

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-14-T  
TRIAL CHAMBER I

THE PROSECUTOR  
OF THE SPECIAL COURT  
V.  
SAM HINGA NORMAN  
MOINI NA FOFANA  
ALLIEU KONDEWA

MONDAY, 14 MARCH 2005  
9.42 a.m.  
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding  
Bankole Thompson  
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison

For the Registry:

Ms Maureen Edmonds  
Mr Geoff Walker

For the Prosecution:

Mr Mohamed Bangura  
Mr Kevin Tavener  
Mr Mohamed Stevens

For the Principal Defender:

Mr Ibrahim Yillah  
Mr Kingsley Belle

For the Accused Sam Hinga Norman:

Dr Bu-Buakei Jabbi

For the Accused Moini na Fofana:

Mr Arrow Bockarie  
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Charles Margai  
Mr Yada Williams  
Mr Ansu Lansana  
Mr Martin Michael  
Ms Susan Wright

1 [Monday, 14 March 2005]

2 [The accused Kondewa and Fofana present]

3 [Open session]

4 [Upon commencing at 9.42 a.m.]

5 WITNESS: TF2-014 [Continued]

6 PRESIDING JUDGE: Learned counsel, good morning. Mr  
7 Witness, good morning.

8 THE WITNESS: Good morning, sir.

9 PRESIDING JUDGE: We are resuming the session.

10 JUDGE BOUTET: Mr Yillah, you are ready?

11 PRESIDING JUDGE: I would like to reiterate what I said  
12 last week. That is, we must wrap up with this witness by  
13 tomorrow. If we can do it by tomorrow morning, that will be  
14 fine. It will assist the bench a lot to do a number of things  
15 before we announce the Easter break. Mr Yillah.

16 MR YILLAH: As My Lord pleases.

17 JUDGE BOUTET: So, you are moving into a different area.

18 MR YILLAH: Yes, we are heading to the War Council.

19 JUDGE BOUTET: So you are ready to proceed now?

20 MR YILLAH: We are.

21 PRESIDING JUDGE: And you said you would spend some 45  
22 minutes on the War Council.

23 MR YILLAH: No, I said I should be done by quarter to 11.

24 PRESIDING JUDGE: Proceed, Mr Yillah.

25 MR YILLAH: As My Lord pleases.

26 CROSS-EXAMINED BY MR YILLAH: [Continued]

27 Q. Mr Witness --

28 A. Yes, My Lord.

29 Q. Do you know when the War Council was formed?

1 A. Yes, My Lord, but I would not be able to say the date and  
2 the month.

3 Q. Can you assist us with the month and year?

4 A. I would not be able to know the month.

5 THE INTERPRETER: My Lords, would the witness speak a  
6 little bit louder.

7 JUDGE BOUTET: Mr Witness, can you bring your mic closer to  
8 you?

9 THE WITNESS: Towards the end of 1997.

10 MR YILLAH: Sorry, My Lord, I am having some difficulty.

11 PRESIDING JUDGE: Are you right?

12 MR YILLAH: Yes.

13 Q. Mr Witness --

14 A. Yes, My Lord.

15 Q. Would I be right to say that the War Council was  
16 responsible for formulating strategies for prosecuting the war?

17 A. No, My Lord, the War Council recommended.

18 PRESIDING JUDGE: He said "formulate" -- to formulate.  
19 When you say they recommend, they must recommend something. When  
20 you say the War Council recommended, it means that they  
21 recommended something. The word is formulate -- to formulate; to  
22 give suggestions; to give ideas as to how the war was to be  
23 executed. Mr Yillah, is that correct?

24 Q. Very well, My Lord.

25 A. Well, this question, I would like to give some explanation.  
26 War Council alone did not formulate something. Because Chief  
27 Hinga Norman was also a member of the War Council.

28 PRESIDING JUDGE: Wait, wait.

29 THE WITNESS: Moinina Fofana was a member of the War

1 Council and Dr Allieu Kondewa. So anything that happened which  
2 was within the War Council, they all decide together and whatever  
3 they said was final.

4 PRESIDING JUDGE: That is going into details.

5 JUDGE THOMPSON: I would like to say that your question  
6 related to the functions of the War Council as distinct from the  
7 membership. I think it needs to be clearly stated or simplified  
8 for the purpose of the answer you are trying to elicit, and the  
9 witness should appreciate that the distinction is between  
10 functions and membership at this stage.

11 MR YILLAH: As My Lord pleases. Taking the cue, should I  
12 put the question again?

13 PRESIDING JUDGE: Yes.

14 MR YILLAH: As My Lord pleases.

15 Q. Mr Witness --

16 A. Yes, My Lord.

17 Q. Would I be correct to say it was the function of the War  
18 Council to make strategies or recommend strategies for  
19 prosecuting the war?

20 A. Yes, My Lord.

21 Q. Mr Witness --

22 A. Yes, My Lord.

23 Q. Would I be correct to state that the War Council was the  
24 highest decision-making body in the CDF?

25 A. Yes, My Lord, but explanation.

26 PRESIDING JUDGE: Yes, but you will explain it. Just give  
27 direct answers to questions put to you.

28 MR YILLAH: As My Lord pleases.

29 PRESIDING JUDGE: You said that the War Council was a

1 deci si on-maki ng body --

2 MR Y I L L A H: Wi thi n the CDF.

3 Q. Mr Wi tness --

4 A. Yes, My Lord.

5 Q. Would I be correct to also state that the War Council was  
6 the body charged with responsibility for the discipline of  
7 Kamajor commanders who misconducted themselves?

8 PRESIDING JUDGE: I know when you are taking time to answer  
9 you want to say you will explain, but answer the question first.  
10 Is that not true?

11 THE WITNESS: Yes, My Lord.

12 MR Y I L L A H: Thank you, Mr Wi tness.

13 JUDGE BOUTET: But you could explain.

14 THE WITNESS: Yes, My Lord.

15 PRESIDING JUDGE: Indeed, you will. There are points which  
16 are in here which you will come back to explain.

17 MR Y I L L A H: As My Lord pleases.

18 PRESIDING JUDGE: It was a question to do with discipline.  
19 How is the scenario again?

20 MR Y I L L A H: Yes, it was the body charged with the  
21 discipline of Kamajors who misconducted themselves.

22 Q. Mr Wi tness --

23 A. Yes, My Lord.

24 Q. Would I be correct to say that on at least one occasion on  
25 which you were present at Base Zero the War Council tried the  
26 commander of the Death Squad, Jegbeyama, for attempting to kill  
27 Commander James Kai I lie? Would I be correct to say that?

28 A. I want you to repeat that. You called Jim Samura.

29 Q. No, I didn't say "Jim Samura", Mr Wi tness. Let me put it

1 this way: Were you sent by the War Council to arrest Jegbeyama  
2 for attempting to murder another Kamajor commander by the name of  
3 James Kaillie? Were you or were you not?

4 A. No, My Lord.

5 PRESIDING JUDGE: To arrest whom?

6 MR YILLAH: Jegbeyama, My Lord.

7 PRESIDING JUDGE: For doing what?

8 MR YILLAH: For attempting to murder Commander James  
9 Kaillie.

10 THE WITNESS: I was the overall boss for the southern  
11 region, and James was not answerable to me. It had nothing to do  
12 with me.

13 JUDGE THOMPSON: Mr Witness, the question was whether you  
14 were sent to arrest him, and you have answered the question that  
15 you were not sent to arrest him on the grounds which counsel was  
16 suggesting. Don't complicate the issue.

17 MR YILLAH: Mr Witness --

18 A. Yes, My Lord.

19 Q. In your evidence-in-chief --

20 PRESIDING JUDGE: Mr Yillah, Mr Witness, there were certain  
21 questions he was answering with some interjections to explain.

22 MR YILLAH: Yes, My Lord.

23 PRESIDING JUDGE: I think he should be given the  
24 opportunity to explain. The first was that the War Council was  
25 responsible for planning the strategies for the war and that it  
26 was the highest decision-making body and also the disciplinary  
27 organ for defaulting or offending Kamajor commanders. He had an  
28 explanation to make. Can you --

29 MR YILLAH: As My Lord pleases.

1 THE WITNESS: Shall I explain?

2 PRESIDING JUDGE: Yes.

3 THE WITNESS: I will start with the War Council structure.

4 PRESIDING JUDGE: Don't take us for a ride. Yes, you said  
5 you had certain things to explain.

6 THE WITNESS: Yes, My Lord. The head of the War Council  
7 was Chief Hinga Norman, the national co-ordinator, and the  
8 chairman was answerable to him. So, anything that was decided by  
9 the War Council -- Norman had no deputy; he had been using  
10 Moinina Fofana and Dr Allieu Kondewa. They would decide and give  
11 the final report, what the War Council recommended.

12 PRESIDING JUDGE: Repeat that again. Repeat that. Say  
13 that again please.

14 THE WITNESS: The national co-ordinator, Chief Hinga  
15 Norman, had no deputy. So when the War Council sat down and  
16 decided anything he would call his two men -- Allieu Kondewa and  
17 Moinina Fofana -- and after hanging heads -- and any they  
18 decision they took after hanging heads, that was the decision  
19 they would go by. So, in fact, one time at Base Zero the War  
20 Council's lives were in jeopardy. When they said to Norman that  
21 their lives were not safe, he said, "I told you you should stop  
22 every man and these boys. So, if you continue you have nobody no  
23 blame."

24 PRESIDING JUDGE: No, no. Okay. Yes, Mr Yillah, proceed  
25 please.

26 MR YILAH: Thank you, My Lord.

27 Q. Mr Witness --

28 A. Yes, My Lord.

29 Q. Do you recall making a statement to the investigators for

1 the Prosecutor on the 26th of November 2002?

2 A. Yes, My Lord.

3 Q. In what language did you make that statement?

4 A. It was in Krio.

5 PRESIDING JUDGE: What was the date of the statement?

6 MR YILLAH: The 26th of November 2002, My Lord.

7 Q. Was it recorded?

8 JUDGE BOUTET: He spoke in what language?

9 MR YILLAH: Krio, My Lord.

10 Q. Was that statement recorded?

11 A. Yes, My Lord.

12 Q. At the end of the recording was it explained to you or did  
13 you read it yourself?

14 A. Yes, My Lord. They read it and they explained to me and I  
15 read it also.

16 Q. And you admitted it to be true and correct?

17 A. Yes, My Lord.

18 Q. And do you recall signing that statement as well?

19 A. Yes, My Lord.

20 Q. Mr Witness, with the leave of the Chamber, I will read a  
21 portion -- page 6 -- of that statement to you and to refresh your  
22 memory, and the question I have will follow.

23 JUDGE BOUTET: What is the purpose of doing that, just to  
24 refresh the memory of the witness?

25 MR YILLAH: My Lord, it depends, it is about inconsistency.  
26 It is based on the explanation that was just given.

27 JUDGE BOUTET: It is not to refresh the memory, it is just  
28 to --

29 MR YILLAH: I will read the portion to him and ask him



1 whether he agrees with the submission.

2 JUDGE BOUTET: I am asking you the question because the  
3 procedure may be a bit different. If you are asking a question  
4 to refresh the memory of the witness you have to give him the  
5 statement to refresh his memory. If the purpose of your question  
6 is not that but to show inconsistencies, your approach might be  
7 the right one. But that is why I am trying to find out from you  
8 what it is you are attempting to do -- refresh his memory or to  
9 show inconsistency.

10 MR YILLAH: I will take the cue from the Bench and I --

11 PRESIDING JUDGE: You have the statement and I am sure you  
12 have made up your mind as to whether you want to use that  
13 statement for the purposes of seeing whether there is  
14 inconsistency or otherwise. It is for you to make the option.

15 MR YILLAH: Yes, My Lord, I will give the statement to the  
16 witness to refresh his memory. I now apply to the Bench that the  
17 statement --

18 JUDGE BOUTET: I see you have a view with all sorts of  
19 writing on it. So presumably there is some of your writing or  
20 underlining. Am I right?

21 MR YILLAH: Very well, My Lord.

22 JUDGE BOUTET: If you are showing him the statement it has  
23 to be one that you have not written on.

24 MR YILLAH: Okay, My Lord. I will simplify the method so  
25 that we do not waste time.

26 Q. Mr Witness --

27 A. Yes, My Lord.

28 Q. If I may attempt to -- did you say to the Prosecutors in  
29 paragraph 2 of the statement at page 6:

1            "We left Njendema for Base Zero in 1997 and made it our  
2 headquarters. This was located at Talia Yawbeko. At Base Zero  
3 the War Council was established. It was the decision-making  
4 body. The members of the War Council were Alhaji Daramy Rogers;  
5 Chief Quee, Chairman of the War Council; PC Charles Caulker;  
6 Charlie Tucker; RP Kombe Kajue; IMF Kanneh; DC Ngajeh Aruna  
7 [phon], Vandy Sorka (Dama Chiefdom), Kandeh Samai (Juijuma  
8 [phon] Chiefdom) and Hinga Norman. "

9            Do you recall making that statement to the investigators,  
10 saying that?

11 A.        Yes, I talked about that.

12            PRESIDING JUDGE: You talked about that; that is what you  
13 said.

14            THE WITNESS: Yes.

15            MR YILLAH:

16 Q.        Mr Witness, in light of the statement that you made that I  
17 have just refreshed your memory about, do you still stand by your  
18 explanation that the War Council was not the highest  
19 decision-making body?

20            PRESIDING JUDGE: He has not said so.

21            JUDGE BOUTET: That is not what the statement says.

22            MR YILLAH: Based on his own explanation, the addendum that  
23 you made at Your Lordships request, trying to say with  
24 qualification that the War Council is the body responsible for  
25 qualifications --

26            JUDGE THOMPSON: In other words, are you saying that the  
27 qualification that he has entered into the general answer which  
28 he gave, that indeed the War Council was the highest  
29 decision-making body, amounts to detracting or derogating from

1 that general statement? Because his testimony this morning here  
2 in answer to your question was that he agrees that the War  
3 Council was the highest decision-making body in the CDF  
4 hierarchy. But then he went on to explain that there was a  
5 triumvirate in the War Council that seemed to be wielding so much  
6 authority, probably to render the War Council ineffectual or  
7 ineffective. Is that what you were suggesting, that that  
8 qualification derogates significantly from the earlier statement?

9 MR YILLAH: That is the view that I took. I will find  
10 another way to progress.

11 PRESIDING JUDGE: Following from where my learned brother  
12 has left it, are you saying that because what he has said now is  
13 not in that statement that it is necessarily inconsistent to what  
14 he has said or that --

15 MR YILLAH: Absolutely, My Lord; that is the view that I  
16 take, subject to Your Lordships --

17 PRESIDING JUDGE: Mr Yillah, you may proceed.

18 MR YILLAH: As My Lord pleases.

19 Q. I put it to you that the War Council was an entity  
20 comprising of all the members that you have named in this Court  
21 and was the highest decision-making body within the CDF  
22 structure.

23 A. Yes, My Lord.

24 Q. Mr Witness --

25 A. Yes, My Lord.

26 Q. Do you know whether the War Council continued its functions  
27 when the members had left Base Zero? Do you know whether it  
28 continued carrying out its function?

29 A. No, My Lord.

1 PRESIDING JUDGE: What is "No"; is it that --

2 THE WITNESS: They did not continue to do their work.

3 PRESIDING JUDGE: They did not continue?

4 THE WITNESS: Yes, My Lord, with explanation.

5 PRESIDING JUDGE: What explanation?

6 THE WITNESS: Yes, My Lord.

7 PRESIDING JUDGE: Why do you say that they did not continue  
8 to perform their functions after they left Base Zero?

9 THE WITNESS: The first meeting that they held at Kenema  
10 they committed that I should be reinstated, which the national  
11 co-ordinator did not honour.

12 PRESIDING JUDGE: Is your answer therefore correct? Is  
13 your answer correct? It means that when they went to Kenema and  
14 they had left Talia Yawbeko they continued to function. Is that  
15 not true? Otherwise, by virtue of what did they meet to decide  
16 that you be reinstated? And by virtue of what are you saying  
17 that --

18 THE WITNESS: They recommended.

19 PRESIDING JUDGE: -- the recommendation was not implemented  
20 by the national co-ordinator. You have to put things in the  
21 right perspective. Do you understand?

22 THE WITNESS: Yes, My Lord.

23 MR YILLAH: Shall I put the question again?

24 PRESIDING JUDGE: I have made my remarks; you may proceed  
25 the way you want to, please.

26 MR YILLAH: Yes, as My Lord pleases. My Lord, I will put  
27 the question again.

28 Q. Mr Witness --

29 A. Yes, My Lord.

1 Q. So far as you know, did the War Council continue to perform  
2 its function after its members had left Base Zero?

3 A. Yes, My Lord.

4 JUDGE THOMPSON: So that answer negates the first answer.

5 MR YILLAH: Absolutely, My Lord.

6 MR TAVENER: I object to that question. It does not  
7 negate. I am sorry, I will make a comment.

8 JUDGE THOMPSON: Are you objecting to my comment that it  
9 negates the first answer?

10 PRESIDING JUDGE: It negates it.

11 MR TAVENER: "Object" is the wrong word.

12 JUDGE THOMPSON: I beg your pardon.

13 MR TAVENER: It is the wrong word to say an objection. I  
14 would say that the Court is not --

15 JUDGE THOMPSON: No, I made a comment. I am asking whether  
16 the second answer is a negation of the first answer or a  
17 retraction. Are you suggesting -- are you objecting to my  
18 comment?

19 MR TAVENER: As I said, that is the wrong word; I cannot  
20 object to Your Honour's comment.

21 JUDGE THOMPSON: Quite.

22 MR TAVENER: I am merely making the point that the witness  
23 was asked a very specific question -- did it function -- and he  
24 said "Yes." But he had previously given an explanation saying  
25 that if there was a meeting, recommendations were made but not  
26 followed. If the witness is asked to confine himself to a very  
27 correct, very detailed answer, one then cannot make an assumption  
28 as to what he was saying.

29 JUDGE THOMPSON: No, I was asking a question for the

1 witness to answer whether what he is now saying is a negation or  
2 a retraction of what he said. Because I cannot have both on my  
3 record.

4 MR TAVENER: I accept that, Your Honour. I understand --

5 JUDGE THOMPSON: I do not know how to evaluate these kinds  
6 of things.

7 MR TAVENER: I accept. I also was confused.

8 JUDGE THOMPSON: All right. Thank you.

9 JUDGE BOUTET: So, this is a question to the witness. Mr  
10 Witness, what is your answer to that question by Justice  
11 Thompson?

12 THE WITNESS: Please repeat.

13 JUDGE THOMPSON: In other words, are you now saying that  
14 after the members of the War Council had left Base Zero they did  
15 continue their work. Because the first answer I got, except that  
16 I misrecorded your answer, was that I agree that -- or the War  
17 Council members -- the War Council did not function after the  
18 members had left Base Zero.

19 PRESIDING JUDGE: That is what I have.

20 JUDGE THOMPSON: That is what I have. I may have reflected  
21 wrongly your previous answer. I am being charitable in making  
22 that statement. And if I did not, then it stands to reason and  
23 commonsense that your second answer would not harmonise with your  
24 first answer. So, which is which -- except if counsel feels that  
25 I am putting two concepts to you that are not mutually exclusive?  
26 But it seems to me that they are two different, opposite answers.

27 THE WITNESS: My Lord, I was confused.

28 JUDGE THOMPSON: The members left Base Zero, or did they  
29 not?

1 THE WITNESS: The members left Base Zero and the War  
2 Council never functioned.

3 JUDGE THOMPSON: I am satisfied with the clarification.

4 PRESIDING JUDGE: Are you saying now that your first answer  
5 was that the War Council never functioned after they left Base  
6 Zero?

7 THE WITNESS: When they left Base Zero, My Lord.

8 PRESIDING JUDGE: I made certain remarks to you because you  
9 went into trying to explain how they took a decision to reinstate  
10 you and that a resolution was taken but it was not carried out by  
11 Mr Norman. Then you came back and said that the War Council did  
12 that after they left Base Zero. Are you now going back to the  
13 first answer -- that the War Council never functioned after they  
14 left Base Zero? Otherwise you will have to explain how the  
15 resolution was taken to reinstate you, because it was taken,  
16 according to your evidence, in Kenema, and that was after the War  
17 Council had left Base Zero.

18 THE WITNESS: My Lord, what I wanted to explain is that  
19 when we left Base Zero, after some months the War Council had not  
20 been functioning and after some months they suspended me because  
21 of indiscipline. The members came back -- they were summoned by  
22 resident minister. So they came back and went to Kenema. That  
23 was the time that they took a decision. They submitted to Chief  
24 Norman. Chief Norman never allowed it and that was the time that  
25 the War Council died down. It never functioned again. That is  
26 what I wanted to explain, My Lord.

27 JUDGE THOMPSON: I appreciate your explanation, because  
28 that leads me now to say for the purposes of clarification, what  
29 is your final answer?

1 THE WITNESS: My final answer is that the War Council held  
2 a meeting to discipline me but that was never honoured by Hinga  
3 Norman.

4 PRESIDING JUDGE: What is the name of this resident  
5 minister?

6 THE WITNESS: Foday Sesay.

7 PRESIDING JUDGE: Mr Yillah, please, you may proceed.

8 MR YILLAH: As My Lord pleases. At this stage may I apply  
9 that Exhibit 28 be shown to the witness? I will not stay long  
10 with it.

11 PRESIDING JUDGE: This is okay. I wonder if we have had  
12 the presence of mind perchance to have it here?

13 MS EDMONDS: Yes, sir, I've got it.

14 [Exhibit No. 28 shown to witness]

15 PRESIDING JUDGE: Thank you. Mr Yillah, are you referring  
16 to the entire document?

17 MR YILLAH: No, not the entire document. I just want the  
18 witness to read the heading; that is all.

19 PRESIDING JUDGE: Okay. Mr Witness, it is not for you to  
20 read the entire document. Have you read the heading?

21 MR YILLAH: Mr Witness --

22 PRESIDING JUDGE: You have read the heading, have you?

23 MR YILLAH: Please read the heading of that document.

24 A. Yes, My Lord.

25 MR YILLAH:

26 Q. Mr Witness, the document you have in front of you is titled  
27 "Conclusions of the CDF S/L National War Council (NWACO) meeting  
28 held in Kenema on Monday 20th April and Tuesday 21st April 1998".  
29 Were those meetings held after the members had left Base Zero?



1 A. Yes, My Lord. I will stand to explain something connected  
2 with Kenema.

3 MR YILLAH: I am finished with that document. I am  
4 moving -- My Lord I am moving to a new topic.

5 PRESIDING JUDGE: Mr Yillah, move on.

6 MR YILLAH:

7 Q. Mr Witness, as national deputy director of operations for  
8 CDF, do you recognise that there is a difference between the  
9 leadership of the CDF and the commander and command? Do you  
10 recognise that there is that difference?

11 JUDGE BOUTET: Can you repeat that question?

12 MR YILLAH: I will put it again.

13 Q. Mr Witness, in your capacity in the office you held, do you  
14 recognise that there is a difference between the leadership of  
15 the CDF and the command of the CDF. Do you or do you not  
16 recognise that?

17 A. Yes, My Lord.

18 Q. Mr Witness --

19 A. Yes, My Lord.

20 Q. Would I be correct to suggest that you were deliberately  
21 appointed by virtue of your level of education to provide  
22 guidance to your fighters during combat?

23 MR TAVENER: I object to that question. It just doesn't  
24 make sense. If he could be more specific as to what he means by  
25 "education", about what my learned friend means by "guidance".  
26 If the witness gives an answer, it could mean anything. And  
27 from there you may go on to issues which would be founded on  
28 improper assumptions. Perhaps my learned friend could identify  
29 what he means by "education" and what he means by "guidance".

1 JUDGE BOUTET: I am not sure that your objection that it  
2 does not make sense is appropriate, but certainly there was some  
3 confusion in the manner the question was asked. It may be almost  
4 impossible for the witness to answer that question the way you  
5 have framed it.

6 MR YILLAH: I will put it --

7 JUDGE THOMPSON: I concur in that. I think the formulation  
8 is a little intriguing.

9 MR YILLAH: I will take the cue from the Bench, My Lord.

10 Q. Mr Witness --

11 A. Yes, My Lord.

12 Q. Would I be correct to suggest that it was your  
13 responsibility as a commander on the ground to prevent your  
14 fighters from committing atrocities? Would I be correct to  
15 suggest that?

16 A. No, My Lord. I was working under instructions to which I  
17 should abide strictly.

18 JUDGE THOMPSON: Counsel, is the answer that it is not  
19 correct to suggest that it was his responsibility to prevent his  
20 subordinates from committing atrocities; he was working under  
21 strict instructions by which he should abide?

22 MR YILLAH: That is his answer, My Lord.

23 Q. Mr Witness --

24 A. Yes, My Lord.

25 Q. You told this Court in your evidence-in-chief and in  
26 answers to my previous questions there were occasions when you  
27 chose not to carry out those strict instructions. Am I correct?

28 PRESIDING JUDGE: And he explained.

29 MR YILLAH: He explained.

1 PRESIDING JUDGE: We are going back.

2 JUDGE BOUTET: I thought we had been through that with you,  
3 Mr Yillah -- all of these questions. Are we revisiting all of  
4 this again?

5 PRESIDING JUDGE: He explained. Mr Yillah, you have  
6 visited that.

7 MR YILAH: Yes, My Lord.

8 PRESIDING JUDGE: In fact, you have visited it quite  
9 extensively and he gave explanations.

10 MR YILAH: As My Lord pleases.

11 Q. Mr Witness --

12 A. Yes, My Lord.

13 PRESIDING JUDGE: I will give you an example. For  
14 instance, they captured two soldiers in Kori bundu. The  
15 instructions, according to him, were that he should kill  
16 soldiers, collaborators and what have you.

17 MR YILAH: Yes, My Lord.

18 PRESIDING JUDGE: But ECOMOG stepped in at the time they  
19 were in command and said they must be handed over and he handed  
20 them over.

21 MR YILAH: Yes, as My Lord pleases.

22 JUDGE BOUTET: And you also had a question about Hota, I  
23 think is the name.

24 PRESIDING JUDGE: Hota as well.

25 MR YILAH: I will take the cue; I am grateful, My Lords.

26 Q. Mr Witness --

27 A. Yes, My Lord.

28 Q. Do you know approximately what was the numerical strength  
29 of the Kamajor's fighting force?

1 A. In the whole country?

2 Q. Yes, Mr Witness.

3 A. No, I was not in charge of the Eastern Province or the  
4 Northern Province. I don't know.

5 Q. What about the south that you were in charge of?

6 A. Even that, I would not be able to show the numerical  
7 strength.

8 PRESIDING JUDGE: But you have told the Court that there  
9 were about 15,000 at Base Zero.

10 THE WITNESS: That was in Base Zero; it was not all the  
11 Kamajors that went to Base Zero.

12 PRESIDING JUDGE: [Microphone not activated]

13 THE WITNESS: Yes, My Lord.

14 MR YILLAH:

15 Q. Mr Witness, would I be correct to suggest that because of  
16 the numerical strength of the Kamajors it was very difficult for  
17 you as head of the southern operations to exercise strict control  
18 over them? Would I be correct to suggest that?

19 A. My Lord, I had commanders on the ground.

20 PRESIDING JUDGE: Mr Yillah, put the question to him again.

21 MR YILLAH:

22 Q. Would I be correct, Mr Witness, to suggest that because of  
23 the numerical of the Kamajor fighting forces --

24 PRESIDING JUDGE: Because the Kamajor were many, put it  
25 that way.

26 MR YILLAH:

27 Q. Because the Kamajors were so many, it was difficult for you  
28 as head of operations south to exercise strict control over these  
29 fighting forces?

1 A. Yes, My Lord.

2 Q. Mr Witness --

3 A. Yes, My Lord.

4 Q. Would I be correct if I suggested that the Kamajors were on  
5 many occasions walking in different groups according to the  
6 chiefdoms they hailed from?

7 A. At first, yes, My Lord.

8 PRESIDING JUDGE: When you say "at first", what do you  
9 mean?

10 THE WITNESS: At the time when we were under chiefdoms,  
11 when we did not come under Chief Hinga Norman's jurisdiction, we  
12 were in groups fighting. When Chief Hinga Norman took over, all  
13 the instructions that were coming from Base Zero were the ones  
14 that everybody abided by.

15 MR YILLAH:

16 Q. Mr Witness --

17 A. Yes, My Lord.

18 Q. Would I be correct to say as the director for operations  
19 south you did not, or you were unable, to visit all the villages  
20 and chiefdoms in Southern Province in which the Kamajors  
21 operated? Would I be correct to say that?

22 A. Yes, My Lord. I had commanders that I used to talk to and  
23 these people were under their command structure.

24 PRESIDING JUDGE: You said that all the villages in the  
25 southern zone command where Kamajors were based -- that is the  
26 question.

27 THE WITNESS: No, My Lord.

28 JUDGE BOUTET: Mr Witness, when you say "No", you mean you  
29 are unable to.

1 THE WITNESS: I did not visit all the villages where  
2 Kamajors were.

3 MR YILLAH:

4 Q. Mr Witness, in your evidence-in-chief you spoke about a  
5 list, or alleged list, given to you by the first accused of  
6 persons who were to be killed in Bo upon taking over. Is that  
7 correct?

8 A. Repeat the question.

9 Q. You said in evidence-in-chief to this Court that the first  
10 accused gave you a list of persons to be killed when you took  
11 control of Bo. Is that correct?

12 A. Yes, My Lord, it is quite correct. Those were the specific  
13 instructions that he gave.

14 Q. Mr Witness, I earlier asked you about a statement you made  
15 on the 26th of November 2002 and you had spoken that that was  
16 indeed your statement. Is that correct?

17 A. Yes, My Lord.

18 Q. At this stage may I apply that a certain portion of the  
19 statement be put to the witness?

20 JUDGE BOUTET: You want to show inconsistency?

21 MR YILLAH: Yes.

22 JUDGE BOUTET: Maybe you should ask the witness -- I don't  
23 know how many pages the statement has, but it appears to have  
24 more than a few pages.

25 MR YILLAH: My Lord, it has 15 pages.

26 JUDGE BOUTET: 15 -- 1-5?

27 MR YILLAH: Yes, My Lord.

28 Q. Mr Witness, this is a statement of the 26th of November  
29 2002 containing 15 pages. I would invite you to look at the last

1 page -- page 15.

2 JUDGE BOUTET: If you are going with inconsistency you will  
3 have to show him the statement. Ask him the very question, did  
4 you or didn't you say whatever, and we will see from his answer.

5 MR YILLAH: As your Lordship pleases.

6 Q. Mr Witness, in the last paragraph of the statement of the  
7 26th, page 15, do you recall telling the investigators, and I  
8 quote:

9 "In 1998, I was not involved directly in the taking of Bo  
10 from the AFRC soldiers. I went to Kori bundu. My second in  
11 command Mustapha Gobeh led the troops to take Bo. When the  
12 looting was rampant, I was called to come and control the  
13 Kamajors. I met them looting all shop and houses and burning  
14 down houses. I was able to put them under control. The  
15 commander on the ground told me that I deceived them by telling  
16 them the police were in our camp. They were surprised to see the  
17 police shooting at them. I told him that MS Dumbuya gave me that  
18 assurance, especially the SSD.

19 Do you recall making this statement to the investigators?

20 A. That is the statement I made.

21 Q. Mr Witness, would I be correct to say from this statement  
22 that you have made that you were not directly responsible for the  
23 taking of Bo?

24 A. Yes, My Lord, but explanation. My Lord, we held a general  
25 meeting. In that meeting I was supposed to capture Kori bundu  
26 first. From there I would adjourn, meeting at Bumpe where we  
27 were supposed to take Bo on Sunday. But it was not Sunday and I  
28 captured it already --

29 THE INTERPRETER: Talk slowly.

1 PRESIDING JUDGE: Slowly. Okay.

2 THE WITNESS: Okay. I was supposed to lead the two  
3 operations for Kori bundu and Bo. But before we left high priest  
4 Dr Allieu Kondewa and Moimina Fofana said Mustafa Ngobea should  
5 lead the operation to Bo. Dr Allieu Kondewa said anything that  
6 you get in that war front I should bring it to him. So Mustafa  
7 Ngobea went. Sunday we were supposed to take Bo, so I took  
8 Kori bundu and went to them at Bumpe.

9 PRESIDING JUDGE: Slow. Wait, wait.

10 THE WITNESS: When this announcement was made by Dr Allieu  
11 Kondewa, by then I had got this information from my national  
12 co-ordinator about what I should do. So when they gave these  
13 instructions to Mustafa Ngobea, they said, "When you go, go  
14 directly to Bo."

15 PRESIDING JUDGE: [Microphone not activated]

16 THE INTERPRETER: Your Honour's mic is not on.

17 PRESIDING JUDGE: Sorry. You were talking about receiving  
18 instructions. Allieu Kondewa and Moimina Fofana said Mustafa  
19 Ngobea should go and lead the attack in Bo and you should come  
20 and start with Kori bundu. Now you are going back to -- now you  
21 are saying that you received special instructions and you have  
22 gone back to Hinga Norman. Can you be consistent, please.

23 [Multiple speakers - transcript incomplete]

24 JUDGE THOMPSON: Perhaps I should say that from what you  
25 are telling us is, I think, counsel's complaint or observation is  
26 that you have said in this Court that you took over Bo, but then  
27 your statement says that you were not directly involved in that,  
28 and that is what he is putting to you as being at variance with  
29 one another. I was following your explanation with a view to



1 seeing how that explanation sheds light on this problem. I am  
2 not sure how at this stage if it is shedding light on this  
3 allegation of a discrepancy between your statement -- alleged  
4 discrepancy between your statement -- to the investigators and  
5 your testimony in this Court. That was the trend I was following  
6 and I look forward to being taken along that path.

7 THE WITNESS: Okay. We were supposed to capture Bo on  
8 Sunday. When I had taken over Kori bundu I should have led the  
9 operation to Bo. Friday, that was the time Mustafa Ngobea  
10 entered Bo. He was not able to capture Bo. At that time I had  
11 myself to attack Kori bundu before Saturday.

12 PRESIDING JUDGE: On what day?

13 THE WITNESS: On Saturday. So, Sunday Mustapha Ngobea  
14 returned to Bo. On that very Sunday, I received information that  
15 I should join Mustafa Ngobea because he was not able to capture  
16 Bo.

17 PRESIDING JUDGE: You received information from whom?

18 THE WITNESS: From Chief Hinga Norman.

19 PRESIDING JUDGE: That Mustafa Ngobea was not able to  
20 capture Bo?

21 THE WITNESS: When he went there on Friday it was just  
22 looting as we know. They were not able to capture the ground.  
23 So I took my bike and joined them in Bo. When I joined them in  
24 Bo we were able to put the situation under control, even though  
25 fighting was still going on.

26 PRESIDING JUDGE: Is that street fighting, or fighting was  
27 still going on?

28 THE WITNESS: Fighting was still going on. It was on  
29 Monday that we were able to flush out the forces, that they were

1 able to go out, to pull out.

2 PRESIDING JUDGE: Which forces were these?

3 THE WITNESS: RUF-AFRC junta. It was during that time when  
4 John Hota started bringing them to me. That is all, My Lord.

5 MR YILLAH:

6 Q. Mr Witness --

7 A. Yes, My Lord.

8 Q. From this portion of the statement that I have read to you,  
9 you also stated in your evidence-in-chief that you were looting  
10 on the basis of the specific instructions you had. But your  
11 statement says, "I was called to control the Kamajors when the  
12 looting was rampant. I met them looting all shop and houses and  
13 burning down houses. I was able to put them under control." So  
14 you were in fact preventing looting rather than looting?

15 MR TAVENER: I object to that question. That is not what  
16 the witness said in his evidence. His evidence was that he was  
17 sent to Bo in order to control the town before looting could take  
18 place. That is what his evidence was in chief. They wanted to  
19 secure the town first. That is my recollection of his evidence,  
20 not that he was sent to Bo to start looting straight away. First  
21 of all, he had to achieve a military objective.

22 MR YILLAH: My Lords, my recollection of the evidence is  
23 how I have put it, but the record should clarify that point. The  
24 witness had said that he had specific instructions from the first  
25 accused that they should pay themselves from this operation, and  
26 he was looting.

27 PRESIDING JUDGE: He said so.

28 MR YILLAH: My Lord, I am putting it to him that, based on  
29 his statement --

1           PRESIDING JUDGE: Like looting the southern pharmacy and  
2 bringing everything to Base Zero?

3           MR YILLAH: Yes, My Lord.

4           PRESIDING JUDGE: Those are the instructions.

5           MR YILLAH: But what I am just doing is making an inference  
6 from this statement now and putting it to him that he was in fact  
7 called upon to control looting in Bo, contrary to what he has  
8 told this Court. That is my question.

9           MR TAVENER: And that is the difficulty. His instructions  
10 were when he went from Koribundu to Bo to first of all control  
11 Bo. I am not disputing there were instructions to loot and so  
12 on. But at that time his instructions were first to control and  
13 secure Bo. That is the issue.

14          JUDGE THOMPSON: I think we are losing sight of the issue  
15 that he is highlighting what he perceives to be some  
16 inconsistency in his statement to the investigators and what he  
17 told the Court. Isn't that what he is trying to do?

18          MR TAVENER: Yes, he is.

19          JUDGE THOMPSON: If that is what he is trying to do, it  
20 would seem to me that that is the context in which we should  
21 proceed.

22          MR TAVENER: As long as the evidence is correct.

23          JUDGE THOMPSON: Yes, quite right. I am not suggesting  
24 that counsel is entitled to misrepresent the evidence of this  
25 witness from the witness stand, but he certainly is entitled to  
26 highlight in the statement to the investigators what he perceives  
27 to be at variance with what he has told us.

28          MR TAVENER: To that is correct, all I am asking --

29          JUDGE THOMPSON: And I hope he does that, because that is

1 the way I think that is proper to proceed.

2 MR TAVENER: I agree, as long as he is accurate. I am  
3 asking that that he be accurate.

4 JUDGE THOMPSON: Quite right, then I am with you.

5 JUDGE BOUTET: Mr Yillah.

6 MR YILLAH: I will put the question again.

7 JUDGE BOUTET: And the question being from the statement.  
8 Make it clear.

9 MR YILLAH: Yes, from the statement.

10 Q. Mr Witness, from the portion of your statement that I  
11 earlier read to you would I be correct to say that you were  
12 called upon to prevent the looting by Kamajor fighters in Bo?

13 JUDGE THOMPSON: And not only that but that was what he  
14 told the investigators.

15 MR YILLAH: Yes, My Lord.

16 JUDGE THOMPSON: Is that what you are alleging?

17 MR YILLAH: Yes, I am saying based on this statement --

18 [Multiple speakers - transcript incomplete]

19 THE WITNESS: My Lord, but an explanation. Kamajors have  
20 been looting in Bo and they were not able to hold the ground.  
21 Everybody who looted would go to this village.

22 JUDGE THOMPSON: But again, you see, that is where the  
23 complication is setting in. Did he tell the investigators that?

24 MR YILLAH: I will read the portion again.

25 JUDGE THOMPSON: That is very important to me because  
26 otherwise we are entering upon an exercise in futility if your  
27 purpose is to seek to establish prior inconsistent statement. We  
28 must know whether he told the investigators that, or did not, not  
29 his explanation as to the scenario that was happening on the

1 ground. Otherwise we multiply the issues.

2 MR YILLAH: I will read the statement again with the leave  
3 of the Chamber, My Lord. Page 15, the last paragraph reads:

4 "In 1998 I was not involved directly in the taking of Bo  
5 from the AFRC soldiers. I went to Koriundo. My second in  
6 command Mustapha Gobeh led the troops to take Bo. When the  
7 looting was rampant, I was called to come and control the  
8 Kamajors. I met them looting all shop and houses and burning  
9 down houses. I was able to put them under control. The  
10 commander on the ground told me that I deceived them by telling  
11 them the police were in our camp. They were surprised to see the  
12 police shooting at them. I told him that MS Dumbuya gave me that  
13 assurance, especially the SSD."

14 So, My Lord, there is a portion which says "I was called to  
15 come and control the Kamajors --

16 -- when the looting was rampant --

17 "I met them looting all shop and houses and burning down  
18 houses."

19 JUDGE THOMPSON: And the proper question: Did he tell the  
20 investigators that?

21 THE WITNESS: That was the time my national co-ordinator  
22 told me --

23 JUDGE THOMPSON: Do not talk. We are getting into very  
24 confused waters. The important thing at this stage for the  
25 purposes of establishing or not establishing prior inconsistent  
26 statement is preliminarily to find out whether he told the  
27 investigators that.

28 MR YILLAH: I will take the cue, My Lord, and put it that  
29 way.

1 JUDGE BOUTET: Isn't it the same statement you put to him,  
2 I don't know, 15 minutes ago?

3 MR YILLAH: Yes, that was from the same paragraph.

4 JUDGE BOUTET: And he admitted making that statement to the  
5 police then. So why again do you put the same question? I'm  
6 getting lost, because he has admitted making that statement.

7 JUDGE THOMPSON: I do not think it is proper to put  
8 inferences for the purposes of prior inconsistent statement.  
9 Because you are calling upon the Court do a comparative  
10 evaluation, look at the out-of-court statement and look at what  
11 he said here on the particular and determine whether there is in  
12 fact inconsistency, material or otherwise. Therefore, we should  
13 not go outside those parameters.

14 MR YILLAH: As My Lords please.

15 JUDGE BOUTET: As I just stated, it is my recollection that  
16 you have asked that very portion of the statement. You have put  
17 it to the witness and asked him: Did you make that statement or  
18 not? And he said "Yes", so he is not denying making that  
19 statement.

20 MR YILLAH: Very well, My Lord.

21 JUDGE BOUTET: Unless you are bringing in something new  
22 which I do not see. Perhaps I am wrong in saying this. Is it  
23 the very same part and portion of the statement?

24 MR YILLAH: Yes, My Lord.

25 PRESIDING JUDGE: Let me say this: I would like to come  
26 back to what this Court has said. A statement may have been made  
27 to the investigators, but the witness in his oral testimony could  
28 expound on that statement, and what he says in that respect is  
29 admissible for the records.

1 MR YILLAH: As My Lords please.

2 PRESIDING JUDGE: And this witness, if I may follow on  
3 that, has said that he went to -- I don't think he is disputing  
4 that statement. But he went there because there was a lot of  
5 looting. And he has said that the Kamajors were more concerned  
6 with looting than holding the ground.

7 MR YILLAH: That is what he said now.

8 PRESIDING JUDGE: Yes, that is what he said in his oral  
9 testimony now. And that they were looting and carrying the  
10 property to their homes, and that is the situation he brought  
11 under control.

12 MR YILLAH: That is now, My Lord. What I was submitting is  
13 that in his evidence-in-chief he stated, if I recollect properly,  
14 he stated that he was also looting because of the specific  
15 instructions that he had received from the first accused.

16 JUDGE BOUTET: He is not denying that.

17 MR YILLAH: Based on this statement it could not have been  
18 so.

19 JUDGE THOMPSON: In other words, you are saying that there  
20 is a variance --

21 MR YILLAH: Absolutely, My Lord.

22 JUDGE THOMPSON: -- between what he has told the  
23 investigators and what he has told this Court. And that is the  
24 focus we must not lose. Otherwise, we are not in the game of  
25 prior inconsistent statements.

26 MR YILLAH: Especially having admitted this paragraph  
27 saying that he was called upon to prevent the looting.

28 JUDGE BOUTET: But, again, you have to look at it in the  
29 larger perspective because it is my recollection that in his

1 evidence-in-chief he has said he had specific instructions to,  
2 indeed, loot the southern pharmacy or whatever it is and at the  
3 same time. So, that was part of his specific instructions, but  
4 over and above that, he was sent to do something else. We have  
5 to be very careful as to what issue he had instructions to do, to  
6 make sure they were to loot the pharmacy but at the same time  
7 control all the forms of looting.

8 MR YILLAH: I will move forward. The witness having  
9 admitted making that paragraph of the statement earlier, we will  
10 address Your Lordships on that appropriately.

11 Q. Mr Witness --

12 A. Yes, My Lord.

13 Q. I put to you that these specific instructions in respect of  
14 Bo would not have been given to you by the first accused because  
15 you were not in charge of Bo operations.

16 A. He gave these instruction because I was in charge of Bo  
17 operations. He said that statement in the presence of Mr Arrow  
18 Bockarie, where he said -- he said everything that Kamajors did  
19 he was going to give directives.

20 PRESIDING JUDGE: He said what?

21 THE WITNESS: The national co-ordinator did agree when we  
22 left the bush that the Bo people and the southern province as a  
23 whole would hold a meeting at the Coronation Field in the  
24 presence of Mr Arrow Bockarie. When he announced that, anything  
25 that the Kamajors did he was going to send them to the  
26 [Inaudible]. For anything that the Kamajors did, he should be  
27 held responsible.

28 Q. Mr Witness --

29 A. Yes, My Lord.



1 Q. Were you told by the commander on the ground at Bo --  
2 Mustafa Ngobebe -- that the police were shooting at them? Were  
3 you told that?

4 A. Yes, My Lord.

5 Q. Mr Witness --

6 A. Yes, My Lord.

7 Q. Is it true that it was you who told the commander on the  
8 ground -- Mustafa Ngobebe -- that the police were on your side --  
9 I mean the side of the CDF?

10 A. Yes, My Lord, it was Mr Dumbuya who told me. He said he  
11 had spoken to them secretly and that we should not kill them.  
12 It was the national co-ordinator who said we should kill them.  
13 That was what killed them.

14 PRESIDING JUDGE: Did you say that Mr Dumbuya told you this  
15 secretly?

16 THE WITNESS: Yes, My Lord. I want to get rid of nature.

17 PRESIDING JUDGE: Mr Yillah, how much more time.

18 MR YILLAH: Not more than 30 minutes, if he does not give  
19 these lengthy explanations. That is the difficulty.

20 PRESIDING JUDGE: The Court will rise. As soon as he is  
21 ready, let us in.

22 [Break taken at 11.05 a.m.]

23 [Upon resuming at 11.10 a.m.]

24 JUDGE BOUTET: So, Mr Yillah, are you ready to proceed  
25 ahead.

26 MR YILLAH: Yes, My Lord.

27 JUDGE BOUTET: Please do so.

28 MR YILLAH:

29 Q. Mr Witness, is it true that you expressed remorse at what

1 you said about the police to the commander on the ground, Mustafa  
2 Ngobea?

3 A. Not to my knowledge.

4 PRESIDING JUDGE: How can you say not to your knowledge?  
5 You should be able to remember that. Did you or did you not  
6 express remorse? Did you or did you not? You can't say you  
7 cannot remember. That not a very credible reply, is it? Did you  
8 regret -- I mean, not remorse -- tell him -- put the question  
9 back to him.

10 MR YILLAH: As My Lord pleases.

11 Q. Mr Witness, did you tell the commander on the ground  
12 Mustafa Ngobea that you regretted the information you gave him  
13 about this support of the police to the CDF in Bo?

14 A. No, I did not tell him.

15 Q. Mr Witness, would I be correct to suggest to you that one  
16 of the reasons why you did not carry out the instructions given  
17 to you by the first accused was because of the intervention of  
18 certain War Council members like Daramy Rogers? Would I be  
19 correct to say that?

20 A. You are correct.

21 Q. Mr Witness, would I also be correct to say that  
22 specifically in respect of Bo, Alhaji Daramy Rogers as a War  
23 Council member called you personally and told you not to carry  
24 out these instructions? Would I be correct?

25 A. Yes, My Lord, with explanation.

26 MR YILLAH: This is what is time consuming, My Lord. As  
27 My Lord pleases.

28 JUDGE BOUTET: That's the nature of the evidence we have to  
29 live with.

1 MR YILLAH: As My Lord pleases.

2 JUDGE BOUTET: But, please, if you give explanation keep it  
3 as brief as you can, please. That has to do with instructions  
4 you would have received from Rogers.

5 THE WITNESS: Alhaji Daramy Rogers told me that -- said,  
6 "Now, look, you come from a ruling house. I know that you're in  
7 a difficult situation. If you don't carry out your coordinator's  
8 instructions that shows that you are insubordinate." And he  
9 said, "So it is not all the orders that he gave you that should  
10 be carried out, because they are dangerous orders. So what I'm  
11 tell you is that" -- [translation interrupted]

12 PRESIDING JUDGE: Wait.

13 THE WITNESS: "Those people whose names have been written  
14 on the list, do not kill them." He said, "Because from 1939 to  
15 1944/45, there was war in this country, Second World War." He  
16 said, "Up to now they have been trying these people." Said, "I  
17 am pleading with you, so let that be in your mind." That was  
18 what made me not to kill the ones whose names were on the list,  
19 so I burnt their houses. So at least I did what my commander  
20 asked me to do.

21 MR YILLAH:

22 Q. Mr Witness, would I be correct to suggest to you that you  
23 did not carry out the instructions as well because you had a  
24 discretion to choose between orders that were bad and orders that  
25 were good? Would I be correct to suggest that?

26 PRESIDING JUDGE: You are still translating it?

27 JUDGE THOMPSON: Learned counsel --

28 MR YILLAH: Yes, My Lord.

29 JUDGE THOMPSON: -- couldn't that question be put in two

1 stages. Whether first of all he recognised that he had a  
2 discretion.

3 MR YILLAH: I take the cue.

4 JUDGE THOMPSON: Because it sounds as if it is two  
5 questions rolled up in one, from my perspective.

6 MR YILLAH: As My Lord pleases.

7 Q. Mr Witness, in your capacity as operations director do you  
8 recognise that you have a discretion to choose between commands  
9 that were unlawful - that were bad, if I can put it that way -  
10 and commands that were good?

11 A. My Lord, in war I did not know what law is good and what  
12 law is bad. In normal times, yes, I know that.

13 Q. Mr Witness, following from that answer I will just refer  
14 you to one specific incident so we cannot waste the time of the  
15 Court. When you handed the two captured prisoners of war to  
16 ECOMOG Al haji Daramy Rogers was not there, was he?

17 A. He wasn't there.

18 Q. And on that occasion would I be correct to say that it was  
19 your discretion that you used not to kill those men, contrary to  
20 the instructions?

21 PRESIDING JUDGE: But the witness has said he was ordered  
22 to hand them over. We've come back to this.

23 JUDGE BOUTET: [Overlapping speakers]

24 PRESIDING JUDGE: [Overlapping speakers]

25 MR YILLAH: My Lord, on the question of discretion I don't  
26 recall what -- I will take the cue from the Bench.

27 JUDGE BOUTET: You asked about the two captured soldiers  
28 involved. When you handed them over to ECOMOG you did so  
29 contrary to the orders you have received and then you followed up

1 with some more questions. So unless you want to explore a new  
2 avenue about these soldiers --

3 MR YILLAH: I only had one question on the discretionary  
4 aspect.

5 JUDGE BOUTET: Go ahead. I thought you had already done  
6 that but you are in cross-examination and therefore my purpose is  
7 not to restrict you, it is only that we don't want to go over  
8 terrain that has already been covered, I would say, quite  
9 exhaustively.

10 MR YILLAH: Just one question on that, My Lord.

11 Q. Mr Witness, on that occasion was it your discretion that  
12 you used not to execute those prisoners of war contrary to the  
13 instructions?

14 A. It was ECOMOG that intervened on behalf of these prisoners  
15 and during that time they had more firing power than we did. So  
16 automatically I was under them. So because my [inaudible]  
17 coordinator was there, so even when I tried to explain to them --  
18 the order that I had with me, I was not able to carry it out.  
19 That's the answer.

20 JUDGE THOMPSON: It was not an exercise of a discretionary  
21 power at all.

22 MR YILLAH: I'm satisfied with that.

23 JUDGE BOUTET: He has explained to you the time they were  
24 in the same headquarters in Bo, and so he was explaining why he  
25 had much capability to carry on.

26 PRESIDING JUDGE: And it was there that he received an  
27 education as to how prisoners of war were treated. If you  
28 revisit the evidence that's what he said.

29 MR YILLAH: My Lord, his evidence is very convoluted.

1           PRESIDING JUDGE: Anyway we have all the time for this in  
2 addresses.

3           MR YILLAH: As My Lord pleases.

4 Q.       Mr Witness, let me ask you this: Whenever as director of  
5 operations you were working alongside ECOMOG, would I be correct  
6 to suggest that ECOMOG was in command?

7 A.       Yes. Yes, we are under them directly.

8 Q.       Mr Witness, would I be correct to say that on those  
9 occasions where you were working with ECOMOG you took  
10 instructions from ECOMOG contrary to the instructions that you  
11 had received from Base Zero? Would I be correct to say that?

12 A.       Yes, My Lord, when we were in town. That was one of the  
13 reasons for which I was sacked.

14 Q.       Mr Witness, you spoke about instructions given to you by  
15 the first accused regarding Pipor, Sorgia and another village; is  
16 that correct?

17 A.       Yes, My Lord.

18 Q.       Now, Mr Witness, would I be correct to say that those  
19 villages, Pipor, Sorgia and the other village, they're found in  
20 Bonthe District? Would I be correct to say that?

21 A.       Yes, My Lord.

22 Q.       Mr Witness, were paramount chiefs from Bonthe District  
23 present in Base Zero when you carried out these orders on their  
24 villages?

25 A.       No, My Lord. We did not have any regard for paramount  
26 chief as much.

27           MR YILLAH: That's not the question.

28           PRESIDING JUDGE: That's not the question.

29           THE WITNESS: No, My Lord, they were not there at all. It

1 was in Base Zero, in Base Zero at all.

2 PRESIDING JUDGE: I'm not clear.

3 MR YILLAH: Okay, let me put it again to him.

4 Q. Mr Witness, was there any paramount chief representing  
5 Bonthe District at Base Zero when you carried out these  
6 operations?

7 A. Yes, My Lord, paramount chief of Nongoba Bulom Chiefdom.

8 PRESIDING JUDGE: Of?

9 THE WITNESS: Nongoba Bulom Chiefdom. PC Charlie Tucker.  
10 He was the deputy chairman War Council. PC Charles Caulker,  
11 Bumpe Chiefdom. He was a member of the War Council. They were  
12 all there.

13 JUDGE BOUTET: Yes, Mr Yillah.

14 MR YILLAH:

15 Q. Mr Witness, did these paramount chiefs - the two Bonthe  
16 paramount chiefs that you have just mentioned - did they  
17 intervene to prevent the loss of lives and properties in their  
18 district?

19 A. No, My Lord. The time that instructions were given to me,  
20 they were not there at all.

21 PRESIDING JUDGE: That's not the answer. That's not your  
22 question, is it?

23 MR YILLAH: Absolutely, My Lord.

24 Q. My question was: Did these paramount chiefs who were  
25 representing Bonthe District, did they intervene to prevent you  
26 from carrying out the instructions relating to those villages?

27 A. No, they did not intervene.

28 JUDGE BOUTET: I don't think the evidence was that they  
29 were representing Bonthe. They were from Bonthe, but his

1 evidence is there were more than these two paramount chiefs in  
2 Bonthe but these were the two that were at Base Zero. So there  
3 is no confusion there.

4 MR YILLAH: Yes, My Lord. I will just ask him to clarify  
5 that point.

6 Q. Do you know whether they were representing Bonthe District,  
7 those two paramount chiefs?

8 A. One was representing Bonthe District, PC Charlie Tucker of  
9 Nongoba Bullom Chiefdom.

10 Q. Mr Witness, just one question on that front. Do you know  
11 what the role of a paramount chief is in his chiefdom?

12 A. Not in war time, My Lord.

13 Q. Mr Witness, do you know or don't you know?

14 A. I don't know, I'm not a paramount chief. I'm not a  
15 paramount chief, I don't know.

16 PRESIDING JUDGE: But you're from a ruling house.

17 THE WITNESS: Yes, but I don't have a staff. Yes, I come  
18 from a ruling house but I have never held a staff.

19 PRESIDING JUDGE: [Microphone not activated]

20 THE WITNESS: I'm a priest.

21 PRESIDING JUDGE: You can even become -- you're eligible to  
22 a throne, aren't you?

23 THE WITNESS: Yes, I have the right to a throne. I can  
24 only have that right when I would have held the staff. See, when  
25 I would have held the staff then they would tell you what and  
26 what to do.

27 PRESIDING JUDGE: I don't want to go further into this.

28 JUDGE THOMPSON: So the final answer is that I don't know.

29 MR YILLAH: As My Lord pleases.



1 THE WITNESS: I don't know at all.

2 MR YILLAH:

3 Q. That notwithstanding the fact that you're from a ruling  
4 house?

5 A. Yes, yes.

6 Q. Mr Witness, I put it to you that commands in respect of  
7 those villages --

8 PRESIDING JUDGE: Mr Yillah, please let me ask him one  
9 question. Was Paramount Chief Charles Tucker of Nongoba Bulom  
10 Chieftom, was he aware of these instructions that were given to  
11 you?

12 THE WITNESS: No, My Lord.

13 PRESIDING JUDGE: He was not aware of the instructions  
14 given to you about those three villages?

15 THE WITNESS: At all.

16 PRESIDING JUDGE: Yes, Mr Yillah, you may proceed.

17 MR YILLAH:

18 Q. Mr Witness, let me ask you this: Did Paramount Chief  
19 Tucker, vice chairman of War Council, did he object or raise any  
20 misgivings after you had carried out the operations in these  
21 three villages? I'm talking about after, now.

22 A. We did not have much to discuss, he did not tell me  
23 anything about that.

24 Q. No, do you know whether he raised objections at Base Zero  
25 regarding your execution of the operations in those three  
26 villages in Bonthe?

27 A. I don't know, because I am not a member of the War Council.

28 Q. But you were an important officeholder, Mr Witness. You  
29 held a very high office?

1 A. That did not qualify me that I was a member of the War  
2 Council. See where they used to meet, I was not there at times.

3 Q. Mr Witness, you spoke about the Death Squad in your  
4 evidence-in-chief; is that correct?

5 A. Yes, My Lord.

6 Q. Mr Witness, I put it to you that, contrary to what you said  
7 to this Court, the duty of the Death Squad and its leader  
8 Jegbeyama was to provide security in and around Base Zero?

9 A. Repeat your question.

10 Q. Mr Witness, I am putting it to you that the function of the  
11 Death Squad and its leader Jegbeyama was limited to providing  
12 security in and around Base Zero?

13 A. Yes, My Lord, with explanation.

14 JUDGE BOUTET: The question is their duties were limited to  
15 provide security --

16 THE WITNESS: Yes, My Lord.

17 JUDGE BOUTET: -- in and around Base Zero.

18 MR YILLAH: He has agreed but he is wishing to qualify it  
19 by explanation.

20 JUDGE BOUTET: I know. That is why I was repeating the  
21 question because I thought the question was quite clear.

22 THE WITNESS: I said yes, with explanation. Our National  
23 Coordinator said that they were for security, but that was not  
24 the work they were doing. They were the ones that used to  
25 torture the captives. They were the ones that used to molest the  
26 War Council members whom they thought were very active. They  
27 threatened the War Council, the lives of War Council members.  
28 They used to loot and bring all the looted property to the  
29 National Coordinator.

1 MR YILLAH:

2 Q. Mr Witness, I also put it to you that the name Death Squad  
3 was chosen by the leader and his members to give a name to -- to  
4 give such a name to their group. It was not given by any other  
5 person but by the leader Jegbeyama?

6 A. I don't know about that. He was not answerable to me so I  
7 don't know much about him. I am only explaining about their  
8 behavior.

9 Q. Mr Witness, you also spoke about Special Forces in your  
10 evidence-in-chief. I put it to you, Mr Witness, that the  
11 fighters you referred to as Special Forces were Nigerian ECOMOG  
12 soldiers who were based at Base Zero?

13 A. No, My Lord, we did not have any ECOMOG soldier that was  
14 based in Base Zero. We had Liberian fighters.

15 Q. Mr Witness, I further put it to you that no killing in Base  
16 Zero -- no killings in Base Zero took place in respect of  
17 Mustapha Fallon and Dauda Kanu as you stated in your  
18 evidence-in-chief?

19 A. I that am sitting here, the National Coordinator who is  
20 Chief Hinga Norman, the high priest Kondewa and Moini na Fofana we  
21 did that action. Mustapha Fallon, we killed him in the Pora  
22 bush. Other people were there with us. Mr Amara Sengay was with  
23 us, German was with us --

24 PRESIDING JUDGE: Who?

25 THE WITNESS: German, German. [Inaudible] was with us.  
26 Dr Jigbao was with us. The two brothers were with us, the  
27 brothers of Mustapha Fallon to whom Chief Hinga Norman gave  
28 300,000.

29 MR YILLAH: I just observed that probably, because of the

1 exigencies of time, most of the explanations that the witness has  
2 given are already in evidence-in-chief so if he may just limit  
3 them. All of these issues have already been stated by him in his  
4 evidence, just to caution him.

5 Q. Mr Witness, I put it to you that it was Joe Tami dey and not  
6 you who was directly responsible for the Kori bundu operations?

7 A. I led the Kori bundu operation, My Lord. Joe Tami dey was  
8 just with me, with other commanders that were with me.

9 JUDGE BOUTET: Yes, Mr Yillah.

10 MR YILLAH: Yes, My Lord.

11 Q. Mr Witness, you said there were many commanders in  
12 Kori bundu. Would I be correct to suggest that these many  
13 commanders were operating with different groups when the attack  
14 took place?

15 A. Yes, My Lord, but all of them were under my command. All  
16 the commands that I took from Base Zero are the ones that they  
17 had to go by for my National Coordinator so as to burn all the  
18 house in Kori bundu. That they shouldn't have left even a fowl.

19 Q. Mr Witness, would I be correct to suggest that ECOMOG  
20 subsequently took over control -- took over command of Kori bundu?

21 A. Yes, later on when ECOMOG had settled in Bo, they were the  
22 ones that were controlling us. At the same time they were  
23 controlling CDF also. But they were not based in Kori bundu.

24 Q. But would I be correct to say nevertheless you were taking  
25 instructions from ECOMOG when they settled in Bo, even though  
26 they were not based in Kori bundu? You were taking instructions  
27 from them, were you not?

28 PRESIDING JUDGE: I think he said he has, he did, he was  
29 taking instructions from them. When they came they were taking

1 instructions directly from ECOMOG.

2 MR YILLAH: And then he subsequently went later to qualify  
3 it that they were not based in Koribundu. So that is what I am  
4 putting to him now, that aspect.

5 Q. I am putting it --

6 A. I am ready to answer.

7 Q. Notwithstanding the fact that ECOMOG were not based in Base  
8 Zero, but were in Bo, you took instructions from them regarding  
9 operations in Koribundu?

10 A. Yes, My Lord. When ECOMOG [inaudible] Southern Province,  
11 we were under them, when they had based there.

12 Q. Thank you, Mr Witness.

13 A. Thank you too.

14 Q. Mr Witness.

15 A. Yes, My Lord.

16 Q. Let me ask you this.

17 A. I'm ready to answer.

18 Q. Are you proud of your track record as Director of  
19 Operations for the southern province in your role during the war?  
20 Are you proud of your track record?

21 A. I am not somebody that's proud.

22 Q. No, the question is specific.

23 A. No, I'm not proud.

24 Q. So Mr Witness, you're not proud of your track record as  
25 Director of Operations south CDF?

26 JUDGE THOMPSON: Learned counsel, is it that you're  
27 suggesting to him or asking him whether he takes credit, because  
28 the word proud here might create some nuances of language.

29 PRESIDING JUDGE: Because this witness is not a proud man.

1 JUDGE THOMPSON: Because he had probably -- counsel Jabbi  
2 might want to help us. Are we using -- are we on the same  
3 wavelength? Is it credit for what he has done in his role as  
4 Director of Operations or is it proud which of course can mean  
5 haughtiness, that kind of thing?

6 MR YILLAH: As My Lord please. My learned senior Dr Jabbi  
7 has just corrected me in that respect, that the witness seemed to  
8 understand my question only in light of his character.

9 JUDGE THOMPSON: Yes, haughtiness.

10 MR YILLAH: As My Lord please.

11 Q. Mr Witness.

12 A. Yes, My Lord.

13 Q. Are you happy with your track record, your role as Director  
14 of Operations south within the CDF during the war?

15 A. I am not happy.

16 Q. Mr Witness.

17 A. Yes, My Lord.

18 Q. How long did you spend with the first accused? How long  
19 did you interact with him during the war years? How long?

20 A. I don't remember. I cannot remember how long. If I say  
21 anything I would lie.

22 Q. May I suggest to you two years, three years or one?

23 A. We are together up to -- I don't want to lie. I cannot  
24 remember how long we have been together.

25 Q. Okay, let me make a suggestion. You came to Base Zero at  
26 the end of 1997; right? Is that correct?

27 A. Yes, towards 1997.

28 Q. '97, '98, '99, that's two years. Would I be correct if I  
29 suggested two years, that you interacted with him for two years?

1 A. Even 2001 we are together, up to 2000.

2 Q. So that's about three -- you interacted with him for about  
3 three, four years?

4 A. Yes, My Lord.

5 Q. Mr Witness, would I be correct to say that your dislike for  
6 the first accused -- you were known to dislike the first accused  
7 because you were fired from your position as regional commander  
8 south?

9 JUDGE THOMPSON: Why not keep the two separate? Put the  
10 first premise first and then the second premise if it becomes  
11 necessary.

12 MR YILLAH: As My Lord pleases.

13 Q. Mr Witness, I put it to you that as a result of your  
14 dismissal from your office --

15 JUDGE THOMPSON: No. Why not put the theory of dislike  
16 first and then probably canvass the reason or put it as another  
17 theory.

18 MR YILLAH: As My Lord pleases.

19 Q. Mr Witness.

20 A. Yes, My Lord.

21 Q. Okay, let me ask you this: Mr Witness, I find it very  
22 strange that you have nothing good to say about the first accused  
23 to this Court having interacted with him for three, four years.  
24 Do you find it strange as well?

25 JUDGE BOUTET: What's the question?

26 THE WITNESS: My Lord, here that I am sitting here is to  
27 say what had happened in the bush directly. I had told you that  
28 in fact I would not leave one stone unturned, because this  
29 country in which we are, it belongs to all of us, and I want

1 there to be peace and I am saying the truth and nothing but the  
2 truth.

3 MR YILLAH:

4 Q. Mr Witness.

5 A. Yes, My Lord.

6 Q. Do you have anything good to say about the first accused,  
7 having interacted with him for four years?

8 MR TAVENER: I object to this question. Is my friend  
9 attempting to lead character evidence now? Is that the purpose,  
10 character evidence?

11 JUDGE THOMPSON: That is why I thought I was guiding  
12 counsel. Of course, counsel has the liberty not to take the  
13 guidance of the Bench, but I thought if there was a theory of  
14 dislike it could be specifically put and if there was reason also  
15 for the dislike it could also be put as a separate theory. It  
16 seemed to me that this line of cross-examination, the way you  
17 have decided to go, can be argumentative and probably highly  
18 speculative. I don't know whether this Court is interested in  
19 getting enmeshed in argumentative kinds of questions and answers.  
20 I wouldn't know how to evaluate it.

21 MR YILLAH: I take the cue, My Lord.

22 Q. Mr Witness.

23 A. Yes, My Lord.

24 Q. After your dismissal from office in 1998 --

25 PRESIDING JUDGE: Were you happy?

26 MR YILLAH:

27 Q. -- were you happy with the first accused?

28 A. I was not happy with him to [inaudible] facts, but --

29 PRESIDING JUDGE: Wait. Dismissal was in 1998?



1 MR YILLAH: Yes, My Lord.

2 PRESIDING JUDGE: The dismissal was by the first accused?

3 MR YILLAH: Yes, My Lord.

4 PRESIDING JUDGE: According to you?

5 THE WITNESS: It was made by Vice President AJ Demby in  
6 town. Former Vice President AJ Demby.

7 MR YILLAH:

8 Q. Mr Witness, I finally put it to you - this is the last  
9 question, Mr Witness - that the first accused did not give  
10 specific and general instructions to you because you were not  
11 next to him in the line of command?

12 A. My Lord --

13 PRESIDING JUDGE: Did he or did he not?

14 THE WITNESS: He did. I refer you to the Bo meeting where  
15 Arrow Bockarie was.

16 JUDGE BOUTET: What was the last part of your answer?

17 THE WITNESS: I refer him to the Bo Town meeting that we  
18 held, where Chief Hinga Norman declared that --

19 JUDGE BOUTET: But you added something about you were --

20 THE WITNESS: The one that I added, I said Arrow Bockarie  
21 was present in that meeting.

22 JUDGE BOUTET: So that concludes your cross-examination?

23 MR YILLAH: That will be all for this witness, My Lord.

24 JUDGE BOUTET: Thank you.

25 PRESIDING JUDGE: Just a moment, please. Learned counsel,  
26 we will rise for just about 10 minutes and we'll resume  
27 thereafter.

28 [Break taken at 12.05 p.m.]

29 [Upon resuming at 12.35 p.m.]

1           PRESIDING JUDGE: We are resuming the session. Mr  
2 Bockarie, you are ready?

3           MR BOCKARIE: Yes, Your Honour.

4           PRESIDING JUDGE: Good. I just wanted to say this before  
5 we proceed. I think we have had a very nice gallery, a very nice  
6 audience in our proceedings all this while. It has been very  
7 nice having the gallery which has been following very attentively  
8 what has been happening. They have been doing it in total  
9 discipline and in total respect of this Court. We encourage you  
10 to continue that way and you're always welcome on the  
11 understanding that you will keep the decorum of this Court.  
12 Thank you very much.

13           JUDGE BOUTET: Yes, Mr Bockarie, please proceed.

14   CROSS-EXAMINED BY MR BOCKARIE:

15           MR BOCKARIE:

16 Q.       Mr Nallo.

17 A.       Yes, My Lord.

18 Q.       Yesterday in answer to Mr Yillah you said some of the  
19 responsibilities of the Director of War were assigned to you; am  
20 I correct?

21 A.       Yes, My Lord.

22 Q.       Can you please tell this Court those responsibilities that  
23 were delegated to you?

24 A.       Yes, My Lord.

25 Q.       Go ahead.

26 A.       I used to go to the war front to collect reports, compile  
27 them, submit them to National Coordinator through the war  
28 director; general and specific instructions were given to me by  
29 the National Coordinator, Chief Hinga Norman. I used to take

1 arms and ammunition to the war front for the fighters. I used to  
2 frequently visit the front line to ascertain the positions of  
3 troops and to report that is given to me. I was interested --  
4 [translation interrupted]

5 PRESIDING JUDGE: [Overlapping speakers] with the  
6 enumeration let us know.

7 MR BOCKARIE: Let him just go ahead, My Lord.

8 PRESIDING JUDGE: Because we have had these explanations  
9 before, that is what I'm saying, about what he is detailing. We  
10 had it extensively during --

11 THE WITNESS: I and the war director had been sitting  
12 together to plan the war.

13 MR BOCKARIE:

14 Q. I will come to that, Mr Witness. Mr Witness, would you  
15 agree with me that these responsibilities you have just stated  
16 constituted the core functions of the office of the Director of  
17 War?

18 A. Well, I did not know his roles and responsibilities.

19 Q. But you'd agree with me that the functions you have just  
20 highlighted were very cardinal in carrying out the functions of  
21 the Director of War?

22 A. Yes, My Lord, but because he was not educated that is why I  
23 did them.

24 Q. Thank you, Mr Witness.

25 A. Okay.

26 Q. Mr Witness.

27 A. Yes, My Lord.

28 Q. You were the architect of the Black December operation,  
29 weren't you?

1 A. Yes, My Lord, with the Director of War.

2 PRESIDING JUDGE: What, Mr Bockarie? You say what?

3 MR BOCKARIE:

4 Q. You were -- my question is specific in reference to you.  
5 You were the architect of the Black December operations, weren't  
6 you?

7 A. Yes, My Lord, with explanation. We sat down meeting at  
8 Base Zero -- [translation interrupted]

9 PRESIDING JUDGE: [Overlapping speakers] what happened?

10 THE WITNESS: Chief had been telling us what were the  
11 pillars that will make your enemy to run away from you. He said  
12 hunger was one and I said that chief -- I said that if hunger is  
13 one then let's block all the roads. Food should not come from  
14 our own operation area to go to the junta, should stop that  
15 movement completely.

16 MR BOCKARIE:

17 Q. Mr Witness, I'll come into those details later.

18 Mr Witness, you recall making statements to the investigators  
19 dated 27 November 2002?

20 A. Yes, I made statement. People used to go to me.

21 JUDGE BOUTET: Is that the same statement that was --

22 MR BOCKARIE: This one is on 27 November 2002.

23 THE WITNESS: I cannot remember the date, My Lord.

24 MR BOCKARIE: This statement I am referring to, My Lord, is  
25 27 November 2002.

26 Q. Mr Witness, I'm reading on page --

27 JUDGE BOUTET: The reason I was asking was it the same  
28 statement, if it is a different statement you have to go through  
29 the same background.

1 MR BOCKARIE:

2 Q. Mr Witness, while making the statement in which language  
3 did you speak?

4 A. It was Krio.

5 Q. Was it recorded?

6 A. Yes, My Lord.

7 Q. Handwritten?

8 A. Yes, My Lord.

9 Q. And then it was read over to you, wasn't it?

10 A. Yes, My Lord.

11 Q. And the statement was confirmed by appending your signature  
12 to be true and correct?

13 A. Yes, My Lord. Yes, My Lord.

14 Q. Mr Witness.

15 A. Yes, My Lord.

16 Q. Just a minute. Mr Witness, did you tell the investigators  
17 this, on page 10198 starting on the first paragraph -- I will  
18 read slowly: "The Black December Operation was declared in  
19 December 1997 and lasted 'til February 1998. The rationale was  
20 to paralyse the AFRC/RUF operations with the clear no vehicle  
21 were to be seen on the highway. This was planned at Base Zero.  
22 I was the architect of this plan and presented it to the War  
23 Council." The operative word here is "I was the architect of  
24 this plan". Did you tell this to the investigators, Mr Witness?

25 A. I want you to break that word up, architect.

26 JUDGE BOUTET: Mr Witness, did you or did you not make that  
27 statement to the investigators?

28 THE WITNESS: I have made statement that with explanation.

29 JUDGE BOUTET: You made that statement?

1 THE WITNESS: Yes, I made that statement.

2 MR BOCKARIE:

3 Q. Thank you, Mr Witness. Mr Witness, being the brain behind  
4 that operation, can you tell this Court what were the strategies  
5 you put in place in furtherance of the objectives?

6 A. That was done by the National Coordinator. I only made  
7 suggestions, that it went on the air.

8 Q. So, Mr Witness, you're telling this Court you didn't put  
9 any strategies in place in respect of the Black December  
10 Operation?

11 PRESIDING JUDGE: He said he made suggestions.

12 MR BOCKARIE:

13 Q. Can you tell us what were the suggestions you made?

14 A. I'm quite ready to do so.

15 Q. Go ahead, please.

16 A. Chief Hinga Norman had been highlighting the way in which  
17 he would be able to eliminate the enemies. He said it's not just  
18 a question of going to war using guns. He said hunger is one  
19 strategy that we could use. So from there I said, "Chief, so  
20 what you should do, let us block all the roads" -- [translation  
21 interrupted]

22 PRESIDING JUDGE: Wait, wait, wait.

23 JUDGE THOMPSON: You said that the National Coordinator  
24 suggested hunger as one strategy? As one strategy? Hunger as  
25 one strategy. And what was your input?

26 THE WITNESS: Yes, one weapon. My contribution was that we  
27 should implement it. He approved.

28 PRESIDING JUDGE: Recommend it in what way? What was your  
29 idea on this issue of hunger?

1 JUDGE THOMPSON: Implement it.

2 PRESIDING JUDGE: Yes, implement it how? What was your  
3 input here?

4 THE WITNESS: So that food should not come from our own  
5 area to the area of the enemies. And roadblocks.

6 PRESIDING JUDGE: You also recommended roadblocks?

7 THE WITNESS: Yes, My Lord.

8 PRESIDING JUDGE: Tell us all the suggestions you put into  
9 this operation.

10 THE WITNESS: Those are the suggestions that I gave.

11 MR BOCKARIE:

12 Q. Mr Witness.

13 A. Yes, My Lord.

14 Q. In your evidence-in-chief you also said that you planned  
15 and formulated strategies in respect of the war together with  
16 Moini na Fofana? In your evidence-in-chief yesterday; am I  
17 correct?

18 JUDGE THOMPSON: Not yesterday.

19 MR BOCKARIE: On Friday. Sorry, sir.

20 PRESIDING JUDGE: And he has repeated it now during your  
21 cross-examination. Yes, he has. You should follow your witness.

22 MR BOCKARIE: Yes, Your Honour.

23 Q. Am I correct, Mr Witness?

24 A. Yes, I have said it.

25 Q. Mr Witness, I would also like to refer you to your  
26 statement of the 26th of November 2002 at page 10186. I will  
27 read.

28 PRESIDING JUDGE: Mr Bockarie, is that the same statement?

29 MR BOCKARIE: This is of the 26th November. The previous

1 one was the 27th.

2 JUDGE BOUTET: This is the one that was canvassed by  
3 counsel for the first accused.

4 MR BOCKARIE: This one I am referring to is dated 26th  
5 November 2002.

6 JUDGE BOUTET: But did he give only one on the 26th? Is it  
7 the same that Mr Yillah used before?

8 MR YILLAH: Yes, that's the one I used.

9 JUDGE BOUTET: Okay.

10 MR BOCKARIE:

11 Q. Mr Witness.

12 A. Yes, My Lord.

13 Q. At page 10186 I will read second line from the top. "I  
14 planned strategy for the war and presented it to the War  
15 Council." Did you tell the investigators this?

16 A. Yes, My Lord. I used to plan because I was the one writing  
17 it, because the Director of War was not educated. I was the one  
18 that was doing everything. He was saying it in Mende and I was  
19 writing.

20 PRESIDING JUDGE: He would talk to you in Mende and you  
21 would write it?

22 THE WITNESS: Yes, My Lord, both of us.

23 MR BOCKARIE:

24 Q. Mr Witness, I am sure in the course of your planning, your  
25 planning was completely devoid of killing of innocent civilians;  
26 am I correct? Whilst planning and strategising the war together  
27 with the Director of War, Moïna Fofana, your planning was  
28 completely devoid of killing of innocent civilians; am I correct?

29 PRESIDING JUDGE: Was it part of your plan?



1 MR BOCKARIE:

2 Q. It was not part of your planning to kill innocent  
3 civilians; was it?

4 A. I cannot get you clearly.

5 Q. Okay. Whilst planning together with the Director of War --

6 PRESIDING JUDGE: Did you include the killing of innocent  
7 civilians in that plan?

8 THE WITNESS: No, My Lord. No, My Lord.

9 MR BOCKARIE:

10 Q. Neither did you include the looting of civilians' property?

11 A. No, My Lord.

12 Q. Mr Witness, neither did it include the raping of women?

13 A. Not at all, My Lord.

14 PRESIDING JUDGE: Are they charged with rape? Please,  
15 limit your cross-examination to relevant issues.

16 MR BOCKARIE:

17 Q. Mr Witness.

18 A. Yes, My Lord.

19 Q. Am I correct that you had information regarding the Tongo  
20 attack that civilians fought alongside the juntas armed with  
21 sticks with nails attached and machetes against the Kamajors?

22 You were told that? You had information regarding that?

23 A. Yes, My Lord.

24 PRESIDING JUDGE: You say information about what?

25 MR BOCKARIE: Regarding civilians fighting alongside juntas  
26 armed with machetes and sticks with nails attached.

27 PRESIDING JUDGE: Had information about civilians --

28 MR BOCKARIE: Sorry, I mean the Kamajors.

29 PRESIDING JUDGE: Yes, fighting alongside?

1 MR BOCKARIE: The juntas armed with sticks with nails --

2 THE WITNESS: This is correct, My Lord.

3 PRESIDING JUDGE: Armed with?

4 MR BOCKARIE: Sticks with nails attached and machetes.

5 PRESIDING JUDGE: This was in Togo?

6 MR BOCKARIE: Yes, in respect of Togo, My Lord.

7 THE WITNESS: Yes, My Lord.

8 PRESIDING JUDGE: And they were fighting against the  
9 Kamajors?

10 MR BOCKARIE: Yes, My Lord.

11 THE WITNESS: Yes, My Lord.

12 MR BOCKARIE:

13 Q. Mr Witness, will I be correct to say that before February  
14 1998 the relationship between the civilians in Kori bundu and the  
15 soldiers had been very cordial? They had very good relationship,  
16 the civilians in Kori bundu and the soldiers. I am talking of  
17 Kori bundu now.

18 A. Yes, My Lord. They gave their children in marriage to  
19 soldiers.

20 Q. These civilians were strong supporters of the juntas in  
21 Kori bundu; am I correct?

22 A. I don't know, I was not within the environment. If they  
23 had been supporting or not, I do not know.

24 Q. Mr Witness.

25 A. Yes, My Lord.

26 Q. Isn't it true as in Togo that the civilians in Kori bundu  
27 fought alongside the juntas against the Kamajors?

28 A. In Kori bundu?

29 Q. Correct.

1 A. Not to my knowledge.

2 MR BOCKARIE: Your Honour, at this stage I stand to be  
3 guided.

4 PRESIDING JUDGE: Please continue. At a convenient moment  
5 to stop we'll stop. Are you suggesting you are at the end of an  
6 episode?

7 MR BOCKARIE: I want to go into another new area.

8 PRESIDING JUDGE: You want to go into a new area?

9 MR BOCKARIE: Yes, I just want to be guided.

10 PRESIDING JUDGE: Well, the guidance is what you expect.  
11 We shall be rising to have lunch and we'll be resuming the  
12 session at 2.30 p.m. So, learned counsel, the Chamber will rise,  
13 please.

14 [Luncheon recess taken at 1.00 p.m.]

15 [Upon resuming at 2.45 p.m.]

16 PRESIDING JUDGE: Good afternoon, learned counsel. We are  
17 resuming the session. Mr Bockarie.

18 MR BOCKARIE: Yes, Your Honour. Thank you.

19 PRESIDING JUDGE: You were very deep in thought. Maybe  
20 thinking of the first question to shoot at the witness. You may  
21 proceed, Mr Bockarie.

22 MR BOCKARIE: Thank you very much, Your Honour.

23 Q. Mr Nallo.

24 A. Yes, My Lord.

25 Q. When the Kamajors took over Boin February 1998 they were  
26 later chased out by the junta in that same February. Am I  
27 correct?

28 A. Please repeat your question.

29 PRESIDING JUDGE: Mr Bockarie, make it short. Shorten that

1 questi on.

2 MR BOCKARIE: Yes, Your Honour.

3 Q. The Kamajors took over Bo in February 1998; am I  
4 correct. ?

5 A. Friday?

6 Q. February. A day in February 1998.

7 A. Yes, My Lord.

8 PRESIDING JUDGE: They took over what, Bo?

9 MR BOCKARIE: Yes, Your Honour.

10 Q. In less than a week the juntas re-took the town from the  
11 Kamajors, that very month; isn't it?

12 A. Two days.

13 Q. Mr Witness, isn't it true that in that takeover the juntas  
14 di sgui sed themsel ves as Kamajors wearing the Kamajor ronko?

15 A. You are right. That was why I was assigned to kill Dr MB  
16 Sesay.

17 PRESIDING JUDGE: You say that was why you were assigned.

18 THE WITNESS: Yes, by the national coordinator for me to  
19 ki ll Dr MB Sesay, burn hi s house and loot all hi s property.

20 MR BOCKARIE:

21 Q. Mr Witness, isn't it correct that during this time it was  
22 di ffi cul t to tell the di fference between a junta and a Kamajor?

23 A. It was di ffi cul t.

24 Q. Thi s was fol lowed by a bi g confusi on wi thi n the town; am I  
25 correct?

26 A. Yes, My Lord.

27 Q. Thi s confusi on occurred in the mi dst of heavy fi ring in the  
28 town; am I correct?

29 A. Yes, My Lord.

1 Q. And in the course of this firing scores of civilians lost  
2 their life; isn't it?

3 A. Yes, My Lord.

4 JUDGE BOUTET: Did you say thousands?

5 MR BOCKARIE: Scores.

6 JUDGE BOUTET: Scores.

7 MR BOCKARIE:

8 Q. Mr Witness, did you know of the existence of the peace  
9 office in Bo within the Kamajor wing in 1998?

10 A. You do not have that one.

11 PRESIDING JUDGE: Mr Bockarie, are you saying the peace office  
12 within the Kamajor movement or what did you --

13 MR BOCKARIE: Was established in Bo in 1998.

14 PRESIDING JUDGE: Established by who, Mr Bockarie?

15 MR BOCKARIE:

16 Q. Established by the resident minister Foday Sesay?

17 A. We do not have a peace office. We had a war directorate  
18 office. That is how we used to call it.

19 PRESIDING JUDGE: War directorate?

20 THE WITNESS: Office in Bo.

21 MR BOCKARIE:

22 Q. Mr Witness, isn't it true that sometime in 2002 the office  
23 of director of war was replaced by the office of peace in Bo?

24 A. By then I was not there. The war director had wanted to  
25 use me like how Chief Hinga Norman had used me. Even if I was  
26 going to arrest you.

27 PRESIDING JUDGE: What did you say?

28 JUDGE THOMPSON: What was the answer?

29 THE WITNESS: I said at that time I have left the office

1 because the war director was giving me directives to carry that  
2 were detrimental to me, that was why I left the office.

3 JUDGE THOMPSON: What I was interested to know, your  
4 question was whether there was -- the war directorate office was  
5 replaced by a peace office.

6 MR BOCKARIE: Yes, Your Honour.

7 JUDGE THOMPSON: And the answers seems not to have come  
8 out.

9 JUDGE BOUTET: He then says then he was not there any more.

10 MR BOCKARIE: Sorry, this was in 2000.

11 JUDGE THOMPSON: So does he know or does he not know?

12 MR BOCKARIE: That is what I want to find out; do you know  
13 whether. That is my question.

14 Q. Do you know?

15 A. No, I had left.

16 JUDGE THOMPSON: That's my difficulty. I find it so difficult to  
17 factor these answers if they're not directly to the point.

18 MR BOCKARIE: Yes, My Lord. It is the question whether you  
19 knew.

20 JUDGE THOMPSON: Whether you knew or you did not know.

21 MR BOCKARIE: Or you did not know.

22 THE WITNESS: I heard about it later.

23 MR BOCKARIE: This was in 2000, My Lord. The year 2000.

24 JUDGE BOUTET: I thought you said 2002.

25 THE WITNESS: I heard about it but I don't know the date.

26 MR BOCKARIE: Yes, sorry. It is a mistake. The appropriate year  
27 is 2000.

28 JUDGE BOUTET: Your question should have been 2000.

29 MR BOCKARIE: 2000.

1 Q. I must apologise for that, Mr Witness. It is 2000, not  
2 2000 -- yes, sorry.

3 JUDGE THOMPSON: So the answer would be that I heard that  
4 there was a replacement of the war directorate office by the  
5 peace office but I wasn't there at the time.

6 MR BOCKARIE: Thank you.

7 JUDGE THOMPSON: Is that the answer?

8 THE WITNESS: Yes, My Lord.

9 JUDGE THOMPSON: Right. [Inaudible] intelligible answers.

10 MR BOCKARIE:

11 Q. Mr Nallo.

12 A. Yes, My Lord.

13 PRESIDING JUDGE: Do you have any time frame in 2002 for  
14 this peace office?

15 MR BOCKARIE: It is 2000, My Lord.

16 PRESIDING JUDGE: I'm sorry, 2000. Do you have the time  
17 frame? What month, do you know?

18 MR BOCKARIE: I don't know, My Lord. Sometime in 2000.

19 PRESIDING JUDGE: Okay.

20 Q. Mr Witness, did you know or did you ever come to know that  
21 that office was being headed by the second accused Moinina  
22 Fofana?

23 A. Yes, My Lord, I heard about it. We were living in the same  
24 town.

25 Q. Mr Witness, were you ever investigated by this office into  
26 allegations of looting undertaken by you in Tikonko?

27 A. No, My Lord.

28 PRESIDING JUDGE: That is by the peace office?

29 MR BOCKARIE: Yes, Your Honour.

1 PRESIDING JUDGE: Looting in Tikonko?

2 MR BOCKARIE: Yes, Your Honour.

3 PRESIDING JUDGE: Can you spell it, please.

4 MR BOCKARIE: Yes, Your Honour. T-I-K-O-N-K-O. Tikonko.

5 Q. Mr Witness, before the arrest of Moinina Fofana he was the  
6 chiefdom speaker of Nongoba Bullom Chiefdom; am I correct? Do  
7 you know that?

8 A. Yes, My Lord.

9 PRESIDING JUDGE: He was the speaker of what chiefdom?

10 MR BOCKARIE: Nongoba Bullom Chiefdom.

11 Q. Mr Witness, are you aware that Sorgia and Baoma Kpengeh  
12 are in Nongoba Bullom Chiefdom?

13 A. I didn't know the terrain much.

14 Q. Did you later come to know that Sorgia and Baoma Kpengeh  
15 are in Nongoba Bullom Chiefdom?

16 A. Yes, My Lord, I knew about Baoma Kpengeh.

17 PRESIDING JUDGE: Let's have the names. Let's have the correct  
18 spellings of those villages again, Mr Bockarie.

19 MR BOCKARIE: It is B-A-O-M-A K-P-E-N-G-E-H. Then Sorgia  
20 is S-O-R-G-I-A.

21 PRESIDING JUDGE: S-O-R-G.

22 MR BOCKARIE: I-A.

23 PRESIDING JUDGE: Nongoba Bullom.

24 MR BOCKARIE: N-O-N-G-O-B-A B-U-L-L-O-M.

25 PRESIDING JUDGE: Is it N or M?

26 MR BOCKARIE: N, Nathaniel.

27 Q. Mr Witness, in addition to Mr Moinina Fofana being chiefdom  
28 speaker of this chiefdom Do you also know that he hails from this  
29 chiefdom, Nongoba Bullom Chiefdom?



1 A. I don't know that.

2 Q. Mr Witness, I am putting it to you that at no time was Mr  
3 Fofana present when orders were given for the killing of rebel  
4 collaborators in Sorgia and Baoma Kpengeh?

5 A. He was there When the instructions were given, directives.  
6 Baoma Kpengeh -- in fact, he directed me. He told me.

7 Q. Mr Witness, as far as you are concerned the office of the  
8 director of war has to be manned by an educated person; isn't it?

9 PRESIDING JUDGE: I don't think this witness said so.

10 THE WITNESS: I don't know about that. I am not the  
11 national coordinator.

12 PRESIDING JUDGE: He did not say so.

13 MR BOCKARIE:

14 Q. Mr Witness, were you happy when Moimina Fofana was  
15 appointed as director of war?

16 A. I met him as director of war.

17 Q. Were you pleased with that appointment, taking into  
18 consideration that he was an illiterate?

19 A. I'm happy because he is our national coordinator -- that  
20 gave him the position.

21 Q. Mr Witness, isn't it true that you were vehemently opposed  
22 to his appointment on the grounds that he was an illiterate?

23 A. I was not there. How could I oppose his appointment?

24 Q. Thank you. Mr Witness, do you know the motto of the CDF?

25 A. We fight for democracy.

26 Q. And that democracy mentioned in the motto refers to the  
27 reinstatement of President Tejan Kabbah after he was toppled by  
28 the juntas; isn't it?

29 JUDGE THOMPSON: Would you restate the question. I can't hear. I

1 didn't hear. You lost it?

2 MR BOCKARIE: Yes, Your Honour.

3 JUDGE THOMPSON: I lost it too.

4 MR BOCKARIE:

5 Q. Mr Witness, you said the motto of the CDF is to fight for  
6 democracy; isn't it?

7 A. Yes, My Lord.

8 Q. Could I be correct to say that the democracy referred to in  
9 that motto means the reinstatement of President Ahmed Tejan  
10 Kabbah whose government had been toppled by the juntas?

11 A. Yes, My Lord.

12 Q. And in achieving this aim he opted for the arms  
13 intervention; isn't it?

14 A. Please repeat your question.

15 JUDGE BOUTET: You are talking to him especially as [overlapping]

16 MR BOCKARIE: No, I mean the CDF.

17 Q. I mean the CDF opted for achieving this goal of having  
18 President Kabbah reinstated back to power, the CDF opted for arms  
19 intervention; am I correct?

20 A. I joined the Kamajor -- I joined the society as a Kamajor  
21 fighter for the supernatural powers that the Kamajors had. So --

22 PRESIDING JUDGE: Wait, wait.

23 THE WITNESS: So that made us invulnerable to enemy  
24 bullets.

25 MR BOCKARIE:

26 Q. Thank you, Mr Witness, can you now answer my question,  
27 please. Mr Witness --

28 A. I didn't opt for arms and ammunitions.

29 Q. Not opt for arms and ammunition. Get the question correct,

1 you were going to help restore Tejan Kabbah back to power by the  
2 force of arms; by fighting?

3 A. Okay, by fighting, yeah.

4 Q. And this option, the use of fighting, was being endorsed by  
5 the president; are you aware?

6 A. I don't know about that. In fact, we didn't want to see  
7 him. Sometimes he abused us more, in fact.

8 Q. Mr Witness --

9 A. Yes, My Lord.

10 Q. -- you told this Court that you were relieved as director  
11 of operations south in 1988 by the then Vice President Joe Demby;  
12 correct, isn't it?

13 A. Yes, My Lord.

14 Q. Mr Witness --

15 A. Yes, My Lord.

16 Q. Do you know who Dr Demby's boss was at that time?

17 A. The president was the head of state so if you have a vice  
18 president they are all working hand in glove.

19 Q. Do you know who the boss was --

20 PRESIDING JUDGE: Who was the president at the time?

21 THE WITNESS: That's President Tejan Kabbah.

22 MR BOCKARIE:

23 Q. Mr Witness, how long have been in Freetown under the  
24 auspices of the Office of the Prosecutor?

25 A. I can't remember that.

26 Q. Mr Witness, will I be correct to say that it dates as far  
27 back as December 2002?

28 A. I don't know.

29 PRESIDING JUDGE: As far back as 26th?

1 MR BOCKARIE: November 2002.

2 Q. Mr Witness --

3 A. Yes, My Lord.

4 Q. -- please tell this Court for how many years have you lived  
5 in Freetown under the auspices of the Office of Prosecutor?

6 MR TAVENER: I object to that question. We have not been  
7 to this area for some time, but if my friend could distinguish  
8 between the support provided by the Court and support provided by  
9 the OTP. That is all I ask that he distinguish between the two  
10 section of the Court.

11 MR BOCKARIE: My Lord, I earlier on suggested a date and he said  
12 he --

13 JUDGE BOUTET: No, it is not the date. The objection has  
14 to do with your using under the control of the Office of the  
15 Prosecution. As you know, it is the -- Witness Protection Unit  
16 that is in effect --

17 MR BOCKARIE: [Overlapping speakers] sorry, I mean --

18 JUDGE BOUTET: So that is the objection.

19 MR BOCKARIE:

20 Q. Yes, I think it should be the Witness Protection Unit, Mr  
21 Witness. Sorry, Mr Tavener?

22 A. I don't know how many years. Contact them, they will tell  
23 you. They have documents, I don't have.

24 Q. Mr Witness --

25 A. Yes, My Lord.

26 Q. I am sure you are staying in Freetown with your family;  
27 aren't you?

28 A. Yes, My Lord. I can't live without my family.

29 JUDGE THOMPSON:

1 Q. Witness, answer the question directly, otherwise you get  
2 into [overlapping speakers]?

3 A. Yes, My Lord, it's true.

4 Q. We know that many people can't live without their families,  
5 it's a given, we will take judicial notice of that. But go ahead  
6 and answer the questions directly?

7 JUDGE THOMPSON: So he is staying in Freetown with his family?

8 MR BOCKARIE: Yes.

9 Q. Mr Witness --

10 A. Yes, My Lord.

11 Q. -- could I be correct to say that since November 2002 you  
12 have been unemployed?

13 A. I was a self-centred somebody. I was at [inaudible] I had  
14 power saw machines and people were working on them and I paid  
15 them. I used to saw boards.

16 JUDGE BOUTET: But the question, Mr Witness, is since  
17 November 2002.

18 THE WITNESS: I was self-employed.

19 JUDGE THOMPSON: The question was up to now, so he is a  
20 self-employed man is what he is saying.

21 MR BOCKARIE:

22 Q. You are still in your timber business up to date?

23 JUDGE THOMPSON: Yes, self-employed.

24 THE WITNESS: Of course.

25 JUDGE THOMPSON: He is self-employed.

26 THE WITNESS: I will still continue.

27 MR BOCKARIE: Thank you very much, Mr Witness.

28 THE WITNESS: Thank you, too.

29 MR BOCKARIE: That will be all for him, sir.

1 PRESIDING JUDGE: Thank you. Yes, Mr Margai. You may proceed,  
2 please.

3 MR MARGAI: My learned friend Williams will do the  
4 cross-examination, My Lords.

5 JUDGE BOUTET: Mr Williams, you are ready to proceed now?

6 MR WILLIAMS: No, My Lord. I wish to make an application,  
7 My Lords, for the deferment of the cross-examination and  
8 therefore defer, My Lord. My Lord, this was a --

9 PRESIDING JUDGE: Excuse me. You see we have to go on with  
10 these proceedings. Mr Margai, you were to do this, you know,  
11 yourself because we don't intend --

12 MR MARGAI: Sorry, My Lords.

13 PRESIDING JUDGE: You were, you are to do this personally.  
14 I thought that you could do it and proceed because, I mean, look  
15 at the time, what shall we be doing between now and the end of  
16 the day?

17 MR MARGAI: My Lords, I was going to take this witness, but  
18 in the light of certain developments I have decided to hand the  
19 cross-examination over to my colleague and it is most unfortunate  
20 that he is not quite prepared to cross-examine because, as Your  
21 Lordship's will appreciate, this witness is a very important  
22 witness and quite a lot has been said. And if justice were to be  
23 done to our client, then I think it is but only reasonable that  
24 time be given to Mr Williams because he would need to take  
25 instructions from the client, to have discussions with  
26 investigators and then for me to hold a conference with him as to  
27 the line I would have pursued. I mean, as Your Lordships have  
28 always said, the ends of justice is what we are all interested  
29 in.

1 PRESIDING JUDGE: We do agree. We do agree. Well, I earned  
2 counsel, Mr Margai --

3 MR MARGAI: Yes, My Lord.

4 PRESIDING JUDGE: The Chamber respects your position on  
5 this issue.

6 MR MARGAI: As My Lord pleases.

7 PRESIDING JUDGE: The Chamber respects your position on  
8 this issue. We would grant the adjournments that has been  
9 solicited by Mr Williams --

10 MR MARGAI: I am grateful, My Lord.

11 PRESIDING JUDGE: -- to enable him to receive the necessary  
12 briefings before he proceeds with the cross-examination of this  
13 witness. As you have rightfully said, we are all here to ensure  
14 that we foster the interests of justice and nothing but the  
15 interests of justice.

16 MR MARGAI: Yes, My Lord.

17 PRESIDING JUDGE: But we observe that very much unlike you  
18 Mr Williams was in these proceedings all along when this witness  
19 started his testimony.

20 MR MARGAI: Yes, My Lord.

21 PRESIDING JUDGE: I suppose this is a plus; he is not a  
22 complete stranger to these proceedings.

23 MR MARGAI: No, no, no, no.

24 PRESIDING JUDGE: And we hope that in granting this  
25 application we will have to couple this with a constraint that we  
26 start at 9.30 and see how it goes. If we can finish by one,  
27 fine.

28 MR MARGAI: I couldn't agree more with Your Lordship, but  
29 Your Lordship knows from Your Lordship's practice days that

1 cross-examination is an art and as long as a particular  
2 counsel --

3 PRESIDING JUDGE: Mr Margai, you know, we have been very,  
4 very tolerant.

5 MR MARGAI: I know that, My Lord.

6 PRESIDING JUDGE: I mean, the cross-examination has been so  
7 elastically elaborated that it has required a lot of patience on  
8 the part of this Chamber to put up with the length of  
9 cross-examination. We have no regrets for that because we don't  
10 want to be seen to be interfering with the rights of the Defence  
11 to put across in the most appropriate manner the defence of their  
12 of their clients.

13 MR MARGAI: That has been so, My Lord, in very exceptional  
14 circumstances.

15 PRESIDING JUDGE: Yes.

16 MR MARGAI: I mean, we have been very, very brief most of  
17 the time. We only exceed an hour where the circumstances of the  
18 case require that it be done in that direction.

19 PRESIDING JUDGE: In this case we are not tying you to one  
20 hour, Mr Margai. We are not tying Mr Williams to one hour, not  
21 even to two hours.

22 MR MARGAI: We may surprise Your Lordships.

23 PRESIDING JUDGE: Right, that's fine. It is a pleasant  
24 surprise that we need.

25 MR MARGAI: Thank you.

26 PRESIDING JUDGE: As a surprise packet for the end of the  
27 session.

28 MR MARGAI: Whilst not reneging in our duty.

29 PRESIDING JUDGE: Not at all, not at all. We don't --



1 MR MARGAI: -- in defending our clients to the best of our  
2 ability.

3 PRESIDING JUDGE: No, that would be also in reneging your  
4 duty to this Chamber to do justice to your client.

5 MR MARGAI: I appreciate that, My Lord.

6 PRESIDING JUDGE: That's right.

7 MR MARGAI: I appreciate that, My Lord.

8 PRESIDING JUDGE: That's right.

9 MR MARGAI: Thank you very much, we are grateful.

10 PRESIDING JUDGE: Yes, the Prosecution wanted say something  
11 also?

12 MR TAVENER: Very briefly, Your Honour. In response to my  
13 friend's application, the Prosecution would have no difficulty,  
14 should any problems arise, that Mr Williams can cross-examine on  
15 that very small issue which causes Mr Margai difficulties,  
16 releasing Mr Margai to cross-examine on the rest tomorrow  
17 morning.

18 PRESIDING JUDGE: No, no, no, it is settled, please.

19 MR TAVENER: All right. Thank you.

20 PRESIDING JUDGE: We should respect counsel's options --

21 MR TAVENER: Certainly.

22 PRESIDING JUDGE: -- when they express them. Yes.

23 MR TAVENER: As long as it is -- Sorry, I expect the  
24 cross-examination, just confirmation from my friends, that they  
25 will be finished by tomorrow.

26 PRESIDING JUDGE: No, no, no, never mind that. Never mind  
27 that. We will take care of that because I told counsel on both  
28 sides that tomorrow is the last day we are sitting here. So we  
29 are not coming back here on Tuesday.

1 MR TAVENER: On Wednesday.

2 PRESIDING JUDGE: On Wednesday, I am sorry, I'm sorry, on  
3 Wednesday.

4 MR WILLIAMS: My Lord, that would have been my humble  
5 application, My Lord. My Lord, the witness made over 350 pages  
6 of statement, My Lord.

7 PRESIDING JUDGE: Well, it is not our fault, you could have  
8 started today and ended, you know, tomorrow.

9 MR WILLIAMS: Yes, My Lord, but the circumstances that I  
10 have to -- these documents were disclosed about year ago, My  
11 Lord, but I mean from the moment they were disclosed it was  
12 apportioned to Mr Margai, so you have been taking very special  
13 attention or giving special attention to this particular witness.  
14 My Lord, I only heard it once.

15 PRESIDING JUDGE: I am sure you have been in the strategy  
16 all along as to the conduct of this defence. Mr Margai, being a  
17 very busy person, would not have isolated you from some principal  
18 aspects of the --

19 JUDGE THOMPSON: I think counsel, learned counsel, is being  
20 modest. We have seen you perform here. We know that you will be  
21 able to apply discriminating judgment to know what areas you need  
22 to or you want to cross-examine vigorously on, others you may not  
23 even need to cross-examine. It is just that we understand that  
24 this would be perhaps a sleepless night for you, but lawyers are  
25 used to that.

26 PRESIDING JUDGE: We all have it.

27 JUDGE THOMPSON: Lawyers are used to that, they show much  
28 resilience in these matters.

29 MR WILLIAMS: I am flattered, My Lord.

1           PRESIDING JUDGE: We thought you were taken by surprise  
2 with the other witness, but you did so well, didn't you? I am  
3 sure you will do very well tomorrow. Yes, Mr Tavener.

4           MR TAVENER: I am not meaning to annoy you. It was  
5 intended to call Mr Gbekie tomorrow, he has some difficulties.  
6 That is one of the investigators who is to be recalled. It might  
7 be better if he is recalled in the next session. His evidence is  
8 quite minor, it relates to taking a statement that is suitable --  
9 it was intended to call him tomorrow, but --

10          PRESIDING JUDGE: If he can be called during the next  
11 session.

12          MR TAVENER: Thank you. I thought I would just advise the  
13 Court.

14          PRESIDING JUDGE: Yes. So any other issues, Mr Jabbi?

15          MR JABBI: No.

16          PRESIDING JUDGE: No. Well, Mr Witness, you will have to  
17 come back again tomorrow.

18          THE WITNESS: Yes, My Lord, I'm ready.

19          PRESIDING JUDGE: Right. Well, learned counsel, the Chamber will  
20 rise for the day. The Court will rise.

21                 [Whereupon the hearing adjourned at 3.35 p.m., to be  
22 reconvened on Tuesday, the 15th day of March, 2005, at 9.30 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-014	2
CROSS-EXAMINED BY MR YILLAH	2
CROSS-EXAMINED BY MR BOCKARIE	50