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Summary

During this fourth week of the current CDF trial session, testimony predominantly centered around two alleged attacks by the CDF: that on the town of Kenema and that on the nearby location known as SS camp. The Prosecution has alleged that in February of 1998 Kamajors attacked and gained control of these two locations, which involved the identification of suspected 'collaborators' and the unlawful killing and infliction of physical suffering on civilians and captured enemy combatants.¹ The testimony of this week's defence witnesses, all Kamajors, thus addressed these allegations and narrated events around these attacks, indicating the actors involved in the context of the command structure of the CDF.

The first accused, Chief Norman, was not present in court for the better part of the week. Norman has had ongoing problems with his hip and his council indicated to Trial Chamber I that he wished to excuse himself from proceedings. The Prosecution, concerned about the potential implication of his absence in the appeals phase, insisted that defence council produce a written document from Norman indicating that he is waiving his right to attend trial.

Trial was adjourned at midday on Friday due to the lack of witnesses ready to testify. The Trial Chamber voiced their concern that trial not be unduly delayed and insisted that the Norman team be prepared to call their next witness on Monday morning. The Norman team cited difficulty in locating some of their witnesses as the cause for delay, however the Chamber invoked the procedural directive that the team should always have at least two witnesses on stand-by.

Witness Profiles at a Glance

Mohammed Bonie Koroma testified in Mende in open session on May 22, 2006. He is the 20th witness called in the Norman defence case. The witness resides in Gbeorbu, a town located in

¹ Indictment, paragraph 24(b)

Gaura Chiefdom. The 55 year old farmer is also a Kamajor and was initiated in Kenema in 1996. He testified primarily about attacks on SS camp.

Brima Moriba testified in open session. The 37 year old was born in the town of Majihun, Nongowa chiefdom, in the Kenema district and became a Kamajor in January of 1997. He testified in Krio on his involvement in attacks on Kenema under the command of Eddie Masalay.

Fallah Bindi testified without protective measures on the 23rd and 24th of May 2006. The 55 year old witness resides in Kenema where he works as a farmer. He became a Kamajor in 1991 and initially fought alongside soldiers in the SLA. He was later appointed as a Commanding Officer by an initiator in the Kamajor movement.

Chief Lahai Koroma, Regent Chief of Tiloma town, testified in Mende in open session. He testified that he was selected by the people of his chiefdom to become a Kamajor and was initiated in 1996 in Kenema by Kamoh Brima Bangura.

Mohammed K Swarey testified in Mende without protective measures over the course of proceedings on the 25th and 26th of May. Mr. Swarey is 46 years old and lives in Boabu Nongowa. He became a Kamajor in 1991 and the witness participated in the Kamajor attack on SS Camp, operating under the command of Mohamed Bhonie Koroma. He also participated in the Kamajor attack on the town of Kenema.

Testimony of Mohammed Bonie Koroma

Mohammed Bonie Koroma testified about his time as a Kamajor, fighting against the RUF rebels in conjunction with SLA soldiers and then eventually in partnership with ECOMOG forces. He testified that he fought under the command of Eddie Masalay, who iterated to the Kamajors that they were fighting as a result of explicit instructions from President Kabbah. The witness contended that he did not see any Kamajor fighter engaging in the looting of property or the burning of houses during the conflict. He also alleged that the population of Kenema was extremely grateful to the Kamajors after they had captured the town from rebel control and that civilians were dancing in the streets. As a battalion commander the witness testified that he had received orders only from Masalay himself. Counsel also asked the witness about previous testimony from Prosecution witnesses who alleged that acts of cannibalism had been carried out in Kenema. The witness flatly denied all such allegations.

After the brief examination-in-chief, counsel for the second accused, Michiel Pestman, began the cross-examination. While the examination started well, with the witness confirming that he had never received orders from Fofana, the witness then elaborated on what he saw as Fofana's official role within the CDF, which involved organizing operations on a national level. The impact of the testimony became ambiguous as the witness gave the impression that Fofana held a high ranking position within the CDF as he referred to him as a 'head man'. However, Koroma also denied that Fofana had had any direct involvement in the war. During the cross-examination by counsel for the third accused the witness confirmed that initiators did not take part in any of the fighting nor in any of the planning of the war.

The Prosecution subsequently began its cross-examination of the witness. After several questions regarding the different commanders present in Kenema at the time of the attacks, the Prosecution suggested that the witness was actually the only battalion commander to have been appointed by Masalay. Koroma confirmed this proposition and in effect highlighted the tenuousness of his testimony in terms of demonstrating who within the CDF hierarchy was responsible for appointments. The witness also conceded that other commanders received instructions from people other than Masalay. He went on to describe Norman as the Deputy Minister of Defence as well as the National Coordinator of the CDF, a position he described as the liaison between the government and the Kamajors. He also named Fofana, the second accused, as the Director of War within the CDF. The Prosecuting attorney carried on to question the witness about specific events around both the attacks on Kenema and SS Camp. Koroma

denied that SS Camp was where captured combatants were executed and similarly denied allegations that Kamajors engaged in the burning of houses and the killing of suspected rebel collaborators in Kenema prior to the arrival of ECOMOG forces. The witness' answers during the cross-examination became increasingly convoluted and he himself became visibly impatient with the process.

Testimony of Brima Moriba

Mr. Moriba is the 22nd witness to testify in the Norman defence case. The 37 year old was born in the town of Majihun, Nongowa chiefdom, in the Kenema district and became a Kamajor in January of 1997. Moriba also alleged that it was the Section Chief who approved of his membership in the group and he was subsequently initiated shortly before the AFRC junta overthrew the Kabbah government. The witness testified that he fought under the command of Eddie Masalay, who had issued instructions to the Kamajors ordering them to remove junta forces from wherever they may be. He participated in the attack on Kenema and contended that the ECOMOG forces arrived shortly after the Kamajors had captured the town and ordered that no houses be burnt. He did not testify explicitly in Norman's involvement in the conflict nor was he asked about it.

The cross-examination for the second accused, conducted by Pestman, was brief but cogent. The witness confirmed that he had never received orders from Fofana nor had he ever reported to him either directly or indirectly, as far as he was aware. The cross-examination by Ansu Lansana for the third accused focused on the initiation process the witness had been through. Moriba reiterated that he joined the Kamajors society in order to protect himself and his family from harassment and extortion. He also elaborated on his belief in the efficacy of the immunization he received and cited that fact that no bullet has ever pierced his body by way of proof of the protection offered. Mr. Lansana asked a series of questions relating to the role of initiators in the conflict and Mr. Moriba alleged that he never saw any of the initiators engaged in battle, nor did they supply any logistics or supplies to the fighters. The witness then denied allegations made by prosecution witnesses regarding atrocities committed by Kamajors against the civilian population and ended his testimony in the cross by stating that he was proud of the role he played in the conflict.

The Prosecution began their cross-examination with the contention that they were not disputing most of what Moriba had stated in court. They made it clear however that they were disputing the witness' testimony regarding the Kamajor attack on Kenema and what happened there. The Prosecution produced a letter allegedly indicating that the superior of the witness' commander, George Jambawaye, was actually appointed by Norman himself. Moriba denied any knowledge of this. The witness was also questioned about the deaths of police officers in Kenema. He however denied that any police officers had been killed there. Moriba conceded that he could not definitively say that no Kamajor had ever broken one of the rules governing the Kamajor movement. Mr. Margai's objections to this line of questioning were not allowed to be heard as it remains at the discretion of the Bench when interventions by defence counsel can be heard on the grounds that they have already had the opportunity to cross-examine the witness. Much of Margai's defence strategy for the third accused, Allieu Kondewa, rests on the fact that as an initiator Kondewa taught various rules of engagement to the Kamajors, including those prohibiting the abuse and killing of civilians.

Testimony of Chief Lahai Koroma

Lahai Koroma was been appointed Regent Chief of Tiloma town subsequent to his membership in the Kamajor society. He was initiated in 1996 in Kenema after being chosen by the people of his Chiefdom. During the examination-in-chief conducted by Dr. Jabbi, the witness contended that he did not hear of or see any atrocities or crimes committed at SS Camp, where he was based from the time of the camp's capture by the Kamajors up until disarmament, several years later. Koroma also contended that although he knew Norman by name he had never actually seen him at SS Camp.

The cross-examination by the Prosecution focused on the witness' activities in Kenema and the commanders under which he fought during attacks. The witness stated CO Sahr was his commander during the attack on SS Camp as well as on Kenema. Although he noted that there were other commanders involved, he alleged that he was unable to name any of them. The witness maintained that he did not see any corpses in Kenema during the ongoing Kamajor attacks. He alleged that he saw one house that had been burnt but did not cede to the Prosecution's insistence that he must have necessarily seen more. The witness was also questioned on specific events that occurred on the first and second day of the town's capture, prior to the arrival of ECOMOG forces. The Prosecution alleged that during this time Kamajor combatants went to the Kenema police barracks and killed seven police officers suspected of having collaborated with the rebels. The witness denied any knowledge of such an incident and went so far as to deny even knowing the meaning of the word 'collaborator'. The witness similarly denied any knowledge of complaints launched by ECOMOG against the Kamajors' behaviour at SS camp. His denial continued, despite the Prosecution's mention of a previous exhibit - that is, a letter of complaint submitted by ECOMOG against the Kamajor KBK Magonna, who was stationed at SS Camp and purportedly killed several civilians.

The Testimony of Mohamed Kineh Swaray

Mr. Swaray is 46 years old and lives in Boabo Nongowa. He became a Kamajor in 1991 and initially worked alongside SLA soldiers under the NPRC government. Once the government was overthrown and the soldiers joined RUF forces in 1996, the witness and other Kamajors retreated into the bush for several months. Subsequently, Swaray participated in the attack launched by Kamajors on SS Camp, operating under the command of Mohamed Bonie Koroma. He also narrated events related to his participation in the Kamajor attack on the town of Kenema, although he was unable to provide any dates for these incidents. He alleged that once the Kamajors had captured Kenema the combatants "danced together with the civilians". The witness also testified that initially, rebels had burnt down the homes of those thought to be relatives of the Kamajors. Once Kenema was controlled by the Kamajors, civilians allegedly burnt down several houses in the town which belonged to those suspected of collaborating with the rebel forces. Dr. Jabbi, counsel for the first accused, ended the examination-in-chief at this point, having excluded any specific information about his client or his actions during the Indictment period from the direct.²

During the cross-examination the witness denied that there were a significant number of civilian casualties at the SS Camp following the Kamajor attack, as alleged in the testimony of Prosecution witness TF2-223.³ The witness also stated that Fofana's position as Director of War had no impact on his activities during the conflict as he never received any orders from him and was not in the same location as him. Counsel for the third accused asked the witness whether it was possible that the Kamajors fired on the police barracks because they were under attack. The witness confirmed this and stated that firing was coming from the barracks and so they defended themselves by shooting in that direction. Counsel asked the witness whether the police officers could have been shot during the course of this firing however Justice Thompson immediately intervened and complained that the question was much too speculative to be allowed. The witness alleged that he did not see any corpses of police officers on the day in question nor had police officers ever been targeted by the Kamajors. The witness subsequently relayed an alleged instance where he discovered Kamajors who were actually disguised rebels who were wearing the traditional Kamajor uniform. He stated that this was a widespread occurrence.

Mr. Bangura, prosecuting attorney, established that it was Arthur Koroma who was in charge of the Kamajors during the attacks on Kenema and SS Camp, however the witness denied any knowledge of who had appointed Koroma despite the Prosecution's suggestion that he had been

² See [Berkeley Monitoring Project, Special Court Weekly Monitoring Update #76 weekly summary of May 19](http://socrates.berkeley.edu/~warcrime/SL-archives.htm) for a discussion on the quality of the defence of the first accused, Norman. Available at <http://socrates.berkeley.edu/~warcrime/SL-archives.htm>.

³ Witness TF2-223 testified in September 2004, this particular allegation was given on the 20th.

appointed by Norman. Counsel also extensively questioned the witness on the three day period between the Kamajors' capture of Kenema town and the arrival of ECOMOG forces, during which the Prosecution claimed that the Kamajors were not subject to any sort of control. The witness categorically denied that he had seen any corpses in the town, that he had seen houses being burnt down or that he had heard about the unlawful killing of police officers during this period. The witness also alleged that the Kamajors did not use any weapons during the attack on SS Camp, rather they relied on the powers received through the immunization process to protect them. Bangura alleged that ECOMOG had made specific complaints about the behaviour of Kamajors in relation to atrocities committed against civilians at SS Camp and within Kenema. He backed up the allegation with reference to Exhibit 89, a letter of complaint written by an ECOMOG Commander to the Vice-President about alleged killings meted out by the Kamajors at SS Camp. The Prosecution also contended that the letter indicated the lack of control that ECOMOG forces were able to exercise over the Kamajors. The witness however denied all knowledge of both such acts as well as of such complaints.

Norman's Health

Norman was not present in Court during the first part of the week but did appear during both Thursday morning and Friday's proceedings. Dr. Jabbi, lead counsel for Norman, indicated that his non-appearance was a conscious decision taken by the first accused. It was subsequently discussed in open session that his absence was due to certain health problems, particularly with respect to a slipped disc in his right hip.⁴ A report was filed with the Trial Chamber by the Chief of detention on the status of Norman's health and the reasons behind his non-attendance in court.⁵ In addition, the Presiding Judge indicated that Norman could be excused from the normal procedure of standing up every time the judges entered and exited the courtroom if this eased the pain in his hip. A request has been made by Norman's counsel to both the Registrar as well as the Chief of Detention for Norman to receive medical treatment for his condition outside of Sierra Leone during the Court recess.

The Prosecution is, however, particularly concerned that a ground for appeal not be filed on the basis that the accused was not present for proceedings. They have therefore been quite insistent that the accused should let it be known in writing the reasons for his non-appearance in court and his acknowledgement that he is waiving his right, in accordance with Rule 66⁶, to be present at his own trial. The Prosecution referred to the jurisprudence established by the *Krstic* case at the ICTY, which maintained that the right to waive the attendance of trial is that of the accused, not any other officer of the court.

Jabbi also proposed the need for an independent medical report to be issued due to the increasing amount of speculation, particularly in the media, about the state of Norman's health. Local newspapers have recently caught on to rumours, purportedly spread by Norman's family, that Norman had actually died in the detention center at the Special Court. The rumours had gotten so out of control that Doctor Harding, the Special Court in-house doctor, issued a statement in which he insisted "Sam Hinga Norman is in good health, he is not dead." The Outreach section of the court has travelled around the country showing recent video footage of Norman to the population in order to dispel increasing speculation as to his condition.

Norman Witness List

Early in the week the Presiding Judge of Trial Chamber I indicated his concern regarding the diminishing list of witnesses in the Norman defence case.⁷ He noted that there remained only a handful of witnesses on that list who are still to testify, there remain however several weeks of

⁴ [Details of Norman's medical condition were discussed in open session on 16 June, 2006.](#)

⁵ Report by Chief of Detention of non-attendance in Court of Samuel Hinga Norman, 24 May 2006, SCSL-04-14-599

⁶ [Rules of Procedure and Evidence. http://www.sc-sl.org/rulesofprocedureandevidence.pdf](http://www.sc-sl.org/rulesofprocedureandevidence.pdf)

⁷ The witness list referred to is the following: Norman Further Filing Following Consequential Order to the Status Conference of 22 March 2006 and the Status Conference of 5 April 2006

trial session to complete. The Fofana defence case is not expected to commence until September 2006. Justice Boutet made it clear that the bench will not be inclined to grant any adjournment of the trial for witnesses who are unavailable at the time as there has been plenty of notice. The Trial Chamber reiterated its position that Dr. Jabbi, lead counsel for Norman, and his team are expected to close their case by the end of the current trial session.

On Friday, following the completion of Mohammed Swaray's testimony, the Norman team was unable to produce a subsequent witness nor did they have either of the two required back-up witnesses prepared to testify. The Trial Chamber admonished Dr. Jabbi for not following proper procedure in terms of always having several witnesses on stand-by, ready to testify. Proceedings were thus adjourned until Monday and Jabbi indicated that he was 'hopeful' that he would have witnesses ready for proceedings then. No decision has been issued as of yet by the Trial Chamber regarding the defence Motion for Issuance of a Subpoena ad Testificandum to President Ahmed Tejan Kabbah.⁸ President Kabbah however remains listed as the Norman defence team's first witness.

⁸ Norman Motion for Issuance of a Subpoena ad Testificandum to President Ahmed Tejan Kabbah, 16 December 2005, SCSL-04-14-T-523.