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

WEDNESDAY, 01 FEBRUARY 2006
9.42 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Roza Salibekova Ms Anna Matas
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Joseph Kamara Mr Kevin Tavener Ms Lynn Hintz (intern)
For the Principal Defender:	Mr Lansana Dumbuya
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Alusine Sesay Ms Claire da Silva (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Michiel Pestman
For the accused Allieu Kondewa:	Mr Charles Margai Mr Ansu Lansana

[CDF01FEB06A - EKD]

Wednesday, 01 February 2006

[Open session]

[The accused present]

09:33:19 [Upon commencing at 9.42 a.m.]

PRESIDING JUDGE: Good morning. Good morning, Mr Witness.

THE WITNESS: Thanks, My Lord.

PRESIDING JUDGE: Dr Jabbi, are you ready to proceed to resume the examination-in-chief?

09:42:58 MR JABBI: Yes, My Lord.

PRESIDING JUDGE: Thank you. We are listening to you.

WITNESS: SAMUEL HINGA NORMAN [Continued]

EXAMINED BY MR JABBI: [Continued]

Q. Good morning, Mr Witness.

09:43:13 A. Thanks, My Lord.

Q. Yesterday we broke the relevant period into four phases, I think.

A. Yes, My Lord.

Q. We were trying to look at the issues before us in respect

09:43:29 of each period and the combatant parties. I believe we almost came to the close of the second phase and I just pose a few questions there before transiting to the third. The second phase being the period from April 1996 to 24 May to pre-1997.

A. Yes, My Lord.

09:44:24 Q. I want to remind you of a piece of evidence you gave on Friday before posing the next question. That evidence related to the soldiers adopting vigilantes for whom they provided military uniforms in the Koribundu area. Do you remember that piece of evidence?

A. I did, My Lord, but it was that it was an arrangement between them and the township people of Koribundu.
Q. That what?
A. That the township people provided young men with
09:45:27 arrangement between them and the soldiers.
Q. Thank you.
A. Who were trained as vigilantes, My Lord.
Q. Thank you. So the first question on that piece of evidence is which of our time frames adopted does it fall within? First,
09:45:51 second, third, fourth?
A. This was the time when I became regent chief in any time between October 1994 and 30 June 1995.
Q. 1995.
A. So it could well be in the first phase.
09:46:14 Q. In the first phase.
A. Yes, My Lord.
Q. Now, you say it was young men that in fact were trained as vigilantes and the military gave them, in that area, military uniforms?
09:46:42 A. Yes, My Lords.
Q. Do you know if those young men included people under the age of 15?
A. No, My Lords, I don't know.
Q. You do not know.
09:47:01 A. There were no requests for birth certificates.
Q. Do you know whether that group of young men certainly did not include children of 15 or below?
A. No, My Lord.
Q. You do not know the negative, either?

A. I don't know.
Q. I will come once more to the second phase.
A. Yes, My Lord.
Q. About which you have said that young men, some perhaps 15
09:48:41 or less, actively participated in the hostilities. Now, I want
to refer briefly to a piece of evidence given by a witness for
the Prosecution. This is prosecution witness number 32, TF2-156,
who testified on 25th November 2004. Reading from my own notes
of that evidence, cross-examination on behalf of the third
09:50:28 accused of that witness, I recorded the following. He is talking
about the participation of young people at some phase of
operation during the junta regime. It slightly falls outside our
second phase but it is for analogical purposes I am bringing it
to your attention. I read from my own notes. "Youths resisted
09:51:10 juntas when the latter were in control in Bo, and it lasted
throughout the junta period. They were around the villages."
Sorry. "The youths were based in Bo but Kamajors were outside of
Bo during the junta period. They were around the villages. The
youths were also referred to as vigilantes. They didn't have
09:52:08 guns, but were using sticks, cutlasses. They dressed in ordinary
civilian attire. They were many. They resisted the juntas
because juntas were breaking shops and looting. RUF/AFRC would
kill any such youths they caught. They were not in agreement.
That was because juntas burnt houses, harmed people and stole
09:53:19 from the people. I did not see vigilantes do bad things to
people. I returned to Bo from Gbogboma because I thought ECOMOG
had taken over Bo, but no, the soldiers were still in Bo."
Now, the youths in question here --
JUDGE ITOE: Dr Jabbi, do you want us to take your personal

notes as an authentic record of the proceedings, or was it not possible for you to lay your hands on the transcripts of these proceedings, as far as that part is concerned?

MR JABBI: It wasn't easy for me, My Lord. I endeavoured to, but --

09:54:37

PRESIDING JUDGE: Why? It is all available on the web site.

MR JABBI: My Lord, practical, technical difficulties of mine prevented me from getting the transcript and I don't want to apply for a postponement of the cross-examination, especially of this phase.

09:55:07

PRESIDING JUDGE: But how are we to assess that if what you put to the witness now is not what came out in evidence but your interpretation of it? Presumably you are putting this to the witness so you ask the witness to respond to this or comment on it and if what you put to him is not the evidence, how are we to assess that?

09:55:33

MR JABBI: My Lord, that is why I have specified the piece of evidence as clearly as possible, I hope, by referring to the witness in question, to the day he testified, and to the portion of his evidence.

09:55:53

PRESIDING JUDGE: We understand that, Dr Jabbi. We are not disputing this. The question is you put this factual scenario to the witness, you ask the witness to comment on that. If the facts you are giving him is not what is in evidence and the witness has commented on what you give him but not on the evidence that was adduced, what is the value of his evidence? How are we to assess that?

09:56:14

JUDGE THOMPSON: I don't think it is a complicated point.

I would think that -- and this is -- it would be unfair to unduly burden the Prosecution with the task of having to verify the authenticity of your own rendition of it. It would seem that the compromise would be that if you could conveniently skip this particular area and revisit it, then we probably would make some progress. It would certainly be irregular for us to accept your own rendition of it when even among the three judges on the Bench we are not always united as to what the proper evidence is. We all rely on the transcript. So it will be difficult for us to make an exception here.

09:56:47

09:57:19

MR JABBI: Thank you very much, My Lords.

JUDGE THOMPSON: And I suggest that that would be the compromise.

MR JABBI: Thank you very much, My Lords.

09:57:31

PRESIDING JUDGE: And I would suggest as well, Dr Jabbi, that contrary to your statement that this is not so complicated. You not talking here of the totality of the evidence for that particular witness. That may be, I don't know, ten pages. You are focusing on an area of vigilante, as such, and that witness's

09:57:46

evidence was more than just vigilante. Anyhow, the suggestion is let's move ahead and if need be, we will allow you to come back to that with the proper documentation in hand and reference. If you want to.

MR JABBI: My Lord, I cannot do otherwise in the

09:58:05

circumstances.

PRESIDING JUDGE: Thank you.

MR KAMARA: Your Honours, if we may be heard on this matter. We are grateful to the Bench. The Prosecution did speak to Dr Jabbi about this issue yesterday and we did raise such

concerns. We were hoping that it might have improved in that direction in the sense it was suggested to Dr Jabbi that if even they forwarded the references to the Prosecution of the areas he intends to cover, that is if they are extensive, we would have done our homework and then come prepared. But again this morning he is following the same trend as yesterday and previously and we have been very much concerned about that. We are grateful, Your Honours.

PRESIDING JUDGE: Thank you.

MR JABBI:

Q. Now, Mr Witness, just before we leave this second phase, would you want to tell the Court the forms of participation by young men of 15 or less in the hostilities in that phase, as you noted?

A. My Lords, this is what I would like to say regarding the active participation of young people in the conflict at that phase. That young people indeed participated, but as I had said yesterday, it was in assistance to their parents and guardians, who were either civilians or conditional civilians, that is the hunters. Those who the military requested for also participated under the military, My Lords.

JUDGE ITOE: Excuse me. When you say those who were requested -- those who the military requested also participated under the military. When you say "those" --

THE WITNESS: I'm referring to the young people, My Lords.

JUDGE ITOE: The young people?

THE WITNESS: Yes.

MR JABBI:

Q. So let us take those young people who participated in that

way on the side of the military.
A. Yes, My Lords.
Q. What particular acts or forms of acts by them are you calling participation?
10:01:57 A. Active participation, My Lords, meaning I saw them with conventional weapons, and also in uniform, My Lords.
Q. During the second phase?
A. Yes, My Lords.
Q. Apart from their appearing in uniforms and carrying
10:02:57 conventional weapons, did you observe any other form of activity among that particular group?
A. My Lords, I would that you are specific.
Q. I am specific in excluding two examples you have already given. That is to say, they did appear in uniforms and they
10:03:32 carried conventional weapons. You have given those as instances of active participation from your own observation. So my question is: Apart from those two forms of active participation, did you observe any other form of active participation?
A. Yes, My Lords.
10:04:00 Q. Can you name it?
A. I saw them being deployed alongside soldiers to battle areas, My Lords.
Q. So that is at least a third form of their active participation.
10:04:50 A. I wouldn't say third. I said I saw them again being deployed. So I'm not saying third, My Lord.
Q. Okay. That is yet another.
A. I would prefer that, My Lord.
Q. Did your observation include yet another mode of active

participation of that group in that phase?
A. There were -- I saw them also being used wherever military deployment was. That they were with them in the township --
Q. Doing what?
10:05:38 A. -- and participating in, at that time, military activities. Meaning guarding the township or protecting the township, alongside soldiers.
Q. So that is yet another mode of active participation?
A. Yes, My Lords.
10:06:16 Q. So if we make take the group referred to as civilians and hunters. We are leaving the military for the moment.
A. Yes, My Lord.
Q. We take this group of hunters and civilians, of whom you have said in evidence yesterday that --
10:06:47 JUDGE THOMPSON: Are we taking them as a composite group?
MR JABBI: My Lord, first of all, just to delimit the broad area there, then I will pose individual questions to each section.
JUDGE THOMPSON: Thank you.
10:07:04 MR JABBI: Thank you, My Lord.
Q. So taking this group, hunters and vigilantes -- sorry, hunters and civilians, of whom you said in evidence yesterday that the children and wards of parents and guardians joined in assistance to them when there were attacks on them. So let us, 10:07:50 in that group, take the civilians, pure and simple. What modes of participation by the children and/or wards did you observe in their rendering assistance to their parents and guardians? The modes of participation, just as we have outlined in the other area.

A. Yes, My Lords.
Q. Yes?
A. These were people who were not armed with weapons of the sort that the soldiers carried.
10:08:50 Q. Watch your pace, please.
A. Yes, My Lords. And so whenever --
JUDGE ITOE: You're referring to not carrying conventional weapons?
THE WITNESS: Not carrying conventional weapons and not
10:09:03 carrying guns in respect of purely civilians, not mingled with hunters. Whenever they were attacked, any type of implement that they laid their hands on in the form of sticks, stones, or whatever that were not guns that they did -- they had in their hands, they used to protect themselves equally like their
10:09:50 guardians. Those who were able enough to lift their hands in defence, My Lords.
MR JABBI:
Q. So they would use any local material they could lay hands on in their own defence; is that what you're saying?
10:10:31 A. I would say anything defensive, local or otherwise, excepting --
Q. Guns?
A. Guns.
Q. And conventional weapons?
10:10:39 A. Yes, My Lords.
Q. Thank you. Now we shift to the hunters themselves. The question is: With respect to the young people, 15 or under, who joined them in their resistance to attacks, what modes of participation by those young people towards the hunters did you

observe in the second phase that we are dealing with?
A. I saw the young people supporting with carrying needful requirements. Whether those were food, or gun cartridges, I wouldn't tell. But I saw them with loads on their heads, taking
10:12:24 to the bush together with their guardian hunters. Some I saw having sticks, things like staves or mortar pestle in their hands.
Q. Mortar?
A. Pestle. It's in the use our woman who used to pound rice
10:12:57 in the mortar.
Q. P-E-S-T-L-E?
A. Well, pestle, yes, that's it.
Q. I want to be sure that --
A. Not pistol, but mortar pestle.
10:13:14 Q. Not P-I-S-T-O-L?
A. No, My Lord. Mortar pestle or staves or sticks.
Q. So there as well you have already described two modes of participation. One carrying needful supplies and, the other, objects of defensive nature.
10:13:47 A. Yes, My Lord.
Q. Did you observe any other mode of activity among that group?
A. Of course they were often assisting in giving information about the occupation or non-occupation of their villages and
10:14:35 towns, so that their parents or guardians can return or stay in their hideouts.
Q. So their own mode of intelligence servicing; is that so?
A. [Indiscernible].
Q. You gave some name to such hideouts before. What name was

that, hideouts of civilians?
A. It's a Mende name. It could be called differently in other dialects in Sierra Leone, but it's "sorkoihun" I called it, My Lords.
10:15:44 Q. You have named three modes of activity with this group and the hunters. Did you observe any direct fighting by the young people in this group?
A. At this time, in this stage two that we are talking about, no, My Lord.
10:16:13 Q. No observation of direct fighting. Talking about yourself, for that phase what would you characterise your own role or situation to have been in respect of those hostilities?
A. From 1991 to 1994, before I became regent chief in October 1994 --
10:17:27 Q. Please watch your pace.
A. From 1991 to the time I became regent chief in 1994 I had no role. I only observed.
JUDGE ITOE: The month in 1994, please?
THE WITNESS: October, My Lords.
10:18:06 JUDGE THOMPSON: You said you had no role in the hostilities?
THE WITNESS: No role, My Lord, at that time. Only observed.
MR JABBI:
10:18:43 Q. That was up to 1994, October?
A. October 1994, My Lord.
Q. From October 1994 to April 1996?
A. From October 1994 to April 1996 I had become --
JUDGE ITOE: What is this date in April? Isn't it the 13th

or the 30th? You have been referring to this date. Anyway, go ahead, go ahead. We have it in evidence somewhere. That's okay.

THE WITNESS: April 1994, that was the --

MR JABBI: 1996.

10:19:29 THE WITNESS: -- period of the non-military government, April 1996 we are talking about. From April 1994 -- from October 1994 to the time of the military government handing over to the civilian government, I was regent chief responsible for the administration of the chiefdom of Jiama Bongor, and also

10:20:12 responsible to the protection of the people in that chiefdom. So I became a participant in activities of defence and protection. Also of administration of the chiefdom of Jiama Bongor, My Lords.

MR JABBI:

Q. In that capacity did you have anything to do with civilian

10:21:21 resistance and hunters -- or let's begin with civilian resistance.

A. Yes, My Lord.

Q. With civilian resistance?

A. Yes, My Lord.

10:21:50 Q. Yes, what mode?

A. I met with the chiefdom authorities to make arrangement for the defence of the various villages and towns by requesting for able-bodied young people for the purposes of such defensive arrangements, My Lords.

10:23:03 Q. Among such young people, did you enlist children under the age of 15?

A. No, My Lord, there was no cause for enlistment.

Q. Did you also use -- in that capacity, did you use children under the age of 15 and under to participate actively in the

hostilities?
A. I did not, My Lord.
Q. Did those young people you tried to obtain for helping the civilians in the resistance, did those young people include
10:24:50 children of 15 or under?
A. You, meaning the chiefdom administration.
Q. Yes, indeed.
A. And these were for various villages and towns. Whether they were used or not, I wouldn't know.
10:25:06 Q. Your pace, please. Yes, can you go over that slowly.
A. You, meaning chiefdom administration, for the various villages and towns. And this, My Lord, I will say: Towns in Jiama Bongor were 96 villages, 96 villages scattered all over. And they were to assist in defending those villages.
10:25:37 JUDGE THOMPSON: The question was really whether the request for able-bodied young people --
THE WITNESS: That's what I said.
JUDGE THOMPSON: -- included children under the age of 15 or under. Wasn't that the --
10:25:54 MR JABBI: Yes, My Lord, precisely.
JUDGE THOMPSON: Whether that category included that. Because the question of whether they were used is a different dimension. I thought that was the question and I don't know whether the witness --
10:26:06 THE WITNESS: There was no request for children. There was request for able-bodied young people, not old men.
MR JABBI:
Q. Notwithstanding, according to you, that there was no request for children to be part of this able-bodied group of

young people, to your knowledge did the group of able-bodied men, however, include --

A. No, My Lord.

Q. -- any children?

10:27:16 A. No children.

Q. If I may complete the question, please.

A. I am pre-emptive.

Q. Any children of 15 or less?

A. No, My Lord, not to my knowledge.

10:27:42 Q. Thank you very much. With respect to the hunter group, did the able-bodied young men who assisted the hunters include any children of 15 or less?

A. At the time we are talking about, there was no difference between -- there was civilians who were to defend their villages

10:28:09 and the hunters. They are one and the same people.

Q. Thank you. If we may move to a completely different group, but still in that same phase of time.

A. Yes, My Lords.

[CDF01FEB06B - CR]

10:28:37 JUDGE THOMPSON: This last question was that there was a merger then.

MR JABBI: The answer was that they were operating as one at that stage.

JUDGE THOMPSON: In other words, would this mean a merger?

10:28:50 THE WITNESS: No, not a merger, My Lord. There was no difference at that time. They were the same village people --

JUDGE THOMPSON: Acting in --

THE WITNESS: In consonant, or in concert.

JUDGE THOMPSON: In concert, yes.

MR JABBI: The idea of a merger would presuppose that there was a difference before.

JUDGE THOMPSON: Yes, but of course --

MR JABBI: He was trying to say that there was no distinction at that stage.

JUDGE THOMPSON: At an earlier stage there was some kind of slight distinction. There must have been some overlap at some point.

MR JABBI: The phase we are dealing with, My Lord --

JUDGE THOMPSON: There was not.

MR JABBI: That is what he is saying.

JUDGE THOMPSON: Right. Okay, thanks.

MR JABBI:

Q. So if we may move now to a completely different group.

A. Yes, My Lord.

Q. And that is the groups of rebels or the attackers of those various communities.

A. Yes, My Lord.

Q. During the period we are talking about, roughly up to March/April 1996 -- during that period are you aware of the use of children of 15 or less in the hostilities by the rebels?

A. Yes, My Lord.

JUDGE ITOE: When you say children, you mean children under the age of 15?

THE WITNESS: Yes.

MR JABBI: 15 or less, My Lord.

PRESIDING JUDGE: On this issue, I wonder why you keep asking the question of 15 and under when the charge has to do with under the age of 15. So I don't know if you're intending to

make a difference here or not, because the charge clearly reads, "under the age of 15". I think it is very plain language, as under the age of 15 would not include 15.

MR JABBI: Yes, My Lord.

10:31:11 PRESIDING JUDGE: But you keep asking the question "15 and under". Again, it is a question of clarity and property understanding. Because maybe the witness is misled, because when he answers, he answers to 15 and under rather than under 15. Do you follow me?

10:31:26 MR JABBI: Yes. My Lord, thank you very much for that clarification.

Q. So we are talking about young men, children under the age of 15. Did you observe the participation in the hostilities on the rebel side of children under the age of 15?

10:32:04 A. My Lords --

JUDGE THOMPSON: The first question was "aware". Have you move away from that?

MR JABBI: I thought he had answered that. Okay, I will go back to that with the clarification by --

10:32:16 JUDGE THOMPSON: Yes, because then the learned Presiding Judge interjected.

MR JABBI: Yes, My Lord.

Q. So we'll go back to the first question on this area.

A. Yes, My Lord.

10:32:35 Q. Were you, or did you observe the participation in hostilities on the rebel side of children under of age of 15?

A. I saw young people who, by my estimation, could be younger than 15. And whenever we were attacked, we also lost mostly young boys that were not even 10. We did not see their dead

bodies. Later, on observation --

Q. Pace, please. Pace, please.

A. Later, on observation --

JUDGE ITOE: Whenever you were attacked, please --

10:33:38 THE WITNESS: Whenever we were attacked, My Lord, by the rebels we lost our very young boys, sometimes below even 10, and by observation and in rear action later, some of them returned, and some of them were caught in other actions and were brought to us. So we developed --

10:34:29 MR JABBI:

Q. Sorry to --

JUDGE THOMPSON: That sounds like a convoluted answer to a simple question. Probably you need to reformulate it, because I thought we were going off tangent here. You are now precising

10:34:46 your question, but apparently the witness is expanding the scope of your question. I would suggest that you reformulate it and ask it again, otherwise, as I see, we get into a convoluted situation.

MR JABBI: My Lord, I will take it from the first

10:35:13 affirmative answer to the narrow question where he said yes, he observed young people below the age of 15 in the rebel outfit. So from that --

JUDGE THOMPSON: The complication came when he said "we lost". I think that was where he complicated the picture.

10:35:37 MR JABBI: Yes, My Lord.

Q. Now how did you come to know that children under the age of 15 were used in the rebel outfit in those hostilities?

A. My Lord, I'm sure I did not use the word "rebel outfit". I used the word we saw -- I saw young people who I considered to be

below 15 in the group of attackers.
Q. That is even the original attackers; not so?
A. I don't quite understand "original attackers", My Lord.
PRESIDING JUDGE: I don't either. I was going to ask what you meant by that. When you ask about the rebels, are we talking now of a different group?
MR JABBI: No, My Lord. Well, they were over a phase, that is why I used that terminology, but I will pose another question.
THE WITNESS: Thank you, My Lords.
MR JABBI:
Q. Now do you have any other evidence of people under the age of 15 having been used by the rebels?
A. Beyond that stage, yes, My Lord.
Q. Yes. Can you explain?
A. These, I believe, were the ones I spoke about yesterday, My Lord. That I requested government to have them transferred to the care of authentic authorities.
PRESIDING JUDGE: So we're talking here about a different period of time?
THE WITNESS: Yes, that's what I said.
PRESIDING JUDGE: Are you moving to a different period of time, Dr Jabbi?
MR JABBI: Not yet.
PRESIDING JUDGE: We're still in the period up to 1996?
MR JABBI: Yes, My Lord.
Q. Indeed, you spoke about such an exercise yesterday, but obviously of a much, much later period.
A. Yes.
Q. So the question at this stage is: Do you have any other

evidence -- apart from seeing young people among the rebels who came to attack, do you have any other evidence of young people below 15 years of age having been used by the rebels in the attacks?

10:39:05 A. I only have evidence when I saw them in the attacks. I was not with them.

Q. As a result of rebel attacks on your communities, the chiefdom communities -- as a result of rebel attacks on those communities, did your own communities lose or miss any children

10:40:09 under 15 years?

A. Yes, My Lord. Reports were made to me of children of Jiama Bongor being carried away, resulting from various attacks, My Lords.

Q. Did you ever recover any of those children?

10:41:07 A. No report was made to me whether those children who had been carried away were ever recovered. There was no follow-up, especially as all of us dispersed.

Q. Were any such children ever seen afterwards?

A. If I saw them, I wouldn't know. These were children

10:41:52 scattered all over the chiefdom and only reports were made.

Q. Were any reports made of children who had been taken away being seen later on?

A. No such reports, My Lord.

JUDGE ITOE: What about deaths? Were any deaths reported

10:42:33 of these children?

THE WITNESS: Those whose bodies were seen, of course, there were reports of deaths resulting from attacks from various villages, including children, very young ones, also.

MR JABBI:

Q. Now, let us use the group called rebels to take us in the next phase of time.
A. Yes, My Lords.
Q. That is to say, the period roughly between April 1996 and 24th May 1997.
A. Yes, My Lord.
Q. During that period, were you aware of any children under the age of 15 being used in active hostilities on the side of the rebels?
A. Yes, My Lord.
Q. Can you explain further?
A. Somewhere some of these children were captured and brought to safety and were kept in some part of Bo.
JUDGE ITOE: Captured by who?
THE WITNESS: Captured by the hunters at first, then later hunters and ECOMOG.
MR JABBI:
Q. That is in the period April 1996 to May 24 --
A. No, the ECOMOG had not come here at that time. It was the military and the hunters who were operating together.
Q. So, you are saying that during this period, the military and the hunters did capture children under the age of 15 from the rebel --
A. Yes, My Lord.
Q. -- groups.
A. Yes.
Q. So what happened to them after their capture?
A. They were brought to a certain location far away from Kailahun area down to Bo.

Q. How soon after their capture were they brought to the point in Bo? How soon after their capture?
A. I don't know, My Lord.
Q. Do you know if, however, the captured children would be
10:47:42 with the soldiers or the hunters for a while before they would arrive at the Bo point?
A. I know this was a battle terrain. It could take a long time or a short time, so I don't know.
Q. So what you are saying, in fact, is that they were not
10:48:09 immediately brought to the Bo point after their capture, because they were in a war situation?
A. It would be unsafe to say immediately or not immediately. I just did not know how long it took.
Q. Now, do you have any specific example of such captured
10:48:37 children? Do you have any specific example?
A. Those children, when government became reinstated, were eventually there and they were taken over by requisite authorities. So these are areas of specific examples of children like that.
10:49:18 Q. The question was intended to see if, for instance, you have any particular said named person who was one of the such captured people?
A. Oh, yes, My Lord. I myself had some of them that I took and I made arrangement and sent them to school. One of them was
10:49:50 brought here as a witness, but under pseudonym. The other remained, and I believe he is still going to school in Pujehun. Another one that I sent to the seminary in Bo has just returned to Freetown and is living here, waiting for my arrangement to send him back.

Q. Now, Mr Witness, you have just mentioned somebody whom you say was one of such children, and, according to you, he had become a witness here by pseudonym. I wish to send you a piece of paper so you can write down the name of that person.
10:51:11 A. Yes, My Lord.
Q. We'll repeat the warning yesterday that we should avoid naming witnesses who have appeared with protected measures.
A. Yes, My Lord. Thank you.
MR JABBI: My Lords, before I pose the next questions on
10:53:01 this person whose name has been written by the witness, may I tender it so it is marked and I can refer to the exhibit number in asking the questions?
PRESIDING JUDGE: Very well. Any comment?
JUDGE ITOE: Is the pseudonym there? Do you per chance
10:53:17 have the pseudonym? TF whatever, whatever? You don't have it?
MR JABBI: There is nothing like that. It is just the name itself.
JUDGE ITOE: You yourself, do you, perchance, have that?
MR JABBI: I do not, My Lord.
10:53:39 JUDGE ITOE: You don't?
MR JABBI: No, My Lord.
PRESIDING JUDGE: So this is the name that the witness said of the person that you did send to school and who came here as a witness for the Prosecution, a young person?
10:53:52 THE WITNESS: Yes, My Lord. I had a number of them that I took charge of.
MR JABBI:
Q. No, this particular one whose name you have written.
A. Yes.

PRESIDING JUDGE: This is the one that came to testify for the Prosecution?

THE WITNESS: Yes, My Lord.

MR TAVENER: I don't have that person as a witness, unless there's more to his name than the one that is listed there.

10:54:10

MR JABBI: If I may just ask one or to questions to clarify that.

Q. Mr Witness, do you, perchance, happen to have been present yourself in the Chamber when this witness gave evidence?

10:54:31

PRESIDING JUDGE: You mean in the Court?

MR JABBI: In the Court, My Lord.

THE WITNESS: Yes, My Lord, I personally cross-examined him.

PRESIDING JUDGE: We do recall, we do recall.

10:54:41

JUDGE THOMPSON: We recall that clearly.

THE WITNESS: Yes.

JUDGE ITOE: Very clearly.

PRESIDING JUDGE: But what appears to be happening now, the Prosecution is saying that, in spite of that, the name that is

10:54:50

written down does not appear to coincide with the name that they have. So there might be a certain difference, whatever it may be I don't know.

JUDGE ITOE: That is why I was asking for the pseudonym.

THE WITNESS: I didn't know the pseudonym.

10:55:02

JUDGE ITOE: I know, you are not expected to.

THE WITNESS: Thank you, My Lords.

MR MARGAI: My Lords, perhaps if the witness could assist us with the month, that might give us --

PRESIDING JUDGE: The month that the witness testified.

MR MARGAI: Indeed.

PRESIDING JUDGE: If the witness cannot, I think the Prosecution can, because they know the order of the calling of their witnesses. Mr Prosecutor?

10:55:58 MR TAVENER: The person who I believe they are referring to, though it is not under that name, testified in the second session and his evidence started at around page 65 of the transcript in the second session. I will just try to find the page. 14th September.

10:56:26 PRESIDING JUDGE: 2004.

MR JABBI: What Prosecution number? Prosecution witness number?

MR TAVENER: That's what I'm waiting for you to tell me.

JUDGE ITOE: But the Prosecution should have the number at

10:56:43 least, because he was a witness. You should know the order in which you called him.

MR TAVENER: I do know the number, Your Honour. What I'm trying to confirm is the person we're speaking about, the name I have seen is not the name I have of the witness whom I believe we

10:56:58 are talking about. I want to ensure we're talking about the right person, because that name is different from the name I have.

MR JABBI: My Lords, perhaps if we can also know if Prosecution had more than one child witness or child soldier

10:57:21 witness whilst this witness was still coming to Court?

PRESIDING JUDGE: Yes, but there was one specific witness that I clearly recall the witness knew of, cross-examined him, and asked him, "Do you remember me?"

THE WITNESS: "I sent you to school."

PRESIDING JUDGE: "I sent you to school." So there were not two witnesses like that, there was one.

THE WITNESS: Yes, My Lord.

MR TAVENER: That's correct. I think the words were, "I'm glad to see you."

10:57:52

THE WITNESS: Yes.

MR TAVENER: All I want to do is confirm that we are talking about -- the name written is the not the name I have. I can give a TF number, but the witness may be speaking about someone else.

10:58:02

MR JABBI: My Lord --

MR MARGAI: Sorry, if I could be of assistance here. I think we are talking of TF2-140.

PRESIDING JUDGE: I'm sorry, Mr Margai, you just mentioned?

10:58:25

MR MARGAI: I'm sure it's TF2-140, but there is a slight difference in the first name. The second name is in order, but the first name has a variation.

MR JABBI: Also, My Lord, maybe if the Prosecution could be kind enough to write down the Prosecution witness number, TF number and the name of the witness they are referring to and show it to the first accused. It might help a lot if that's the person he is talking about.

10:58:46

JUDGE THOMPSON: That's your job.

MR JABBI: Yes, indeed, My Lord.

JUDGE THOMPSON: That's not the Prosecution's job.

10:58:58

MR JABBI: Let me not say much about that.

JUDGE THOMPSON: Well, I don't intend to enter into a debate on that.

PRESIDING JUDGE: Mr Jabbi, we are getting close to the

normal time where we break for the morning. We are going to break now for 15 minutes. If you can, please discuss with your colleague from the Prosecution and try to sort out the problem so we can proceed when we come back.

10:59:53 [Break taken at 11.00 a.m.]

[CDF01FEB06C-SV]

[Upon resuming at 11.25 a.m.]

PRESIDING JUDGE: Dr Jabbi, have you been able to clarify the issue about this particular witness.

11:28:22 MR JABBI: Yes, My Lord. We now have the pages of the transcript referring to the cross-examination of him by the first accused.

PRESIDING JUDGE: And what's the pseudonym of that witness? Was it TF2-140?

11:28:52 MR JABBI: 140, My Lord.

PRESIDING JUDGE: So, you had given to the witness a piece of paper asking him to write a name on it --

MR JABBI: Yes, My Lord.

PRESIDING JUDGE: -- and that's where we were. So there

11:29:09 was some dispute as to whether or not it was the same as the witness with the pseudonym TF2-140. Has that been clarified now?

MR JABBI: Yes, My Lord. The incident in the cross-examination that the witness referred to concerns TF2-140 and the relevant evidence was on 14th September 2004 and the

11:29:42 pages of the transcript covering that cross-examination, page 103 to 106.

PRESIDING JUDGE: So this is the cross-examination by the witness himself?

MR JABBI: Yes, My Lord.

PRESIDING JUDGE: Mr Norman doing the cross-examination at the time.

MR JABBI: Yes, My Lord.

MR TAVENER: If I might just mention, the name on the paper is still incorrect. I don't know whether that intends to be clarified -- or the paper shouldn't be tendered until the correct name is there. I'm happy if the correct name is put to the witness and see if he agrees with that name.

MR JABBI: I will do exactly that now.

11:30:30 PRESIDING JUDGE: Very well.

MR JABBI:

Q. Now, Mr Witness, you wrote down a name on a piece of paper saying that he was a witness here and you cross-examined him and that information has been checked out except that there is a

11:31:14 slight difference in the name. I am sending the piece of paper back to you with the name of the witness as recorded in the transcript corresponding exactly with your cross-examination of him and please look at it.

A. Thank you, My Lord.

11:32:02 Q. Is that the same person?

A. The same surname and the name I used to know him for was the same person under the same name that is written here who was brought here as a witness, My Lord.

Q. The second version?

11:32:23 A. The second name. The first name still stands because that was what I knew him for. This name was a letter that came after that name between the surname and the name I have used.

Q. I see. So you are in fact suggesting that he carries the two names which now appear on the paper as first names?

A. Yes, My Lord.
Q. Thank you.
PRESIDING JUDGE: So, are you tendering that as an exhibit, Dr Jabbi?
11:33:06 MR JABBI: Yes, My Lord.
PRESIDING JUDGE: So we were at that stage then, Mr Prosecutor, other than the comment you've made which has been modified now, you have no objection?
MR TAVENER: That's correct, Your Honour, thank you.
11:33:19 PRESIDING JUDGE: Mr Margai and Mr Pestman, any comment? Mr Margai?
MR MARGAI: No, My Lord.
PRESIDING JUDGE: Thank you.
MR JABBI: My Lord, may I now tender it, and if I may --
11:33:34 PRESIDING JUDGE: I think we are now at 122. Yes, this will be marked as Exhibit 122.
MR JABBI: Yes, My Lord.
PRESIDING JUDGE: So you have the cross-reference on this document that this is TF2-140?
11:34:24 MR JABBI: Yes, My Lord, and I have headed it "name of former child witness referred to by first accused in testimony of 1st February 2006" so that there is no doubt.
PRESIDING JUDGE: Thank you.
[Exhibit No. 122 was admitted]
11:35:03 MR JABBI:
Q. Now, Mr Witness, coming back to our series of questions, what did you want to tell the Court about this person whose name and particulars have now been clarified?
A. I'm watching the pens. Yes, My Lord, he is one of those

children who I am caring for and who I took to my own home to discourage them, as children, not to pursue war or participate in war.

Q. Just watch the pace and the pens, please.

11:36:05 A. The others --

Q. Let's stay with this one for the moment.

A. Okay, My Lord.

Q. Now, how did you come upon this particular child?

A. This child was among a lot of children in an institution

11:36:45 known as CAW, C-A-W, Children Affected with War.

Q. Pace, please. Pace, please.

A. They were being kept in Bo Town.

Q. When did you first come across them?

A. I learnt about them before the coup.

11:37:39 Q. Before the coup of May '97?

A. Of May 25, 1997, but I did not immediately have any connection with them. Some time afterwards I paid them a visit.

Q. Can you say the rough time when that was?

A. This was soon before the coup. It was about May before the

11:38:38 coup.

Q. Earlier in May?

A. Earlier in May. Soon after that, the coup took place. When --

Q. Sorry, please. Did you assume responsibility for him

11:39:04 before the coup took place?

A. No, My Lord, not at all.

PRESIDING JUDGE: So you're describing here, Mr Norman, the CAW that you visited at the time?

THE WITNESS: Yes.

PRESIDING JUDGE: And do you mean to say that the witness TF2 or the exhibit -- the one whose name is on the paper, as such, you saw him at that time?

THE WITNESS: He was among them, My Lord.

11:39:27 PRESIDING JUDGE: Okay.

THE WITNESS: And two others whom I know are still in my care were all there, but I had not indicated to them that I would like to be responsible for them. So when the coup took place and later, after His Excellency's reinstatement, I visited Bo and

11:40:16 went straight to the CAW compound. They were not there.

MR JABBI:

Q. How many of them are we talking about?

A. Anything about 30 or so.

Q. You mean all the children [overlapping speakers]

11:40:38 A. All the children that had been --

Q. Were not there?

A. Yes, they were not there at all.

Q. Thank you.

A. I was told that they had dispersed. Sometime after that I

11:41:03 got information that the children had started returning to the CAW home. So around June 1998 I went on a visit to Bo and consequently to CAW compound in Bo, together with a senior police officer in Bo, whose name I cannot now remember, and the police officer told me that these children were a problem in that place;

11:42:28 that they were in the habit of disarming police officers even in the street. I asked the police officer to drive with me to the pastorial compound on Old Gerihun Road. I met a reverend father and inquired about the Catholic institution's responsibility to those children and asked if there was anything that we could --

"we" meaning myself, as the deputy defence minister and him, as the reverend father, could do to assist those children so they cannot go back to war so that nobody can use them for the purposes of war. The reverend father told me there was nothing
11:44:35 he could do with the exception of just providing for them food and lodging, but he was complaining to me that every time they provided bedding for the boys, every month they would sell everything and then go back for more. It was then that I promised the reverend father that I would inform His Excellency
11:45:30 about these children so that government can approach some organisation to assist. This was how the UNICEF was approached to assist. But, because the process took long time, I decided that those children should be moved from Bo to Freetown and be lodged at Brookfields Hotel so that supplies to the CDF -- part
11:46:59 of supplies to the CDF could be used to maintain them so they cannot go back to war.

Among them, this young man and another one requested for me to help them because they did not know their parents' whereabouts and they would prefer to go back to school immediately. So I
11:47:51 arranged with the principal of the secondary school in Pujehun, which was their choice, and took their responsibility for teaching expenses and feeding expenses personally. Another one requested to go to the seminary in Bo --

Q. What was the name of that one?

11:48:32 A. It's Moses, I think, Joseph M Tommy. He is in town here to make arrangement for his further seminary education, which I had undertaken for about two years. Right up to immediately before my arrest, I had sent him to the seminary and he's still being cared for by me. There was another, not part of CAW, but he was

captured by the ECOMOG during the Freetown invasion. A young one, he was about 10, called Bolo Marah, who was rescued by one of my bodyguards from the ECOMOG because he had been accused of killing -- shooting and killing two ECOMOG soldiers, and he was
11:50:05 carrying a gun he could not even lift, he was just dragging like that, when he was brought. I appealed to the ECOMOG soldiers that that child was a child, not responsible for what he did, and he should be released to me. He was released to me. I took him into the family, sent him to the military primary school in
11:50:48 Wilberforce and he should be sitting the BECE this year; very, very clever. It took us, my wife and myself and my children, a long time --

Q. Please watch your pace.

A. Thank you, My Lord -- to get that child back to normal
11:51:12 behaviour, but he's all right now; he's part of the family. I still have not found all the parents, but I have tracked and traced a relative of his in Freetown. The child is still with my family. These are some of the experiences.

Q. Now did you have clear evidence of these children having
11:52:04 been actively involved in war?

A. They told me their stories, My Lord, yes. They told me their stories. They could tell this Court if they are allowed to come here.

JUDGE ITOE: When you say they told you their stories, did
11:52:26 they tell you that they had actively been involved --

THE WITNESS: Yes, My Lord.

JUDGE ITOE: -- in hostilities.

THE WITNESS: Yes, My Lord.

MR JABBI:

Q. So if we take the one who gave evidence here and whose name was on the first paper, on what side was he involved in the activities?
A. These are all children who were involved on the side of the
11:52:57 RUF.
Q. All three of them?
A. On the side of the RUF, four of them. One of them whose name I cannot now recollect is still going to school in Pujehun.
Q. That's a fourth one?
11:53:16 A. Yes. This name, together with another name, I sent to Pujehun, two of them. Joseph Tommy, who is here, commonly called a name that I will call to you later, and this Bolo Marah. Four of them.
Q. Why do you defer the name of Tommy, the other name?
11:53:50 A. The other name is -- maybe he would want to be concealed.
Q. Thank you. Are those children, the ones in Pujehun, still actively under your responsibility?
A. This one on this paper sat to his final examination, and may have shifted now his responsibility to the Prosecution. The
11:54:39 other one that is there, my wife has not informed me of late of his approaches for assistance. She continued assisting him in the year 2003 and 2004. But when our means of livelihood was cut off by me being sacked as a minister, I have not been informed of his needs.
11:55:24 Q. Thank you. So we move now -- now, before moving to the next phase, did any of these children go back into active combat at any time?
A. No, My Lord, they have not gone back. They are still with me.

Q. So we move to the phase of May 1997 to March 1998.

JUDGE ITOE: Why don't you specify 25th May?

MR JABBI: 25th May; yes, My Lord.

Q. 25th May 1997 to --

11:57:31 A. 10th March.

Q. -- 10th March 1998. We begin with, this time, the military, the army.

A. Yes, My Lord.

Q. For that period, are you aware of participation by children

11:58:08 under 15 years in hostilities on the side of the military?

A. Yes, My Lord.

Q. Can you explain?

A. Yes, My Lord. After the coup, that is starting from 25th May 1997, to the reinstatement of His Excellency, the military

11:59:07 had become a two-group organisation. One group was AFRC and the other group was the loyal forces. The AFRC had linked up with the RUF, forming a people's army, and this People's Army was using very young boys and girls in their midst for military purposes. The loyal soldiers who were under General Khobe were

12:00:53 never seen with young boys and girls in their midst for services. This was the situation then and the regular police that had not joined the services of the AFRC government were also observed by me of not having young boys and girls in their midst for services or activities militarily. This was the situation regarding the

12:02:03 soldiers regular and police regular, My Lord.

Q. Now, if we may move to another group in that period.

A. Yes, My Lords.

Q. This time the associated groups, the civilians and the hunters, and we take them one after the other. Can you tell the

Court once more what relationship you had with the civilian and hunters groups over this period, you personally?
A. Yes, My Lord, I can.
Q. That is from May 25 to 10th March -- May 25, 1997 to 10th March 1998.
12:03:59
A. Yes.
Q. What was your role vis-a-vis the civilian and hunters groups in the war?
A. Immediately after the coup, starting from 25th May 1997, and one week thereafter, I had no contact with the fighting groups, either the soldier, the police or the hunters. I had very scanty contact with some civilians through whose assistance I managed to escape. After one week I surfaced in Guinea, Conakry and started straightaway having contact with displaced Sierra Leonean civilians.
12:04:26
12:05:37
Q. Where?
A. In Conakry. Including, eventually, my colleague ministers and His Excellency the President Alhaji Ahmad Tejan Kabbah. And from then on to the reinstatement of the President and return of government on 10th March 1998, I had constant contact with civilians and, among them, hunters, My Lords.
12:06:20
Q. In what status and capacity?
A. At that time I was the deputy defence minister, acting minister of internal affairs, and later appointed national co-ordinator, civil defence. In those capacities, My Lord.
12:07:13
Q. In those capacities, or more especially those of deputy defence minister and national co-ordinator of the Civil Defence Forces, were you aware of children under the age of 15 years actively being involved in hostilities on the side of the Civil

Defence Forces?
A. On the side of the civilians and Civil Defence Forces, yes, My Lord.
Q. On the side of the civilians and the Civil Defence Forces.
12:08:49 JUDGE ITOE: Children under 15, is that what you mean?
MR JABBI: Pardon, My Lord?
THE WITNESS: Yes, My Lord.
JUDGE ITOE: Were used? Is it that they were used?
PRESIDING JUDGE: Involved.
12:09:06 JUDGE ITOE: Involved or used?
THE WITNESS: I knew that they were involved in the hostility.
MR JABBI:
Q. Now, can you say whether this phenomenon of involvement by
12:09:40 the category of children in question -- I will rephrase it.
A. Thank you, My Lord.
Q. Do you know when this phenomenon of involvement by the relevant category of children in the civilian and civil defence war effort, do you know when it commenced?
12:10:14 A. The children involvement?
Q. The involvement of the children.
A. Yes, My Lord.
Q. Yes?
A. This was a development after the overthrow of the
12:10:44 government, of the civilian government, when part of the army had joined forces with the RUF, the rebels, and there were constant attacks of towns and villages by the combined forces of the AFRC and the RUF, My Lords.
Q. Now, with you as national co-ordinator of the Civil Defence

Forces from the beginning almost of that period, what role, if any, did you play in getting such children actively participating in the hostilities on the side of the Civil Defence Forces and the civilians -- what role did you play in getting them involved?
12:12:57 A. No role. I played no role in getting the children involved in the active activities of the conflict.
Q. How did that participation come about then?
A. It came about as a result of the request by government in the person of His Excellency making a national broadcast and a
12:14:09 general request --
Q. Watch your pace, please.
A. -- for all Sierra Leoneans to assist in every way possible to reinstate the democratically elected government of Sierra Leone led by him, My Lords.
12:16:00 Q. Now, apart from that broadcast, were there any specific instructions to you, as national co-ordinator, to use children under the age of 15 on the side of the civilians or the hunters in those hostilities?
A. No, My Lord. I gave -- I received no such specific
12:17:00 instructions and gave no such specific instructions.
[CDF01FEB06D - SGH]
Q. Did you yourself actively do anything to ensure that children under that age participated actively in those hostilities on the side of the civilians and the hunters?
12:17:48 A. No, My Lord, I did not on the side of the soldiers, the police, the civilians or the hunters.
JUDGE ITOE: Did not do what, give instructions?
MR JABBI: My question was --
JUDGE ITOE: Yes?

MR JABBI: -- whether he himself actively did anything to ensure that the children of that category participated in the hostilities on the side of the civilians and the hunters.

Q. Do you know how their involvement came about, apart from the broadcast by His Excellency the President?

JUDGE ITOE: Did the broadcast from the President specifically say that children should be recruited?

MR JABBI: My Lord, he used it in one of his answers just now.

JUDGE ITOE: Is this a question, because he said all Sierra Leoneans, you know. I mean, I'm referring to specifics. If I am asking the President, it is whether the President specifically said, mentioning all Sierra Leoneans, children should be recruited in the process.

MR JABBI: My understanding is that that question is directed to the witness - am I correct, My Lord? - and not to me.

JUDGE ITOE: Well, to whoever. It is for you to --

THE WITNESS: I Would prefer to give -- I would prefer to give the answer because it is in my own interest. The call by His Excellency to all Sierra Leoneans neither excluded nor included age limitation. But His Excellency is aware, by the oath of office that he took to uphold the constitution and to defend the constitution of Sierra Leone, makes him aware that that constitution of Sierra Leone gives every Sierra Leonean, without age limitation, the right of self-defence.

JUDGE THOMPSON: That is an opinion of law, is it?

THE WITNESS: It is the right of the --

JUDGE ITOE: It sounds like a submission.

THE WITNESS: No, My Lord, it is an evidence.

JUDGE ITOE: An illegal submission.

THE WITNESS: Maybe pre-emptively.

PRESIDING JUDGE: But the question was whether the President specifically instructed about that.

12:21:53 THE WITNESS: I would consider those requests involved in specifics because he knows the constitutional right of Sierra Leonean.

PRESIDING JUDGE: You say you understood it to mean that, but he did not -- he addressed himself to all Sierra Leoneans.

12:22:10 THE WITNESS: Yes, My Lord; it is true. Your Lordship to consider all Sierra Leoneans, meaning some and not all.

JUDGE THOMPSON: I will just take that answer as expressing an opinion of law.

THE WITNESS: Thank you, My Lords. And that if such

12:22:27 requests were made, and consequently Sierra Leoneans under the age of 15 were seen in the effort of restoring their democratically -- the democratically elected government of their parents and guardians, that that was the duty of all Sierra Leoneans that was requested by the President of

12:23:28 Sierra Leone of them.

MR JABBI:

Q. However, did the President in his broadcast expressly mentioned --

PRESIDING JUDGE: I think you have covered that question,

12:24:03 Dr Jabbi.

MR JABBI: Thank you, My Lord.

JUDGE ITOE: The witness has been very explicit on this issue. Don't complicate it further.

MR JABBI: Thank you very much, My Lords.

THE WITNESS: Thank you, My Lords.

MR JABBI: I also endeavour to be sure that Your Lordships have reached the point of satisfaction.

JUDGE ITOE: Satisfaction at this stage. We are following the evidence.

12:24:19

MR JABBI: At this stage, My Lord. At this stage.

PRESIDING JUDGE: But we need not to have repetitive questions and or issues.

MR JABBI: Indeed, My Lord. Indeed, My Lord.

12:24:35 Q. Now, following this broadcast by His Excellency, how did the participation of children actually evolve? The broadcast is one thing, but the mechanics of that particular development coming about is what I am asking now.

A. Yes, My Lord. I am of knowledge that students of all age

12:25:35 description took to the streets of the various towns and the city of Freetown. Various towns around the country. In demonstration, requesting - to some extent violently demanding - the reinstatement of the President and the restoration of democracy across the country, My Lords.

12:27:08 Q. Did that extend to active participation in hostilities at any time?

A. That to me was part of the active participation in the hostilities.

Q. Now, just for the sake of clarification, do you know if

12:27:59 children of the category in question participated in civilian and hunters' war effort before the President's broadcast in question?

A. My Lords, I have, I believe, consistently and persistently said they participated in support of their parents and guardians.

MR MARGAI: My Lords, I hate to interrupt the

evidence-in-chief by my learned friend Dr Jabbi, but I am a bit concerned about his blending the civilian and hunters' participation. This seems to be confusing somehow, because looking at the indictment, no civilian is indicted here. It is the CDF or the Kamajors, as the case may be. So maybe I ought to seek your guidance.

PRESIDING JUDGE: Maybe you would like to hear from Dr Jabbi before.

MR JABBI: My Lord, the particular charge in question is talking about the indicted persons enlisting children or using them to participate actively in hostilities. And My Lord, one wants to adopt the perspective whereby, for example, their act in that respect involved children, even on the civilian side or not, so that clear categories are established for the purpose of analysis and conclusion. It is certainly possible for an indicted person, whether belonging to the hunters' group or not, using children in the civilian category for these purposes. And one is trying to ensure that --

PRESIDING JUDGE: I am not sure I follow you.

MR JABBI: I am not -- pardon, My Lord?

PRESIDING JUDGE: I am not sure I do follow you.

MR JABBI: I said it is not impossible that --

[Trial Chamber conferred]

PRESIDING JUDGE: Yes, Dr Jabbi, can we hear from you again?

MR JABBI: Yes, My Lord. I started by saying that the charge in question merely says "enlisting children in armed forces or groups or using them to participate actively in hostilities". The second half, in particular, My Lord, could

well be construed as an allegation that the indicted persons across the board used children in hostilities. It is not clear whether it is confined to children being used only among the hunters. It is at least similarly open-ended and if factually it is construed as the indicted persons having possibly used children on the civilian side, then it needs to be answered and that is why I have adopted a wide framework, and I make distinctions as I go along so that I ultimately confine it to the hunters' group. I have done that in the other periods that I have used, sometimes using the two groups together, in the end, distinguishing them and confining questions to the hunters' side.

JUDGE THOMPSON: With the leave of the Presiding Judge, may I pose one question to learned counsel Margai. Mr Margai, wouldn't this, your concern, be more appropriately taken care of in cross-examination because it would seem to me that it is here opening up an extremely complicated aspect of the proceedings which may well involve legal argument at this stage, unless it is formulated as an objection for the Chamber to rule upon. It would seem to me that a tidier way procedurally to proceed is to deal with it under cross-examination because the Bench is sensitive to the fact that counsel is putting the case for his client in examination-in-chief in response to the Prosecution's case. If you express this concern, which I am prepared to agree may well be a legitimate concern for the sake of argument, whether you cannot deal with it adequately and comprehensively during cross-examination. Probably as your prefatory kind of segment. That is my question.

MR MARGAI: My Lord, I appreciate that, but my concern is the fact that we are dealing with a joint criminal enterprise

situation and if this is not addressed at this stage, there might be some irreparable damage by the time I come to cross-examination. My Lord, my only worry here is the prefacy because, I mean, the count is very clear. The count is referring to Civil Defence Forces, in respect of which the three accused persons are here. Other than the three accused persons who are here by virtue of their being members, allegedly, of the Civil Defence Forces; no civilian is charged.

JUDGE THOMPSON: The difficulty is can this Chamber, as a court, preclude counsel for an accused person who is seeking to present a defence from making some distinctions or, in fact, trying to draw possible parallels in terms of the evidence.

MR MARGAI: Not at all, My Lord, not at all.

JUDGE THOMPSON: You see that is the difficulty which I find myself in, whether counsel should now be foreclosed from making distinctions which he, as from the evidentiary perspective and from the legal perspective, may well consider to be germane to the defence he is presenting. Albeit, of course, not being oblivious of the fact that the Bench should protect the other accused persons from any kind of line that may well affect their own rights and interests. I am very sensitive of that, but unless you guide me --

MR MARGAI: I was merely seeking guidance, My Lord, so that we confine the examination-in-chief within the confines of the indictment.

PRESIDING JUDGE: If I may add to that, I fully subscribe to the comments by my brother Justice Thompson, but I could also direct your attention to some of the general allegations. I think it is quite proper for, certainly, the first accused and

any other accused to deal with this matter. I will just read in part paragraph 6 of the general allegations that apply, obviously, to the counts per se. "The CDF was an organised armed force comprising various tribally-based traditional hunters et al." Obviously this kind of evidence that has been led is to counteract these kinds of allegations. So it is obviously relevant, given the way the indictment has been worded. So that's why I say the grounds for this Court not to allow these would be the absence of relevance. On the face of it, they appear to be certainly relevant. I understand we may get into some difficulties and your remarks will be taken into consideration, but although it may seem to be confusing, as such, it is obviously to try to rebut some of the allegations made by the Prosecution and we think it is only fair to allow the accused to proceed that way, bearing in mind that they are jointly accused and we will have to make those differences and differentiation when we get there and we will certainly rely on you to make proper representation at that time and to address these issues in your own cross-examination of this particular witness.

MR MARGAI: I appreciate that, My Lord, but let me just clarify one issue. Maybe I did not make myself clearly understood. My concern is, for example, "Are you aware that civilians or hunters", you know, that's the concern. But be that as it may, I shall take the cue from the Bench.

PRESIDING JUDGE: We understand the position of the Defence of the first accused to lump them together as such. If we do get into this kind of response to your precise argument, we are getting to be asking for arguments.

MR MARGAI: As My Lords please.
PRESIDING JUDGE: That's the position we take.
MR MARGAI: As My Lords please. I take the cue.
PRESIDING JUDGE: Thank you. Dr Jabbi.
12:41:28 MR JABBI: Thank you, My Lords. I believe my last question was --
PRESIDING JUDGE: If the witness was aware of any child taking part -- being used in hostilities prior to the President making his BBC broadcast.
12:42:05 MR JABBI: Yes, My Lord.
PRESIDING JUDGE: And the answer was yes.
MR JABBI: He started answering that.
PRESIDING JUDGE: Yes.
MR JABBI:
12:42:16 Q. Are you aware whether children in that category were used in the hostilities on the side of the civilians or hunters before the President's broadcast?
A. My Lords, I have made series of statements saying that people or youngsters seen by me as children were being seen by me
12:42:56 assisting their parents and guardians. The difference between the soldier and a civilian or a civilian and a hunter is for Your Lordships.
JUDGE ITOE: The answer I have here from the witness is that "before the President's broadcast I have said that they
12:43:38 participated".
THE WITNESS: Yes.
JUDGE ITOE: That is what Mr Norman said.
MR JABBI: Yes, My Lord.
Q. Now, before you became national co-ordinator of the Civil

Defence Forces, you are saying that there were children used in hostilities on the side of the civilians and hunters; not so? Before you became national co-ordinator of Civil Defence Forces.

A. Yes, My Lord.

12:44:55 Q. Since your becoming national co-ordinator, did you actively enlist children in an organised fighting group?

A. I myself as the deputy defence minister and national co-ordinator never enlisted, recruited or conscripted children before, during or after the conflict in Sierra Leone.

12:46:21 Q. Since you became national co-ordinator of the Civil Defence Forces, did you use children to participate actively in the hostilities on the side of the civilians or hunters?

A. No, My Lord, I never used children in the hostilities.

Q. From your becoming national co-ordinator and deputy defence

12:47:39 minister, did you do anything to ensure that children were not used in the hostilities?

A. Yes, My Lord, at the appropriate time I did.

Q. Can you explain, please? You said at the appropriate time you did?

12:48:44 A. Yes, My Lord.

Q. Can you explain that; what you mean by that?

A. Meaning that after the reinstatement of the government, that government was approached to discourage the use of children in the hostilities.

12:49:36 Q. By whom?

A. Myself. I approached the President and approached the minister of defence and I approached the commander-in-chief of the armed forces. That it was not within my power to stop Sierra Leoneans from defending themselves for whatever reason by

age group. I did not have the authority of state to do that. The authority of state to do such an act belonged to His Excellency the President and to the Government of Sierra Leone.

12:51:54 Q. Now, Mr Witness, at this stage I wish to remind you that this wider issue came up as the result of a particular information in the evidence of Nallo. But the importance of the subject by itself has run into all the ramifications we have had.

PRESIDING JUDGE: Are you arguing with the witness?

12:52:37 MR JABBI: My Lord, I am not arguing. I want to put him back where we were when this issue arose. Having gone into it in some detail, I want to bring him back in order to continue that portion of evidence from which this branched.

JUDGE THOMPSON: But not to cross-examine him.

12:52:50 MR JABBI: No, I'm not cross-examining. I was just taking --

JUDGE THOMPSON: Or not to try to establish previous consistent testimony.

MR JABBI: No, My Lord, that is not what I was doing at

12:53:04 all. I was just trying to put to him that all this trail of evidence about the children arose from the evidence --

PRESIDING JUDGE: If that's your position, it is not true. There has been evidence other than Nallo that did discuss this kind of evidence.

12:53:21 JUDGE THOMPSON: But your examination-in-chief.

MR JABBI: In my examination in chief. I have not completed Nallo. So I just want to take him back there.

JUDGE THOMPSON: It is just we are not clear about your purpose. If your purpose is to establish prior consistent

testimony, then you come close to falling foul of the rule.

MR JABBI: Not at all, My Lord.

JUDGE THOMPSON: If the purpose is to try to raise argumentative questions, again, then you --

12:53:49 MR JABBI: No, not at all, My Lord.

JUDGE THOMPSON: All right. I will restrain myself.

JUDGE ITOE: Going back to Nallo, do you think that if you revisit Nallo we are going to be through with that piece of evidence in five minutes?

12:54:09 PRESIDING JUDGE: I thought, though, honestly, not necessarily that Nallo was finished as you call as to whether he is done or not, but I thought that for the last while we have been discussing child soldier issues. In fact, you did ask very general questions, nothing specific to Nallo. Or you in fact 12:54:23 alluded to more than a few other witnesses about child soldiers. But if you want to go back to Nallo to explore different issues, this is -- I mean, it is your witness and you are directing the examination-in-chief. We will not interfere with that. We are just trying to follow the logic and the sequence of your 12:54:45 questions. If you are now finished with the child soldier issue, you want to go back to Nallo or complete the child soldier issue with Nallo's evidence, fine.

JUDGE THOMPSON: Perhaps we should invite -- it may be an appropriate time that you advise yourself whether the line that 12:55:04 you want to tread is really in line with what you have covered so far. That is just my random thinking.

MR JABBI: It is just a time factor that constrains me at this moment. Maybe I should not at this moment start a new trend.

PRESIDING JUDGE: That is fine. I think it is almost the time when we normally break anyhow. So we will just -- yes, Mr Pestman?

MR PESTMAN: Your Honours, just quickly. Is there any indication whether a judgment will be given or an order or a ruling?

PRESIDING JUDGE: Mr Pestman, we have told you and we will not change our mind. We will do the utmost we can to deliver that as soon as we can. As you know, we are in court the same time as you are in court and therefore we need some time to look into these matters. We are not prepared to rush in order to make that decision. As soon as we can is still the way we want to proceed with it.

MR PESTMAN: Thank you.

JUDGE ITOE: Mr Pestman, do you think we can forget that very important issue and we are not addressing our minds to that? I don't think we need to be reminded about that. We know how we are proceeding. Please.

MR PESTMAN: It was not a reminder; that was a question.

JUDGE ITOE: It was a reminder anyway. Whether you characterise it as that or not, it was a reminder and we have not forgotten about that very important issue.

MR PESTMAN: Thank you.

PRESIDING JUDGE: Thank you. Court is adjourned until 9.30 tomorrow morning.

[Whereupon the hearing adjourned at 12.57 p.m., to be reconvened on Thursday, the 2nd day of February 2006, at 9.30 a.m.]

EXHIBITS:

WITNESSES FOR THE DEFENCE: