, if you were instructed to put to her that she
23 knows who a senior military, second in command, third in command,
24 that is fine.

13:06:54 25 MR WILLIAMS: There are no further questions for this
26 witness.

27 PRESIDING JUDGE: Thank you. Any re-examination?

28 MS WIAFE: No re-examination of this witness.

29 PRESIDING JUDGE: Thank you.

1 PRESIDING JUDGE: Good afternoon, counsel. Mr Prosecutor,
2 we are back in session this afternoon to hear an application that
3 you intend to make for closed session with reference to
4 witness -- is it TF2-218.

15:03:40 5 MR TAVENER: That's correct and TF2-011.

6 PRESIDING JUDGE: So your application is for closed session
7 in both cases but obviously for different reasons.

8 MR TAVENER: That's correct.

9 JUDGE THOMPSON: And are you consolidating them? Wouldn't
15:04:07 10 it be better to take them separately?

11 JUDGE ITOE: It's neater to take them separately.

12 MR TAVENER: I'm happy to do that.

13 JUDGE ITOE: Are we already in closed session?

14 PRESIDING JUDGE: We're not. Can we go into closed session
15:04:23 15 now. Thank you.

16 MS EDMONDS: It will just take a few minutes, sir.

17 [At this point in the proceedings, a portion of the
18 transcript, pages 53 to 80, was extracted and sealed under
19 separate cover, as the session was heard in camera.]

16:07:26 20 [Whereupon the hearing adjourned at 4.05 p.m.,
21 to be reconvened on Monday, the 6th day of June
22 2005, at 9.30 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-189	2
EXAMINED BY MS WIAFE	2
CROSS-EXAMINED BY MR WILLIAMS	19
WITNESS: TF2-134	21
EXAMINED BY MS WIAFE	22
CROSS-EXAMINED BY MR KOPPE	34
CROSS-EXAMINED BY MR WILLIAMS	34