

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

TUESDAY, 14 JUNE 2005
9.43 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Sharelle Aitchison Ms Roza Salibekova
For the Registry:	Mr Geoff walker
For the Prosecution:	Mr Joseph Kamara Mr Kevin Tavener Mr Mohamed Stevens
For the Principal Defender:	No appearances
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr John Wesley Hall Mr Ibrahim Yillah Ms Claire da Silva (legal assistant) Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Andrew Ianuzzi Mr Lee Gordon (intern) Ms Cora Trus-Frost (intern)
For the accused Allieu Kondewa:	Mr Charles Margai Mr Ansu Lansana Mr Virgil Chang (intern)

1 [Tuesday, 14 June 2005]

2 [Open session]

3 [The accused Fofana and Kondewa present]

4 [The accused Norman not present]

5 [Upon commencing at 9.43 a.m.]

6 [HN140605A - AD]

7 PRESIDING JUDGE: Good morning, counsel. Before we proceed
8 with hearing the next witness, which is TF2-218, if I am not
9 mistaken. That's what you intend to call at this moment,
09:44:48 10 Mr Prosecutor.

11 MR KAMARA: No, Your Honour, this is the expert witness.

12 PRESIDING JUDGE: What is the number of that witness?

13 MR KAMARA: We have not assigned a number to him. We
14 anticipate like TF2-EW1.

09:45:03 15 PRESIDING JUDGE: So, this is the -- what you describe as
16 the military expert.

17 MR KAMARA: Certainly, Your Honour.

18 PRESIDING JUDGE: With reference to the evidence of this
19 particular witness before we proceed to hear that evidence, I do
09:45:25 20 have some questions. I need some clarification in this respect.
21 I have looked at and reviewed quickly the report that you filed.

22 MR KAMARA: Yes, Your Honour.

23 PRESIDING JUDGE: And I do have some questions, for example
24 as to what exactly are the areas that you want this expert to
09:45:54 25 testify about as an expert. In other words what is the domain
26 of, specific domain of his expertise, having regard to the issues
27 we have in court. And then I would like you to clarify, as much
28 as possible as much as you can, the basis of his expertise. By
29 this I mean, looking at the report it seems to me to be based in

1 part on, I think what the witness has used is statements of
2 witness.

3 It appears as well that some of his conclusions are based
4 upon interviews he would have had had with some witness. I mean,
09:47:00 5 all of this is of some important to us to be able to assess this
6 evidence in a proper perspective. While you are introducing this
7 witness and taking him through his evidence, I would like to hear
8 about that, at least hear that you try to identify the issues
9 fairly clear for the Court because it is not clear in the report.

09:47:29 10 It seems to me there are some findings and conclusions that are
11 based on a combination of these factors rather than say it was
12 based on evidence in Court for example. When the witness is
13 using statements, what does he mean by statement?

14 As you know in this Court we have no statements at all save
09:47:57 15 and except those statements that were introduced for a very
16 limited purpose and therefore there are no statements in evidence
17 other than to establish inconsistencies in some issues and such.
18 But other than that what we have is evidence that the witness
19 have given us in Court, whether in closed session or not. So how
09:48:24 20 are we to make those distinction and what is it that we need to
21 use to make an assessment of the evidence of this particular
22 expert. So that is some of the concerns that I have and that is
23 shared by the Bench and we would like to have clarification on
24 this.

09:48:43 25 JUDGE THOMPSON: I would like to associate myself with the
26 remarks of the learned Presiding Judge.

27 PRESIDING JUDGE: Having said that we can proceed and that
28 is why I asked that the witness not be brought in before I raised
29 these matters with you, because I think it is for you to lead

1 that and not for the witness to lead you.

2 MR KAMARA: The Prosecution do appreciate your comments on
3 this and the first issue raised which is as regards to the domain
4 of expertise. In other words what do we expect from this witness
09:49:40 5 as an expert.

6 PRESIDING JUDGE: Not necessarily what do we expect. As
7 you know a military expert may be a military expert in the
8 strategy of battle, it may be a military expert in a thousand
9 areas, in the explosives. Whatever it is. Presumably you are
09:49:57 10 calling this so-called military expert for very specific purposes
11 and that is what I want to hear very clearly from you, not just a
12 broad brush of military expert.

13 MR KAMARA: That is what I am doing. Your Honours, we call
14 this witness primarily to explain to this Court, to assist the
09:50:24 15 Court in the evaluations of what we describe as the dynamics of
16 both conventional and non-conventional conflict. Secondly, how
17 military organisations work and are structured, and finally, in
18 the particular area of command and control. As to the second
19 issue of the basis of his expertise, Your Honours, or the basis
09:52:03 20 of his findings; is that what you are referring to? Yes. That
21 is a matter for evidence, what he will be leading in this Court.
22 That is why we are calling him. Firstly we are establishing that
23 we need this person.

24 JUDGE THOMPSON: Are you now referring to the basis of his
09:52:23 25 findings.

26 MR KAMARA: Yes.

27 JUDGE THOMPSON: Not the preliminary question of his
28 credentialisation.

29 MR KAMARA: No, Your Honour.

1 JUDGE THOMPSON: The basis of his findings.
2 MR KAMARA: Yes, Your Honour.
3 JUDGE THOMPSON: Continue.
4 MR KAMARA: There is a methodology which was adopted and,
09:52:44 5 Your Honours, we intend to lead evidence of that. And then the
6 inferences drawn upon from his own personal experiences by virtue
7 of the nature of his peculiar work.
8 JUDGE THOMPSON: The inferences.
9 JUDGE ITOE: [Overlapping speakers] his conclusions.
09:53:09 10 JUDGE THOMPSON: Inferences drawn from what?
11 MR KAMARA: From his study.
12 JUDGE THOMPSON: From his study.
13 JUDGE ITOE: Many.
14 JUDGE THOMPSON: Learned judge on the other side, Judge
09:53:20 15 Itoe, asked whether you prefer inferences or conclusions.
16 MR KAMARA: Conclusions. I'll go with conclusions. Thank
17 you, Your Honour. I'm sorry.
18 JUDGE THOMPSON: Drawn from his studies.
19 MR KAMARA: His studies. And, Your Honour, if I --
09:53:37 20 PRESIDING JUDGE: His studies of what?
21 MR KAMARA: The study he conducted, his research for the
22 purposes of which he has been called upon to testify.
23 JUDGE THOMPSON: In which particular area?
24 MR KAMARA: In the area of command and control.
09:53:54 25 JUDGE THOMPSON: We need to be very specific. I would
26 appreciate that.
27 MR KAMARA: Sorry.
28 JUDGE THOMPSON: I think to enlarge our understanding of
29 the whole purpose of this we need to be try and be as specific

1 and precise and as possible. You said inferences from his study
2 on command?

3 MR KAMARA: Command and control within a military
4 organisation.

09:54:26 5 JUDGE THOMPSON: Yes.

6 MR KAMARA: Your Honours, the Presiding Judge mentioned
7 reliability of information --

8 JUDGE THOMPSON: But, is that all that was the scope of his
9 study, just command and control within a military organisation of
09:54:49 10 is that all he is going to draw conclusions from?

11 MR KAMARA: No. As I indicated earlier on that the
12 dynamics of conventional and unconventional.

13 JUDGE THOMPSON: I don't think repetition would be a
14 problem here. It is to help us. The dynamics of --

09:55:06 15 MR KAMARA: Conventional and unconventional conflict, and
16 also how military organisations work and are structured.

17 JUDGE THOMPSON: Yes.

18 MR KAMARA: Your Honours --

19 PRESIDING JUDGE: In this respect you mean command and
09:55:36 20 control. Or you saw command and control as a separate and
21 distinct point.

22 MR KAMARA: As separate from the structure of organisation
23 and the dynamics of convention and nonconvention.

24 JUDGE THOMPSON: In other words we have three components
09:55:49 25 here, certainly: Command and control within a military
26 organisation; dynamics of conventional and unconventional
27 warfare; and how military organisations work and are structured.

28 MR KAMARA: Very well, yes.

29 JUDGE THOMPSON: So there are three separate points.

1 MR KAMARA: Three separate points. And the learned
2 Presiding Judge made a comment about reliability, if I get him
3 right, on sources. Your Honours, concerns which relate to the
4 witness's accuracy of his evidence or the extent to which his
09:56:25 5 evidence will be helpful to the Trial Chamber are matters of
6 weight and not admissibility.

7 PRESIDING JUDGE: I didn't talk about admissibility. In
8 fact, if we have this witness here today, presumably we recognise
9 there is some relevance and we are not discussing admissibility.
09:56:41 10 This is an expert that you are calling to assist the Court. If
11 to try to understand what he's talking about, it takes us weeks
12 and yet we have no answer to our questions, what have we
13 achieved?

14 MR KAMARA: I agree with you.

09:56:58 15 PRESIDING JUDGE: We need to see where, if he concludes
16 that, indeed, this is a military organisation because and
17 because, and I base this on these facts, what are the facts that
18 he is using. How do we know about these facts? So we can make
19 sense of that.

09:57:14 20 I agree with you at the end of the day we need to make an
21 assessment as to how much weight if any we are to give to the
22 evidence. And to do so we need to look at what's the basis. In
23 other words, if everything he is reporting about and testifying
24 about is foreign to this Court because we have no evidence
09:57:35 25 whatsoever about that, yes, it may be admissible but I guess the
26 weight would be very, very limited. So you understand what I'm
27 telling you.

28 MR KAMARA: I certainly do. That is why I was referring to
29 reliability, looking at the totality of the evidence.

1 JUDGE THOMPSON: I think really we are probably jumping the
2 gun. I would like to raise the issue of reliability at a later
3 stage in terms of the law itself. At this point in time, I think
4 what the learned Presiding Judge is trying to elicit from you is
09:58:12 5 the question of the basis of the projected testimony. In other
6 words, I think if you say an expert is coming here to testify on
7 certain matters based on, say, for example, newspapers reports,
8 we would want to know to what extent we are supposed to even
9 accept that as a basis for expert testimony. So perhaps if you
09:58:40 10 could further enlighten us as you go along. I don't think you
11 need to rush yourselves. We are just trying to be educated on
12 what role he is coming to assist us in. Remember that he is
13 supposed to come and assist the Court.

14 MR KAMARA: Yes. Thank you, Your Honour. The basis of the
09:59:05 15 evidence of this witness is as a result of a study that he
16 conducted. As I earlier on indicated, that a specific
17 methodology was applied, interviews were conducted, visitations
18 to locations and analytical comparisons to contemporary issues.
19 It is the position of the Prosecution that this witness will
10:00:32 20 assist this Court by explaining the context in which the CDF, as
21 a military organisation, operated, and the effectiveness of the
22 command structure, and the tactical, strategical and operational
23 values of the CDF. Your Honours, it is the submission of the
24 Prosecution that these are the matters that are within the
10:01:58 25 purview of an ordinary witness -- that are not within the purview
26 of an ordinary witness.

27 JUDGE THOMPSON: Well, ordinary witness.

28 MR KAMARA: Yes. In the light of that, that is why we are
29 calling this witness to provide the necessary assistance to this

1 Court.

2 JUDGE THOMPSON: In short, learned counsel is saying two
3 things and correct me if I am wrong: One, that we don't, at this
4 point in time, have any testimony from the Prosecution's
10:03:01 5 perspective covering these particular areas that you have
6 identified as being within the purview of the expert witness. In
7 other words we have nothing so far.

8 MR KAMARA: I'm not saying nothing. But if even there is
9 it is not in the light of the particular way we want to lead this
10:03:23 10 evidence.

11 JUDGE THOMPSON: I see, so you're modifying. Because when
12 you say these are matters not within the purview of an ordinary
13 witness in the light of -- I mean we already have testimonies
14 from ordinary witness --

10:03:33 15 MR KAMARA: I agree with you.

16 JUDGE THOMPSON: -- relating to some of the issues you
17 have, this morning, highlighted. My question is: what you are
18 saying is that what we have - and as I say, you're perfectly
19 entitled to correct me if I am wrong - is not enough.

10:03:52 20 MR KAMARA: What we have is not enough and if even is not
21 enough, we need specific guidance as to the expert area to
22 provide the Court with that knowledge that which is not
23 ordinarily provided to the --

24 JUDGE THOMPSON: I mean, there is no quarrel with that. So
10:04:06 25 in other words again then it follows thus as you are saying that
26 this is an area in respect of which the Bench will not be able to
27 form its own judge without the assistance of the expert.

28 MR KAMARA: Yes.

29 JUDGE THOMPSON: Is that what you're saying. All right. I

1 take that point tentatively. My second and final point is to
2 what extent, if any, will the testimony touch upon the ultimate
3 issue which the Court is supposed to determine. To what extent,
4 if any, or at all, will the testimony, remembering as a matter of
10:04:57 5 jurisprudence -- and I am sure we lawyers know that that experts
6 should not be called to give evidence which might well ultimately
7 amount to a usurpation of the function of the Tribunal as to a
8 determination of the ultimate question before it.

9 MR KAMARA: I agree totally about the fact that the role
10:05:24 10 the expert is not to usurp the functions of the judges. In this
11 particular case the burden of the Prosecution is to prove the
12 guilt of the persons beyond a reasonable doubt, and that is what
13 we intend to do here. The evidence of the expert is not to usurp
14 the functions of this Court, but to help and assist the Court in
10:05:43 15 arriving at a conclusion which is logical at the end of day. And
16 what he's going to testify about is not as to issues of fact. He
17 bases his opinions on facts but he is not going to touch the
18 evidence of fact as has been led before this Court. And neither
19 is he going to lead anything that is going to be inconsistent
10:06:04 20 with facts that have already been adduced in this Court. His
21 analysis, I agree, would be based on facts which he has been
22 privy to.

23 PRESIDING JUDGE: But this is one of the issues I raised
24 with you. I want to know as clearly as possible and feasible,
10:06:20 25 what facts have been used by the witness to draw his conclusion.

26 MR KAMARA: That is what I refer to Your Honour, like the
27 interview, the witness's reports and then his study of the
28 transcripts of the trial and his visitations.

29 PRESIDING JUDGE: I would like to hear that from the

1 witness. When you say "his interviews," what does he mean by
2 interview of witnesses and which witnesses are we talking about?

3 MR KAMARA: Once he comes to court he will be available for
4 cross-examination and the Bench with pose questions to him. He
10:06:50 5 will qualify his methodologies specifically and how he obtained
6 his sources and identify the sources.

7 PRESIDING JUDGE: We do not want to lead the examination of
8 your expert; that's for you to do this. We're raising with you
9 the concerns that we have at this time because this is a witness
10:07:03 10 that you are calling.

11 MR KAMARA: You are most welcome.

12 PRESIDING JUDGE: Before, presumably you are calling
13 witness to assist the Court as you have stated. So to assist the
14 Court, we are telling you what the concern that we have at this
10:07:16 15 moment.

16 MR KAMARA: We do appreciate them, Your Honour.

17 PRESIDING JUDGE: So are you ready to proceed?

18 MR KAMARA: Yes, Your Honour. Except if there is any other
19 question.

10:07:31 20 JUDGE THOMPSON: This is not something that you need even
21 to engage you too diligently, but it is just for my own
22 curiosity, judicial curiosity, that we are here in the area of
23 expert testimony and of course, the jurisprudence shows that this
24 Court has consistently followed the approach of other
10:08:07 25 international criminal tribunals and adopted a flexible approach
26 to the admissibility issue, particularly almost in the case of
27 ordinary witnesses and documentary evidence. As a matter of law,
28 is the Bench or the Court authorised to make an exception here
29 when it's dealing with expert evidence. In short, should we make

1 reliability a function of admissibility? Or is there no need for
2 any differentiation when we deal with nonexpert evidence and
3 leave it entirely as a matter of probative value.

4 MR KAMARA: Your Honour, I think it is a matter of
10:08:54 5 probative value.

6 JUDGE THOMPSON: There is authority for that.

7 MR KAMARA: There is no distinction to be drawn between
8 ordinary witnesses and expert witnesses, and admission is as
9 general as applicable before the Court.

10:09:04 10 JUDGE THOMPSON: In other words reliability should always
11 be a function of probative value and weight, not admissibility.
12 So there is no need for a separate regime of principles governing
13 expert testimony.

14 MR KAMARA: Certainly.

10:09:16 15 JUDGE THOMPSON: In other words we need not even modify the
16 degree of flexibility.

17 MR KAMARA: It is not mandatory on the part of the Bench.

18 JUDGE THOMPSON: I just wanted to be clear on the law.

19 PRESIDING JUDGE: On a separate issue, can you inform the
10:09:33 20 Court as to how much time you think you want to take with this
21 witness in examination-in-chief? I'm just trying to --

22 MR KAMARA: Without undue punctuations, I might just be
23 within an hour or two or less than that.

24 PRESIDING JUDGE: Very well, we may proceed. Mr walker,
10:09:54 25 can you bring the witness please?

26 [The witness entered Court]

27 PRESIDING JUDGE: Just for the record I have not asked the
28 Defence if they had any comments because these comments, the
29 observations I was making at that time was to try to clarify

1 where the Prosecution was going and how they were intending to
2 lead this evidence so we could make some common sense with what
3 they were intending to produce. Obviously that will not deter
4 nor limit your capability to proceed with cross-examination as
10:10:54 5 you wish. And all these matters that we have raised you can
6 certainly canvass that when you proceed with your
7 cross-examination and certainly, in due course we will hear
8 arguments that you may have about admissibility, probative value
9 and so on. So this is not to deprive you of the ability to do so
10:11:18 10 in due course.

11 WITNESS: TF2-EW1 [Sworn]

12 MR KAMARA: Your Honours, for consistence, does it meet the
13 approval to call this witness TF2-EW1?

14 PRESIDING JUDGE: That's fine.

10:12:24 15 EXAMINED BY MR KAMARA:

16 Q. Good morning, Mr Witness.

17 A. Good morning.

18 Q. Thank you for coming. I shall be posing a few questions to
19 you this morning and I will advise that you answer as directly as
10:12:36 20 possible and your answers will have to be translated to Mende for
21 the benefit of the accused persons to understand the proceedings.
22 Also please watch your pace as their Lordships are taking down
23 what you are saying. Mr Witness, will you state your full
24 name for the Court.

10:12:58 25 A. My name is Richard Mortimer Iron.

26 Q. Spell the Mortimer, please.

27 A. M-O-R-T-I-M-E-R.

28 JUDGE ITOE: Iron?

29 MR KAMARA: Iron, I-R-O-N.

1 Q. And where do you live, Mr witness?
2 A. I live in Norfolk, Virginia in the United States.
3 Q. How old are you, Mr witness?
4 A. I am 48 years old.
10:13:40 5 Q. Will you tell this Court what you do for a living?
6 A. I am a colonel in the British Army.
7 Q. A colonel in the British Army?
8 A. That is correct.
9 Q. Now, Colonel, for how long have you been in the British
10:14:08 10 Army?
11 A. Just over 30 years.
12 Q. What is your current assignment?
13 A. I am assigned to NATO's Allied Command Transformation, as
14 the British national liaison representative.
10:14:19 15 Q. Take it slowly, please. Can we have that again?
16 A. I'm assigned to NATO, the North Atlantic Treaty
17 Organisation.
18 MR KAMARA: I see the learned Presiding Judge smiling. He
19 seems very familiar.
10:14:46 20 Q. And how long have you been in this assignment?
21 A. Six months.
22 Q. And will you tell this Court what are your responsibilities
23 with regard to this position you have just mentioned?
24 A. In my current position I have two major responsibilities.
10:15:07 25 One is to bring into NATO some of the United Kingdom comes
26 concepts and doctrine. The other responsibility --
27 Q. Hold it there for a minute. Yes.
28 A. The other responsibility is to lead the develop of NATO's
29 doctrine for land operations.

1 Q. How long have you been in that position?

2 A. In that second position I have been doing this for three
3 and a half years.

4 Q. Let me be a little bit more direct. Do you have any
10:16:10 5 experience in military organisations and structure?

6 A. Yes. My previous role before my current appointment in
7 NATO was the head of the British Army's doctrine branch. This
8 position I built on my previous experience and academic study to
9 develop doctrine for the British Army.

10:16:55 10 Q. I sense you have been using the word "doctrine". Would you
11 explain that for us who do not understand specifically what you
12 are referring to when you say "doctrine"?

13 A. Yes. Doctrine is essentially the way that armed forces
14 conduct themselves. It requires an --

10:17:20 15 JUDGE ITOE: The way armed forces do what?

16 THE WITNESS: Conduct themselves, Your Honour. It requires
17 an understanding of the nature of conflict, how the
18 characteristics of conflict evolve as the environment changes,
19 including new and different types of enemy or adversary.

10:18:04 20 Q. Thank you, Colonel. Colonel, in the role that you have
21 just informed us about --

22 JUDGE ITOE: Please, let us get the last part of what he
23 said. The knowledge of conflict and the characterisation of
24 conflict and --

10:18:31 25 THE WITNESS: And how armed forces operate within that
26 environment, including how they organise for conflict and how
27 they are commanded.

28 MR KAMARA:

29 Q. Now, in that capacity, Colonel, have you had occasion to

1 conduct expert missions?
2 A. I have not been an expert witness before.
3 Q. The question is expert mission; that is, have you been on a
4 mission as an expert, not a witness here?
10:19:31 5 A. I have been asked to conduct expert analyses before.
6 Recently I was asked to conduct the British Army's analysis of
7 the recent Iraq war, including the subsequent insurgency.
8 Q. Take it slowly please. What have you been asked to do?
9 A. I was asked to analyse the performance of the British armed
10:20:04 10 forces, in particular the land forces, in the war.
11 Q. You did mention experience in the Iraq -- I did hear you
12 say.
13 A. This was the Iraq war.
14 Q. Yes.
10:20:22 15 A. So I authored the British Army's general staff publication
16 of the analysis of the land conflict in Iraq.
17 Q. You authored the -- what is it?
18 A. The British Army's general staff publication on the land
19 operations in Iraq.
10:20:44 20 Q. Talking about publications, have you published any other
21 books or articles?
22 A. I have been responsible for either authoring or being the
23 editor-in-chief of a number of doctrine publications.
24 Q. Could you let us have two examples?
10:21:23 25 JUDGE THOMPSON: Can you go slowly? You are more or less
26 accelerating the pace.
27 MR KAMARA: I am sorry, Your Honour.
28 JUDGE THOMPSON: Responsible for either being the author --
29 THE WITNESS: Or the editor-in-chief.

1 JUDGE THOMPSON: Or the editor-in-chief.

2 THE WITNESS: -- of a number of doctrine publications.

3 Examples include the British Army's highest level doctrine
4 publication called "Army Doctrine Publication, Land Operations".

10:22:23 5 JUDGE ITOE: Called --

6 THE WITNESS: Army Doctrine Publication -- shortened
7 sometimes to ADP -- Land Operations. And also within the NATO
8 environment, we are currently, for example, on a project to
9 develop NATO's counter-insurgency doctrine.

10:23:07 10 MR KAMARA:

11 Q. Now, Colonel, can you tell this Court how these
12 publications have been received by your peers?

13 A. They are the top-level publications of how, in the British
14 Army's case, in the land operations case, the British Army
10:23:27 15 conducts its business. The other one is how NATO conducts its
16 business. They are regarded as being seminal publications.

17 Q. Thank you. Colonel, have you ever received any form or
18 reward or honour for any work that you have done in the military?

19 A. I have received a number of operational awards, most
10:24:15 20 recently as a battalion commander in the Bosnia in the late
21 1990s.

22 Q. A battalion commander in Bosnia?

23 A. Yes.

24 Q. Any national honours?

10:24:34 25 PRESIDING JUDGE: What was the honour you received for
26 service in Bosnia?

27 THE WITNESS: I was made an Officer of the British Empire,
28 a peculiarly British institution, although some Commonwealth
29 countries also use it.

1 MR KAMARA:
2 Q. An Officer of the British Empire?
3 A. That is correct.
4 JUDGE ITOE: For Bosnia, you received the MBE or the OBE?
10:25:05 5 THE WITNESS: The OBE, Your Honour.
6 MR KAMARA:
7 Q. Who made that conferment?
8 A. I am sorry?
9 Q. Who made that conferment -- the OBE?
10:25:15 10 A. It was awarded by Her Majesty, the Queen.
11 JUDGE ITOE: It is known.
12 MR KAMARA: We are being cautious, Your Honour.
13 Q. When was this honour conferred; do you remember?
14 A. I was awarded -- received it in 1999.
10:25:37 15 Q. Now, Colonel, let me ask you this question: How extensive
16 is your experience in military analysis of non-conventional
17 warfare?
18 A. You will appreciate that in the British Army most of our
19 experience is in what you describe as non-conventional warfare.
10:26:16 20 Most of my education has been in this area. In addition, much of
21 my operational experience has been what you would describe as
22 non-conventional warfare. For example, I have spent about four
23 to five years in operational service in Northern Ireland doing
24 this.
10:26:42 25 Q. Thank you. Now, Colonel, let me take you to your education
26 background. Could you give the Court a short description of your
27 educational background?
28 A. Certainly. I was educated in school in England, in King's
29 School, Canterbury. I was then fortunate enough to pass exams to

1 go to Cambridge University, where I studied engineering.
2 Q. You studied engineering at Cambridge?
3 A. That is correct. Within the military environment, I was
4 selected to go to the Royal Military Academy at Sandhurst, where
10:27:53 5 I learned the basics of how to be an officer and military
6 thought. Later in my career I attended both the British Army
7 Staff College at Camberley and the United States Staff Army
8 College at Fort Leavenworth, Kansas.
9 Q. Hold it, Colonel. You said you attended Staff College at
10:28:47 10 Camberley. What did you study at Camberley?
11 A. The staff college is known as the Command and Staff
12 College. It is responsible for developing not just the skills
13 required for middle and senior ranks but also to educate people,
14 or army officers, in military analytical thought. One of the
10:29:29 15 principal areas that I studied, of course, was the area of
16 insurgency and counter-insurgency, as this is what the British
17 Army tends to get involved in most of all.
18 Q. Okay. You also mentioned attending the US Army Staff
19 College at Fort Leavenworth.
10:30:09 20 A. That is correct.
21 Q. What certificate did you obtain from that institute?
22 A. Both courses at Camberley and at Fort Leavenworth are
23 essentially masters degree level courses. But it was at Fort
24 Leavenworth where they gave me a masters degree in this military
10:30:38 25 art and science -- an MMAS.
26 Q. Colonel, I am going to give you a document.
27 [Document shown to witness]
28 A. Thank you.
29 Q. Colonel, do you recognise that document?

1 A. Yes.
2 Q. What is it?
3 A. It is my curriculum vitae.
4 Q. Does it reflect what you have just stated to this Court as
10:31:58 5 being your qualifications?
6 A. Yes.
7 Q. And you want the Court to take a look at it?
8 A. Yes.
9 MR KAMARA: Your Honour, we wish to tender this document.
10:32:29 10 PRESIDING JUDGE: I thought it was already part of the --
11 MR KAMARA: It was filed.
12 PRESIDING JUDGE: Any objection from the Defence?
13 MR YILLAH: None, My Lord.
14 MR BOCKARIE: None.
10:32:37 15 PRESIDING JUDGE: Mr Margai?
16 MR MARGAI: No objection, My Lord.
17 PRESIDING JUDGE: Okay. Mr Walker, where are we in the
18 numbering -- 96 or 97 --
19 MR WALKER: 96, Your Honour.
10:32:54 20 PRESIDING JUDGE: 96. So the curriculum vitae is marked as
21 Exhibit 96.
22 [Exhibit No. 96 was admitted]
23 MR KAMARA: Thank you, Your Honour.
24 PRESIDING JUDGE: Can we have copies?
10:33:30 25 [HN140605B - CR]
26 MR KAMARA:
27 Q. Colonel Irons, has any request been made to you to serve as
28 an expert witness before the Special Court?
29 A. No.

1 Q. Colonel Irons, would you tell this Court how you were
2 approached, as in the capacity in which you are sitting there?
3 A. Yes. As far as I understand, the Special Court made a
4 request to the British Ministry of Defence. Within the Ministry
10:34:41 5 of Defence, they passed a request --
6 Q. Take it slowly, please.
7 A. Certainly.
8 Q. A request was made to the British Ministry of Defence?
9 A. In London. Ministry of Defence then passed the request to
10:35:02 10 the organisation in which I then worked. This organisation was
11 called the Directorate General of Development and Doctrine.
12 Directorate General, development and doctrine, sometimes
13 abbreviated to DGD&D. This was the organisation which dealt with
14 such matters including, as I say, doctrine and command and
10:35:55 15 control. Within DGD&D, the request was passed to me as the head
16 of the British Army's Doctrine Branch, as I was the most suitably
17 qualified person in the army to do it.
18 Q. Thank you. Colonel Irons, just a question before I move on
19 to the next issue. What do you know about Mons Military College?
10:36:42 20 A. Mons was one of the two principle means of commissioning
21 young officers into the British Army. It actually closed in the
22 early 1970s. It was the school that commissioned the majority of
23 officers into the army but had a shorter course than the one at
24 Sandhurst.
10:37:20 25 Q. Thank you. Colonel, you did mention how you came about to
26 be where you are now. Do you get paid for the services?
27 A. Yes.
28 Q. And by whom?
29 A. I get paid by the Special Court.

1 Q. How much have you received so far, excluding travel
2 expenses?
3 A. I receive \$200 per day for the time I spend here in Sierra
4 Leone. I do not get paid for most of the work that I have done,
10:38:22 5 which is the work I have done at home, either in the United
6 Kingdom, or in the USA.
7 Q. Thank you. Now, Colonel, I will be more direct with you on
8 this issue. Have you ever done military analysis of the Civil
9 Defence Forces of Sierra Leone?
10:38:56 10 A. Yes.
11 Q. When did you start such work?
12 A. I started work specifically on the CDF in June last year.
13 I had done preliminary work prior to that on the war in Sierra
14 Leone and also on developing a methodology to meet this
10:39:43 15 requirement.
16 JUDGE ITOE: And to develop a methodology?
17 THE WITNESS: To meet this requirement; the requirement
18 asked of me, Your Honour.
19 MR KAMARA:
10:40:12 20 Q. Colonel, what research methods were adopted by you on this
21 assignment?
22 A. First I had to establish a methodology, in order to
23 determine the extent to which the CDF was a military
24 organisation, and the extent to which command was effective. If
10:40:50 25 I may just make a note here.
26 JUDGE ITOE: Please, wait, wait.
27 THE WITNESS: Sorry.
28 JUDGE ITOE: The extent to which CDF is a military
29 organisation and?

1 THE WITNESS: The extent to which command was effective.
2 If I could just make a note of explanation, when I use the word
3 "command" within our definition, it includes control. So many
4 laymen use the expression "command control". You might find me
10:41:35 5 saying simply "command", which includes and implies "control".
6 MR KAMARA:
7 Q. You have given us the extent to which the CDF was a
8 military organisation and their effectiveness of command.
9 A. That's right. So I had to determine a methodology, which I
10:42:04 10 did, based on four questions. These questions essentially were
11 --
12 Q. Hold it. What were the four questions?
13 A. The first question was whether the CDF had a military
14 hierarchy and structure. The second question was whether the CDF
10:43:03 15 exhibited the characteristics of a military organisation. The
16 third question was whether the organisation was coherent. In
17 other words, was there a clear connection between strategic,
18 operational and tactical levels.
19 Q. You may have to go over that last one again.
10:43:54 20 A. The coherence of a military organisation can be determined
21 by ensuring -- by examining the extent to which --
22 JUDGE ITOE: Just a minute.
23 JUDGE THOMPSON: Can we have it in the form of a question,
24 first?
10:44:12 25 JUDGE ITOE: Whether.
26 JUDGE THOMPSON: Before you explain or analyse.
27 THE WITNESS: Sure.
28 JUDGE THOMPSON: Let's keep it in the question form,
29 whether the organisation was coherent.

1 JUDGE ITOE: Coherent. In other words, whether it was --
2 THE WITNESS: A clear connection between the strategic,
3 operational and --
4 JUDGE THOMPSON: And tactical.
10:44:34 5 THE WITNESS: -- tactical levels, yes, Your Honour. In
6 broad terms --
7 JUDGE THOMPSON: Before you continue, are those the three
8 questions on which you had to establish your methodology?
9 THE WITNESS: There is a fourth.
10:44:50 10 JUDGE THOMPSON: Okay.
11 THE WITNESS: Should I go to the fourth? I can continue to
12 explain the third, if you wish.
13 JUDGE THOMPSON: For the sake of tidiness, wouldn't it be
14 important first to have the fourth question in the methodological
10:45:05 15 thing, then you can add something about the third later on.
16 THE WITNESS: The fourth question was: was command
17 effective.
18 MR KAMARA:
19 Q. You were trying to provide an explanation in the third.
10:45:33 20 Can you let us know what you have to say on that?
21 A. Yes. It was -- we can measure the coherence of an
22 organisation by determining the extent to which the strategic
23 aims of the organisation are transferred down to tactical
24 activity on the ground.
10:46:07 25 JUDGE ITOE: By determining?
26 THE WITNESS: The extent to which the tactical activities
27 on the ground meet the strategic aims. In military terms, we do
28 this by describing three levels of warfare: strategic;
29 operational; and tactical. I wanted to look at how these levels

1 corresponded to each other.

2 MR KAMARA:

3 Q. Colonel, in order to undertake your study of giving us
4 these questions that you asked yourself, how did you go about
10:47:45 5 providing answers to these questions? What's your basis?

6 A. My original intention was to examine the written evidence
7 in terms of witness statements and transcripts. But I quickly
8 realised that this was not going to be sufficient. The witness
9 statements and transcripts tended to be about crime or potential
10:48:42 10 crime, and I was not interested in crime. I was interested in
11 the CDF as a military organisation, as to how it worked; what
12 made it tick. So I needed to examine sources myself. I also
13 realised that I would have to go out on to the ground with the
14 sources. So I could relate --

10:50:10 15 JUDGE ITOE: Go out to the ground with the sources?

16 THE WITNESS: With the sources, yes. So I could relate
17 what they were saying to the real geography. In this way --

18 JUDGE ITOE: To the real?

19 THE WITNESS: Geography, Your Honour. In this way, I could
10:50:48 20 get a much better understanding of what went on, and how various
21 activities related to each other on the ground.

22 MR KAMARA:

23 Q. Colonel, you mentioned visitations to places on the ground.
24 which places did you visit?

10:51:30 25 A. I principally visited the places relating to what I
26 describe as the Koribundu-Bo campaign. So I visited Koribundu,
27 Bo and some of the minor battlefield sites, Gondama, Sembehun.

28 Q. G-O-N-D-A-M-A; and Sembehun, S-E-M-B-E-H-U-N?

29 A. Correct. And also the villages and locations from which

1 these operations were mounted, such as Kpetewoma.
2 Q. K-P-E-T-E-W-O-M-A.
3 A. Correct. And Gbaama.
4 Q. G-B-A-A-M-A.
10:52:57 5 JUDGE ITOE: Let's have the first spelling, please.
6 MR KAMARA: K-P-E-T-E-W-O-M-A. Kpetewoma.
7 JUDGE ITOE: Kpetewoma.
8 MR KAMARA: Yes, and Gbaama, which is G-B-A-A-M-A?
9 THE WITNESS: And Bumpah.
10:52:34 10 MR KAMARA:
11 Q. B-U-M-P-E-H. Now, Colonel, in the conduct of your study,
12 did you arrive at conclusions, findings?
13 A. Yes.
14 Q. And were you able to reduce these findings of yours in
10:53:28 15 writing?
16 A. Yes, I wrote a report.
17 Q. Are you the only one that authored the report?
18 A. Yes. Although, when I first wrote the methodology, I did
19 discuss this with some of my colleagues, the methodology. The
10:54:12 20 rest of the report is mine.
21 Q. When did you prepare that report?
22 A. I completed it in May 2005, last month.
23 Q. Last month, 2005. Do you have that original report with
24 you?
10:54:41 25 A. I think I gave it to you.
26 Q. Take a look at this document, Colonel.
27 [Document shown to witness]
28 Q. Do you recognise that document?
29 A. Yes, it is the report I wrote on Civil Defence Force.

1 Q. And you would like this Court to take a look at it?

2 A. Yes, please.

3 MR KAMARA: It is the wish of the Prosecution to tender

4 this report, Your Honour.

10:55:38 5 PRESIDING JUDGE: Counsel for first accused, can you

6 comment?

7 MR YILLAH: I have no objection. Just that I wanted to see

8 the report to compare it to what was served to us.

9 PRESIDING JUDGE: Mr Walker, could you please show the

10:55:52 10 original report to the Defence.

11 MR YILLAH: No objection, My Lord, it's the same report.

12 PRESIDING JUDGE: Mr Bockarie?

13 MR BOCKARIE: No objection.

14 PRESIDING JUDGE: Thank you. Mr Margai?

10:56:26 15 MR MARGAI: Basically, My Lord, I have no objection, but

16 I'm not sure whether my learned friend is tendering the document

17 or - because what he said was that he would wish to tender it. I

18 mean, that's an indication of a future conduct. Anyway, no

19 objection.

10:56:51 20 PRESIDING JUDGE: I am aware from his comments that he was

21 tendering the report as an exhibit.

22 JUDGE ITOE: That is what I understood him to have meant,

23 from the way he tendered the curriculum vitae, Exhibit 96.

24 MR MARGAI: There is this question of people in addressing,

10:57:06 25 "I wish to". "I wish to" is an intention of a future conduct.

26 JUDGE THOMPSON: I take the point myself that I find -- do

27 you want the Court to look at it as legally ambiguous?

28 MR MARGAI: As my Lord pleases.

29 JUDGE ITOE: I understand he's not toeing the legal line as

1 we know it, or the traditional methods of the ways of tendering
2 documents. I'm sure that's where your objection resides.
3 MR MARGAI: I'm not objecting, I just observed.
4 JUDGE ITOE: I mean your observation.
10:57:37 5 MR MARGAI: As My Lord pleases.
6 PRESIDING JUDGE: So you are tendering this document as an
7 exhibit?
8 MR KAMARA: Yes, Your Honour, and the use of the word
9 "wish" was contingent upon objections, if at all.
10:57:53 10 PRESIDING JUDGE: In that sense it might be seen to be a
11 very prudent method, but the Court accepts this document as
12 Exhibit 97. It is the military expert's report on the Civil
13 Defence Forces of Sierra Leone by Colonel Iron and it is
14 dated May 2005.
10:58:20 15 [Exhibit No. 97 was admitted]
16 MR KAMARA: It is not the intention of the Prosecution to
17 go into depth with the report as it already forms part of the
18 evidence, but I seek to do an overview of the report with the
19 witness.
10:58:41 20 Q. Can you briefly describe to this Court the CDF organisation
21 from a military perspective?
22 A. The CDF organisation evolved over time. Prior to the coup
23 in 1997 the CDF was organised on what you might describe as
24 territorial grounds. They were distributed --
10:59:25 25 JUDGE ITOE: CDF was organised?
26 THE WITNESS: Territorially, Your Honour. They were
27 distributed across Sierra Leone and organised on a chiefdom
28 basis. And they operated in their own local areas.
29 MR KAMARA:

1 Q. We are still pre-1999?

2 A. This is pre, prior to, the junta coup. After the coup, the
3 organisation changed. The CDF was expelled from many of its
4 areas, and we see the beginning of a new structure. Headquarters
11:00:56 5 was established in Talia, in Bonthe District, and for the first
6 time, we see the creation of a large body, centralised body of
7 CDF fighters in Talia. So during the time of the junta, we see
8 the CDF having two organisations - two types of structure.

9 Q. What are those two types?

11:01:53 10 A. We still have what I describe as territorial forces
11 dispersed in areas still controlled by the CDF.

12 PRESIDING JUDGE: You say that was in chiefdoms controlled
13 by the CDF?

14 THE WITNESS: That is correct, Your Honour.

11:02:23 15 PRESIDING JUDGE: What you just said before was that before
16 it was throughout all chiefdoms, if I can put it this way, and
17 then it was more focused or on a more limited scope?

18 THE WITNESS: That is correct. The second type of
19 structure we have is what we can describe later as becoming the
11:02:52 20 offensive force, the counterattack force.

21 MR KAMARA:

22 Q. Offensive?

23 A. Offensive. It's a military term, it was the counterattack
24 force created at Talia. It was this force that we subsequently
11:03:12 25 see taking part in the major attacks on Koribundu and Bo.

26 Q. Thank you, Colonel. Could you describe to this Court what
27 the hierarchy of this military structure was?

28 A. The headquarters of the CDF was based at Talia. Within
29 Talia, there was the commander of the CDF and a small staff,

1 what, in military terms, we can describe as staff officers to
2 support the commander command. There were also a large number of
3 CDF units based in Talia on a hierarchal structure.

4 JUDGE ITOE: Did you say on a higher-ranking structure?

11:04:58 5 THE WITNESS: Hierarchal, as in a hierarchy.

6 MR KAMARA:

7 Q. Now, colonel, you mentioned the commander. Do you know the
8 person in that position?

9 A. I don't know him personally, but I know it to be Hinga
11:05:16 10 Norman.

11 Q. Colonel, how effective, if I may ask, was this structure,
12 in the light of command which, from your explanation, also
13 implies control?

14 A. It was mixed. At the --

11:06:03 15 Q. Take your time, Colonel.

16 A. It was mixed. At what I describe as the strategic and
17 operational level, command was highly effective.

18 PRESIDING JUDGE: So are there two levels: strategic and
19 operational?

11:06:27 20 THE WITNESS: Correct, Your Honour. At the tactical level,
21 command --

22 JUDGE ITOE: You say at this level command was effective?

23 THE WITNESS: Effective, highly effective. At the tactical
24 level, command tended to be less effective because of the
11:06:51 25 inexperience and lack of training of many of the junior
26 commanders. Not all, but many.

27 MR KAMARA:

28 Q. Colonel, I venture to invite you to assist this Court
29 further, specifically as to what you mean by highly effective

1 command within the strategic and operational level. You have
2 given us a broader perspective of it. What we want at this point
3 in time is to give us particulars so we can feel and understand
4 what you mean by highly effective.

11:07:56 5 A. In my report I describe a model of command. This is the
6 model used both in the United Kingdom and in NATO. This model
7 has three elements: decision-making; leadership; and control.
8 Now, within the CDF, decision-making at high level seems to have
9 been excellent in that the CDF had a number of strategic
11:08:56 10 problems --

11 JUDGE THOMPSON: Could you repeat that? Seemed to be - did
12 you use the word "seems"?

13 THE WITNESS: Correct, yes, Your Honour.

14 JUDGE ITOE: And you used the word "excellent", did you?

11:09:09 15 THE WITNESS: That's correct. I'm about to qualify why I
16 think it to be so.

17 JUDGE THOMPSON: Right.

18 THE WITNESS: Because the CDF had a number of strategic
19 problems after the coup.

11:09:29 20 PRESIDING JUDGE: Can you give some example of what you
21 mean by this?

22 THE WITNESS: Yes, sir. After the coup, they were driven
23 from many of their traditional areas; the chieftdom structure of
24 the CDF broke down; they were under attack from the AFRC and RUF,
11:10:06 25 who, at this stage, were much stronger than the CDF. So the CDF
26 leadership recognised that they must first preserve their
27 organisation and then build up their strength so as then
28 subsequently to counterattack against junta forces. The
29 establishment of a safe base, a safe haven, at Talia was a

1 strategic decision that ensured the survival of the CDF. And the
2 decision to mass recruit people directly into the CDF rather than
3 through the chieftdom system allowed a significant recruitment, a
4 significant enlargement of the CDF and the creation of what I
11:12:13 5 describe as an offensive force, an offensive capability at Base
6 Zero in Talia.

7 JUDGE ITOE: An effective --

8 MR KAMARA: Offensive capability.

9 JUDGE ITOE: Offensive capability.

11:12:39 10 MR KAMARA: Yes, at Talia.

11 THE WITNESS: These were strategic decisions. Also a
12 strategic decision was the operation to launch -- or the
13 decision, I'm sorry, the decision that the tide was turning at
14 the end of the year and prior to the ECOMOG intervention in 1998,
11:13:17 15 and that the CDF could launch limited counteroffences in order to
16 prepare the ECOMOG intervention.

17 MR KAMARA:

18 Q. Thank you, Colonel. If I may take you now to the issue of
19 the military strength from your findings, are you in a position
11:13:44 20 to tell us what would you estimate to have been the military
21 strength of the CDF in terms of numbers between 1996 and 1999?

22 A. I can not estimate with any accuracy. The reports indicate
23 that there were some thousands at Talia, maybe 5,000, maybe
24 10,000. Dispersed amongst the territorial forces, there might
11:14:20 25 have been the same similar number, maybe many, many more. I'm
26 afraid I can't give you any greater estimation than that and I
27 don't think anybody, even in the CDF, could give you an accurate
28 figure.

29 Q. Thank you, Colonel. Are you in a position to tell this

1 Court how extensive were the CDF military operations?

2 A. Yes. There were two types of military operation that took
3 place during this period. One were the dispersed defensive
4 operations that took place --

11:15:07 5 Q. Hold it there.

6 A. I'm sorry. The dispersed and defensive operations.

7 Q. Could you explain those?

8 A. Yes, these are the one that took place in the regions that
9 the CDF still controlled primarily in the north and east of the
11:15:29 10 country. They were conducted by those forces, those territorial
11 defence forces still in place. I have not seen evidence that
12 these were coordinated activities.

13 Q. You're referring to the dispersed --

14 A. That's correct, that's correct. The second type of
11:16:07 15 operations are the operations that took place in the south and
16 the west of the country closer to Talia. These were much closer,
17 obviously, to CDF headquarters within reach of the jungle
18 communication system - the much easier reach of the jungle
19 communication system.

11:16:46 20 PRESIDING JUDGE: what do you mean by jungle --

21 MR KAMARA: Jungle communication system.

22 THE WITNESS: There were very few, if any, radios being
23 used at this level, so the communications had to be run by hand.
24 This could either be by motorbike or moped in the areas
11:17:11 25 controlled by the CDF, or on foot through the jungle in other
26 areas. So in this southern and western region, we see
27 coordinated operations controlled from Talia involving both what
28 I describe as the offensive capability, the offensive force at
29 Talia, and the territorial forces in those regions.

1 MR KAMARA:

2 Q. Colonel, you have referred to several operations. Were
3 these operations systematic or were they patterned along any
4 particular military strategy?

11:18:27 5 A. All CDF operations as far as I can see appear to have been
6 driven by the central strategic idea of the CDF, which was to
7 defend their homelands --

8 JUDGE ITOE: All CDF operations were?

9 THE WITNESS: I can't recall the exact words, but seemed to
11:18:58 10 accord to the central idea of the CDF, which was to defend their
11 homelands against the RUF and subsequently junta forces. But
12 specifically in the south and west there were clear strategic
13 ideas as the campaign developed, as the war developed. So we see
14 the CDF starting from a defensive posture after the junta.

11:19:27 15 [HN140605C-RK]

16 A. Moving to an offensive posture to correspond -- coincide
17 with the ECOMOG intervention. And these operations were
18 coordinated from Talia.

19 Q. Colonel, in your answer a short while ago you mentioned
11:20:14 20 about a jungle communication system?

21 A. Yes.

22 Q. And my question to you now about that issue is what was the
23 flow of reporting between what you may have referred to as the
24 tactical level commanders and the operational and strategic level
11:20:35 25 commanders?

26 A. Certainly in the south and west area, the area that I view
27 as being under the direct control from Base Zero from Talia,
28 including Bo and Koribundu operations, the flow of communications
29 appears to have been good. Now, communications has three aspects

1 to it: There's reliability; there is security; and there is
2 timeliness. The -- what I describe as the CDF jungle
3 communications systems appear to be reliable. I have not come
4 across instances of messages being lost. They appear to be
11:21:45 5 secure in that the RUF and the AFRC do not seem to have been able
6 to intercept them. The only issue relates to timeliness, because
7 they did not use radios, but used either foot or motorbikes, the
8 communications were slower. But nevertheless, I think we can
9 view that communications throughout this period and throughout
11:22:24 10 this region were good and that the command, High Command, in
11 Talia understood what was going on on the ground, even if it was
12 a few hours or maybe a few days later.
13 Q. Thank you, Colonel. Colonel, let us now examine the issue
14 of the morale component. As you know, that the maintenance of
11:23:10 15 morale is a principle of war, both morale and physical aspects.
16 How would you analyse the morale component been the CDF?
17 A. Again, this was mixed. In general terms, I would view the
18 CDF as having high morale. Unlike most of the other
19 organisations involved in this war, its people generally were
11:23:49 20 volunteers. They generally appear to believe in what they were
21 doing, so they start from a higher position than some of the
22 other organisations. In addition, the process of initiation
23 aided in creating cohesion within the CDF. This cohesion in a
24 military organisation is very important, a sense of belonging.
11:24:42 25 That sense that makes you risk your life on behalf of your
26 friends. So initiation was an important part of building the
27 morale component within the CDF. In addition, immunisation was
28 an important part of building the will to fight. And it is
29 noticeable that many top-up immunisation ceremonies would take

1 place immediately prior to attacks.

2 Q. You are trying to use words in local parlance. Explain to
3 this Court what you mean as top-up?

4 A. In order to give fighters confidence that they are indeed
11:25:55 5 immunised against bullet wounds, they would be given additional
6 immunisation treatment, if that's the right word, prior to an
7 attack. The other aspect, though, of their morale is that
8 sometimes, often, it appears to be fragile. The CDF, especially
9 in the early days were not robust when it came to tactical
11:26:48 10 reverses.

11 Q. Tactical reverses?

12 A. Yes, when things started going wrong, the CDF units tended
13 to disintegrate. Frequently, it would be if one of the people
14 was killed, then the rest of the unit would run away and they
11:27:24 15 were less robust than the other two organisations involved in
16 this war when it came to tactical battles. So this is in the
17 early days; later in 1999, we see them being much stronger
18 tactically than 1997, 1998.

19 Q. And to what would you attribute that to?

11:27:59 20 A. Greater experience.

21 Q. Colonel, how would you relate the military leadership of
22 the CDF to the issue of morale within the CDF. What was the role
23 of leadership to this issue of morale?

24 A. Morale, of course, is a leadership issue. It is one of the
11:28:37 25 attributes of leadership to be able to create and maintain
26 morale. I think we see within the CDF a very strong lead given
27 by the leadership to morale. There was a great deal of personal
28 loyalty to Hinga Norman which helped to create leadership --
29 sorry, cohesion. And the leadership's promotion of initiation

1 and immunisation, I think was very important.

2 Q. Now, Colonel, I will take your mind briefly to the issue of
3 discipline. How would you describe for this Court the element of
4 discipline within the CDF?

11:30:26 5 A. This is a very complex issue. At some levels discipline
6 was harshly enforced within the CDF, at other levels it was not.
7 So we see very strict discipline being enforced in the obeying of
8 orders, direct orders, and if a commander failed to obey, for
9 example, one of Hinga Norman's orders, then he could expect to be
11:31:33 10 punished. But there are many other areas that -- in which I
11 would describe discipline as being lax where many what I view as
12 wrongdoings went uninvestigated and unpunished. This was
13 particularly so in Base Zero. And my opinion is that the
14 environment, the culture, the ethos that was created in Base Zero
11:32:28 15 transferred itself into the battle field.

16 Q. What is that culture, that ethos?

17 A. In which -- if you do something wrong, it will not be
18 investigated and it will not be punished.

19 Q. I see. And that is what reflected itself on the
11:32:56 20 battlefield?

21 A. That's correct. Now, of course, wrong is a relative term.
22 What might be wrong to me may not be wrong to someone else; this
23 is an issue. But on the battlefield we certainly see a lack of
24 discipline. At Bo, for example, two days after Bo was captured
11:33:21 25 we still find many fighters firing their weapons for no reason at
26 all, creating a dangerous environment for the civilians and, of
27 course, the fighters themselves.

28 Q. Now, Colonel, I am on the penultimate issue and that is the
29 one of treatment of prisoners of war. What are the general

1 guiding rules with respect to treatment of prisoners of war?

2 A. Armies are, of course, guided by the Geneva Convention, the
3 law of armed conflict, where those who capture prisoners of war
4 have a duty to safeguard them and to look after them both in
11:34:27 5 their creature comforts, such as food, water, but in most
6 particular to safeguard them and to actually take them away from
7 the danger of the battlefield.

8 Q. Thank you. Now, from your study, and I'm being very
9 particular here, were you informed on how the CDF treated
11:34:52 10 prisoners of war?

11 A. This was not one of the -- one of my major areas of
12 examination. As I said before, I was interested mostly not in
13 crime.

14 JUDGE THOMPSON: Yes, he indicated that his concern was not
11:35:18 15 in crime.

16 PRESIDING JUDGE: I would like as well to be enlightened on
17 this particular aspect of the evidence of the expert witness,
18 because it is not my recollection that the witness -- that you
19 did not asked this Court to accept this witness as an expert in
11:35:36 20 the treatment of prisoners of war or any issue having to do with
21 prisoners of war, at least I did not see that and I did not read
22 that anywhere. Maybe it is part of command structure and so on.
23 I don't know how you link this to the expertise of this witness.

24 MR KAMARA: You're very correct, Your Honour.

11:35:57 25 PRESIDING JUDGE: This is not what we were asked -- I'm not
26 saying that the witness has no knowledge of that, but this is not
27 what you've asked the Court to accept the evidence of this
28 witness for that purpose.

29 JUDGE THOMPSON: Yes.

1 MR KAMARA: We are on the same page, Your Honour.

2 JUDGE THOMPSON: Clearly we're moving outside the scope of
3 his expertise. Unless you can say that Exhibit 97 does address
4 that, that if it does, I don't know how we deal with it.

11:36:27 5 MR KAMARA: I do appreciate Your Honours concerns. I was
6 looking at it from a general military perspective.

7 JUDGE THOMPSON: No. Again, for me if an expert comes
8 here, we need to be extremely cautious about the testimony
9 because the Court is being assisted and asked to believe what he
11:36:45 10 says, because the Court cannot form its own judgment without the
11 assistance, so we need to be very careful that you do not go
12 beyond the scope.

13 MR KAMARA: I won't press that, Your Honours. Thank you.

14 Q. Finally, Colonel, to round up the examination-in-chief, I
11:37:11 15 will ask you a few questions that require short replies.
16 Firstly, taking your analysis as a whole, was the CDF a
17 recognisable -- does the CDF have a recognisable military
18 hierarchy and structure?

19 A. Yes, it does.

11:37:54 20 Q. Was there a demonstrated level of coherence between
21 strategic, operational and tactical levels within the CDF?

22 A. Yes, in particular at the higher levels, tactical levels,
23 frequently they will be let down by tactical inexperience, but
24 yes.

11:38:21 25 Q. And would you say that the CDF was an armed organisation
26 with a responsible command?

27 A. What do you mean by the adjective "responsible"?

28 Q. Responsible in the sense of command that you've used in
29 terms of effective command and --

1 A. Yes, I would. Definitely effective command, yes.

2 Q. And finally, from your findings, Colonel, who would you say
3 welded the ultimate power in a military sense within the CDF?

4 A. Hinga Norman.

11:39:04 5 MR KAMARA: That is all for this witness, Your Honour.

6 Thank you, Colonel.

7 PRESIDING JUDGE: Thank you.

8 Before we proceed with the cross-examination by the first
9 accused we'll break for ten minutes. Court is adjourned for ten

11:40:00 10 minutes.

11 [Break taken at 11.40 a.m.]

12 [HN140605D 11.45 - AD]

13 [Upon resuming at 12.05 p.m.]

14 PRESIDING JUDGE: Counsel for the first accused, are you
12:08:11 15 ready to proceed with the cross-examination of the expert.

16 MR YILLAH: Yes, My Lord.

17 PRESIDING JUDGE: Please proceed.

18 MR YILLAH: Thank you, My Lord.

19 CROSS-EXAMINED BY MR YILLAH:

12:08:25 20 Q. Colonel, I take it from the introductory paragraph in your
21 report that you were asked by the UK ministry of defence to
22 determine the extent to which CDF and other organisations in the
23 Sierra Leone war were military organisations; is that correct?

24 A. That is -- not exactly. I was asked by the UK ministry of
12:09:04 25 defence to assist the Special Court as a military expert witness.
26 In a follow-up meeting with a representative of the office of the
27 Prosecutor, he then explained the requirement to determine the
28 extent to which the CDF organisation was a military organisation,
29 and to the extent that command and control was effective.

1 Q. But you would agree with me that that latter bit does not
2 appear on your report. You just said you were contacted by the
3 ministry of Defence to determine the extent to which these
4 organisations were military organisations with military control
12:09:46 5 and command simpliciter.
6 A. Yes.
7 Q. Mr witness, when was the first time you came to
8 Sierra Leone in pursuance of this objective?
9 A. The first time was in June last year, 2004.
12:10:17 10 Q. Mr witness, do you know a General Richards in the British
11 Army?
12 A. Yes.
13 Q. Do you also know one Brigadier Riley?
14 A. Yes.
12:11:06 15 JUDGE ITOE: Can you spell that, learned counsel.
16 MR YILLAH: Riley, from the spelling I have, is R-I-L-E-Y,
17 Brigadier Riley.
18 Q. Do you know also one Colonel Mike Vucher from the British
19 Army?
12:11:30 20 A. Could you spell his name.
21 Q. The spelling that I have is V-U-C-H-E-R.
22 A. No, I don't.
23 Q. You don't. Colonel, do you know whether General Richards
24 and Brigadier Riley were sent by the British military to organise
12:12:06 25 the CDF; do you know or do you not?
26 A. I know that they were sent by the British government to
27 assist in the stabilisation of Sierra Leone.
28 Q. Colonel, did you personally make and input, or did you make
29 any input into the work of General Richards and Brigadier Riley?

1 A. No.

2 Q. Colonel, did you, during your visit to Sierra Leone and
3 during your research, did you find out the various bodies that
4 comprise the CDF in Sierra Leone, the various groupings?

12:13:46 5 A. I am not sure if I understood the question, but what I did
6 was --

7 JUDGE ITOE: Why don't you understand the question,
8 Colonel, so that you are very sure of the answer that you are
9 providing to the Court. Learned counsel, can you please put the
12:14:04 10 question.

11 MR YILLAH: As My Lord pleases.

12 Q. Now Colonel, my question was: The CDF was an umbrella
13 organisation. Do you know the various bodies that constituted
14 that umbrella organisation?

12:14:25 15 A. Thank you. The focus of my examination was on the events
16 that occurred in the south and west of the country. Therefore,,
17 the group that I examined the most was the Kamajor grouping,
18 rather than the others. But I am aware that it is an umbrella
19 organisation and there are other groups.

12:15:12 20 JUDGE THOMPSON: You say that you are aware that the CDF
21 was an umbrella organisation.

22 THE WITNESS: It consisted of a number of tribal
23 organisations.

24 JUDGE THOMPSON: Yes, for the want of a better phraseology,
12:15:25 25 umbrella is it?

26 THE WITNESS: I think that works, Your Honour.

27 MR YILLAH:

28 Q. Colonel, I take it from your evidence that the thrust of
29 your study or investigations was focused on the Kamajors, is that

1 what you are telling the Court?

2 A. That is correct. As I mentioned in my evidence there are
3 two types of organisation within the CDF. There is the dispersed
4 organisation and the focused organisation based at Talia. Apart
12:16:06 5 from a very small group of Kapras, that was entirely Mende,
6 Kamajors and so that was the focus of my examination because that
7 was the offensive grouping which took part in the Koribundu-Bo
8 campaigns.

9 Q. Colonel, prior to your being contacted by the ministry of
12:16:36 10 defence and therefore, the Special Court, what did you know about
11 the parties or the military organisations involved in the Sierra
12 Leone conflict?

13 A. I knew as much as the normal well-informed military analyst
14 would. So, my focus was on the British military activity that
12:17:05 15 took place here and the environment in which they operated. I
16 did not start to examine the CDF or other organisations in detail
17 until I was asked to take on this assignment.

18 Q. Colonel, in answer to a previous question that I asked you
19 you said that your investigations were based on the group
12:18:01 20 operating in the southwest, mainly the Kamajors?

21 A. That is correct.

22 Q. Curiously your report analyses and makes conclusions about
23 the CDF, the umbrella organisation. How is that so?

24 A. It is not that difficult. The CDF, as I mentioned,
12:18:28 25 consisted of two major elements; the territorial defence element
26 up and then offensive element. The territorial defence appears
27 in the areas they were operating to operate in a similar fashion
28 whether they were operating up in Port Loko or further south.
29 The key to the CDF lay in its offensive capability in Talia. So,

1 that was where the focus of my analysis -- investigation and
2 analysis was.

3 Q. Colonel, during the course of your investigations and
4 research, were you informed by your sources or by the military or
12:19:40 5 military in the UK that the Civil Defence force was legitimised
6 formally by the Sierra Leone parliament; were you informed of
7 this?

8 A. I am aware of it, yes.

9 Q. Thank you. Colonel, do you have a branch of the British
12:20:22 10 military known as the Territorial Army?

11 A. Yes, we do.

12 Q. Now were you informed by either your sources here or the
13 military to the UK that the CDF was moulded on the basis of the
14 British Territorial Army; were you informed about that?

12:21:07 15 A. No, I wasn't.

16 Q. Now, Colonel, you said earlier in answer to a question that
17 I asked, you said that you knew that the CDF was legitimised by
18 the Sierra Leone parliament. Did you bother to look at the
19 documents legitimising the CDF?

12:21:46 20 A. It is not a question of being bothered. The focus of my
21 analysis was the extent to which the CDF was a military
22 organisation and command was effective. I was not interested in
23 issue of legality, quite deliberately not interested in issues of
24 legality.

12:22:11 25 Q. I will accept the answer. Colonel, you mentioned -- during
26 your evidence in chief you made mention of the Geneva convention;
27 is that correct?

28 A. I think I made mention of it in passing in a section which
29 was in the subsequently not permitted to be discussed.

1 Q. I take that. Would you agree you made mention of it?

2 A. I agree I made mention of it.

3 Q. Colonel, are you familiar - on a personal note - are you
4 familiar with that convention and the protocols thereto?

12:23:22 5 A. I am broadly familiar with it like every British soldier.
6 We are educated in the law of armed conflict and have to pass a
7 test on the law of armed conflict.

8 Q. Thank you. Colonel, would you agree with me if I were to
9 say to you, or if I were to state here that civil defence is
12:24:20 10 recognised by the Geneva convention, would you agree with me?
11 Civil defence organisations are recognised by the Geneva
12 Conventions, so far as you know.

13 PRESIDING JUDGE: Are we not moving outside the scope of
14 his expertise. That was the essence of why the Court intervened
12:24:41 15 to say to the Prosecution, well, the witness has been accepted as
16 an expert in specific areas. Now if you're moving in that areas,
17 we specifically said to the Prosecutor and the witness that the
18 witness is not qualified in the sense that this is not the
19 expertise we have recognised for this expert.

12:24:59 20 JUDGE THOMPSON: Let me add my voice to this. I think we
21 have a very forthright response by the witness that he was not
22 interested in issue of legality.

23 JUDGE ITOE: In any event, that's a legal issue you are
24 putting across and which should be contain in the instrument you
12:25:20 25 are seeking to refer to. When the time comes you could address
26 the Court on that.

27 MR YILLAH: As My Lord pleases. I thank Your Lordships.

28 Q. Colonel, would were you informed by your sources, either
29 here or in the UK that there was no organisation known as Civil

1 Defence prior to the reinstatement of the democratically elected
2 government in February of 1988.

3 A. I am not sure that reflects exactly what I was told. But I
4 am aware that the CDF, as an organisation, emerged out of these
12:26:21 5 more regional organisations, essentially as a response, as we
6 discussed earlier, to the breakdown of the chiefdom structure as
7 a result of the junta.

8 I am sorry, does that answer your question?

9 Q. I will do a follow up, I am waiting for their Lordships.
12:26:58 10 Colonel, would you agree with me if I suggest to you that
11 what we had operating in the southwest that you have focused on
12 were groupings; Kamajors, Kapras and the like operating as small
13 military organisation in those areas. Would you agree with me if
14 I were to suggest that to you?

12:27:26 15 A. Partly, if I may qualify that answer in that, yes, there
16 were small groupings operating dispersed across the countryside
17 in the villages and chiefdom areas. But there was also built up
18 in Talia what I describe as an offensive grouping, a
19 counterattack force, that was responsible for the major campaigns
12:27:54 20 that then took place. Without this counterattack force the CDF
21 could not have achieved many of the operational successes they
22 later had.

23 Q. Colonel, in the course of your investigations, did you come
24 across a name, did you come across an ECOMOG officer by the name
12:28:43 25 of General Khobe?

26 A. Yes.

27 JUDGE ITOE: The name or the person?

28 MR YILLAH: The name.

29 THE WITNESS: I came across his name, yes.

1 MR YILLAH:

2 Q. Now, certainly, were you informed that it was this during
3 your investigations that it was General Khobe who organised these
4 small groupings into what was known as Civil Defence Force after
12:29:42 5 February 1998?

6 A. I am aware that the general was made the chief of defence
7 staff here in Sierra Leone. I was aware that there were a number
8 of difficulties and issues relating to the command responsibility
9 between the CDF and ECOMOG forces after the intervention. I am
12:30:14 10 not aware, to answer your specific question, that he assumed
11 personal responsibility for the organisation of the CDF after
12 February 1998. I have not come across evidence from my sources
13 to suggest that this was so. The evidence relates to the fact
14 that there was difficulty over command and the relationship
12:31:07 15 between these two organisations.

16 JUDGE ITOE: That is ECOMOG and the CDF?

17 THE WITNESS: Yes, Your Honour.

18 MR YILLAH:

19 Q. Now, Colonel, were you also informed by your sources that
12:31:44 20 this CDF, this arrangement or grouping of these small-small
21 military organisations, was done by the government in order to
22 enhance a central means of communicating to these different
23 groupings? Were you informed about that?

24 A. Are you talking after February 1998?

12:32:10 25 Q. Yes, after February 1998.

26 A. The centralised command and control of most of the CDF had
27 already been achieved before February 1998 with the creation of
28 this major force down this Talia. After the intervention and the
29 recapture much of Sierra Leone by ECOMOG and CDF, the CDF

1 established its network of command to absorb the territorial
2 forces that were in other regions, other than the south and west.
3 I am sorry. And as they did so, some of the forces that had been
4 in this counterattack force in Talia and individual commanders
12:33:04 5 became allocated to various areas from whence they had originally
6 come.

7 Q. I take it that your answer is that you did not come across
8 any such information.

9 A. The information that it was the government who organised
12:33:26 10 it.

11 Q. These different groupings into CDF, this big umbrella
12 organisation so that they would have a central body through which
13 to channel rations and supplies and the like.

14 A. I am aware that as the CDF took more control back from --
12:33:46 15 across Sierra Leone that they spread their centralised control.
16 They already had centralised control over the forces which they
17 were able to control at the time. As they took over more area,
18 the junta withdrew to the Kono district, then the CDF became
19 organised in other regions too. So the answer is yes, you your
12:34:10 20 question.

21 Q. So yes, it was an arrangement by the government to --

22 A. It was an arrangement by the senior --

23 MR KAMARA: I think my learned friend is missing the point
24 now and beginning to confuse the witness here. There are two
12:34:22 25 issues in the question posed: Firstly, as to the identity of
26 formation, whether it was the government that formed these small
27 groups he is referring to. And the second issue in that question
28 is the purpose for which they were formed and I believe the
29 witness is making clearly in his explanation what led to the

1 formation and how they were formed. But not as to agree with my
2 learned friend that the government actually formed these little
3 groupings for the very purpose he has intimated to the Court.

4 PRESIDING JUDGE: Yes, Mr Yillah.

12:34:56 5 MR YILLAH: I will not fight with my learned friend on that
6 point. I will put the -- for the benefit of clarity in the
7 evidence, I will put the question again simply.

8 PRESIDING JUDGE: The question, I think you can put that
9 very clearly to the witness, is that whether it was the
12:35:07 10 government. That was the essence of your question.

11 MR YILLAH: Yes, My Lord.

12 PRESIDING JUDGE: Repeat that question,

13 MR YILLAH:

14 Q. Mr witness, were you informed that the group by the name
12:35:23 15 CDF was formed by the government of Sierra Leone?

16 A. I am not aware of the government's role in the formation of
17 the CDF.

18 Q. Thank you.

19 PRESIDING JUDGE: Mr Defence counsel, your question was
12:35:47 20 directed in post February 1998.

21 MR YILLAH: Post February 1998, My Lord.

22 Q. Colonel, were you also informed that in areas where CDF
23 operated alongside ECOMOG, ECOMOG was in overall command?

24 A. I was informed that both organisations, after the ECOMOG
12:36:33 25 intervention, tended to operate together. So they did operate
26 together. This did not mean that there were not difficulties in
27 command; there were difficulties in command because it appears
28 that ECOMOG attempted to take CDF forces under command. This was
29 resisted by CDF commanders, including Hinga Norman.

1 But this did not mean that they did not operate together;
2 they operated together because they had similar operational aims
3 and objectives, which was to recover the country from the junta
4 forces.

12:37:27 5 Q. I still have a difficulty. Assist me here?

6 A. Sure.

7 Q. Where they operate together, were you also informed that
8 ECOMOG was in overall command in those areas that they operated
9 jointly.

12:37:58 10 A. The issue of command is interesting because it is not a
11 case of being titular command, it is effective command. The
12 question is not whether General Khobe was placed in a position of
13 command over the CDF, it was whether he was able to exercise
14 command over the CDF.

12:38:33 15 Q. So what is your answer, Colonel?

16 A. Sorry, there is the second half of my question to come. To
17 exercise effective command, you need to have the responsibility
18 to make decisions, you need to be able to exercise leadership and
19 you need to be able to exercise control. The person who

12:39:17 20 exercised all three of these for the CDF was Hinga Norman. Now,
21 the question then relates to how much was he personally
22 influenced and directed by ECOMOG commanders. And the answer is,
23 after February 1998, I do not know. I do not know.

24 Q. Colonel, my question does not relate to post February 1998.

12:39:54 25 A. Okay.

26 Q. I am talking about events leading up to February 1998.

27 A. Okay.

28 Q. Now in areas from your information, it is a simple
29 question, where ECOMOG operated alongside CDF or the Kamajors who

1 was in overall control, who had overall command, which group?

2 A. Prior to February 1998, ECOMOG forces did not operate in
3 conjunction with the CDF in Sierra Leone. CDF operations were
4 mounted by themselves prior to the ECOMOG intervention.

12:40:38 5 Q. Colonel, you said your report analyses activities that took
6 place over seven years ago.

7 A. That is correct, yes.

8 Q. Now, your conclusions were based on the facts that were
9 presented to you by certain people; is that correct?

12:41:17 10 A. Yes.

11 Q. Colonel, how many people did you interview, without citing
12 their names?

13 A. Within Sierra Leone, I went on the ground, interview is not
14 the right word, I spent a lot of time with seven people. I
12:42:00 15 conducted further interviews with people outside Sierra Leone,
16 but they were not specific for CDF, they were more general
17 background.

18 JUDGE ITOE: The question is as to the number.

19 MR YILLAH: Yes, the number.

12:42:24 20 THE WITNESS: Yes.

21 MR YILLAH:

22 Q. So you interviewed only seven people to come to the
23 conclusion before this Court.

24 A. As I mentioned earlier in evidence in chief, I think, I had
12:42:39 25 access to witness statements and to testimony. What I needed to
26 do to understand the dynamic of this organisation, the CDF, was
27 to visit, go to the ground and get a better understanding from
28 CDF command are commanders, middle ranking commanders. I did not
29 need to interview hundreds of people to do this, to examine how

1 the organisation worked on the ground.
2 Q. Did you interview the first accused Sam Hinga Norman?
3 A. No, I did not.
4 Q. You did not.
12:44:16 5 A. No.
6 Q. Did you interview any other of the accused persons in this
7 Court?
8 A. No, I did not.
9 Q. You did not, thank you. Did you know about the existence
12:44:55 10 of a war Council in Talia in your investigations?
11 A. Yes, I did.
12 Q. And did you know that that war Council had a chairman?
13 A. Yes.
14 Q. Did you interview that chairman?
12:45:28 15 A. No.
16 Q. You did not?
17 A. No.
18 Q. Did you also know that that war Council had a vice
19 chairman?
12:45:57 20 A. I probably did when I was examining this, but I cannot
21 recall who it was.
22 Q. I would attempt to suggest to you, maybe you will recall --
23 Chief Caulker was the vice chairman of the council. Did you
24 interview that vice chairman?
12:46:18 25 A. No, I did not.
26 Q. You did not. What was the total number of days you spent
27 in Sierra Leone to write your report?
28 JUDGE ITOE: Just a question, please. Colonel, did you
29 interview -- certainly, the War Council did not only comprise the

1 chairman and the vice chairman. Did you interview any of the
2 members of the war Council?

3 THE WITNESS: Yes, Your Honour, I did.

4 JUDGE ITOE: You did?

12:47:24 5 THE WITNESS: I did.

6 JUDGE ITOE: That is my question. That is as far as I am
7 prepared to go.

8 MR YILLAH: Thank you, My Lord.

9 Q. What was the total number of days you spent in Sierra Leone
12:47:40 10 to write this report?

11 A. My time in Sierra Leone, of course, was split between three
12 organisations. As far as my time dedicated to the CDF
13 examination was concerned, I estimate now to be about 14 days.
14 This was not time I spent writing the report. 14 days was spent
12:48:12 15 with my sources visiting the battle fields and the other areas I
16 mentioned earlier. The report was written at home and has been
17 about a year in the writing.

18 Q. In answer to a question posed to you a few minutes ago by
19 His Lordship Justice Itoe you said you interviewed a member of
12:49:16 20 the war Council.

21 A. No, I was ask whether I had interviewed anybody from the
22 war Council. I did not indicate a number whether it was singular
23 or plural.

24 Q. Now my follow-up question to that is: How many members of
12:49:30 25 the war Council did you interview?

26 A. Two.

27 Q. My Lord, I would want to ask the witness to state the names
28 of the members of this war Council. But if we could use the
29 normal procedure just to, maybe --

1 PRESIDING JUDGE: I thought that was where you were going
2 and because of it could indeed be controversial not necessarily
3 to the witness but --
4 MR YILLAH: To the Court, My Lord.
12:50:18 5 PRESIDING JUDGE: But to the Court, yes. I don't see any
6 difficulty with that provided you give a paper and --
7 MR YILLAH: If Mr walker can -- I am asking to provide --
8 PRESIDING JUDGE: Ask the witness to write down the two
9 members of the war Council that he has met and interviewed.
12:50:37 10 MR YILLAH: Very well, My Lord.
11 PRESIDING JUDGE: Mr Witness, please write that down if
12 they provide you with a piece of paper.
13 THE WITNESS: I have a piece of paper.
14 PRESIDING JUDGE: You have. Thank you. Mr Prosecutor, you
12:52:09 15 have seen the paper?
16 MR KAMARA: Yes, Your Honour.
17 PRESIDING JUDGE: And Defence counsel have seen it too?
18 MR MARGAI: Yes, My Lord.
19 PRESIDING JUDGE: Presumably, Mr Defence Counsel, you are
12:52:27 20 asking this to be marked as an exhibit.
21 MR YILLAH: Very well, My Lord.
22 MR BOCKARIE: Your Honour, it is just an observation in
23 respect of the first name --
24 MR YILLAH: Yes, My Lord I am applying for that document to
12:52:43 25 be marked as an exhibit.
26 PRESIDING JUDGE: So we are at Exhibit No. 98.
27 MR YILLAH: Very well, My Lord.
28 PRESIDING JUDGE: So this document, which contains two
29 names prepared by Expert Witness TF2-EW1 is marked as Exhibit No.

1 98.

2 [Exhibit No. 98 was admitted]

3 MR YILLAH: I am grateful, My Lord. My Lord, may I also
4 use the same procedure to crave Your Lordship's indulgence to
12:53:15 5 apply again for the Colonel to indicate the names of the other
6 sources that he interviewed on a piece of paper?

7 PRESIDING JUDGE: You mean --

8 MR YILLAH: Apart from members of the War Council that --
9 according to him, the members of the War Council that he
12:53:39 10 interviewed; the other sources.

11 PRESIDING JUDGE: You mean the seven --

12 MR YILLAH: Five other sources now, My Lord.

13 PRESIDING JUDGE: I don't know whether it is five in
14 addition to or it is seven plus --

12:53:41 15 MR YILLAH: I don't know, but from the evidence the Colonel
16 will help us. It is indicated that he interviewed seven or so.
17 If he could state the other five on a piece of paper, My Lord, by
18 the same procedure.

19 A. I have no difficulty with that if the Court has no
12:53:59 20 difficulty.

21 PRESIDING JUDGE: Mr Prosecutor?

22 MR KAMARA: No objection, Your Honour.

23 PRESIDING JUDGE: You are now asked, Mr Witness, to write
24 down, I guess, the five other names, because you have mentioned
12:54:13 25 in your evidence that you are working and visiting with seven
26 people.

27 THE WITNESS: Would you like me to write those names on the
28 same piece of paper?

29 MR YILLAH: That is if --

1 A. If Your Honours are happy.
2 JUDGE ITOE: Since the other one is already marked, I think
3 we can -- is there anything wrong with writing it on another
4 piece of paper?
12:54:38 5 THE WITNESS: No, I was just trying to save a piece --
6 JUDGE ITOE: Never mind.
7 THE WITNESS: I have placed all seven names on this piece
8 of paper.
9 PRESIDING JUDGE: From what I understand of the seven
12:55:55 10 names, do they include the two names previously?
11 THE WITNESS: Yes, Your Honour, they do.
12 PRESIDING JUDGE: Mr Prosecutor, you have seen the names?
13 MR KAMARA: Yes, Your Honour, and no objection.
14 PRESIDING JUDGE: Counsel for the other accused, you have
12:56:55 15 seen the document in question and you have no objection either.
16 So this piece of paper now containing the seven names as provided
17 by witness TF2-EW1 is marked as Exhibit No. 99.
18 [Exhibit No. 99 was admitted]
19 MR YILLAH: My Lord --
12:57:14 20 PRESIDING JUDGE: The seven names include the names
21 included on Exhibit No. 98. For the protection of the
22 confidentiality of this information, these two exhibits -- 98 and
23 99 as they are now marked -- will be kept confidential.
24 MR YILLAH: Yes, My Lord. I was just about to make that
12:57:39 25 application.
26 PRESIDING JUDGE: Thank you.
27 MR YILLAH: In addition, My Lord, may I apply to Your
28 Lordships that Exhibit No. 98 be marked "Members of the war
29 Council interviewed by witness TF2-EW1", and 99 be marked just

1 for clarity in the evidence? It would assist if one is reviewing
2 the evidence.

3 PRESIDING JUDGE: Exhibit No. 99 contains the seven names
4 that the witness had visited the grounds and interviewed for the
12:58:08 5 purpose of his field visit.

6 MR YILLAH: As My Lord pleases.

7 PRESIDING JUDGE: And, to respond to your first inquiry,
8 yes, Exhibit No. 98, I thought I had described it to be that two
9 members of the war Council that the witness had met with.

12:58:26 10 MR YILLAH: I am grateful, My Lord.

11 PRESIDING JUDGE: Mr Walker?

12 MR YILLAH:

13 Q. So, Mr Witness, apart from those names in both Exhibits Nos
14 98 and 99 that you furnished the Court you did not interview any
12:59:15 15 other person?

16 A. I interviewed other people, but not within Sierra Leone or
17 members of the CDF.

18 Q. No, in Sierra Leone; let me confine the question. In
19 Sierra Leone relating to the CDF?

12:59:30 20 A. That is correct, yes.

21 JUDGE ITOE: Are you saying that besides the names that
22 appear in Exhibits Nos 97 and 98 that you interviewed other
23 people here in Sierra Leone?

24 THE WITNESS: In Sierra Leone, I interviewed other people
12:59:51 25 but not in connection with the CDF trial. I interviewed people
26 both in the United States and United Kingdom relating to the
27 Sierra Leone war in general and African insurgencies in general,
28 mostly academics. But those were, again, not specific for the
29 CDF.

1 MR YILLAH: May I proceed, My Lord?
2 PRESIDING JUDGE: Yes.
3 MR YILLAH:
4 Q. Colonel, did the information that you -- let me ask you
13:00:47 5 this question: Now, the information you got from these people
6 whose names appear in Exhibits Nos 98 and 99, did that appear in
7 your report?
8 A. No. Sorry, I beg your pardon --
9 Q. The factual information?
13:01:06 10 A. Yes, I beg your pardon. I am sorry; I thought you meant
11 the names of people.
12 Q. No, the information.
13 A. Most of the information which they provided, I used to go
14 into parts C and D of the report. Based on this information, and
13:01:27 15 other information from witness testimony and statements, I then
16 conducted my analysis and made my opinions in part E of that
17 report.
18 Q. So, apart from these sources -- let me ask you this before
19 going to that. The factual information, or the facts that you
13:02:18 20 got from these people whose names appear in Exhibits Nos 98 and
21 99, formed the factual basis for you to draw the conclusions that
22 you have reached in this report.
23 A. As I said, together with witness testimony and statements.
24 Q. Well, Colonel, apart from this --
13:03:09 25 JUDGE THOMPSON: Just a minute; we are trying to get that.
26 Together with the witness statements and transcript?
27 THE WITNESS: Transcripts and also extracts from
28 transcripts.
29 PRESIDING JUDGE: Mr Yillah, do you have much longer to go

1 on?

2 MR YILLAH: No, My Lord; a few more minutes -- at most

3 five.

4 JUDGE THOMPSON: Let me just get this. These represented

13:03:43 5 accumulatively the factual basis for your report?

6 THE WITNESS: That is correct, Your Honour, yes.

7 PRESIDING JUDGE: I heard you to say that I used this

8 information from this person to make the part C and D of your

9 report and from there eventually part E, which is the

13:04:07 10 conclusions.

11 THE WITNESS: Correct, Your Honour.

12 PRESIDING JUDGE: It did not form part of your report and

13 take it from there in part A and B, which is essentially the --

14 THE WITNESS: The introduction and the methodology. The

13:04:22 15 methodology I had essentially determined prior to first coming to

16 Sierra Leone, having conducted widespread discussions back in the

17 United Kingdom and the USA.

18 MR YILLAH:

19 Q. Colonel, if I may ask you this: How did you get in touch

13:04:53 20 with those names -- those people listed in Exhibits Nos 98 and

21 99?

22 A. They were provided by the Office of the Prosecutor to me.

23 Q. By the Prosecutor?

24 A. Yes.

13:05:09 25 Q. Fine? Now, Colonel, my final question.

26 A. Sure.

27 Q. Apart from those people whose names appear in Exhibits Nos

28 98 and 99 who you said were furnished by the Office of the

29 Prosecutor, did you independently verify this information from

1 any other source, other than them here in Sierra Leone?
2 A. I didn't think I needed to. Whenever I came across a
3 contradiction -- and, of course, as we talked about earlier,
4 after seven years there are bound to be contradictions in
13:06:09 5 viewpoint -- if you and I witness the same event, after seven
6 years we would describe it differently. When there were
7 contradictions, I sought to deal with it if it was an important
8 contradiction. Usually I was able to clarify the issue on the
9 ground, because it becomes very clear on the ground actually what
13:06:32 10 the true events are when people describe what happened. So, I
11 did not need to go much further than we have already covered here
12 in terms of the written evidence and the discussions I held. I
13 prefer to call it discussions rather than interviews --
14 discussions I held with the seven people who I have already
13:07:00 15 nominated.
16 JUDGE THOMPSON: So the first part of your answer is that
17 you did not verify.
18 [Overlapping speakers]
19 THE WITNESS: That is correct.
13:07:09 20 [Overlapping speakers]
21 THE WITNESS: Yes, Your Honour.
22 JUDGE ITOE: What did you say about contradictions? When
23 you noticed contradictions.
24 JUDGE THOMPSON: That was part of the explanation.
13:07:14 25 THE WITNESS: Sure, that is part of the explanation in that
26 after seven years we will remember the same event slightly
27 differently. And by the advantage of going on the ground -- and
28 I have done this many times in other environments -- is that
29 people's memory then becomes clear and you are able to resolve

1 any contradictions that there might be.
2 MR YILLAH:
3 Q. This is my final, final question.
4 JUDGE ITOE: Don't worry its being final, final. Ask your
13:07:55 5 questions and make sure that you put your case.
6 MR YILLAH: As My Lord pleases.
7 Q. Apart from these people that were furnished to you by the
8 office of the Prosecutor, did you verify this information from
9 any other person in Sierra Leone, any other source, any other
13:08:15 10 person within Sierra Leone? That is all.
11 A. No.
12 Q. Thank you, that is all.
13 MR KAMARA: The answer goes in. I think that question has
14 been answered before.
13:08:24 15 JUDGE THOMPSON: Actually, I don't know whether there was a
16 nuance here, because the first question related to apart from
17 these sources in Sierra Leone whether he verified the information
18 from any independent source, and then the witness agreed that he
19 did not and went on to give an explanation why he didn't. I
13:08:46 20 don't know whether the other question was perhaps along the same
21 lines or was creating some new distinction.
22 MR YILLAH: No, quite frankly, the answer was convoluted.
23 I did not understand.
24 JUDGE THOMPSON: With respect, the answer was no, and then
13:09:05 25 an explanation was given why it was not necessary to adopt any
26 verification process.
27 MR YILLAH: I will accept that, My Lord. That will be all
28 for him. Thank you.
29 PRESIDING JUDGE: Thank you. We will adjourn the

1 proceedings until 2.30 this afternoon and we will proceed with
2 the cross-examination by the second accused. Are you ready, Mr
3 Bockarie?
4 MR BOCKARIE: Yes, Your Honour.
13:09:40 5 PRESIDING JUDGE: Thank you. Court is adjourned.
6 [Luncheon recess taken at 1.08 p.m.]
7 [HN140605E - CR]
8 [On resuming at 2.45 p.m.]
9 PRESIDING JUDGE: Good afternoon, counsel. Good afternoon,
14:49:42 10 Mr witness. Mr Bockarie, are you ready to proceed your
11 cross-examination on behalf of the second accused?
12 MR BOCKARIE: Yes, Your Honour.
13 PRESIDING JUDGE: Please do so.
14 JUDGE ITOE: For how long, Mr Bockarie?
15 MR BOCKARIE: As long as it's necessary.
16 JUDGE ITOE: Go ahead though, but I wanted to have a time
17 frame.
18 MR BOCKARIE: It will be less than an hour, Your Honour.
19 JUDGE ITOE: All right. Okay. Go ahead.
20 PRESIDING JUDGE: But we'll not hold you to it.
21 MR BOCKARIE: Thank you.
22 CROSS-EXAMINED BY MR BOCKARIE:
23 Q. Colonel, whilst you were in Sierra Leone, did you go up to
24 the provinces?
14:50:19 25 A. I went up and saw the provinces, yes.
26 Q. Can you tell us where you went?
27 A. I've already explained where I went for the CDF trial. I
28 also visited a number of regions for the AFRC and the RUF trials.
29 Q. Can you tell us the places you went in respect of the CDF.

1 A. As I mentioned earlier, I visited Koribundu, Bo, Sembehun,
2 Gondama, Kpetewoma, Gbaama, anywhere else I've left off, I don't
3 know.
4 PRESIDING JUDGE: These are the places that are contained
14:51:08 5 in your report?
6 THE WITNESS: That is correct, Your Honour.
7 MR BOCKARIE:
8 Q. Did you go to Talia?
9 A. I did not, no. I was advised that to do so with any of my
14:51:34 10 sources would entail some risk to them and I was not prepared to
11 risk them, so we did not.
12 Q. Whilst you were interviewing your sources, were you
13 informed by the Prosecution they were Prosecution witnesses or
14 potential Prosecution witnesses?
14:52:18 15 A. Yes, I was.
16 JUDGE ITOE: Please state that question again.
17 MR BOCKARIE:
18 Q. Whilst you were interviewing your sources, were you
19 informed by the Prosecution that they were Prosecution witnesses
14:52:36 20 or potential Prosecution witnesses?
21 A. Yes.
22 Q. At the time you were interviewing them, some of them had
23 already testified before this Trial Chamber; isn't it?
24 A. I don't know. I don't think so, but I don't know.
14:53:39 25 Q. Colonel, you had access to their witness statements, didn't
26 you?
27 A. Correct, yes.
28 Q. Colonel, you also had access to the transcript of some of
29 the Prosecution witnesses; am I correct?

1 A. Yes.

2 Q. Colonel, whilst going through this transcript, you were
3 able to know whether they had already testified or not?

4 A. Most of my interviews were done last year. I've been
14:54:59 5 writing the report since then, so I've had the opportunity to
6 check some of the transcripts since they had appeared in Court.
7 When I had my discussions with them, I think - I cannot be
8 certain - but I think it was before they appeared in Court.

9 Q. Colonel, can you tell us when did you start going through
14:55:28 10 these transcripts? You arrived here in June last year; is that
11 correct?

12 A. That's correct.

13 Q. When did you start reviewing the transcripts?

14 A. The transcripts were sent via email to me; since February
14:55:46 15 this year. I'm sorry, can I correct? They were extracts of
16 transcripts, not the transcripts themselves that were sent to me
17 by email.

18 Q. Thank you, Colonel. Now, whilst interviewing your sources,
19 you were aided by an interpreter, weren't you, in some?

14:56:22 20 A. In some cases - in two cases - I was assisted by an
21 interpreter.

22 Q. Colonel, you said extracts of the transcript were sent to
23 you?

24 A. That's correct.

14:56:58 25 Q. Who sent those extracts?

26 A. The Office of the Prosecution.

27 Q. Colonel, whilst conducting this interview with your
28 sources, were officials of the Office of the Prosecutor present -
29 some of the Prosecutors?

1 A. Usually it was one of the investigators who also acted as
2 an interpreter, if need be.
3 Q. Colonel, you also testified this morning that you had
4 discussions with persons outside Sierra Leone; you also held
14:58:21 5 interviews with persons outside Sierra Leone?
6 A. That's correct, yes.
7 Q. In the US and the UK. These persons, the persons you
8 interviewed, have they ever been to Sierra Leone, Colonel?
9 A. They were both experts in their field. One was an expert
14:58:41 10 on insurgency and counterinsurgency in Africa, that's Professor
11 Ian Beckett; and the other is the Professor of African Studies at
12 Cambridge University, Dr Christopher Clapham, who, as you're
13 probably aware, edited the book "African Guerrillas", which
14 includes a chapter on the Sierra Leone conflict and he has been
14:59:03 15 to Sierra Leone many times.
16 Q. Professor?
17 A. Clapham. And he's been to Sierra Leone many times.
18 PRESIDING JUDGE: How do you spell that name?
19 THE WITNESS: C-L-A-P-H-A-M, Professor Christopher Clapham.
20 PRESIDING JUDGE: And the book he published, it's
21 Guerrillas --
22 THE WITNESS: "African Guerrillas."
23 PRESIDING JUDGE: "African Guerrillas." Thank you.
24 JUDGE ITOE: And the other expert, Colonel? Professor
25 Christopher Clapham, there was the other expert, the other person
26 you said you contacted.
27 THE WITNESS: Professor Ian Beckett, who, when I
28 interviewed him in the United States, he was holding a research
29 chair at Quantico, Virginia.

1 JUDGE ITOE: Ian?
2 THE WITNESS: Ian, I-A-N.
3 JUDGE ITOE: Beckett?
4 THE WITNESS: Beckett, yes, Your Honour. These were
15:00:12 5 background interviews prior to me coming here.
6 MR BOCKARIE:
7 Q. Thank you, Colonel. Now, Colonel, your sources in
8 Sierra Leone, you came to know they held a very high position
9 within the CDF, didn't you?
15:00:26 10 A. Some of them, yes.
11 Q. Some of them. Of those you interviewed, seven in all, and
12 six, the first six, according to Exhibit 88 to 89, had a
13 high-ranking position within the CDF?
14 A. That's correct, yes.
15:00:50 15 JUDGE ITOE: 98.
16 PRESIDING JUDGE: 98 and 99. Six of those seven, that was
17 your question, held high-ranking positions?
18 MR BOCKARIE: Six of those seven.
19 THE WITNESS: Yes.
15:01:09 20 MR BOCKARIE:
21 Q. You further came to know that they had already identified
22 themselves with the Prosecution?
23 A. Oh, yes.
24 JUDGE ITOE: He further came to know that they had?
15:01:36 25 MR BOCKARIE: Already identified themselves.
26 Q. Colonel, I'm sure you did a lot of research in preparing
27 your report; am I correct?
28 A. Yes.
29 Q. Colonel, can you be of assistance to this Court in just

1 telling us what documents you did review in preparing your
2 reports?

3 A. As I mentioned in my introduction, the nature of the Sierra
4 Leone conflict is such that there are very few documents that are
15:02:40 5 helpful to me to determine the nature of the CDF as a military
6 organisation. Therefore, I was reliant on human memory, largely
7 in conversation with them, discussions with them, but also as
8 we've discussed, from statements that they had also provided.

9 Q. Colonel, they were giving you their recollection of events
15:03:30 10 that had occurred seven years ago.

11 A. I was dependent upon memory, as we all are, from seven
12 years ago, absolutely, yes.

13 Q. Were there any variations in their accounts?

14 A. I'm sorry, can you say that again?

15:04:04 15 Q. Were there variations in their accounts of events?

16 A. Yes, there were. As I think I mentioned in this morning's
17 cross-examination, where there were inconsistencies, I was able
18 to, in most cases, or in important cases, clarify or to form a
19 judgment in my own mind as to what happened by trying to match
15:04:36 20 the events to the ground so I could get an idea of time and space
21 in my own mind, and therefore recreate the incidents and the
22 activities that took place seven years ago.

23 Q. Colonel, but not at Talia, right?

24 A. Correct, yes.

15:05:18 25 Q. Colonel, these variations you just mentioned, you've just
26 talked about, were cross-checked with other members of the CDF
27 whose thinking are alike; am I correct?

28 A. I'm sorry, could you repeat that question?

29 Q. This variation of events was being cross-checked by members

1 of the CDF whose thinking was almost alike?

2 A. Oh, I see. I think that it is worth me saying here that I
3 was not interested again in crime. I was interested in the
4 military events. Although it might appear that the use of
15:06:25 5 Prosecution witnesses or potential witnesses, as you say, means
6 that they think alike, actually, I regarded myself as an
7 impartial analyst and looking at what I was asking them to do,
8 which is to describe the military aspects of the campaign, there
9 is no reason to assume that there was any bias in, for example,
15:07:06 10 their descriptions of the CDF communication system, say, or the
11 ammunition supply system. So I think that this was - from my
12 view, I think we can say this was relatively free from bias. I
13 am confident that the opinions which I bring before you today are
14 true.

15:07:42 15 Q. Colonel, you do agree with me that the three persons here
16 are major players and are very focal persons in your report; am I
17 correct?

18 A. Oh, yes, yes.

19 Q. Colonel, did you endeavour to contact any of them, at least
15:08:08 20 to hear their own side of the story?

21 A. No.

22 PRESIDING JUDGE: By "them", you mean the accused?

23 MR BOCKARIE: Yes, the accused persons?

24 THE WITNESS: No.

15:08:16 25 MR BOCKARIE:

26 Q. Did you ask?

27 A. I had to - I used the information which was available to
28 me. I'm used to doing this in military analysis. You never get
29 a complete story. You can never have access to everything. But

1 by taking viewpoints from individuals, you can get an
2 understanding of how the total organisation works. Often, I
3 found, that people lower in the organisation have a better idea
4 of how the organisation actually works on the ground than those
15:09:07 5 who are in high command. So, if I wanted to find out what
6 happened in the attack in Koribundu, for example, much better to
7 speak to the people who were there than those who were not there.
8 Q. But colonel, you would agree with me that all those you
9 spoke to are high-ranking officials within the CDF; am I correct?
15:09:31 10 A. The ones that we have already identified, yes.
11 Q. The first six?
12 A. Yes.
13 Q. And those were your only sources as far as that formed the
14 basis of your report?
15:09:46 15 A. They were the ones that I discussed with one of the major
16 sources, yes.
17 Q. And no lower person in rank?
18 A. I'm sorry?
19 Q. I'll leave that, Colonel. You have testified that there
15:10:15 20 was a hierarchy of seniority, but you would agree with me there
21 was no established rank system within the CDF; is that correct?
22 A. That is correct.
23 Q. Colonel, you further agree with me that because there was
24 no formal rank system, it would follow that there were not clear
15:10:52 25 job descriptions associated with the different offices within the
26 CDF?
27 A. I would agree there was no written job description, no
28 written job description. But each person appears to have known
29 his place, and whether this was through just practice and

1 everybody understood that this is the man, for example, who we go
2 to to agree the plan, or this is the man who provides the food,
3 that everybody seems to know how this organisation worked, even
4 though you could not see a chart saying, "This is what person A
15:11:40 5 does."

6 Q. Thank you, colonel.

7 A. Pleasure.

8 Q. Colonel, you would agree with me that the government exiled
9 in Guinea was interested in the activities of the CDF?

15:12:00 10 A. That is my assumption. I cannot be certain, but that is my
11 assumption.

12 Q. On that assumption, will you agree with me they also played
13 some role in directing the affairs of CDF?

14 A. That's a difficult question to answer, because "some role"
15:12:31 15 can mean anything. I would assess that they did have some role
16 at the strategic level since we have reports that Hinga Norman
17 did speak via satellite telephone to President Kabbah. However,
18 if we go back to our definition of command, and what command
19 means, command implies the ability to exert leadership, to make
15:13:13 20 decisions, and control. I doubt if the Government in exile was
21 able to either exert leadership or make decisions, or control
22 what went on on the ground with the CDF.

23 Q. Colonel, you came to know that the government -- did you at
24 any time know that they were very instrumental in providing
15:13:40 25 logistics like arms and ammunition? I'll abandon that one, and
26 that will be all for this witness.

27 PRESIDING JUDGE: So that completes your cross-examination?

28 MR BOCKARIE: Yes, Your Honour.

29 THE WITNESS: Thank you.

1 PRESIDING JUDGE: Mr Margai, are you ready to proceed with
2 your cross-examination?

3 MR MARGAI: Certainly, My Lord.

4 PRESIDING JUDGE: Thank you.

15:14:15 5 CROSS-EXAMINED BY MR MARGAI:

6 Q. Colonel, in your report, the opening paragraph reads thus,
7 "I was first approached by the UK's Ministry of Defence to be a
8 military expert witness in June 2003 to assist in the
9 determination of the extent to which the CDF and other
15:14:52 10 organisations involved in the Sierra Leonean war were military
11 organisations with military command and control." Now, from that
12 opening paragraph your terms of reference were clearly defined;
13 isn't that correct?

14 A. Yes.

15:15:37 15 Q. In other words, you knew exactly --

16 JUDGE THOMPSON: That's the opening paragraph of the
17 exhibit?

18 MR MARGAI: 97.

19 THE WITNESS: It's the opening sentence, Your Honour.

15:15:48 20 MR MARGAI: It's the opening sentence.

21 Q. In other words, you knew exactly what the Office of the
22 Prosecutor wanted in so far as your expertise went?

23 A. As you will imagine, it took sometime to analyse this task
24 to understand what it really meant. The methodology espoused in
15:16:27 25 part B of the report is the result of that analysis of what this
26 task really meant.

27 Q. What I am in fact saying, Colonel, is that those who
28 requested your expertise wanted to know whether the CDF and other
29 organisations involved in the Sierra Leonean war were military

1 organisations with military command and control?
2 A. Yes.
3 Q. Thank you.
4 A. Yes.
15:17:16 5 Q. In achieving that objective, the Office of the Prosecutor
6 made available to you statements of potential witnesses?
7 A. Yes.
8 Q. These statements that were made available to you, were they
9 statements of the persons whose names appear on Exhibits 98 and
15:17:53 10 99?
11 A. No, they are other statements from other witnesses who,
12 which I reviewed, but did not feel as though I needed to have
13 personal discussions with.
14 Q. In addition to other statements that were made available to
15:18:26 15 you, were statements of the persons whose names appear on
16 Exhibits 98 and 99 made available to you?
17 A. Yes.
18 Q. All seven?
19 A. Yes, I think.
15:18:45 20 Q. Thank you.
21 A. I think so. Yes, I think so.
22 Q. Can you recall the additional statements that accompanied
23 the statements of the persons whose names are mentioned in
24 Exhibit 98 and 99? Don't disclose the names.
15:19:11 25 A. No, I can't.
26 Q. You cannot?
27 A. No.
28 Q. Not even with the aid of the notebook there?
29 A. No.

1 Q. Very well. Thank you. Now, Colonel, your findings as
2 contained in Exhibit 97 were predicated, firstly, on the
3 interviews you had with the persons whose names are stated in
4 Exhibit 98 and 99, one of the sources?

15:20:10 5 A. Yes.

6 Q. And also the statements that were made available to you by
7 the Office of the Prosecutor.

8 A. Sorry, is that a question?

9 Q. What I'm saying is that I'm still talking about Exhibit 97
15:20:44 10 being predicated on: one, the outcome of an interview with the
11 persons whose names appear on Exhibit 98 and 99; secondly, on the
12 statements made available to you by the Office of the Prosecutor?

13 A. Yes, that's correct, yes.

14 Q. Thirdly, the extracts of the transcripts you made mention
15:21:10 15 of?

16 A. That's correct.

17 Q. Your investigation centred around the Kamajors, amongst
18 others?

19 A. Yes.

15:21:43 20 Q. And you have accepted that the Kamajors are a component of
21 this umbrella organisation known as CDF?

22 A. Yes.

23 Q. Thank you.

24 A. The focus of my -- if you allow me to qualify that?

15:22:19 25 Q. Yes, please.

26 A. The reason why the Kamajors were the focus of my
27 examination was a geographical accident in that Talia was deep in
28 kamajor area, so it fell to the Mende tribe and the Kamajors,
29 essentially, to form the body of this capability that the CDF was

1 able to create in '97/'98.

2 Q. Yes, you have said that. Now, when we talk of the CDF, the
3 components are the Kamajors, the Kapras, the Tamaboros, the
4 Donsos, and the body of organisations of hunters in the western

15:23:10 5 Area. That is correct; five organisations constitute the CDF?

6 A. Correct, yes.

7 Q. Thank you. Colonel, the task assigned to you was quite
8 extensive, no doubt?

9 A. Yes.

15:23:48 10 Q. Would you not agree with me that at least for a semblance
11 of impartiality and thoroughness, it would have been necessary
12 for you to go beyond the scope of what was provided by the Office
13 of the Prosecutor in hindsight?

14 A. As I mentioned earlier, I regard myself as an impartial
15:24:19 15 expert looking at an area not related to crime, but to the events
16 of the war from which I can gain an understanding of how the CDF
17 worked. It is up to the Court to decide whether they view that
18 as being sufficiently impartial. My view is that it is.

19 Q. I'm not doubting your impartiality at all. I'm only saying
15:24:51 20 that it would have been prudent to have gone beyond what was made
21 available by the Office of the Prosecutor?

22 A. I was satisfied with the information I received, otherwise
23 I would have sought more information.

24 Q. Colonel, you keep saying that you were not interested in
15:25:23 25 the particular crime.

26 A. That is correct.

27 Q. In paragraph 3, A3 --

28 JUDGE THOMPSON: He didn't say in particular. He said his
29 focus was not crime.

1 MR MARGAI: His focus was not crime.

2 JUDGE THOMPSON: Not particulars of specific crime.

3 MR MARGAI: Thank you, My Lord.

4 Q. The focus was not on crime, but in paragraph 3, A3 of
15:25:52 5 Exhibit 97, you have this to say: "The organisations and
6 practices of the CDF and its predecessor organisations was
7 mutated and evolved during the war. This report concentrates on
8 the period following May 1997 coup and 1998. It includes the
9 period of the ECOMOG intervention in February 1998 but does not
15:26:24 10 cover the later years of the war in any detail. There is no
11 discussion of the CDF role in the defence of Freetown against the
12 subsequent AFRC/RUF attacks in 1999. It therefore analyses the
13 CDF as an organisation at a particular time covering the main
14 period of the alleged crimes."

15:26:52 15 A. Yes.

16 Q. Now, Colonel, at the time you commenced your work, you were
17 aware that CDF members were on trial?

18 A. Yes.

19 Q. You were also aware of the particular membership of the CDF
15:27:25 20 that were on trial, the individuals who were on trial?

21 A. I was sent a copy of the indictment.

22 Q. You were sent a copy of the indictment. You knew, from the
23 contents of the indictment, the charges proffered against each of
24 those CDF indictees?

15:27:50 25 A. Correct.

26 Q. So in the conduct of this exercise, you were not oblivious
27 of the charges the CDF indictees were facing?

28 A. I was not oblivious, no.

29 Q. So whilst carrying out this exercise you were seized of,

1 number 1, what was your terms of reference, as I have already
2 stated; number 2, you knew who the CDF indictees were; and number
3 3, you knew the charges against each indictee; that is correct?
4 A. My interest in the charges was not so much what the charges
15:28:58 5 were, but the time frame in which they took place. So for my
6 analysis to be useful to the Court, I had to position the time
7 frame of my analysis to match the period of the events that are
8 under examination here.
9 Q. Thank you, Colonel. I am concerned not with your interest,
15:29:27 10 I am concerned with your knowledge. You were seized of that
11 knowledge at the time?
12 A. I'm not sure what you mean by seized by it, but I was aware
13 of it.
14 Q. It was within your knowledge?
15:29:41 15 A. Oh, yes.
16 Q. Thank you. Because you were seized of such knowledge, that
17 in fact facilitated your job; it made it easier to come up with
18 the report?
19 A. No.
15:30:03 20 Q. It made it difficult?
21 A. No, it was neutral.
22 Q. It was neutral?
23 A. It was neutral.
24 Q. Neither difficult nor easy?
15:30:10 25 A. No, it made no difference to my report.
26 Q. Thank you. I'm putting it to you, Colonel, that it
27 facilitated your report.
28 A. I don't think so, no.
29 Q. You don't think so?

1 A. No.
2 Q. But it assisted you greatly?
3 JUDGE THOMPSON: Counsel --
4 MR MARGAI: I'm sorry, My Lord. I'm so sorry. I
15:30:33 5 apologise. I apologise, My Lord.
6 JUDGE THOMPSON: One does get carried away.
7 MR MARGAI: I don't want to keep Your Lordships here
8 beyond --
9 JUDGE THOMPSON: Indeed, if you are putting your questions
15:30:44 10 and you want the answers recorded, we are certainly here for
11 that, certainly.
12 MR MARGAI: I keep forgetting that you are writing in
13 shorthand.
14 JUDGE ITOE: Take your time. We are writing in longhand,
15:30:55 15 not in shorthand.
16 MR MARGAI: I see, longhand. I apologise for that, and I
17 sympathise --
18 JUDGE ITOE: I can't write shorthand, anyway.
19 MR MARGAI: I sympathise with the Bench.
15:31:04 20 JUDGE ITOE: I have not been trained for that.
21 MR MARGAI: It is never too late.
22 JUDGE ITOE: It is late, I would say, it is late.
23 JUDGE THOMPSON: And the witness said that his knowledge of
24 the crime --
15:31:14 25 JUDGE ITOE: [Indiscernible].
26 JUDGE THOMPSON: What was the last answer, that your
27 knowledge of the crime --
28 MR MARGAI: Neither facilitated --
29 PRESIDING JUDGE: Was not a factor.

1 JUDGE THOMPSON: Was not a factor.

2 MR MARGAI: To use his words, it is neither facilitated,
3 nor made it difficult for him; it was neutral.

4 PRESIDING JUDGE: Then it was not a factor.

15:31:44 5 MR MARGAI: It was not a factor, yes.

6 JUDGE THOMPSON: We are trying to get the thrust of your
7 cross-examination.

8 MR MARGAI: That's good, My Lord, thank you.

9 Q. Now, do you agree with me it greatly assisted you --

15:31:57 10 MR KAMARA: I'm sorry. I don't intend to interrupt
11 cross-examination, but there has to be a finality in questions on
12 cross-examination. This question has been put and put and put
13 for the third time. I think the witness has answered, and twice
14 he has answered the same question.

15:32:12 15 JUDGE ITOE: I don't share that view.

16 JUDGE THOMPSON: You have interrupted his
17 cross-examination.

18 JUDGE ITOE: I don't share that view at all. Please. I
19 don't share that view at all, because these questions are coming
15:32:21 20 because they have to be put in focus --

21 JUDGE THOMPSON: I agree.

22 JUDGE ITOE: -- at particular moments.

23 MR MARGAI: And the contexts are different.

24 MR KAMARA: But where the witness has answered, and I stand
25 to be corrected by the record, but where the witness has answered
26 once, he has answered twice to the same question, that is that
27 whether it was facilitated, he said, no, he --

28 JUDGE ITOE: It has not been clearly answered, that is why
29 the witness -- why the counsel is revisiting that issue. That's

1 my perception of it.

2 JUDGE THOMPSON: I share the same perception, because these
3 are expert conclusions, and nuances and inferences. So, I think
4 counsel has a right to engage the witness as aggressively and as
5 vigorously as he can in getting out some of the answers that he
6 can.

7 MR KAMARA: Certainly, Your Honour. I don't quarrel with
8 that. Just the witness has to be protected wherein a question
9 has been put --

10 MR MARGAI: The witness is not endangered.

11 PRESIDING JUDGE: Your objection is overruled.

12 JUDGE ITOE: Your objection is overruled.

13 MR MARGAI: I shall lay this area to rest.

14 JUDGE ITOE: I concur.

15 MR MARGAI:

16 Q. -- with your knowledge of these facts. Did they assist you
17 greatly in concluding your exercise?

18 A. I shall try to be clear this time.

19 Q. Yes.

20 A. They were not a factor.

21 Q. I know that, so they did not assist you?

22 A. No, they did not.

23 Q. Now, how would you characterise the CDF in terms of
24 military parlance? By that, I mean would you classify the CDF as
25 a conventional army, as we understand it?

26 A. No, I wouldn't, no.

27 Q. Thank you.

28 A. It is an unconventional army.

29 Q. Unconventional. Now, as a matter of interest, Colonel, you

1 said every British soldier is taught about the Geneva Convention,
2 everybody British soldier.

3 A. Correct.

4 PRESIDING JUDGE: I warn you to make it clear to you, too,
5 we have said to the witness that he has not been called here to
6 testify as to these facts of the Geneva Convention on war and so
7 on.

8 MR MARGAI: No, no.

9 PRESIDING JUDGE: His expertise is very precise and you
10 know what it is. We have not allowed the Prosecution nor --

11 MR MARGAI: I'm conscious of the caution, My Lord.

12 PRESIDING JUDGE: We'll wait for the question.

13 MR MARGAI: I shall not tread without caution.

14 PRESIDING JUDGE: I'll let you go.

15 MR MARGAI: Should I venture?

16 PRESIDING JUDGE: Yes, yes. We will let you put the
17 question in full, then we will see.

18 MR MARGAI: Nothing ventured, nothing gained.

19 Q. Just a short question. Would you say that the Geneva
20 Convention is applicable to a civil militia?

21 MR KAMARA: I object.

22 PRESIDING JUDGE: Objection, yes. This is not his
23 expertise for which he has been called upon.

24 MR MARGAI: As My Lords please. I concede.

25 JUDGE ITOE: You remember the comment I made in the
26 morning, Mr Yillah was treading on the same ground. And I did
27 draw his attention to the fact that these were matters which
28 should be contained in a text somewhere and could serve for
29 purposes of Bench addresses on that issue.

1 JUDGE THOMPSON: I would think it is a matter for the Court
2 at some point in time.

3 MR MARGAI: Very well.

4 JUDGE THOMPSON: It may well be a matter for the Court.

5 MR MARGAI: Being a military expert for that matter, I
6 thought he -- I take your cue.

7 JUDGE ITOE: He has all the answers, I can assure you.

8 MR MARGAI: I have no doubt about it. With such a CV, I
9 would be surprised if he doesn't have the answers.

10 JUDGE THOMPSON: I would like to venture this: it may well
11 be a question of law; a mixed fact and law.

12 PRESIDING JUDGE: He may well indeed have this knowledge,
13 but that's not what this witness has been called upon to testify
14 on. That's all.

15 MR MARGAI: I concede. On that note, My Lords, it's my
16 pleasure to say that that will be all for the colonel and thank
17 you very much. I'm grateful.

18 THE WITNESS: Thank you.

19 JUDGE ITOE: I thought Mr Margai was going to try another
20 one.

21 PRESIDING JUDGE: Thank you, Mr Margai.

22 MR MARGAI: Thank you.

23 PRESIDING JUDGE: Any re-examination?

24 MR KAMARA: No re-examination, Your Honour.

25 PRESIDING JUDGE: Thank you. Thank you, Colonel Irons,
26 that completes your evidence for this Court today.

27 THE WITNESS: Thank you, Your Honour.

28 PRESIDING JUDGE: Thank you for coming over.

29 THE WITNESS: It's been a pleasure.

1 PRESIDING JUDGE: May I ask the Prosecution what is next on
2 your agenda?

3 MR KAMARA: The next on the agenda will be tomorrow.

4 PRESIDING JUDGE: Tomorrow morning?

5 MR KAMARA: Yes, we have another witness lined up for
6 Thursday. We did indicate to the Bench that it is going to be
7 every other day, and tomorrow being Wednesday --

8 PRESIDING JUDGE: There is no witnesses tomorrow?

9 MR KAMARA: Yes. The next witness is on Thursday.

10 PRESIDING JUDGE: This is your other expert for Thursday?

11 MR KAMARA: Yes.

12 PRESIDING JUDGE: That's fine.

13 MR KAMARA: And we may have to make an application for
14 closed session.

15 PRESIDING JUDGE: We will ask the witness to be excused.
16 If you have an application, we can do that in the absence of the
17 witness. Colonel Irons, thank you very much.

18 [The witness withdrew]

19 MR KAMARA: A closed session application has already been
20 granted for this witness on Thursday.

21 PRESIDING JUDGE: It has already been granted?

22 MR KAMARA: Yes, Your Honour, so the proceedings on
23 Wednesday -- Thursday will be in a closed session.

24 PRESIDING JUDGE: I haven't got the files with me. You say
25 we have granted the application. I take your word for it and on
26 Thursday morning -- in other words, the whole of the evidence of
27 that witness will be in closed session?

28 MR KAMARA: Yes.

29 PRESIDING JUDGE: After that witness, we go to next week,

1 Monday of next week, which is your last witness?

2 MR KAMARA: Certainly.

3 PRESIDING JUDGE: The last witness on Monday, just for the
4 information of the public, is that one in open or closed session?
5 It is open?

6 MR KAMARA: It is open session.

7 PRESIDING JUDGE: For the members of the public, you have
8 heard that the next witness is to be heard on Thursday and it is
9 in closed session. The next public session, which will be next
10 week, will be the last witness and that is Monday next week. For
11 this case, it is adjourned until Thursday morning at 9.30 for
12 your next witness. The Court is adjourned.

13 [The hearing adjourned at 3.39 p.m., to be
14 reconvened on Thursday, 16th day of June 2005,
15 at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 96	20
Exhibit No. 97	28
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WITNESSES FOR THE PROSECUTION:

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