



U.C. Berkeley War Crimes Studies Center
Sierra Leone Trial Monitoring Program
Weekly Report

Special Court Monitoring Program Update #40 Trial Chamber 1 - CDF Trial Covering week ending May 27, 2005

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Summary

The sixth session of the CDF trial opened this week, with his Honour Judge Itoe announcing that his Honour Judge Boutet had been elected as Presiding Judge for the next year of trial. Rather ceremoniously, the court was then adjourned so that the judges were able to leave the Chamber and re-emerge in the correct order for Judge Boutet to occupy his new place at the centre of the bench. The trial session began with the prosecution leading its sixty-second witness, Witness TF2-079, a former Kamajor who played a logistics and support role in the society during the period of the conflict. His testimony seemed to be led primarily to implicate the first accused, Chief Samuel Hinga Norman, as being individually criminally responsible in the planning, preparation and execution of certain of the Kamajor attacks in the Lower Bambara chiefdom as well as the Black December Operation. In particular, Norman is alleged to have issued general orders for the execution of civilians suspected to be junta collaborators in Tongo.

Status conference

A brief status conference was held on Wednesday, during which the primary issue discussed was the imminent closure of the prosecution's case (due to complete by the end of this session) and the likelihood of the defense submitting motions for acquittal or "no case" motions before beginning their case [1]. Defense counsels for each of the accused agreed that they would be filing motions for acquittal and requested a period of two weeks to one month after the close of the prosecution's case to prepare their written submissions. The prosecution suggested that, in the interests of expediency, the Chamber should consider hearing oral submissions (rather than receiving written submissions) from the defense and the prosecution, a suggestion that Judge Boutet stated was unlikely to be adopted. It seemed likely, instead, that the bench would receive written submissions from the parties and subsequently conduct a hearing to hear oral arguments on the written submissions.

Judge Boutet noted that the Chamber would consider the requests from both the defense and prosecution and deliver its ruling on the matter in due course. Should the motions be filed prior to the court's close at the summer recess in August, there is a chance that the CDF trial will complete by the end of this year. [Witness profiles at a glance](#)

Witness TF2-079 is 46 years old and was born in the Kakua chiefdom in Bo. He currently resides at Kenema, where he has been living for the past nine years. He has also lived in Tongo. The witness is married and has two children. He is testified in English. The witness was recruited as a Kamajor in 1993 and remained with the CDF for the period of the conflict.

Evidence at trial

Initial appointment to the Kamajor society

Witness TF2-079 testified to the emergence of Kamajors throughout the Kenema district and the Eastern Region of Sierra Leone in the early 1990s. According to the witness, "Kamajors" was the name given to a traditional civilian fighting force originally formed under the command of the defence committees in charge of protecting the villages and townships throughout the region [2]. New Kamajors were only allowed to join the group upon recommendation to the defence committee by the paramount chief of their chiefdom.

In 1996, however, Chief Samuel Hinga Norman is alleged to have instigated a shift in this fighting force that turned it from a civilian militia into an exclusive society. According to the witness, Norman announced his idea at a meeting at Kenema in September. He allegedly believed that the initiation process for the society would increase the strength of the Kamajors when in battle. The shift from civilian fighting force to exclusive society was marked by a change in the appointment process for Kamajors: the recommendation process through which Kamajors had previously joined the movement was abandoned and instead new initiates were asked to pay a registration fee to the initiators in order to be admitted. The witness seemed to allude to the fact that this led to a decline in the calibre of the candidates joining the society, stating, "discipline became a hard thing to maintain at that point".

Attacks at Tongo and killings of suspected "collaborators"

The witness was stationed at Penguma and Dodo (in the Lower Bambara Chiefdom) just outside Tongo, shortly after the AFRC coup overthrew the democratically elected Kabbah government in 1997. According to the witness, the AFRC/RUF militia forces at Tongo had usurped the district's diamond mining operations and were occupying the town. The witness's group received arms and ammunition from Jendema in the Pujehun District, alleged to be where a large contingent of Kamajor forces led by Hinga Norman were based at the time.

Supporting the prosecution's theory, the witness alleged that during the early stages of the coup, the Kamajors launched a number of unsuccessful attacks on the AFRC/RUF forces and killed a number of civilian "collaborators" in Tongo and the surrounding villages. According to the witness, Hinga Norman ordered that weapons supplied to the forces based at Penguma and Dodo were used to kill rebel and junta combatants, civilian collaborators and paramount chiefs who were against the Kamajor movement, all of whom were treated as enemies. The witness testified that, as a result, it was generally accepted among the Kamajors that civilians living in the AFRC/RUF occupied areas should be killed. He recalled in particular how they killed one boy, travelling on foot from Tongo to Penguma, simply because he was coming from a rebel-held town. Similarly, he recalled that palm oil tappers in the bush surrounding Tongo were executed because they were living in the vicinity of junta forces.

The witness was also responsible for delivering arms and ammunition to the Kamajors fighting at Tongo during January 1998. According to the witness, fighting was in progress when he arrived at Tongo and human remains lined the streets. The witness did not go to NDMC headquarters, allegedly the site of an offensive where a large number of the civilians were killed, but testified that there was a terrible odour coming from the grounds that he understood to be the smell of rotting bodies.

At Talia, Base Zero

The witness alleged that he went to “Base Zero” Talia Yawbecko in November 1997, to deliver a “situation report” to Hinga Norman and to request further arms and ammunition for the Kamajor operations outside Tongo. The prosecution asked the witness to read a passage of the “situation report” during the course of the proceedings, which included information regarding the summary execution of a suspected RUF/AFRC collaborator by a combatant named Commander Lahai.

According to the witness, all three of the accused were based at Talia at this time. Kondewa, the “High Priest of all the initiators”, is said to have had a particularly close relationship with the Death Squad and Commander Vanjawai, each of whom he was in charge of supplying ammunitions. In his role as Director of War, Fofana is said to have collected the reports from the front-line for Hinga Norman and to have instructed the Director of Logistics on the supply of arms, ammunition and “morale boosters” to the combatants on the front-line [3].

The witness resided at Base Zero for two months, during which he was not assigned any specific duties nor did he take part in any operations, hence enabling him to observe the daily operations of the camp. He described how the Kamajors held meetings at three specific assembly points known as Walihun I, Walihun II and Walihun III [4]. According to the witness, secret meetings took place at Walihun I and were only ever attended by the three accused and the highest level of Kamajor commanders.

The witness attended several meetings that took place at Walihun II, including one where Hinga Norman allegedly announced the strategy for the Black December Operation [5]. He stated he was also present while Hinga Norman announced via satellite radio (from Base Zero) that the Black December attack would take place.

Movement from Base Zero to Kenema

The witness moved to Kenema from Base Zero in February 1998 where he assisted commanders to establish the Kamajor administration under the leadership of Commander Jambewai. According to the witness, Kenema had been liberated by the CDF at this time. During this time, the witness saw a group of Kamajors kill a man at Dassamu. The witness stated that the civilian was cut up into segments and his body parts were placed in banana leaves and carried with the group. Some of the Kamajors carried the man’s head.

The witness testified that during his time in Kenema, several houses were burned and looted and people were killed. He saw several piles of ashes that KBK Magonnan, a commander in Kenema at the time, told him were the remains of the bodies of suspected junta collaborators. Magonnan was subsequently arrested by ECOMOG on charges of harassment and murder.

Child combatants at Base Zero

According to Witness TF2-079, child combatants or “small hunters” ranging between the ages of ten and fourteen were initiated into the Kamajor society. In particular, the witness remembered child combatants at Base Zero. Child combatants were allegedly given AK-47s and were used to patrol the base. They were also allegedly bodyguards for Kamoh Brima Bangurra and the third accused, Allieu Kondewa.

Cross-examination of Witness TF2-079

Under cross-examination by counsel for the first accused, the witness admitted that Hinga Norman had also issued “laws” stating that the Kamajors should not kill civilians nor loot civilian

property. The witness agreed with counsel that he had obeyed these laws through-out the period of the conflict and that the Kamajor movement had essentially been set up to protect the lives and property of civilians. Counsel for the first accused seemed to be attempting to establish that the criminal acts committed against civilians were against Norman's original decree and were undertaken by recalcitrant combatants and commanders. However, counsel did not establish how these laws were to be interpreted in light of Norman's later orders, nor did he question the witness on the veracity of his testimony regarding the orders issued. As such, the first accused still appeared to be implicated in the attacks at Tongo and the Black December Operation. Counsel did attempt to suggest that civilians living in Tongo were sent warnings about the Kamajor attacks in 1998, but the witness denied knowing anything about these warnings.

Counsel for the second accused sought to establish that his client was illiterate and hence essentially acted as "a mailbox for Hinga Norman" when collecting reports on his behalf. The witness agreed that Fofana was illiterate and would give orders to the troops through his Deputy Director of War, Commander Orinko.

Counsel for the third accused focussed primarily on the attacks on civilians that the witness had described at Dassamu and Kenema. In particular, he sought to establish that civilians who supported the Kamajors (rather than the Kamajors themselves) undertook the alleged attacks in Kenema. The witness disagreed that this was a civilian practice at the time. Counsel then sought to establish that his client had never given instructions to the Kamajors. It was unclear why counsel was pursuing this particular line of enquiry, as it seemed to implicate Kondewa unnecessarily, given no evidence was led about the third accused issuing instructions under examination-in-chief. The witness subsequently admitted he was present when Kondewa had issued instructions to commanders. Counsel did not pursue a line of enquiry that negated the testimony implicating Kondewa as having child soldiers as securities, despite the witness giving evidence to this effect.

1.) Rule 98 of the Rules provide that: "If, after the close of the case for the prosecution, the evidence is such that no reasonable tribunal of fact could be satisfied beyond a reasonable doubt of the accused's guilt on one or more counts of the indictment, the Trial Chamber shall enter a judgment of acquittal on those counts."

2.) A regional defence committee and a district defence committee (namely, the Eastern Region Defence Committee (ERICOM) and the Kenema District Defence Committee (KENDECOM)) were also formed to co-ordinate the defence committees for each township.

3.) The witness testified that "morale boosters" included cigarettes, alcohol and other substances that were likely to boost the morale of the combatants.

4.) "Walihun" is the Mende word for "cleared space in the bush used for meetings".

5.) According to the witness, Norman announced that all roads leading to RUF-held areas were to be blocked and the bridges were to be dismantled.