

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

WEDNESDAY, 1 JUNE 2005  
9.58 A.M.  
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Sharelle Aitchison Ms Rhoda Kargbo
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Mohamed Bangura Mr Kevin Tavener Ms Adwoa Wiafe Mr Mohamed Stevens
For the Principal Defender:	No appearances
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Ibrahim Yillah Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Victor Koppe Mr Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Charles Margai Mr Ansu Lansana

1 [HN010605A-JM]

2 Wednesday, 1 June 2005

3 [Open session]

4 [The accused Fofana and Kondewa entered court]

09:32:14 5 [The accused Norman not present]

6 [Upon commencing at 9.58 a.m.]

7 PRESIDING JUDGE: Good morning, Mr Prosecutor. Good  
8 morning, Defence counsel. When we adjourned yesterday, we were  
9 still deliberating on the application made by the Prosecution as  
10:00:33 10 to some evidence they intended to lead with the next witness. We  
11 have considered the application, and I will ask Honourable  
12 Justice Thompson to deliver the majority decision on this matter.

13 Mr Justice Thompson.

14 [Ruling]

10:01:05 15 JUDGE THOMPSON: This is the ruling of Court in respect of  
16 the testimony of TF2-187. By a majority decision, Honourable  
17 Justice Boutet, Presiding Judge, dissenting, the Chamber has not  
18 been able to find any new and convincing legal logic to change  
19 its original position taken on this issue in its ruling dated the  
10:02:00 20 23rd of May 2005 rendering such evidence inadmissible as being,  
21 so to speak, forbidden evidentiary territory.

22 In our considered opinion, to yield to the Prosecution 's  
23 request would be contrary to the ruling. We cannot, therefore,  
24 judicially see our way clear towards granting the Prosecution's  
10:02:30 25 request in the interest of judicial consistency. We do not think  
26 it prudent to go in the direction of the application of legal  
27 niceties requiring the Chamber to adopt some doctrine of judicial  
28 severability in admitting evidence, some of which might be  
29 admissible in proving certain allegations, but inadmissible in



1 respect of others, where the incidents or events constituting the  
2 various crimes involved, constitute part or parts of a single,  
3 integrated and continuous transaction or res gestae.

4 The request is accordingly denied.

10:03:27 5 PRESIDING JUDGE: Thank you, Mr Justice Thompson. As  
6 stated with the majority decision, I do not agree with the  
7 position taken by the majority of not allowing this potential  
8 witness to testify as to the subject matter underlined by the  
9 Prosecution in his submission. In my humble opinion, this  
10:03:52 10 evidence would be relevant to one or more counts in the  
11 indictment, as it stands now, namely, as to count 2 and 3 of the  
12 consolidated indictment and consistent with many previous  
13 decisions of this Court concerning the extensive admissibility of  
14 evidence in accordance with our Rules of Evidence -- Rules of  
10:04:17 15 Procedure and Evidence, namely 89(C), and considering that this  
16 Bench is constituted and composed of professional judges, and  
17 considering the previous decisions of this Court as to the  
18 ability of these professional judges to make the necessary  
19 differences and nuances, I would have ruled that the admission of  
10:04:35 20 this evidence should be -- that this evidence should be admitted,  
21 with the professional judges making the appropriate distinctions  
22 as it could be necessary to make, and, therefore, this evidence  
23 should be allowed. And this would be done in fairness to all  
24 parties, in my own humble view. And this would be evidence of  
10:04:58 25 the alleged commission of a crime, albeit related to but yet  
26 fundamentally different and distinct of acts of sexual violence  
27 prohibited from being led in evidence.

28 Considering the majority decision, this evidence is not  
29 permissible.



1           So that concludes this issue, Mr Prosecutor. Where are we  
2 going to now and what's -- who's your -- are you still calling  
3 that witness?

4           MR BANGURA: Yes, Your Honour, the Prosecution intends to  
10:05:34 5 call that same witness, and we will abide by this Court's ruling  
6 and ensure that the evidence which we were seeking to admit to  
7 abuse will not be --

8           PRESIDING JUDGE: I will advise you and caution you to be  
9 extremely careful with the evidence of this witness because in  
10:05:53 10 your own terms yesterday, it would be very difficult, if not  
11 almost impossible, to lead evidence without touching these  
12 counts, given the decision of this Court. I'm just advising you  
13 that when you do so you have to be very, very careful.

14           JUDGE ITOE: I will re-echo the concerns of the learned  
10:06:18 15 Presiding Judge on this, because we should not get to a situation  
16 where you keep telling us "let us expunge that from the records"  
17 and so on and so forth. I don't think that the Tribunal wants to  
18 go that way. I thought that if the state of the evidence is what  
19 you put across to us, you know, yesterday, the neater way would  
10:06:41 20 have been for you to dispense with the services of this witness  
21 because -- you can call the witness, like you said, and ensure  
22 you know that our ruling is not violated or that we are being  
23 called upon or we are seen to be called upon always to say, "oh,  
24 let that be expunged from the records because it creates a  
10:07:02 25 prejudice somewhere." Where evidence which is said to be  
26 inadmissible is mentioned at all there is a prejudice.

27           JUDGE THOMPSON: By way of relief, I would propose  
28 confidence in the skill of the Prosecution.

29           MR BANGURA: Your Honours, I just need to point out that



1 this witness has other matters to testify to than just the point  
2 about sexual violence, and then the consequences of the  
3 particular act in question and we would like to lead that  
4 evidence.

10:07:37 5 JUDGE THOMPSON: I certainly will --

6 PRESIDING JUDGE: That's fine.

7 JUDGE ITOE: That's very fine. There's no problem.

8 JUDGE THOMPSON: I have confidence in your skill and your  
9 good faith.

10:07:47 10 PRESIDING JUDGE: And again, our decision is not to  
11 preclude you from calling that witness. It's calling that  
12 witness on that issue that we've just disposed of.

13 MR BANGURA: The point is taken, Your Honour.

14 PRESIDING JUDGE: So please proceed with --

10:07:58 15 MR BANGURA: Your Honour, the Prosecution calls Witness  
16 TF2-187.

17 PRESIDING JUDGE: This is Witness Number 66?

18 MR BANGURA: Sixty-six, Your Honour.

19 PRESIDING JUDGE: And she will testify in?

10:08:13 20 MR BANGURA: In Mende.

21 PRESIDING JUDGE: In Mende.

22 [The witness entered court]

23 WITNESS: TF2-187 [Sworn]

24 PRESIDING JUDGE: Now that the witness has been sworn, are  
10:12:15 25 you ready to proceed with your examination-in-chief?

26 MR BANGURA: Yes, Your Honour.

27 PRESIDING JUDGE: Please do so.

28 Court management --

29 JUDGE ITOE: She was sworn on the Koran?





1 MR BANGURA: Yes, Your Honour.

2 EXAMINED BY MR BANGURA:

3 Q. Good morning, Madam Witness.

4 A. Yes, good morning.

10:12:35 5 Q. I am going to ask you some questions this morning to which  
6 I expect you to give --

7 A. Yes.

8 Q. -- answers.

9 A. Yes.

10:12:50 10 Q. I will ask you to try to speak not too fast so that the  
11 answers you give will be recorded.

12 A. Yes, okay.

13 Q. Madam Witness, I will first ask you questions about  
14 yourself.

10:13:17 15 A. Okay.

16 Q. How old are you, Madam Witness?

17 A. I am 38 -- 28 years old.

18 Q. Madam Witness, where were you born?

19 A. I was born in XXXXXXXXXXXXXXXX, Bo District.

10:13:45 20 Q. Where do you presently reside, Madam Witness?

21 A. I am in XXXXXXXXXXXXXXXX District.

22 MR BANGURA: Sorry, Your Honours, I should have helped out  
23 with the spellings. XXXX is XXXX, and --

24 PRESIDING JUDGE: That one we have.

10:14:18 25 MR BANGURA: XXXX is, I believe, XXXX Chiefdom.

26 JUDGE ITOE: XXXX does not have an H at the end?

27 MR BANGURA: It has, Your Honour.

28 JUDGE ITOE: That's how I have been spelling it.

29 MR BANGURA: Thank you. And XXXX, I think, is XXXX,



1 XXXX Chiefdom.

2 PRESIDING JUDGE: And what's the last description, the  
3 name?

4 MR BANGURA: She presently resides in XXXX, XXXX, in  
10:14:50 5 XXXXXXXXXXXX, XXXX is XXXXXXXX, and XXXX is  
6 XXXXXXXX.

7 Q. Madam, how long have you been living in XXXX?

8 A. I have been there for six years.

9 Q. Are you married?

10:15:16 10 A. Yes.

11 Q. Do you have children?

12 A. Yes.

13 Q. How many?

14 A. There are four.

10:15:27 15 Q. How old is your eldest child?

16 A. Ten years.

17 Q. What about the youngest?

18 A. Two years.

19 Q. Madam, can you tell this Court what you do for a living.

10:16:01 20 A. I'm a gardener. I do cultivate potatoes, pepper. Also I  
21 do -- I produce gari, and that is where I get money to live with  
22 my children. And soap-making as well.

23 Q. Madam, what languages do you speak?

24 A. I speak Mende. I also speak Krio.

10:16:41 25 Q. Do you have some education?

26 A. I went to school a little.

27 Q. Can you help this Court to indicate how much is that  
28 little? How far did you go?

29 A. I went as far as Form 1.



1 Q. Are you able to read English, read and write English?  
2 A. No.  
3 Q. Thank you, Madam Witness. I would now like you to take  
4 your mind to certain events that occurred in this country some  
10:17:52 5 time ago, Madam Witness. Do you remember that there was war in  
6 this country some time ago?  
7 A. Yes.  
8 Q. Where were you living at the time that this war started?  
9 About the beginning of the war, where were you living?  
10:18:25 10 A. I was settled in XXXXXX.  
11 Q. Is it the same place you mentioned earlier in Ngao  
12 Chiefdom?  
13 A. Yes.  
14 Q. With whom were you living in XXXXXX at that time?  
10:18:54 15 A. My husband and my mother.  
16 Q. Did anything happen in XXXXXX about this time that you were  
17 there that the war had just started which you remember?  
18 A. Yes.  
19 Q. What happened in XXXXXX?  
10:19:26 20 A. We were attacked by rebels, and I was captured together  
21 with my husband.  
22 Q. Were other people captured along with you?  
23 A. Yes.  
24 Q. Do you remember what year this was?  
10:20:01 25 A. Yes.  
26 Q. What year?  
27 A. 1991.  
28 Q. Were you taken anywhere by these rebels?  
29 A. Yes.



1 Q. Where were you taken?

2 A. At first, when we were captured, they assembled us in the  
3 court barri.

4 Q. And from the court barri, were you taken anywhere?

10:20:46 5 A. Yes.

6 Q. Can you tell this Court where you were taken to.

7 A. They took me to Kailahun.

8 Q. And did you go with your husband?

9 A. Yes.

10:21:06 10 Q. Madam Witness, do you remember how long you were with the  
11 rebels when they took you to Kailahun?

12 A. Yes.

13 Q. How long was it?

14 A. I was with them for seven years.

10:21:47 15 Q. Were you able to leave the rebels at some point?

16 A. Yes.

17 Q. Do you remember what year that was when you left the  
18 rebels?

19 A. Yes.

10:22:10 20 Q. Madam Witness, I will ask you to lift up your voice when  
21 you give your answers, please, so that we can hear you.

22 A. Okay.

23 Q. Do you remember what year it was when you left the rebels?

24 A. Yes.

10:22:35 25 Q. What year was this?

26 A. 1998.

27 Q. Madam Witness, where did you go to when you left the  
28 rebels?

29 A. When I escaped, by then they had killed my husband and my





1 son was wounded. So I hid away from them, and I went to Gambia,  
2 Jong Chiefdom, Bonthe District.

3 MR BANGURA: Your Honours, Gambia, as in the country  
4 Gambia. Jong, J-O-N-G, Jong Chiefdom.

10:23:35 5 Q. Madam Witness, you just mentioned that your husband was  
6 killed and your child was wounded. Can you confirm the sex of  
7 this child?

8 A. Yes. A girl.

9 Q. Thank you. Why did you go to Gambia in Jong Chiefdom,  
10:24:09 10 Madam Witness?

11 A. After my husband had been killed and my son wounded, and I  
12 hid from them. And I took my child away to Gambia.

13 MR BANGURA: May it please, Your Honours. I believe I  
14 heard the interpreter say son, and I had the witness clarify the  
10:24:36 15 sex of her child already.

16 JUDGE THOMPSON: Yes, we have that discrepancy of "son" and  
17 "daughter."

18 PRESIDING JUDGE: So it's the daughter, not the son.

19 MR BANGURA: Yes, Your Honour.

10:24:50 20 Q. Madam Witness, if I got you right, you went to Gambia. Can  
21 you repeat the answer again.

22 MR BANGURA: I'm sorry, Your Honours. I probably missed  
23 that point.

24 Q. What was the reason for you going to Gambia?

10:25:21 25 A. After my husband had been killed and my sibling was  
26 wounded -- my daughter was wounded, that was the time I took away  
27 my daughter and escaped to Gambia.

28 Q. Who did you go to in Gambia?

29 A. I went to my uncle.



1 Q. Madam Witness, what was the situation in The Gambia -- in  
2 Gambia at this time that you got there? What was the situation  
3 in the town?

4 A. When I reached Gambia, I found by then Allieu Kondewa had  
10:26:20 5 just initiated a society -- initiating Kamajor society, and that  
6 was the time I got there.

7 Q. Now, this Allieu Kondewa who you mentioned that had just  
8 initiated a society, Kamajor society there, who was he as far as  
9 you knew?

10:26:53 10 A. He was the leader. He was the leader of all those  
11 initiators. He was the head of all those initiators. That was  
12 the time.

13 Q. Did you get to know him in Gambia when you were there?

14 A. Yes.

10:27:23 15 Q. Madam Witness, you went to stay with your uncle. While you  
16 were with your uncle in Gambia, did anything happen that you  
17 recall?

18 A. Yes.

19 Q. What do you recall?

10:27:51 20 A. The uncle with whom I was in Gambia, he was a cassava  
21 farmer close to the town. Mr Kondewa's boys were coming from  
22 Vaahun going to uproot his cassava, bringing it.

23 Q. Yes, please.

24 A. They were doing that until they finished eating the  
10:28:31 25 cassava.

26 Q. Madam Witness, when you say Kondewa's boys were coming to  
27 get the cassava from the farm, were they doing this with the  
28 consent of your uncle?

29 A. No. They did it all by themselves.



1 Q. Did your uncle do anything about this situation?

2 A. Yes.

3 Q. Please tell the Court.

4 A. Okay. My uncle went to Kondewa to make a report once,  
10:29:23 5 twice, but he didn't do anything. The third time, he sent his  
6 boys to go and arrest him, and they arrested him and brought  
7 him --

8 Q. May I ask you not to be -- not to speak too fast. I  
9 mentioned earlier that whatever you say is being recorded. So  
10:29:42 10 please, take it a bit slow. Continue.

11 PRESIDING JUDGE: I had it that the uncle went to report  
12 that twice, and then the third time, and that's --

13 MR BANGURA: Yes, that's where I interrupted.

14 Q. Madam Witness, can you take it from where your uncle went  
10:29:59 15 to make a report about the behaviour of Kondewa's boys. You said  
16 he did that once, twice. And what happened on each of those  
17 occasions?

18 A. Okay. Whenever he went to make this report, Kondewa  
19 wouldn't do anything.

10:30:32 20 Q. What happened on the third occasion?

21 A. He sent his boys to go and arrest him.

22 Q. Madam Witness, when you say "his boys," who are these boys?  
23 What are they, Kondewa's boys? You say he sent "his boys."

24 A. Those he was initiating who were in the initiation bush.

10:31:07 25 Q. Thank you. You say he sent his boys to come and arrest  
26 your uncle. Is that correct?

27 A. Yes.

28 Q. And what happened? Can you tell the Court?

29 A. Okay. Then they went and arrested him from the house and



1 brought him.

2 Q. Where did they take him to?

3 A. At the initiation bush.

4 Q. Were you there when Kondewa's boys came and arrested your  
10:31:57 5 uncle?

6 A. Yes, I was at the house.

7 Q. And how do you know that they took your uncle to the  
8 initiation bush?

9 A. Okay. I didn't follow them, but I was standing looking at  
10 them where they were taking him until I saw them taking him to  
11 the initiation bush. I saw that.

12 Q. Do you know if anything happened --

13 JUDGE ITOE: Mr Bangura, would you mind, please.

14 MR BANGURA: I'm sorry, Your Honour.

10:32:46 15 [HN010605B - EKD]

16 Q. Do you know whether anything happened when your uncle was  
17 taken to the initiation bush?

18 A. They didn't take him in to the initiation bush, but at the  
19 entrance of the initiation bush, at the entrance of the  
10:33:32 20 initiation bush.

21 Q. Did anything happen there?

22 A. Yes.

23 Q. Please tell the Court.

24 A. He was tied up tight from his back. The way the rebels  
10:33:53 25 used to tie up people with a cord, it cut you deep right into  
26 your -- right to your bone -- to your bones. That's what they  
27 tied him with.

28 Q. Yes, Madam Witness.

29 A. And he was screaming like a pig.





1 Q. Did anything happen next?

2 A. Yes.

3 Q. Please go on.

4 A. After he had been tied up he was laid down and he was  
10:34:37 5 screaming like a pig. And his boys, his boys started melting  
6 plastic and dropping it on his eyes -- in his eyes, sorry.

7 Q. "His boys." When you say "his boys," are you still talking  
8 of Kondewa's boys who had arrested your uncle?

9 A. Yes, they are the ones.

10:35:05 10 Q. You said they were melting -- burning plastic and dropping  
11 it into your uncle's eyes. How were you able to see this?

12 A. I was standing from a distance, but whatever they were  
13 doing I could see.

14 Q. And did anything happen?

10:35:48 15 A. Yes.

16 Q. Please explain.

17 A. They were putting it -- continued putting it in his eyes  
18 until -- and he was still screaming until he finally died.

19 Q. How do you know that your uncle died?

10:36:28 20 A. Because when I was standing from that distance and they  
21 were dropping the plastic in his eyes, I heard his cries. But it  
22 came to a point when I didn't hear the cries any more and that's  
23 when I concluded that "Oh, my uncle has been killed."

24 Q. Did these Kondewa's boys do anything else after this?

10:37:15 25 A. Yes.

26 Q. What did they do?

27 A. After he had died - because at that time night was falling,  
28 he was still tied up - they didn't wash him up. They just  
29 wrapped him up, dug a hole and buried him. I was standing there



1 crying inwards.

2 Q. Madam Witness, can you tell this Court who were present at  
3 this scene where your uncle had been killed?

4 A. The Kamajors were there and the towns people were there.

10:38:24 5 Q. When you say "the Kamajors," are you referring to Kondewa's  
6 boys?

7 A. They're the very ones.

8 Q. Who else was there among them?

9 A. The towns people were there.

10:38:51 10 Q. I'm saying among the Kamajors; apart from the boys who else  
11 was there?

12 A. Mr Bombowai was there.

13 Q. Who was Bombowai?

14 A. Bombowai was the deputy to Kondewa.

10:39:23 15 MR BANGURA: Your Honours, Bombowai is B-O-M-B-O-W-A-I.

16 Q. Madam Witness, apart from the boys and Bombowai, was  
17 anybody else among the Kamajors there?

18 A. Except the towns people who were there.

19 Q. Did you notice anybody giving any instructions while your  
10:40:08 20 uncle was being treated this way?

21 A. No.

22 Q. Madam Witness, after this incident did you continue to live  
23 in your uncle's house?

24 A. Yes.

10:40:37 25 Q. Madam Witness, do you know somebody called Sam  
26 Hinga Norman?

27 A. Yes, because I saw him one day.

28 Q. Where did you see him?

29 A. I saw him in the very Gambia.



1 Q. What was the occasion -- on what occasion did you see him  
2 in Gambia?

3 A. When he came, he came there one day with a helicopter and  
4 that's when I saw him, when he alighted from the helicopter.

10:42:06 5 Q. And is that the only time you have seen Hinga Norman?

6 A. Yes.

7 Q. What was -- if you know, Madam Witness, what was the  
8 purpose of Hinga Norman coming to Gambia that day? Why did he  
9 come to Gambia?

10:42:30 10 MR YILLAH: My Lord, may I object to this type of  
11 questions. Is this a competent witness to answer to that  
12 particular type of question?

13 PRESIDING JUDGE: We'll see, we'll see. Objection denied.

14 MR BANGURA: Thank you.

10:42:50 15 Q. Madam Witness, the question again is: Do you know why  
16 Hinga Norman came to Gambia that day, the day you saw him that he  
17 came from the helicopter?

18 A. If I knew why?

19 Q. Yes, the purpose of his visit to Gambia.

10:43:12 20 A. Yes.

21 Q. Madam, I will ask you to lift up your voice a bit, please.

22 A. Okay.

23 Q. Why had he come to Gambia?

24 A. He was the very one who came with food for the Kamajors,  
10:43:40 25 medicines and weapons.

26 Q. These items that you have just mentioned - food, medicines  
27 and weapons - did you see them yourself?

28 A. Yes.

29 Q. Madam Witness, ahead of Hinga Norman's visit to Gambia that



1 day that you saw him - before the visit - were any preparations  
2 made by the Kamajors in respect of the visit? Any preparations?  
3 A. Yes.  
4 Q. What were those preparations, as far as you remember?  
10:45:01 5 A. On that day I -- look, they captured some pregnant women,  
6 three of them, that they were coming to do a sacrifice.  
7 Q. Madam Witness, just take it slowly, please. When you say  
8 "they captured," who were they?  
9 A. The Kamajors.  
10:45:30 10 Q. Did you say something?  
11 THE INTERPRETER: That was not audible.  
12 MR BANGURA:  
13 Q. Madam Witness.  
14 A. That was done by Kondewa's boys. They captured pregnant  
10:45:39 15 women.  
16 Q. How many of them?  
17 A. Three of them.  
18 Q. Do you know where these pregnant women were captured?  
19 A. Yes.  
10:45:54 20 Q. Where?  
21 A. In that town.  
22 Q. These three pregnant women that were captured, do you know  
23 whether they were taken anywhere?  
24 A. Yes.  
10:46:19 25 Q. Where were they taken?  
26 A. At the court barri.  
27 Q. Do you know -- did anything happen when they were taken to  
28 the court barri?  
29 A. Yes.





1 Q. What happened?

2 A. They tied them up tight. There was some pillars; they were  
3 tied to those pillars and that's where they were standing.

4 Q. And what happened?

10:47:26 5 A. When they heard the sound of the plane -- when the Kamajors  
6 heard the sound of a plane and they started slitting the stomach  
7 of the pregnant women, and whenever they did that, the child  
8 would come -- fall from the stomach of the woman and they would  
9 cut off the head of the foetus.

10:47:55 10 Q. Madam Witness, you may have to go slowly, perhaps, over  
11 that answer again. You started by saying that when the Kamajors  
12 heard the sound of a plane. What happened?

13 A. When they heard the sound of the plane --

14 Q. Slowly, please, Madam Witness. You're being recorded.

10:48:27 15 A. And they started working on the pregnant women, they  
16 started slitting their stomach, taking out the foetuses.

17 Q. Now, how did they do this? Together, all three of them?

18 A. No.

19 Q. Was it one after the other?

10:48:59 20 A. Yes.

21 Q. Can you describe what they did in each case?

22 A. Yes.

23 Q. And slowly, please.

24 A. Okay. When one pregnant woman --

10:49:34 25 THE INTERPRETER: Learned counsel, can you please control.  
26 There are some ambiguities that I can't understand so I can't  
27 interpret accurately.

28 MR BANGURA:

29 Q. Madam Witness, I asked you to explain how they went about.



1 You have just told this Court that they slit the stomach of each  
2 of these women and took out the babies from them. You say they  
3 did that one after the other. I have just asked you to explain  
4 how they went about it. So take -- take each case separately and  
10:50:15 5 just explain how did they do it step by step, please?

6 A. Okay. When they slit the stomach of one of them --

7 Q. Yes.

8 A. -- they would take out the foetus and chop off its head and  
9 pin it on a stick.

10:50:54 10 Q. What kind of stick would they --

11 A. A long stick. As long as from my shoulder to my palm.  
12 That's where they pinned the head of the foetus.

13 MR BANGURA: Your Honours, I believe it would be okay for  
14 the witness to stretch her hand out because she has just tried to  
10:51:33 15 describe the length of the stick that they did use.

16 PRESIDING JUDGE: That's fine. Can she do it from where  
17 she is now?

18 MR BANGURA:

19 Q. Witness, can you stretch out your hand so that we can try  
10:51:45 20 and make an estimate of the length of the stick you were talking  
21 about?

22 A. [Indicates]

23 MR BANGURA: Your Honours --

24 PRESIDING JUDGE: So the stick was the length of your arm  
10:51:54 25 stretched out?

26 MR BANGURA: Yes.

27 THE WITNESS: Yes. That's where they pinned the head of  
28 the foetus.

29 MR BANGURA: Can we say two feet.



1 Q. Yes, Madam Witness. You said when they did -- they would  
2 do that, stick the head of the foetus to the stick; is that  
3 correct?

4 A. Yes.

10:52:26 5 Q. And then?

6 A. That's what they did to all three of them.

7 Q. So if I get you rightly they had three separate sticks with  
8 the heads of these foetuses on them; is that correct?

9 A. Yes.

10:53:09 10 Q. What happened to the women whose stomachs' were slit?

11 A. All of them died. They were lying down there.

12 Q. And did they do anything with these three sticks with the  
13 foetuses stuck onto them? Did they do anything with them?

14 A. Yes.

10:53:50 15 Q. What did they do?

16 A. There was a very large stick which they took and they stuck  
17 the three sticks to this one and they tied them up to that large  
18 stick. Can I go on?

19 Q. Yes, go on.

10:54:24 20 A. When that has been done, it was like a flag and they went  
21 and pinned it at the junction.

22 Q. Madam, when you say it was like a flag, can you just be  
23 more clear on that? You said the three sticks were tied to one  
24 big stick and so what was like a flag?

10:55:07 25 A. Yes. Just like a flag, because they were all stuck to one  
26 stick and they were standing like this, just like a flag is stuck  
27 to a stick. That's why I said it was like a flag.

28 Q. And did you say that this big stick, which had the three  
29 smaller sticks tied to it, was then put at a point somewhere?



1 PRESIDING JUDGE: She said they pinned it at the junction.

2 MR BANGURA: Junction.

3 PRESIDING JUDGE: Yes, Mr Margai?

4 MR MARGAI: I have patiently listened to this particular  
10:56:00 5 testimony relating to Gambia. I believe the testimony is an  
6 attempt to satisfy the crime mentioned under counts 1 to 2 of the  
7 indictment, unlawful killings. Looking at that count, My Lords,  
8 the locations coming under those particular counts are clearly  
9 spelt out in the indictment. I refer Your Lordships to paragraph  
10:56:52 10 F.

11 PRESIDING JUDGE: F of?

12 MR MARGAI: F of the indictment, that's page 8.

13 PRESIDING JUDGE: That's under counts 1 to 2?

14 MR MARGAI: Counts 1 to 2. Now, between October 1997 and  
10:57:17 15 December 1999 in locations in Bonthe District including Talia  
16 (Base Zero), Mobayeh, Makose and Bonthe Town. My Lord, the  
17 location in respect of which this evidence is now being led is  
18 clearly not within the confines of paragraph F of counts 1 to 2,  
19 and if that is the case, then it is my humble submission that the  
10:57:54 20 testimony is of no moment.

21 PRESIDING JUDGE: Before you sit down on this and we ask  
22 the Prosecution to respond to it, Mr Margai, you have focused on  
23 1 and 2 but there is also counts 3 and 4 that talks of physical  
24 violence and mental suffering, as such, and there are various  
10:58:20 25 locations described therein as well. So I just want to make sure  
26 that -- as I say, you have focused your comments on 1 and 2.

27 MR MARGAI: But even there, My Lord, with respect, the  
28 locations are clearly defined and it is again my submission that  
29 the location borne out in the testimony of the witness is outside





1 of the locations therein specified.

2 PRESIDING JUDGE: Thank you.

3 MR MARGAI: As My Lords please.

4 PRESIDING JUDGE: Mr Prosecutor?

10:58:56 5 MR BANGURA: Thank you, Your Honour. Your Honours, first  
6 point I wish to make is that the definition of crimes committed  
7 under counts 1 and 2 as referred to by my learned friend is not  
8 exclusive; the locations mentioned there are not exclusive. The  
9 particular paragraph referred to by my learned friend --

10:59:33 10 PRESIDING JUDGE: You mean paragraph F?

11 MR BANGURA: F. Would give the more specific examples, but  
12 Your Honours, at the beginning of the paragraph, paragraph 25, it  
13 says "unlawful killings included the following". Your Honours,  
14 "included" there certainly does not close the categories.

11:00:07 15 Specific examples are only given under paragraph F but the  
16 categories may be open. It is the case that at the time the  
17 indictment was joined, it was necessary to give some specificity  
18 as to the particular crimes that were being charged so as to give  
19 the accused persons sufficient notice of what the Prosecution was  
11:00:41 20 alleging against them. But, Your Honours, my submission is that  
21 this does not preclude and it does not exclude the introduction  
22 of evidence relating to this particular offence for other  
23 locations.

24 Additionally, Your Honours, my learned friend has said that  
11:01:01 25 it would seem to him that the evidence being led is in support of  
26 offences charged under counts 1 and 2. Such evidence may also go  
27 to support the charge under counts 3 and 4, and under counts 3  
28 and 4, Your Honours, paragraph 26(b) says, "Between November 1997  
29 and December 1999 at the towns of Tongo Field, Kenema, Bo,



1 Koribundu and surrounding areas and the districts of Moyamba and  
2 Bonthe" without necessarily specifying.

3 [HN010605C 11.00 a.m. - AD]

4 PRESIDING JUDGE: Just for my own information, is Gambia in one  
11:01:50 5 of those districts.

6 MR BANGURA: Certainly Your Honour. Gambia is in Bumpeh  
7 District -- Jong Chiefdom in Bumpeh District. I think the  
8 witness clearly indicated that at the beginning of her testimony.

9 PRESIDING JUDGE: She did say that she was from -- anyhow,  
11:02:07 10 that -- Gambia is in Bumpeh District.

11 MR BANGURA: Yes, Your Honour. I don't think that the  
12 Defence is denying that.

13 PRESIDING JUDGE: Mr Margai, you acknowledge that, indeed,  
14 Gambia is in Bumpeh District?

11:02:19 15 [Microphone not activated]

16 THE INTERPRETER: Microphone.

17 MR MARGAI: Yes I do.

18 PRESIDING JUDGE: Just asked a question. Gambia is in the  
19 Bumpeh District, and you agree it is in the Bumpeh District.

11:02:39 20 MR MARGAI: Yes I do, My Lord.

21 PRESIDING JUDGE: Thank you.

22 JUDGE THOMPSON: What is your response? That these are  
23 inclusive. They are not exhaustive, including the following. At  
24 the time when the indictment was preferred, when preliminary  
11:02:56 25 motions were being filed, was there any attempt to complain about  
26 defect in the form of the indictment -- the use of inclusive  
27 particulars? Because that is a very important point. I mean,  
28 the way the indictment has been framed suggests that they were  
29 not in fact saying that the allegations were just restricted to



1 those particularised in the counts.

2 MR MARGAI: My Lord, my objection here is not that the  
3 indictment or the particular count is defective. What I am  
4 saying is that the narrowness of the areas as defined in the  
11:03:51 5 indictment I am sure meant to fulfill the purpose of having the  
6 accused clearly cognisant of the crimes alleged against him and,  
7 therefore, it cannot be open-ended. That is all I am saying.  
8 Otherwise they would not have gone on to specifically mention  
9 those locations that are mentioned in count 1 and 2.

11:04:23 10 JUDGE THOMPSON: But what is the fault of including the  
11 following; what is the legal force, legal significant of that?  
12 Are they talking about an exhaustive category?

13 MR MARGAI: Well, I am saying that the --

14 JUDGE THOMPSON: Because clearly, if that is in the  
11:04:42 15 indictment and the indictment has not been challenged as to the  
16 form of the particulars -- how they are framed -- then why would  
17 it be objectionable to lead evidence in support of an area which  
18 is in fact included in the geographical scope?

19 MR MARGAI: Let me put it this way, an indictment serves  
11:05:16 20 the purpose of bringing to the knowledge of the accused what is  
21 being alleged against him or her. Now my complaint here is that  
22 the evidence that is being led must be within the confines of the  
23 crimes alleged and not outside, as in this case the specific  
24 locations that are contained under counts 1 and 2. That is my  
11:05:42 25 complaint, not that the indictment is defective. I am saying  
26 that the evidence must not go outside of the locations therein  
27 specified.

28 JUDGE THOMPSON: But how does it go outside? The locations  
29 are not specified exhaustively or comprehensively. The technique



1 of inclusive framing of an indictment is used. Therefore, is it  
2 not meant to cover precisely the situation that you are  
3 complaining about.

4 PRESIDING JUDGE: And the allegation includes Bumpah  
11:06:18 5 District, and you concede that Gambia is in the Bumpah District.  
6 So it is alleged that --

7 [Microphone not activated].

8 THE INTERPRETER: Microphone.

9 MR MARGAI: We were served with statements of these  
11:06:32 10 witnesses and particulars of offences alleged. What I am saying  
11 is that the counts by themselves have no problems at all with us,  
12 but our complaint or, rather, concern, is the evidence that is  
13 being led which is not within the confines --

14 JUDGE THOMPSON: Of what?

11:06:59 15 MR MARGAI: Of the specific areas mentioned in the  
16 indictment. That is my complaint.

17 JUDGE THOMPSON: But is the evidence within the confines of  
18 the disclosed material that you received?

19 MR MARGAI: If I make reference to the statement of this  
11:07:14 20 witness, then surely the answer is no, it is not within the  
21 confines of the statement.

22 JUDGE THOMPSON: And, of course -- but again the response  
23 from me to that is that is this particular witness forbidden from  
24 amplifying or elaborating consistent with this Court's  
11:07:36 25 acknowledgement of the doctrine of orality?

26 PRESIDING JUDGE: You are saying, Mr Margai, so I get it  
27 clear as well, that nowhere in the information disclosed to the  
28 Defence is there any information about incidents of that nature  
29 in Gambia.





1 MR MARGAI: The only reference that I have in the statement  
2 of this witness, if I may refer to it, is that a pregnant woman  
3 was captured by Bombowai from the village, tied her up and took  
4 her to the bush to be killed.

11:08:20 5 PRESIDING JUDGE: But, "from the village" -- what is the  
6 village?

7 MR MARGAI: The village is not mentioned. That was the  
8 statement furnished to us.

9 MR BANGURA: Please, Your Honours, I think I need to  
11:08:32 10 correct the position.

11 JUDGE THOMPSON: For me, even if that particular position  
12 has merit, learned counsel has not actually answered my own  
13 question whether, under the principle of principle of orality,  
14 this witness is in fact forbidden from leading that kind of  
11:08:53 15 evidence.

16 MR MARGAI: If Your Lordships are of the view that  
17 perhaps --

18 JUDGE THOMPSON: If it is within -- the evidence relates to  
19 the scope of the geographical territory or area which the  
11:09:10 20 indictment particularises and specifies --

21 MR MARGAI: My Lords, what perhaps I would is -- we shall  
22 let the evidence go in for now, and when we come to  
23 cross-examination then perhaps tendering the statement will  
24 clearly be supportive --

11:09:29 25 JUDGE THOMPSON: Yes, right.

26 MR MARGAI: -- of the concerns raised.

27 JUDGE ITOE: Precisely.

28 MR MARGAI: I was merely trying to save precious time.

29 JUDGE ITOE: This is what I was going to suggest to you.



1 MR MARGAI: I anticipated that, My Lord.  
2 [Overlapping speakers]  
3 JUDGE ITOE: That is what I was going to suggest to you.  
4 MR MARGAI: I accept that.  
11:09:45 5 PRESIDING JUDGE: So you are withdrawing your objection at  
6 this moment?  
7 MR MARGAI: Yes, I am.  
8 JUDGE ITOE: And, of course, I also wanted to draw your  
9 attention to the fact of the meaning you make out of "including".  
11:09:49 10 MR MARGAI: Yes.  
11 JUDGE ITOE: Does it mean anything?  
12 MR MARGAI: No, does it exclude --  
13 JUDGE ITOE: This is it. It isn't disputed that --  
14 MR MARGAI: As My Lord pLeases.  
11:09:59 15 JUDGE ITOE: -- that Gambia is in the Moyamba District.  
16 PRESIDING JUDGE: Bumpeh.  
17 JUDGE ITOE: Bumpeh District; I am sorry.  
18 MR MARGAI: We shall address that in cross-examination.  
19 [Overlapping speakers]  
11:10:09 20 JUDGE ITOE: -- but in cross-examination you are perfectly  
21 entitled in your large latitude to revisit this issue.  
22 MR MARGAI: As My Lords please. Thank you.  
23 MR BANGURA: Thank you Your Honours. But before we  
24 continue, I wish to have the records reflect accurately regarding  
11:10:29 25 what the position is regarding what material we have provided  
26 Defence. I had my learned friend saying that we provided him  
27 with statements which only mentioned that one woman was abducted  
28 somewhere and taken to the bush. Your Honours, we have provided  
29 Defence so far with --



1 [Microphone not activated]

2 PRESIDING JUDGE: It is because the Witness raised her hand  
3 asking for something. If it is for water, that is fine. Madam  
4 Witness, are you okay?

11:11:07 5 THE WITNESS: Yes.

6 PRESIDING JUDGE: Thank you.

7 MR BANGURA: Your Honours, just to indicate that Defence  
8 was served with two statements and additional information -- more  
9 or less, additional information provided by the Witness to those  
11:11:32 10 two statement, in some cases clarifying issues that had been

11 mentioned in the statement. Your Honours, clearly the issues  
12 which the Witness is testifying to presently in Court are  
13 included in those statements. So it is not correct to say that  
14 the Prosecution did not provide Defence with material regarding  
11:11:56 15 testimony of the witness presently in Court.

16 JUDGE THOMPSON: It could have been an inadvertent  
17 representation perhaps.

18 MR BANGURA: I believe so. May I proceed?

19 PRESIDING JUDGE: Yes, you may proceed. Thank you.

11:12:08 20 MR BANGURA: Thank you Your Honours.

21 Q. Madam Witness, you were at a point where --

22 Your Honours, I probably lost the last answer I got from  
23 the Witness.

24 JUDGE ITOE: The last answer was that they took this flag,  
11:12:35 25 I think -- they took the flag in the context and pinned it at a  
26 junction. That is where we were.

27 MR BANGURA: Yes, Your Honour. Thank you.

28 JUDGE ITOE: That is where we were.

29 MR BANGURA: I am reminded, Your Honour.



1 JUDGE ITOE: Yes.

2 MR BANGURA:

3 Q. Madam Witness, you mentioned this junction, where was this  
4 junction leading to -- the junction where the flag was put?

11:12:55 5 A. The junction goes to Matru; it is a big road that is  
6 divided.

7 Q. Madam Witness, just before we go further into what happened  
8 at the junction, this incident that happened at court barri, do  
9 you remember who were the persons present there at that time?

11:13:32 10 A. Yes.

11 Q. Can you tell this Court who was present there?

12 A. There were so many civilians there.

13 JUDGE THOMPSON: At the court barri?

14 MR BANGURA: Yes, Your Honour, at court barri.

11:13:56 15 Q. Apart from the civilians there, who else was there?

16 A. The very Kamajors themselves were there.

17 Q. And when you say the "very Kamajors", are there any  
18 particular persons that you remember that were there from the  
19 Kamajors?

11:14:32 20 A. Yes.

21 Q. Who?

22 A. Bombowai.

23 Q. Apart from Bombowai, anybody else?

24 A. I could not tell that.

11:14:50 25 Q. Do you remember who was the head amongst them in the court  
26 barri at that time?

27 A. The Kamajors -- yes.

28 Q. Who was it?

29 A. Bombowai.





1 JUDGE ITOE: This is the second testimony, learned counsel,  
2 by this Witness on this issue.

3 MR BANGURA: On the issue of --

4 JUDGE ITOE: On this -- this is the second --

11:15:41 5 MR BANGURA: I am moving on, Your Honour.

6 JUDGE ITOE: It is a replica of what we have already on  
7 record. All this Bombowai, you know, and she remembered no other  
8 person.

9 MR BANGURA: Your Honour, that had to do with --

11:15:49 10 JUDGE ITOE: Go ahead; it is just a remark. Never mind, we  
11 have this. She came back as if she was going to change her  
12 evidence, but she is repeating the same thing.

13 MR MARGAI: As My Lord pleases.

14 MR BANGURA: That is the evidence for now. The Witness  
11:16:05 15 testifies to what she recalls.

16 JUDGE ITOE: What we want to avoid is repetition because we  
17 want to be on time.

18 MR BANGURA: I am moving on Your Honour.

19 JUDGE ITOE: Okay.

11:16:16 20 MR BANGURA:

21 Q. Madam Witness, when this flag was taken to the junction did  
22 you go there yourself?

23 A. I did not get close there, but I was seeing it from a  
24 distance; there was a little distance between us.

11:16:36 25 Q. From where you were standing, were you able to observe  
26 anything?

27 A. Yes.

28 Q. What did you observe?

29 A. When the flag was pinned at the junction, therein Chief



1 Norman came in his helicopter and alighted. There was something  
2 spinning.

3 Q. Slowly please.

4 A. Okay.

11:17:21 5 Q. Please go on.

6 A. Yes. That helicopter, it was something spinning, there was  
7 something underneath spinning, so people were running away.  
8 People were running to go and see and we went there to see,  
9 because I was among them who went to see.

11:17:49 10 Q. And what did you see?

11 A. It spin for a long time and then later on it rested.

12 Q. This thing that was spinning, was it part of the helicopter  
13 which had come?

14 A. Yes.

11:18:15 15 Q. And when it stopped spinning, what happened?

16 A. After it rested, it was still going around. Then Mr Norman  
17 came out.

18 Q. And what happened when he came out?

19 A. After he had come out, all the Kamajors assembled by the  
11:19:00 20 helicopter. Then I saw them taking out things. I saw bags of  
21 rice and medicines and cartons, bullets and guns; they were  
22 taking them out.

23 Q. Do you know where they were taken to?

24 A. Yes.

11:19:24 25 Q. Where?

26 A. They went with them to the society bush -- at the entrance  
27 of the society bush, My Lord.

28 Q. Hinga Norman himself, do you know where he went to when he  
29 came off from the helicopter?



1 A. Yes.

2 Q. Where did he go?

3 A. He went to the entrance of the society bush where Kondewa  
4 was.

11:20:19 5 Q. Madam Witness, the stick which was placed at the junction  
6 which was placed there as a flag, do you know why it had been  
7 placed there?

8 A. Yes.

9 Q. Why?

11:20:45 10 A. That flag that they pinned there, they wanted Mr Norman to  
11 see it.

12 Q. Can you describe how it was positioned?

13 A. Yes.

14 Q. How was it positioned?

11:21:26 15 A. It was pinned right -- straight up, perpendicular.

16 Q. Madam Witness, would anybody in that area at that time have  
17 gone by without noticing that --

18 JUDGE THOMPSON: Why?

19 MR MARGAI: This is very subjective, My Lords.

11:21:56 20 JUDGE THOMPSON: Why? Very argumentative.

21 MR MARGAI: And subjective too.

22 JUDGE THOMPSON: Yes.

23 MR BANGURA: Your Honour, I do apologise.

24 PRESIDING JUDGE: And very leading as well.

11:22:06 25 JUDGE THOMPSON: Yes. All the rules are being violated.

26 MR BANGURA: I do apologise.

27 Q. Madam Witness, did anything happen to the stick later --  
28 the stick which was put there like a flag?

29 A. Yes.



1 Q. What happened to it?

2 A. After they have removed all the things from the helicopter,  
3 they removed the stick.

4 Q. And where did they take the stick to?

11:22:51 5 A. They took it to the barri; they removed the heads.

6 Q. Now, you mentioned earlier that the three women who had  
7 been killed lay in the barri. Did anything happen to them?

8 A. Yes.

9 Q. What happened?

11:23:24 10 A. After they had done that, then they smeared the blood on  
11 their bodies, on their faces and they took their corpses and  
12 buried them in one grave.

13 Q. You said "after they had done that", what did they do,  
14 Madam Witness?

11:23:46 15 [Microphone not activated]

16 JUDGE THOMPSON: That I don't want.

17 MR BANGURA: Your Honours, the answer I got was after they  
18 had done that they smeared the blood. I did not get her saying  
19 something before that. So the question was what did they do --

11:24:06 20 "that".

21 PRESIDING JUDGE: You are asking the meaning of that.

22 MR BANGURA: Yes, exactly.

23 THE WITNESS: After they have removed the stick with the  
24 heads and brought it under the barri, and then the Kamajors  
11:24:26 25 smeared the blood on their faces.

26 Q. And what did they do next?

27 A. They were singing about after they had buried them.

28 JUDGE THOMPSON: Whose faces?

29 THE WITNESS: They were singing.





1 JUDGE THOMPSON: Can we have that clear?  
2 MR BANGURA: Pardon?  
3 JUDGE THOMPSON: After they had removed the sticks with the  
4 heads the Kamajors smeared the blood their faces. Who is  
11:25:00 5 "their"?  
6 MR BANGURA: The Kamajors, as I understand it.  
7 JUDGE THOMPSON: Remember that the dead women were lying in  
8 the barri there. I think we need to clarify --  
9 JUDGE ITOE: "Their faces" is not clear.  
11:25:14 10 JUDGE THOMPSON: "Their faces" is not clear. Remember, the  
11 whole thing sounds ritualistic.  
12 MR BANGURA: Yes, Your Honour.  
13 Q. Madam Witness, who smeared the blood on their faces?  
14 JUDGE THOMPSON: Whose faces were smeared with blood?  
11:25:36 15 MR BANGURA: Thank you, Your Honour.  
16 Q. Madam Witness, whose faces were smeared with blood?  
17 A. The Kamajors themselves smeared their faces with the blood.  
18 Q. What did they do with the bodies -- the corpses?  
19 A. They were all buried in one grave.  
11:26:15 20 Q. After the Kamajors had smeared their faces with blood, what  
21 did they do?  
22 A. They were there jubilating, singing and going to the town.  
23 Q. Do you remember the words of the song that they sang that  
24 day?  
11:27:09 25 A. Yes.  
26 Q. Can you tell us what those words were?  
27 A. They have joined -- they got their medicine from pregnant  
28 women and that was the way they sang it.  
29 Q. Madam Witness, can we get you to give us the exact words,



1 separate from your own words; what were the exact words that made  
2 up the song?  
3 A. Okay.  
4 [Mende spoken]  
11:28:19 5 Q. What does that mean?  
6 Your Honours --  
7 JUDGE THOMPSON: Do you want us to write the literal  
8 thing -- the Mende version first before the meaning?  
9 MR BANGURA: Your Honours, there may be some difficulty  
11:28:45 10 with spellings --  
11 JUDGE THOMPSON: I realise that.  
12 MR BANGURA: The immediate interpretation in English  
13 whatever the words mean.  
14 JUDGE THOMPSON: Yes.  
11:28:55 15 MR BANGURA:  
16 Q. Those words which you have just used, Madam Witness, what  
17 do they mean -- in the song?  
18 Your Honours, I believe it was --  
19 JUDGE THOMPSON: She has used three words [Mende spoken].  
11:29:13 20 PRESIDING JUDGE: What is it in English?  
21 MR BANGURA: In English, Your Honour, I believe that is for  
22 the interpreters.  
23 [Overlapping speakers]  
24 THE WITNESS: The song they were singing is what I am going  
11:29:22 25 to sing and then I will tell the meaning.  
26 JUDGE THOMPSON: Okay, sing.  
27 [Witness sings in Mende]  
28 MR BANGURA: Your Honours, I did not get that; there may be  
29 some difficulty with spelling.



1 [Overlapping speakers]  
2 JUDGE THOMPSON: What is the translation?  
3 MR BANGURA: I would expect that to come to the  
4 interpreters.  
11:29:57 5 PRESIDING JUDGE: Yes, we are not asking you.  
6 MR BANGURA: Thank you.  
7 THE INTERPRETER: You will have to give us some time  
8 because it was a little very fast.  
9 MR BANGURA: Can we go line by line perhaps ?  
11:30:09 10 THE INTERPRETER: That would help.  
11 MR BANGURA:  
12 Q. Madam Witness, can you take it one line at a time so that  
13 we can get an interpretation of those words?  
14 A. Okay. [Mende spoken]  
11:30:38 15 JUDGE ITOE: What does that mean?  
16 THE INTERPRETER: There is no equivalent in English for  
17 [Mende spoken]  
18 MR BANGURA: In that case, may I ask that we record it as  
19 it is in Mende -- that line?  
11:30:54 20 JUDGE THOMPSON: There is no equivalent. Is he trying --  
21 THE INTERPRETER: The other lines coming after that have  
22 meaning. We are waiting for her.  
23 PRESIDING JUDGE: Okay.  
24 JUDGE THOMPSON: Okay then, I don't need to pre-empt.  
11:31:09 25 MR BANGURA:  
26 Q. Madam Witness, continue.  
27 A. [Mende spoken]  
28 Q. Can you repeat that?  
29 A. [Mende spoken]. Getting medicine is my bravery.



1 [HN0100605D - SV]

2 A. I got mine through a pregnant woman. Oso Gbamuleh.

3 MR BANGURA: Your Honours, I believe that came through.

4 JUDGE THOMPSON: Well, for me actually I have recorded that  
11:32:04 5 they're saying that they got their medicine from pregnant women.

6 It seems to me to encapsulate the entire context of this song.

7 MR BANGURA: I'm happy with that, yes.

8 JUDGE ITOE: Getting a medicine is -- maybe the source of  
9 his own bravery and that he has gotten his from a --

11:32:29 10 MR BANGURA: A pregnant woman.

11 JUDGE ITOE: -- a pregnant woman.

12 MR BANGURA: That's right.

13 Q. Madam Witness, did Hinga Norman eventually go back that  
14 day?

11:32:47 15 A. Yes.

16 Q. You had mentioned before now that they got these babies and  
17 stuck them to a stick and put it in the junction as a flag and  
18 you said that it was for Hinga Norman to see it; is that correct?

19 A. Yes.

11:33:13 20 Q. Were you able to learn why they did this? Why they cut the  
21 bellies of these women and got the fetuses out and stuck them to  
22 a stick? Why did they want to do this for Hinga Norman?

23 MR YILLAH: My Lord, again, the same objection. I maintain  
24 the same objection as the last time.

11:33:41 25 JUDGE THOMPSON: This is getting very argumentative.

26 MR YILLAH: [Overlapping speakers]

27 JUDGE THOMPSON: For my part it would sound like wanting  
28 this witness to give us a kind of analytical commentary on why  
29 the process alleged took place. I mean, in other words, are we





1 being asked to hear some kind of expert evidence as to whether --  
2 if a ritual took place, what she thought the ritual meant.

3 MR BANGURA: Not exactly.

4 MR MARGAI: My Lords, I believe that what this witness is  
11:34:21 5 being asked to do is to conjecture. Not unless she can tell this  
6 Court that she is a Kamajor.

7 JUDGE THOMPSON: Quite. Well, I mean, even then --

8 JUDGE ITOE: [Overlapping speakers] the ritual.

9 [Overlapping speakers - transcript incomplete].

11:34:30 10 MR MARGAI: [Overlapping speakers] with the ritual.

11 JUDGE THOMPSON: And that's my difficulty what this line of  
12 examination-in-chief is definitely trying to elicit from a  
13 witness and her own analytical perceptions of a ritual that she  
14 apparently witnessed. But how can she do that? I mean, of what  
11:34:49 15 assistance is that to the Court? Because we're looking for  
16 facts; we're not looking for theoretical commentary on the  
17 alleged ritual. I mean, that's my own difficulty. I don't know  
18 if my learned presiding brother --

19 MR BANGURA: Very well, My Lords, I will abandon the line  
11:35:15 20 but that's not the intention here. The question was: Were you  
21 able to learn and, Your Honours, what I was seeking to --

22 JUDGE THOMPSON: But this is the difficulty. This is the  
23 difficulty that I am in because these are alleged ritualistic  
24 practices and so --

11:35:27 25 PRESIDING JUDGE: Mr dear brother, maybe in the meantime we  
26 could ask the witness to remove her earphones because --

27 JUDGE THOMPSON: [Microphone not activated]

28 PRESIDING JUDGE: Yes, but it may be translated to her in  
29 Mende.



1 JUDGE THOMPSON: Learned counsel, I'm speaking for myself  
2 and saying that it's an argumentative line. It is controversial.  
3 Evidence has been led of certain alleged ritualistic practices  
4 and this witness is here to say to us what she saw, what she saw,  
11:36:07 5 and I'm not sure whether if we allow her to tell us what she  
6 heard as to how -- the meaning or interpretation of those alleged  
7 ritualistic practices, this is of any assistance to the Court. I  
8 just speak for myself --

9 MR BANGURA: I will not say more, Your Honour.

11:36:33 10 PRESIDING JUDGE: That's fine, that's your case.

11 MR BANGURA: I will not say more.

12 Q. Madam Witness, you mentioned --

13 PRESIDING JUDGE: Wait. Her earphones have been removed.

14 MR BANGURA: Your Honours, this will be all for this  
11:37:00 15 witness.

16 PRESIDING JUDGE: Before we ask you, Mr Counsel for the  
17 first accused, to proceed with your cross-examination we will  
18 break for a short pause.

19 MR YILLAH: My Lords, before you rise I wish to indicate  
11:37:30 20 that I shall not be immediately proceeding with the  
21 cross-examination of this witness but I shall be making an  
22 application in respect of this witness, My Lord, but when Your  
23 Honours resume sitting.

24 PRESIDING JUDGE: Very well. Court is adjourned.

11:38:19 25 [Recess taken at 11.36 a.m.]

26 [On resuming at 12.10 p.m.]

27 PRESIDING JUDGE: So, Mr Defence Counsel, prior to the  
28 adjournment you indicated that you intended to make an  
29 application.



1 MR YILLAH: Yes, My Lord. I indicated that I was going to  
2 move the Court -- to apply to the Court for certain reliefs. I'm  
3 ready to do so now, My Lord.

4 PRESIDING JUDGE: Can you do that with the witness? We can  
12:11:46 5 ask the witness to have her earphones removed.

6 MR YILLAH: Very well, My Lord.

7 PRESIDING JUDGE: You want to do it in the absence?

8 MR YILLAH: Yes, My Lord.

9 JUDGE ITOE: I think better still she can be taken away  
12:12:03 10 from the Court, for better guarantees.

11 MR YILLAH: As My Lord pleases. Because I'm going to  
12 submit legal arguments in respect of the testimony of this  
13 witness so it will be better if she is, as the Honourable Justice  
14 Itoe has suggested, taken out. Depending on the disposition of  
12:12:24 15 Your Lordship.

16 JUDGE ITOE: I wouldn't want to take her professed  
17 illiteracy --

18 MR YILLAH: As My Lord pleases.

19 JUDGE ITOE: -- too seriously. So getting to Form 1, it  
12:12:42 20 means having gotten to somewhere at least.

21 [The witness stands down]

22 PRESIDING JUDGE: Yes, Mr Yillah.

23 MR YILLAH: Yes, My Lord. My Lord, this is an application  
24 by the Defence of the first accused seeking the exclusion of the  
12:15:28 25 evidence of -- or the testimony of witness TF2-187 for the  
26 following reasons: One, that the evidence of TF2-187 as adduced  
27 in court this morning goes outside the scope of the indictment  
28 against the first accused, My Lord.

29 JUDGE ITOE: Mr Yillah, before you proceed is the



1 Prosecution aware of where you're coming from on this application  
2 that you're making?

3 MR YILLAH: No, My Lord. Except when I informed --

4 JUDGE ITOE: They're not aware?

12:16:14 5 MR YILLAH: No, My Lord. Except when I informed Your

6 Lordship before you rose, they were in court and I intimated --

7 JUDGE ITOE: Are you sure it would not take dimensions that

8 may require that such an application be made in writing. That's

9 the question which I want to put to you because if it is to seek

12:16:37 10 the exclusion of evidence, I think that it's an application that

11 has a lot of legal consequences and would have a lot of legal

12 considerations as well which would require that your adversary is

13 put on proper notice.

14 MR YILLAH: As My Lord pleases.

12:16:54 15 JUDGE ITOE: Yes. You see, this is just an observation

16 that I would like to make at this preliminary stage.

17 MR YILLAH: As My Lord pleases. I concede the point, My

18 Lord. A lot of legal arguments will be advanced with authorities

19 cited in support of my application which are very detailed

12:17:14 20 indeed. But I concede the advice of Your Honour, My Lord. I

21 concede the point. But I can condense my argument in a shortened

22 form for the purposes of --

23 PRESIDING JUDGE: The question is not a question of

24 condensing argument, it's a question of the substantive nature of

12:17:33 25 your argument presumably, and if you come with all sorts of legal

26 arguments and authorities in support of that we will have to give

27 some time to the Prosecution to respond to it in the same manner.

28 MR YILLAH: In fairness to them I concede, My Lord.

29 PRESIDING JUDGE: Anyhow, go ahead and we'll see once you





1 have put your argument on the table.

2 MR YILLAH: As My Lord pleases.

3 JUDGE THOMPSON: Number one, you already got to the scope  
4 of -- or do you want time to advise yourself in the light of the  
12:18:13 5 indications from the two other learned judges, because I don't  
6 expect that this is a matter over which the Prosecution would  
7 want to waive its rights.

8 MR YILLAH: Absolutely.

9 JUDGE THOMPSON: And considering the substantiality of your  
12:18:26 10 application, you may want to advise yourself whether, in fact,  
11 even to give us an overview or even a bird's eye view of what you  
12 intend to do since you will, we expect, be coming later with a  
13 motion in writing.

14 MR YILLAH: As My Lord pleases. My Lord, advisedly I will  
12:18:51 15 take the caution that has been expressed from the Bench seriously  
16 and put the detailed arguments of this application in writing.  
17 But if Your Lordships are so inclined I can give an overview of  
18 what I intend to advance substantially by way of a written  
19 motion.

12:19:13 20 PRESIDING JUDGE: But I would like you as well to give me  
21 your response as to why you have waited until the end of the  
22 evidence is concluded before making the application for exclusion  
23 of this evidence, and if this is the substantive nature of your  
24 application, why haven't you made it before she gave evidence?

12:19:37 25 MR YILLAH: My Lord, certain issues only be became clearer  
26 to me as the witness was testifying.

27 PRESIDING JUDGE: Yes, but why didn't you raise that at  
28 that time when it became clear to you? Why did you have to wait  
29 until the whole of the evidence for the Prosecution is in and



1 then you say I want that to be excluded?

2 MR YILLAH: My Lord, as the witness was testifying in  
3 court, as she was progressing, as the Prosecution was leading the  
4 witness, certain issues that I had been thinking about whilst  
12:20:07 5 reading her statement became clear in my mind.

6 PRESIDING JUDGE: Very well.

7 MR YILLAH: But I take the advice of Your Lordships and I  
8 am inclined to putting the motion in writing in fairness to the  
9 Prosecution, My Lord. I want to be very fair to them.

12:20:22 10 PRESIDING JUDGE: But can we have an indication as to the  
11 nature of your application? You were saying that you had two or  
12 three issues. We will not, in these circumstances, ask you to go  
13 into detail of them but, as the Honourable Justice Thompson  
14 suggested, maybe we can have a bird's eye view of what you are  
12:20:41 15 intending to raise. Yes, Mr Prosecutor.

16 MR BANGURA: Your Honours, I heard my learned friend saying  
17 that your question was why had he not raised the objection  
18 earlier on before this witness even testified and he said as he  
19 listened to the evidence it became clearer to him, suggesting  
12:21:01 20 perhaps that certain matters had not been disclosed to them  
21 prior. I stand to say that this witness had said that before,  
22 this witness made two statements previously and she made a  
23 clarification --

24 JUDGE THOMPSON: Aren't you pre-empting your learned  
12:21:16 25 colleague? He hasn't said that yet. He's only started with the  
26 first reason for making the application. On what basis are you  
27 presuming that he may well be even talking about disclosed  
28 material? What I gathered from him is that as the evidence  
29 unfolded itself then certain issues came to his mind. They



1 triggered off some legal issues that he thought might well enable  
2 him to synthesise in terms of asking for the complete exclusion  
3 of the entire testimony.

4 MR BANGURA: Very well, My Lord.

12:22:02 5 JUDGE THOMPSON: I mean, that's what he said. He's not  
6 suggesting that -- he's not even said anything suggesting as to  
7 whether there were discrepancies between what was disclosed and  
8 what the testimony in court is. I think his attack is directed  
9 at the oral testimony. Am I right, Mr Yillah?

12:22:25 10 MR YILLAH: Very well, My Lord. I am guided by the  
11 decision of this Chamber on the principle of orality.

12 JUDGE THOMPSON: No, we don't want to go into the merits  
13 yet. We are doing procedure. He was putting forward a  
14 representation which I said you have not even given us an idea  
15 of.

16 MR YILLAH: Absolutely.

17 JUDGE THOMPSON: And, as the learned Presiding Judge said,  
18 perhaps we should have an overview of this application of so much  
19 substantiality before you follow what learned Honourable Justice  
20 Itoe said; the best thing to do is to come in writing.

21 MR YILLAH: As My Lord pleases.

22 JUDGE THOMPSON: I had written: One, that the evidence of  
23 TF2-187 as adduced in court was outside the scope of -- and I  
24 missed that before we --

12:23:02 25 MR YILLAH: Was outside the scope of the indictment against  
26 the first accused, My Lord. My Lord, briefly in support of that  
27 point, I wish to mention that the indictment against the first  
28 accused does not mention Gambia as the location of the alleged  
29 crime sought to be proved by the Prosecution in the evidence led



1 in court. Further in support of that, the Prosecution cannot  
2 rely on counts 3 and 4 by reason of the application of the  
3 expressio unius principle of interpretation that where the  
4 specific is mentioned the general is eliminated. My Lord, I do  
12:24:45 5 not know whether it is appropriate at this stage for me to  
6 cite --

7 JUDGE THOMPSON: No, I think the best thing, since you have  
8 given us an overview, why not you give us the reasons and then  
9 your short points in support. Because otherwise you might find  
12:25:01 10 that we're going headlong into the entire application if you do  
11 that because I think the direction from the Bench is that we  
12 should just have the overview and then you come in writing with  
13 all the ammunition that you have at your disposal.

14 MR YILLAH: As My Lord pleases. My Lord, I will refer your  
12:25:15 15 Lordships to counts 1 and 2 of the indictment and wish to draw  
16 Your Lordships' attention to the fact that there is no specific  
17 mention of Gambia in counts 1 and 2.

18 My Lord, I would further refer Your Lordships to counts 3  
19 and 4 and say that there is also no specific mention of Gambia  
12:25:58 20 but there is a general mention of Bonthe District. The general  
21 mention of Bonthe District is only in respect of the mental  
22 suffering and not the physical violence in counts 3 and 4.

23 JUDGE ITOE: Only in relation to the mental suffering?

24 MR YILLAH: To the charge of mental suffering and not  
12:26:54 25 physical violence. I would further refer Your Lordships -- again  
26 I would not want to go into much detail, but quite recently in  
27 the Appeals Chamber ruling in the application of the first  
28 accused where the Appeals Chamber criticised the method of  
29 drafting of the indictment in the instant case and where the





1 Prosecution inflicted this indictment on us and they have to live  
2 by it, My Lord. My Lord, there is general mention --

3 JUDGE THOMPSON: Was that the language of the Appeals  
4 Chamber, the word "inflicted"?

12:27:52 5 MR YILLAH: They used the word "inflicted", My Lord.

6 JUDGE THOMPSON: Yes, I just asked for my --

7 MR YILLAH: Yes, My Lord, at page 19 paragraph 54: "The  
8 Prosecution inflicted this form of indictment on the Court and on  
9 itself without prejudice to the defendants". I mean, whilst we  
10 were discussing the reasoning. My Lord, I am re-echoing what the

11 Appeals Chambers said that they inflicted this form of indictment  
12 on the Court and on themselves and then they have to live by it,  
13 My Lord. It says: Between "November 1997 and December 1999 in  
14 the towns of Tongo and in the district of Moyamba and Bonthe the  
12:28:08 15 intentional infliction of serious mental harm and serious mental  
16 suffering on an unknown number of civilians".

17 JUDGE THOMPSON: Learned counsel, wouldn't it be wise to go  
18 to ground 2 and, since you are going to come with a comprehensive  
19 set of submissions, wouldn't it be better now to give us your  
12:29:01 20 second ground. We will look at the citation from the Appeals  
21 Chamber and also the direction that they've given, yes.

22 MR YILLAH: As My Lord pleases.

23 JUDGE THOMPSON: Because you began by saying that you were  
24 applying --

12:29:21 25 MR YILLAH: For the exclusion of --

26 JUDGE THOMPSON: For the following reasons. We're still on  
27 one. I'm looking with eager expectation for the second one.

28 MR YILLAH: My Lord, the second one is a legal submission  
29 and it's based on the principle of interpretation, the expressio



1 unius --

2 JUDGE THOMPSON: Two.

3 MR YILLAH: Ground 2, that the evidence be excluded because  
4 it offends the expressio unius principle of interpretation. And  
12:30:21 5 briefly in support of this I would submit that the more material  
6 an act in an indictment then the more particularity with which  
7 that act should be pleaded. I would further submit that where a  
8 mention is made of a specific event --

9 JUDGE THOMPSON: Let me get that proposition again. State  
12:30:43 10 it again. The more material an act in an indictment.

11 MR YILLAH: The more material a particular fact, the more  
12 specificity with which it should be pleaded.

13 PRESIDING JUDGE: You know that this Court has dealt with  
14 that when applications were made for more particulars and we have  
12:31:09 15 dealt with these issues.

16 MR YILLAH: Yes, My Lord. I'm aware of Your Lordships'  
17 ruling ordering the Prosecution to furnish a bill of particulars  
18 on the basis of the application by the third accused..

19 PRESIDING JUDGE: And we commented on this principle of  
12:31:24 20 interpretation you're raising now.

21 MR YILLAH: Yes, My Lord. But I would further submit that  
22 Your Honours are not precluded from looking at this situation on  
23 a case by case basis. That would also be my submission.

24 PRESIDING JUDGE: Fine.

12:31:44 25 MR YILLAH: In brief, those are the two reasons I would  
26 develop in support of my argument.

27 PRESIDING JUDGE: Mr Prosecutor, we will not ask you to  
28 respond at this time because of the indication that we would like  
29 to see that in writing.



1 JUDGE ITOE: It would be unfair to ambush you,  
2 Mr Prosecutor.

3 MR BANGURA: Very well, Your Honour.

4 PRESIDING JUDGE: Can we canvass if you have a similar  
12:32:51 5 position with reference to the second accused and third accused  
6 or this is an application solely by the first accused, Mr Koppe.

7 MR KOPPE: I seem inclined to think the latter, Your  
8 Honour.

9 PRESIDING JUDGE: It is a position by the first accused?

12:33:05 10 MR KOPPE: Yes.

11 PRESIDING JUDGE: Very well. What about counsel for the  
12 third accused.

13 MR MARGAI: We have asked for him to circulate a draft of  
14 the motion. We shall look at it and if need be shall associate  
12:33:21 15 with it to whatever extent we deem necessary, because we are also  
16 preparing a motion which we shall circulate to the first and  
17 second accused and we hope we will come with a single  
18 application. That is, to determine when a witness either for the  
19 Prosecution or the Defence becomes a witness of the Court and, if  
12:33:56 20 so, at what stage should the Prosecution or the Defence access  
21 that witness either with or without the leave of the Chamber.

22 [HN010605E - CR]

23 I do not want to have multiplicity of applications based on  
24 similar facts, so perhaps in future we shall cooperate where  
12:34:17 25 necessary to present a single motion.

26 PRESIDING JUDGE: But that motion, I just want to refer you  
27 to some previous comments that I made on this particular matter  
28 about witnesses, and stating that certainly based on the  
29 jurisprudence and, in my view, there is no ownership of



1 witnesses. Furthermore, if you look at protective measures that  
2 have been issued by this Court, we clearly spelt out in these  
3 protective measures that these were protective measures for  
4 witnesses being called by the Prosecution. We did indicate in  
12:34:59 5 these measures some means by which if the Defence wishes to speak  
6 to a witness, they have to give notices clearly indicating  
7 therein that the Defence could, indeed, speak to witnesses and  
8 contact witnesses, even prior to their giving evidence.  
9 Obviously when they are giving evidence it is a different  
12:35:16 10 scenario.

11 MR MARGAI: We are conscious of the decisions of the  
12 Chamber, but certain developments have necessitated that we come  
13 with a motion to amplify. I do not want to say much beyond that.

14 PRESIDING JUDGE: That's fine.

12:35:38 15 MR MARGAI: I think this issue came up sometime last week,  
16 but then we did not pursue it to its logical conclusion.

17 PRESIDING JUDGE: That's fine.

18 JUDGE THOMPSON: Would it be a motion seeking some relief?

19 MR MARGAI: No, it's not a relief. We shall be seeking  
12:35:57 20 directions.

21 JUDGE THOMPSON: I see, because I want to be clear in my  
22 mind.

23 MR MARGAI: Just directions, My Lord.

24 JUDGE THOMPSON: Directions, okay.

12:36:05 25 PRESIDING JUDGE: Although we have not done that for a  
26 while, because there were no such motions, but as you may recall,  
27 the motion day is normally on Friday. If it is a motion that you  
28 intend to do in writing, I would certainly --

29 MR MARGAI: No, we intend to prepare the papers and for the





1 motion to be heard next Friday.

2 PRESIDING JUDGE: You mean this coming Friday?

3 MR MARGAI: No, not this coming Friday, next Friday.

4 PRESIDING JUDGE: Fine. Thank you. Mr Yillah, given your  
12:36:36 5 application at this time, presumably you're not prepared to  
6 proceed with the cross-examination of the witness?

7 MR YILLAH: Absolutely, My Lord. I will not want to waive  
8 my objections that I've already raised before the Court. I don't  
9 want to be seen taking a fresh step.

10 JUDGE THOMPSON: It would seem, therefore, given the  
11 position of Mr learned counsel Charles Margai, that you may be  
12 coming with also -- you will await their own draft to see whether  
13 it will be able to associate or not?

14 MR MARGAI: That is so, Your Honour.

12:37:23 15 JUDGE THOMPSON: Then it means we're left with only  
16 Mr Koppe and his team, who perhaps have not changed their  
17 position in terms of cross-examination. It puts the Court in a  
18 little of a procedural difficulty. It would seem to me that  
19 perhaps the preference is that we should not, in fact, proceed  
12:37:47 20 with any cross-examination at this stage.

21 MR MARGAI: My Lords, for my part, I do not see any  
22 difficulty or impediment in proceeding with the  
23 cross-examination. We could proceed with the cross-examination  
24 and deal with the motion as and when it does come up for hearing.  
12:38:08 25 Depending on the decision of the Chamber, I'm sure the Chamber  
26 will advise us as to which way forward.

27 JUDGE THOMPSON: Yes, I'm just thinking of the doctrine or  
28 whatever, the fact of judicial economy. Perhaps your position is  
29 right and mine is not right.



1 MR MARGAI: Even where one appeals against the decision of  
2 the Chamber, that does not act automatically as a stay. If we  
3 want to gain time, perhaps I would crave the indulgence of the  
4 Chamber that we proceed with the cross-examination,  
12:38:53 5 notwithstanding the intimation to come with the application in  
6 writing.

7 PRESIDING JUDGE: I'm tempted to follow your suggestion --

8 JUDGE THOMPSON: Yes.

9 PRESIDING JUDGE: -- if in a logical fashion as well, as I  
12:39:07 10 pointed out to counsel for the first accused, his objection is  
11 now made about the exclusion of the totality of the evidence  
12 adduced in examination-in-chief. In other words, the evidence is  
13 there at this particular moment, so that evidence at this moment  
14 cannot cause any more damage or less damage. If any, it's there,  
12:39:26 15 and we still have to make a decision based on that motion,  
16 whether to exclude it in part, or in total, or not at all,  
17 whatever.

18 MR MARGAI: I agree. We will not be disadvantaged at all  
19 by proceeding with the cross-examination.

12:39:43 20 PRESIDING JUDGE: That's my feeling at this particular  
21 moment. Obviously it would be under the caveat that there is an  
22 indication on record that the first accused is asking the  
23 evidence to be excluded. Obviously if the exclusion is accepted,  
24 the cross-examination that goes with it will also be excluded.  
12:40:04 25 It goes without saying if the evidence-in-chief is all excluded,  
26 there is nothing on the record with this witness.

27 MR MARGAI: I agree.

28 MR YILLAH: My Lord, I'm entirely in Your Lordships' hands  
29 in that direction, subject to the direction of this --



1           PRESIDING JUDGE: Obviously you've heard my comments on  
2 this. If we do proceed that way, it will be done without any  
3 prejudice to your position in this respect and we will have to  
4 dispose of your application in due course.

12:40:34 5           MR YILLAH: And definitely the consequences that follow the  
6 conclusion of the Chamber.

7           PRESIDING JUDGE: Absolutely. As I said, your application  
8 is now after the close of the examination-in-chief or the  
9 exclusion of the totality of that, if we follow and agree with  
12:40:50 10 your application, as such, all of it will be excluded. If you  
11 have cross-examination, as I say, the logic will be, the totality  
12 of the evidence of this witness in-chief or in cross-examination  
13 would be excluded. If you proceed with cross-examination, it is  
14 still subject to that observation.

12:41:07 15           MR MARGAI: I might only adhere that the question of fresh  
16 tape has no place in criminal practice; it is purely civil, so we  
17 will not be disadvantaged at all.

18           PRESIDING JUDGE: Do you have any additional comments to  
19 make, Mr Yillah?

12:42:42 20           MR YILLAH: With assurances from the Bench whatever  
21 cross-examination we proceed with will not be without prejudice  
22 to the pending application, I'm willing to proceed.

23           PRESIDING JUDGE: Obviously it will be done and it can be  
24 done only in those circumstances, given the application you're  
12:42:53 25 making. So, yes, certainly I can give you that assurance that  
26 we're going to do that, on that premise --

27           MR YILLAH: As My Lord pleases.

28           PRESIDING JUDGE: -- that it is at this juncture, subject  
29 to your application, in this respect it will be without prejudice



1 to your position.

2 MR YILLAH: As My Lord pleases.

3 JUDGE ITOE: If at all you want to pursue that application,  
4 after concerting with your colleagues on the two Defence teams.

12:43:24 5 MR YILLAH: My Lord, speaking for myself, I will proceed  
6 with the application.

7 PRESIDING JUDGE: It is 20 to 1. This is Wednesday today  
8 and we're not sitting in the afternoon. Do you still wish to  
9 start your cross-examination?

12:43:38 10 MR YILLAH: My Lord, I most respectfully would ask Your  
11 Honours to defer cross-examination to tomorrow morning.

12 PRESIDING JUDGE: We will adjourn the cross-examination in  
13 those circumstances to tomorrow morning at 9.30 a.m. Yes,  
14 Mr Tavener, you were about to say something?

12:43:55 15 MR TAVENER: On another topic, Your Honour, in respect of a  
16 number of applications the Prosecution has. The Prosecution will  
17 be making applications for closed court hearings in respect of  
18 the two witnesses to be called next week. One is in an  
19 international witness. I will go into reasons at the appropriate  
12:44:14 20 time as to why we're seeking a closed court for that particular  
21 person.

22 Before the next witness is called, TF2-135, I need to make  
23 an application in light of Your Honour's ruling today, whether or  
24 not that particular witness will be called. That's in respect of  
12:44:31 25 what evidence can be led from witnesses in regards to gender  
26 offences.

27 PRESIDING JUDGE: TF2-135?

28 MR TAVENER: The two closed witnesses are TF2-011 and  
29 TF2-218. I will be seeking a ruling in respect of 218 because





1 he's an international witness and can only give evidence, I  
2 understand it, if that evidence is given in closed session.

3 PRESIDING JUDGE: You are basically informing the Court and  
4 your colleagues on the other side that's what you intend to do  
12:45:05 5 next week. We will deal with that at that time.

6 MR TAVENER: With 218, if I can deal with him at sometime  
7 this week because he's flying in. If he can't give evidence in  
8 closed court he won't be able to testify. I'm giving Your  
9 Honours some notice as to scheduling, if possible.

12:45:19 10 PRESIDING JUDGE: That's fine.

11 MR YILLAH: My Lord, since my learned friend has made  
12 mention of TF2-218, I think I should also take the opportunity to  
13 inform my learned friend the Defence for the first accused also  
14 has certain applications to make in respect of witness 218 this  
12:45:37 15 week -- short application.

16 PRESIDING JUDGE: You may as well do it as soon as  
17 possible.

18 MR YILLAH: It will possibly be filed today, My Lord,  
19 before close of business today.

12:45:56 20 JUDGE ITOE: By close of business today, will they be  
21 written applications or do you want to make them orally?

22 MR YILLAH: No written applications.

23 JUDGE ITOE: Right.

24 PRESIDING JUDGE: That concludes the activities today. We  
12:46:11 25 will adjourn until 9.30 a.m. tomorrow morning. Court is  
26 adjourned. Thank you.

27 [Whereupon the hearing adjourned at 12.45 p.m.,  
28 to be reconvened on Thursday, the 2nd day  
29 of June 2005, at 9.30 a.m.]



WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-187 5

EXAMINED BY MR BANGURA 6