

Case No. SCSL-2004-16-T  
THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
ALEX TAMBA BRIMA  
BRIMA BAZZY KAMARA  
SANTIGIE BORBOR KANU

FRIDAY, 20 OCTOBER 2006  
9.20 A.M.  
TRIAL

TRIAL CHAMBER II

Before the Judges:

Richard Lussick, Presiding  
Teresa Doherty  
Julia Sebutinde

For Chambers:

Mr Simon Meisenberg

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Karim Agha  
Ms Maja Dimitrova (Case Manager)

For the accused Alex Tamba  
Brima:

Mr Kojo Graham  
Mr Ibrahim Foday Mansaray (Legal assistant)

For the accused Brima Bazy  
Kamara:

Mr Mohamed Pa-Momo Fofanah

For the accused Santigie Borbor  
Kanau:

Mr Geert-Jan Alexander Knoop

1 [AFRC200CT06A - MD]  
2 Friday, 20 October 2006  
3 [Open session]  
4 [The accused present]  
5 [The witness entered Court]  
6 [Upon commencing at 9.20 a.m.]  
7 WITNESS: WILLEM PRINS [Continued]

8 PRESIDING JUDGE: Yes, Mr Fofanah.

9 MR FOFANAH: Good morning, Your Honours. Your Honours, the  
10 second accused, Mr Ibrahim Bazzy Kamara, has requested me to  
11 communicate to the Court apologies for his absence in Court  
12 today. He has very urgent domestic matters to attend to and he  
13 has asked me to represent him as usual and that he is waiving his  
14 right to be present. I have legal instructions to represent him  
15 as usual.

16 PRESIDING JUDGE: All right. Thank you, Mr Fofanah. Well,  
17 we will note advice given to us from counsel for the second  
18 accused, Kamara, that the second accused has expressly waived his  
19 right to be present today. He is nevertheless represented by  
20 counsel and the proceedings will continue in his absence pursuant  
21 to Rule 60.

22 Now, general, I will remind you again you are still bound  
23 by your oath to tell the truth.

24 Go ahead, Mr Agha.

25 CROSS-EXAMINED BY MR AGHA:

26 Q. Good morning, general?

27 A. Good morning.

28 Q. Yesterday, we were looking at your report and we had just  
29 passed the area of radio communication. Now, I would again like

1 you -- to refer you to the report. Do you have a copy before  
2 you?

3 A. I have it in front of me.

4 Q. Okay, because what I propose to do this morning is to skim  
5 through various parts of it with you?

6 A. Yes.

7 MR AGHA: Does the Bench have copy of the general's report?

8 PRESIDING JUDGE: Yes, we do.

9 MR AGHA:

10 Q. And, general, actually, just so it may be easier, in your  
11 report there is actually numbers at the bottom and then there's  
12 Court numbers at the top.

13 A. Yes, I have them.

14 Q. Now, if it's okay with you I will just use the numbers at  
15 the bottom rather than calling out the numbers.

16 MR AGHA: Is that okay with the Chamber?

17 JUDGE DOHERTY: Mine are obliterated, Mr Agha, so it would  
18 be helpful to have the number at the bottom.

19 MR AGHA: Okay. It's just easier rather than calling out  
20 all these various numbers.

21 Q. Now, general, if we can turn to paragraph 25 of your  
22 report, and this is at page 13. And you will see that here, at  
23 the top, we have the view on the army as a whole and this is  
24 expressed by Brigadier Maada -- I think -- Bio, retired. Now,  
25 would you agree with me that that's his personal opinion?

26 A. It's his view.

27 Q. It's his view and others may disagree with that view;  
28 right?

29 A. Maybe.

1 Q. Maybe. And if I can refer you to TRC-01, who was at that  
2 time holding a more senior position than brigadier retired, and I  
3 would like to read you briefly a part of what he had to say  
4 concerning whether the army was worthy or not of being called a  
5 military force when the war broke out. And this comment is  
6 actually made long after the war has broken out.

7 MR AGHA: And, Your Honours, it's on 16 October, TRC-01,  
8 page 114 and I shall read from line 7 through to 25. And this is  
9 what TRC-01 had to say about the state of the SLA.

10 "Q. So the SLAs were better trained than the  
11 RUF?

12 "A. They were not comparable. Those were two  
13 different groupings altogether. That was a  
14 military force against a group of -- I wouldn't  
15 call them rebels because they had no  
16 ideologies. Maybe a group of people who were  
17 power thirsty and had a lust for diamonds, that  
18 was all. Probably bandits.

19 "Q. So it was essentially a well-trained  
20 military organisation against a bunch of rebels  
21 forces who were coming to steal diamonds?

22 "A. Well, I would call them bandits, Your  
23 Honour. Indeed, they were something like that.  
24 And so they never knew of the Geneva Convention  
25 and laws of war. So there were occasions they  
26 were using, probably, rocket-propelled grenades  
27 against human target. That's an anti-tank  
28 weapon. An anti-tank weapon is meant to be  
29 used against equipment, not against human

1                    beings, but they were using such weaponry  
2                    against human targets. And so it created the  
3                    mayhem in the war.

4                    "Q. So the SLAs were a well-trained discipline  
5                    force during the war; right?

6                    "A. Certainly, Your Honour."

7                    So, based on this evidence of TRC-01 who was, as we've  
8                    discussed, a commander at the front during the war, would you  
9                    agree with me now that the SLAs were worthy of being called  
10                   military force?

11                   A. I don't.

12                   Q. And that, and your reasoning is based on the evidence of  
13                   Brigadier Maada Bio and others you've read in the TRC report; is  
14                   that right?

15                   A. It's based on many views expressed but it's also based on  
16                   the, in the end, a primary finding in the TRC report, which  
17                   states ultimately that the SLA was an unprofessional,  
18                   undisciplined force. That was the end of that, so I can't agree  
19                   with you, sir.

20                   Q. But that was the view of the TRC report, wasn't it?

21                   A. It was -- it was their primary finding.

22                   Q. Right. But, nevertheless, it was their finding, the TRC's  
23                   finding?

24                   A. It was the TRC finding but in the report I find support --  
25                   in my own report I find support for another vision.

26                   Q. Now TRC-01 was, of course, one of your primary sources  
27                   wasn't he, as well?

28                   A. Primary, yes.

29                   Q. For your research?

1 A. Yes.

2 Q. And when he gave evidence before this Court, his evidence  
3 of what I'm reading out to you was not challenged by the Defence;  
4 are you aware of that?

5 A. I am not aware of that.

6 Q. Now, I would now like to turn to paragraph 27 of your  
7 report, which is at page 13, where I believe you discuss  
8 recruitment; is that right?

9 A. Yes, sir.

10 Q. And you accept that there was a recruitment drive prior to  
11 and during the war between the RUF and SLA; is that right?

12 A. Yes.

13 Q. Now, in that same paragraph, 27, and that, you rely on the  
14 views of a businessman on that many of the recruits were  
15 criminals, don't you?

16 A. I don't, I think. It's only that the businessman is stated  
17 via someone else and I can't --

18 Q. Well, if we actually go to page 14, which is the next page,  
19 and I'll read at the top, it says: "Looking back on the  
20 government's recruitment policy a Freetown businessman observed  
21 in June 1995 the government took pickpockets and so on and put  
22 them in the army. Many of them used to attack and rob with  
23 knives. Now they had the extra power of the bullet". And that  
24 is sourced at David Keen?

25 A. That's correct.

26 Q. So that is Keen's source?

27 A. Absolutely.

28 Q. And are you aware that it is actually unsourced in his  
29 book?

1 A. I'm not aware of that.

2 Q. Well, if we come to Keen's book, and we can do that, and  
3 it's actually on page 98 of Keen's book, and at page 98, the  
4 portion I've just read to you, there is no footnote or source for  
5 it so, if that's the case, you would agree with me that there is  
6 no way of checking the reliability of that statement?

7 A. It's up to Keen.

8 Q. Now, one of your primary sources again, this is TRC-01,  
9 gave sworn testimony before this Court that, by and large, after  
10 1991, the people who were recruited were more based on  
11 meritocracy, and that there were only a few bad ones who sneaked  
12 through. Now, I can read you the relevant part of the transcript  
13 but, if that were the case, would you agree with me that this  
14 assertion in Keen's book is not necessarily accurate?

15 A. I don't.

16 Q. You don't. And why would that be?

17 A. Because I find enough support that the things I wrote about  
18 the recruitment were valid, in my mind, based on my sources.

19 Q. And where did -- and we look at your sources, so those  
20 sources would be the TRC report?

21 A. The findings in the TRC report.

22 Q. The findings in the TRC report?

23 A. Yes.

24 Q. Keen's book which is unsourced?

25 A. Well, Keen is a scholar, a researcher, so I used him.

26 Q. And your other -- so really, apart from Keen and the TRC,  
27 where did you get this information from?

28 A. Well, we are still at -- at the historical part so those  
29 were the main ones.

1 Q. Okay. But it wasn't personally from anyone you spoke to,  
2 was it?

3 A. I don't recall that.

4 Q. Okay. Now, I would like to again look at paragraph 28 of  
5 your report, which is the same paragraph actually, and here again  
6 you quote the TRC report on instances of poor or inadequate  
7 training; is that right?

8 A. That's right.

9 Q. So again, you would agree with me that that paragraph is  
10 largely based on the findings of the TRC report?

11 A. That's right.

12 Q. Now, are you aware -- and you may not have been because  
13 this is since you made your report -- that, as I mentioned  
14 yesterday, that about ten former SLAs have given evidence before  
15 this Court regarding the extent of their training?

16 A. I'm not aware of that.

17 Q. And nearly every one of them received at least three months  
18 training with some receiving training of six months; did you know  
19 that?

20 A. I've heard various statements, also in the transcripts,  
21 varying from six months to three months, to six weeks and then,  
22 concerning the training, I would like to emphasise that, also the  
23 statement made by IMATT, in retrospect about the training of the  
24 SLA, they didn't call it any training whatsoever.

25 Q. But that was IMATT's opinion, wasn't it?

26 A. Well, it's -- it was a statement made by IMATT.

27 Q. But actually, and we will come to that in your report when  
28 you refer to the IMATT statement, I believe you quote that -- and  
29 I may be wrong -- that they had received training in Nigeria but,



1 nevertheless, they were very interested to learn about  
2 international humanitarian law?

3 A. Well, IMATT stated that the training in Nigeria wasn't a  
4 very good training at all.

5 Q. But it didn't suggest they didn't have any kind of  
6 training, did it?

7 A. Not any kind.

8 Q. Right. So, if you were to believe the many witnesses, when  
9 they joined the SLA, did receive three to six months training,  
10 you would agree with me that there was some kind of training  
11 within the SLA before the war with the RUF?

12 A. I would agree that there was some kind of training.  
13 However, I would also state that some people didn't get any  
14 training at all.

15 Q. Okay. And who told you that some people got no training at  
16 all?

17 A. I have to research them, but people who were recruited not  
18 in the area of Freetown, and again, I can't recollect where it  
19 is.

20 Q. Well, actually, we can come to that. It's on paragraph 28.

21 A. All right.

22 Q. On page 14 of your report, and it's found, one, two, three,  
23 four lines from the bottom; do you have that, general?

24 A. Yes.

25 Q. And I'll read it for you: "One senior civil servant with  
26 good contacts in the military explained the process of  
27 recruitment in Freetown: They were grabbed from the streets,  
28 taken to Lungi and Benguema and given 19 to 21 days training.  
29 Some of the new recruits - particularly those recruited

1 up-country - received no training at all." Now, my first  
2 question is: What would a senior civil servant know about the  
3 training which the military received?

4 A. He could have been very well in the position to know,  
5 depending on his position.

6 Q. But what was his position, do you know?

7 A. No, I don't know.

8 Q. And based upon what we've heard, that at least the majority  
9 of the SLAs received between three months, at least three months  
10 and some six months training, you would agree with me that it may  
11 be inaccurate, his assessment, that they received no training at  
12 all?

13 A. No, I don't think so.

14 Q. Now again in Keen, that senior civil servant is unsourced;  
15 are you aware of that?

16 A. No.

17 Q. Okay. So, in that case, it wouldn't be possible even to  
18 check out who he was or find his reliability, would it?

19 A. That's up to Keen.

20 Q. But essentially, then, you are relying on the research of  
21 Keen?

22 A. Exactly.

23 Q. Now, an infantry recruit in the British army only receives  
24 three months training; did you know that?

25 A. I don't know the British army. I know the royal marines,  
26 that's certainly longer.

27 Q. No, but this is infantry; we are not talking specialised  
28 force. An infantry soldier would only receive three months basic  
29 training; did you know that?

1 A. No, I don't.

2 Q. Okay. And an infantry recruit in the Dutch army, do you  
3 know how much training he receives?

4 A. No.

5 Q. Now, when the SLA was recruiting and training in 1991 it  
6 was already at war with the RUF, wasn't it?

7 A. Yep.

8 Q. And during World War I training of infantry recruits in the  
9 British army was reduced to about six weeks; did you know that?

10 A. No.

11 Q. Would you agree with me that in times of war it is not  
12 unusual, due to the needs of war, for a country to reduce the  
13 amount of training time it gives its infantry recruits?

14 A. Nowadays, I don't think that is logical.

15 Q. But it has happened?

16 A. It may have happened but I don't think it's logical.

17 Q. Well, it doesn't really matter whether it's logical, the  
18 fact is it does happen due to the exigencies of war sometimes,  
19 doesn't it?

20 A. But it's a bad measure.

21 Q. Well, whether it is good or bad it does happen, doesn't it,  
22 due to the exigencies of war?

23 A. I don't know that; I'm not aware of that.

24 Q. You are not aware at all?

25 A. No.

26 Q. Okay.

27 A. Not in the Dutch army.

28 Q. Well, I am talking to you about armies in general. As an  
29 expert, I would suggest to you it's not unusual, due to the

1 exigencies of war, that the length of time in recruiting, in  
2 training recruits, is often reduced; what would you have to say  
3 about that?

4 A. Well, you can't train even, especially not for war  
5 situation, train a recruit in six -- in one month, six weeks.

6 Q. You might not be able to but let's say, what I'm saying to  
7 you in time of war, the length of time in training is often  
8 reduced, isn't it?

9 A. Nowadays, I don't think so.

10 Q. So what about ten years ago?

11 A. It was not part of my research.

12 Q. So you wouldn't know how much an infantry recruit for  
13 Vietnam received before going?

14 A. It was not part of my study.

15 Q. So you can't comment on that area?

16 A. No.

17 Q. Now, I would like to turn to paragraph 30 of your report,  
18 which is at page 15. And this is a couple of lines down where  
19 you say "organisation" -- it is again talking about recruiting  
20 and training policy -- "an organisation structure and  
21 professionalism in many units became less rigid and more ragged".

22 Do you have that part?

23 A. You are talking page 15 and then?

24 Q. Paragraph 30.

25 A. Yes, and then what line are you on?

26 Q. It's the second line. "Organisation structure"?

27 A. Okay, yeah.

28 Q. And "professionalism in many units became less rigid and  
29 more ragged"; do you have that? Now, again, that's a finding of

1 the TRC, isn't it?

2 A. It's a statement by a former officer in the SLA who was  
3 recruited in 1992, I guess.

4 Q. But it was before the TRC, wasn't it?

5 A. It was.

6 Q. And even he is saying that although it became less rigid  
7 and more ragged, he's not suggesting that there was no degree of  
8 rigidity, is he?

9 A. No.

10 Q. Now, if we can turn to paragraph 31, and that's on page 16,  
11 you refer to the respected Brigadier General Maxwell Khobe?

12 A. Yes.

13 Q. Now, there is evidence before this Court that when the SLAs  
14 attacked Freetown, they wanted to go to Wilberforce barracks to  
15 release some of their family members. Are you aware that,  
16 according to that evidence, it was General Khobe who threatened  
17 to shoot the civilians if the SLAs attacked Wilberforce barracks?

18 A. No.

19 Q. Now, if that were true, that would not be a very honourable  
20 thing for a commander to do, would it?

21 A. I don't know it's true.

22 Q. If it were true?

23 A. Well, no.

24 Q. And again, at paragraph 31, these are General Khobe's  
25 opinions of the NPRC government, aren't they?

26 A. That's right.

27 Q. And he wasn't a part of the NPRC government, was he?

28 A. No.

29 Q. And he wasn't a part of the Sierra Leone Army at that time,

1 was he?

2 A. No.

3 Q. So these are essentially just his opinions from afar?

4 A. From the position he had and he later became. I think he  
5 is a credible man to say a thing like that.

6 Q. But what position did he hold when he made these opinions?

7 A. Well, you know, when he was commanding officer of ECOMOG  
8 and later chief of defence staff.

9 Q. No, but to have this information, he is talking about the  
10 NPRC period; what position did he hold? What was his rank to be  
11 able to make that assessment?

12 A. I don't know what rank he had during NPRC.

13 Q. So -- but at any rate, it's just his opinion?

14 A. It is.

15 Q. Now, if we turn to paragraph 32, which is at page 16 of  
16 your report, and here we have a quotation and from line -- it's  
17 paragraph 32, and I will just read it. It's from TRC-01, so I  
18 won't mention the name, but, in the middle of it, seven lines  
19 from the top, yes, from the top.

20 A. Yes.

21 Q. "This action finally brought all forms of discipline and  
22 regimentation of the RSLFA to 0". That is what it says, isn't  
23 it?

24 A. It does.

25 Q. And that is TRC-01?

26 A. Correct.

27 Q. And that's his personal opinion, isn't it?

28 A. It is.

29 Q. And did you know that TRC-01 was not in Sierra Leone at the

1 time of the coup?

2 A. I know.

3 Q. And did you know that he only returned to Sierra Leone for  
4 about two weeks in August 1998 before then leaving Sierra Leone?

5 MR KNOOPS: It was 1997.

6 MR AGHA: 1997, I beg your pardon.

7 THE WITNESS: I would say 1997 because, as I read or  
8 I listened, he had quite a comment on and knowledge while he was  
9 briefly in Sierra Leone at that time and he had -- he could  
10 observe himself, then, the state of the AFRC, so he was here and  
11 he was questioned about it.

12 Q. But how was he personally able to observe it if he was with  
13 the ECOMOG forces away from the AFRC?

14 A. Well, I don't know. He gave a firm statement here and was  
15 questioned about his knowledge at that time.

16 Q. His statement is before the TRC?

17 A. But you are referring to his statement here?

18 Q. No, I am referring to his statement before the TRC where he  
19 is saying that regimentation was brought to zero?

20 A. Okay.

21 Q. And what I'm suggesting to you is that, firstly, that's his  
22 opinion, which I believe you've agreed with me on and, secondly,  
23 that he wasn't here at that time to be able to observe whether  
24 regimentation was brought to any level?

25 A. I don't know that.

26 MR KNOOPS: Your Honours, at this point I think it's fair  
27 to say that the statement my learned friend is referring to,  
28 before the TRC, speaking about regimentation, is referring to the  
29 period before May 1997, in all honesty. That refers to the

1 period that TRC-01 was here. But we can ask him.

2 MR AGHA: We can see it in the actual paragraph: "The  
3 conditions within the SLA continued to deteriorate with time. In  
4 his report to the TRC, Mr X describes the role of the RSLAF in  
5 relation to the AFRC and RUF. The report clearly states that the  
6 final straw that broke the camels' back was when the AFRC sacked  
7 the SLPP government through a coup of May 25, 1997. They also  
8 did the unbelievable by inviting the RUF rebels (whom they had  
9 been fighting against for six years) to join them in forming a  
10 government. This action finally brought" -- so he is actually  
11 talking about the action of the AFRC inviting the RUF to join  
12 them.

13 MR KNOOPS: But he is saying this action finally brought  
14 all forms of discipline and regimentation to zero. Finally  
15 brought. So he is not just referring to that simple action in  
16 May 1997. It's his statement before the TRC and that's, I think  
17 in all fairness to say, is referring to the whole period  
18 culminating in one action. He says the final straw that broke  
19 the camel's was when AFRC sacked the SLPP government through a  
20 coup, that it did the unbelievable thing to inviting the RUF  
21 rebels, this action finally brought down all forms. That is the  
22 full quotation of the TRC statement.

23 MR AGHA: And I am happy with that because it says it  
24 finally did. So --

25 PRESIDING JUDGE: Look, sitting in the witness box is the  
26 expert who wrote the report and he is being questioned on his own  
27 report. So I'm sure the general is capable of indicating if he  
28 is confused as to which period is being referred to. And if  
29 there is any doubt about it you can simply put to the general



- 1 what period does he understand he is being questioned about.
- 2 MR AGHA: Well, this is what I'm trying to do, Your Honour.
- 3 PRESIDING JUDGE: Well, go ahead, Mr Agha.
- 4 MR AGHA:
- 5 Q. So you would agree with me that he wasn't personally here
- 6 at the time of the AFRC coup?
- 7 A. You mean 25th?
- 8 Q. 25th.
- 9 A. Of May.
- 10 Q. 1997.
- 11 A. 1997. I'm aware of that.
- 12 Q. And you are aware that he spent about two weeks in August
- 13 1997 with the ECOMOG troops away, separated from the AFRC
- 14 government?
- 15 A. I know he was in -- in Sierra Leone for a brief period.
- 16 Q. So I suggest to you that he was in no position to observe
- 17 where the discipline and regimentation was brought to zero in a
- 18 period when he was not here?
- 19 A. I don't know.
- 20 Q. Now, I would like to look at paragraph 33 and that's on
- 21 page 17. Now, this is quite a long paragraph. And it's where, I
- 22 believe, certain conclusions are drawn, though not your overall
- 23 conclusions; is that right?
- 24 A. Yes, it's not my overall conclusion.
- 25 Q. No, but certain conclusions are drawn there. For example,
- 26 if we would go to five, it would say, "Has to be considered as a
- 27 military organisation on paper or not existing at all."
- 28 A. Yes.
- 29 Q. That is one of your -- a conclusion, isn't it?

1 A. Yes.

2 Q. Based on the various statements and sources you looked at.  
3 Now, would you agree with me that your conclusion is largely  
4 based on the statements made to the -- in to the TRC and on  
5 Keen's book?

6 A. And, of course, on TRC-01.

7 Q. But TRC-01 under oath now has changed his position, or at  
8 least clarified his position in detail. So, obviously, one of  
9 the questions that arises is: The Court has to rely on the  
10 evidence it has under oath as per the transcripts which you read  
11 and relied upon whether, based on his statement, and other  
12 statements before the Court, whether any of your conclusions may  
13 have been different?

14 MR FOFANAH: Hold it. Your Honours, I respectfully, I will  
15 rise again at this stage to object to that line of questioning.  
16 Your Honours, the witness has indeed indicated that TRC-01 has  
17 testified and was cross-examined by my learned colleague on this  
18 issue. For my learned colleague to subsequently come and put to  
19 this witness that TRC-01 has clarified issues of command  
20 responsibility during the AFRC period, in the times in which he  
21 is putting to the witness, is incorrect because during  
22 cross-examination, like I indicated yesterday, it came out  
23 clearly and said that, he even repeated the words used in the  
24 statement here, that regimentation and the rest went to zero.  
25 And then my learned colleague is simply putting to this witness  
26 now that that is not what TRC-01 said, and I can rightly recall  
27 that in examination-in-chief he tried as much as possible to  
28 contain himself to the period before 1996, but that under  
29 cross-examination he went beyond that and then referred to the

1 AFRC period as a non-starter, as far as regimentation and other  
2 things was concerned. Since the witness was not here when he was  
3 led in chief and cross-examined, my objection is that if my  
4 learned colleague is putting questions on what the witness said  
5 to the Court, then it has to be wholesome, not just pick bits and  
6 pieces that are favourable to him and then leave out what he -- I  
7 mean, what came out in cross-examination.

8 PRESIDING JUDGE: You want to reply to that objection?

9 MR AGHA: I would, Your Honour. Firstly, to say that I  
10 didn't actually ask a question to the witness, I'm just  
11 suggesting to him, based on this new information that emerged,  
12 may it change his opinions. I was coming to a question.  
13 Secondly, when TRC-01 gave evidence before this Court, I didn't  
14 ask him about structure and hierarchy of the AFRC in the jungle  
15 because I knew he wasn't there. I asked him if he knew about  
16 anyone who may have been in command. It was only, I believe,  
17 when the Defence realised he had perhaps given damaging evidence  
18 during cross-examination on their case prior to the war, that  
19 they then attempted to elicit his opinions. I haven't referred  
20 to them because they are opinions and he was not an expert during  
21 that period, and my questions were largely based on his readings  
22 and learnings and what he had found out at the time. This  
23 witness, on the other hand, is an expert and I'm delving into  
24 whether factual issues coming up before this Court, if he had  
25 been aware of them, may have changed his point of view.

26 PRESIDING JUDGE: All right. Well, look, we note  
27 Mr Fofanah's comments. Seeing you have not yet placed a question  
28 there is nothing to rule on, so you go ahead and ask your  
29 question.

1 MR AGHA:

2 Q. So, if these findings were largely based on the TRC and  
3 Keen's book, if those findings in the TRC and Keen's book were  
4 found to be largely unreliable or inaccurate, would you agree  
5 with me that this would render some of the opinions in your  
6 report unreliable or inaccurate?

7 A. Well, firstly, I don't consider TRC and Keen unreliable and  
8 then, secondly, last Friday, a week ago, when I walked out of the  
9 office of TRC-01, he supplied me with staff in-confidence notes  
10 and I know he later had a statement here. And the notes clearly  
11 indicate that there was, concerning the AFRC, no firm command and  
12 he elaborated on that, so that's it from me.

13 Q. But that's his opinion, isn't it?

14 A. Well, it's the view he expressed on paper to me last Friday  
15 based on -- on the discussion we had on my report.

16 Q. But that would be his opinion, wouldn't it?

17 A. It would.

18 Q. Now, so that is TRC-01. Now again, when we talk about the  
19 TRC report, that again is opinions and findings of that  
20 particular body, isn't it?

21 A. Well, it's always a matter of wording, whether it's  
22 opinions, findings. I have analysed the TRC on findings, on --  
23 on an impartial historical analysis and, you know, there I found  
24 support for these visions.

25 Q. What I'm suggesting to you though is you haven't personally  
26 gone out yourself and verified that information by interviewing  
27 people, have you?

28 A. No, I could not.

29 Q. Okay. Now, I believe that, for example, we mentioned

1 training in some cases was zero by the businessman. Now, that is  
2 not sustainable in the light of the evidence we have heard before  
3 this Court, is it?

4 A. Well, again, there are so many examples in my report which  
5 state otherwise that, you know, I have to remain with my  
6 conclusion that the expert training, the aspect of training, was  
7 substandard.

8 Q. But in the TRC report they weren't delving into the  
9 training of the soldiers, what kind of training they went into,  
10 were they?

11 A. Well, they were, indeed.

12 Q. And were they asking them about how long it lasted?

13 A. That is covered in the TRC report.

14 Q. But, as my learned friend says, would you agree with me  
15 that most of the training was between three to six months, as you  
16 heard in this Court?

17 A. I -- I don't agree with that.

18 Q. Now, if we look at page 14 at paragraph 28. I beg your  
19 pardon, that is the wrong citation. I have to come back. Now,  
20 according to TRC-01, sorry to come back to this gentlemen, he was  
21 at the front lines between 1992 and 1996 and, in evidence under  
22 oath, and he was also, as we have discussed, one of your primary  
23 sources, he suggested there was a functioning of chain of command  
24 in the SLA during the war with the RUF. Did you know that?

25 A. Can you rephrase that, please?

26 Q. He suggested that there was a functioning chain of command  
27 or at least organisation and structure and hierarchy during the  
28 war with the RUF?

29 A. I don't know. I have not read that.

1 Q. I'll read you a few lines of his transcript, if I may.

2 PRESIDING JUDGE: Well, just before you do, I just want to  
3 emphasise, general, that these excerpts from TRC-01's testimony  
4 are not being read to you for you to evaluate his veracity. I  
5 think they are putting to you to suggest that perhaps had you had  
6 the benefit of hearing that testimony you may have come to a  
7 different conclusion. Now, am I right on that, Mr Agha?

8 MR AGHA: Yes, that's right, Your Honour.

9 PRESIDING JUDGE: All right. Yes, go ahead.

10 MR AGHA:

11 Q. So, in essence, I am not suggesting to you, as when you  
12 looked in the transcripts in your report, and you quoted from the  
13 Prosecution, there is no suggestion, either way, that those  
14 transcripts are right or wrong. I'm just suggesting to you that  
15 had you heard the pieces of information that I'm bringing before  
16 you it may have changed your views. I'm not asking you to  
17 comment on whether it's right or wrong. So anyway, this was on  
18 16th of October 2006, and it's page 113 and it's lines 1 through  
19 to 26. And this is what his response is to various  
20 questions.

21 "Q. How were you structured? Did you have a  
22 battalion and underneath a battalion was a  
23 company, and you had a company commander? Can  
24 you briefly explain that?

25 "A. The Sierra Leone armed forces there now --  
26 the Sierra Leone Army had formal hierarchy in  
27 existence. From the platoon commander, you  
28 went up to company commander, from company  
29 commander to battalion, 2IC or battalion

1                   command, and the battalion commander reported  
2           to the brigade commander. And probably for           every  
3   brigade there are three battalions or           four  
4   battalions, depending on the size of the  
5   location of the area of responsibility for that  
6   brigade. Like, I mentioned earlier there are           two  
7   distinct brigades; one in the southern           region and  
8   one in the east. The southern           region looked at  
9   the southern flank of Sierra           Leone; that is the  
10   southern province, and           whilst the east looked at the  
11   eastern region,           the three districts in the east.  
12   Basically the           areas that were bordering with our  
13   neighbours,           Liberia.

14                   "Q. So, you had a four-span chain of command;  
15                   is that right?

16                   "A. There was complete command structure in  
17                   place."

18           That's the answer.

19                   "There was a complete command structure in  
20                   place."

21                   "Q. And it worked, the orders flowing up and  
22                   down the chain of command?

23                   "A. The chain, yes. It did work properly,  
24                   Your Honour. Orders managing from top to  
25                   bottom.

26                   "Q. And the soldiers in the SLAs respected the  
27                   chain of command?

28                   "A. Certainly, Your Honour."

29           Now, as you are aware this will also come back to the span

1 of command which we will come to later, which is another aspect  
2 of your report, but had -- had you been aware of that piece of  
3 information, would you agree with me that there was, during the  
4 war with the RUF, a functioning chain of command within the SLA?  
5 A. No. Because I would agree, based on this statement, if it  
6 was true.

7 Q. If it was true?

8 A. That there was a proper span of command and chain of  
9 command within that specific organisation. That does not imply  
10 that there is a proper chain of command in the entire SLA.

11 Q. But within this particular example, would you not indicate  
12 that at least that part of the SLA, which TRC-01 is talking  
13 about, there was a chain of command and span of command which was  
14 functioning, if he is to be believed of course?

15 A. Well, of course. If he -- if he would be perfectly right,  
16 then you could say that there was a chain of command, but I am  
17 not convinced on whether that chain of command actually worked.  
18 You need more information on that.

19 Q. Well, he has said it did work?

20 A. Well, that was his opinion. I can't --

21 Q. Well, he was there, it wasn't his opinion. He is a witness  
22 of fact, so what I'm suggesting to you this is -- just like what  
23 he's told you -- so if that is what he told you, and you were to  
24 agree with what he has told you, because he was there, he was  
25 actually commanding these troops, would you agree with me that  
26 that was a functioning chain of command?

27 A. I would have to be convinced about more things to sustain  
28 the credibility of the fact.

29 Q. No, I'm not talking about the credibility. I'm just saying



1 if that witness were to be believed, what I've just read to you,  
2 would that indicate that firstly, there was a span of command?

3 PRESIDING JUDGE: Well, I understood the general's answer,  
4 that he said he wouldn't accept that unless he had more  
5 information.

6 MR AGHA: Okay.

7 PRESIDING JUDGE: Was that your answer?

8 THE WITNESS: Yes, Your Honour.

9 MR AGHA:

10 Q. Okay. So what better information did you have than this,  
11 when you were discussing the AFRC factions chain of command,  
12 bearing in mind you never spoke to anyone who was with them in  
13 the jungle with SAJ Musa?

14 A. Your witnesses.

15 Q. So, but those witnesses were all other ranks and, as I  
16 believe you've said, they are not always to be relied upon, based  
17 on their position?

18 A. No, but I've not been --

19 MR KNOOPS: Is the Prosecution now challenging their own  
20 evidence?

21 PRESIDING JUDGE: In what way?

22 MR KNOOPS: Well, the Prosecution is putting it to the  
23 expert that the witnesses put forward by the Prosecution are just  
24 junior ranks and the question of reliability emerges. Is this --  
25 is this an open challenge of the evidence of the Prosecution, is  
26 my question for the record.

27 PRESIDING JUDGE: What do you say to that, Mr Agha?

28 MR AGHA: I say it's not. I say it's the position of the  
29 Defence that these were other ranked soldiers. It is not the

1 position -- the position of the Prosecution is they may have  
2 started as other ranked soldiers but through various bush  
3 promotions they received positions of command. Now my question  
4 is, in essence, if he was able to rely on these soldiers, and  
5 what they said in their transcripts, then why is he unable to  
6 rely on the live evidence of this soldier?

7 PRESIDING JUDGE: All right. I overrule the objection. Go  
8 ahead.

9 MR AGHA:

10 Q. So apart from the transcripts you looked at what, and I  
11 think there were three soldiers there in the field, what better  
12 evidence, personally, do you have from a person who was with the  
13 AFRC faction, that there was any better hierarchy chain of  
14 command? Well, let me stick to the hierarchy within the AFRC  
15 faction?

16 A. Well, I based it on the numerous witnesses Colonel Iron had  
17 and the way Colonel Iron came to his conclusions.

18 Q. But he concluded there was a span of command, didn't he?

19 A. And, of course, I don't agree with that.

20 Q. But the question then was on level of the span, wasn't it?

21 A. Well, you know, that's a broad question. Then we have to  
22 nail it down.

23 Q. So, essentially, you relied on Colonel Iron's?

24 A. I don't rely on Colonel Iron. I -- Colonel Iron's report  
25 was the starting point and I analysed, of course, many of your  
26 witnesses.

27 Q. But, sorry, this is where I pause general, if I may, is  
28 that I've just read for you a witness who gave evidence under  
29 oath, a Defence witness in fact, senior Defence witness at that

1 time, in the field, who has given in reasonable detail how the  
2 command structure worked; battalion, platoon, commanders and  
3 saying that it worked. Now, from which transcript did you find  
4 any better evidence than that?

5 A. Well, the only thing I said is that, you know, again, if  
6 the witness TRC-01 was correct, but makes a broad statement  
7 that --

8 Q. My question to you is what better evidence did you find in  
9 the transcripts of the statement which I just read to you by  
10 TRC-01?

11 MR KNOOPS: Your Honour --

12 PRESIDING JUDGE: I won't allow that question, Mr Agha.

13 MR AGHA: Your Honour --

14 PRESIDING JUDGE: It's not a fair question.

15 MR KNOOPS: Okay. Your Honour, in addition to that, the  
16 Prosecution is repeatedly mixing the statement of TRC-01 over the  
17 period of 1991, 1996 with the AFRC.

18 PRESIDING JUDGE: All right. Well, yes, sorry, go ahead.

19 MR KNOOPS: It's not fair to ask the general what better  
20 evidence is except from the transcripts. The transcript referred  
21 to the period after May 1997, while the statement of TRC-01, on  
22 the which the Prosecution relies for the historical part, refers  
23 to the period before 1996. You cannot ask the general a question  
24 about two totally uncomparable situations.

25 PRESIDING JUDGE: Mr Knoops, I have already ruled that the  
26 question is inadmissible.

27 MR KNOOPS: Thank you, Your Honour.

28 MR AGHA:

29 Q. So, essentially, based on what TRC-01 said here, you do not

1 find that that convinces you; you need more evidence?

2 A. Yes.

3 Q. Okay. Now, bar the transcripts, which you read of the  
4 Prosecution witnesses, what other evidence did you come across  
5 that was as explicit as that?

6 PRESIDING JUDGE: Well, that is not a fair question.

7 MR KNOOPS: Objection.

8 PRESIDING JUDGE: Look, just a minute, Mr Knoops. I'm on  
9 your side at this stage.

10 MR KNOOPS: Sorry, Your Honour.

11 MR AGHA: I can rephrase.

12 Q. During the AFRC faction period, what evidence did you find,  
13 or when you read or looked at, to see that there was any kind of  
14 structure comparable to that which I just read to you?

15 A. Well, that is a very hard question because it's a  
16 combination effect of the witnesses, but also of the reasoning in  
17 the background written by Colonel Iron.

18 Q. But if we are talking to just about the reading and  
19 witnesses, where were you able to find comparable evidence within  
20 the AFRC faction of such a structure?

21 A. I really lose you now.

22 Q. Okay. We have this structure which is existing in 1996, as  
23 described by TRC-01, and I just read it to you. And you said  
24 that you would still need more evidence to be convinced. Okay?  
25 So now, if we come to, let's say, AFRC faction, what evidence did  
26 you find, apart from Colonel Iron's, setting out and equivalent  
27 structure?

28 PRESIDING JUDGE: Look, I won't allow that. The general  
29 said that he would need more evidence. Now, the next obvious

1 question is what sort of evidence would you need? Not expecting  
2 the general to go through a complete overhaul of all the evidence  
3 he has read and come up with the little piece that you want him  
4 to produce.

5 MR AGHA: Okay. I take your point. That is a very fair  
6 observation.

7 Q. So, apart from this, you say from TRC-01 you needed more  
8 evidence to convince you?

9 A. Well, evidence, evidence is not a word I would use, but  
10 arguments; arguments how you can come to conclusion.

11 Q. So that would be -- what kind? I mean, this is what he  
12 said. What, in addition, would you be looking for to convince  
13 you?

14 A. Well, then you have to look into an organisation.

15 Q. And did you do that do that, sufficiently, to be able to  
16 reach that conclusion?

17 A. Are you not still talking about --

18 Q. I'm talking about the period before 1997.

19 A. Yeah, I didn't do that.

20 Q. Okay. So you are not in a position to say whether, indeed,  
21 that extra information, did exist?

22 A. No, it was not part of my study.

23 Q. Okay. Now, when you came to look at the AFRC faction in  
24 the jungle under SAJ Musa, you also made a conclusion or finding  
25 on structure, organisation, et cetera. So, where did you find  
26 your information to come to the conclusions that you did,  
27 regarding that structure?

28 A. Because of the reasoning by Colonel Iron in his report, and  
29 I looked for enough support that he was right or wrong.

1 Q. And --

2 A. And based on everything I read, I couldn't come to that  
3 conclusion.

4 Q. And the basis of your reading was the secondary and primary  
5 sources?

6 A. Yes.

7 Q. I would suggest to you that, prior to May 1997, the AFRC  
8 was a military organisation and was not just a military  
9 organisation on paper; how would you reply?

10 A. I would not agree.

11 Q. And why would you not agree?

12 A. Because what was described, as I recall, was a sort of a --  
13 are we still talking about the AFRC here; correct?

14 Q. We are talking about 1996, before 1996 period?

15 A. Oh, before 1996.

16 Q. Yes.

17 A. I thought you mentioned AFRC now.

18 Q. Would agree with me that -- I will repeat it, just so I am  
19 clear.

20 PRESIDING JUDGE: You started off saying prior to May 1997.

21 MR AGHA: Yes, just so the general understands.

22 Q. Prior to May 1997, so this is not the AFRC junta period,  
23 would you agree with me that the SLA was a military organisation  
24 rather than just being a military organisation on paper or,  
25 indeed, non-existent? Take into account also the new evidence  
26 which you've heard, bearing in mind whether you believe it or  
27 not.

28 A. But I have not stated it was a military organisation on  
29 paper.

1 Q. Okay.

2 A. I was referring to the command structure, let's say, from  
3 the chief of defence staff level, towards the subordinate units  
4 in the SLA.

5 Q. So if we are talking about, I believe, military  
6 organisation in terms of command and control prior to 1997, I  
7 suggest to you that that did exist in the Sierra Leone Army.

8 A. Not in a proper way.

9 Q. But it did, to a degree?

10 A. There may have been some sort of organisational structure  
11 again prior to 1997.

12 Q. Prior to 1997.

13 A. However, I didn't find support for the fact that that  
14 worked. Now, you can have an organisation, but it needs to work.

15 Q. So you accept there is an organisation, but you didn't find  
16 that it was working; is that right?

17 A. Well, for example, the Sierra Leone Army, by that time, had  
18 a chief of defence staff, I believe, and they had some sort of  
19 organisation.

20 Q. Okay. But did that organisation work?

21 A. In my mind and, based on my sources, no, it didn't work.

22 Q. So if it wasn't working, can you explain to me how they  
23 managed to keep the RUF from overrunning them during six years of  
24 war?

25 A. No. Then I have to look into that aspect.

26 Q. But if it wasn't working, how were they able to manage  
27 that?

28 A. I don't know.

29 Q. I suggest to you that it was working and that was one of

1 the reasons why they were able to successfully defend their  
2 territory against the RUF, between 1991 until the coup of 1997.

3 A. Not in Keen's view.

4 Q. No, I'm talking about in your view.

5 A. Yes.

6 Q. I'm not interested in Keen's or other's opinions?

7 A. Yes. I stick to my point that I don't think they had a  
8 proper organisation, otherwise they would have solved the  
9 problem.

10 Q. Well, they did. They remained undefeated. They were not  
11 defeated. How can you explain that, if they were not affected?  
12 That six years of combat, despite all the alleged poor training  
13 and recruitment, they remained undefeated; how can you explain  
14 that?

15 A. Well, I can't.

16 Q. So I would suggest to you that they were an effective  
17 military organisation before the May 1997 coup.

18 A. I don't agree.

19 Q. Thank you. Well, we've now dealt with the period which is  
20 before the coup, although we may have to go back and forth from  
21 time to time. Now I want to look at the period which is after  
22 the coup. So this is May 1997, until February 1998, which is the  
23 intervention. Okay. Now, I believe you also opine that it was a  
24 military organisation in terms of chain of command likewise  
25 didn't exist during that period?

26 JUDGE SEBUTINDE: Mr Agha, it would help if you refer the  
27 Bench to the text you are referring to in the report.

28 MR AGHA: Yes, Your Honour.

29 Q. I believe, and I would have to check this -- yes, it's at



1 paragraph 33, I believe, on page 17. It starts the 13th line, I  
2 believe. What it says is this:

3 "Based on these statements, it is therefore unlikely that  
4 during the short time of the SLPP government, 1996/1997, and the  
5 People's Army," -- so we are now into the People's Army period we  
6 are talking about, May 1997 to February 1998 -- "a coherent  
7 command structure was established."

8 A. Yes.

9 Q. So we've just addressed the period before the coup. Now we  
10 are looking at the period after the coup. Now, did you take any  
11 statements from Johnny Paul Koroma, who was the commander in  
12 chief?

13 A. No.

14 Q. What about SAJ Musa?

15 A. Well, I couldn't take his statement, could I?

16 Q. What about SFY Koroma?

17 A. No.

18 Q. Do you know what happened to SFY Koroma?

19 A. I don't.

20 Q. And you spoke to number 3 during the junta period; is that  
21 right?

22 A. Well, I spoke to him several times.

23 Q. But did you speak to him about the period when the AFRC  
24 government was in power, or whilst the AFRC faction was in the  
25 bush?

26 A. About the latter part.

27 Q. So you didn't discuss with him while they were in power?

28 A. No.

29 Q. Now, during the junta period, SO Williams, the chief of

1 army staff, did you speak to him?

2 A. No.

3 Q. And according to 334, this is a Prosecution witness who you  
4 actually refer to in this earlier paragraph, witness TF1-334,  
5 based on the chain of command he is describing. I am going  
6 through this chain he's described and you looked at, and -- of  
7 course, if he is to be believed. Now flight Lieutenant King was  
8 in charge of the air wing during the junta period, according to  
9 334. Did you speak to him?

10 A. No.

11 Q. Do you know what happened to him?

12 A. I don't.

13 Q. What about Commander Gilbert, who was chief of staff of the  
14 navy?

15 A. No.

16 Q. What about Major Paul Thomas, who was an AFRC military  
17 spokesman who, according --

18 A. No.

19 Q. He's in Holland, I understand, but you didn't speak to him?

20 A. No.

21 Q. What about Major Hartson, the AFRC commander of the  
22 military police, according to 334?

23 A. No.

24 Q. What about Colonel Fawah Sewa -- I hope I said the name  
25 correct -- the brigade commander in the east, according to 334;  
26 did you speak to him?

27 A. I didn't.

28 Q. Do you know what happened to him?

29 A. No.

- 1 Q. What about from Colonel Boysie Palmer, the brigade  
2 commander in the south, according to 334?
- 3 A. No.
- 4 Q. Do you know what happened to him?
- 5 A. No.
- 6 Q. What about Colonel Momodu, who as a brigade commander in  
7 the north, according to 334?
- 8 A. No.
- 9 Q. Do you know what happened to him?
- 10 A. No.
- 11 Q. So without speaking to any of these people named in the  
12 chain of command by 334, how are you able to know that there was  
13 no coherent chain of command during the junta period?
- 14 A. I based myself on the sources that were available to me.
- 15 Q. And which sources were these, in particular?
- 16 A. Well, in particular, the explanations made by chief of  
17 defence staffs.
- 18 Q. Which one?
- 19 A. Like Khobe.
- 20 Q. Khobe. Okay. Well, he wasn't a part of that organisation,  
21 did you know that?
- 22 A. Of course I know that.
- 23 Q. Okay. So he would just have an opinion on whether the  
24 structure was coherent, wouldn't he?
- 25 A. Yes.
- 26 Q. And, apart from Khobe, who else did you speak to? Which  
27 other commanders in chief?
- 28 A. Well, I have to look again through the report, but there  
29 are a lot of sources indicating.

1 Q. Well, let us say Tom Carew. I think you rely on him as one  
2 of the commanders in chief. Are you aware that Tom Carew only  
3 attained that position in around the year 2000?

4 A. Yes, I am aware of that.

5 Q. So when you were referring to, let us say, his pre-war,  
6 pre-junta period and his comments on that, he wasn't a  
7 particularly senior officer then, was he?

8 A. Well, no. But, you know, I -- we have been covering this  
9 before. I think if people at that level --

10 Q. But he wasn't at that level at the time, was he, at the  
11 time?

12 A. Well, he was pretty senior at the time.

13 Q. In fact, he was pretty senior, and I believe you were a  
14 little bit dismissive of TRC-01. Did you know throughout that  
15 period TRC-01 was his commander; he held a higher rank and higher  
16 appointment?

17 A. I didn't know that.

18 Q. Anyway, if we come back to how you made your conclusions on  
19 coherence, at any rate, I tell you that Tom Carew wasn't there,  
20 and he wasn't here, so that source is out. And TRC-01, as we've  
21 discussed, he wasn't a part of it, so where have you got your  
22 information to draw this conclusion?

23 A. Well, as I've stated before, you come to the conclusion by  
24 reading the statements in TRC.

25 Q. Okay. But you didn't actually speak to anyone I just named  
26 in that chain of command?

27 A. No, I did not.

28 Q. Okay. So I suggest to you that a coherent chain and  
29 command was in operation during the AFRC government period, which

1 is May 1997 to February 1998?

2 A. In my mind, not at all.

3 Q. Okay. So, if that's not the case, please can you explain  
4 to me how this non-existent military organisation, on paper, was  
5 able to drive ECOMOG forces out of Freetown after 25 May 1997  
6 coup?

7 A. I don't know that.

8 Q. Can you explain to me how this non-existent military  
9 organisation or force, on paper, without command and control,  
10 were able to defeat ECOMOG at Mammy Yoko during the early days of  
11 the coup?

12 A. No, and then I have to go into --

13 MR KNOOPS: Your Honour, at this point I must object. The  
14 Prosecution is, for this bold conclusion, and putting this to the  
15 expert, relying on TRC-01. But in the transcripts of TRC-01 he  
16 clearly stated when he came back in August 1997 there was a weak  
17 command and control. You find it in the transcripts at page 19  
18 and 30. So the Prosecution cannot put to the expert that the  
19 sources he relies on, in phrasing his question to the expert, are  
20 based on TRC-01, because TRC-01 made a clear distinction in his  
21 testimony on Monday, between the period 1991 and 1996, on the one  
22 hand, and his return in August 1997, and he has stated that at  
23 that time there was resentment under the military, and there was  
24 a weak command and control.

25 PRESIDING JUDGE: How is your objection connected to  
26 Mr Agha's last question? Well, it has got nothing to do with it.

27 MR KNOOPS: Really, it's misleading. It's misleading the  
28 expert.

29 MR AGHA: I didn't suggest that TRC-01 --

1           PRESIDING JUDGE: All that Mr Agha asked him is how this  
2 non-existent force, on paper, was able to defeat ECOMOG at the  
3 Mammy Yoko. Now, how does that relate to your objection?

4           MR KNOOPS: Because, in coming to that question, the  
5 Prosecution refers to, among others, TRC-01.

6           PRESIDING JUDGE: I didn't hear him refer to TRC-01.

7           MR KNOOPS: He did.

8           MR AGHA: I believe I didn't.

9           PRESIDING JUDGE: He did not, Mr Knoops.

10          MR AGHA: It was a general question.

11          PRESIDING JUDGE: Just to make it perfectly clear, so that  
12 Mr Knoops can hear it again, can you repeat the question?

13          MR AGHA: And I am trying, Your Honours, to make it clear  
14 when I am talking about TRC-01, when I'm talking about the TRC  
15 report.

16          PRESIDING JUDGE: Look, Mr Agha, I have got no doubt the  
17 general understands your question, and I am overruling the  
18 objection.

19          MR AGHA: Thank you, Your Honour.

20 Q.       So can you explain to me, general, how this so-called  
21 non-existent military organisation, on paper, lacking command and  
22 control, was able to defeat the ECOMOG forces at Mammy Yoko just  
23 after the coup?

24 A.       Not if you -- unless you have the details of what happened  
25 at Mammy Yoko, and go into that specific event.

26 Q.       So you wouldn't really be in a position to comment upon,  
27 during that specific event, whether they had a functioning  
28 hierarchy of command and control, could you?

29 A.       No, I stated they didn't.

1 Q. Okay. But you didn't go into the detail of the event, did  
2 you?

3 A. No. Again, we have to realise that the historical part of  
4 my report was basically -- was only one aim. And the aim was to  
5 establish a sort of a starting point of the AFRC in the bush, and  
6 that that background was an ill-disciplined and unprofessional  
7 force. So that is the starting point from that. Now, that was  
8 my only aim in the first pages of the report.

9 Q. I entirely agree, general. That's why we spent some time  
10 on this, showing that in the case, I believe for the  
11 Prosecution's case, that that conclusion, based on the  
12 information you had at hand, was actually incorrect, and that it  
13 did have a functioning chain of command at the time of the coup,  
14 and, therefore, your assessment that they started from zero, that  
15 is why we are examining these points in some detail. So, now, if  
16 we, again, look at your conclusion based, as you say -- I mean,  
17 are you persuaded otherwise, that the chain of command, from all  
18 the new evidence you have heard, in May 1997, was non-functioning  
19 and at zero?

20 A. Yeah, I'm not convinced.

21 Q. You are not convinced. Now, if there was no effective  
22 chain of command and it was at zero, how can you explain to me  
23 how the AFRC government managed to remain in power for nearly  
24 nine months whilst fighting the ECOMOG and the CDF?

25 A. Now, again, then I have to, you know, then I -- you have to  
26 make an analysis on the threats and otherwise.

27 Q. But --

28 A. I can't do that.

29 Q. But presumably, and I'm just saying hypothetically, if

1 there was a non-existent chain of command, and it was only paper,  
2 they ought to have been overrun within a matter of weeks,  
3 shouldn't they?

4 A. I can't answer that; depending on the threat.

5 Q. Well, let us say ECOMOG are attacking them and the CDF are  
6 attacking them throughout the country; would you say they ought  
7 to have been overrun, if they were a military organisation only  
8 on paper?

9 A. I don't know that.

10 Q. You can't comment?

11 A. No, I can't comment.

12 Q. Now, I would suggest to you that a military organisation,  
13 in command and control, in terms of command and control, did  
14 exist during the junta period. I'm not suggesting to you it was  
15 the best one, or by royal marines standards, but within the  
16 context of the African conflict, I'm suggesting to you that an  
17 effective -- the purposes of the AFRC junta command and control  
18 system worked?

19 A. I don't agree with that.

20 Q. Okay. Now, I would like to move on to a different area in  
21 your report, and this is just under this conclusion at 33. This  
22 is concerning political and military mismanagement and the  
23 implications on the junior officers and other ranks within the  
24 army. This is again at page 17, and paragraph 34. Now, at  
25 paragraph 34, you say that, "It is important that junior officers  
26 and other ranks are led by competent superiors who led by example  
27 and are of irreproachable behaviour"; that's right?

28 A. That's right.

29 Q. Okay. Now, what evidence did you personally collect to



1 suggest that all the senior officers in the SLA, prior to the  
2 coup, and we are going back before the takeover now, because this  
3 is which your part of the report covers, possessed, lacked all  
4 the above qualities?

5 A. I don't think my conclusion is that all, in other words 100  
6 per cent but based, you know, again, on the secondary sources,  
7 you see, over 30 years, a tendency, by senior officers, to enrich  
8 themselves and to be corrupt. Now, where do I get that from?  
9 It's one of the primary findings in the TRC report.

10 Q. But --

11 A. And I tried to give examples, and quotes.

12 Q. But general, corruption doesn't equal incompetence, does  
13 it?

14 A. Not in a military sense but it's about, and that's what we  
15 started out, the way you treat your men.

16 Q. And we will come to the way you treat your men because that  
17 is also covered here, but essentially, if we look at let's say  
18 how you treat your men, just as an example, you have trained  
19 professional soldiers, let's say like you were, I am also a  
20 trained lawyer. Now, I may not be happy with what I am paid, my  
21 package, my welfare benefits et cetera, but it doesn't make me  
22 any less well-trained, does it?

23 A. No, but your credibility is down.

24 Q. Maybe so, but it doesn't make me any less well-trained to  
25 perform my job, does it?

26 A. No, it doesn't.

27 Q. Okay. Now, and when you say that you didn't find, there  
28 were some officers who had good competent qualities, these would  
29 include, presumably, Tom Carew, who you talked -- spoke about,

1 Kallay Conteh and they were around, competent officers, at that  
2 time, weren't they?

3 A. Well, you know, again, I didn't go into individual  
4 officers. That was not part of any of my assignments or wishes  
5 to do so. What I wanted to do is describe the tendency of many,  
6 many senior officers, and enriching themselves while the junior  
7 ranks were neglected.

8 Q. But that doesn't make them incompetent to fulfil their  
9 functions, does it?

10 A. Well, purely military, no, but otherwise --

11 Q. That is what we are interested in, military aspects?

12 PRESIDING JUDGE: Well, what were you going to say,  
13 general? But otherwise what?

14 THE WITNESS: Well, purely military, you can be a very  
15 competent officer. Now, when you are a senior officer and you  
16 are corrupt, and you neglect your men, you know, I personally  
17 feel then you are unfit for the job. That's what I wanted to  
18 say.

19 MR AGHA:

20 Q. Now, even if some of these officers were, let us say,  
21 incompetent, you are aware that during World War I there were  
22 allegations that British army officers were incompetent at the  
23 front?

24 A. Well, maybe so.

25 Q. But even if there were incompetent officers it wouldn't  
26 mean that the army ceased to be a military organisation, would  
27 it?

28 A. No.

29 Q. And when you talk about corruption, I don't know if you

1 have had the chance to read the Hamouda Remand Report, which is a  
2 report into the debacle where East Pakistan was lost and became  
3 Bangladesh; have you had the chance to read that?

4 A. No, I didn't.

5 Q. Essentially, that came to the conclusion that there was a  
6 large degree of corruption in the Pakistan army, amongst the  
7 higher ranks but, notwithstanding that, it still remained an  
8 effective military organisation. Are you aware of that?

9 A. But I didn't relate the two. I wanted to relate the fact  
10 that within a military organisation you need officers with  
11 impeccable behaviour and not corrupt and taking care of the  
12 troops.

13 Q. But if you are corrupt, let's say you enrich yourself and  
14 steal money and help yourself, it doesn't necessarily mean you  
15 are not looking after your troops, does it?

16 A. Well, I think you can't combine the two really.

17 Q. Well, why not? I can steal \$1 million and still treat my  
18 troops reasonably well, can't I?

19 A. Yes. But, based on the history, you know, it was stealing  
20 and depriving the soldiers from rice; it was don't taking care of  
21 their own. If you steal \$1 million elsewhere and the men don't  
22 suffer, but the men suffered. That is what I wanted to make, the  
23 point.

24 Q. Now, at paragraph 35 at page 12 -- sorry?

25 PRESIDING JUDGE: Isn't it paragraph 35 is at page 18?

26 MR AGHA: Page 18, I beg your pardon, Your Honour.

27 Q. It's at paragraph 35 of your report, general, and it's at  
28 page 12. Page 18, I beg your pardon. It was my marking on my  
29 own document I was reading. You say that, the final two lines of

1 paragraph 35: "In the absence of leadership understood in this  
2 way military command and control will be seriously hampered." So  
3 when you say it would be hampered, it still means that it would  
4 still be there, though less effectively?

5 A. Well, yes.

6 Q. Okay. And if we look now at paragraph 36, which is the  
7 next paragraph, this is at page 18, you mention that soldiers in  
8 the conflict zones had shortage of fuel, food, medication and  
9 spare parts, don't you?

10 A. I do.

11 Q. But you would agree with me that some of these commodities  
12 were available, wouldn't you?

13 A. It, for me, was important the general description of,  
14 especially the men who are doing the hard work, were deprived  
15 apparently of so many sources.

16 Q. But these particular materials we are talking about, at the  
17 front line, we are really talking about fuel, food, medication,  
18 spare parts, ammunition?

19 A. Yes.

20 Q. And things of this nature?

21 A. Yes.

22 Q. Now, you would agree with me that it did exist although  
23 maybe as not sufficient quantity as would have been liked?

24 A. I don't know that.

25 Q. Well, if I were to say to you TRC-01 who was at the front  
26 line said that ammunition was adequate, medicine was adequate,  
27 transportation was --

28 PRESIDING JUDGE: Look, Mr Agha, isn't that something you  
29 can put in your final submissions?

1 MR AGHA: I can.

2 Q. But I'm just saying would you have any -- would that change  
3 your opinion if you had been aware of that?

4 A. Well, of course, maybe during a certain period it could.  
5 But the general statement about the many years that the troops  
6 didn't have the things they really needed to perform the jobs,  
7 but it was very convincing for me.

8 Q. But notwithstanding, not seeming to have what they needed  
9 to perform their jobs, between 1991 to 1997, they were still able  
10 to effectively keep the RUF at bay, weren't they?

11 A. You know, then I really had to go into another question to  
12 answer that. Whether it was like Keen states, collusion, and I  
13 don't know, that would be speculation. Then I have to go into a  
14 different area.

15 Q. But you can't explain why they remained undefeated from  
16 your own knowledge?

17 MR KNOOPS: That has already been asked and answered  
18 several times, Your Honour.

19 PRESIDING JUDGE: Yes, it has been asked. Now, this might  
20 be an appropriate time to take a break. Mr Agha, I note with  
21 some alarm that you are now cross-examining on page 18 and there  
22 are 87 pages to the report. So bear in mind that not everything  
23 has to be spelt out to this tribunal. We will adjourn now,  
24 general, until 11.00 and remind you not to discuss the case.

25 THE WITNESS: Yes, Your Honour.

26 [Break taken at 10.45 a.m.]

27 [Upon resuming at 11.05 a.m.]

28 PRESIDING JUDGE: Go ahead, Mr Agha.

29 MR AGHA:

1 Q. General, just before the break we were looking at various  
2 parts of your report and if you could kindly turn now to  
3 paragraph 38, which is page 19 I think, through to 21, it's (a)  
4 to (f)?

5 A. Yes.

6 Q. Now would you agree with me that these are the findings of  
7 the TRC?

8 A. Correct.

9 Q. And you would see it, 38(b) -- 38(a) actually, that even  
10 the TRC findings that, on line 2, the army was only weakened,  
11 wasn't it?

12 A. Yes.

13 Q. And now obviously, as we have been discussing, you have  
14 been relying on the TRC as one of your sources and I would like  
15 to turn at paragraph 39 and 40. And we have been, a part of the  
16 area you wanted to go into, or wanted to bring to my attention is  
17 that the soldiers, themselves, were not treated very well?

18 A. Yes.

19 Q. And I believe this is covered in 39 and 40?

20 A. Yes.

21 Q. Okay. And I think at paragraph 40, at page 21, in  
22 particular, you rely on the frustration. Let me read it to you.  
23 Paragraph 40, page 21: "The frustration of the soldiers that led  
24 to the coup is aptly captured by the sentiments by Sergeant  
25 Alfred Sankoh." That is one of the sources you quote?

26 A. Yes. Of course then I rely on TRC.

27 Q. Now, if we were to actually look at the footnote for that,  
28 I believe it would be important that, 75, and it's TRC Volume 3A  
29 chapter 3.242, and now with the permission of the Court, I would

1 I like to show the witness a copy of that extract, if you like,  
2 that part of the report which is footnoted. And also a copy to  
3 the Chamber and Defence. My case manager has these, so if the  
4 Court --

5 PRESIDING JUDGE: This would be something you've seen  
6 already, general, I take it?

7 THE WITNESS: Yes, Your Honour. I've seen it on the -- in  
8 the TRC report probably.

9 MR AGHA: It's one of his footnotes. So in fairness I  
10 wanted the general to actually see what I was talking about.

11 Q. Now, this is TRC report, well, this is a copy at least,  
12 taken from Volume 3A, chapter 3, page 242, and it's your citation  
13 for the disgruntlement of Zagallo; is that right?

14 A. Of who?

15 Q. Sankoh?

16 A. Yes.

17 Q. Yes. Now, you will see that on the first page you have the  
18 heading "Staging the Coup" at paragraph 677?

19 A. Yes.

20 Q. And if I'm right, the part which you cite is a sort of  
21 indented part; is that right?

22 A. Yes.

23 Q. Okay. So let me read what 677 says. And this is the  
24 indented part I believe you are relying on, but we will come to  
25 that:

26 "The mastermind of the 25 May 1997 coup was Sergeant Alfred  
27 Abu Sankoh (alias 'Zagallo'). The coup was not detected by the  
28 officers or the military intelligence because it was planned on  
29 the 24th and executed the next day. Zagallo was a bodyguard for

1 a former secretary of state during the NPRC regime, and had  
2 enjoyed a lot of benefits from that association. He was also a  
3 footballer and had been associated with a number of Freetown  
4 clubs and was finally requested to set up a football club for the  
5 army. The membership of the club was to provide the nucleus of  
6 the coup plotters. Zagallo gave vent to the frustrations in the  
7 army that led to the coup."

8 And then that's the part, the large part I believe you  
9 quote?

10 A. Correct.

11 Q. And that is actually a footnote there at 280, do you see,  
12 at the end of the indentation?

13 A. Yes, yeah.

14 Q. And that now at 280, that is, the source is: "Alfred Abu  
15 Sankoh, (alias 'Zagallo'), former sergeant in the Sierra Leone  
16 Army and one of the 17 coup leaders of the AFRC coup of May 1997  
17 (subsequently executed after court martial proceedings);  
18 statement given to the Sierra Leone Police Force at Defence  
19 headquarters, State Avenue, Freetown; 27 to 31 March 1998."

20 A. Yes.

21 Q. And did you have the opportunity to read that statement in  
22 full?

23 A. The full statement, you mean in 280, as mentioned in 280?

24 Q. Yes, the 280 is an excerpt from --

25 A. No, no, I relied on this.

26 Q. Okay. And if you saw the full statement you would have no  
27 reason to doubt that either, would you?

28 A. No.

29 Q. And we have an exhibit of that statement in the Court, so



1 just in case you would want to see that. It's exhibited at P88  
2 and that's --

3 PRESIDING JUDGE: Well, just put a question to him. I am  
4 sure the witness doesn't know what you are getting at, Mr Agha.

5 MR AGHA: Sure, I will get there.

6 Q. Now, would you agree with what Zagallo is essentially  
7 saying as you've relied upon it in your report?

8 A. I relied on what I've stated in my report because it is  
9 supported but, you know, it's not something total new I all of a  
10 sudden read. It's something I read because it has been indicated  
11 over -- at so many other places.

12 Q. Now, but you would agree with me that paragraph 677, I've  
13 just read to you --

14 A. Yes.

15 Q. -- that is from the TRC report?

16 A. Yes.

17 Q. You would have no reason to doubt that, would you?

18 A. No.

19 Q. And now I will read you paragraph 679:

20 "On the morning of 24 May 1997, Zagallo assembled his team  
21 of footballers numbering 17 at the billet of the Wilberforce  
22 barracks where the footballers were camping and reiterated the  
23 problems in the country to them, the need for them to take  
24 action, and that the way forward had been presented to him in a  
25 dream the previous night. He was told in the dream that all  
26 their problems were caused by the senior officers. They agreed  
27 to arrest all the senior officers and detain them at the military  
28 headquarters in Cockerill, Freetown. They further resolved to  
29 carry out the operation the next day. In attendance at this

1 meeting were the following people, listed overleaf: ".  
2

3 And if we turn overleaf, I'll read the 17 names listed:  
4

- 5 "1. Sergeant Alex Tamba Bri ma
- 6 2. Lance-Corporal Tamba Gborie
- 7 3. Corporal George Adams
- 8 4. Warrant Officer II Franklyn Conteh
- 9 5. Warrant Officer II Samuel Kargbo
- 10 6. Sgt. Ibrahim Bazzy Kamara
- 11 7. Sgt. Bri ma Kamara
- 12 8. Sgt. Moses Kabia alias Rambo
- 13 9. Sgt. Sullay Turay
- 14 10. Corporal Mohammed Kanu alias 55
- 15 11. Corporal Momoh Bangura
- 16 12. Lance Corporal Foday Kallay
- 17 13. Lance Corporal Papa Bangura alias Batuta
- 18 14. Ex SSD Officer Hector Lahai
- 19 15. Civilian Bio Sisay
- 20 16. Abdul Sesay, a civilian staff of the army, and
- 21 17. Sgt. Abu Sankoh (alias 'Zagallo')."

22 Now, based on your reliance on the TRC report you would  
23 have no reason to disbelieve this, would you?

24 A. No.

25 Q. So you would agree with me that according to the TRC report  
26 those I just named, listed 1 to 17, were those who overthrew the  
27 Kabbah government in May 1999?

28 A. That is what the TRC says.

29 MR KNOOPS: Your Honour, I object. I think the Prosecution  
is again asking the witness about the issue of the evidence, the  
matter whether the TRC report should be believed when it concerns

1 the individual persons.

2 PRESIDING JUDGE: What is your answer to that?

3 MR AGHA: Well, Your Honour, we -- firstly, we are looking  
4 into the historical background as mentioned yesterday, and the  
5 TRC report as mentioned is quoted extensively in the report by  
6 the expert. So if he is placing reliance on some parts of the  
7 report I don't see any reason why he can't also give his point of  
8 view on other parts of the report.

9 PRESIDING JUDGE: Well, he looked at the report, as I  
10 understand it, at the TRC report, to compile his own report on  
11 matters that are not related to the question you just asked.

12 MR AGHA: Well, if, Your Honour, this is actually a part of  
13 the statement which he is actually quoted in his report.

14 PRESIDING JUDGE: Yes, but for a different purpose, wasn't  
15 it? Wasn't it for a different purpose? He didn't quote it to  
16 set out who the coup plotters were.

17 MR AGHA: No, that is true, but it was quoted to show that  
18 the men were, let's say, having a dissatisfaction with their  
19 senior officers. Now, it is the argument of the Prosecution that  
20 it was this dissatisfaction which led to the coup. So I don't  
21 see that any reason why we can't comment upon those people made  
22 in the statement.

23 PRESIDING JUDGE: Well, I don't know what value the  
24 general's evidence would be on this point. He is not looking at  
25 the TRC report to ascertain who the coup plotters were but maybe  
26 you can clarify that with the general.

27 MR AGHA: Yes. I will try, Your Honour.

28 Q. So, general, you were not looking at the TRC report as a  
29 particular focus to find out who the coup plotters were, were

1 you?

2 A. I was happy that was not my task. I only look again, I  
3 only look at the military aspects and again, for establishing a  
4 starting point, that's all. It's a sort of an entre to my study  
5 really, or my report.

6 Q. And you relied quite extensively on parts of the TRC report  
7 in your study?

8 A. Yes, that is what I did where it, again, it concerns, you  
9 know, the military aspects and again with only that purpose  
10 because, basically, whatever I read in the history you can, you  
11 know, apart from the fact that I come to the conclusion that it  
12 was an ill displanned, and unprofessional force with  
13 undisciplined military men, you can, where I am concerned, you  
14 know, that is it.

15 Q. But you relied on the TRC report though, didn't you; "yes"  
16 or "no"?

17 A. In establishing that pattern.

18 Q. So you would have no reason to suggest that other parts of  
19 that report could also not be relied upon?

20 A. No, but I didn't study them.

21 Q. No, but you would have no reason --

22 A. No.

23 Q. Not to believe other parts --

24 PRESIDING JUDGE: Look, where is this going, Mr Agha? Can  
25 you put a direct question to him about something?

26 MR AGHA:

27 Q. So I would suggest to you, general, that the information  
28 which I just read out to you in the TRC report, naming who the  
29 coup plotters were, is correct?

1           PRESIDING JUDGE: Well, I won't allow that question. I  
2 won't allow it for this reason: That the general has provided an  
3 expert's report which, had it been prepared by a layman, would be  
4 inadmissible in this Court, because it's a matter of opinion and  
5 the general's opinion on who the coup plotters were, when that  
6 was not part of his research, is not admissible evidence.

7           MR AGHA:

8 Q. I'll just ask one final question: As a whole, do you have  
9 any reason to doubt any of the findings in the TRC report since  
10 you relied on them?

11 A. No.

12 Q. Thank you. Now, this question of the dissatisfaction of  
13 the forces was obviously an area you were looking into?

14 A. Yes, it was.

15 Q. And did you also look into this area and find any  
16 information in Keen?

17 A. Oh, absolutely.

18 Q. And in Keen, was he of the same view that the men had not  
19 been treated very well?

20 A. In general, I would say yes.

21 Q. Okay. Now, I want to refer you to Keen, and I know that  
22 you've read the book so, three times or so, but I will just read  
23 to you a small part on page 208. Now, this is the chapter 12  
24 which is the AFRC/RUF rise and fall so, presumably, you read the  
25 book three times so you would be reasonably familiar with this  
26 chapter?

27 A. It was a difficult book but --

28 Q. I know. But anyway, again, I will just read you a small  
29 part of that.

1 JUDGE SEBUTINDE: Please cite the page for us.

2 MR AGHA: It's page 208 of Keen's book, and it's at the  
3 start of the chapter, and it reads as under:

4 "The 25th May 1997 coup began when a group of soldiers  
5 arrested a number of senior officers and then used grenades to  
6 blast open Pademba Road prison in Freetown, freeing some 600  
7 inmates and giving arms to jailed colleagues and ordinary  
8 criminals. Telling details of how the coup was hatched are  
9 provided in a statement made to Sierra Leone police by one of the  
10 ringleaders, Alfred Abu Sankoh, alias Zagallo."

11 And at footnote 1 is the same statement we just referred to  
12 in the TRC.

13 "On the day before the coup Zagallo called up a total of 17  
14 soldiers, including members of the army football team he was  
15 coaching and he told them he had had a dream in which a man had  
16 asked him why soldiers had allowed themselves to suffer such  
17 punishment in the army, adding that senior officers were to  
18 blame. They decided to take arms from the Cockerill barracks,  
19 Freetown (and found no soldiers guarding the unlocked stores).  
20 After surrounding senior officers at the military headquarters at  
21 Cockerill, other soldiers joined in with numbers rising quickly  
22 to around 100. They 'arrested' all the senior officers at  
23 Cockerill barracks and from there they went on to Pademba Road  
24 prison."

25 Now again, you've relied extensively on Keen. Would you  
26 have any reason to doubt what he is saying here?

27 A. No, I don't.

28 Q. Now, as you've mentioned you've rather had the arduous task  
29 of reading Keen three times, and it is one of your main secondary

1 sources. Now, I asked you earlier in cross-examination whether  
2 you had learned Ibrahim Bazy Kamara held the rank such as  
3 brigadier or colonel; do you remember that?

4 A. I remember asking the question.

5 Q. And I think you couldn't remember; is that right?

6 A. Well, I don't know what I answered but, again, I couldn't  
7 answer it probably correct because it was not the focus so,  
8 again, you know, reading that, I delete that information in a  
9 sense, because I didn't need it.

10 Q. No. And, anyway, I turn to Keen's book again, which we  
11 have all struggled through, and I refer to page 222 which is at  
12 the top of the page, and this again is one of your secondary  
13 sources, and I'll just read you a small part of that, if I may.  
14 "The RUF High Command used his presence in their dominant midst,  
15 not only to humiliate him and his family, but to cut him off  
16 completely with his men in the field and marginalise him.  
17 Whenever the High Command of the RUF wanted us to carry out a  
18 task, they would use his name, as if the orders came directly  
19 from him."

20 And this is footnoted at 5, there is a source for this in  
21 Keen's book, and I'll read you the source: "Grievances and  
22 demands of soldiers of the Sierra Leone Army with regard to the  
23 Lome peace agreement', September 1999, signatories include Koroma  
24 and Brigadier Ibrahim Bazy Kamara, Head of Military Delegation,  
25 Occra Hills."

26 Now again, as you've relied upon Keen as one of your  
27 sources, would you have any reason to doubt that?

28 MR FOFANAH: Your Honours, the quotation, respectfully, is  
29 not clear. It kept referring to a pronoun "him." And the

1 footnote is referring to two people. So I don't know what my  
2 learned colleague is -- who is the "him"?

3 MR AGHA: I don't think the him is the relevant. I think  
4 the relevant is the person who's actually signed the demand.

5 PRESIDING JUDGE: You are asking this witness for his  
6 opinion on whether Keen's opinion on that particular statement  
7 you've just read out is correct?

8 MR AGHA: No. I said that my understanding is I asked him  
9 whether he relied on Keen in his report and then on that basis he  
10 would have no reason not to rely on his --

11 PRESIDING JUDGE: But you didn't ask him whether he, the  
12 witness, relied on that particular statement.

13 MR AGHA: No.

14 PRESIDING JUDGE: And I think you should.

15 MR AGHA: Okay.

16 Q. Now, in your report did you rely on this statement?

17 A. On the statement you just --

18 Q. I just read to you.

19 A. Yeah. I don't know if I correctly understand rely; I  
20 didn't use it.

21 Q. You didn't use it. Okay. Now, you read the book three  
22 times, and it was one of your primary, secondary sources, I  
23 believe, but would you have any reason to doubt what is in Keen's  
24 book?

25 A. No.

26 Q. Now, did you learn from your research that Okra Hills was  
27 also referred to as the West Side?

28 A. Yes, I've come across.

29 Q. And did you hear that a group known as the West Side Boys



1 were operating there after the retreat from Freetown in January  
2 1999?

3 A. Well, again, I read it, but it didn't have effect on my  
4 report which was basically then, you know, having answered all  
5 the questions in a military way.

6 Q. But through your reading of the book three times did you,  
7 or any other sources, did you ever learn that Ibrahim Bazy  
8 Kamara was the leader of West Side Boys after the invasion of  
9 Freetown?

10 MR KNOOPS: Objection. This is clearly going too far.  
11 This goes to the indictment and again it goes outside the scope  
12 of the competence of the witness, the expert, and I think it  
13 ignores the ruling of Your Honours just a few minutes before.

14 PRESIDING JUDGE: What is your reply to that, Mr Agha?

15 MR AGHA: Well, I was asking as on yesterday, I am trying  
16 to test, through cross-examination, the research of the witness  
17 as to his sources in which he is able to make his decisions on  
18 his expertise.

19 PRESIDING JUDGE: Well, why don't you test his research on  
20 the subject matter of his report? Why go astray? This expert is  
21 holding himself out as an expert on the matters researched and  
22 stated in his report and he is giving his opinions on those. You  
23 are picking anything out of Keen and expecting him to express  
24 opinions on them and expecting this Court to accept his opinions  
25 on unresearched matters by him that are not within his sphere of  
26 expertise.

27 MR AGHA: Well perhaps, if I just suggest, as it's his  
28 source, whether he regards it as a reliable source, as I have  
29 been doing. This is the issue.

1           PRESIDING JUDGE: Well, you are generalising. You are  
2 generalising. Of course he is saying it's a reliable source for  
3 what he says in his report, but it doesn't follow that this  
4 witness regards it as a reliable source for everything even the  
5 matters that he hasn't considered.

6           MR AGHA: Okay. I can rephrase the question.

7           PRESIDING JUDGE: So you are being unfair in the way you  
8 are putting these questions.

9           MR AGHA: I can rephrase the question.

10          MR FOFANAH: Your Honours, if my learned colleague is going  
11 to rephrase the question then may I, on behalf of the second  
12 accused, also object on the grounds of --

13          PRESIDING JUDGE: You are objecting to a question he hasn't  
14 asked yet; is that correct?

15          MR FOFANAH: No, it is based on the last question which he  
16 put.

17          PRESIDING JUDGE: I just overruled him.

18          MR FOFANAH: I am sorry about that, Your Honour.

19          MR AGHA:

20 Q.       So witness, you say you read Keen's book three times and  
21 would you have, from your reading of the book, any reason to  
22 doubt what was in it?

23 A.       Again, focused on the issue I studied, I relied on that.

24 Q.       But would you have any reason to doubt any of the other  
25 areas he is speaking about in the book you read three times?

26 A.       No.

27 Q.       Okay. Now general, I would like to look at your  
28 conclusions, which are on page 22 of your report. Now at  
29 paragraph 42, this is page 22, you opine that the history of the

1 SLA and People's Army, from May 1997 onwards, shows a  
2 disintegration of a military organisation, don't you?

3 A. Yes.

4 Q. So you would agree with me that the RSLAF was a military  
5 organisation on its inception in around 1961, wouldn't you?

6 A. Yes.

7 Q. And you would agree with me due to political interference  
8 and mismanagement the RSLAF became less effective as a military  
9 organisation as time went on?

10 A. Yes, more than less effective, I would say but.

11 Q. I suggest to you that based on the new information which  
12 you have discussed especially from TRC-01, and which you may not  
13 have been aware of before you wrote the report, that the RSLAF  
14 had not totally disintegrated as a military organisation by 25  
15 May 1997?

16 A. Well, I wouldn't agree on that.

17 Q. I would suggest to you that the RSLAF did continue to exist  
18 as an effective military organisation up to at least 25 May 1997.  
19 What do you have to say about that?

20 A. No.

21 Q. I suggest to you that the RSLAF continued to exist as a  
22 military organisation after the 25 May coup of 1997 until the  
23 intervention in February 1998. What do you have to say about  
24 that?

25 A. Can you please rephrase it?

26 Q. Sure. That the Sierra Leone Army remained an effective  
27 military organisation?

28 A. Yes.

29 Q. Between May 1997 until the intervention in February 1998?

1 A. Yeah, then it was not the SLA. The AFRC you mean.

2 Q. The AFRC?

3 A. The AFRC. The answer will be no.

4 Q. Okay. Now at paragraph 44, page 22, would you turn to  
5 paragraph 44. And I just read you a part of this. This is your  
6 report and this is, I think it actually, rather than the TRC this  
7 is actually your conclusion. "Many officers and other ranks, who  
8 once were a member of the SLA, joined the AFRC military  
9 organisation after the coup of 1997. As indicated above, they  
10 came from an appalling military background. There was low  
11 morale, no discipline, no training, no leadership, no hierarchy,  
12 no equipment, no organisation, no welfare system for rank and  
13 file, no prospect, no military command and control, and last but  
14 not least, no hope for improvement."

15 And then you quote from the TRC again an opinion of  
16 Brigadier Maada Bio. Now, essentially, I want to look at what  
17 you've opined. Based on the new evidence you've heard, I would  
18 suggest to you that the situation was not such that there was no  
19 discipline?

20 A. Basically, I believe there was no discipline. The TRC  
21 states ill-discipline but I don't, in my military view, I think  
22 there was no discipline.

23 Q. Well, at paragraph 44, in your opinion, it's an absolute.  
24 It's no discipline. I suggest to you that is not accurate?

25 A. Well, you know --

26 Q. It either is or it isn't?

27 A. I believe there was no discipline as I know it.

28 Q. Okay. So despite the various transcripts and new evidence  
29 that is coming to light, you would regard there being no

1 di sci pline?

2 A. Yes, absolutely.

3 Q. And what is discipline, as you know it?

4 A. Well, discipline has to do with soldiers trained in  
5 discipline, good behaviour by all.

6 Q. If I may pause you there just a minute, general, weren't  
7 the soldiers trained to follow orders in training and didn't they  
8 follow those orders in combat and were they not aware that if  
9 they didn't follow orders they would be subject to discipline?

10 A. They were apparently to TRC-01 but not according to my  
11 sources.

12 Q. No, according to some of the statements of some of the  
13 ordinary other ten or so former SLA witnesses who I read to you  
14 yesterday, I didn't want to read all ten because the learned  
15 Bench suggested to me otherwise, but just according to those two  
16 or three it existed?

17 A. Well, you know, after this extensive research I came to  
18 that conclusion and I, in that sense, if you say, well, there was  
19 discipline between two men, you know, I am talking about the  
20 broad spectrum of the SLA.

21 Q. But you are talking in absolutes, that there was none,  
22 throughout the entire SLA. That can't be accurate, can it?

23 A. But to me, you know, I wrote it as a matter of wording.  
24 Now, whether you now nail me on the fact whether it's -- no is  
25 absolute.

26 Q. Well, it's your report general, and it says no discipline.  
27 It could have said very little, marginal or -- but it says no  
28 discipline?

29 A. Well, yes.

1 Q. So would you agree with me that that may be slightly  
2 inaccurate?

3 A. Well, if you state it absolutely, if you say no or  
4 marginally, I could indeed have stated marginally.

5 Q. So it is incorrect to say no discipline?

6 A. It's a matter of wording.

7 Q. Well, exactly. And there is a difference between  
8 marginally and none. So I'm saying to you was there some  
9 discipline or was there none?

10 A. I found that within the SLA and the AFRC there was, in  
11 general, and I speak in general, all the things I mentioned here.

12 Q. But we are just confined to discipline at the moment. We  
13 are going to go through each of these because you have opined  
14 absolutes on each of them. So my question to you is that is not  
15 a correct statement that there was no discipline, is it?

16 A. I keep it as it is. I find there was no discipline.

17 Q. Notwithstanding TRC-01?

18 A. Absolutely.

19 Q. Under oath and the other ten or so SLAs who comment upon  
20 it?

21 A. Absolutely.

22 Q. We then come to no training. Now, we've heard again --  
23 well there has been at least, again, about ten former SLA Defence  
24 witnesses who have given evidence that they received between  
25 three to six months training, so, you would agree with me that  
26 this statement there was no training is inaccurate?

27 A. No, it's not, because training does not only relate to  
28 initial training. And there are a lot of sources indicating that  
29 troops never attended any training while with operational units.

1 Q. But you've not made that distinction in your report, have  
2 you?

3 A. I did.

4 Q. Well, in this part it says there was no morale, no  
5 discipline, no training?

6 A. Yes, I didn't do it here.

7 Q. No, and it's the report we are discussing, general.

8 A. But I discussed it at other places in my report.

9 Q. But this is the conclusion?

10 A. Yes.

11 Q. And the conclusion, having drawn together all the other  
12 places, is there was no training?

13 A. Yes.

14 Q. Now, would you not agree with me that that is not an  
15 entirely accurate statement bearing in mind --

16 A. No, I wouldn't.

17 Q. Okay. Now nextly, we have no leadership. Now, again, are  
18 you saying that having heard TRC-01 and the other SLA soldiers  
19 under oath said they followed ranks, they followed orders and  
20 commands, can you say, is that absolutely accurate? There was no  
21 leadership in the whole of the SLA army?

22 A. If I define the leadership I define throughout and then I  
23 believe --

24 Q. Just a minute; so there was none throughout?

25 A. The leadership --

26 PRESIDING JUDGE: Let him finish, Mr Agha. The general is  
27 trying to explain what he meant by no leadership.

28 THE WITNESS: Yes, I believe that.

29 MR AGHA:

1 Q. And then we have no hierarchy. Now again, you heard, and  
2 please, I would ask you not to express an opinion on whether you  
3 believe TRC-01, or whether indeed you believe the Prosecution  
4 witnesses you studied in your report. It's based upon the  
5 information put before you. Likewise, the Defence witnesses who  
6 are in the SLA and spoke about the training and so on and so  
7 forth. It's not a question whether you believe or not?

8 A. Yes.

9 Q. It's a question based on what you heard. Now based on the  
10 new evidence would you say that there was no hierarchy?

11 A. Yes.

12 Q. I would suggest to you that there was at least some  
13 hierarchy in the SLA prior to the coup?

14 A. I don't believe that.

15 Q. I would suggest to you there was also some training in the  
16 SLA prior to the coup?

17 A. No.

18 Q. I would also suggest to you that there was some discipline  
19 within the SLA prior to the coup?

20 A. No.

21 Q. And we then come no equipment. What do you mean by no  
22 equipment?

23 A. With equipment, I mean the availability of equipment in  
24 good order. So you may have equipment but it may not function.

25 Q. So are you suggesting there was no functioning equipment in  
26 the SLA?

27 A. Yes.

28 Q. Then how did they manage to defeat the RUF in battle for  
29 over six years with no functioning equipment? Can you explain



1 that?

2 A. Then I have to --

3 MR KNOOPS: I think this is already asked and answered  
4 several times.

5 PRESIDING JUDGE: That wasn't -- when the witness answered  
6 it before it wasn't in relation to equipment. I will overrule  
7 that objection. Go ahead, Mr Agha.

8 MR AGHA:

9 Q. So can you explain to me if they had no functioning  
10 equipment, the SLA, in the period you've studied, how they  
11 managed to keep the RUF at bay for over six years?

12 A. Well, then you have to look at the situation at hand.

13 Q. But how can you explain it? Six years of fighting against  
14 an enemy with bullets and ammunition and you have no functioning  
15 equipment?

16 A. Well, they didn't defeat them either. There may be a  
17 status quo. Then I had to look into --

18 Q. But surely, general, if one side has no functioning  
19 equipment over six years it's going to be overrun, isn't it?

20 A. Well, it didn't happen.

21 Q. Well, have you read about the RUF?

22 A. No, it was not part of my study.

23 Q. But if I were to tell you the RUF had functioning  
24 equipment, and that was the case, then if the SLAs had no  
25 functioning equipment they ought to have been overrun within six  
26 years, oughtn't they?

27 A. I can't comment on that.

28 Q. Well, what is your opinion? I mean, it's a question --  
29 one, it's hypothetical as with all experts. If one side is

1 armed, with functioning working equipment, and it's trying to  
2 take over Sierra Leone, and the other side is unarmed, well is  
3 armed, but with no functioning equipment, in your expert opinion,  
4 the side with the functioning equipment ought to prevail,  
5 shouldn't it, over six years?

6 A. Well, generally, it would.

7 Q. Now, you say again in your conclusion that there is no  
8 organisation. Now, I would suggest to you that there was some  
9 organisation within the SLA prior to the May 1997 coup, for  
10 example, looking at the battalion structure of TRC-01, as he set  
11 it out, if he is to be believed. So would you agree with me  
12 there was some organisation?

13 A. There would at most be a semblance to an organisation.

14 Q. So it's inaccurate in your report to say no organisation,  
15 isn't it?

16 A. From my perspective.

17 Q. No, but from the plain reading of it?

18 A. Yes.

19 Q. Right. And you also say no welfare system for rank and  
20 file. So, are you suggesting -- well, firstly, what do you mean  
21 by welfare system?

22 A. Well, welfare system has to do with all regulations  
23 concerning the men; their pay; what happens to you if you get an  
24 accident; what happens to you if you are in combat; what happens  
25 to your dependants; how is your pension; and if you then look at  
26 the system you see also what TRC-01 stated. Well, you know, I  
27 didn't --

28 Q. Well, if we break that down, one of the areas is no welfare  
29 system and one of those areas is pension. Are you suggesting

1 that no pension was paid to any former member of the SLA between  
2 1991 and 1997?

3 A. I wouldn't know, but I would imagine it was very, very  
4 limited, if at all.

5 Q. But they would have received a pension, some of them at  
6 least, wouldn't they?

7 A. I can't -- I don't know that.

8 Q. And another aspect I think you refer to is how they treated  
9 their wounded?

10 A. No, I didn't mean how they treated their wounded. It's a  
11 matter of what happens to you if you get wounded.

12 Q. Okay.

13 A. How is your -- how is the system set up to not treating,  
14 treating you in a way, let's say treating your wounds but it's  
15 more how are the regulations to take care if you can't properly  
16 function any more.

17 Q. But would you say to me that to say that there was  
18 absolutely no welfare system for rank and file throughout the  
19 period 1991 to May 1997 --

20 A. Well, it may have to read very limited.

21 Q. Okay. So that part is inaccurate; you would agree?

22 A. Oh, yes, what is the question, yes? You know, it's again,  
23 yes, I could have said the same reason, you know, very limited or  
24 substandard or marginal.

25 Q. Now, if we look again, you see there is no military command  
26 and control. Now, based upon what the former SLAs have said here  
27 in evidence, and TRC-01, who was a senior officer at the  
28 battlefield at that time, if they were to be believed, would you  
29 say that there was still no military command and control?

- 1 A. What I mean is the level I was looking at.
- 2 Q. Here it says --
- 3 A. And no command and control.
- 4 Q. -- here is an absolute and we are talking about a given  
5 period?
- 6 A. Yes.
- 7 Q. Which we have been discussing about the history?
- 8 A. I know but, I mean, with no command and control that the --  
9 let's say the top of the Sierra Leone Army was not able to  
10 control -- to carry out proper military command and control.
- 11 Q. So, you still think there was absolutely none, not even a  
12 small degree?
- 13 A. Well, from that level, yes.
- 14 Q. Okay. So if there was absolutely no military command and  
15 control from presumably -- is it the top level you are talking  
16 about?
- 17 A. Towards the level I was dealing with.
- 18 Q. The level you were dealing with. How can you explain,  
19 again, that this army with no command and control managed to keep  
20 it's adversary, the RUF, at bay for over six years?
- 21 A. I don't know that.
- 22 Q. I would suggest to you that there was an element of command  
23 and control before the May 1997 coup?
- 24 A. Well, not at the level I was indicating here.
- 25 Q. Okay. So, we've looked at the conclusions and the next  
26 part is part C, which is the types of conflict and the character  
27 of the operations of the AFRC conflict. This is part C, which  
28 starts on page 23 of your report?
- 29 A. Yes.

1 Q. Now, would you agree with me that in this part of your  
2 report you are largely dealing with the distinction between an  
3 irregular and regular military force?

4 A. I was dealing with the question of operation. Irregular  
5 military action or regular military action. And therefore you  
6 establish an irregular force.

7 Q. Okay. Now, at paragraph 49, if we can go there, on page  
8 24, this is where you have defined with respect to modus operandi  
9 of the party -- a distinction between I believe the words are in  
10 the second line -- a regular military way and parties who operate  
11 in an irregular military way and are therefore characterised as  
12 an irregular military force?

13 A. Yes.

14 Q. And that definition, you've actually gone further and you  
15 are saying that that, being defined by exclusion, there is a lot  
16 of variance in what comes under the term. It can refer to the  
17 type of organisation or the type of tactics used; is that right?

18 A. Yes.

19 Q. And your reference to that is footnote 83 Wikipedia  
20 irregular military; is that right?

21 A. Yes.

22 Q. Now, I pulled up a copy of this Wikipedia, to see what it's  
23 definitions were, and this was a couple of days ago, and it  
24 reads: "Irregular military refers to all of the world's armed  
25 forces except for the SLA." It then says: "An irregular  
26 military organisation is anyone who would oppose the AFRC  
27 forces." It then says: "Irregulars are generally ECOMOG  
28 soldiers or loyal SLAs. Irregular warfare is warfare waged  
29 against the AFRC." Now, would you agree with me that Wikipedia

1 is not a very reliable source for definition?

2 A. I used this as a further explanation but, as you can see, I  
3 based my entire explanation on irregular or regular forces on  
4 doctrine.

5 Q. But you would agree would me that Wikipedia isn't a very  
6 reliable source to be quoting?

7 A. Well, if you quote it here, that is of course right.

8 Q. Okay. Now, I'm suggesting to you that you referred to  
9 Wikipedia as a last resort because in doctrinal military circles  
10 there is no agreed definition of what amounts to an irregular  
11 military force; is that a fair assessment?

12 A. No, absolutely not. I rely on the Netherlands defence  
13 doctrine, which was established in 2005, and, you know, you can  
14 find other sources where irregular may be explained in another  
15 way.

16 Q. So there other ways of defining and explaining --

17 A. Well, it's a matter of wording.

18 Q. Right.

19 A. But I relied this part in great deal because the Dutch  
20 defence doctrine, just renewed, was very clear on it.

21 Q. So if we look at paragraph 50, which is page 24, I believe  
22 you say that you focused on the operational side of the factions  
23 involved in the conflict to identify whether their modus  
24 operandi, which in your view is the most important factor, had  
25 the characteristics of a regular or irregular military action?

26 A. Yes.

27 Q. Is that correct?

28 A. Yes.

29 Q. Now when you say you looked into the operational sides of

1 the factions did you also look into the operational sides of the  
2 RUF and CDF?

3 A. No, it was not within my assignment.

4 Q. So which factions did you look into?

5 A. Well, I looked at the AFRC faction.

6 Q. And can you please explain to me how you were able to make  
7 an assessment of the operational side of the AFRC faction in the  
8 jungle if you did not personally interview any one who was a part  
9 of the operations in the jungle?

10 A. Because I based myself on the sources that were available  
11 to me.

12 Q. So for those in the jungle that would essentially be the  
13 transcripts which the Prosecution provided you with?

14 A. No. Also the view of Colonel Iron, as I stated before  
15 here.

16 Q. Okay.

17 A. Colonel Iron agrees with me. Now, he words it differently,  
18 but says the AFRC faction was a guerrilla force. Was a  
19 non-conventional army.

20 Q. No. Now, you say in paragraph 3, on page 3 of your report,  
21 this is going back to the very beginning, and I believe that  
22 towards the last three or four lines of the page: "More  
23 importantly the reconstruction of the total campaign and battles  
24 is not essential in formulating an opinion on the above-mentioned  
25 aspects of the SLA and AFRC faction. Reference to the actual  
26 campaigns will therefore be limited." So if you didn't think it  
27 was essential or important to look into that, how are you able to  
28 make any reconstructions or idea of the modus operandi?

29 A. Because based on the many transcripts, based on Iron, based

1 on Massaquoi, who are all describing certain parts, if you all  
2 add that up, the AFRC faction had the characteristics of an  
3 irregular force.

4 Q. Did you know that Massaquoi was in jail throughout the  
5 period that the AFRC faction was in the jungle?

6 A. I was.

7 Q. So, what assistance could he give you regarding the modus  
8 operandi of the AFRC whilst in the jungle?

9 A. Well, one of the things which he noticed while he was  
10 released was that he stated that the difference between AFRC and  
11 RUF the fighters were not recognisable. Are not recognisable.

12 Q. But that may not have been the case whilst they were  
13 operating in the jungle because he wasn't there?

14 A. Well, there are enough sources.

15 Q. No, but would you agree with me with regard to Massaquoi?

16 PRESIDING JUDGE: You should let the general finish his  
17 answer. You keep interrupting him, Mr Agha.

18 MR AGHA:

19 Q. I apologise, general.

20 A. Well, you know, there are enough sources and also in the  
21 findings of the TRC indicating that there were virtually no --  
22 there was no distinction between the two. There were no  
23 uniforms. There were no rank insignias. One couldn't distinct  
24 the one from the other. So it is only one characteristic of an  
25 irregular force.

26 Q. But Massaquoi himself was not in a position to tell you  
27 that in the transcripts, was he?

28 A. Well, I think that Massaquoi stated very clearly that even  
29 within his own organisation you couldn't distinct the different



1 units.

2 Q. I am talking about the AFRC faction in the jungle when  
3 Massaquoi wasn't there. He is of no help to you during that  
4 period?

5 A. Well, he is, because he saw the Freetown invasion and  
6 couldn't distinct who was who.

7 Q. Actually, he didn't see it. He was released from jail.

8 A. But of course, but then he didn't, he could not  
9 recognise -- and there are other ones, you know, stating that --

10 Q. Carry on.

11 A. No, there is no clear distinction between uniform-wise or  
12 recognisable between the two.

13 Q. Now, we will return to this question of distinction a  
14 little later. Now, if you didn't interview participants in a  
15 particular battle, you cannot comment on the operational nature  
16 of the organisations involved in the battle, can you?

17 A. Well, I can.

18 Q. How?

19 A. I can. Well, because I studied the information that is  
20 available to me. You come up to the conclusion and then,  
21 furthermore, the one whose report I'm analysing supports my  
22 vision.

23 Q. So, what I'm saying, did you personally speak to anybody  
24 involved in the AFRC faction in any of their battles?

25 A. No.

26 Q. And did you study the entire campaign of the AFRC faction?

27 A. No. Once again, I didn't do that because I was mainly  
28 interested to see, you know, again I was basing -- my report was  
29 based on what did Colonel Iron read and do I agree with him or

1 don't I. And I didn't have to study all campaigns for the  
2 battles. I read what Colonel Iron said about it and it didn't  
3 give me any information. So --

4 Q. But you didn't feel it was worthwhile going up to  
5 collect --

6 PRESIDING JUDGE: I would like to hear the end of his  
7 answer. You just got up to so.

8 THE WITNESS: So I stated in my report, and we have been  
9 over this before, that I didn't think it was necessary because  
10 based on the information, the transcripts, the sources, you know,  
11 the characteristics were clear to me.

12 MR AGHA:

13 Q. But if you didn't speak to anyone involved in any of the  
14 battles, you wouldn't be in a position to know whether the modus  
15 operandi of the AFRC faction changed over a period of time, would  
16 you?

17 A. Yes, but the modus operandi was, on the criteria I  
18 researched, were clear. And in the sources again I researched, I  
19 didn't see it change.

20 Q. Now let's see how you define regular military action on  
21 page 25. Now, there is no actual paragraph numbers, we just have  
22 regular military action?

23 A. Yes.

24 Q. We see that. Now, you say that the fighting units operate  
25 in an open, structured and co-ordinating manner, according to  
26 established doctrine; right?

27 A. Yes.

28 Q. What do you mean by open?

29 A. What I mean by open is that, for example, the way you now,

1 the forces, the armed forces are operating in Iraq are from a  
2 fixed position, with a fixed area of responsibility, where they,  
3 in formations, carrying out their missions.

4 Q. So really within areas of responsibilities?

5 A. Well, in that case.

6 Q. Now, irregulars can also act in a structured and  
7 co-ordinated way, can't they?

8 A. They can.

9 Q. Now you also mention, when we are talking about regular  
10 military action, that the military command and control is  
11 well-structured and well-trained, according to fixed procedures?

12 A. Yes.

13 Q. Now, in some regular armies, the command and control is not  
14 always well-structured and well-trained, is it?

15 A. No.

16 Q. So, that isn't necessarily applicable to a regular military  
17 action, the definitions you are --

18 A. Well, it should. It should.

19 Q. It should but not always?

20 A. Well.

21 Q. For example, Afghan national army?

22 A. I don't know that.

23 Q. So, you then point, in bullet points, to a number of  
24 criteria, other characteristics, sorry. Now, the first one,  
25 which is rules of engagement, and you've explained what rules of  
26 engagements are during your evidence-in-chief, and I understand  
27 that you believe that rules of engagement are required?

28 A. According to doctrine, because we are talking doctrine  
29 here. According to doctrine within a regular force or an

1 irregular military action rules of engagement have to be  
2 established.

3 Q. But the Napoleonic armies didn't have any rules of  
4 engagement, did they?

5 A. I am dealing with the doctrine as established now in 2005.

6 Q. But in terms of the history of warfare, the Napoleonic  
7 army, we haven't always had rules of engagement in armies, have  
8 we?

9 A. Well, the rules of engagement date thousands of years.

10 Q. Let us say, we take for example the Napoleonic armies, they  
11 didn't have any rules of engagement?

12 A. Well, I have to study the Napoleonic army, but that is not,  
13 in my mind not, in essence --

14 Q. I think it is quite relevant because that army, even  
15 without rules of engagement, still remained as a military  
16 organisation; you'd agree?

17 PRESIDING JUDGE: We have no evidence that they weren't.

18 MR KNOOPS: Prosecution is putting qualifications without  
19 foundation to the expert.

20 PRESIDING JUDGE: That is what I was attempting to say  
21 before I was interrupted, Mr Knoops. There is no evidence that  
22 the Napoleonic armies did not have rules of engagement.

23 MR AGHA: I was suggesting to him as a matter of expertise  
24 whether he -- I will ask that.

25 Q. Did you know whether armies have always had rules of  
26 engagement?

27 A. You know, the rules of engagement date back so long, the  
28 requirement for regular armies have rules of engagement.

29 Q. But have armies, since the day one, the day dot, whenever

1 they came into existence, always had rules of engagement?

2 A. No.

3 Q. And they were still classified as armies despite that?

4 A. Yes, but you know, I am dealing at this point of time.

5 Q. Now, you want to come to this more tricky question of  
6 characteristic second bullet point which is the use of military  
7 uniforms, and this goes to the question of distinction. Now,  
8 according to you, you must have this uniform of distinction.

9 A. Yes, to become a regular military force.

10 Q. A regular military force. Now, I would suggest to you that  
11 the Sierra Leone Army, in the jungle, tried their best to wear  
12 military uniforms and distinguish themselves. What would you  
13 have to say about that?

14 A. You are talking about the Sierra Leone Army now?

15 Q. The AFRC faction in the jungle. This is after the  
16 intervention? SAJ Musa kind of period.

17 A. Then I didn't read anything about that.

18 Q. And I say to you that the SLA in the jungle tried to either  
19 wear full or half combat to try and distinguish themselves from  
20 civilians?

21 A. No.

22 Q. You didn't read anywhere?

23 A. No, on the contrary.

24 Q. Okay. And after living for approximately nine months in  
25 the jungle, wasn't it inevitable that some parts of their  
26 military uniform would become unwearable and needed to be  
27 discarded?

28 A. Yes.

29 Q. And in the absence of replacement uniforms in the jungle,

1 the AFRC faction were not able to replace ruined uniforms, were  
2 they?

3 A. Well, the question of course was whether they started out  
4 in uniforms but the second observation is there was no logistic  
5 supply.

6 Q. So, whilst in the jungle, the SLA often had no option but  
7 to wear only part camouflage, due to lack of replacement  
8 uniforms, didn't they? You agree with that?

9 A. Yes.

10 Q. Now, under the circumstances, the AFRC faction in the  
11 jungle did the best they could to distinguish themselves by at  
12 least wearing an element of combat, didn't they?

13 A. I don't believe that.

14 Q. Okay.

15 A. I don't believe that because of the many sources I read.  
16 And I don't know if I pronounce it right, you know, the switching  
17 between sides. That does not help if you even, if you even keep  
18 some sort of military uniform on.

19 Q. I will come to the switching sides later. But let's say,  
20 are you aware that the AFRC faction, during their attack on  
21 Karina, even announced, if witnesses are to be believed, that  
22 they were coming to restore the national army, and who they were?

23 A. No.

24 Q. You are not aware of that. Now, through your interviews or  
25 resource, how many members of the AFRC -- well, firstly, I would  
26 suggest to you, general, that it was not a deliberate policy of  
27 the AFRC faction to be undistinguishable. What would you have to  
28 say about that?

29 A. Well, I cannot comment on that other than the fact was

1 there was not -- they didn't wear uniforms and they were not  
2 recognisable.

3 Q. Now, would you agree that some of them wore uniforms or are  
4 you saying none of them, whatsoever, wore uniforms?

5 A. Are we going into the none or little bit?

6 Q. It's a matter of degree?

7 A. Based on what I read, based on also your witnesses, it is  
8 stated that there was no -- you could not see the difference  
9 between RUF and AFRC.

10 Q. I am talking about the clothing.

11 A. Yes, that is what I mean. So --

12 Q. But would you say some were wearing of the AFRC faction  
13 combats?

14 A. Well, they were not recognisable. That is a general  
15 statement.

16 Q. Okay. Now, how many members of the AFRC in the jungle told  
17 you during your interviews that it was a policy of the SLAs in  
18 the jungle to deliberate dispose of their uniforms so that they  
19 could remain indistinguishable?

20 A. I didn't interview anyone on that.

21 Q. Okay. And if the AFRC faction in the jungle wanted to  
22 remain indistinguishable, can you explain why they would also  
23 steal uniforms and put them on when the chance arose?

24 A. Well, you know, being undistinguishable, some of -- some I  
25 have come across that some of the RUF members had, you know,  
26 occasions stole ECOMOG uniforms.

27 Q. But you said you didn't study the RUF?

28 A. No, but I have come across that.

29 Q. But you would agree with me that if you are stealing

1 uniforms and putting them on you are trying to at least  
2 distinguish yourself?

3 A. Yes, but back to the AFRC, in my analysis, you know, I come  
4 back to the conclusion that they were not wearing uniforms.

5 Q. But you would agree with me you have not seen anything to  
6 suggest that this was a deliberate policy on their part not to  
7 distinguish themselves?

8 A. No.

9 Q. Now, if you want to jump forward to I think irregular  
10 military action, and this is on page 26?

11 A. Yes.

12 Q. And just to briefly look at some of the characteristics.  
13 One of characteristics is troops do not obey to the rules of  
14 international humanitarian law?

15 A. Yes.

16 Q. Now, let us say the Bosnian Serb army, let's say  
17 Srebrenica, didn't abide by the rules of international  
18 humanitarian law, but they could be regarded as a regular  
19 military force, couldn't they?

20 A. They could.

21 Q. And the other one we discussed about troops not wearing  
22 uniform, we have been through that, and I suggested to you that  
23 AFRC tried their best and you say use of violence is another  
24 factor?

25 A. Yes.

26 Q. But that would be equally applicable to regular military  
27 action, wouldn't it?

28 A. Well, in a different, in a different sense.

29 Q. Use of hide-outs in concealed areas, special forces of a



1 regular army would do that, wouldn't they?

2 A. Yes. Well again, you know, it's a list, like I've also  
3 stated, clearly in my report, that the difference between regular  
4 and irregular is not totally black and white.

5 Q. So --

6 A. So, you know, you go and look at the majority of the  
7 characteristics, on your modus operandi, and then you come to the  
8 conclusion.

9 Q. But others, experts may disagree on the characteristics?

10 A. In this case, I sincerely doubt it, including Colonel Iron.

11 Q. But it's possible, isn't it, that different experts were to  
12 form different opinions as to characteristics?

13 A. Possible.

14 Q. And therefore, if they had different opinions of the  
15 characteristics, they could come to different conclusions?

16 A. That's always possible.

17 MR KNOOPS: Is the Prosecution, just for the record,  
18 challenging the report of Colonel Iron?

19 PRESIDING JUDGE: That is a matter you can raise in your  
20 final submissions, Mr Knoops. It's not a legitimate objection.

21 MR KNOOPS: Thank you.

22 MR AGHA:

23 Q. Now, I would like to move to paragraph 51 which is on page  
24 27, and here, when applied to the factions involved in the  
25 conflict after February 1998, their regular nature and their  
26 operations in the conflict is exemplified by the following  
27 observations in the TRC report and other sources. Now, once  
28 again, these are mainly observations in the TRC report, aren't  
29 they?

1 A. They are.

2 Q. And it says, I believe here, that A, one of the defining  
3 characteristics of the conflict was its radical departure from  
4 other armed conflicts in terms of targets; is that right?

5 A. Yes.

6 Q. But you would agree with me that there have been other  
7 armed conflicts where civilians have been targets, like Rwanda?

8 A. Well, civilians were targeted in the Second World War,  
9 weren't they?

10 Q. Second World War, Khmer Rouge, so it's not perhaps such a  
11 radical departure. And if we now were to look at paragraph B we  
12 have, this is on page 28, the irregular nature of both the  
13 conflict and the forces is described in the TRC report under the  
14 heading. Now, again, this is a finding of the TRC report, isn't  
15 it?

16 A. It is.

17 Q. Okay. Now, of the people you interviewed or spoke to, or  
18 from your sources, can you tell me the name of one RUF person who  
19 changed sides to the AFRC faction?

20 A. No.

21 Q. Now, looking at paragraph 51(b), the TRC, and this is again  
22 TRC conclusion, it says whether or not couched in the rubric of  
23 offensive and defensive missions these operations were  
24 predominantly geared towards the destruction of life and  
25 property?

26 A. Yes.

27 Q. And do you agree with that finding?

28 A. Again, it's the finding for the TRC, and I didn't have  
29 reason to -- not to believe it.

1 Q. So let's look at it. I mean, would you agree with me that  
2 one of the, as you call it, objectives of the AFRC government,  
3 after the intervention, was to escape from Freetown?

4 A. Can you rephrase that again?

5 Q. At the intervention?

6 A. Yes.

7 Q. When the ECOMOG forces came in?

8 A. Yes, yes.

9 Q. Would you agree with me that the AFRC were trying to escape  
10 from Freetown?

11 A. Yes.

12 Q. So you wouldn't say their operation, in trying to escape,  
13 was primarily geared to the destruction of life and property,  
14 would you?

15 A. That part, probably not.

16 Q. And then, when they left Freetown, I understand that the  
17 AFRC faction tried to regroup and establish defensive positions  
18 from the advancing ECOMOG?

19 A. Well, their entire way of operating, which has not been  
20 denied by anyone, I believe, is that it was not only defence but  
21 survival.

22 Q. So that wasn't predominantly geared towards destruction of  
23 life and property, was it?

24 A. The main, the main mission, was stay in hiding and being on  
25 the defensive.

26 Q. Yes. And their operations weren't predominantly geared  
27 towards the destruction of life and property, were they?

28 A. Well, you know, that's the statement of TRC. I can't  
29 comment on that.

1 Q. Okay. Now, for example, you have relied very much on your  
2 report, on the TRC?

3 A. Yes.

4 Q. Which is a source, but do you realise that the TRC makes  
5 hardly any mention of radio communications in the  
6 post-intervention period between the AFRC factions?

7 A. No.

8 Q. You are aware or you are not aware?

9 A. No, I wasn't aware of that.

10 Q. Okay. And this may well have been because the TRC didn't  
11 ask any questions of radio operators, mightn't it?

12 A. Could be.

13 Q. And that might have been because they didn't deem that  
14 information relevant to their mandate?

15 A. I don't know.

16 Q. You don't know. But, essentially, you would agree with me  
17 that there is hardly any information in the TRC where it directly  
18 covers the AFRC faction whilst in the jungle after the  
19 intervention, apart from the attack on Freetown?

20 A. Well, they describe the period quite extensively, I must  
21 say.

22 Q. But do they describe the military operations of the AFRC  
23 faction whilst they are in the jungle; for example, the battles?

24 A. No, because in their opinion, broadly, is that they, you  
25 know, were defensive, hiding, stay away and stay out of ECOMOG.  
26 They stayed. There were hardly any battles carried out.

27 Q. And in the TRC report, can you recall any mention of Camp  
28 Rosos, Colonel Eddie Town?

29 A. I don't recall that.

1 Q. And what about Koidu Town, in April and May 1998 from a  
2 military perspective; do you recall that?

3 A. No.

4 Q. So, it's fair to say that if the TRC report wasn't looking  
5 into these aspects that information wouldn't be available to you  
6 for the writing of your report?

7 A. Well, you know, again, the TRC states what it states here.

8 Q. But that's a fair assessment, that if they didn't look into  
9 those aspects I just mentioned, like radio communications,  
10 whatever battles there may have been, that wouldn't have been  
11 available to you as being part of their report, would it?

12 A. Yes, but I don't know if they analysed it. They came up  
13 with this conclusion or this finding.

14 Q. So in a sense you just rely on the finding?

15 A. I rely on the finding because it characterises one of the  
16 aspects of a regular modus operandi.

17 Q. But you can't say whether they actually studied the AFRC  
18 factions operating in the bush in any detail, can you?

19 A. No.

20 MR GRAHAM: Your Honour, sorry to interrupt, the first  
21 accused Mr Brima wants to use the restroom, with your kind  
22 permission, please.

23 PRESIDING JUDGE: Yes, Mr Brima can leave the Court.

24 MR AGHA:

25 Q. Now, if we can look now at paragraph 51(c) of your report,  
26 which is at page 28. Now, the observation that the conflict can  
27 be seen as a regular conflict between regular combatants is  
28 supported by the conclusion of the TRC. Now again, that is a  
29 conclusion of the TRC, isn't it?

1 A. Yes.

2 Q. But within that conclusion it also mentions that, if I read  
3 it: "To the extent that it retained at least a semblance of  
4 conventionality in its command structures, ranks and rules of  
5 engagement, until the bulk of its soldiers were subsumed into the  
6 AFRC in 1997, the professional Sierra Leone Army was something of  
7 an exception in the conflict as the de facto conventional Army."  
8 So, would you agree with me in that TRC --

9 THE INTERPRETER: Your Honours, can I learned counsel please  
10 go over his statement for the translators, please.

11 MR AGHA:

12 Q. Would you like me to read that again?

13 A. No, no, I heard it.

14 Q. It's in front of you.

15 PRESIDING JUDGE: No, no, it's the translators, the  
16 interpreters that want it read over.

17 MR AGHA: I apologise.

18 PRESIDING JUDGE: Just a minute. Mr Interpreter, why do  
19 you want it read over? Is it too fast or you didn't understand  
20 something? Are you there, Mr Interpreter?

21 THE INTERPRETER: We are here.

22 PRESIDING JUDGE: What is the reason you want the question  
23 read over? Is counsel reading too quickly or is there something  
24 you didn't understand?

25 THE INTERPRETER: The counsel is reading too fast for the  
26 interpreters, Your Honours.

27 PRESIDING JUDGE: All right.

28 MR AGHA: I apologise, Mr Interpreter. I will try and read  
29 a little slower.

1 Q. It's: "To the extent that it retained at least a semblance  
2 of conventionality in its command structures, ranks and rules of  
3 engagement until the bulk of its soldiers were subsumed into the  
4 AFRC in 1997 the professional Sierra Leone Army was something of  
5 an exception in the conflict as the de facto conventional Army."  
6 So, based on that TRC statement, would you agree with me that the  
7 conclusion of the TRC is that the Sierra Leone Army was a  
8 professional army up until the May 1997 coup?

9 A. I don't agree with that because I think they use  
10 "professional" another way. They use it as a formal indication  
11 of the Sierra Leone Army and also de facto.

12 Q. But you can't say what they meant by it really, can you?

13 PRESIDING JUDGE: Well, he is basing his views on his  
14 interpretation.

15 MR AGHA:

16 Q. But there could be other interpretation of what a  
17 professional Sierra Leone Army was?

18 A. Yes.

19 Q. And one of those could be that it was, in fact, a  
20 professional army in the May 1997 coup?

21 A. I find that hardly unlikely.

22 Q. But it is one of the interpretations?

23 A. Not if it's stated by the TRC.

24 Q. Now, if we were to carry on, we turn to page 51, paragraph  
25 51, I beg your pardon, at page 30, sorry, it's paragraph 51 at  
26 page -- I am a bit lost. Paragraph 51(c) I believe we were  
27 looking at. Now, if we were to come now to paragraph 51(d), (e),  
28 (f), and (g), these again mainly deal with the irregular forces  
29 which we have already discussed, don't they?

1 A. Yes.

2 Q. Okay. Now, at paragraph 51, page 30 at (h), I believe in  
3 essence this paragraph indicates that during your research you  
4 found hardly any training?

5 A. Yes.

6 Q. On international humanitarian law?

7 A. Yes.

8 Q. Now, during the Defence case, at least, as I have  
9 mentioned, ten or so former members of the SLA have given  
10 evidence before this Court and, according to those Defence  
11 witnesses, at least two said that they had received some kind of  
12 international humanitarian law teaching during their training.  
13 Were you aware of that?

14 A. No, I was not.

15 Q. Were you aware that nearly all knew that it was wrong to  
16 kill civilians on the basis of what they were taught and their  
17 active combat before the war with the RUF?

18 A. No.

19 Q. Are you aware that nearly all of them said that they never  
20 killed civilians during the conflict with the RUF?

21 A. No.

22 Q. And the reason was, largely, that they knew it was wrong?

23 A. No.

24 Q. And did you know that in most cases SAJ Musa, who was the  
25 leader of the AFRC faction, made it absolutely explicit that  
26 there should be no killings of civilians?

27 A. That's in my report.

28 Q. Now, but did you know how explicit?

29 A. Not very explicit.



1 Q. Well, I will read you just a small transcript from one of  
2 the witnesses who gave evidence before this Court regarding SAJ  
3 Musa. And it's DAB-033. It's dated 25 September 2006, page 84,  
4 and I will just read a small part of it to you.

5 "Q. Mr Witness, specifically, about the period  
6 from May 1997, up to your advance to Freetown,  
7 were any laws of warfare given to you by either  
8 of your commanders?"

9 "A. Except when I went into the jungle and SAJ  
10 Musa had always been telling us about genocide,  
11 crimes against humanity, he used to advise us  
12 and he used to give us guide so that we could  
13 not commit any crimes. He said we should just  
14 fight against military targets and that we  
15 should not attack civilians and that we should  
16 not abduct civilians, so when we went in some  
17 areas where we reached up with the RUF --

18 "THE INTERPRETER: Your Honours, would the  
19 witness go a little bit slow.

20 "PRESIDING JUDGE: Mr Witness, you are talking  
21 too quickly and the interpreter can't pick you  
22 up. Now, you will have to backtrack and repeat  
23 what you said.

24 "THE WITNESS: I said they told us about laws  
25 when we went into the jungle. SAJ Musa had  
26 always been advising us about crimes like rape,  
27 burning of houses, crimes against humanity and  
28 some other things, because he had a book, which  
29 he said was the Geneva Convention. He said

1 after any war, he said people had to give  
2 testimonies. He said anybody that was captured  
3 and who had committed these crimes, he said  
4 would be held responsible. So because of those  
5 guides, nobody would say that he would have  
6 spoiled SAJ Musa's laws, so I knew some of them  
7 so -- and we abided by them."

8 Now, I also read, this is in the jungle, and also I again  
9 refer to what your primary source, one of your primary sources,  
10 TRC-01, said about international humanitarian law training which  
11 was before they went in the jungle. And this is at page 111, it  
12 is 16 October 2006 and, again, this is based on what he said  
13 before the Court, if one is to believe this.

14 "Q. And I believe you mentioned that despite  
15 this frustrations, the SLAs did not take the  
16 law into their own hands, did they?

17 "A. No, Your Honour.

18 "Q. So despite those provocations, the SLAs  
19 kept their discipline, didn't they?

20 "A. Yes, Your Honour.

21 "Q. And this is because they were trained  
22 professional soldiers, weren't they?

23 "A. Indeed, Your Honour, and they also knew --  
24 they followed the code of conduct and a lot of  
25 training was conducted as well as the RCRC in  
26 the international humanitarian law and laws of  
27 war.

28 "Q. So the SLAs were well versed then in the  
29 laws of war?

1 "A. Certainly, Your Honour.

2 "Q. And they knew it was wrong to kill  
3 civilians?

4 "A. Yes, Your Honour. Unarmed civilians.

5 "Q. And, presumably, this good ethical  
6 training in the laws of wars was also imbibed  
7 into the irregular forces who fought alongside  
8 the SLAs?

9 "A. Yes. Their training was designed for them  
10 to respect the standards of the international  
11 humanitarian law books -- was also brought to  
12 bear with those irregular forces. For  
13 instance, for you to be able to respect the  
14 places of worship; to be able to help unarmed  
15 civilians, and even prisoners of war, to treat  
16 them humanely. All of that was taught too --  
17 even these irregular forces, in the little  
18 training that was conducted for them in the  
19 local areas.

20 "Q. So the regular forces got quite a lot of  
21 training in this international humanitarian law  
22 whilst the irregular forces got less training?

23 "A. Yes, Your Honour, but a bit of it was  
24 infused into the training. But the regular  
25 forces normally had seminars conducted at the  
26 training academy. They had some training  
27 conducted for them.

28 "Q. So they would have been aware of the  
29 Geneva Conventions?

1 "A. Certainly, yes. A lot of the regular  
2 troops knew of the Geneva Conventions.

3 "Q. So far as you are aware, during the  
4 conflict between 1992 and 1996, the SLAs and  
5 irregulars abided by the laws of war; is that  
6 right?

7 "A. To a very large extent, yes. To my  
8 knowledge."

9 So we have a situation where one of your primary sources is  
10 indicating that before the war the SLAs were trained or taught  
11 international humanitarian law, and also the irregulars, to a  
12 degree, and a number of SLAs, two or three, also saying they  
13 received training in international humanitarian law before the  
14 May 1997 coup. And, thereafter, we have and I think quite  
15 explicitly, SAJ Musa ordering his troops to abide by the laws of  
16 international humanitarian law and not to kill innocent  
17 civilians. So, on the basis of this new information, would you  
18 agree with me that the AFRC faction, whilst operating in the  
19 jungle, had a basic level of the laws of war and not to kill  
20 civilians?

21 A. No, I don't because, one, TRC-01, you know, I know he made  
22 a statement here.

23 Q. The question, sorry to interrupt you general, I really  
24 would like to go on --

25 A. Do you mind if I give an answer?

26 Q. Yes, but sure. The point is, and I hope I am trying to get  
27 this across is, you may not -- TRC-01 may have told you something  
28 different but it's just based on what he said and what I've read  
29 that I'm asking you whether you would change your opinion? It's

1 based on these readings because this is new to you, what TRC-01  
2 has said here?

3 A. It's new, but it wouldn't change my position.

4 Q. Okay. And why would that be?

5 A. Well, to go step-by-step. For one, TRC-01 indicated to me,  
6 and also gave me the notes that for one, and I know he stated  
7 differently before the Court, that humanitarian law was lectured  
8 to cadets and soldiers but he indicated to me in his notes  
9 specifically the Geneva Convention, if at all, but it was infused  
10 into cadet training, that is one.

11 Q. But general, what I'm asking is not what he may have told  
12 you in your notes, but I ask you to comment on what he said here,  
13 in the Court?

14 A. Yes. Two, we have to realise that when 01 talks about  
15 irregular forces, he talks about a different irregular forces  
16 than I do, because I describe the irregular force AFRC and he  
17 describes another form, when I heard it, he uses the term  
18 "irregular" differently than I do. Now, it's all well and  
19 understood that everybody says there were humanitarian laws  
20 previous to the conflict, and again it's a vision. You know, I  
21 may have stated differently. Said that the personnel they  
22 trained were happy that it was the first time that they received  
23 lectures, or as such, in international law, and then again, I  
24 know that SAJ Musa expressed his views. They may have been the  
25 views of SAJ Musa but I clearly indicated in my report that  
26 witnesses indicate very clearly that there were no laws placed.  
27 At several instances they say that during the operations they  
28 were not aware of any laws placed on them in the operations. So  
29 based on what was said here, you know, I am still not convinced

1 about the fact. You know, SAJ Musa may have said that, but then  
2 the question is: How do you relate that to the troops, who in my  
3 mind did not have training, which is supported by IMATT, so I  
4 don't agree with that.

5 Q. But if, let us say, SAJ Musa was to address a muster parade  
6 of all his troops, and were to make these statements, would you  
7 then agree with me that the troops were aware of their  
8 obligations not to kill civilians?

9 A. They may have been aware. The question of course is, are  
10 things carried out the way you explain them?

11 Q. Yes, I agree, but you would agree with me that they would  
12 have been aware if he would have addressed them at a general  
13 muster parade on essentially what I just read to you?

14 A. Well if, if, then the question of awareness will be  
15 answered with "yes".

16 Q. Now, if we look at your conclusion, this is paragraph 52,  
17 on page 31. Now, again, you are relying largely on the TRC  
18 report for your source; would you agree with that?

19 A. Yes.

20 Q. Okay. And this is characteristics of an irregular military  
21 action?

22 A. Yes.

23 Q. Okay. And if we go to let's say -- and would you agree  
24 with me that, just as a starting point, you have a number of  
25 bullets, that not all of these bullets were actually fulfilled in  
26 the case of the AFRC faction?

27 A. Well, the bullets I mention here at 52 is the one I  
28 consider that that was the case in the AFRC faction.

29 Q. But you would agree with me that some of them, for example,

1 would also apply to regular forces?

2 A. As indicated, and also according to doctrine, the  
3 difference between regular, irregular, is not on all points  
4 black/white.

5 Q. But overall, you come to the conclusion that the AFRC  
6 faction can be characterised as an irregular military force?

7 A. Yes.

8 Q. Okay. Now, I just now want to come back to some basics on  
9 this, the bullets aside, et cetera. And it's on the question of  
10 irregular and regular forces, which we've just been discussing.  
11 Now, you would agree with me that even an irregular force could  
12 be an organised force, wouldn't you?

13 A. Yes.

14 Q. And so you would agree with me that if the AFRC in the  
15 jungle were categorised as an irregular force, they could still  
16 be an organised force, albeit an irregular one?

17 A. Yes, but I'm, as you have noticed, don't look at the  
18 organisation, I am looking at the modus operandi.

19 Q. But apart from modus operandi I come back to bare bones, to  
20 basics. You said, you have been discussing the modus operandi,  
21 you could have an irregular force as an organised force?

22 A. Yes.

23 MR AGHA: Your Honours, I think this may be an appropriate  
24 time, if it's convenient for you, as I am about to move into a  
25 new area.

26 PRESIDING JUDGE: All right. Thank you, Mr Agha. We will  
27 take lunch now and, Mr Fofanah, I haven't forgotten. You want to  
28 return at 2.30?

29 MR FOFANAH: Certainly, Your Honours. I am grateful for

1 the observation.

2 PRESIDING JUDGE: We are going to break for lunch now  
3 general, and we will come back at 2.30 and I am obliged to renew  
4 my caution not to discuss the case with anybody.

5 THE WITNESS: Yes, Your Honour.

6 PRESIDING JUDGE: We will adjourn until 2.30.

7 [Luncheon recess taken at 12.42 p.m.]

8 [Upon resuming at 2.34 p.m.]

9 PRESIDING JUDGE: I wonder where your colleagues are,  
10 Mr Knoops.

11 MR KNOOPS: Your Honour, I don't know. I'm happy to cover  
12 the rights of the first and second accused.

13 PRESIDING JUDGE: We have a communication from the first  
14 accused, Mr Brima, that he's waiving his rights to be present in  
15 Court this afternoon. I note that Mr Brima's counsel is present  
16 in Court. The proceedings will go ahead in the absence of the  
17 first accused, Mr Brima, pursuant to Rule 60. Go ahead, Mr Agha.

18 MR AGHA:

19 Q. Good afternoon, general.

20 A. Good afternoon.

21 Q. Before we broke off for the lunch break, we were discussing  
22 the irregular and regular forces. I would now like to turn to  
23 part D of your report which, essentially, looks at Colonel Iron's  
24 report. That's at page 32, paragraph 54.

25 A. Yes.

26 Q. Now, at paragraph 54, on page 32, you suggest that Colonel  
27 Iron has attempted to compare the AFRC faction with a western  
28 military organisation; would that be right?

29 A. I'll have a look where I stated that.



1 Q. Perhaps, in essence, I think on the next page --

2 A. Okay.

3 Q. This is exactly, I think.

4 A. Yes, well, what I actually meant is that, you know, without  
5 historical knowledge background and then, of course, you go into,  
6 like he states, a blank sheet of paper, and then, you know, he is  
7 comparing it to western armies.

8 Q. Okay. I would suggest to you that this is a fundamental  
9 misunderstanding on your part, and what Colonel Iron's has  
10 attempted to do; what would you say about that?

11 A. I disagree. In my mind, you know, as my report states, I  
12 think Colonel Iron has done a desperate attempt, made a desperate  
13 attempt to reason into a traditional military organisation.

14 Q. I suggest to you that Colonel Iron started from first  
15 principles and has tried to analyse the essential characteristics  
16 of any military organisation which need to be present to qualify  
17 that organisation as a military organisation, regardless of time,  
18 culture, and geographical location; would you agree with that?

19 A. Well, I rephrase what I stated earlier. Colonel Iron looks  
20 into the three and sets criteria and then tries to reason into --  
21 that was his main question -- whether, and to what extent, it was  
22 a traditional military organisation. Now, that was his question.

23 Q. But, in essence, he's gone back to first principles, as  
24 what he would regard as the 13 desired characteristics for any  
25 military organisation.

26 A. Yes, but of course, his main question is, and was, whether  
27 they all fit into his description of a traditional military  
28 organisation. Now, I have stated before I don't argue with  
29 Colonel Iron's criteria, because that was what he started out

1 from. So, within the context of my report, we have to realise  
2 that everything he wrote, I looked whether he established that or  
3 not.

4 Q. So you haven't challenged the 13 characteristics, at least,  
5 you've just looked at them?

6 A. Well, like I stated before, you can sit down and go with  
7 numerous military men and discuss characteristics. I took his  
8 report as the basis, his question and his reasoning, and I, you  
9 know, didn't think it was of any benefit to start discussing,  
10 also, the different characteristics. Now, you can come up with  
11 14, 15, or ten. Basically, you know, I don't believe there is a  
12 reason to challenge that.

13 Q. So you accepted those 13 characteristics?

14 A. I accepted his questions as a starting point, yes.

15 Q. Now, in paragraph 55, which is on page 33, are you  
16 suggesting that -- in essence, you're saying that Colonel Iron  
17 did not study the modus operandi of the AFRC faction whilst it  
18 was carrying out its operations?

19 A. You refer to point 55. What amazed me in his report,  
20 although he stated that the AFRC faction was an irregular force  
21 or a guerilla force, a non-regular army, he then, in his  
22 analysis, goes into all the topics. You know, we have the three  
23 questions he goes into, which deal with hierarchy and structure,  
24 the characteristics, and the relationship between strategic  
25 operational tactical levels, and he didn't look in that  
26 analysis -- I don't want to state that not in this report he went  
27 into some operations, I don't argue that, but in his three  
28 questions, it were merely non-operational questions.

29 Q. In the middle of paragraph 55, it says:

1 "Instead Colonel Iron analysed the AFRC faction on based on  
2 the basis of three questions which focused more on the  
3 organisational part of the organisation than their modus  
4 operandi."

5 Your suggestion is that he looked less at their modus  
6 operandi?

7 A. That's what I state, yeah.

8 Q. Right. I would say to you that is exactly what Colonel  
9 Iron did do, in the sense that he study their modus operandi  
10 whilst he was carry out his operations.

11 A. You know, once again, I don't argue the fact that, within  
12 his report, which was, you know, quite extensive, he describes a  
13 campaign and all that. What I'm stating, and that's what I  
14 looked at, were the three questions. Now, in the three  
15 questions, I didn't see the modus operandi. I didn't state that  
16 he didn't describe the way, you know, sort of they operated  
17 within their -- he had described an entire campaign. But, back  
18 to the questions, which, for me, was the starting point, I didn't  
19 see that.

20 Q. But throughout his report, he's discussed the modus  
21 operandi of the AFRC faction in some detail, hasn't he?

22 A. Well, sir, again, I don't argue that. The only thing I'm  
23 saying -- I'm afraid I'm repeating myself maybe too many times,  
24 but I focused on the questions. Now, Colonel Iron had a lot of  
25 relevant information, in my mind, and interesting information in  
26 his report, I don't argue that. But if you go to the three  
27 questions, the only thing I noticed that Colonel Iron expressed  
28 himself in the transcript, he said it was a guerilla force, a  
29 non-regular army. And then, in the questions he answered, he

1 goes into -- well, you know, the ones we all know, and, in  
2 answering those questions, he didn't go into modus operandi.

3 Q. Okay. Colonel Iron went to the battle sites which were  
4 fought over between the AFRC faction and ECOMOG, didn't he?

5 A. He certainly did.

6 Q. And Colonel Iron was also accompanied to those battle  
7 scenes by members of the AFRC faction who fought there, wasn't  
8 he?

9 A. He was.

10 Q. According to Colonel Iron, members of the AFRC faction,  
11 involved in those battles, explained to him about the AFRC  
12 factions' operations during those battles, didn't he?

13 A. I don't know that.

14 Q. Could we, Your Honour, in fairness to the witness, and  
15 perhaps useful to the Court, could we refer to Colonel Iron's  
16 report, P36. Do you have your own copy, general?

17 A. Got it, yes.

18 MR AGHA: My case manager has copies, if that would be of  
19 assistance.

20 PRESIDING JUDGE: This is for the general's benefit, I take  
21 it, because the report of Colonel Iron is already in evidence.

22 MR AGHA: Yes.

23 PRESIDING JUDGE: You don't have to prove anything about  
24 the report?

25 MR AGHA: No, I just wonder if it would be helpful to  
26 follow along.

27 PRESIDING JUDGE: Yes.

28 MR AGHA:

29 Q. Now, unfortunately, Colonel Iron uses unusual numbering or

1 lettering at the bottom. I might, this time, rely on the  
2 numbering of the Court. Do you have Court numbering?

3 A. I'm afraid I don't that.

4 Q. It is at C13. The number for the Court is 14438. This is  
5 a diagram of the advance from Colonel Eddie Town to Freetown; you  
6 would agree with that?

7 A. Yes.

8 Q. If you were to flip the next page, you see 14, which is  
9 14439, indeed, the next page after that, 14440, you will find  
10 that the modus operandi of the AFRC forces, during the battle of  
11 Mange, is described in some detail, isn't it?

12 A. Yes, it is.

13 Q. This information has come from his various sources, hasn't  
14 it?

15 A. It does.

16 Q. Now, you didn't challenge Colonel Iron on the modus  
17 operandi, as described in his report, on the battle of Mange, did  
18 you?

19 A. Sir, again, I went into his three questions.

20 Q. That's fine. It's just yes or no.

21 A. Okay.

22 PRESIDING JUDGE: Just for the record, I think it's  
23 pronounced Mange. I will still spell it for the record,  
24 M-A-N-G-E.

25 MR AGHA:

26 Q. If we turn to page C16, which is the next page, Colonel  
27 Iron analyses the first attack against Lunsar, doesn't he?

28 A. He does.

29 Q. Through his sources, he's gone through the modus operandi

1 of the AFRC, hasn't he, during this attack?

2 A. Yes.

3 Q. You again didn't challenge that; you accept it?

4 A. Yes, I did.

5 Q. If we then turn to part D, which is part D in the report,  
6 but 14442, it starts, and this is the modus operandi of the AFRC  
7 forces during the advance and attack on Freetown, which is  
8 described in some detail.

9 A. Yes.

10 Q. Again, you found no reason to challenge that?

11 A. No.

12 Q. Then, if you carry on reading the report of Colonel Iron,  
13 he also goes on, D11, which is page 14452, into some details  
14 regarding the modus operandi of the AFRC for the battles of the  
15 Congo River crossings.

16 A. Yes.

17 Q. Again, you didn't feel the need to challenge that?

18 A. No.

19 Q. In fact, you would agree with me that Colonel Iron studied  
20 in great detail the modus operandi of the AFRC during operations?

21 A. Again, I don't deny that, but my remark was, in my report,  
22 in relation to the three questions he posed.

23 Q. Now, this detailed study of a modus operandi of the AFRC  
24 faction's battle is something which you personally didn't do, is  
25 it?

26 A. Yes.

27 Q. According to page 3 on paragraph 3 of your report, the  
28 reason why you didn't do this, as you said at the beginning, you  
29 didn't consider reconstruction of the battles and campaigns was

1 essential to the three questions you were answering; is that  
2 right?

3 A. In relation to the three questions, I'm asking also in  
4 relation to the way Colonel Iron answered or handled the  
5 questions.

6 Q. I suggest to you that it was very essential to study the  
7 battles and the modus operandi of the AFRC to come to a  
8 conclusion as to how their command structure and hierarchy  
9 operated on the ground.

10 A. I don't agree.

11 Q. Now, if we turn to paragraphs 56 and 57, which is page 33  
12 of your report, not Colonel Iron's. Coming back to your report  
13 now, it is pages 33, 34, paragraphs 56 and 57.

14 A. I've got that.

15 Q. The heading is "Analysis of the Report by Colonel Iron."  
16 In these two paragraphs, 56 and 57, you look at the issue of  
17 recognisable group, as raised by Colonel Iron, don't you?

18 A. Yes.

19 Q. Now, I'm using the word "recognisable." Colonel Iron  
20 referred to its meaning as defined in Webster's dictionary under  
21 the adjective meaning, "easily perceived"; ie a group was  
22 perceivable as opposed to an individual. Did you realise that?

23 A. No, I pursued it along the lines that recognisable would be  
24 recognisable in the sense that you could identify the different  
25 groups.

26 Q. If you were to agree with me that if you were basing it on  
27 Colonel Iron's understanding of recognisable pursuant to  
28 Webster's dictionary of perceived to be, your paragraphs 56 and  
29 57, really, would not be taking in what he was trying to say?

1 A. Of course, for me, it is a little hard to understand this  
2 wording he's using. For me, recognisable, I could only figure it  
3 out in one way, and now it's speculating how Colonel Iron  
4 mentioned it.

5 Q. In Webster's dictionary, I don't think there is a need for  
6 me to produce a copy, it indicated easily perceived. I'm  
7 suggesting to you that Colonel Iron was using it in the sense of  
8 being easily perceived as a group, as opposed to an individual.

9 A. Okay. Can you explain easily perceived for me, please?

10 Q. Well, a group of people you can perceive as a group, and an  
11 individual you do not perceive as a group.

12 A. Right.

13 Q. Or a group of people you can perceive as a group of people,  
14 as opposed to a bunch of bananas.

15 A. Well, this wording is really getting a little too difficult  
16 for me, I'm afraid.

17 Q. I think it's just a question of, perhaps, you both are  
18 interpreting recognisable in a different way.

19 A. I certainly did.

20 Q. Right. So, on that basis, 56 and 57 is your interpretation  
21 of recognisable on how you understood it to be?

22 A. Yes.

23 Q. As opposed to what, perhaps, Colonel Iron understood it to  
24 be?

25 A. Yes.

26 Q. Let's turn now to whether the AFRC had a recognisable  
27 military hierarchy and structure. This is your report again, and  
28 it's page 34.

29 A. Yes.



1 Q. It's actually there, "Did the AFRC faction have a  
2 recognisable military hierarchy and structure?" Now, at  
3 paragraph 60, which is the next page, at 35, there is an excerpt  
4 from the TRC report, which you use. I can read it to you in  
5 part. It's about eight or nine lines from the top, on paragraph  
6 60. As I say, it's from, I believe, the TRC report. It reads:

7 "Many of the AFRC soldiers were uncomfortable being led by  
8 RUF commanders whom they perceived as illiterate and not as  
9 professional soldiers."

10 Now, would you agree with me that, according to this  
11 excerpt, the AFRC faction soldiers saw themselves as professional  
12 soldiers?

13 A. Reading it, then my conclusion would be a professional  
14 soldier is someone who has the profession of being a soldier.  
15 Being an organisation, as such, doesn't imply your expertise or  
16 your professionalism, in a word. If you say to me, "What are  
17 you?" And then I say, "I'm a professional soldier," meaning I'm  
18 belonging to a military organisation, instead of that I would  
19 say, "I'm very professional."

20 Q. So you disagree with me in my interpretation of this  
21 excerpt that the AFRC soldier saw himself as a professional  
22 soldier in the jungle?

23 A. I see it in the way I described.

24 Q. So you disagree with me?

25 A. Yes, I do.

26 Q. At paragraph 62, which is page 36 of your report, if we can  
27 move to that. This is at paragraph 62, page 36. In this  
28 paragraph, you relate SAJ Musa's initial aims on the basis of  
29 information that DSK-082 provided do you, don't you?

1 A. That's correct.

2 Q. I think we've already agreed that DSK-082 wasn't in the  
3 jungle with SAJ Musa.

4 A. Yes.

5 Q. So DSK-082 wouldn't have any personal knowledge of what  
6 SAJ Musa's aims were, would he?

7 A. Well, I think he had of the many things we have been  
8 discussing before, and I don't think it was ever challenged by  
9 anyone, nor by Colonel Iron, that the initial, let's say, eight  
10 months in the year 1998, were defensive in a defensive posture.  
11 You see that basically everywhere you read. Now, I believe that,  
12 as I've stated before, DSK-082, you know, I don't have to go over  
13 where he was and so on, but, of course, he knew what the initial  
14 aim was. He knew it from the first four months, and then,  
15 following on that, of course, looking from the other side, you  
16 know that the aim is to stay out of contact.

17 Q. But you say he knew the aim within the first four months.  
18 He wasn't actually with SAJ during the first four months, he was  
19 in Masiaka, as the troops moved on?

20 A. Yes.

21 Q. It's correct that DSK-082 was never at any muster parade  
22 where SAJ would have articulated what his aims were, was he?

23 A. No, I don't think so.

24 Q. In essence, paragraph 62 is really the opinion of DSK-082,  
25 isn't it?

26 A. Yes, but it is supported by so many other sources,  
27 including Colonel Iron.

28 Q. Would you agree with me at paragraph 64 at page 36, that  
29 you're suggesting that the AFRC, after fleeing from Freetown,

1 adopted a defensive posture?

2 A. Yes. In general terms, I believe that until they, at one  
3 point in time, decided to go to Freetown, they were hiding  
4 survival -- the word survival organisation has been mentioned by  
5 me, but also by others, and they were in a defensive posture, I  
6 believe that.

7 Q. And armies, whilst under attack, often adopt a defensive  
8 posture, don't they?

9 A. Well, if an army is under attack in a normal situation, you  
10 will have a defensive line, et cetera. What I meant to say is  
11 that they were hiding, on the run, staying out of contact. At  
12 least, that was their aim.

13 Q. Under the prevailing circumstances of the advance of  
14 ECOMOG, it was a sound military decision to take up defensive  
15 posture, wasn't it?

16 A. I think it was the only way.

17 Q. But it was a sound military decision, nevertheless, wasn't  
18 it?

19 A. I don't know if it was a sound military decision. It was  
20 the only option or way out for them.

21 Q. Well, one option could have just been to stay huddled in a  
22 group. It wasn't the only option, was it?

23 A. Well, I think they didn't have an option to sort of huddle  
24 in a group and wait for ECOMOG. They really wanted to -- you  
25 know, we have to realise they were with their family dependents  
26 and so on, so you stay out of the real danger.

27 Q. So adopting defensive postures would suggest some level of  
28 organisation, as opposed to just hiding, staying as one bunch,  
29 wouldn't it?

1 A. Well, with defending positions, I didn't mean to say that  
2 you bring up a sort of Atlantic wall and wait for the enemy to  
3 attack. What I meant to say is they stayed out of contact. The  
4 utmost goal was to avoid contact with ECOMOG.

5 Q. Now, it was also a sound military decision to hide in the  
6 jungle away from aerial bombardment, wasn't it?

7 A. One of the aims, it was, yes.

8 Q. Again, in large part, in paragraph 64, which we've been  
9 discussing, you quote the view of DSK-082, don't you?

10 A. Yes, I do.

11 Q. As we've already mentioned, he actually wasn't there with  
12 SAJ Musa's faction, was he?

13 A. No, but, as we also discussed, he was in a position on the  
14 other side to know.

15 Q. And that was through his intelligence.

16 A. Yes, and, of course, the information he got within ECOMOG.

17 Q. That was largely, as you mentioned yesterday, through  
18 intelligence?

19 A. Yes.

20 Q. Now, at paragraph 65, and this is on page 37 of your  
21 report, still the same page, would you agree with me that SAJ  
22 Musa, at Colonel Eddie Town, set up a military organisation?

23 A. No.

24 Q. Again, you quote DSK-082 about SAJ Musa being the battalion  
25 commander. Again, he wasn't with SAJ, was he?

26 A. No.

27 Q. Now, let's turn to the span of command. Now, at paragraph  
28 68, which is at page 39, you quote Colonel Iron as saying there  
29 was a brigade headquarters and four companies, later called

1 battalions; is that right?

2 A. Yes.

3 Q. Now, each battalion, or company, whatever you want to call  
4 it, had a commander, didn't it?

5 A. Yes.

6 Q. And each battalion or company, however you want to call it,  
7 had a strength about 80 to 150 men, didn't it?

8 A. It varied, yes.

9 Q. It could be as small as 80 or as much as 150, based on  
10 those statements.

11 A. Yes.

12 Q. As such, you say the span of command at level one had only  
13 been established from brigade commander to battalion commander.

14 A. Yes.

15 Q. As such, you say this level one span of command was  
16 insufficient to satisfy the span of command needs of the AFRC  
17 faction, notwithstanding its relatively small size; is that  
18 right?

19 A. Yes.

20 Q. Now if I can again ask you to refer to Colonel Iron's  
21 report, and this is at C9 of his report. For the benefit of the  
22 Chamber, it is number 14433, on the marked version. Now, if we  
23 look at C3.9.

24 A. Yes.

25 Q. And this is what Colonel Iron is saying in his report,  
26 "Battalions were structured along classic military lines. Under  
27 the commanding officer and second in command were a number of  
28 companies (perhaps 3 or 4) although they were closer in size" --

29 THE INTERPRETER: Your Honours, may counsel please lower

1 his pace.

2 MR AGHA: I apologise. I'll start again.

3 Q. So this is Colonel Iron's report, 3.9:

4 "Battalions were structured along classic military lines.  
5 Under the commanding officer and second in command were a number  
6 of companies (perhaps 3 or 4) although they were closer in size  
7 to a regular army platoon. Each company would be commanded by an  
8 officer. The RSM was primarily responsible to the commanding  
9 officer for discipline within the non-commissioned officers and  
10 soldiers. The battalion also had a G4 officer responsible for  
11 logistics and a G5 officer responsible for the security and the  
12 management of the abducted civilians."

13 Now, according to Colonel Iron, would you agree with me  
14 that there is a two-span chain of command, at least?

15 A. Well, if that, indeed, was the case. But, in my mind, that  
16 was not the case. There were no officers; there were no trained  
17 officers; there were no senior and non-commissioned officers who  
18 took up the positions.

19 Q. But if we put training aside for a part, the training of  
20 trained officers aside for a moment, that conclusion, regardless  
21 of the skills or ability of the person, would suggest, at least,  
22 there was a two-span chain of command, if not three, wouldn't it?

23 A. In my mind, he wrote how it should be, and not how it was,  
24 and then I -- within reading all the transcripts, I never found  
25 any information that that was the case.

26 Q. At any rate, that would have been based on Colonel Iron's  
27 sources. As you say, your report and findings are based on the  
28 transcripts and other sources you read. Now, I would like to  
29 refer you to a piece of the transcript, which a witness was a

1 former SLA and was with SAJ's faction in the jungle, where he's  
2 referring to the span of command. I'll just briefly read this to  
3 you. The witness is DBK-037. As I mentioned, he was one of the  
4 AFRC faction, with SAJ Musa. This is on 4 October 2006, at page  
5 67. I'm going to read line 6 through to 28. This is what he  
6 said before this Court:

7 "Q. After he" - that's SAJ Musa -- "had the  
8 meeting with the other officers, what did he do  
9 as it related to the military structure?

10 "A. Well, we lined up. He divided us  
11 according to platoon, making up a company.

12 "Q. So how many companies were there?

13 "A. We had four companies.

14 "Q. So you would say you had -- I'll scratch  
15 that. And each company had a commander?

16 "A. Yes.

17 "Q. And how many platoons were there?

18 "A. Each company comprised of three platoons.

19 "MR HARDAWAY: With the Court's indulgence for  
20 one moment, please.

21 "[Counsel conferred]

22 "MR HARDAWAY: I thank the Court. Could you  
23 repeat your answer again, Mr Witness. I'm  
24 sorry, I didn't catch that.

25 "A. Three platoons.

26 "Q. In each company?

27 "A. Yes.

28 "Q. And each platoon had their commander as  
29 well, didn't they?

1 "A. Yes."

2 If that statement of that evidence is to be believed of one  
3 of the former SLAs with SAJ Musa's faction, of which, obviously,  
4 you're not aware, you would agree with me now there is  
5 information or evidence before this Tribunal that does suggest  
6 that SAJ Musa organised his troop into brigade, companies, and  
7 three platoon, within each company; do you agree?

8 A. If that would be true, then he would have a different  
9 organisation.

10 Q. Bearing in mind the size of the AFRC faction, that would  
11 give it, at least, a two or three-span chain of command, wouldn't  
12 it?

13 A. Well, yes, formally, depending, of course -- not depending.  
14 You have to take into consideration the level of people, as I  
15 explained, who pick up the positions. But, indeed, if you have  
16 an organisation more down to platoons, as I described, than  
17 companies, then that would be the case.

18 Q. The former SLAs in the AFRC faction, as TRC-01 had  
19 mentioned, and I read the transcript to you before, would have  
20 been used to operating in that fashion: Brigade, companies,  
21 battalions, platoon, wouldn't they?

22 A. I think so, yes.

23 Q. Would you agree with me that most of the AFRC faction, if  
24 they were former SLAs, would have actually served and fought  
25 against the RUF in the war?

26 A. I can't comment on that.

27 Q. But if the evidence were to suggest, let's say, the ten  
28 witnesses who appeared before this Court, that they'd all fought  
29 in the front line against the RUF, and were used to those



1 structures, they would follow -- they would be used to them;  
2 would you agree?

3 A. I would agree, yes.

4 Q. So coupled with Colonel Iron's report, based on his  
5 sources, and the evidence of the Defence witness I've just read,  
6 talking about division of companies in a platoon, would you agree  
7 with me there was a sufficient span of command for the needs of  
8 the AFRC, bearing in mind its numbers?

9 A. Well, indeed, if what you describe is true, the case, it  
10 would be the case. But, reading the transcripts on the position  
11 of the battalion commanders, I have found no explanation of their  
12 own organisation. So if someone comes up -- indeed, I have not  
13 the studied the transcript.

14 Q. But if that particular transcript were to be believed,  
15 there was a sufficient span of command.

16 A. Well, if everything is described, you say, then, of course,  
17 you have a span of command.

18 Q. Okay. Now, certainly that evidence would suggest that was  
19 the situation in the static sense, at least, when the troop was  
20 not on the move; yes?

21 A. Yes.

22 Q. Now, whilst on operations, there was also a task force  
23 commander who would serve as a link between brigade and, say, two  
24 battalions if two battalions were involved in a single operation.

25 A. That was stated.

26 Q. Now, in this situation, you would have even have, maybe, a  
27 three or four-level span of command within the AFRC faction,  
28 wouldn't you?

29 A. Well, if you have a task force commander, you get an extra

1 link. But if you then have a task force commander who is  
2 assigned task force commander, as in the transcripts, he doesn't  
3 even know what a task force commander is, and he doesn't give  
4 orders, as stated, to his subordinates.

5 Q. If we look to Colonel Iron's report again, if I may refer  
6 you to that, and if we could kindly look at D6 in his report, and  
7 number 14447, for the benefit of the Court. Now, this is the  
8 description of the modus operandi of the AFRC on his advance from  
9 Colonel Eddie to Freetown, which you had earlier said you didn't  
10 dispute Colonel Iron's assessment of that, based on his sources.

11 A. I didn't dispute the way he described the campaign.

12 Q. Yes, the modus operandi, as described in his report.

13 A. But I didn't dispute the way he described the entire  
14 campaign.

15 Q. You didn't challenge, let's say --

16 A. No, no.

17 Q. -- how he set out the modus operandi. Read at the top,  
18 D2.9, I'll read as follows:

19 "Following a number of operations around the Hastings area,  
20 including a three-battalion raid against the police training  
21 college, the AFRC faction had to cross the bridge at Jui. This  
22 was protected by strong ECOMOG force in the area of the Teachers  
23 College. In an operation reminiscent of the Mange battle, on the  
24 night of 4th January, two battalions under the task force  
25 commander attacked the ECOMOG position from the south and drove  
26 the defenders to the north." Essentially at the road to the  
27 bridge, "across which the remainder of the force hurried to  
28 safety on the other side."

29 Now, according to that modus operandi of Colonel Iron's

1 sources, that would, indeed, indicate that, during operations,  
2 there was a task force commander, wouldn't it?

3 A. Yes.

4 Q. As such, during operations, there would be an adequate span  
5 of command for the purposes of the AFRC, bearing its size in  
6 small numbers.

7 A. Only if you have a battlefield commander who is able to  
8 carry out that mission. But, as I stated before, in the  
9 transcripts I read a statement by a battlefield commander or task  
10 group commander who clearly states that he is not in a position  
11 to give orders.

12 Q. But notwithstanding that, you would agree that there was an  
13 adequate span of command for the purposes of the AFRC, based on  
14 the evidence I've just read to you and Colonel Iron's sources?

15 A. Well, based on what is written in Colonel Iron's report --

16 Q. Yes.

17 A. -- the answer would be yes.

18 Q. But also on this other witness who came here, based on what  
19 the formation was?

20 A. Well, yes, if that would be true, and it's -- of course, I  
21 didn't analyse that.

22 Q. It wasn't available to you at the time, that evidence.

23 A. No.

24 Q. I'm not suggesting to you you had the ability to do that.

25 A. No. But I emphasise that if you -- you know, you point out  
26 that the battle group commander is in place, then the battle  
27 group commander, or task force commander, how you name him, must  
28 have a clear knowledge and must be giving orders in his  
29 organisation. So, by merely describing this doesn't convince me.

1 Q. I would suggest to you that it was effective and  
2 operational during the advance from Colonel Eddie Town to  
3 Freetown, both the span of command and chain of command.

4 A. See, based on the information I have, I can't agree with  
5 that.

6 Q. If it wasn't working effectively, how can you account for  
7 the fact it moved from Colonel Eddie Town, engaging in various  
8 battles with ECOMOG on the way, and still managed to enter  
9 Freetown, take Freetown and hold Freetown for three weeks?

10 A. Well, because it is stated in several sources that there  
11 were hardly any encounters between the AFRC and ECOMOG.

12 Q. But we'll come to that in Colonel Iron's report, because he  
13 addresses a number of encounters between the AFRC faction and  
14 ECOMOG. I think you will agree with me it wasn't a case of the  
15 AFRC just walking down the road into Freetown, was it?

16 A. Well, I've stated that, merely, it was a military march in  
17 the same direction. It is stated by several that there were no  
18 battles fought. So I was highly surprised to read about all the  
19 battles that were written in Colonel Iron's report. While I  
20 didn't see any evidence of that, also, from, you know, my primary  
21 source who said, well, that was not the case. So, if you write  
22 it down, that's one, but I'm not convinced that there are  
23 numerous examples that ECOMOG, for one reason or another, left  
24 the position. So I was surprised to read that.

25 Q. Would it serve to convince you if you knew that of,  
26 perhaps, the ten former SLAs who were part of the AFRC faction on  
27 the advance from Colonel Eddie Town to Freetown, had actually  
28 given evidence of those engagements and battles, would that  
29 convince you more, if you had been aware of that?

1 A. Well, of course, then I have to read the statements,  
2 otherwise I can't give a comment on that.

3 Q. Yes. If it wasn't available to you at the time, then you  
4 couldn't reach that position.

5 A. Yes.

6 Q. Now, if we turn to paragraph 71 on page 41 of your report,  
7 not Colonel Iron's. Now, here you accept that SAJ Musa had a  
8 limited form of staff structure, don't you?

9 A. Yes.

10 Q. And at 74 to 75, you discuss the lack of training, and  
11 that's on page 42 and 43.

12 A. Yes.

13 Q. I think I already put to you the case for the Prosecution,  
14 that the SLA soldiers, whilst in the jungle, had sufficient  
15 training to carry out their needs of the AFRC.

16 A. Well, yes, you stated that. But what I discuss here is a  
17 different form of training.

18 Q. Essentially, you're of the view that their training was  
19 insufficient or inadequate?

20 A. No, what I've been saying was that, and we're still talking  
21 about staff officers, there was hardly any really officer-trained  
22 men in the force, in the AFRC faction, and certainly not people  
23 who could perform a staff billet.

24 Q. Do you know how many staff officers they had in the AFRC  
25 faction?

26 A. I think that numbers have been mentioned, like three or  
27 four trained officers, or two or three.

28 Q. Now, if we turn to paragraph 77 of your report, which is  
29 page 43, and this is where you refer to the task force commander,

1 allegedly in these transcripts, not accepting responsibility. I  
2 would suggest to you that he may have said that because of fear  
3 of Prosecution before this Court.

4 A. Well, you see, I can't give comment on that.

5 Q. But it's possible, isn't it?

6 A. Sir, I don't know.

7 Q. Now, paragraph 79, page 44, you refer to staff and staff  
8 officers and, again, rely on the opinion of DSK-082; is that  
9 right?

10 A. Well, not only 082, but of course, also, 2 and 3, who  
11 confirmed the absence of trained officers. Now, whether they are  
12 trained officers or officers trained to perform a staff billet.

13 Q. On paragraph 79, in the last two lines, it says, "It must  
14 be understood that SAJ had no staff-trained officers." Now,  
15 that's not entirely accurate, is it?

16 A. Well, you know, I think he had a number two, but I don't  
17 think he had officers available to fill G1 to, namely, G5.

18 Q. But what I'm saying to you is that specific statement, that  
19 SAJ had no staff-trained officers, is incorrect, isn't it?

20 A. Because I indicated two or three, and Iron indicated two or  
21 three, and I say no, no staff officers. That's the inaccuracy.

22 Q. Now, as we've discussed earlier, armies have been created,  
23 or military organisations have been in operation since the dawn  
24 of time, haven't they?

25 A. Yes.

26 Q. And those military organisations didn't have staff  
27 structures, did they?

28 A. I think traditional military organisations always have had  
29 staff structures.

1 Q. But not necessarily all military organisations?

2 A. Well, if you have a regular army, you have staff structure.

3 Q. Are you saying that all regular armies, since their  
4 inception, always had staff structures?

5 A. Well, again, I'm not a military historian. Again, I go to  
6 the fact that this -- the availability of staff officers or a  
7 staff is a prerequisite, I understand, but is a prerequisite by  
8 Colonel Iron.

9 Q. I would suggest to you that a lack of trained staff  
10 officers is not a prerequisite for having a military  
11 organisation.

12 A. Well, I don't agree.

13 Q. I would like to look at paragraphs 82 and 83, which is  
14 pages 45 and 46 of your report. Would you agree with me that you  
15 indicate that SAJ Musa, whilst operating in a defensive posture,  
16 could not communicate effectively at all times?

17 A. Yes.

18 Q. Now, when we're talking about defensive postures, if we  
19 looked at, let us say, Camp Rosos, are you familiar with Camp  
20 Rosos?

21 A. No, I'm not.

22 Q. But, from the transcripts, are you familiar with the fact  
23 that defensive positions were set up around the various villages  
24 in Camp Rosos?

25 A. Yes.

26 Q. And are you aware that those defensive positions were only  
27 six or seven kilometres apart?

28 A. Yes.

29 Q. So you would agree with me that, whilst the formation was

1 in the static defensive position, it did have adequate  
2 communications, through runners, for example?

3 A. Well, I can't agree with you, because I stated before the  
4 danger and unreliability of runners. And, furthermore, you  
5 cannot communicate effectively, because a runner takes a lot of  
6 time, and you cannot be on top of the things with the situational  
7 awareness, as a commanding officer. So, this is not going to  
8 help you.

9 Q. But wouldn't it be sufficient, if you were in static  
10 defensive positions, and the various defensive positions were  
11 only five or six kilometres away; you could be in touch with each  
12 group, couldn't you?

13 A. Yes, but, sir, when you realise, for us, five to six  
14 kilometres doesn't seem far, but if you want to communicate with  
15 your subordinates or counterparts on a situation that develops,  
16 you need to have the quick information. Now, you can send a  
17 runner and, you know, so much proof in the fact that if you tell  
18 a runner, "Tell my boss," and then you describe the situation  
19 that's happening in your little village, "Tell my boss so and so  
20 there is a threat, imminent attack," or what have you, and the  
21 runner starts running, by the time he is reaching the sole  
22 location of the boss, he loses half of the information. So, if  
23 you don't use radio, then, in my mind, you cannot have a good  
24 communication and a quick communication, because communication is  
25 reliability and speed. So, you don't have that.

26 Q. I understand your point. You're saying that some of the  
27 communications could be lost as they passed on, so-called  
28 Chinese whispers. Now did you study at all the CDF faction?

29 A. No, I didn't.



1 Q. The Sierra Leone conflict was in, largely, a semi-literate  
2 society, and the CDF were able to communicate just through  
3 runners.

4 PRESIDING JUDGE: Is this evidence you're giving now,  
5 Mr Agha, or are you putting a proposition to him?

6 MR AGHA:

7 Q. I put a proposition to you that, in a semi-literate  
8 society, runners can pass on perfectly accurate information over  
9 short distances.

10 A. Well, of course, I'm not aware of that. I think it is more  
11 often the case, and if you pass the information, and especially  
12 not if you pass the information, "Tell we're going to meet at  
13 8.00," that may be accurate. But if you want to describe then,  
14 and that's what I'm talking about, the essence of, within a  
15 military operation, a situation that develops, it needs more than  
16 that. Moreover, there's a danger with the runners, as we all  
17 know, and it takes time. The question was in what way you could  
18 use the communications effectively.

19 Q. Presumably in the context of the Sierra Leone war, the AFRC  
20 faction had a better communication system then, let us say,  
21 ECOMOG, who had radios, because they were able to advance from  
22 Colonel Eddie Town to Freetown successfully, without being  
23 stopped.

24 A. Yes, but I think that's another issue. That's an issue of  
25 telling to move forward and they all know the roads. But that's  
26 not -- that has nothing to do with effective, speedy  
27 communication we discussed.

28 Q. But if we're going back to the point, let us say the AFRC,  
29 hypothetically, are operating from Colonel Eddie Town to Freetown

1 with runners, and ECOMOG have radios, then, notwithstanding that  
2 radio equipment, it didn't help them to defeat the AFRC faction,  
3 did it?

4 A. No. It depends, of course -- the question is whether that  
5 has to do with communication or not. It may have to do with  
6 other things.

7 Q. But, in the context of this conflict, particularly the  
8 march from Colonel Eddie Town to Freetown, it didn't really  
9 matter what communication systems the AFRC faction had, because  
10 it was sufficient to their needs, wasn't it?

11 A. Well, apparently they were able to reach Freetown without  
12 communication equipment.

13 Q. Now, coming back to that, are you aware there was  
14 communication equipment available to them during the march from  
15 Colonel Eddie Town to Freetown?

16 A. Well, I was aware that they got communication equipment.

17 Q. In Colonel Iron's report, which is at C16, and number  
18 14441, if I may refer you to Colonel Iron's report.

19 A. Can you repeat the page, please.

20 Q. It's at C16. If we go to page C5.9, this is, for the  
21 Court, page 14441, it reads, and this is the advance from Colonel  
22 Eddie Town to Freetown:

23 "The force moved almost entirely by night, resting up in  
24 jungle harbour areas by day. Mostly they moved by jungle track,  
25 guided either by locals in the force (such as '05' in the area  
26 between Mange and Lunsar) or by civilians abducted for the  
27 purpose. An order of March was established for the movement:  
28 First were three of the battalions (often 1st, 2nd and 3rd) then  
29 brigade HQ with all the 'families' and other abducted civilians,

1 and then the remaining battalions. The force only had three  
2 radio sets for the earlier part of the move, so they were  
3 distributed to the lead battalion (the advance guard), the  
4 brigade HQ in the centre, and the rear battalion (the rear  
5 guard). After the fourth captured Lunsar, they gained a further  
6 nine radios, so each battalion could have one."

7 Now, based on Colonel Iron's sources and his report, would  
8 you not agree with me that that was sufficient radio  
9 communications for the needs of the limited force of the AFRC as  
10 it advanced from Colonel Eddie Town to Freetown?

11 A. Based on what he says, yes.

12 Q. And I would also say there is other evidence in support of  
13 that, and that is a witness who was a part of that faction during  
14 the march from Colonel Eddie Town to Freetown, and I'll just read  
15 briefly a portion of his transcripts, which relates to radio.  
16 This is DBK-037, pages 47 to 48, October 4th, 2006. I shall read  
17 to you from lines 18 to 28. This is the evidence of one of the  
18 AFRC faction, who's moving with the troop from Colonel Eddie Town  
19 to Freetown:

20 "Q. Mr Witness, whilst you were coming to  
21 Freetown, did your troops have communication  
22 sets?

23 "A. Yes.

24 "Q. And where -- how many, do you know, that  
25 were with you -- you had?

26 "A. We had very qualified signal operator.

27 "Q. Well, how many sets --

28 "THE INTERPRETER: Your Honours, could the witness give me  
29 the number again.

1 "THE WITNESS: We had about five communication signal sets,  
2 which was operating for each company."

3 Now, if that witness is to be believed, that would further  
4 reinforce Colonel Iron's sources that there were, indeed,  
5 sufficient radio communications.

6 A. It would.

7 Q. Now, I would like to turn to paragraph 84 of your report at  
8 page 46. You start by saying:

9 "During the advance to Freetown and eventually the battle  
10 in Freetown it is very hard to understand how SAJ Musa was able  
11 to maintain the already very limited structure and hierarchy  
12 within his force if the statements in the TRC report are  
13 observed."

14 So you come to that difficulty, based on the TRC  
15 statements?

16 A. Not only that. I also base it on my primary source,  
17 indicating that you can steal radios. I have come across that.  
18 But, it needs a lot more than just stealing radios, and we have  
19 been over maintenance, batteries, et cetera. So you then need a  
20 whole lot more than only stating you need to have a radio. You  
21 have to come up with a communication plan, et cetera. So, in the  
22 information I was given by my source, well, you could have, at  
23 most, for a limited period of time, some radio equipment, but  
24 after then, it's wearing out.

25 Q. But none of your sources were with SAJ Musa's faction  
26 during the advance from Freetown to Colonel Eddie Town?

27 A. That's correct.

28 Q. Right. And the TRC report did not analyse in any detail  
29 the modus operandi of the AFRC faction, did it, barring the

1 attack on Freetown?

2 A. Well, basically, the TRC, if you call it the modus  
3 operandi, but the TRC analysis was no more or no less going  
4 towards the direction of Freetown in a big mass with a lot of  
5 noise, and that was it, with no confrontation, no fighting going  
6 on. That was the analysis made by the TRC. That is not much of  
7 a modus operandi, in my mind.

8 Q. It may be they didn't explore the actual detail of how the  
9 AFRC faction advanced from Colonel Eddie Town to Freetown.

10 A. Well, they went at length in describing this sort of --  
11 which, in my mind, was no more, no less than a march.

12 Q. Now at least ten Defence witnesses, who were former members  
13 of the SLA, who participated in the advance from Colonel Eddie  
14 Town to Freetown, have given evidence of a well-organised  
15 movement of the AFRC from Colonel Eddie Town to Freetown. Did  
16 you know that?

17 A. No.

18 Q. Now, did you know that, according to most of these  
19 witnesses, when the AFRC faction moved, it started with an  
20 advancement battalion, then a reinforcement battalion, then a  
21 headquarter group, then a rear battalion? Were you aware of  
22 that?

23 A. No.

24 Q. I'll just read to you one of the transcripts on this. This  
25 is from DAB-095 and it's page 65 and 66. It's line 13 through to  
26 line 6 on page 66.

27 PRESIDING JUDGE: What was the date again?

28 MR AGHA: 20 September 2006.

29 Q. I will just read you what this witness, who was a part of

1 the advance, said:

2 "Q. Mr Witness, what happened in these two  
3 weeks you were in Colonel Eddie Town?

4 "A. Well, we were divided into various groups  
5 and we were now putting together the plan how  
6 to come to Freetown and reinstate the army.

7 "Q. Can you please explain to the Court how  
8 this regrouping took place.

9 "A. Yes.

10 "Q. Could you please tell the Court how this  
11 was --

12 "A. Yes.

13 "Q. -- administered?

14 "A. Yes.

15 "Q. Please do.

16 "A. Well, in the first place, we had a group  
17 which they organised, that was called the  
18 advance party; it led the troops. There was  
19 another group called the reinforcement. And  
20 the third group was called the headquarter  
21 group, where we had our logistics and SAJ  
22 himself. And there was another group at the  
23 rear."

24 That was just one transcript how they started out. I'll  
25 read you another one, which may help. This was from the first  
26 accused himself. It is on 13 June 2006, page 16, line 29,  
27 through to page 18. It's rather long, but it will give you quite  
28 a good idea of the movement. I'll read, this is the answer:

29 "A. After he had given out these appointments"

1 - that's SAJ Musa -- "he said the task force  
2 team, which was the advance team, which was the  
3 fighting team also, should leave Eddie Town on  
4 27th November 1998. And the back-up team,  
5 which was the reinforcement team, which was  
6 controlled by Commander O-Five should leave --  
7 "Q. Before you proceed, please explain to this  
8 Court what you mean by reinforcement unit. You  
9 just mentioned back-up reinforcement. Would  
10 you please explain to this Court?  
11 "A. The reinforcement team was a team that was  
12 support the fighting team on the front in case  
13 the fighting team needed more manpower. Were  
14 they to be overcome by the enemies, they should  
15 immediately call for the reinforcement team,  
16 which was in the care of Commander O-Five."

17 Then we move slightly down to line 23, because there are  
18 some objections which are of not much interest. At line 24:

19 "Q. Mr Brima, how do you know what the  
20 reinforcement unit does? How do you know?  
21 "A. It was through the instruction or order of  
22 Commander SAJ Musa, the way he programmed the  
23 team. And I had told this Court it's very  
24 difficult for a soldier to take a team of  
25 soldiers on the front without briefing them.  
26 If a soldier was going to the front without  
27 being briefed, that would definitely cause some  
28 problems, because sometimes the troops would  
29 advance, or the battalion would advance in

1                   bi ts.

2                   "Q. [Microphone not activated].

3                   "MR GRAHAM:

4                   "Q. Mr Brima, you were telling us the need  
5                   about reinforcement. How do you know what you  
6                   just told this Court? How do you know?

7                   "A. I came to know this through the commander  
8                   officers' address, that is Commander SAJ Musa.  
9                   And he said after the reinforcement team had  
10                  left on 28th November 1998, the headquarters  
11                  team should leave with the company which was at  
12                  the rear.

13                  "Q. Mr Brima, do you know what the headquarter  
14                  team stands for?

15                  "A. Well, the headquarters team was where all  
16                  the family members of the soldiers were. He  
17                  didn't allow women to go to the front. It was  
18                  where the medical team was, or the medical  
19                  orderly. It was where the headquarters for the  
20                  signallers were. It was where we have the  
21                  quartermaster, and it was where we, the  
22                  detained people, and there was one company at  
23                  the rear which secured the headquarters."

24                  Finally -- there are a number of these. I'm just reading a  
25                  sampling of them to you. This is DBK-126, pages 52 and 53 on  
26                  12 October. I shall read from line 27 on page 52, through to  
27                  line 10 on page 53. This, again, was from one of the SLAs in  
28                  SAJ Musa's faction, which was advancing to free:

29                  "Q. At this time, where was the second



1 accused?  
2 "A. Well, they were on, because we were  
3 walking through the bush you would have the  
4 advance team who would go ahead. After the  
5 advance team you would have the soldier boys  
6 who carry the ammunition. After the  
7 ammunition, you have the medicals, those who  
8 carry the medicines and the doctors themselves.  
9 After that you have the wounded soldiers.  
10 After the wounded soldiers you have those who  
11 guard Ibrahim Kamara, Alex Tamba Brima and  
12 Santigie Kanu, and some others I can't recall.  
13 They took them for -- as prisoners of war.  
14 They would tie their hands and there would arm  
15 men to guard them. After their convoy it was  
16 Father Mario. After Father Mario then us.  
17 After us there were armed men. That was how we  
18 were going."

19 Now, had you been aware of all this evidence that had been  
20 given by members of SAJ Musa's faction, regarding how the advance  
21 from Colonel Eddie to Freetown, would you now be in a position to  
22 better understand how they were successfully able to manage that?

23 A. Well, I would -- if this would be accurate, then it clearly  
24 states that they marched in sequence. So, of course, within the  
25 jungle, you can't sort of spread out, or go into -- up front and  
26 one back. So you would go in sequence, and the sequence was  
27 established. That is what -- it tells me that.

28 Q. So you can see it's almost a standing operating procedure,  
29 the way the advance works, from those statements.

1 A. It only gives me an explanation on how they, in sequence,  
2 went. It doesn't give me any other information.

3 Q. But, at least, at this stage, it would give you an  
4 indication that they were just not on one long march into  
5 Freetown. There was at least some structure to their movements.

6 A. Well, I don't really see the difference. You know, the  
7 information you give me does not necessarily give me information  
8 that's not a long march to Freetown, except that it's in  
9 sequence.

10 Q. But it's in a co-ordinated sequence where you have the  
11 advance party going first, followed by the headquarter party,  
12 then followed by the rear party. So it is an organised sequence  
13 of advance, isn't it?

14 A. Well, it obviously has been a choice, made by Musa, to make  
15 the sequence. That's what he did. Again, it's not telling me  
16 much.

17 Q. Does it not indicate to you that there was some form of  
18 structure to the advance to Freetown?

19 A. Well, I don't know if you can call it structure. Maybe you  
20 can, but merely walking behind each other.

21 Q. Well, it actually goes beyond that, because you had the  
22 situation where the advance team would actually come back and  
23 assist the other groups if they got into difficulties. I'll read  
24 you the transcript of DBK-131, dated 10 October 2006. It's page  
25 66. This, again, was another member of the AFRC faction on the  
26 advance from Colonel Eddie Town to Freetown. He was in part of  
27 the RDF, which was a rapid deployment force:

28 "Q. How did you know you lacked ammunition?

29 "A. Well, as I have mentioned, I was in the

1 front line. I was a commander in the front  
2 line. All the boys were complaining to me that  
3 they had no ammunition. The headquarter as  
4 well, because the headquarters, at times they  
5 would attack there and they would attack the  
6 rear, so my own job, as RDF, wherever they  
7 attacked I would be there. I would go there  
8 and reinforce there. Make sure that I would  
9 put the situation under control and come back  
10 to the advance team."

11 Now, if that evidence is to be believed, wouldn't you agree  
12 that suggests a measure of organisation and structure during the  
13 advance?

14 A. Yes.

15 Q. Had this information been available to you, would you now  
16 be in a better position to say it was actually an organised  
17 structured advance from Colonel Eddie Town to Freetown?

18 A. Well, it would have increased my knowledge, but, then  
19 again, by the limited statement, then, again, I would have needed  
20 more information.

21 Q. But I have some more information about the headquarters  
22 unit. I will just very briefly read you that. This is another  
23 soldier accompanying them.

24 PRESIDING JUDGE: Is that going to be the same as the last  
25 one?

26 MR AGHA:

27 Q. In essence, to spare the time of the Court, we have the  
28 headquarters group, which has the medicals, radio communications,  
29 the prisoners, so on and so forth. Now, was that information

1 that was aware to you?

2 A. I was aware of the sequence and the headquarters, that was  
3 obvious. But I was aware about communication equipment, but then  
4 the question is: Does it work? And the information, of course,  
5 was not available to me when --

6 Q. But, having now heard some of this information, would you  
7 agree with me that it was a relatively structured march advancing  
8 to Freetown?

9 A. If it is true what you say, it is maybe better that I have  
10 seen, but it's still -- you know, it takes a lot to come to the  
11 conclusion that something is structured.

12 Q. But it certainly wasn't just a rabble running down from  
13 Colonel Eddie Town to Freetown, was it, from what you've heard?

14 A. Well, again, in my mind, it may not have been like I've  
15 stated here, based on TRC, but the difference between the two --

16 Q. But based on the evidence you've heard, you would agree  
17 with me, surely, this wasn't just some kind of horde descending  
18 on Freetown with no structure or organisation, or anything of  
19 that sort?

20 A. Well, if it is true what you described, maybe it is.

21 Q. Now, we discussed earlier, during the advance to Freetown,  
22 that, I believe from the TRC, there was a perception there were  
23 not many engagements or battles en route; is that right?

24 A. Yes, that's right.

25 Q. Now, on something else, just before we turn to this, I  
26 think it is important for you to appreciate, because of the  
27 structure and movement, did you know that when the advance party  
28 went forward and let's say attacked the position, the headquarter  
29 party didn't move to where the advance party was until it got the

1 all clear it was safe?

2 A. No.

3 Q. So, as it was moving, the advance party would clear the  
4 ground, signal to the headquarter party and the headquarter party  
5 would then move on, and that's how this troop advanced from  
6 Colonel Eddie to Freetown. Now, if you had the benefit of  
7 knowing that, would you say there was also an element of  
8 structure and organisation in that advance?

9 A. If you describe the fact that a forward unit moves forward  
10 and then comes to a position, and then gives the go-ahead, well,  
11 that is a way of operating.

12 Q. If that was the case, you would agree to me that this  
13 advance was actually quite an operational structured advance from  
14 Colonel Eddie Town to Freetown?

15 A. Well, it was an advance. I wouldn't say it was an  
16 operational advance, but it was an advance.

17 Q. Certainly there was some structure and organisation behind  
18 it?

19 A. If the way you describe, it is.

20 Q. Now, we mentioned before that the perception of the TRC was  
21 there were not many engagements en route. Now, did you know  
22 that, during the advance from Colonel Eddie Town to Freetown,  
23 that the advance party engaged in hit-and-run operations against  
24 ECOMOG forces at Lunsar? Did you know that?

25 A. Well, of course, they attacked Lunsar or Lunsar was  
26 available. I don't know what.

27 Q. They attacked it. There was an ECOMOG position which they  
28 attacked.

29 A. But I don't know if it was defended.

1 Q. I'll show you on the transcript what the people who  
2 involved in the engagement had to say. Were you aware there was  
3 also an engagement at Masiaka?

4 A. No.

5 Q. Were you aware that there was an engagement at Mile 38?

6 A. No. Again, you know, from the information I had, there  
7 were no -- there may have been skirmishes and small encounters,  
8 but not battles in the sense as I understand them.

9 Q. But if we're talking in terms of the Sierra Leone conflict,  
10 where maybe a battalion only has, or a company, only around 100  
11 men, and you are using a couple of battalions, or a battalion,  
12 that would be a reasonable battle, in the context of the Sierra  
13 Leone war, wouldn't it?

14 A. Oh, yes, that it would.

15 Q. So, for example, when I was reading out earlier about the  
16 task force commander, and he had two battalions with him, now, if  
17 he's going on an operation to attack an area with two battalions,  
18 you would agree with me in the context of the Sierra Leone war,  
19 that would be a battle; if, of course, there ECOMOG were  
20 opposing?

21 A. Rightly so, yes.

22 Q. Did you know some of these battles against ECOMOG were  
23 actually quite hard fought, like Benguema?

24 A. No.

25 Q. But you knew there was a battle at Benguema?

26 A. Well, again, I read it in my sources, in reading my  
27 sources. You know, it is stated over and over that there were  
28 battles. My sources indicate that it was merely the positions by  
29 ECOMOG were either unprotected or left.

1 Q. I will just read you a couple of transcripts regarding some  
2 of these engagements.

3 PRESIDING JUDGE: I'm not quite sure what you're going to  
4 ask, but seeing that, obviously, the general doesn't know about  
5 this evidence, anyway, can't you simply put to him, what if there  
6 were evidence that this, that and the other, what would you  
7 think?

8 MR AGHA: I would do that, Your Honour.

9 Q. As the learned judge has pointed out, there is no need for  
10 me to keep reading the transcripts of these engagements. If  
11 there were battles against ECOMOG en route to Colonel Eddie Town,  
12 let's say at Lunsar, Masiaka, Mile 38 and Benguema, and these  
13 were defended positions by ECOMOG, you would agree with me that  
14 the AFRC faction was engaging with the enemy on its advance to  
15 Freetown.

16 A. If that was the case, yes.

17 Q. You would agree with me, if they actually managed to reach  
18 Freetown, they were successful in those engagements.

19 A. Well, there again, I don't know that.

20 Q. Well --

21 A. And my information has it, or my sources indicate that  
22 there were no battles, and the majority of the positions were  
23 left by ECOMOG.

24 Q. But if it were the case that there was a battle there, and  
25 ECOMOG were forced to withdraw, or were defeated, then it would  
26 be fair to say that the AFRC faction was an effective fighting  
27 force, as it advanced from Colonel Eddie Town to Freetown,  
28 wouldn't it?

29 A. Well, under all the circumstances you describe, depending

1 on the situations, it might have been the case.

2 Q. Again, essentially, if you remember, earlier we discussed a  
3 part of your report where it was mentioned that the tactics were  
4 that thousands of civilians were put in the way so the Nigerians  
5 were unable to defend Freetown. If the evidence has come  
6 forward, as I've indicated earlier when I read the transcript,  
7 actually the AFRC faction advanced into Freetown, with the  
8 civilians behind in a co-ordinated movement, then that would  
9 actually be a successful attack, wouldn't it?

10 A. Well, if the positions are defended, indeed.

11 Q. Yes.

12 A. If the positions are all left open and your march to  
13 Freetown is basically undefended or not hindered --

14 Q. But if there were battles --

15 A. Well, if there were, that's another issue.

16 Q. I would suggest to you that the AFRC faction, in the  
17 context of the Sierra Leone war, was an effective military  
18 organisation; what would you have to say about that?

19 A. Based on the information I have, I looked not at the  
20 question whether it was an effective military organisation, I  
21 looked at the fact whether it was a traditional military  
22 organisation, and that's another issue.

23 Q. It is, indeed. Would you say traditional or not  
24 traditional, regular or irregular, it was an effective military  
25 organisation on the advance from Colonel Eddie Town to Freetown,  
26 in the context of the Sierra Leone war, in that it was able to  
27 achieve its objective?

28 A. Yes, but you put a question to me with a lot of parameters,  
29 a lot of circumstances. Well, I had to do a different research



1 to answer the question properly, and to go, indeed, in whether  
2 all the battles occurred, how the procedures were, how the  
3 formations were. Instead of answering the question, we  
4 continuously go around that, answering the question what Colonel  
5 Iron put to me, or not -- he didn't put to me, the question was:  
6 Was it a traditional military organisation.

7 MR KNOOPS: Your Honour, at this point, I object, because  
8 the Prosecution is actually, with this issue, giving evidence in  
9 its own case. The qualification whether the advance was  
10 effective has never been stated by any of the sources of the  
11 Prosecution, at least the transcript he quoted. It's not a  
12 question, it's a matter of interpretation of the transcript,  
13 which the Prosecution puts before the expert, of which he has  
14 only his own knowledge, but it's never been said in the  
15 transcript that it was an effective advance. It's the evidence  
16 of the prosecution given to this expert.

17 PRESIDING JUDGE: What's your reply to that, Mr Agha?

18 MR AGHA: Your Honour, this is an expert military witness.  
19 He has had access to some information, but not all. Indeed, our  
20 military expert didn't have access to much of the information  
21 that has arisen. I am putting to him various pieces of evidence,  
22 which has come forward in this trial, and asking his opinion, as  
23 an expert, on what he believed the position would be. I think  
24 he's perfectly capable of answering that.

25 PRESIDING JUDGE: But the objection by Mr Knoop is that  
26 you are putting your own spin on the evidence. In other words,  
27 Mr Knoop is saying there is more than one way to interpret the  
28 evidence, but you're putting your version of the evidence to him,  
29 which has not yet been decided by the Court.

1 MR AGHA: That's true, it hasn't yet been decided by the  
2 Court, but, then, on the other hand, Your Honour, in his expert  
3 report, the expert was relying on transcript evidence of  
4 Prosecution witnesses.

5 PRESIDING JUDGE: Exactly. It's a matter of how you phrase  
6 the question, isn't it? Instead of putting your interpretation  
7 to the witness as a question of decided fact, you can put it in  
8 some other way.

9 MR AGHA: I will try and do that, Your Honour.

10 Q. Now, based on what you've heard, how would you describe the  
11 advance from Colonel Eddie Town to Freetown?

12 A. Based -- again, what you do give me is limited information  
13 about an advance to Freetown, an advance that I didn't  
14 specifically look into or analyse, and on the basis of the  
15 information you give me, then, for me, it's really impossible to  
16 describe the advance to Freetown.

17 Q. Okay. Shall we look at your conclusions, instead? That  
18 might be an easier way of addressing some of the issues. They're  
19 on page 49. Now, if we look at your conclusion 88. Now, I think  
20 you'd agree with me, based on the evidence you've now heard, that  
21 the level one, subordination, it was more than that, this span of  
22 command.

23 A. Well, I can't agree with you as you put it like that. If  
24 all the prerequisites, or all the information you put to me is  
25 right, exactly in the sense you put it to me, then it is a  
26 different story.

27 Q. If it were to be right?

28 A. Well, it's obvious that if any organisation has all the  
29 things I describe necessary, and they have that, then my answer

1 is different. But, again, I didn't come across that information.

2 Q. But I'm suggesting based on the new information you've now  
3 been made aware of.

4 A. Again, sorry, what you give me is limited information in a  
5 phrase and, from there, you want to have me indicate whether  
6 there were more levels, and I can't do that.

7 Q. You're not able to indicate --

8 MR KNOOPS: Your Honour, this question is asked and  
9 answered several times by the general.

10 PRESIDING JUDGE: He's already clearly said that if all the  
11 propositions you put to him were true, then there might be more  
12 than one level.

13 MR AGHA:

14 Q. Now, 89, there was some staff structure.

15 A. Yep.

16 Q. At 90, in your view, there were not sufficient commissioned  
17 officers to properly establish and maintain a hierarchy and  
18 structure; is that right?

19 A. Well, again, in the sense as raised by Colonel Iron, we  
20 should not forget that. Again, the issue is a traditional  
21 military organisation, and I have the feeling that we constantly  
22 go away from that, and I want to stress the fact that that was  
23 the issue I looked into. If you want to have the requirements  
24 fulfilled for that, then my conclusion still stands.

25 Q. I would suggest to you that the AFRC faction was able to  
26 maintain a hierarchy and structure.

27 PRESIDING JUDGE: Well, you must bear in mind, this witness  
28 is not a witness of fact. He's a witness of opinion.

29 MR AGHA: Okay.

1           PRESIDING JUDGE: You can put to him "what if the AFRC  
2 structure," and get his opinion there, but he's not giving  
3 evidence of any facts.

4           MR AGHA:

5 Q.       Based on what you've heard about the movement of the AFRC  
6 faction from Colonel Eddie Town to Freetown, would you agree with  
7 me that that indicated that there was a hierarchy and structure  
8 within the AFRC faction as it advanced from Colonel Eddie Town to  
9 Freetown?

10 A.       Well, again, based against the question of a traditional  
11 military organisation, I don't believe that.

12 Q.       At 91, you say:

13           "SAJ Musa did not have the communication facilities to  
14 properly establish and maintain the structure and hierarchy at  
15 all times."

16           Now, based on what you've heard now, if it were to be  
17 believed, would you still stick with your conclusion at 91?

18 A.       Well, I do, because I'm not convinced about the fact that  
19 he had the communication. Now, again, if all the parameters were  
20 met about communication systems and rechargeable batteries and HF  
21 and VHF and all of that, if that were to be true, then the answer  
22 would be different, but that is in any normal organisation.

23 Q.       If those requirements were there --

24 A.       If they were all there, that would have been the case.

25 Q.       Okay. At 92, you say:

26           "During the advance to and attack on Freetown it seems to  
27 me impossible to maintain a structure and hierarchy when so many  
28 abducted civilians are within the force."

29           Now, based on the evidence you've heard about the movement

1 from Colonel Eddie Town to Freetown, do you still say it would be  
2 impossible to maintain a structure and hierarchy?

3 A. I do, in relation to the question I was addressed to.

4 Q. How can you then account for the fact that the invasion of  
5 Freetown was successful?

6 A. Well, you know, I don't know how to make myself clear. But  
7 the question one, hierarchy and structure had to do with the  
8 traditional military organisation. Now, there might have been  
9 other structures and there might have been other ways of doing  
10 things. That may be the case, but in relation to the question as  
11 addressed by Colonel Iron, and answered by me, you know, I would  
12 still have the same opinion.

13 Q. That it was impossible?

14 A. In the way it was addressed by Colonel Iron, yes.

15 Q. Then at 93, you say:

16 "Overall, it is fair to say that the AFRC faction had only  
17 the semblance of a military structure and hierarchy."

18 A. That's correct. That's relating to my previous remark.  
19 You know, you might come up with all sort of structures, all sort  
20 of ways of doing business. That's understood. But the question  
21 was asked in relation to the traditional military organisation.

22 Q. But it at least had a semblance of a traditional --

23 A. That's what I stated.

24 MR AGHA: Would this be an appropriate time? Your Honour,  
25 I would like to bring one other matter to your attention. I'm  
26 not sure if the information is correct or not, but I'm told it  
27 is, but I understand that I learned Defence counsel had dinner with  
28 the witness a few nights ago, despite being told not to share a  
29 cup of soup. I think, if so, that is rather inappropriate,

1 bearing in mind that the cross-examination or chief was still  
2 going on at the time.

3 PRESIDING JUDGE: Is that right, Mr Knoops?

4 MR KNOOPS: That's correct, Your Honour.

5 PRESIDING JUDGE: That was a very unwise thing to do,  
6 because you leave yourself open to some adverse criticism now.

7 MR KNOOPS: Your Honour, I can assure you that we didn't  
8 discuss the case. We had a short -- of course, the restaurant is  
9 at the same place.

10 MR AGHA: My understanding is that they sat and ate dinner  
11 at the same table.

12 JUDGE SEBUTINDE: Mr Knoops, there is a saying in the legal  
13 fraternity that justice must not only be done, but must be seen  
14 to be done.

15 PRESIDING JUDGE: You see, Mr Knoops, in other  
16 jurisdictions, this type of incident does happen from time to  
17 time, and there is quite a bit of case law on it, but putting it  
18 in a nutshell, it is not completely decisive what the Tribunal  
19 might think of such behaviour, it is what the perception is of  
20 the ordinary member of the public, what that member of the public  
21 would perceive by seeing defence counsel dining with the witness,  
22 when that witness is under cross-examination. Most ordinary  
23 persons would have the perception that something is not right in  
24 the halls of justice.

25 MR AGHA: I think it is more so, Your Honour, in that  
26 I learned Defence counsel, when he raised the issue, particularly  
27 suggested it should not happen.

28 PRESIDING JUDGE: Well, I am puzzled to hear what has  
29 happened, Mr Knoops. All I can say at the moment is I trust it

1 won't continue.

2 MR KNOOPS: Your Honour, that was the reason that I myself  
3 raised the issue, that the expert and I, we are in the same  
4 hotel.

5 JUDGE SEBUTINDE: But Mr Knoops, at the time you did raise  
6 the issue, the Bench did enjoin you to resist from meeting,  
7 albeit you're staying in the same hotel, but from dining until  
8 the witness had completed his testimony. I remember that very  
9 well. Now, against that enjoinder, it now transpires that you  
10 did differently. You did the exact opposite. That is the part  
11 that I myself don't understand what the need was that you  
12 couldn't wait until the end of the testimony.

13 MR KNOOPS: With all due respect for the Bench, it was my  
14 understanding that it's unavoidable that, when we are in the same  
15 hotel, that we see each other. The thing is that we don't  
16 discuss the evidence and the testimony is another thing, and that  
17 was our promise.

18 PRESIDING JUDGE: The thing is, Mr Knoops, you're missing  
19 the point of what I said. I must confess, I thought the  
20 principle of not communicating in any way with a witness under  
21 cross-examination is such a well known thing that we wouldn't  
22 have had to go into any long diatribe to caution you against it.

23 You've missed the point I'm making. It's not whether you  
24 actually discussed the case with the witness or not, it's the  
25 perception to the ordinary person whose looking at the Courts as  
26 a system of justice. It's the perception of what the dining with  
27 this witness would have appeared. As I say, the perception can  
28 only be an adverse one. You say that you weren't discussing the  
29 case, but how does anybody else in that restaurant who knew the

1 situation, how do they know what you were discussing, or not  
2 discussing. It's not a matter of us taking you at your word.  
3 It's the fact that this system of justice looks all the poorer  
4 when Defence counsel go dining with their own witness, as well as  
5 witnesses who are under cross-examination.

6 In any event, what can be done about that, we'll have to  
7 consider. Mr Knoops, live in the same hotel or not, it's not  
8 proper conduct to go dining with witnesses when they're under  
9 cross-examination. I hope we've made that clear now.

10 MR KNOOPS: You did, Your Honour.

11 PRESIDING JUDGE: We'll adjourn until 9.15 Tuesday morning.

12 [Whereupon the hearing adjourned at 4.17 p.m., to be  
13 reconvened on Tuesday, the 24th day of October 2006,  
14 at 9.15 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: WILLEM PRINS 2

CROSS-EXAMINED BY MR AGHA 2