

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL-04-15-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
v.
ISSA HASSAN SESAY
MORRIS KALLON
AUGUSTINE GBAO

TUESDAY, 27 JULY 2003
10.15 A.M.
CONTINUED TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For the Registry:

Ms. Maureen Edmonds
Mr. Geoff Walker

For Chambers:

Mr. Matteo Crippa
Ms. Candice Welsch

For the Prosecution:

Ms. Lesley Taylor
Mr. Alain Werner
Mr. Alieu Iscandari
Ms. Sharan Parmar
Ms. Adwoa Wiafe
Mr. Bobby Gboyor (Case Manager)
M. Marie-Helen Proulx (Intern)

For the accused Issa Hassan Sesay :

Mr. Wayne Jordash
Ms. Sareta Ashraph

For the accused Morris Kallon :

Mr. Raymond Brown
Mr. Melron Nicol-Wilson

For the accused Augustine Gbao:

Mr. Andrea O'Shea
Mr. John Cammegh

For the Principal Defender:

Ms. Haddijatou Kah-Jallow

Court Reporters:

Ms. Roni Kerekes
Ms. Susan G. Humphries
Ms. Gifty C. Harding
Mr. Momodou Jallow

I N D E X

WITNESS/ES

For the Prosecution:

WITNESS TF1-199 (continues)

Cross-examined by Mr. Cammegh2

WITNESS TF1-305

Examined by Ms. Wiafe 51

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1 [Tuesday, 27 July 2004]

2 [The accused Sesay and Kallon entered court]

3 [The accused Gbao not present]

4 [Open session]

5 [Upon commencing at 10.15 a.m.]

6 MR. PRESIDENT:

7 Yes, we're resuming the session. Mr. Sesay, how are you this morning?

8 THE ACCUSED SESAY:

9 Yes, My Lord, I'm okay.

10 MR. PRESIDENT:

11 You're all right?

12 THE ACCUSED SESAY:

13 Yes, sir.

14 MR. PRESIDENT:

15 Good.

16 Yes, I think, Mr. O'Shea, we would proceed with the cross-examination of prosecution witness -- the
17 eighth, prosecution witness, I think.

18 MR. O'SHEA:

19 Yes. It is TF1-199, Your Honour, and Mr. Cammegh will be taking the cross-examination.

20 MR. PRESIDENT:

21 Pardon?

22 MR. O'SHEA:

23 Mr. Cammegh will be taking the cross-examination of that witness.

24 MR. PRESIDENT:

25 Well, I would like the records to reflect that yesterday we -- we couldn't sit in the morning because
26 Mr. Sesay, the first accused, was indisposed and that we adjourned to 3.00 p.m. for him to receive
27 medical attention and possibly to resume the session at 3.00. But at about 1.00 p.m. we received a
28 report from the doctor, a written report, dated the 26th of July 2004, indicating that he was still
29 receiving some attention and that he would only be available this morning. So I sent word to Court
30 Management for learned counsel to be informed that the Court would only be sitting today. So I would
31 like that to be reflected on the records, because the letter we received from the doctor is -- the
32 doctor's name is Dr. Delwin N. Findlay, F-I-N-D-L-A-Y. He's a local medical officer of the Special
33 Court for Sierra Leone, and the letter is dated 27th of July 2004. So that is -- that is it. Court
34 Management will take this and -- for the purposes of court records, please. It should be put into the
35 court records.

36 Yes. Is the witness in place?

37

1 MS. TAYLOR:

2 I understand that the witness is in place and that the videolink can be set up.

3 JUDGE BOUTET:

4 What about the screens over there? Are they operational or not?

5 MS. TAYLOR:

6 No, they are off, Your Honour.

7 MR. PRESIDENT:

8 You don't have a screen? All right. Okay. What about this one? Is it switched off?

9 MS. TAYLOR:

10 All the ones facing the public gallery have been switched off, Your Honour.

11 MR. PRESIDENT:

12 All right. Okay.

13 [WITNESS TF1-199 continues]

14 [Witness testified via videolink]

15 CROSS-EXAMINED BY MR. CAMMEGH:

16 MR. CAMMEGH:

17 Q. Can you hear me, witness?

18 A. [No response]

19 Q. I'll ask that again. Can you hear me all right, witness?

20 A. Yes, I can hear you.

21 MR. PRESIDENT:

22 Please hold on, Mr. Cammegh. Hold on, please.

23 Yes, Mr. Cammegh, you can go on, please.

24 MR. CAMMEGH:

25 Q. Last week you gave evidence to this Court in quite some detail about your experiences in the SBU.

26 You have a very good memory; don't you?

27 A. Yeah.

28 Q. You're quite confident about what you told us; is that right?

29 A. Yeah.

30 Q. You're quite confident that your memory of those events is a true and accurate one?

31 A. Yes.

32 Q. Are you sure about that?

33 A. Yes.

34 Q. Now, how long were you an operative member of the Small Boys Unit.

35 A. Two years.

36 MS. TAYLOR:

37 Your Honours, just before my learned friend continues, it was my understanding that Your Honours

1 granted leave to my learned friend to cross-examine only in relation to the part of this witness's
2 testimony that related to the argument, the legal argument that we had in front of Your Honours, and it
3 was my understanding that my learned friend said they did not wish to cross-examine this witness on
4 any other part of his testimony other than that particular issue.

5 [Trial Chamber confer]

6 MR. PRESIDENT:

7 Let me hear -- yes, what is your response to that, Mr. O'Shea?

8 MR. CAMMEGH:

9 Mr. Cammegh.

10 MR. PRESIDENT:

11 Mr. Cammegh, I'm sorry. Mr. Cammegh, yes.

12 MR. CAMMEGH:

13 In a word, bafflement. I'm aware that my friend is obviously very sensitive about a young boy's
14 service in the SBU and sensitive as to what he might have done with the machine-gun he told us
15 about on the attacks on the villages that he told us about. But nevertheless, his evidence goes to the
16 heart of the case against Augustine Gbao because he, to our surprise, has indicated that he knows
17 about events in Makeni. I need to test his credibility. Your Honours know that his testimony departed
18 in no small part from his written statement, and his credibility is in issue on that subject.

19 [Trial Chamber confer]

20 JUDGE THOMPSON:

21 Learned counsel for the Prosecution and learned counsel for the Defence, it is our recollection that
22 the position, as indicated by learned counsel for the Prosecution, is correct. Nevertheless, we also
23 think that given the nature of the testimony so far, the Chamber does not intend to restrict the latitude
24 or -- which usually give to cross-examination and would allow counsel to cross-examine on matters
25 germane to the issues that are -- have been testified to in this Court.

26 MS. TAYLOR:

27 If Your Honours please, I understand the Court's ruling. If I can just assist my learned friend with his
28 bafflement. I can refer to the transcript of the particular day where my learned friend Mr. O'Shea said,
29 "Well the assurances that Mr. Cammegh has just given the Court is that the cross-examination after
30 Friday will be confined to that issue. We would not go beyond that issue." And I understand the
31 ruling that Your Honour --

32 JUDGE THOMPSON:

33 Yes, we uphold you on that.

34 MR. PRESIDENT:

35 We uphold you on that. We have made a U-turn.

36 JUDGE THOMPSON:

37 Yes, right.

1 MR. PRESIDENT:

2 And we want to say for the integrity of the proceedings, it is not that we are adopting this but for the
3 particular circumstances of this matter. You are right in your objection.

4 MS. TAYLOR:

5 If Your Honours please.

6 JUDGE THOMPSON:

7 We see no prejudice to the Prosecution. [Overlapping microphones]

8 MR. PRESIDENT:

9 Because there will be a latitude for you to re-examine.

10 MS. TAYLOR:

11 If Your Honours please.

12 MR. PRESIDENT:

13 Yes, please.

14 So, Mr. Cammegh, you can go on, please.

15 MR. CAMMEGH:

16 Yes, thank you.

17 Q. My question, witness, was how long were you an operational member of the Small Boys Unit?

18 A. Since they abducted me in my village and I spend two years with them, with the rebels, yeah, but then
19 I was a small boy so they call the unit Small Boys Unit.

20 Q. So how long were you involved in the rebels attacking villages? Over what period were you attacking
21 villages?

22 A. Pardon?

23 Q. For how long were you personally involved in the attacks on villages?

24 A. As I explained the first day, really I didn't take part in any attack -- in all the attack, you know, when I
25 was with the rebels, really. But my commander who captured me went with me sometimes on several
26 attack, I mean.

27 Q. Yes. Let's be honest, shall we, witness. You told us last week that you accompanied your
28 commanders --

29 A. Yeah.

30 Q. -- with your machine-gun on attacks on villages.

31 A. Yeah.

32 Q. Now that's true; isn't it?

33 A. Yes.

34 Q. So let's try and stick to the truth, all right?

35 A. Yeah.

36 Q. You've taken an oath to tell the truth; haven't you? I would like you to stick to that. Did you use your
37 machine-gun on any of the attacks on the villages that you told us about?

- 1 A. Well, while on attack, my commander he instructed me to be behind him, and while I was with the
2 machine-gun and I never started shooting, I didn't shoot first, my commander first shoot, and when it
3 get worst, he will allow me to shoot too.
- 4 Q. Yes. So the answer is, "Yes, I used my machine-gun on the attacks in villages." Correct?
- 5 A. Yes.
- 6 Q. Yes. Did you shoot at anybody?
- 7 A. Pardon?
- 8 Q. Did you shoot at anybody?
- 9 A. No -- while on.
- 10 Q. You just fired your gun wildly in the air, did you?
- 11 A. Pardon?
- 12 Q. You just shot your gun wildly in the air, did you?
- 13 A. Yeah.
- 14 Q. To make it look as if you were shooting at people?
- 15 A. Well, boss -- my commander, you know, as I told you, instruct me to shoot and I didn't see any object,
16 but I just shoot, you know, to defend myself.
- 17 Q. So you didn't shoot at any innocent civilians or any members of the other rebel forces opposing you;
18 is that the answer?
- 19 A. Yeah.
- 20 Q. All right. You're quite sure about that?
- 21 A. I'm quite sure about that.
- 22 Q. I see.
- 23 A. Because I can't tell while shooting because I didn't see the direction because we're in the bush, you
24 know, while the attack is going to the direction of the town, the particular town.
- 25 Q. All right. But what you can say is that you accompanied your commander on attacks on villages --
- 26 A. Yeah.
- 27 Q. -- with a machine-gun that you were carrying and when he told you to fire that gun, you fired that gun;
28 is that right?
- 29 A. Yeah.
- 30 Q. Right. And I think you also told us that by December of 1999 it was clear to you that a conference
31 was going to be taking place in Kabala?
- 32 A. Yeah.
- 33 Q. And Colonel Savage from your unit went to that conference in Kabala?
- 34 A. Yeah.
- 35 Q. I believe you were based in --
- 36 MR. PRESIDENT:
- 37 By what date? Please, Mr. Cammegh, take it easy. Take it easy.

1 MR. CAMMEGH:

2 December 1999.

3 A. No , I didn't say -- yeah, the ending of 1999.

4 Q. All right.

5 MR. PRESIDENT:

6 By the ending of 1999 what happened?

7 MR. CAMMEGH:

8 Q. I think you were in Bafodia at that time; is that correct?

9 A. Yeah.

10 Q. And Colonel Savage went from Bafodia to Kabala?

11 A. Yeah. Not Colonel Savage, but Brigadier Mani.

12 Q. Brigadier Mani?

13 A. Yeah.

14 Q. And he went to the conference in Kabala; correct?

15 A. Yeah.

16 Q. Returned to Bafodia, and ordered Colonel Savage to set you free; is that right?

17 A. Yeah.

18 Q. And I think thereafter you walked to Kabala with other members of your SBU?

19 A. Yes.

20 Q. All right. I think you told us, in fact, I'm sure you told us last week, witness, that you had arrived in
21 Kabala with your Small Boys Unit at the end of 2000 -- I'm sorry, the end of 1999 or the very
22 beginning of 2000; is that correct?

23 A. Yes.

24 Q. So are we talking about December, January?

25 A. No, January.

26 Q. January?

27 A. Yes.

28 Q. Are you able to remember whether this was at the beginning part of January --

29 A. I said the beginning of January.

30 Q. Right. And you're in Kabala the beginning of January 2000?

31 A. Yeah.

32 Q. Were you disarmed by then?

33 A. Well, I didn't take part in the disarmament because they call our unit -- we were in the hands of child
34 protection agency, that is xxxx. So they said children should not be disarmed and because while
35 living in the camp -- I mean, the bush, our commander removed our machine-gun from us, so we're --
36 we were with no gun, I mean.

37 Q. I understand. You told us this -- I can't remember if it was Monday or Tuesday that -- you had told us

- 1 that you were in the -- you were in Kabala for two weeks --
- 2 A. Yeah.
- 3 Q. -- before you were taken in UN trucks to Lunsar?
- 4 A. Yeah.
- 5 Q. Do you stand by that? Is that right?
- 6 A. Yes.
- 7 Q. Thank you. Can I just ask you this: You're English, if I may say so, is very good now; isn't it?
- 8 A. Yes.
- 9 Q. Was it always this good, witness?
- 10 A. Pardon?
- 11 Q. Was it always --
- 12 MR. PRESIDENT:
- 13 It depends on what you mean by good, Mr. Cammegh. I wouldn't want you to drive this witness, you
- 14 know, too far. When you say his English is very good, I don't know what standard you're setting for
- 15 his English.
- 16 MR. CAMMEGH:
- 17 I'll put it a different way.
- 18 MR. PRESIDENT:
- 19 Because we have to be very careful. He's a child witness, and when you say, "very good, very good,"
- 20 I don't know whether you're setting the very good in terms of the standards of Sierra Leone or the
- 21 standards of England.
- 22 MR. CAMMEGH:
- 23 Your Honour, I take the point. I'll put it in a different way.
- 24 Q. In this way, witness, was your English always at the standard that it is now?
- 25 A. Pardon?
- 26 Q. Was your spoken English --
- 27 A. Yeah.
- 28 Q. -- always to the standard to which it is now?
- 29 A. Yeah.
- 30 Q. Do you understand the question?
- 31 A. Well, if you're surprise (sic) at my English presently, because since they wasted my time two years, I
- 32 didn't be able to go to school, so the sooner we're out of the bush, so I determined myself to study
- 33 very hard in order to improve myself so I would be able to train myself in the future.
- 34 Q. To do what, I'm sorry?
- 35 A. So I will be able to trace my future.
- 36 Q. Trace your future?
- 37 A. Yeah.

1 Q. I see.

2 MR. PRESIDENT:

3 He said his education was interrupted for two years, that created a deterioration and when he was
4 released, he then went to school in order to improve his future.

5 MR. CAMMEGH:

6 Your Honour, I have that.

7 MR. PRESIDENT:

8 Yes, so place his English, you know, in that context.

9 MR. CAMMEGH:

10 Your honour, that's exactly what I'm doing and he's answered the question in precisely the way I
11 hoped he would.

12 MR. PRESIDENT:

13 All right.

14 MR. CAMMEGH:

15 Q. So since Kabala, early 2000, you've studied hard?

16 A. Yeah.

17 Q. And this is through the help of xxxx, is it, and other agencies?

18 A. Yes.

19 Q. Have you had much contact with the UN or different UN organisations since January 2000?

20 A. Pardon?

21 Q. Have you had much contact with United Nations organisations or agencies like xxxx since January of
22 2000?

23 A. Yeah. During the year 2001 I had a contact with xxxx, xxxx

24 MS. TAYLOR:

25 Your Honour, before the witness answers this particular question, I am concerned what he is about to
26 say may well lead to his identification, and if my friend presses this question, I ask that this question
27 be answered in closed session.

28 MR. PRESIDENT:

29 Yes.

30 JUDGE BOUTET:

31 I don't know what the answer was, but from the beginning of the answer I had the feeling that he was
32 going give an indication that would place him in a scenario where he could easily be identified, so I...

33 MR. CAMMEGH:

34 I'll deal -- skirt around it without revealing the identity.

35 Q. If I can just put the question in this way: Witness, since 2001, have you been in very close contact
36 with xxxx xxxx?

37 MS. TAYLOR:

1 Your Honour, I'm sorry to interrupt again, but that is the precise question that may lead to an answer
2 that will identify --

3 MR. CAMMEGH:

4 Well it requires a yes or no.

5 MS. TAYLOR:

6 That may well be that it requires a yes or no, but we're not sure how --

7 MR. PRESIDENT:

8 Objection sustained.

9 MS. TAYLOR:

10 Thank you, Your Honour.

11 MR. CAMMEGH:

12 Well, perhaps we could go into closed session for me to put that question, please.

13 [Trial Chamber confer]

14 MR. PRESIDENT:

15 Mr. Walker, can they prepare, you know, the equipment for a closed session, please?

16 MR. WALKER:

17 We'll need to mute the public gallery.

18 MR. PRESIDENT:

19 Yeah, that's fine too. Switch them off.

20 JUDGE BOUTET:

21 Mr. Cammegh, you think that that particular portion of your cross-examination could be of some
22 duration, so we can at least inform the public of that, five minutes, ten minutes, half hour?

23 MR. CAMMEGH:

24 I'm hoping for no more than three to five minutes. It's a very --

25 JUDGE BOUTET:

26 A very precise area?

27 MR. CAMMEGH:

28 Yeah.

29 JUDGE BOUTET:

30 Okay.

31 [At this point in the proceedings, a portion of the transcript, pages 10 to 12, was extracted and sealed under
32 separate cover, as the session was heard in camera]

33

34

35

36

1 [Open session]

2 MR. PRESIDENT:

3 Mr. Walker, can the technicians put the gallery, you know, on, please. We're back to open session.

4 JUDGE BOUTET:

5 So, Mr. Witness, you've heard what we've been saying?

6 THE WITNESS:

7 Yes.

8 JUDGE BOUTET:

9 We were under closed session and now we're coming back in open session.

10 THE WITNESS:

11 Okay.

12 MR. PRESIDENT:

13 So if there's any reply which would reveal your identity, you are not obliged to answering; you
14 understand?

15 THE WITNESS:

16 Yeah, thank you, My Lord.

17 MR. PRESIDENT:

18 Yes.

19 MR. CAMMEGH:

20 Q. Now, witness, what I want to come to now is your evidence about what you experienced after your
21 time in Kabala?

22 MR. PRESIDENT:

23 Is the gallery switched on? Thank you.

24 MR. CAMMEGH:

25 Q. You told us earlier on that you stayed in Kabala for two weeks from the beginning of January 2000?

26 Yes?

27 A. Yes.

28 Q. Then you were taken with your friends and colleagues in United Nations vehicles down the road to
29 Lunsar?

30 A. Yeah.

31 Q. So you travelled in a what, a southwest direction, I think. Would that be right?

32 A. I did not.

33 Q. We can look at it on a map, so we won't worry about that. But you travelled from Kabala to Lunsar?

34 A. Yes.

35 Q. Now, can you confirm this, that Makeni, the town of Makeni, is away to the east of Lunsar, isn't it?

36 MS. TAYLOR:

37 Your Honour, I think my friend should establish that the witness understands directions before he asks

- 1 this question.
- 2 MR. CAMMEGH:
- 3 All right.
- 4 Q. Witness, do you understand the difference between -- well, do you understand what I mean by north,
- 5 south, west and east?
- 6 A. Yeah, I can understand, but since Makeni is at the north, know, of the country.
- 7 Q. All right. Well, I won't bother with directions. We'll just stick to the places, all right because I think that
- 8 will be -- I don't want to confuse you. All right?
- 9 A. Yeah.
- 10 Q. So you go down to Lunsar?
- 11 A. Yeah.
- 12 Q. And is there a **xxxx** at Lunsar?
- 13 A. Yes.
- 14 Q. Is that where **xxxx** was based in early 2000?
- 15 A. Yeah.
- 16 Q. Right. You told us this the other day, that after three months in Lunsar you heard that there had been
- 17 attacks by rebels in Makeni; do you remember that?
- 18 A. Yes.
- 19 Q. And you're quite sure that it was three months afterwards?
- 20 A. Yes.
- 21 Q. Yes. So that would mean what, January, February, March of 2000?
- 22 A. Yes.
- 23 Q. I don't want to be rude, but do you understand what the months of the year are, January, February,
- 24 March, April, et cetera?
- 25 A. Yeah.
- 26 Q. All right. After three months in Lunsar you heard that there had been some attacks; correct?
- 27 A. Yes.
- 28 Q. Can you just remind us what it was that you heard, please? What you were told when you were in
- 29 Lunsar?
- 30 A. Well, when I was in the camp or in the centre in Lunsar with my colleagues, and one morning they
- 31 gathered us in an assembly. So the Caritas staff told us that someone informed them in the office that
- 32 there was a kidnap of UNAMSIL in Makeni by the rebels so they advised us that we should leave
- 33 before they came to the centre so that they will avoid the recruitment, another recruitment of the
- 34 children.
- 35 Q. Because the last thing you wanted then was for the rebels to come and recruit you again?
- 36 A. Yeah. We didn't want them to recruit us again, that's why we avoid.
- 37 Q. So how soon after you heard that report did you and your friends leave Lunsar?

- 1 A. Yeah.
- 2 Q. How soon after you heard that news?
- 3 A. Well, being that they were on they -- because they used vehicles, you know, so as soon as we had
4 the information over one hour while we were on preparation, you know, we heard that the town has
5 mixed up. The people were running everywhere in the town and so we took our bags and our
6 luggage, you know, we went on -- we went by the -- along the line, I mean, along the route to
7 Freetown --
- 8 Q. Can I just stop you there. I just want to check on something you just said. You said that within an
9 hour, did you?
- 10 A. Yes.
- 11 Q. It was organised for you to leave within an hour of the news?
- 12 A. After hearing this, after we heard the news, you know, after -- over a hour, and we -- we heard from
13 the people again in the town that they were coming and also the vehicles were on the road, while the
14 other people, even the civilian in the town they too were running, you know.
- 15 Q. How was it organised for you and your friends to leave Lunsar? What method of transport did you
16 use?
- 17 A. Well, at that time we didn't know -- no, no vehicle at centre, so we decided to walk by our foot.
- 18 Q. I see. How many of you?
- 19 A. Oh, we were over 300.
- 20 Q. Were you escorted by anybody?
- 21 A. Yes, by xxxx staff.
- 22 Q. Were they armed?
- 23 A. No.
- 24 Q. No. Now you went on to tell us that there was an incident at Gberi Junction?
- 25 A. Yes.
- 26 Q. Is that also known as Rogberi Junction?
- 27 A. Gberi Junction, the name of the place is Gberi Junction.
- 28 Q. All right. I see. Did you get to Gberi Junction yourself?
- 29 A. I didn't get right there, but I -- we closed there with my colleagues --
- 30 Q. I'm sorry, I didn't understand that.
- 31 A. I said we get close to Gberi Junction because since when we're on the -- along the road, as soon as
32 we heard the vehicle coming and we -- we went at the side of the road, you know, so that they
33 wouldn't see us, but we lied down at the side of the road, and we saw the vehicles were passing along
34 the road, and the vehicles continued with white men and black people they held gun. And the gun
35 they tied red at the mouth of their gun, and the white men didn't wear any clothes. So at that point we
36 noticed that they were rebel.
- 37 Q. Now, I want to ask you some more questions about this.

1 MR. PRESIDENT:

2 Please, Mr. Cammegh, just hold on, please.

3 MR. CAMMEGH:

4 Yes, certainly.

5 MR. PRESIDENT:

6 Yes, Mr. Cammegh, you may proceed.

7 MR. CAMMEGH:

8 Thank you, Your Honour. Forgive me, Your Honour.

9 Q. Now, how many lorries did you see?

10 A. Well, I can't tell you the number of lorries.

11 Q. Why not?

12 A. Pardon?

13 Q. Why not?

14 A. Well, because lorries, you know, they -- while they were on the road, you know, I saw them, you
15 know, one by one along the road, so I didn't count the total amount of lorries that were on the road.

16 MR. PRESIDENT:

17 But you would say that there were about how many? Witness, you would say that there were about
18 how many vehicles?

19 THE WITNESS:

20 Well, the vehicles were over 30 along the road, because I didn't count the total amount of them, but
21 while I was along the road with my colleagues, you know, I saw so many vehicles, you know, over 30
22 vehicles.

23 MR. CAMMEGH:

24 Q. You saw over 30 vehicles?

25 A. Yeah.

26 Q. Can you describe those vehicle as best you can, please?

27 A. Pardon?

28 Q. Can you describe those vehicles as best you can, please?

29 A. Can you ask me louder?

30 Q. What did these vehicles look like?

31 A. Well, the vehicles they wrote on them "UN" and the vehicles in colour, they were white.

32 Q. So were they all, all 30 or so of these vehicles, UN vehicles, so far as you could tell?

33 A. Yes, UN vehicles.

34 Q. All of them?

35 A. Not all of them, but some were -- some were mixed coloured and combat-coloured vehicle, some of
36 these vehicle.

37 Q. All right. Approximately 30 vehicles?

- 1 A. Yes.
- 2 Q. Approximately how many of those vehicles were white?
- 3 A. Because the vehicle that were not white were few among this 30.
- 4 Q. The vehicles that were not white were few?
- 5 A. Yeah.
- 6 Q. So most of them were white?
- 7 A. Majority of the vehicles were white and they were written "UN."
- 8 Q. Right. So by the majority, you mean more than 15 were white UN vehicles?
- 9 A. Yes, more than 20.
- 10 Q. More than 20 were white UN vehicles?
- 11 A. Yeah.
- 12 Q. And they were driven by rebels, were they?
- 13 A. Yes.
- 14 Q. More than 20 UN vehicles were being driven by rebels?
- 15 A. Yes.
- 16 Q. Right. And you could see the rebels driving these vehicles with your own eyes?
- 17 A. Yes.
- 18 Q. How many of these lorries had white men with no clothes in the back of them?
- 19 A. Well, only those vehicles with the white coloured. I saw them with, you know, white men were on
20 board on those vehicles.
- 21 Q. Well you said there were about 20 vehicles that were white?
- 22 A. Yes.
- 23 Q. How many, of those 20, had white men in them wearing no clothes?
- 24 A. All of the 20.
- 25 Q. All of them?
- 26 A. Yeah.
- 27 Q. So you must have seen -- well, just help me with this, if you can, all right? I know this is difficult, but
28 do your best. Approximately how many white men did you see in each of those vehicles?
- 29 A. Well, I'm sorry, I can't tell you the total amount of white men I saw in the vehicle.
- 30 Q. Was it more than two?
- 31 A. Pardon?
- 32 Q. Was it more than two?
- 33 A. No, no. I can't remember how many vehicles -- how many white men were. I can't tell you the
34 number of white men. As I told you, I saw white men in the vehicle, you know, among the black men
35 who were with weapons.
- 36 Q. All right. But just to confirm, there were white men in every one of those 20-odd white vehicles?
- 37 A. Yes.

- 1 Q. And none of them were wearing clothes?
- 2 A. None of them.
- 3 Q. This must have been -- well, tell me this: How far from the road were you when you saw this?
- 4 A. Well, we were close to the road, you know, we lied down. We didn't shift in fact. We lied down along
5 the road.
- 6 Q. Were you in the bush? I'm sorry, what did you say? I interrupted you.
- 7 A. I said I was at the side of the road in the bush, you know. They didn't see us, but I saw them with my
8 colleagues when we were -- we lied down along the road.
- 9 Q. You must have been hiding yourself very well because, of course, you didn't want to be captured by
10 these rebels?
- 11 A. Of course, of course.
- 12 MR. CAMMEGH:
- 13 Well, Your Honour, with respect, it is an important point going to credibility. It is not something I'm
14 treating with any -- I'm taking this very seriously, Your Honour.
- 15 Q. Now, you saw these people from your vantage point close to the road?
- 16 A. Yeah.
- 17 Q. It must have been a frightening sight?
- 18 A. Yes, because if we decide we should run as soon as we saw them, and they would get hold of us,
19 that's why we decide to lie down in the bush. But we saw the direction of the road, so as soon as -- all
20 of them pass with their vehicle, then we use another route; we called it bypass.
- 21 Q. Right. It must have been -- well, you've remembered it clearly today, haven't you, this event?
- 22 A. Pardon.
- 23 Q. You remember this very clearly; don't you?
- 24 A. Yeah.
- 25 Q. It must have been quite an unforgettable sight seeing these naked white men in the back of about 20
26 vehicles?
- 27 A. Yes. You asked me about the number of vehicles, then I told you I didn't tell you exact, but I said
28 approximately.
- 29 Q. I understand. But as I said, this must have been a remarkable sight seeing these white men captured
30 by these rebel soldiers who you were so frightened of?
- 31 A. Pardon?
- 32 Q. This must have been a remarkable sight seeing these white men naked captured by these men you
33 were so afraid of?
- 34 A. Yeah. I said I saw white men, you know, in the vehicle among the rebels. The rebels were with the
35 gun, whilst they were not with guns. Some of the rebels wear the clothe (sic) of the white men and
36 there were soldier, they wear the combat, and some wear the cap only.
- 37 Q. Yeah. But it must have been a very big moment, do you understand, something that was going stay

1 in your memory for a long time?

2 A. This is my story. I never forget about it for an instant.

3 Q. You will never forget it?

4 A. Yeah.

5 Q. Right. You gave a statement to the Prosecution towards the end of 2003; didn't you?

6 A. Yes, yes.

7 Q. Do you remember that?

8 A. Yeah, my first statement.

9 Q. Okay. Now I think -- well, you tell me this: Was it read back to you?

10 JUDGE THOMPSON:

11 When was that statement?

12 MR. CAMMEGH:

13 Well, it is not dated I'm afraid, Your Honour, which is why I'm having to --

14 JUDGE THOMPSON:

15 I see.

16 MR. CAMMEGH:

17 But we were served it in November of last year, so it would appear to be to the end of 2003.

18 Q. When you gave that statement to the Prosecution investigators, witness, did they read it back to you?

19 A. No.

20 Q. Are you sure about that?

21 A. Yeah, I'm sure.

22 Q. Would you give me a moment, please, witness I just want to ask a question.

23 A. Yeah.

24 MR. CAMMEGH:

25 Your Honours, I wonder if I can just pause for a moment to ask any of my colleagues whether they
26 have a copy of the original statement, because mine is not the original. It doesn't show a signature.

27 MR. PRESIDENT:

28 Prosecution, do you have the original statement?

29 MS. TAYLOR:

30 The original statement is on site and can be --

31 MR. PRESIDENT:

32 Is on?

33 MS. TAYLOR:

34 Is on this site and can be obtained very quickly. I will ask our case manager whether he has a copy of
35 the original statement with him, but if it is the precise original that you are after, it is available, but we
36 will need ten minutes.

37

1 MR. CAMMEGH:

2 Yes, I think my learned friend gets the point. I just want to see if there is a signature and I don't think I
3 can continue, really, until I see that.

4 MR. PRESIDENT:

5 For the Prosecution, how long do you think it will -- you say it wouldn't take time?

6 MS. TAYLOR:

7 No, when the Prosecution asked the evidence custodian to have all of the original statements
8 available to the Court, it was decided between the Prosecution and the evidence custodian that, in
9 accordance with the practice of the other international tribunals, that those statements would not be
10 brought into Court but would be available on site. And that there is someone there who can give us
11 this statement if we now ask for it.

12 MR. PRESIDENT:

13 Mr. Cammegh, you're asking for the original statement which may possibly contain a signature or so?

14 MR. CAMMEGH:

15 Well, the point is this --

16 MR. PRESIDENT:

17 Anyway, I don't think I want to press that question. If the Prosecution can produce the original
18 statement, that would be fine. If you need some time, we can stand the matter down for about five
19 minutes to enable you to produce the statement for Mr. Cammegh's examination.

20 MS. TAYLOR:

21 Perhaps ten. If you give us ten minutes, Your Honour, it will be done.

22 MR. CAMMEGH:

23 Your Honour, I simply don't want to be taking an unfair point against this witness. If the original isn't
24 signed, then this is a point I'm not going to pursue.

25 MR. PRESIDENT:

26 Well, you know, since we don't have the original, it is difficult for us to see whether it was signed or
27 not.

28 MS. TAYLOR:

29 Your Honour, I'm happy to, if Your Honour's would give us ten minutes, to produce the original in
30 Court. I do have in my hand what appears to be a photocopy of the original. I don't know whether
31 that would satisfy my friend.

32 MR. CAMMEGH:

33 Yes, absolutely. Yes.

34 JUDGE BOUTET:

35 Does it have a signature?

36 MR. PRESIDENT:

37 Why don't you have a look at it, Mr. Cammegh, to see if it can satisfy your needs.

1 MR. CAMMEGH:

2 Thank you, Your Honour.

3 MR. PRESIDENT:

4 Yes, Mr. Cammegh.

5 [Defence counsel confer]

6 MR. CAMMEGH:

7 We can continue now.

8 MR. PRESIDENT:

9 You can continue?

10 MR. CAMMEGH:

11 I can.

12 MR. PRESIDENT:

13 All right. Go ahead.

14 MR. CAMMEGH

15 Q. Witness?

16 A. Yes.

17 Q. Sorry to keep you. I've just been handed the statement that you gave to the Prosecution towards the
18 end of last year. Is it right that you spoke to a lady called Kathryn Hatt?

19 A. Yes.

20 Q. When you spoke to her, were you accompanied by your guardian?

21 MS. TAYLOR:

22 I would ask that my friend not mention the name of the guardian.

23 MR. CAMMEGH:

24 Of course, of course.

25 Q. Were you accompanied by your guardian during the taking of that statement?

26 MR. PRESIDENT:

27 Can we have the name of the lady again?

28 MR. CAMMEGH:

29 Catherine Hatt, H-A-T-T

30 MR. PRESIDENT:

31 Hart?

32 MR. CAMMEGH:

33 H-A, double T.

34 MR. PRESIDENT:

35 Double T.

36 MR. CAMMEGH:

37 Q. Witness, sorry to interrupt you, the question was: When you gave that statement to Ms. Hatt, were

1 you accompanied, that is, were you with your guardian?

2 A. I was with one of my friend, yeah, a guardian.

3 Q. Yeah. Now, did you sign any documents yourself?

4 A. Well --

5 Q. At that time?

6 A. Well, the madam asked me to tell my story and I explained her my story, and after that then she told
7 me that -- well, when the testimony arrive, then I would in the mood to testify.

8 Q. All right. Did you see your guardian sign anything, a piece of paper?

9 A. No, no. Well, yes.

10 Q. You did?

11 A. Yeah.

12 Q. What happened --

13 MR. PRESIDENT:

14 I want to be very clear as to who signed this statement.

15 MR. CAMMEGH:

16 Can I pass this up, please, Your Honours, because --

17 MR. PRESIDENT:

18 Since we cannot recognise the signatures, you know. Witness, tell me, was it you who signed the
19 statement? Or, I mean, who signed the statement?

20 THE WITNESS:

21 My guardian signed the statement.

22 MR. PRESIDENT:

23 Your guardian signed the statement?

24 THE WITNESS:

25 Yes.

26 MR. PRESIDENT:

27 Okay.

28 MS. TAYLOR:

29 Your Honours, as --

30 [Trial Chamber confer]

31 JUDGE BOUTET:

32 There seems to be confusion in the statement here because in answer to what the presiding judge
33 was asking, the witness answered "the guardian sign the statement." The documents you've handed
34 over, at least, I'm looking at the one called "interview data," and it has one, two pages and a half, and
35 it seems to have a signature prepared by H-A-T-T, but no other signature. Then there's another piece
36 of paper called "consent form," and so on. That one appears to have a signature

37 --

1 MR. CAMMEGH:

2 Your Honour, yes.

3 JUDGE BOUTET:

4 -- of probably of the guardian. That's the statement that we're talking about. So just for clarity and
5 proper understanding, the statement per se, is -- doesn't appear to be signed by anybody other than
6 Hatt and there's a signature "approved by," which I cannot read, but whatever it is.

7 MR. CAMMEGH:

8 That is correct. It is --

9 JUDGE BOUTET:

10 And then the consent form is the one presumably signed by the guardian.

11 MR. CAMMEGH:

12 Yes.

13 JUDGE BOUTET:

14 That's your understanding as well?

15 MR. CAMMEGH:

16 That is my understanding. That is not a satisfactory state of affairs, but it clearly begs a few questions
17 if I can just put those now.

18 JUDGE BOUTET:

19 Yes, yes. No, no, it was just to make sure because the answer of the witness was the guardian
20 signed the statement, but the guardian obviously has signed the statement on a consent form, so
21 maybe you can clarify that with the witness as to what it was.

22 MR. CAMMEGH:

23 Q. Witness, can you hear me?

24 A. Yes, I can hear you.

25 Q. Were you there when you saw your guardian --

26 MR. PRESIDENT:

27 Mr. Cammegh, do you have the statement?

28 MR. CAMMEGH:

29 I don't. I'll leave that with Your Honours. I don't need it now. I have my own copy here.

30 Q. Were you there when your guardian signed a piece of paper on that day?

31 A. Yeah, because the madam tell me that they need someone as my guardian to sign the paper so that
32 -- because I was so small, you know, to testify. So they need a guardian signature to confirm that I'm
33 ready to testify.

34 Q. But you must have known what the statement said before the signature was made, surely. Did you
35 not know what the statement said?

36 MS. TAYLOR:

37 Your Honour, I object to that question.

1 MR. CAMMEGH:

2 Why?

3 MS. TAYLOR:

4 Well, I'll explain. It hasn't been established at what point the consent to be interviewed was signed,
5 and, as a matter of logic, it would have to follow that a guardian would have to sign a consent form for
6 a minor to be interviewed, and until that distinction is made clear, the questions that my learned friend
7 is putting are unfair to the witness.

8 MR. CAMMEGH:

9 Well, Your Honour, what I would say in answer to that is it could be argued it is unfair to the Defence
10 for a document to be signed which, on the face of it, doesn't appear to have been ratified by its maker
11 in any way, shape or form, but we have to do the best that we can.

12 MR. PRESIDENT:

13 Yes, go on, Mr. Cammegh, let's see how you get along.

14 MR. CAMMEGH:

15 Q. My question to you just now, witness, was: Didn't you know what that statement contained after it
16 was finished?

17 A. Which statement?

18 Q. The statement that you gave to the Prosecution at the end of last year?

19 A. Well, the statement contained my story about the war.

20 Q. Yeah?

21 A. Yeah.

22 Q. When you gave your story, did you include everything that you knew? Did you tell them everything
23 that you knew?

24 A. Yes. I explained them my story, and they penned down my story that I told them.

25 Q. I see. I'm going to read to you just a few lines of your statement now, all right, just to refresh your
26 memory. Towards the end of your statement you said this: "When the RUF --" Your Honours, it's on
27 the final page of that statement. "When the RUF attacked UN peacekeepers, they left Lunsar and
28 went to Freetown. There was a heavy attack on Gberi Junction." And then it says: "The witness saw
29 UN vehicles drive by with RUF soldiers as drivers. They were wearing the UN caps."

30 Now, there's nothing there, you see, about white men in UN lorries being driven by rebels. Do you
31 see what I'm saying?

32 A. Yeah.

33 Q. Can you explain why the statement doesn't mention anything about that?

34 A. Well, the UN were white men, that's what I said. Instead of saying the "UN" again, I should have said,
35 "the white men." That's why just interpreted this way.

36 [Pages 1 to 24 by Roni Kerekes]

37

1 [11.14 a.m.]

2 MR. CAMMEGH:

3 Q. Yes. But, you see, the statement doesn't say anything about white men, does it?

4 A. Yeah.

5 Q. Why, well -- I know that you didn't write this statement yourself.

6 A. But I explained to them, then they wrote the story.

7 Q. Did you tell them about white men?

8 A. Yeah, I said the UN -- but the UN white men, but they just entered the UN.

9 Q. You see, there is nothing in those lines that I have just read to you that says anything about any UN
10 men being captured by rebels and driven in lorries.

11 MS. TAYLOR:

12 With respect, Your Honour, it does. There is a mention of UN men in the statement that was read out
13 by my learned friend.

14 MR. CAMMEGH:

15 Well, I will read the words again because they are very straight forward.

16 Q. Witness, I am going to read the lines to you again and you tell me if it says anything about UN men
17 being captured or put in vehicles driven by rebels. I will read it again, all right, very slowly. "When the
18 RUF attacked UN peacekeepers, they left Lunsar and went to Freetown. There was a heavy attack
19 on Gberi junction. The witness," that is you, "saw UN vehicles drive by with RUF soldiers as drivers.
20 They were wearing the UN caps."

21
22 Now, I will just ask this question one more time and then I am going to move on to something else.

23 Why -- or can you tell us why this statement says nothing about white men being driven by rebels or
24 about any captured UN men being driven by rebels? Can you tell us why that is?

25 A. Well, from my story and because you asked me the question and I answered it --

26 Q. Yeah.

27 A. -- and you asked me that if I saw any people in the vehicle that were UN people, I said, yes, I saw UN
28 white men, you know, and since the UN -- those that were on the -- in the vehicle, I mean, were all
29 white men and that's why I explained this to you probably for you to understand.

30 Q. Did you tell the lady, Miss Hatt, about that last year?

31 A. Pardon?

32 Q. Did you tell Miss Hatt about that last year?

33 A. Yes, I told her.

34 Q. You did. All right. I am going to move on now to another interview that you had with the prosecution
35 investigators in February of this year.

36 A. Yeah.

37 Q. Okay, do you remember that interview?

- 1 A. Yes, I remember.
- 2 Q. We have been given just one piece of paper that basically gives a summary of what was said in that
3 interview. Okay?
- 4 A. Yes.
- 5 MR. PRESIDENT:
6 Last February.
- 7 MR. CAMMEGH:
8 Yes, it is rather perversely dated the 31st February, Your Honour. There were 29, this year, days in
9 February; there is usually only 28.
- 10 MR. PRESIDENT:
11 February doesn't have 31 days.
- 12 MR. CAMMEGH:
13 Yes.
- 14 MR. PRESIDENT:
15 29th maybe, or 28th?
- 16 MR. CAMMEGH:
17 They have certainly stretched it as far as they can go. I don't know, Your Honour, what the 31st of
18 February can mean, but we'll say late February.
- 19 MR. PRESIDENT:
20 Go ahead.
- 21 MR. CAMMEGH:
22 Q. Now, witness, I am coming to the end now you will be relieved to hear, okay?
- 23 A. Yeah.
- 24 Q. In February of this year you saw prosecution investigators again; yes?
- 25 A. Yes.
- 26 Q. And I think you gave them various details about rebels that you had seen and things like that.
- 27 A. Yes.
- 28 Q. Okay. As I have said, we have been given a piece of paper that gives a summary of what you told the
29 investigators on that day. Okay? Now, I'm going to read just three lines to you, all right? It is right at
30 the end. And what the investigators say that you said is this: "I heard about the attacks on the UN
31 peacekeepers when I was at an interim care centre." That must be Caritas Makeni and Lunsar?
- 32 A. Yes.
- 33 Q. "I saw rebels wearing UN caps and driving UN vehicles." All right?
- 34 A. Yeah.
- 35 Q. Now that is what the first statement says; isn't it?
- 36 A. Yes.
- 37 Q. It's the same. Then you say this, "We knew that the rebels had attacked the UN." Now that is

- 1 because you heard that story in Lunsar; didn't you? (sic)
- 2 A. Yes.
- 3 Q. And that is when you left within an hour on foot out of Lunsar to get away from the rebels.
- 4 A. Yes.
- 5 Q. Right. And then you say this, "At this time, the rebels were still mixed with AFRC and RUF." Now, I
6 want you just to cast your mind back to February of this year. Did you tell the investigators anything
7 on that day about seeing white men in 20 UN lorries?
- 8 A. Well, because you -- you asked me the question.
- 9 Q. Yes.
- 10 A. While the Prosecution not asked me that question and the question you asked me to tell you the
11 amount of lorries and along the -- along the road that I saw, you know, because you convinced me
12 that I should -- I should tell you the amount of lorry and I said approximately. Because if you asked
13 me the question that's why I -- I -- I answered it.
- 14 Q. Witness, I understand that, I accept that, that is all right. You are doing your best with the number, I
15 accept that, that is not a problem. My question is, did you tell the investigators in February about
16 these lorries with the white men in them?
- 17 A. Yeah, I told the investigator about the UN in the lorry.
- 18 Q. In February at your other interview?
- 19 A. Yes, I explained it to her.
- 20 Q. You told her at your last interview in February that you saw UN lorries with captured white men inside
21 them?
- 22 A. Yes.
- 23 Q. You did. Right. You see, we have a problem here, witness, and it is this, that we have two
24 documents: one is from late last year, that is your statement and we have another document from
25 February of this year which is a summary of an interview. But neither of these documents -- I mean,
26 they give a lot of detail about rebels, but neither of these documents say anything about UN personnel
27 captured and seen in lorries. Now, can you explain why that is?
- 28 A. Yeah, the reason is you -- you get me to details of the whole thing, you asked me the question and
29 then I answered it to you.
- 30 Q. Yes.
- 31 A. Yeah.
- 32 Q. But Miss Hatt asked you the question and you told us you gave her the answer, but we don't see it in
33 a statement, we don't see it in the interview note.
- 34 A. Well, just because you asked me the question and you need an answer so I must -- been pleased to
35 explain to you, you know, my answer. And that was exactly what happened.
- 36 Q. You see, witness, I am wondering whether last week was the first time you have ever told anybody
37 about these lorries with the white men inside them. Could I be right about that? Was that the first

1 time you ever told anybody?

2 A. Pardon?

3 Q. Was last week the first time that you ever told anybody about the UN lorries with white men in the
4 back of them?

5 A. I don't want you to confuse me -- to get confused over this particular matter because as I -- I'm telling
6 you and I can still tell you that because you asked me the question about that particular issue about
7 the UN and you asked me who were in the vehicle and I told you they were white men, and what I
8 saw is what you asked me.

9 Q. Mr. Witness --

10 A. Yeah.

11 JUDGE THOMPSON:

12 Learned counsel, I think the -- again, perhaps the witness has taken the words out of my mouth.
13 Once more may I remind you that cross-examination does not have as one of its objectives to confuse
14 witnesses and it would seem as if this particular line of cross enquiry has established that the witness
15 did, in answer to you, give more details than what is contained in those alleged two statements. In
16 other words, the witness as far as I can understand it, is saying that in answer to your specific
17 questions on the issue of white men captured by rebels, he gave those details.

18 MR. CAMMEGH:

19 Your Honour, with respect, I am not trying to confuse the witness, he is saying that I am trying to
20 confuse him. This is a sensitive point and --

21 JUDGE THOMPSON:

22 But the questions --

23 MR. CAMMEGH:

24 -- one can speculate why he is saying that.

25 JUDGE THOMPSON:

26 Well, my point -- my point is that if the records reveal that in answer to your specific questions he has
27 stated that he did see white men captured by rebels in UN vehicles, and that if that particular piece of
28 evidence is not reflected in his statement or the two statements to the Prosecution, the impression I
29 get is that -- and, of course, at some point he did say that he wasn't asked by the Prosecution those
30 specific questions -- I mean, since the record seems to be a little --

31 MR. CAMMEGH:

32 Your Honour, with respect, this -- I am sorry to interrupt --

33 JUDGE THOMPSON:

34 Yes.

35 MR. CAMMEGH:

36 -- but I am straining to put, what is to me, a very simple point across. He has told us chapter and
37 verse this morning --

1 JUDGE THOMPSON:

2 Yes.

3 MR. CAMMEGH:

4 -- of how he related to the investigators this unforgettable scene --

5 JUDGE THOMPSON:

6 Yes.

7 MR. CAMMEGH:

8 -- of seeing white men in not one, not two, but 20 captured UN vehicles.

9 JUDGE THOMPSON:

10 Yes.

11 MR. CAMMEGH:

12 Not only is there no reference to a number of vehicles in this statement, there is no reference
13 whatsoever -- and this was a point being made by Mr. O'Shea on Friday -- to any notion of kidnapping
14 any detainees, any reference to anybody in captivity, white, black, yellow, any colour. And the point I
15 am trying to make or the answer I am trying so hard to elicit from his witness, who is clearly trying to,
16 in my submission, obfuscate the point, is to ask him why it is that that be the case and simply to ask
17 him, finally, now, whether in actual fact these proceedings in the courtroom was the first and only time
18 he has ever mentioned that.

19 JUDGE THOMPSON:

20 And I think that is what he is trying to explain. I follow clearly that as a matter of law you are entitled
21 to put to the witness alleged discrepancies between statements that he made to the police or the
22 Prosecution and his trial testimony. That as a matter of law I am not contesting. You are perfectly
23 entitled to do that --

24 MR. CAMMEGH:

25 Yes.

26 JUDGE THOMPSON:

27 -- and to establish discrepancies and alleged inconsistencies. What I am not particularly clear about is
28 whether, having answered those specific questions which have elicited the answer that there were
29 white men captured in UN lorries who were -- 20 lorries, were specific answers that he is giving at this
30 trial testimony to your specific questions.

31 MR. CAMMEGH:

32 Yes.

33 JUDGE THOMPSON:

34 I don't get the impression that he is saying that he told the Prosecution, to use your language, chapter
35 and verse every thing. He said he told his story.

36 MR. CAMMEGH:

37 Yes.

1 JUDGE THOMPSON:

2 That's -- that's -- that's the focus that I am trying to put to you. I am not disputing your right as counsel
3 for your client to highlight as much as you can discrepancies and inconsistencies between what you
4 told the Prosecution and the trial testimony. What I am a little worried about is how much more do we
5 need to get from him --

6 MR. CAMMEGH:

7 Well --

8 JUDGE THOMPSON:

9 -- why he pursued this particular line. In other words, not being so detailed and specific in answer to
10 your questions, but not being that detailed and specific. That's all I am trying to --

11 JUDGE BOUTET:

12 Mr. Cammegh, if I can add as well, where there might be confusion, you are saying this is the first
13 time and only time you have said that when you testified last week, he has told you in cross-
14 examination that, "I said to them, to the interviewer at that time, UN white men. They may have
15 written only written UN, but I told them UN white men." So in his evidence in cross-examination he is
16 telling you that way back in November or December he told them, "UN white men." So --

17 MR. CAMMEGH:

18 I hear --

19 JUDGE BOUTET:

20 So when you asked him the questions on it the first time, I do understand there might be some
21 confusion in his mind, so that's --

22 MR. CAMMEGH:

23 Your Honour, the point I wish to explore is this -- and I am sure it is a point that anyone watching
24 would want to be explored -- we have heard about the detail, we have heard his account that he gave
25 this detail. What I want to explore is the question of whether this is all a recent fabrication.

26 JUDGE THOMPSON:

27 Well, I would say that I am not in any way intending by my own analysis precluding you from doing
28 that. I think it is a perfectly legitimate line of cross-examination. It is clearly in keeping with the law,
29 as I understand it.

30 MR. CAMMEGH:

31 Yes.

32 JUDGE THOMPSON:

33 My difficulty is that how far do we need to go if he has repeatedly said, "Well, in answer to your
34 specific questions I am now giving you more details than I ever gave." That's the point I make.

35 MR. CAMMEGH:

36 I understand that, Your Honour, and what I was endeavouring to do right now was wrap it up by
37 asking that final question.

1 JUDGE THOMPSON:

2 All right, learned counsel, the point is taken.

3 MR. CAMMEGH:

4 Yes.

5 MR. PRESIDENT:

6 That is what I was just going to ask you to do, so since you have picked the words from my mouth --

7 MR. CAMMEGH:

8 Yes, it was what I was leading to.

9 MR. PRESIDENT:

10 Yes, go ahead, Mr. Cammegh, let's wrap it up.

11 MR. CAMMEGH:

12 Yes.

13 Q. Can you hear me, witness?

14 A. Yes, I can hear you.

15 Q. As has been indicated, there is no reference to UN peacekeepers being kidnapped in either of the
16 documents that I have told you about; correct?

17 A. Pardon?

18 Q. My question to you is this --

19 MR. PRESIDENT:

20 Mr. Cammegh, slowly, slowly.

21 MR. CAMMEGH:

22 Q. My question is this, witness: When you told us last week about white men in the back of lorries, were
23 you making it up? Were you telling lies to this Court? Is that something that you actually never saw?

24 A. Well, as far as I make [inaudible] of testifying in this particular Court and I testified on matters of what
25 happened to me -- what had happened to me during the rebel war, and I am not here to lie really, but
26 since you are in the place to ask me so many questions and you must need to know my -- my -- my --
27 my answers. So if you asked me any questions that -- that I didn't even include in the -- in the -- in my
28 -- in my first -- my first -- my first time the Prosecutor asked to me explain my story, because since the
29 first testimony last week you asked me so many questions that the Prosecution did not ask me,
30 because the Prosecution only asked me to tell my story, you know, and as I am telling my story they
31 would pen it down.

32 Q. I was asking actually just for a yes or no, witness. Were you lying to this Court?

33 MR. PRESIDENT:

34 Q. Yes, were you lying?

35 A. No.

36 MR. CAMMEGH:

37 Right. Thank you. No further questions. Thank you, Your Honour.

1 MR. PRESIDENT:

2 Any re-examination?

3 MS. PARMAR:

4 Your Honour, the Prosecution has no re-examination for this witness.

5 MR. PRESIDENT:

6 Yes, Mr. O'Shea.

7 MR. CAMMEGH:

8 Your Honour, I don't know what the -- to quote the newspaper the other day, the proper channels are
9 for this, but I think it may be incumbent upon the Defence to require Miss Hatt to come to court to give
10 her version of what was said during that meeting. Because, as I said earlier on, and the reason we
11 made such an issue of this last week, is because the words kidnap, Makeni, go right to the heart of
12 the case against Gbao on the kidnapping count, and it did rather surprise us last week. It's going to
13 be -- I think we would be in dereliction of our duty if we didn't take the issue further with Miss Hatt to
14 establish exactly what her recollection of what this witness said was. To ask her, for example, if there
15 is any corroborative record such as a tape recording. Because Your Honours all have the point, I am
16 sure, that there is a tremendous discrepancy, not between one statement and oral testimony, but, in
17 effect, between two stretched over several months in time.

18
19 I am sorry if this is going to cause any delay, it may be it is something that can be interposed during
20 the next session, but I do put the Court on notice that we will require that witness to give evidence,
21 please. I don't know if that is the correct channel or the correct method, but I am simply flagging it up
22 now. Thank you.

23 MR. PRESIDENT:

24 Yes, Mr. O'Shea.

25 MR. O'SHEA:

26 Your Honours, I am becoming deeply concerned as a result of answers which came from this witness
27 during the course of the cross-examination, and I will tell you why. This Court has ruled on a number
28 of occasions that we, the Defence, if we want to assert a violation of the Rules on disclosure under
29 Rule 66 or Rule 67 or Rule 68, we must produce *prima facie* evidence of such a violation.

30
31 As difficult a position as that puts us in, it necessarily means that the Prosecution have to be very
32 open with the Defence and also with the Court about their state of knowledge of what a witness is
33 going to say or what they believe a witness is going to say.

34
35 When I presented the argument to you on this issue about the kidnapping, I did so necessarily with a
36 high degree of trust in the Prosecution. And I said to this Court, it is up to the Prosecution to tell this
37 Court whether they knew about the issue of the kidnapping or not.

1 Now, with the greatest of respect to his Honour Judge Thompson, I don't entirely agree with his
2 analysis of how this witness has come out with answers in relation to that. I have a very specific note
3 of Mr. Cammegh asking the following questions: "Did you tell the investigators about the white men in
4 the lorries?" And the answer coming out, "I told them." I think the time has come for the Prosecution
5 to stand up and tell this Court did they know about the captured white men or not before this witness
6 gave testimony. That is a matter within the exclusive knowledge of the Prosecution and it is important
7 if this Court is going to place the onus on us to produce *prima facie* evidence of violation of the Rules.
8 If we are not to be put at a severe disadvantage it is only fair that the Prosecution put us into the
9 picture as to whether they knew about it or not. I would ask them to give us that information.

10 JUDGE BOUTET:

11 Don't you think, Mr. O'Shea, that what your colleague, Cammegh, has suggested that he intends to
12 do, that is call whoever was doing the interview and put that question to them, is the proper way of
13 doing what you are suggesting now, and that would bring some evidence indeed in support of your
14 assertion if that is the case?

15 MR. O'SHEA:

16 I agree entirely, Your Honour.

17 JUDGE BOUTET:

18 So why are we hearing this argument when we have already been put on notice that you intend
19 Mr. Gbao to call this particular person as a witness to establish what was said?

20 MR. O'SHEA:

21 Well, Your Honour, with respect, because I have been waiting anxiously for one week now for the
22 Prosecution to stand up and tell us did they know about this kidnapping or not. If the Prosecution is
23 going to act fairly before this Court and to the Defence, they need to be open with us. It is quite a
24 simple question: did they know or did they not? They can answer that question.

25 JUDGE THOMPSON:

26 Learned counsel, let me say also that I do agree with you that in this matter the Prosecution should
27 act with utmost good faith when it comes to disclosure. We have so ruled. The regime of rules
28 governing disclosure require good faith on the part of the adversarial parties and also, probably to a
29 higher degree, on the part of the Prosecution. My disagreement with you -- and, of course, I welcome
30 your disagreement with my analysis of the state of the evidence -- is that it is possible from the kind of
31 questions that were put to this witness under cross-examination by your learned colleague, that the
32 state of the records reveal two valid interpretations. My own interpretation, because I have been
33 writing here too, where the witness seemed to have been hovering between, "Yes, I saw white men
34 captured by the rebels in UN lorries, 20 UN lorries," and this piece of evidence is in response to
35 specific questions put by your learned friend: "But when I made my statements to the Prosecution,
36 they did not ask me those specific questions."

37

1 Of course, there are other parts of the record which reveal something different, so if you interpret the
2 records, we are in a little of a kind of ambivalent situation here. The last answer was that he is not
3 telling a lie when he did say that he saw 20 lorries with white men captured by rebels. So, I don't see
4 how I could be placing a wrong interpretation on the records, depending on the answers which are
5 elicited. In short, I think, as Judge Boutet has said, the best thing is for the person who recorded the
6 statement to shed some more light here, but of course that does not relieve the Prosecution of their
7 responsibility to disclose with utmost good faith material which is of such importance to your case.
8 And the question is whether there has been a violation of Rule 66(A)(ii), and this is something which I
9 don't think we can make a determination on now until we have some further evidence to that effect, if
10 any evidence comes forward to that effect. But I think what the witness -- what we are saying here is
11 that we believe that since the principle of orality is central to these proceedings, it is foreseeable, as
12 we said in our decision, that witnesses will expand upon what they have told the Prosecution. The
13 question is whether this expansion that we have does amount to a material inconsistency or
14 discrepancy that should warrant some caution on the part of the Court when evaluating this piece of
15 evidence. In other words, whether we should, in fact, be very cautious as to what probative value we
16 attach to evidence which -- if it is so materially different from what is being testified here. I think that
17 seems to be the line which the Court will take or should take.

18 MR. O'SHEA:

19 Well, Your Honour, of course, the question of credibility is there and that is why we are cross-
20 examining this witness and it is with respect to a separate issue to the one I am raising. My -- my --
21 my concern is simply this, that yes, we can question witnesses, we can question that person and that
22 person and that person to try and determine, you know, the state of knowledge of the Prosecution,
23 but, in my respectful submission -- and I am not asking that the Court force the Prosecution to do this,
24 they should do this of their own initiative. I just don't understand why they cannot simply tell us, did
25 they know or did they not. If the Court is not willing to invite them, that is fine, but for my part, I just
26 cannot understand it at this stage, but I am happy to go along with what his Honour Judge Boutet
27 says, we will have this other witness come along. We will ask questions of the witness to determine
28 both questions of credibility and the question of whether we have been treated fairly by the
29 Prosecution. But there seems no reason whatsoever to me why the Prosecution can't simply tell us
30 the position.

31 MR. PRESIDENT:

32 But somewhere in the indictment -- I don't have it in front of me, Mr. O'Shea -- there is an allegation of
33 kidnapping UNAMSIL personnel --

34 MR. O'SHEA:

35 Yes.

36 MR. PRESIDENT:

37 -- in the indictment.

1 MR. O'SHEA:

2 Yes. You see, Your Honour, I don't want to in any way --

3 MR. PRESIDENT:

4 Which means that at least that is a first --

5 MR. O'SHEA:

6 Yes.

7 MR. PRESIDENT:

8 -- at least notice that is brought to the Defence about this issue of kidnapping.

9 MR. O'SHEA:

10 I don't want to in any way challenge Your Honour's ruling which has been given, and I don't challenge
11 the correctness of it, but the question I raise goes beyond that ruling. I indicated during the course of
12 my argument that we had a witness list from the Prosecution which specifically excluded the count
13 dealing with kidnapping of UN personnel in relation to this witness. Now, *prima facie*, that is unfair
14 towards the Defence to provide a summary of a witness, refer to the counts on the indictment, and
15 specifically exclude the count that they are going to rely on in relation to this new evidence coming out
16 in court. It becomes highly relevant to know did the Prosecution know about this or not? If they knew
17 about it, why did they not give us notice of it? So, you know, the issue is still there, it is still on the
18 table. It is all very well saying to the Defence, "You must produce *prima facie* violation -- evidence of
19 violations of Rule 66," and Your Honours are quite right, this is quite in line with what the Rwanda
20 Tribunal does, but, you know, in my submission it leads to a very unfair situation if we don't have a
21 Prosecution who will tell the Court and tell the Defence exactly what the position is.

22 JUDGE THOMPSON:

23 But even in that case, wouldn't it be -- the remedy would be for us, as we have indicated in our
24 rulings, either to exclude this piece of evidence or to decide whether it should have any probative
25 value or not. So, we are not outside the parameters of providing some kind of remedy for this
26 situation consistent with our decision. Actually, what has been argued here and demonstrated here,
27 there is an alleged discrepancy and I think from the way that counsel cross-examined this witness and
28 from the kinds of questions that he put, he is, in fact, inviting the Chamber to say this is a material
29 discrepancy and ought to be treated the way the law stipulates. And so, I am saying to myself, that in
30 a situation like this the Court has the armoury of weapons to deal with this kind of situation if we are
31 properly addressed on it. And the question is that, even if we agree at this stage that the Prosecution
32 has violated its trust under Rule 66(A)(ii), the remedies are almost the same.

33 MR. O'SHEA:

34 Well, Your Honours, I have absolutely no doubt that this Court will exercise its discretion judicially and
35 properly in terms of the evaluation of evidence; that is not my concern. Whatever weapons may be in
36 the hands of the Court, those weapons cannot remedy the disadvantage that the Defence will be put
37 at if they do not have proper notice of the specific issues which witnesses are going to deal with.

1 I entirely accept the point in Your Honours' ruling that we have notice of the general issue of
2 kidnapping from the indictment and the pre-trial brief, but it is still a matter which puts us at great
3 disadvantage if the Prosecution has information within its knowledge about what a witness is going to
4 say and then the -- and then that notice is not given to us at all. Now, in relation to this specific
5 witness, there may not be prejudice and that -- and your ruling was based on this specific witness.

6 JUDGE THOMPSON:

7 Yes, but they say all -- they disclosed all what they have. It is possible to look at this from this
8 perspective that they probably did not have this particular testimony in their statement, you see.

9 MR. PRESIDENT:

10 Mr. O'Shea, please, can you -- can the Prosecution please reply to these arguments by the Defence,
11 please.

12 MS. TAYLOR:

13 Your Honour, I am pleased to.

14

15 In relation to the investigator who took the original statement, it is, of course, my friend's perfect liberty
16 to call that person as a witness as part of their case if they wish to establish any issues with respect to
17 the taking of that statement.

18 MR. PRESIDENT:

19 Is she -- is she in town?

20 MS. TAYLOR:

21 She is not.

22 MR. PRESIDENT:

23 Where is she?

24 MS. TAYLOR:

25 I believe she is somewhere in Europe. She is no longer employed by the Special Court.

26 MR. PRESIDENT:

27 I see. Yes.

28 MS. TAYLOR:

29 As respect -- the other matters raised by my learned friend, Mr. O'Shea, I responded to his arguments
30 on Friday afternoon. Your Honours heard those arguments and your Honours have ruled. I have
31 responded to the allegations that he raised and if he cares to read the transcript he will realise what I
32 have said about those matters. I will not be interrogated by my learned friend from across the hall
33 way, and I will not answer specific questions put across the bar table. In my submission, that is
34 entirely improper practice.

35

36 Your Honours, you have ruled in relation to these matters, the Prosecution has said that it has
37 complied with its disclosure obligations and Your Honours have so found. And I have nothing more to

1 say on the matter.

2 MR. CAMMEGH:

3 Your Honour, can I just raise one brief factual point? Your Honour Judge Thompson just mentioned
4 the recourse that the Defence have to seeking evidence to be excluded. My understanding,
5 notwithstanding the fact that this witness was not on the witness list, suggested to be dealing with
6 kidnapping on the indictment for us, Your Honours ruled against that on that point on Friday, of
7 course. But perhaps the Court, and my learned friend in particular, should take note that there has
8 been no re-examination of this witness who has indicated that the kidnapping couldn't have --

9 MR. PRESIDENT:

10 It is a pertinent point, there was no re-examination of the witness.

11 JUDGE THOMPSON:

12 I don't want to even go into that.

13 MR. PRESIDENT:

14 That is an important matter, there has been no re-examination of this witness by the Prosecution.

15 MR. CAMMEGH:

16 Well, I was talking about the dates --

17 JUDGE THOMPSON:

18 I didn't want to be pre-emptive on that.

19 MR. CAMMEGH:

20 Yes, the indictment which --

21 MR. PRESIDENT:

22 Yes, and yet there was necessity for re-examination.

23 MR. CAMMEGH:

24 Yes. The indictment suggests May to September on kidnapping, this witness's evidence cannot go
25 beyond March, that was not re-examined upon. It might be that I am going to ask that this evidence
26 be excluded in any event in due course.

27 JUDGE THOMPSON:

28 It might be the best thing is to wait for the time when the -- when addresses.

29 MR. PRESIDENT:

30 Well, there is an application which has been made about this Miss Hatt.

31 [Trial Chamber confer]

32 MR. PRESIDENT:

33 Mr. Cammegh --

34 MR. CAMMEGH:

35 Yes, Your Honour.

36 MR. PRESIDENT:

37 You have indicated that you would like to have Mrs. Hatt --

1 MR. CAMMEGH:

2 Yes, indeed.

3 MR. PRESIDENT:

4 -- to appear before the Court and to testify.

5 MR. CAMMEGH:

6 Indeed.

7 MR. PRESIDENT:

8 Are you calling her as -- just give us some clarifications, are you calling her as a witness for the
9 Defence, or how do you intend, you know, to have her called here?

10 MR. CAMMEGH:

11 Absolutely not, Your Honour, we cannot possibly call her as a witness for the Defence; we don't know
12 what she is going to say. The procedure, certainly where I come from would be this, that she would be
13 required by the Prosecution -- and if the Prosecution were loath to do that then certainly by the
14 Court -- to provide a statement enclosing any exhibits that she may be able to lay her hands on, such
15 as tape cassettes, written notes of these interviews. And she would be required to produce those
16 documents within her statement in which I would also expect her -- and I am sure the Court would
17 expect her -- to give a true and accurate account of what took place and what was said. She is not a
18 Defence witness at all.

19

20 We would be grateful if the Prosecution would call her. If we are provided with a statement and the
21 Prosecution do not call her, then it would be incumbent upon us to call her during the Defence case,
22 but I do hope that in the interests of expediency and, let's face it, fairness, the Crown (sic) will take it
23 upon themselves, such a glaring discrepancy having been illustrated today, to play fair and call her as
24 a witness in the next session.

25 MR. PRESIDENT:

26 You are alleging a glaring discrepancy.

27 MR. CAMMEGH:

28 Well --

29 MR. PRESIDENT:

30 You are alleging the glaring -- we are going to look into it. There is no --

31 MR. CAMMEGH:

32 Well, there is one, Your Honour, with respect. Two.

33 MR. PRESIDENT:

34 Well, we are not yet there, we are not yet there, you know. We would be there at the right time.

35 MR. CAMMEGH:

36 Your Honour takes the point, I know, that it is not really discrepancy that I am interested in so much as
37 investigating as to whether or not there has been an enormous recent fabrication and I would have

1 thought it is tactically wise for the Crown to nail that possibility as soon as possible. But that is a
2 matter for them.

3 [Trial Chamber confer]

4 MR. PRESIDENT:

5 Well, the Prosecution, you have heard the application by the Defence seeking a summons to be
6 issued to Miss Hatt or Mrs. Hatt to appear in order to answer certain questions from the Defence and
7 from the Prosecution maybe, and also from the Court. What is your reaction to this?

8 MS. TAYLOR:

9 Your Honour, my initial reaction is that the rules of the Court would seem to indicate that the
10 Prosecution would be required to show good cause to call this witness. In accordance with the rules
11 and with all of the orders that Your Honours have issued to the Prosecution, we have been required to
12 file witness lists and, of course, Miss Hatt does not appear on that witness list

13
14 In relation to the specific point raised by my learned friends, I would note that not once have the
15 Defence enquired of the Prosecution whether there are any notes or tapes or anything that exist with
16 respect to this witness since this issue arose last week. Now, I don't know the answer to that
17 question. I can tell you that Miss Hatt is not within the jurisdiction, I do not know whether she has any
18 notes with her or whether there are any notes that exist at all and, if they do, whether they are in
19 Sierra Leone. I have absolutely no knowledge about whether there is any information that may assist
20 my learned friends with this application.

21
22 In respect to the application, how is it that the Prosecution are to recall people who were once in
23 Sierra Leone who are now outside of the jurisdiction in circumstances where the Prosecution have not
24 put these people on a witness list?

25 MR. PRESIDENT:

26 Where necessity arises in the interests of justice, in the integrity of the process, issues have arisen
27 and it is -- we deem it necessary.

28 MS. TAYLOR:

29 If your Honours deem it --

30 MR. PRESIDENT:

31 We deem it necessary that that witness, you know, applies.

32 MS. TAYLOR:

33 Well, if that is the ruling of Your Honours, that hadn't been made until Your Honour just mentioned
34 that. If it is something that the Court requires, then the Prosecution will do its best.

35 MR. CAMMEGH:

36 In answer to one point my learned friend just --

37

1 MR. PRESIDENT:

2 The Court will rise for ten minutes, please.

3 MR. CAMMEGH:

4 Very well.

5 [Recess taken at 12.00 p.m.]

6 [Pages 25 to 40 by Susan G. Humphries]

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[On resuming at 12.22 p.m.]

1
2 MR. PRESIDENT:

3 We are resuming the session. The Prosecution will arrange to bring into Freetown, at a session to be
4 determined, Ms. Hatt, at the request of the Defence for purposes of certain clarification which are
5 material to the determination of this case. We do not know when, if ever, you would see her, I don't
6 know, but you will do all you can to ensure that the -- Ms. Hart is brought here in the interest of a fair
7 determination of this matter.

8
9 But this said, the witness who has been giving evidence is released, but when the time comes, either
10 party may make the requisite or the necessary application to bring him back, should the necessity
11 arise. So, that is our directive on this issue and we would ask that the witness whose -- I mean, up --
12 as per now the cross-examination of the 8th prosecution witness is over, subject, of course, to further
13 directives in due course. Yes.

14 MS. TAYLOR:

15 If Your Honour please, the Prosecution will, of course, do its best to assist the Court, in the absence
16 of any compulsory powers in the Court to compel the attendance of this witness in Freetown. The
17 Prosecution will endeavour to contact her and to ascertain her availability to come to Freetown.
18 Beyond that, Your Honour, at the moment I don't think the Prosecution can promise any more to the
19 Bench.

20 MR. PRESIDENT:

21 And, of course, if she has to come she will come at the expense of the Special Court.

22 MS. TAYLOR:

23 Thank you, Your Honour.

24 MR. PRESIDENT:

25 At the expense of the Special Court, please, not at her expense.

26 MS. TAYLOR:

27 Thank you for that indication, Your Honour.

28 MR. PRESIDENT:

29 I have, you know -- we've said that the witness is released. Can we -- we cannot take another
30 witness now -- in the afternoon.

31 MS. TAYLOR:

32 There is another witness available, yes, Your Honour, but it's of course questioned whether you wish
33 to commence that evidence now or after lunch.

34 MR. PRESIDENT:

35 How long is the witness?

36 MS. TAYLOR:

37 The witness will be longer that the period to one o'clock from now, certainly longer than 35 minutes.

1 [Trial chamber confer]

2 MR. PRESIDENT:

3 Well, we don't want to start and start hurrying over it. We will do it after the lunch break.

4 MS. TAYLOR:

5 If Your Honour pleases.

6 MR. PRESIDENT:

7 Thank you.

8

9 Yes, Mr. Jordash.

10 MR. JORDASH:

11 Your Honours, as I understand, the witness to be called is TF1-060, who is the witness who testifies
12 about events in Kenema. It's the witness who was the subject of the Defence application which Your
13 Honours ruled upon on Friday last, relating to the supplemental statement as Your Honours found it to
14 be. I raised this issue very briefly on Friday concerning whether Your Honours had considered
15 whether it would be right for the Defence to have additional or some time, I should say, to investigate
16 these -- the new allegations contained in the supplemental statement. I raise it at this stage simply to
17 enquire as to whether it might be expedient to deal with that application at this stage so Your Honours
18 can consider it over lunch, or whether Your Honours would prefer to hear that straight after the
19 luncheon adjournment.

20

21 [Trial Chamber confer]

22 MR. PRESIDENT:

23 Mr. Jordash, I suppose you have made your application?

24 MR. JORDASH:

25 The arguments I put forward during the --

26 MR. PRESIDENT:

27 Pardon me?

28 MR. JORDASH:

29 The arguments relating to the need for time to investigate, I think, I will outline in some details --

30 MR. PRESIDENT:

31 Well briefly raise, raise the argument now, please.

32 JUDGE THOMPSON:

33 Because we don't want to use the arguments which you raised for the purposes of the decision in
34 respect of which we have now come to submit here. We don't want to refer to that. Perhaps the best
35 thing is to raise afresh, because now you are asking for a remedy, if I understand what you are
36 saying.

37

1 MR. JORDASH:

2 I'm asking for an adjournment of this witness.

3 JUDGE THOMPSON:

4 A remedy, a remedy.

5 MR. JORDASH:

6 Certainly, yes.

7 JUDGE THOMPSON:

8 Whereas your previous application was for an exclusion of the evidence. Well. Okay.

9 MR. JORDASH:

10 Well, my submission is a brief one.

11 MR. PRESIDENT:

12 What's that witness again, TF?

13 MR. JORDASH:

14 TF1-060.

15 MR. PRESIDENT:

16 TF?

17 MR. JORDASH:

18 TF1-060.

19 MR. PRESIDENT:

20 Yes, Mr. Jordash, go ahead. Please be very brief.

21 MR. JORDASH:

22 Simply this, Your Honours, that the first statement of this witness does not in any way mention directly
23 Mr. Sesay. The supplemental statement served on the 16th of July not only mentions Mr. Sesay, but
24 alleges that he was responsible for a specific crime against a local businessman in Kenema.

25

26 The supplemental statement contains some details about this fresh allegation, including, an officer
27 called Kanneh, a former SLA, and a – and, therefore, details a fight between Mr. Sesay, Kanneh and
28 there respective bodyguards. It details an office in Kenema with a specific address. The Defence
29 would simply wish to have the 42-day period to investigate this allegation.

30

31 The 42 days that Your Honours ruled on concerning the special measures application by the
32 Prosecution was a time which was necessary for the Defence to investigate, given the particular
33 circumstances of Sierra Leone and this case. The Defence simply wish to have that time to
34 investigate the details of what this witness is alleging, and to ascertain whether there is anything
35 further above and beyond what Mr. Sesay himself can remember about this allegation and to
36 ascertain whether his recollection of this event -- and I used this event in a very generalised form
37 because this allegation is denied and will be refuted -- and the Defence just seeks as much of

1 cooperation of Mr. Sesay's account as possible to be able to cross-examine this witness and place
2 into context by cross-examination, and further, to be fair to this witness when he gives evidence so as
3 to deal -- so as to give him the opportunity to be to deal with the Defence case on this point.

4
5 It would be, in our respectful submission, not only fair to the Defence to give us that opportunity, but
6 also fair to this witness and in the interest of justice to allow Your Honours to be able to evaluate this
7 witness's response to those Defence points to ascertain whether this witness is a truthful one and one
8 whose evidence can be relied upon. Those are my submissions.

9 MR. PRESIDENT:

10 Thank you. Prosecution, please.

11 MS. TAYLOR:

12 Your Honour, in the submission of the Prosecution, the evidence of this witness should go ahead,
13 including the cross-examination. Of course, this is a supplemental statement. The bulk of what this
14 witness --

15 MR. PRESIDENT:

16 You said the evidence should go ahead?

17 MS. TAYLOR:

18 Indeed, Your Honour. The bulk of what this witness will give evidence about has been known to the
19 Defence for the 42-day period, including the fact that the witness was in Kenema at the time that
20 these new incidents -- if I might call it that for the sake of convenience -- is alleged to have occurred.
21 So any investigation that the Defence wished to do about this particular witness being in Kenema at
22 the particular time, should already have been undertaken.

23
24 In addition, the Defence have now been in possession of this statement for 10 days, and while that is
25 of course shorter than the 42-day period, I return to the notion that the Defence have been on notice
26 that this witness was in Kenema at that particular time and any investigations they would like to -- with
27 respect to this witness specifically, could have been made.

28
29 My learned friend said that the incident that is detailed in the supplemental statement is denied and is
30 refuted and that what he seeks is corroboration of his client's account. In my respectful submission, if
31 his instructions are, as he has said, that the incident is denied, then that is matter -- a matter that can
32 be put already to the witness in cross-examination and any issue of corroboration of the account given
33 to him by his client is a matter properly for the Defence case. But it is not proper to ask a prosecution
34 witness about the corroboration to be given by other witnesses. It is simply to satisfy the rules of
35 cross-examination if this incident is denied, as it would appear from my learned friend's submission,
36 by the first accused.

1 Your Honour, the -- another issue that needs to be raised is that this witness has now been in
2 protection ready to give evidence for some period of weeks. I don't want to say the witness's
3 occupation, but Your Honours will see what the occupation is just by looking at the front sheet of the
4 first witness (sic). If the witness is to remain in protection until the next session of trial, that is a period
5 of some months, Your Honour, it places some difficulty upon this witness to keep him here so that he
6 may give evidence before this Court.

7
8 The final thing that I would say, Your Honours, is that in your ruling, Your Honours have accepted the
9 possibility that occasionally the Prosecution does come into possession of additional information like
10 in this case and must disclose that to the Defence, as has happened here, and Your Honours have
11 ruled that there is no prejudice to the Defence in the witness being called now. That, of course, was
12 the subject of the argument and the subject of Your Honours' ruling.

13
14 And if my friend is simply asking for time to get corroboration of his client's instruction, that is an
15 entirely different matter to the remedy that Your Honours have stated; it's appropriate, in these
16 circumstances, which is simply to cross-examine.

17
18 If Your Honours please.

19 MR. PRESIDENT:

20 How many witnesses do you have ready for today?

21 MS. TAYLOR:

22 Your Honour, we had another two in back-up for this witness.

23 MR. PRESIDENT:

24 That's besides TF1-060?

25 MS. TAYLOR:

26 That is correct.

27 MR. PRESIDENT:

28 There are two more?

29 MS. TAYLOR:

30 We have two more, yes.

31 MR. PRESIDENT:

32 Yes, Mr. Jordash.

33 MR. JORDASH:

34 May I just briefly respond.

35
36 The bulk of the evidence has been known to the Defence, but that bulk did not include anything about
37 Mr. Sesay, and we haven't sought to investigate because, in terms of our overall defence, we didn't

1 need to.

2
3 We have been in possession of this supplemental statement for ten days. We have not been in
4 possession of our investigator for two days, who has been in the field uncontactable for those ten
5 days.

6
7 Investigation, as we envisage it, is not simply about corroboration, it's about obtaining some details of
8 our defence which may, in fact, be decisive to the cross-examination. We do not know what we will
9 find, but we may find, during our investigation, some facts which so directly contradict what this
10 witness says, that this Chamber may be left in no doubt that this witness is not telling the truth or is
11 not a credible witness. I cannot, without having conducted or having had that investigation
12 conducted, give this Chamber a chapter and verse as to what those details may be. We will know
13 when we investigate. We will know if we find such details.

14
15 And, finally, whilst the Defence sympathise with the Prosecution concerning the difficulties they have
16 as to special measures, it was them who produced the supplemental statement. The consequences
17 which flow from that are difficult for the Defence, and it would seem perhaps even difficult for the
18 Prosecution, but that, I would respectfully submit, is not a matter for the Defence, nor, I would
19 respectfully submit, is it a matter which ought to weigh in this submission.

20 MR. PRESIDENT:

21 Thank you. We have heard the arguments and we will be ruling on this at 3 o'clock this afternoon
22 when the session will resume. For now, the court will rise and will resume sitting at 3 o'clock.

23
24 Court rises please.

25 [Luncheon recess taken at 12.43 p.m.]

26 [On resuming at 3.08 p.m.]

27 MR. PRESIDENT:

28 We are resuming the session, and our colleague and brother, Honourable Judge Bankole Thompson,
29 will read the short ruling of the Tribunal in relation to Mr. Jordash's application.

30 JUDGE THOMPSON:

31 The Trial Chamber of the Special Court for Sierra Leone (Special Court) composed of Honourable
32 Judge Benjamin Mutanga Itoe, Presiding Judge, Honourable Judge Bankole Thompson, and Honour
33 Judge Pierre Boutet, seized of an oral application by the Defence counsel for Issa Hassan Sesay
34 during the trial proceedings on Wednesday the 27th of July 2004 for the postponement of the
35 testimony of Witness TF1-166 on the grounds of additional disclosure of new evidence in the form of
36 additional written statement.

1 Noting the Prosecution response to the application made orally in the course of the same hearing;
2 noting the ruling on oral application for the exclusion of additional statement for Witness TF1-060 of
3 23rd July 2004; considering Rules 66 and 67 of the Rules of Procedure and Evidence and Article 17
4 of the Statute of the Special Court after deliberation, hereby issues the following ruling:

5
6 Having considered the application as made by the counsel for the first accused, Issa Sesay, and
7 noting the particular circumstances outline by Mr. Jordash, the Chamber grants the application for the
8 postponement of the evidence of Witness TF1-060 that the Prosecution intended to call as its next
9 witness.

10
11 It should be observed, however, that by granting this application, this Chamber is not now opening a
12 new avenue for applications of such nature in the future. The Court is deeply concerned about delays
13 and will do its utmost to try to limit any application that will have, as its consequence, delays in the
14 proceedings. Applications of this nature will be dealt with on a case-by-case basis and will have to be
15 dually substantiated. With regard to this particular application, the Chamber is of the view that it
16 would be best to proceed with the complete testimony of this witness when he is called, rather than
17 breaking the cross-examination and allow then a postponement of that part of the witness's cross-
18 examination related to his most recent written statement.

19
20 Although the bulk of the evidence of this witness has been disclosed more than 42 days before he is
21 to testify, the most recent written statement has only been disclosed to the Defence on 16 July 2004.

22
23 Furthermore, it would appear that this written statement would, for the first time, directly -- emphasis,
24 directly -- implicate the first accused and subsequently, the Defence is asking for additional time to
25 investigate this matter further. They have stated that their investigators cannot be contacted at this
26 time and, therefore, are not able to pursue that part of the investigation prior to proceeding with the
27 cross-examination of Witness TF1-060.

28
29 Ruling

30
31 Accordingly, the application for the extension of time for the testimony of Witness TF1-060 is granted,
32 and the testimony of the said witness is accordingly postponed to the next session of the trial that will
33 run from 4 October 2004 to 29 October 2004, inclusive.

34
35 Done at Freetown this 27th day of July 2004.

36 MR. JORDASH:

37 I'm grateful.

1 JUDGE THOMPSON:

2 Learned counsel for the Prosecution, are there any other witnesses available?

3 MS. TAYLOR:

4 Yes, Your Honour. The Prosecution will now call Witness TF1-305.

5

6 There are two very short preliminary matters that I need to raise with Your Honours --

7 JUDGE BOUTET:

8 Can you repeat, please? Sorry.

9 MS. TAYLOR:

10 I'm sorry, Your Honour, TF1-305.

11 JUDGE THOMPSON:

12 TF1-305.

13 JUDGE BOUTET:

14 Thank you.

15 JUDGE THOMPSON:

16 Go ahead and raise those issues.

17 MS. TAYLOR:

18 The first is that this witness would be, had the appropriate pseudonym been included in the
19 prosecution application for renewed protective measures, be a Category A witness; that is, a witness
20 who has been subjected to sexual violence. Through inadvertence, the pseudonym of this witness
21 was not included in the annex of Category A, and so I now make an oral application that this witness
22 be treated as a Category A witness, that is a witness to whom the voice distortion protective measure
23 applies.

24 JUDGE BOUTET:

25 So, in addition to -- pardon me -- giving evidence behind the screen, you would like the voice of that
26 witness to be distorted?

27 MS. TAYLOR:

28 That is correct, Your Honour.

29 JUDGE BOUTET:

30 Obviously, we are talking voice distortion for the public gallery, not for the court itself?

31 MS. TAYLOR:

32 Yes, the way that the voice distortion mechanism has worked in the past.

33 JUDGE BOUTET:

34 Thank you.

35 MR. PRESIDENT:

36 Yes, the Defence please.

37

1 MR. JORDASH:

2 The application is -- it's not opposed.

3 JUDGE BOUTET:

4 Same for all other counsel?

5 MR. BROWN:

6 Yes, Your Honour, we do not oppose.

7 MS. TAYLOR:

8 Thank you, Your Honours. The second matter relates to --

9 MR. PRESIDENT:

10 Your application is granted.

11 MS. TAYLOR:

12 I beg your pardon. Thank you, Your Honour.

13 MR. PRESIDENT:

14 Go ahead.

15 MS. TAYLOR:

16 The second matter relates to a particular medical condition of this witness. During the status hearing
17 in front of the learned judge, Judge Thompson, we did raise a particular issue about some conditions
18 that the witnesses have.

19

20 I have taken the liberty of discussing this matter with my friends before court started this morning.

21 This witness has a particular condition that makes it imperative that she have a break about every 30
22 or 40 minutes. The medical condition that requires that is of some embarrassment to her. She does
23 not want to have to discuss that in public. And so I make an application that every 30 or 40 minutes,
24 Your Honours of your own emotion might say the Court will rise for five minutes to allow her some
25 comfort to deal with that condition.

26 MR. PRESIDENT:

27 May you remind us when it comes to that because we may be so absorbed that we mightn't have our
28 eyes on the ticking clock.

29 MS. TAYLOR:

30 I will do so.

31 MR. PRESIDENT:

32 Please.

33 MS. TAYLOR:

34 I will do so, Your Honour.

35 MR. BROWN:

36 Your Honour, we have no objection and, indeed, we informed counsel that if they wish to rise as if to
37 make an objection in those times and accord knowledge to the rules, we have no objection to that

1 proceeding.

2 MR. PRESIDENT:

3 We take it that it is all right. Okay.

4 MS. TAYLOR:

5 Your Honours, the witness will be called by my learned friend, Ms. Wiafe. Obviously, the curtains will
6 need to be closed while the witness is being brought in.

7 [The witness entered court]

8 JUDGE BOUTET:

9 Court Management, could you ensure that the mic is open.

10 MS. TAYLOR:

11 Your Honours, I'm sorry to interrupt, I have just been told by the technical staff that the microphone --
12 the particular microphone needs to be changed to allow for the voice distortion mechanism to be
13 activated, and they ask whether they might have five minutes to do so.

14 MR. PRESIDENT:

15 Let the technician proceed to change the microphone, that's fine.

16

17 Mr. Technician, how much longer will it take you to be through with this?

18 THE TECHNICIAN:

19 Probably ten minutes.

20 MR. PRESIDENT:

21 Ten minutes?

22 THE TECHNICIAN:

23 Yes.

24 MR. PRESIDENT:

25 The Court will rise, please.

26 [Break taken at 3.28 p.m.]

27 [Pages 41 to 50 by Gifty C. Harding]

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- 1 [On resuming at 3.46 p.m.]
- 2 [The Witness entered court]
- 3 MR. PRESIDENT:
- 4 Mr. Brown, some of your colleagues -- I don't see Mr. Cammegh, Mr. O'Shea.
- 5 MR. BROWN:
- 6 Your Honours, I'm sure they are around. They --
- 7 MR. PRESIDENT:
- 8 Okay, all right.
- 9 MR. CAMMEGH:
- 10 Your Honours --
- 11 MR. PRESIDENT:
- 12 Yes.
- 13 MR. CAMMEGH:
- 14 -- I apologise for being late. I'm very sorry. I didn't realise the Court has sat; I was just outside.
- 15 MR. PRESIDENT:
- 16 No, that's all right. That's all right. You weren't that late, you were within the precincts of the court.
- 17 That's all right. That's okay.
- 18
- 19 Has the witness been sworn in?
- 20 THE INTERPRETER:
- 21 Yes.
- 22 MR. PRESIDENT:
- 23 Yes, Prosecution, can you proceed, please?
- 24 MS. WIAFE:
- 25 Thank you, Your Honour.
- 26 [WITNESS TFI-305 sworn]
- 27 [The witness answered through interpreter]
- 28 EXAMINED BY MS. WIAFE:
- 29 MS. WIAFE:
- 30 Q. Madam witness, how are you doing?
- 31 A. I say thanks to God.
- 32 Q. Madam witness, are you married?
- 33 A. I'm not married.
- 34 Q. Do you have any children?
- 35 A. I have no children.
- 36 Q. Madam witness, have you ever attended school?
- 37 A. I never went to school.

- 1 Q. What languages do you speak?
- 2 A. I speak two languages.
- 3 Q. What languages are they?
- 4 A. I speak Kono and I speak Krio.
- 5 Q. Are you engaged in any form of work?
- 6 A. I learned a trade; I was at a training school.
- 7 Q. What training school were you at?
- 8 A. I was learning tailoring.
- 9 Q. And where were you learning the tailoring?
- 10 A. I was in my home town learning this tailoring.
- 11 Q. And where is your home town, madam witness?
- 12 A. Kono is my home.
- 13 Q. Madam witness, where do you currently reside?
- 14 A. At this present moment?
- 15 Q. Yes, at this present moment.
- 16 A. I am in court right now.
- 17 Q. Before you came to court, where were you living?
- 18 A. Before I came to this Court today?
- 19 Q. Before –

20 JUDGE BOUTET:

21 Madam Prosecutor, just -- if you are asking questions the witness may be a bit reluctant to answer
22 these questions. You are asking here where she is residing now and she is a protected witness. So,
23 I'm just cautioning you about that line of questioning. It may be somewhat difficult because of that,
24 but this is your witness.

25 MS. WIAFE:

26 Thank you, your Honour.

27 Q. Madam witness, before you came to Freetown, where were you living?

28 A. Before I came to Freetown I was in my home town in Kono.

29 Q. Have you ever lived outside your home town?

30 A. Yes, I was in Kenema.

31 Q. And apart from Kenema have you lived elsewhere?

32 A. I also lived in another town called Bumpeh.

33 Q. And what district is Bumpeh?

34 A. Bumpeh is also in Kono.

35 Q. Can you tell us the time when you lived in Bumpeh?

36 A. I took a long time in Bumpeh. It took me a long time there because I lived with my elder sister in
37 Bumpeh.

- 1 Q. When you were in Bumpeh did anything happen?
- 2 A. Yes, at the time when I was living with my sister.
- 3 Q. Can you tell this Court what happened?
- 4 A. Yes, the time I was there, the thing that happened I am able to explain to this Court.
- 5 Q. Please, explain to us?
- 6 A. The time I was there with my sister, I was there the things I remember -- can I explain now?
- 7 Q. Yes.
- 8 A. There became a time when I heard that elections have arrived. They said there was one contestant
9 whose name was Kabbah. I was there when I was living with my sister when election came, and
10 people voted at that time.
- 11 Q. Was this the first time you had heard of the name Kabbah?
- 12 A. That was the first time I heard about someone called Kabbah who was standing elections.
- 13 Q. Do you remember the year that these elections were held?
- 14 A. Yes.
- 15 Q. Can you tell this Court what year that took place?
- 16 A. Yes, I will tell the Court.
- 17 Q. Please, tell the Court?
- 18 A. At that time it was 1996.
- 19 Q. Now, how long did you stay in Bumpeh?
- 20 A. I took a long time in Bumpeh. I can't remember the exact length of time, but I took a long time there
21 with my sister.
- 22 Q. Did there ever come a time when you left Bumpeh?
- 23 A. Yes. I moved from Bumpeh and I went to my own town where I was born, where my mother lived.
24 That's where I was with my mother.
- 25 Q. Now, when you went to your home town, did anything happen?
- 26 A. At that time things happened.
- 27 Q. Can you tell this Court what happened?
- 28 A. Yes.
- 29 Q. Please tell the Court?
- 30 A. There came a time and that time we had celebration of Christmas in town. We had celebration of the
31 new year in our town. Two weeks after new year's celebrations we were in our town one day; we
32 heard shooting. When we heard the gunshots, everybody in the town panicked. Everybody just took
33 his or her luggage and ran away. I took my things with my family and ran away. While we were
34 running, one old lady followed us. We were in the same group running away and we arrived in the
35 forest.
- 36 Q. Madam witness, when you say -- you said you spent Christmas in your village. Do you remember
37 which government was in power at the time that you spent that Christmas in your village?

- 1 A. At that time when I was living with my sister in Bumpah after the elections, I heard that they had
2 elections and that someone had won whose name was Kabbah, but when I returned to my village, I
3 can't be sure whether it was this Kabbah who was still in power at the time.
- 4 Q. Now, madam witness, you said you ran away from your village when you heard gunshots. Who did
5 you go with?
- 6 A. I escaped with my mother, my father and the old women I told you about that followed us.
- 7 Q. Where did you go?
- 8 A. We went to the bush.
- 9 Q. And when you went to the bush, did anything happen?
- 10 A. When we arrived in the bush, my father built a small hut that was where all of us were; my mother and
11 even the old woman.
- 12 Q. And after that did anything happen to you?
- 13 A. We were in the bush for two weeks when a large group of people arrived and they were all wearing
14 combat.
- 15 Q. And did these people identify themselves to you?
- 16 A. They identified themselves to us. When they came, they arrested us and they gathered us in the
17 same place, and they said: "Ever since, have you ever seen a rebel?"
- 18 Q. Did they say anything else?
- 19 A. They ask me whether I had actually seen a rebel one day in my life.
- 20 Q. Then what happened after that?
- 21 A. I said, "No, I have never known a rebel in my life." And that time they told us, they said: "Well, we
22 are rebels at this moment; we are the rebels at this moment." They said: "We are in charge of the
23 government. We own the government right now." They said: "Bring out all your luggages; whatever
24 you have that is your property, bring them out." They searched through our luggage and they were
25 asking us questions.
- 26 Q. And who else was there when the rebels were saying this to you?
- 27 A. There were only four us: Myself, my mother, my father and the old lady.
- 28 Q. And what happened after this?
- 29 A. They questioned us for a few minutes and they asked us whether we had any Kamajors around us.
30 They also said: "Are there any soldiers here?" They said: "Do you have guns here?" They said,
31 "The marijuana that you have, please bring it out." We told them that: "All what you are asking about
32 we have no ideas about them. We do not have any of them." After they did all this, they went inside
33 the hut and brought out our bags, the bags that contained our clothes. They took the best of our
34 clothes from the bags. They came out, brought everything outside and they asked my mother: "We
35 kill your daughter or take her away or rape her. What choice do you have? What do you want?" My
36 mother pleaded with them and said: "Look, all these things you are asking me to choose from, I'm
37 begging you not to do any of them to my child. She is the only one with me here." They didn't listen

1 to my mother at that time. They took me. They passed with me behind the hut. They left my mother
2 on the side of the hut where they were questioning us. They brought me on the other side, passed
3 me over there. They asked me to take off all my clothes.

4 MR. PRESIDENT:

5 Please, control her. Let her –

6 MS. WIAFE:

7 Q. Madam witness, how many rebels found you in the bush?

8 A. The ones I saw were ten.

9 Q. And how many rebels took you behind the hut?

10 A. Eight of them took me behind the hut.

11 Q. And where were your parents at the time that the rebels took you away?

12 A. They were on one side of the hut, and they took me to the opposite side of the same hut.

13 Q. Now, when they took you to the opposite side of the hut what the happened?

14 A. When they passed me on the other side of the hut, they asked me to undress; to take off all my
15 clothes.

16 Q. Then what happened when they asked you to do that?

17 A. When they asked me to take my clothes off, they told me to lie down.

18 Q. And then when you -- what happened when they told you to lie down?

19 A. Each one of them took turns in raping me. I could just lay there and I saw one of them come and take
20 his clothes off and make sex to me .

21 Q. Madam witness, I know this is --

22 MR. PRESIDENT:

23 Please, please, she is under some emotion. Can she receive some assistance, please? She is under
24 some stress. I think we could break for about how many minutes, do you think?

25 MS. TAYLOR:

26 About ten, Your Honour.

27 MR. PRESIDENT:

28 Ten minutes, just time for her to be catered for as well.

29 MS. TAYLOR:

30 Indeed.

31 MR. PRESIDENT:

32 The Court will rise please.

33 [Recess taken at 4.10 p.m.]

34 [On resuming at 4.24. p.m.]

35 MR. PRESIDENT:

36 Yes, we are resuming the proceedings. You can proceed.

37

- 1 MS. WIAFE:
- 2 Thank you, Your Honour.
- 3 Q. Madam witness, just before the break, you said the rebels raped you. How many rebels rapped you?
- 4 A. There were eight of them.
- 5 Q. Now, did they tell you anything while they were rapping you?
- 6 A. They didn't say anything else to me, they just told me to lie down and they were going to make sex to
- 7 me.
- 8 Q. Now, where were your parents at this time?
- 9 A. At that time my parents were on the other side of the hut.
- 10 Q. Madam witness, you have told us that ten rebels captured you. Where were the other two rebels
- 11 when the eight rebels were rapping you?
- 12 A. The two were guarding my mother, the old woman and my father.
- 13 Q. Madam witness, how did you feel after you were rapped?
- 14 A. I didn't have much feeling. I was dazed. After all of these guys had made sex to me, I just was lying
- 15 there as if I was in the hands of death itself, and I was bleeding profusely.
- 16 Q. Madam witness, how old were you when you were rapped?
- 17 A. At that time I don't know my age; my mother didn't tell me how old I was.
- 18 Q. But can you give us an idea as to how old you were?
- 19 A. That was the time when I came from the initiation bush.
- 20 Q. And in your community when are girls initiated?
- 21 A. Our own people -- they don't take it by years, they only look at your growth. When your breast are full
- 22 and they say, "This is big enough. Let's put her into the society."
- 23 Q. Madam witness, How long after you went or you ran into the bush were you rapped?
- 24 A. Before they rapped me -- we were in the bush for two weeks before these people appeared on us.
- 25 Q. And what time of -- what season was that?
- 26 A. It was in the dry season.
- 27 Q. Madam witness, can you describe the rebels?
- 28 A. Well, the ten I saw were all big men. Only three of them were there who were younger.
- 29 Q. And what were the rebels wearing?
- 30 A. They were completely covered. They had combat dress on. They were so covered I couldn't even
- 31 see their faces. The only parts of their body I saw were their noses and mouths.
- 32 Q. Were they carrying anything?
- 33 A. They all had weapons; they all had guns.
- 34 Q. Madam witness, apart from calling themselves rebels, did they referred to themselves by any other
- 35 name?
- 36 A. At the time they were raping me I was listening and I heard them call themselves various names.
- 37 Q. At what names did they call themselves?

- 1 A. The commander they had who was the big man had the bigger gun and he called them Killer, Copul,
2 RUF, Liberia Boy. These are the names he called them. Besides the rebel name, these were the
3 four names they called themselves that day .
- 4 Q. What language were the rebels speaking?
- 5 A. They spoke two languages when I was listening to them. They used Krio and two of them spoke with
6 a Liberian accent.
- 7 Q. And how do you know they were speaking with a Liberian accent?
- 8 A. The way they were speaking and the name that their boss called them suggested to me that they
9 were Liberian people.
- 10 Q. And was the boss one of the people who rapped you?
- 11 A. Their big man and one other person were the only two who stayed with my parents, guarding them.
- 12 Q. Madam witness, after you were rapped what happened?
- 13 A. After they had rapped me, they said: "Let's go." But before they left, they said something. They said:
14 "We are leaving you behind. If you run away from where we are leaving you now and we find you at
15 any other place, we shall kill you. You are supposed to stay in this one place continuously."
- 16 Q. Madam witness, apart from these four names that you mentioned, did the rebels referred to
17 themselves by any other name?
- 18 A. They didn't tell me from which organisations they come from but they used those four names and they
19 also did tell us that they were rebels.
- 20 Q. Now, what happened after the rebels had told you to stay where you were otherwise they were going
21 to kill you?
- 22 A. When they left us, they took all our property with them. When they went, my mother went and picked
23 me up. I couldn't stand. My mother took me and placed me down and put the pot over the fire to boil
24 some water. When the water was hot, she placed it down to cool down a bit and she put some
25 quantity of salt in it and placed me in it. So even though I sat in there, still, I was bleeding. I bled for
26 three days. When I stopped bleeding, at that time I no longer felt like I wanted to urinate; I urinated
27 without even noticing it.
- 28 Q. Madam witness, how long did you stay in the bush?
- 29 A. We stayed in the bush for long. We stayed there for long. I don't remember exactly the time. The
30 condition in which I was --
- 31 Q. Did there ever come a time when you left the bush?
- 32 A. There was a time when we left. My father told us to leave that spot and we went -- we looked for
33 some road and we went as far as where we found some Kamajors.
- 34 Q. And where were these Kamajors?
- 35 A. These Kamajors were in Kangama.
- 36 Q. And what district is Kangama?
- 37 A. It's in Kono District.

1 Q. Now after you found the Kamajors, what happened?

2 A. We lived with the Kamajors for some time. We stayed there until we saw some military men who
3 came and they told us they were ECOMOG.

4 Q. And then when ECOMOG came, what happened?

5 A. They introduced themselves to us. They said they are now in charge of Freetown, they are in Bo,
6 they are in Kenema, and they are now trying to settle in Kono as well.

7 [Pages 51 to 58 by Momodou Jallow]

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1 [4.35 p.m.]

2 Q. Madam witness, do you remember, which government was in power at the time that you met
3 ECOMOG?

4 A. At the time they told us that they, the ECOMOG, have reinstated President Kabbah, and at that time
5 they said Kabbah was in power.

6 Q. Now, how long did you stay in Kangama?

7 A. We stayed there for a while.

8 Q. Did you leave Kangama?

9 A. Yes. We did leave at the time when the ECOMOG came and they settled in my own hometown. The
10 distance between my hometown and Kangama is a long distance, but when they settled in my
11 hometown, that's when we left.

12 Q. Where did you go?

13 A. We followed ECOMOG soldiers and went up together with them. We were all living in our village with
14 ECOMOG soldiers.

15 Q. And did you ever leave your village at that time?

16 A. There came a time when the rebels attacked ECOMOG. They fought for long, but the rebels were in
17 larger number than the ECOMOG soldiers; ECOMOG decided to retreat. While they were retreating,
18 they decided they don't want to leave any of the civilians at all. They took all of us who were the
19 civilians and they pulled out with us and brought us to Kenema.

20 Q. When you got to Kenema, what happened?

21 A. We were in the camp and the displaced camp in Kenema. While we were in the camp, there came a
22 time when they said, "People have come to us."

23 Q. Who were these people?

24 A. These were non-governmental organisations. They wanted to see us.

25 Q. What happened after this?

26 A. They announced to us in the gathering that all those who had suffered problems in this war, after the
27 meeting they would like to see them. After the meeting they asked for those people who had suffered
28 the problems in the war. At that time I was very, very much ashamed. I was unable to appear in
29 public or even speak about what happened to me in public to anybody. My aunt told me not to be
30 ashamed. She said, "This is an illness which you got not by your own will but through this war, so it is
31 nice for you to go and explain to them, maybe they will be able to help you. And they called me and I
32 explained to them what had happened to me. After they listened to me, they went back.

33

34 After some time I heard that they have come to me. They took me, at that time, to a displaced
35 hospital that was in a displaced camp. They started treating me in that hospital. They gave me
36 injections and they gave me tablets.

37 Q. Madam, do you remember the name of this NGO?

1 A. Yes.

2 Q. What was the name the NGO?

3 A. IRC.

4 Q. And to which hospital did you go?

5 A. When they took me the first time, they brought me to the displaced camp hospital. That was the first
6 hospital they took me to.

7 Q. After that did you seek any further medical treatment?

8 A. After treating me at the displaced camp hospital, they took me from there and brought me to Kenema
9 government hospital itself.

10 Q. Was this the same organisation, IRC?

11 A. Yes. It was IRC that took me to the hospital.

12 Q. And who treated you at the Kenema hospital?

13 A. The doctor they took me to I can still remember the doctor's name. They called him Dr. **xxxx**.

14 MS. WIAFE:

15 Your Honours, can I have a minute, please, to confer?

16 MR. PRESIDENT:

17 Yes, please. Go ahead.

18 [Prosecution counsel confer]

19 MS WIAFE:

20 Thank you very much, madam witness, I have no further questions for you.

21 MR. PRESIDENT:

22 Maybe before we proceed to cross-examination, we may rise and ask herself to put herself at ease.

23 The Court will rise for ten minutes, please.

24 MS. EDMONDS:

25 The Court will rise.

26 [Break taken at 5.45 p.m.]

27 [On resuming at 5.55 p.m.]

28 MR. PRESIDENT:

29 Madam witness, are you all right?

30 THE WITNESS:

31 Yes.

32 MR. PRESIDENT:

33 So we can continue. Can we continue?

34 THE WITNESS:

35 Yes. I'm waiting for you.

36 MR. PRESIDENT:

37 So cross-examination by the first accused.

1 CROSS-EXAMINED BY MR. JORDASH:

2 MR. JORDASH:

3 Q. I'm just going to ask you a few questions about the evidence you've just given, madam witness.

4 Okay?

5 A. I hear.

6 Q. I want to take you to the time when you were hiding in the bush. You told us that a group of ten
7 people came upon you and your family where you were hiding; that's right?

8 A. Yes, it's the truth. That's the truth I'm telling you. What happened is what I'm saying.

9 Q. I'm not saying it is not the truth. And they said to you that they were in charge of the government right
10 now. That's the truth; isn't it?

11 A. When they met us in the bush, they told us in their own words that they were in charge of the
12 government now. That's what I have said.

13 Q. And there were a number of those people making comments saying that they were in charge of the
14 government; is that correct?

15 A. All ten of them who met us in the bush said that they were in charge of the country.

16 Q. This was a group acting together, speaking together about themselves being part of the government;
17 is that fair?

18 A. What they told me is what I have said.

19 Q. And they were wearing combat and hiding their faces so their identities were disguised; is that
20 correct?

21 A. That is true. The way they were dressed, the only parts of their body I could see was their noses and
22 their mouths. I couldn't see any part of their body.

23 Q. And what they were interested in was committing criminal acts, such as stealing your belongings; is
24 that correct?

25 JUDGE THOMPSON:

26 I think that is a little bit complicated, what they were interested in. I think you better ask her a factual
27 question.

28 MR. JORDASH:

29 Certainly.

30 MR. PRESIDENT:

31 Because they were interested in other things --

32 JUDGE THOMPSON:

33 Yes. I mean it is a little vague.

34 MR. PRESIDENT:

35 -- from her evidence.

36 JUDGE THOMPSON:

37 Yes.

1 MR. JORDASH:

2 Q. They were looking to steal your belongings. That's correct; isn't it?

3 A. They stole all my good-quality clothes. All the good clothes I had, they took them away.

4 Q. They stole the good-quality ones and left the others; is that correct?

5 A. Yes. The old clothes that I couldn't wear to go out in public were left, the good ones, the good-quality
6 ones were all stolen and taken away.

7 Q. And they were interested in stealing your food?

8 JUDGE THOMPSON:

9 [Microphone not activated] This is a witness who is purporting what happened to her. Wouldn't it be
10 better to simplify. The word "interested," what is the import of that? I mean -- because I can
11 understand your legalistic frame of mind, but the testimony is that they did so-and-so-and-so, and
12 interested would be a little conceptually problematic for her.

13 MR. JORDASH:

14 Well, this witness I was seeking to inquire as to whether she was able to ascertain what their overall
15 preoccupation seemed to be.

16 MR. PRESIDENT:

17 Yes, that is what is argumentative because clearly the testimony here seems to be, for the state of the
18 records, is that certain things happened to her as a matter of fact, and I thought when you started with
19 the evidence, you were recalling what she said. At no point in time do I have in my record that she
20 indicated were interested in doing so-and-so; they actually did. I mean, I don't know whether you're
21 with me on that. It seems to be some shade of difference in sort of meaning there, or don't you
22 accept that? Is "interested in" the same as getting what actually happened to her?

23 MR. JORDASH:

24 Well, this witness was there. This witness can say what impression she formed about this event.

25 JUDGE THOMPSON:

26 That's the difficulty I have. I mean, as a general rule, a witness as to fact would not want to give
27 opinion answers unless, you know, in exceptional cases. But I don't think I'll press it. If you can go
28 ahead.

29 MR. JORDASH:

30 I'll put it in a different way.

31 JUDGE THOMPSON:

32 Yes.

33 MR. JORDASH:

34 Q. These men, did they -- when these men had stolen your belongings and committed the rapes, they
35 left soon after that; is that correct?

36 A. They left -- they left, but before they left they said we should stay where they're leaving us. If we left
37 that place and they found us in any other parts of the bush, we shall be killed.

- 1 Q. And when they left, the commander of those men told them to leave because time was running out;
2 do you recall that?
- 3 A. The leader of the group said they're working with time, so they have to gather themselves quickly and
4 leave.
- 5 Q. When the men came upon you, it was just the four people you told us about: Your mother, your
6 father, the old woman, and yourself; is that correct?
- 7 A. Yes. These were the four of us.
- 8 Q. There was no one else around, just the four of you and the ten of them; is that correct?
- 9 A. What I know is what I've said, the four of us who were there and the ten who came and they said they
10 were rebels.
- 11 Q. And this was in the bush? That's correct?
- 12 A. I said yes, in the bush, this happened in the bush. What happened is what I'm saying.
- 13 Q. There was a single commander who was in control of these men; is that correct?
- 14 A. There was only one person who gave commands to them and whenever he gave command, the
15 people responded to show that he was their leader.
- 16 Q. Within this group of ten you think there was some Liberians; that's correct?
- 17 A. The accent they used, and the way they spoke, and because their boss man called them "Liberia
18 boy," and they responded.
- 19 Q. When they left, they left the four of you alone with no one else around; is that correct?
- 20 A. The four of us that they found and they did this evil to me, these were the four people they left when
21 they were going.
- 22 Q. And you didn't see them again?
- 23 A. Ever since they did that evil to me, I have not seen them.
- 24 Q. Now, you've told us about four names which you say were used by these men; one of them was Killer.
25 Now, that name, was that used to apply to more than one person or just one person?
- 26 A. Well, the way he spoke to them, this was one of the names he called them.
- 27 Q. When you say "Called them," was that calling more than one person out of the ten or was that a name
28 which just was applied to one person; do you remember?
- 29 A. When he called, I didn't ask who he was calling and to find out whose name was Killer or whose
30 names were Killer. So I was so scared, I was only waiting there. I thought I was going to be killed.
- 31 Q. Do you remember -- before I ask that, do you know who the Prosecution are in this courtroom?
- 32 A. The person who is a Prosecution in this Court?
- 33 Q. Yes.
- 34 A. Well, I can't tell the difference. You have to help me in that.
- 35 Q. Who do you think the people are to your left, the person, for example, who was asking you questions
36 before me?
- 37 A. The person who first started asking me?

1 Q. Yes.

2 A. Who that person is in my own thinking?

3 Q. Yes.

4 A. I want to ask a question. The question that this lawyer has asked me, can I answer that question?

5 MR. PRESIDENT:

6 Yes, please, answer the question, madam, answer the question. There is no problem, answer the
7 question. You understand? Answer the question. There's no problem.

8 THE WITNESS:

9 All right.

10 MR. PRESIDENT:

11 Answer the question.

12 A. Okay. The first person that asked me I know that person as my lawyer.

13 Q. And who do you think I am, madam?

14 A. He has not introduced himself to me, so I can't tell who he is. If I say anything about him, I may be
15 lying.

16 [Pages 59 to 64 by Roni Kerekes]

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1 [5.11 p.m..]

2 MR. JORDASH:

3 Q. Do you think I'm your lawyer?

4 A. What I said, he has not introduced himself to you or told me who he is. Whatever I say about him I
5 may be lying.

6 Q. Madam witness, I am just asking you whether you think, like the woman on your left who asked you
7 questions, whether you think I am your lawyer or not.

8 A. I know the work that the lady on the left who asked me the first question does. I don't know the work
9 that he does, so I can't tell who he is.

10 Q. Have you spoken to any lawyers before today?

11 A. Since I entered this Court the lady sitting on my left-hand side spoke to me.

12 Q. Do you remember speaking to a lawyer before today, before yesterday, a long time ago?

13 A. Well, this lady that spoke to me on the left-hand side had spoken to me in the past couple of days.

14 Q. Do you remember speaking to somebody about your -- about what happened to you about one year
15 ago? Well, less than one year ago, about eight months ago. Do you remember speaking to a lawyer
16 then?

17 A. I don't remember the time he is talking about. I think maybe that is when I was in hospital, people
18 went there and talked to me.

19 Q. And that was in Freetown; do you remember?

20 A. It happened in Freetown when I was in hospital.

21 Q. And you told that person what had happened -- about what had happened to you. Do you remember?

22 A. I remember when they met me in the hospital the story I explained to them is the same story I have
23 just explained here.

24 Q. Do you remember that they wrote what you had said down on a piece of paper?

25 A. There came a time when I was discharged from the hospital and I was in Kono. They went to me and
26 they read back to me what I explained to them.

27 Q. Did you listen carefully to what they read back to you?

28 A. When they read back to me, I listened very carefully. There was only one word that was stated there
29 which I didn't say, but I listened very carefully. Everything else that was stated was what I told them.

30 Q. Can you remember what that word was?

31 A. Which word?

32 Q. The word you didn't agree with?

33 A. They called a name which I did not remember calling. I don't know how to call that name, but they
34 called a particular name which I was unable to remember that I had said that before.

35 Q. Did you ask them to change that word?

36 A. How can I tell them to change it? I mean, I didn't say it, so it's not my business to tell them to change
37 it. I don't know anything about the word.

- 1 Q. But you can't remember now what the word was; is that correct?
- 2 A. There was only one name which they added among the names of people I had remembered and I
3 called which was not among the ones I told them. But I can't remember the name now. Yeah, not
4 that I can't remember, but I can't call the word properly, I don't know the word. But if anybody here
5 can call that name, I will remember it.
- 6 Q. So was it the name of a person?
- 7 A. Those who violated me, those who found us in the bush and called themselves the rebels, called
8 themselves certain names and it is one of these names that was recorded, but I did not remember
9 calling that name. And I don't know how to call that name right now.
- 10 Q. Did the person who read that statement to you not ask you whether what you had said was accurate
11 and invite you to tell them if -- what wasn't accurate?
- 12 A. The person who read back to me what the statement, asked me whether this is what I had given to
13 the recorder. I said, "Yes, except this one single name. I did not say that at the time." But all the
14 others I said, "Yes, this was accurate."
- 15 Q. Did you see what that person who you told that to did when you told them that?
- 16 A. I don't understand this question.
- 17 Q. When you told that person that the name that was in your statement was wrong, did they change the
18 name in your statement?
- 19 A. What I am telling this man, this name did not come from me. I didn't give this name. I can't ask
20 someone to change something I didn't say. I can't say anything about that name.
- 21 Q. When you told them that the name you'd heard in your statement was not the name that you
22 intended, did the person change your statement and change the name?
- 23 A. What I am telling this man, what happened to me is exactly what I'm telling him, I will not add unto this
24 nor remove from it, that's all.
- 25 Q. I am just asking you, madam witness, specifically about what happened when you told the person that
26 the name in your statement was wrong. Did they change the name in your statement and then read
27 the new statement to you?
- 28 A. What I want to tell you -- tell this man, that I don't know anything about this word, I didn't call it, I didn't
29 give it. So I have nothing to do with that particular word that was inserted.
- 30 MR. PRESIDENT:
- 31 Mr. Jordash, I think you should move on from that question, please.
- 32 JUDGE THOMPSON:
- 33 Yes.
- 34 MR. PRESIDENT:
- 35 We will not eternalise ourselves on that, you have made the point sufficiently. Please move ahead.
- 36 MR. JORDASH:
- 37 Certainly.

1 JUDGE BOUTET:

2 Maybe, Mr. Jordash, if you have the name maybe you can suggest to her and ask her if that is the
3 name. I mean, that may be --

4 MR. PRESIDENT:

5 Because she has even said -- she has even said, you know, that she doesn't remember the name,
6 she can't remember about that, but that if somebody -- if this man, she calls you this man -- "Now tell
7 me, if somebody or this man can tell me, you know, the name maybe I will be able to recollect the
8 name." So can you -- do you want to put it to her?

9 JUDGE THOMPSON:

10 And again, she is putting to you a theory that if she didn't mention that name she doesn't feel any
11 responsibility for having the name changed.

12 MR. PRESIDENT:

13 Changed.

14 JUDGE THOMPSON:

15 So, that is the theory she is putting to you.

16 MR. JORDASH:

17 That is one theory, but she also said she did tell the person about the name and it being wrong. So it
18 is difficult to --

19 JUDGE THOMPSON:

20 Yes.

21 JUDGE BOUTET:

22 But she also tells you that she does not know if they have removed it, what they did with it or not. All
23 she says is I told her -- "I told them that's not what I said."

24 MR. PRESIDENT:

25 Should she be held responsible for the negligence of some official somewhere who did not do what
26 she said he should do?

27 JUDGE BOUTET:

28 Pardon me. And maybe the name you are after is not the same thing that she is talking about. That's
29 why I say if you have a name in mind or words in mind, suggest that. I don't know what you are
30 looking at, but obviously you are after something.

31 MR. JORDASH:

32 I don't know --

33 MR. PRESIDENT:

34 Maybe the name is important for your defence, I mean.

35 MR. JORDASH:

36 I don't know what name. This is what I am trying to find out.

37

1 JUDGE THOMPSON:

2 Perhaps I could add to -- we could enjoy that piece of theorising, I mean, here you put your theory and
3 she puts a counter theory, it might be interesting.

4 MR. JORDASH:

5 I wasn't enjoying it.

6 Q. In your statement, madam witness --

7 MR. JORDASH:

8 I notice the time, Your Honours I don't know if this is a -- I will continue.

9 MR. PRESIDENT:

10 Just a moment. Madam witness -- the social -- the social worker, where is she? Can you find out if
11 she can still continue or she needs a break. Please find out from her. Mr. Jordash, just sit down a
12 while, please.

13 Madam, can we go on?

14 THE WITNESS:

15 Yes, yes.

16 MR. PRESIDENT:

17 All right.

18 Mr. Jordash, please go ahead.

19 MR. JORDASH:

20 Thank you.

21 Q. In your statement there is this sentence --

22 A. I don't know, I don't remember saying --

23 MR. PRESIDENT:

24 No, wait for the statement, he will tell you statement. Just wait a while, madam witness. Wait a while,
25 he will tell you the statement.

26 MR. JORDASH:

27 Q. You are referring to the rebels and your statement says that, "They did not use their real names, but
28 called each other killer." Do you recall that being in your statement?

29 A. Which one?

30 Q. I will read the sentence again. "They did not use their real names, but called each other killer." Do
31 you remember?

32 A. They called themselves killer, yes.

33 Q. You don't mention in your statement anything about Corporal, Liberian Boy or RUF.

34 A. They called those names and this is what I have just said here.

35 Q. That is not in your statement from the end of last year, 2003. Do you know why that is not in your
36 statement?

37 A. I don't understand the question.

- 1 Q. In your statement that we are referring to now, there is no mention of the names Corporal, RUF or
2 Liberian Boy. The only name you say -- well, let me leave it at that for the moment. There is no
3 mention of Corporal, RUF or Liberian Boy. Do you know why that doesn't -- those names don't
4 appear in your statement?
- 5 A. When you give -- when you give a statement, the way they ask you that's how you answer the
6 questions and it is what happened to you that you explain.
- 7 Q. Did you remember at the time you gave your statement about these other names or is that something
8 you have remembered since?
- 9 A. Which other names?
- 10 Q. Corporal, RUF, Liberian Boy.
- 11 A. Those were the names they called when they found us in the bush and they called themselves these
12 names. When someone comes to you and calls him or herself names, these are the names that you
13 know them by. So this is what I have just said.
- 14 Q. What I have just said, witness, is just to ask you a question as to whether you remembered that at the
15 time you made your statement or whether it is something that you remembered afterwards.
- 16 A. When they found me and asked me at that time, I explained and gave to them back the answers to
17 the questions they asked me.
- 18 Q. Now, do you remember saying this --
- 19 A. No, you say it.
- 20 Q. "When the rebels," -- I am just -- so you know the background, you are talking about the rebels
21 coming upon you and your family and the rebels asked you if you had ever seen a rebel before. Do
22 you remember saying that in your statement?
- 23 A. They asked me this question when the ten of them came and arrested the four of us. They asked me
24 this question whether I had ever seen a rebel.
- 25 Q. You said no, is that correct?
- 26 A. He said I said no?
- 27 Q. And they replied, "We are the rebels that you have heard about." Is that correct?
- 28 A. When I told them that I have never known a rebel and I've never seen one, they told me that they
29 were the rebels.
- 30 Q. Do you -- did they say, "We are the rebels that you have heard about?" That is in your statement. Is
31 that something they said?
- 32 A. They asked whether I had ever seen a rebel and I said, "No, I'd never seen one," and they said, "Well,
33 you are seeing us now. We are the rebels that you have been hearing about."
- 34 Q. And you told us earlier today that they said, "We are in charge of the government right now." Is that
35 correct?
- 36 A. That's what they told us when they found us. That's why I said it, because I never left that behind.
- 37 Q. And your statement, which you made eight months ago, says that the rebels then said, "We are the

- 1 AFRC." Do you remember that being in your statement?
- 2 A. Exactly this is the word, this is the word. This is the word I was thinking about, I didn't know how to
3 call it. I don't know anything about this word. This word was called and I said, "I don't know anything
4 about this word." I can't explain anything about this name, this name that you have just called.
- 5 Q. So this was a word which you didn't tell the person who took your statement; is that correct?
- 6 A. This is the very word I was talking about. This is the word I was thinking about and I didn't know how
7 to call it. Those who found us in the bush, the rebels, they never called themselves this name and I
8 don't know anything about this name.
- 9 Q. And you told the person -- I'm sorry, let me start that again. You didn't tell, from what you have said to
10 us, the person who took your statement that word, the AFRC; is that correct?
- 11 A. I don't know anything about that particular name. This name you are calling, I really don't know
12 anything about it.
- 13 Q. Are you really sure about that, madam witness, that you have never used that word?
- 14 A. I'm really baffled by this name. I mean, I don't know this word and I didn't call it and you know if
15 someone talks about it I really have no idea. I have no idea about this word, I'm baffled about it.
- 16 Q. Could I ask you this, madam witness, do you know who is on trial in this room?
- 17 A. Those who are standing before this Court now?
- 18 Q. Yes. Do you know who they are?
- 19 A. Those who have been indicted?
- 20 Q. Yes.
- 21 A. As for me, the only thing I know is, I am here in this Court because of what happened to me during
22 this war. I don't know anything about anything else.
- 23 Q. You don't know that the men in this -- who have been indicted are alleged to be from the RUF, you
24 don't know that?
- 25 A. Me, the only thing that happened to me -- what happened to me during this war -- the problems that
26 were visited on me during this war are the only things I'm talking about here. I can't talk about
27 anything else that I do not understand.
- 28 MR. PRESIDENT:
- 29 Mr. Jordash, please be wrapping up. You are wrapping up your cross-examination, please.
- 30 MR. JORDASH:
- 31 Just, if I may, a couple of more questions.
- 32 MR. PRESIDENT:
- 33 In that regard, we will have to see if she does not need some attention. Please, can the welfare
34 officer check and see if she needs some attention. Please check.
- 35 MR. JORDASH:
- 36 After considering the situation, I have completed my questioning, thank you.
- 37

1 MR. PRESIDENT:

2 You have completed, okay.

3 MR. JORDASH:

4 I have completed my questioning. Than you very much, Your Honours.

5 MR. PRESIDENT:

6 You have completed, because it looks like she wants to – yes, please, the Court will rise for five
7 minutes, please.

8 [Recess taken at 5.41 p.m.]

9 [Pages 65 to 71 by Susan G. Humphries]

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1 [5.50 p.m.]

2 MR. PRESIDENT:

3 Yes, Mr. Brown.

4 MR. BROWN:

5 Yes.

6 MR. PRESIDENT:

7 Cross-examination for the second accused, please.

8 MR. BROWN:

9 Yes.

10 CROSS-EXAMINED BY MR. BROWN:

11 MR. BROWN:

12 Q. Madam Witness, how long have you been in Freetown for your testimony?

13 A. Am I supposed to answer this question?

14 MR. PRESIDENT:

15 Mr. Brown, what was the question, please? Okay, and what was the answer?

16 MR. BROWN:

17 She asked that -- I'm sorry, she asked the -- I think she asked the Court if she is supposed to answer
18 my question.

19 MR. PRESIDENT:

20 I see.

21 JUDGE BOUTET:

22 Yes, Madam Witness, you have to answer the question.

23 MR. PRESIDENT:

24 Please try to answer. There is nothing -- there is no problem. You understand me, madam witness?

25 THE WITNESS:

26 I'm hearing, I'm listening to you.

27 MR. PRESIDENT:

28 Please try to answer, okay?

29 THE WITNESS:

30 No problem.

31 MR. PRESIDENT:

32 Okay, answer then.

33 THE WITNESS:

34 Since I came to Freetown, is that what you mean?

35 MR. BROWN:

36 Q. Yes ma'am.

37 A. How long I had taken in Freetown?

- 1 Q. Yes, ma'am?
- 2 A. I have spent one month and 27 days here in Freetown.
- 3 Q. And you have been in Freetown for the purpose of testifying at this Court?
- 4 A. Yes, I came so that I can explain what happened to me.
- 5 Q. You mentioned that the lawyer, the lady who first questioned you, you thought of as your lawyer?
- 6 A. Yes.
- 7 Q. You mentioned that she spoke to you in the last couple of days.
- 8 A. Yes.
- 9 Q. How many times did she speak to you in the last couple of days?
- 10 A. I haven't counted how many times but, you know, there comes a time when I come up to her and we
- 11 have some discussions.
- 12 Q. Would you say many times?
- 13 A. Yes.
- 14 Q. Did you know her before you came to Freetown one month and 27 days ago?
- 15 A. Who are you talking about? Who do you think I knew?
- 16 Q. The woman you have referred to as your lawyer.
- 17 A. If I knew her before, is that what you mean?
- 18 Q. Yes, ma'am?
- 19 MR. PRESIDENT:
- 20 Before you came -- madam witness, before you came to Freetown, did you know that your lawyer?
- 21 THE WITNESS:
- 22 Well, it's when I arrived here that I met her.
- 23 MR. BROWN:
- 24 Q. And in the many times that you've spoken to her, have you talked about your testimony?
- 25 A. This is the crux of what we discussed. I mean, I don't have any other thing to discuss with her except
- 26 what happened to me during this war.
- 27 Q. And during the many times that you spoke to her about your testimony, did you discuss this word that
- 28 the man asked you about, AFRC?
- 29 A. This lady whom I call my lawyer actually did call this name once -- did call this name and I told her
- 30 that this name I don't know anything about it.
- 31 Q. Where were you with this lady when she called this name and you told her you didn't know anything
- 32 about it?
- 33 A. I was here in Freetown and we were sitting in an office.
- 34 Q. And did she have a pen in her hand or a pencil?
- 35 A. Well, she had something that she wrote with.
- 36 Q. And when you said, "I do not know this word," she made some marks on a paper?
- 37 A. I can't say anything about that one.

- 1 Q. Well, while you were talking to her she was making marks on a paper, she was writing?
- 2 A. The time we had our discussion she wrote down things but I didn't know what she was writing, so I
3 can't say anything about that.
- 4 Q. On the time that you discussed this word, AFRC, and said you did not know about it, on that occasion
5 she wrote things down; correct?
- 6 A. While I was having discussions with her she was writing continuously so I don't -- I'm not educated so
7 I don't know what she wrote, but when we were talking and she asked me to explain what happened
8 to me during the war and I explained and she was writing. I can't say anything about what she wrote
9 or deleted or not.
- 10 Q. On the day that the men -- the rebels came to see you in the bush, they asked you about soldiers;
11 yes?
- 12 A. They asked us if we had any soldier man around us and we should bring him out and I -- we told them
13 we didn't know anything about a soldier.
- 14 Q. And they also asked you about *Kamajors*; correct?
- 15 A. I explained all that, I didn't leave it behind. They asked us about the *Kamajors* and they asked us
16 about the soldiers. I said -- that's why I explained all of it.
- 17 Q. And they asked you about guns; correct?
- 18 A. They asked us about guns and we told them we didn't have guns, we are not gun makers.
- 19 Q. By the way, when you asked -- when you told the lady, who is your lawyer, that you didn't use this
20 word AFRC, did she say anything to you?
- 21 A. When she read the statement to me, she asked me whether I knew about the AFRC, I said I know -- I
22 don't know about AFRC and I didn't use AFRC in my statement. I don't know anything about this
23 word that you are still calling over and over again.
- 24 Q. Did she say anything else to you about the word being in your statement?
- 25 A. When she told me whether I had made the statements, I told her that yes, I made the statement but
26 this single word is not the word that I used, so I don't know anything about that word. Even right now I
27 don't know anything about that word.
- 28 Q. Did she ask you if you knew how the word came to be in your statement?
- 29 A. She asked me whether I had used the word and I said, "No, I didn't use that word. This is not my
30 word, I didn't use it." I'm explaining exactly what happened to me; I'm not telling someone else's
31 story, I'm telling what happened to me. It is my own story.
- 32 Q. Did you ask her what the word meant?
- 33 A. For me this word is -- is -- is -- for me this word is not a word I used. It's not a word I know, so I didn't
34 even ask any question about it. A word that I hadn't use and I didn't know I don't think I have anything
35 to do with it so I didn't ask any question about that word.
- 36 Q. But you do know the word President Kabbah?
- 37 A. I heard this from people, Kabbah.

1 Q. You know the word ECOMOG?

2 A. They found us at Kangama and we moved to together with them from Kangama to my village and we
3 were all living there, so I know them.

4 Q. And you know the word *Kamajor*?

5 A. After I was raped, when we moved from there, the first people we met were the *Kamajors* and we
6 were with them until the ECOMOG came and found us.

7 Q. And you know the word RUF?

8 A. I don't know about this word. I told this man about this, I don't know this word.

9 Q. So this is a word that you do not know?

10 A. I don't know these words. I mean, I don't know these words.

11 MR. PRESIDENT:

12 Mr. Brown, can you move from there, please, you've made the point sufficiently.

13 MR. BROWN:

14 Yes, sir. Yes, sir.

15 MR. PRESIDENT:

16 Advance, please.

17 MR. JORDASH:

18 I'm not sure if we received the whole of the translation.

19 MR. PRESIDENT:

20 I beg your pardon?

21 MR. JORDASH:

22 I'm not sure if we received the whole of the translation of the witness's answer.

23 MR. PRESIDENT:

24 Of the last answer?

25 MR. JORDASH:

26 Yes, please.

27 MR. PRESIDENT:

28 Okay, can you --

29 MR. BROWN:

30 Can they --

31 MR. PRESIDENT:

32 Mr. Brown, can you re -- you can put the last question. I mean, not the last, I just said you should
33 move from that question of the names. It was not to cut short your cross-examination.

34 MR. BROWN:

35 Oh, I understood.

36 MR. PRESIDENT:

37 Mr. Jordash says he didn't have the reply to --

1 MR. BROWN:

2 Could I then hear the bell of the translation read back to me by the interpreters?

3 A. I don't know anything about this word. I don't know this word. I have said that.

4 Q. So is it fair to say you never heard that word before coming into this courtroom?

5 A. The first time I heard this word was when the lawyer was talking to me and I told her I didn't know this
6 word. It doesn't matter how this lawyer tries to turn the talk around, I still don't know this word.

7 MR. PRESIDENT:

8 That is why I asked Mr. Brown to move on to some other field.

9 MR. BROWN:

10 I was prepared. May I ask one further question I want to --

11 MR. PRESIDENT:

12 Go ahead, go ahead.

13 MR. BROWN:

14 [Overlapping microphones]

15 MR. PRESIDENT:

16 I mean, it's just on that point, you know, that I said we should --

17 MR. BROWN:

18 [Overlapping microphones] just one more question on this point because I didn't want to --

19 MR. PRESIDENT:

20 Please, go ahead. I mean, you are still on your feet. It's just on that name which she keeps
21 consistently, you know, denying.

22 MR. BROWN:

23 Q. So, but you also said you don't know the word RUF; correct?

24 A. I don't know anything about this word that he is still insisting on calling. I mean, I don't know this
25 word.

26 MR. PRESIDENT:

27 Madam, please, it is not that name. It is --

28 MR. BROWN:

29 Your Honour.

30 MR. PRESIDENT:

31 -- not AFRC. The lawyer is asking --

32 MR. BROWN:

33 But I think we have switched, Your Honour.

34 MR. PRESIDENT:

35 Yes.

36 MR. BROWN:

37 I would humbly request that the Court not address that point at this time.

1 MR. PRESIDENT:

2 Pardon me?

3 MR. BROWN:

4 I would humbly request that the Court not address the point at this time.

5 MR. PRESIDENT:

6 I see.

7 MR. BROWN:

8 Thank you.

9 MR. PRESIDENT:

10 Okay.

11 MR. BROWN:

12 Q. While you were in the bush, in addition to asking about guns, soldiers and *Kamajors*, the rebels asked
13 about marijuana?

14 A. They asked us for marijuana and I said I know -- we said we know nothing about, we didn't have
15 marijuana.

16 Q. You do know what marijuana is?

17 A. They asked me for something and I didn't -- that I didn't have so I answered, I said I didn't have. The
18 only question I answered was the question they asked me. I didn't say anything else.

19 Q. My question to you is, did you know what marijuana was?

20 A. I heard -- I heard about it from them but I really don't know it myself.

21 Q. So before the day the rebels asked you about soldiers, *Kamajors* and marijuana, you had never heard
22 marijuana before?

23 A. Those who arrived were the ones who called these names. All these things they were asking whether
24 we have and I didn't know them, I didn't have them, so I said I didn't have them. What I know is what
25 I'm explaining.

26 Q. Let me be clear, madam witness, that I'm not saying that you had marijuana. I'm asking about the
27 word. Perhaps if I used the word that's in the statement, the word *jamba*, is that the same as
28 marijuana?

29 A. What did he say? I did not understand the question.

30 Q. When the rebel said to you, "Do you have marijuana?" did you know what he was talking about?

31 A. I told them I didn't know what they were asking for and I didn't have it, and I don't know it.

32 Q. So you did not know that marijuana was a drug?

33 A. I didn't know about it, how could I know whether it is good or bad? I mean, I didn't know about it, so?

34 Q. So that before the days you saw -- withdrawn. Before the day you saw the rebels in the bush you had
35 never heard the word marijuana; correct?

36 A. What I know is what I'm saying, and exactly how I answered them that's how I'm explaining in this
37 Court.

1 Q. Let me repeat the question. Before the rebels in the bush asked you about marijuana, you had never
2 heard the word; correct?

3 A. I never knew anything about *jamba* or marijuana. I didn't know the name. I didn't know about it, it is
4 them who brought the name and asked for it. I never knew anything about it.

5 MR. BROWN:

6 I have no further questions, Your Honour.

7 MR. PRESIDENT:

8 Thank you, Mr. Brown.

9

10 Mr. Cammegh.

11 CROSS-EXAMINED BY MR. CAMMEGH:

12 MR. CAMMEGH:

13 Q. Madam Witness, is your medical condition much better now?

14 A. Right now where I'm sitting?

15 Q. Just generally?

16 A. I'm still not quite well. When these rebels captured me and they raped me, I got an infection and I'm
17 still ill. Although I'm still ill, but I can answer questions and I can speak.

18 Q. I understand. I understand that you've had some operations at the hospital; is that right?

19 A. Yes, I had operations in the hospital.

20 Q. How many have you had; can you remember?

21 A. I had operations first in Kenema, then a second one in Bo, and the last one was here in Freetown.

22 Q. Can you remember when the last one was?

23 A. The last one was done here in Freetown.

24 Q. Can you remember if it was before or after you gave your statement to the lady at the end of last
25 year?

26 A. I had had the operation.

27 Q. You had had it by then already?

28 A. I'd already had the operations when two people went to look for me. I was in fact in hospital when
29 they met me.

30 Q. Was that the first time you'd ever come into contact with anyone connected to the Special Court?

31 A. I was in hospital when they went and they told me they were from the Special Court and they were
32 going to ask me about the things that happened to me.

33 Q. All right. Thank you very much. That's all I have.

34 MR. PRESIDENT:

35 Mr. Cammegh, you are through? You are through?

36 MR. CAMMEGH:

37 Yes, Your Honour, I'm sorry. Perhaps I didn't speak loudly. I --

1 MR. PRESIDENT:

2 No, that's all right, I just wanted to make sure I heard you.

3 MR. CAMMEGH:

4 Yes, I have nothing further.

5 MR. PRESIDENT:

6 Prosecution, learned counsel, do you have any questions for -- any re-examination?

7 MS. WIAFE:

8 Yes, Your Honour, I have only one question for the witness.

9 RE-EXAMINED BY MS. WIAFE:

10 MS. WIAFE:

11 Q. Madam Witness, you said that when the rebels found you in the bush they referred to each other by
12 certain names. Can you tell us what names they referred to themselves as?

13 A. When they met us in the bush they said they were -- they were -- the first name they called
14 themselves was that they were rebels. But besides this rebel name, they called themselves four other
15 names.

16 Q. What were these names?

17 A. Killer was one of the names; Couple was another; RUF-boy was another; then Liberia-boy was
18 another. These were the four names they called and I won't forget. They called these names in my
19 presence and I can't forget them.

20 MS. WIAFE:

21 Thank you very much, madam witness, I have no further questions for you.

22 MR. PRESIDENT:

23 Can the Prosecution put us in a clearer perspective for our calendar for tomorrow, please.

24 MS. TAYLOR:

25 Yes, Your Honour. Tomorrow morning the Prosecution will call Witness TF1-253.

26 MR. PRESIDENT:

27 How many more witnesses are you intending to call during this session that wraps up on Friday?

28 MS. TAYLOR:

29 Well, there is that witness; there is another witness after that who is Witness TF1-235. They are two,
30 what the Prosecution call crime-based witnesses. At that point, I think, will be coming some difficulty
31 because the witness to be called thereafter is quite a major witness, and there have been some
32 discussions at the beginning of the session that this was -- we were to move into insider-witnesses.
33 The difficulty being that from any time now on if we were to call that witness, we would not finish that
34 witness's evidence during this session. And it would be the Prosecution submission that there is very
35 little point in beginning that witness in circumstances where it is very unlikely that even the
36 examination-in-chief will be finished and there are quite some detailed protection measures that need
37 to be put in place for that witness between now and the next trial session. That position becomes

1 stronger, of course, the longer that we take to finish the two crime-based witness which, according to
2 our estimation, will not be until Thursday.

3 MR. PRESIDENT:

4 Well, thank you. We will adjourn and resume -- we resume the session tomorrow since we want to
5 give time for you to -- for us to finish with the witness or witnesses, you know, that we are left with,
6 you know, before Friday, we'll start the session tomorrow at 9.30 a.m.

7
8 Yes, Mr. Brown.

9 MR. BROWN:

10 Yes, Your Honour. I did wish to be heard because I'm not -- it's possible that the Court might exercise
11 it's discretion between now and the time we next meet with respect to a comment made by my
12 learned adversary. I actually I'm two-thirds in agreement with my --

13 MR. PRESIDENT:

14 I don't want you to call her your adversary.

15 MR. BROWN:

16 Forgive me, Your Honour, that's a habit of many years, but I will --

17 MR. PRESIDENT:

18 In whatever circumstances, she remains your learned friend.

19 MR. BROWN:

20 She is indeed my learned friend and I apologise to her, of course.

21 MR. PRESIDENT:

22 Okay.

23 MR. BROWN:

24 But it is not in my culture regarded as an insult. I just want to be clear, but I will be guided by the
25 Court.

26
27 With respect to the comments of my learned friend, I agree two-thirds but disagree one-third, and the
28 one-third disagreement, at least I'd like the Court to know. It actually is fair to characterise this person
29 as a major witness, and certainly I can't quarrel with her assessment that it's likely if started, the entire
30 testimony wouldn't finish. So, on those points I have no disagreement.

31
32 I don't wish to pick at her words, but the statement "little point in beginning because we don't finish
33 that witness" strikes me as, on its face, subject to some question and I don't know whether the Court
34 is going to be interested in deciding that matter now or tomorrow or at some later point, but I would
35 like very much to be heard before Your Honours rule on that.

36 MR. PRESIDENT:

37 We would like to decide on that at a later point.

1 MR. BROWN:

2 So you will give me the opportunity to be heard? Because I know I raised --

3 MR. PRESIDENT:

4 On what particular point?

5 MR. BROWN:

6 On the particular point of whether or not we start that witness, notwithstanding the fact that we might
7 all agree that the witness --

8 MR. PRESIDENT:

9 We -- we -- we -- we are loathe, you know, for purposes of, you know, continuity and the memory as
10 well, to have a resume -- you need to have a resume on the evidence. We don't want to take on
11 witnesses we would not be able to finish before Friday. If there is that likelihood, the Chamber would
12 prefer to adjourn the evidence or testimony of that witness to the next session of the RUF trials. This
13 is the indication I can give to you already. That is why I asked learned counsel for the Prosecution to
14 see to it as from now what her -- the perspectives about coming witnesses.

15 MR. BROWN:

16 Could I ask [inaudible] the sudden decision between an indication and a ruling; that is, is that
17 something on which the Court -- the Chamber is open or is it really decided because I obviously have
18 no desire to perplex or trouble the Chamber with my arguments if you're really decided.

19 MR. PRESIDENT:

20 What I'm telling you is what we've decided.

21 MR. BROWN:

22 As your Your Honour pleases.

23 MR. PRESIDENT:

24 Yes, please. It's what we've decided. I think it's for the conveniences of all of us. It's for your
25 convenience, it's for the convenience of the Prosecution, it's for the convenience of the records, you
26 know, the Court and for the convenience of the Tribunal as well. The decision is taken in the general
27 interest we imagine, you know, of all the parties to the proceedings.

28

29 So, we would be adjourning and shall resume the session tomorrow at 9.30 a.m., of course, not P.M.

30

31 The Court will rise, please.

32 [Whereupon the hearing adjourned at 6.25 p.m. to be reconvened on
33 Wednesday, the 28th day of July 2004, at 9.30 a.m.]

34 [Pages 72 to 81 by Gifty C. Harding]

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CERTIFICATE

We, Roni Kerekes, Susan G. Humphries, Gifty C. Harding 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.

Roni Kerekes

Susan G. Humphries

Gifty C. Harding

Momodou Jallow

