

Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

MONDAY, 7 NOVEMBER 2005
9.37 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Candice Welsh Mr Matteo Crippa
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Peter Harrison Ms Shyamala Alagendra Mr Mark wallbridge(Case Manager)
For the Principal Defender:	Mr Ibrahim Foday Mansaray
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph Ms Chantal Refahi
For the accused Morris Kallon:	Mr Shekou Touray Mr Melron Nicol-Wilson
For the accused Augustine Gbao:	Mr John Cammegh

1 [RUF07NOV05A - CR]
2 Monday, 7 November 2005
3 [Open session]
4 [The witness entered Court]
09:30:52 5 [The accused Sesay and Kallon present]
6 [The accused Gbao not present]
7 [Upon commencing at 9.37 a.m.]
8 WITNESS: TF1-314 [Continued]
9 PRESIDING JUDGE: Good morning, Madam Witness.
09:35:38 10 THE WITNESS: Yes, good morning.
11 PRESIDING JUDGE: Mr Cammegh, are you ready to proceed with
12 your cross-examination?
13 MR CAMMEGH: I am, Your Honour, yes. Before I do so, I
14 wonder if this file, kindly prepared by Mr Harrison could be
09:35:56 15 handed to the witness, please, containing the six statements
16 taken from her, pursuant to this case.
17 CROSS-EXAMINED BY MR CAMMEGH:
18 Q. Good morning, madam. When you started giving your evidence
19 the other day, I think you swore on the Bible; is that right?
09:36:42 20 A. Yes.
21 Q. Are you a Christian, a practising Christian?
22 A. I am a Christian.
23 Q. Do you go to church?
24 A. Yes.
09:37:08 25 MR HARRISON: I am sorry to interrupt, there is an
26 indication from one of the witness management people in the
27 gallery that the voice distortion may not be activated. I wonder
28 if we can have that confirmed.
29 PRESIDING JUDGE: Thank you, Mr Harrison.

1 MS EDMONDS: AV have indicated that it is working.

2 JUDGE THOMPSON: Counsel, perhaps for the enlightenment of
3 the Bench and, of course, without any intention at all to limit
4 the scope of your cross-examination, the issue of whether one
09:38:24 5 goes to church and whether one is a practising Christian, it
6 would seem to be a controversial one. I'm not sure whether -- I
7 don't intend to limit. You may want to elicit, quite rightly,
8 certain pieces of evidence based on that, but I just want to warn
9 you that, as a judge, my perception of nominal and practising
09:38:55 10 Christians is a controversial one. I know several people who go
11 to church every day, or every Sunday whom I would not
12 characterise. Not to limit your cross-examination, it's just
13 that we are sensitive of that.

14 MR CAMMEGH: Yes, Your Honour, I'm not intending to embark
09:39:18 15 on any theological exercise.

16 JUDGE THOMPSON: I take your point.

17 MR CAMMEGH: All will be revealed, almost immediately.

18 JUDGE THOMPSON: I take your point. I will restrain
19 myself.

09:39:36 20 MR CAMMEGH:

21 Q. Do you go to church regularly, Madam witness?

22 A. Yes.

23 Q. Have you always gone to church regularly?

24 A. Yes.

09:39:45 25 Q. By regularly, how frequently do you go to church, please?

26 A. I go to church on every Sunday.

27 Q. Have you always gone to church every Sunday?

28 A. Yes. xxx xxxx xxxx xxxxx xxxx xxxx xxx.

29 Q. Have you been to church every Sunday since you were a

1 little girl?
2 A. Yes.
3 Q. Can you tell us, please, the name of the church that you
4 went to every Sunday when you were living in Buedu?
09:40:37 5 A. When I was in Buedu, I didn't go to church.
6 Q. So what you mean to say is this, is it: since you were a
7 little girl, you've been to church every Sunday, except for the
8 ~~xxxxxxx~~ years when you were in Buedu; is that right?
9 A. Yes.
09:41:13 10 Q. Are you able to name -- first of all, are you able to tell
11 us whether there is a church in Buedu?
12 A. Well, I don't know whether there was a church there.
13 Q. You were there for ~~xxxxxxx~~ years?
14 A. Yes.
09:41:38 15 Q. Now, last Friday, you told this gentleman who sits on my
16 left, Madam witness that you never actually saw Superman in
17 Buedu. Was that true?
18 A. Yes.
19 Q. Also on Friday, you told this gentleman who sits on my
09:41:58 20 right that you never saw Morris Kallon in Buedu, was that true?
21 A. Yes.
22 Q. If at any stage you were to tell anybody that you had seen
23 Superman on Buedu, or Kallon in Buedu, that would be a lie,
24 wouldn't it?
09:42:26 25 A. I don't understand you.
26 Q. Well, let's try again.
27 A. Yes.
28 Q. You just told us you weren't sure you saw Superman or
29 Kallon in Buedu; correct?

1 A. Yes.

2 Q. So it would be a lie, wouldn't it, to say you had seen them
3 in Buedu. It's obvious, isn't it?

4 A. Well, I don't take it as a lie, because you can be in the
09:43:01 5 place and you wouldn't know many people, as long as you don't
6 walk about, you will not know whether people were there.

7 Q. You never saw Superman or Kallon in Buedu; correct?

8 A. Yes, I don't know them at all.

9 Q. Right. Did you see Augustine Gbao in Buedu?

09:43:33 10 A. I don't know him.

11 Q. What is the answer? Yes or no? Did you see Augustine Gbao
12 or not?

13 A. The top commanders, all the top commanders, I did not see
14 them there. Even if I saw them, I wouldn't be able to recognise
09:43:59 15 them whether they were the ones, because I was a little girl.

16 Q. Can you tell us who Augustine Gbao was? Are you able to
17 help me with that?

18 A. Well, I only heard about him that he was a rebel, but I did
19 not really know him. I only heard that Augustine Gbao was a
09:44:27 20 rebel.

21 Q. Did you hear anything about his job?

22 A. No.

23 Q. So you're unable to tell us, are you, whether or not he was
24 one of the top commanders?

09:44:58 25 A. Well, I heard -- I used to hear that he was a rebel, but I
26 don't know whether he was a top commander or not, until when we
27 came to Freetown. That was the time I knew him very well, that
28 he was a top commander.

29 Q. Did you go to Freetown after you left Buedu?

1 A. Myself? No.

2 Q. When were you in Freetown?

3 THE INTERPRETER: Correction, interpreter.

4 PRESIDING JUDGE: [Microphone not activated]

09:45:42 5 THE INTERPRETER: The witness actually said, "when we came
6 to town," but she did not specify which town, so she did not
7 really say Freetown. That is the correction.

8 MR CAMMEGH:

9 Q. Madam witness, I just want to be clear about what you're
09:45:57 10 saying. When was it you came to town?

11 A. Freetown? It was when the special court people went to
12 where I was staying and they interviewed me. It was after that
13 that I came to Freetown.

14 Q. Was that the time when you first heard
09:46:29 15 about Augustine Gbao?

16 A. When I came to Freetown?

17 Q. Yes.

18 A. No. I said it was in Makeni that I knew him.

19 Q. Right. Are you able to tell us when it was, please, that
09:46:54 20 you arrived in Makeni?

21 A. The year?

22 Q. Yes, please.

23 A. It was in 199X.

24 Q. Was Augustine Gbao in Makeni in 199X?

09:47:31 25 A. Well, really, I didn't know if he was there.

26 Q. Did you ever see Augustine Gbao?

27 A. Yes, I saw him in Makeni.

28 Q. Now, I want you to help me with this as best you can,
29 please.

1 A. Yes.

2 Q. Can you remember, as precisely as you can, which year it
3 was when you first saw Augustine Gbao?

4 A. I could not really recall the year, but after we've left
09:48:10 5 the bush and came, before the disarmament took place, that was
6 the time I saw him.

7 Q. Well, let me see if I can help you.

8 A. Uh-huh.

9 Q. You told us on Friday about an event when the UNAMSIL
09:48:30 10 peacekeepers were taken away by various rebels. You remember
11 telling us that?

12 A. Yes.

13 Q. All right. Well, we all agree in this courtroom that that
14 event took place in May of 2000.

09:48:57 15 A. Well, I cannot tell the year.

16 Q. You can accept it from me, we all agree, it's a historical
17 fact.

18 PRESIDING JUDGE: Mr Cammegh, who is "we" all agree?

19 MR CAMMEGH: The Court; it is a historical fact, Your
09:49:17 20 Honour, that the --

21 PRESIDING JUDGE: Have we taken judicial notice of that
22 fact?

23 MR CAMMEGH: I would have hoped so, with respect,
24 because --

09:49:22 25 PRESIDING JUDGE: It may be true, but I have no such
26 recollection.

27 MR CAMMEGH: I think the Prosecution's case would be that
28 the --

29 PRESIDING JUDGE: It's the language you are using, "In this

1 Court, we all agree." I may be on the defensive due to that. I
2 am not sure that the Court has agreed to it.

3 MR JORDASH: I don't agree to it.

4 MR CAMMEGH: I'll try again.

09:49:50 5 Q. You told us about an event.

6 JUDGE THOMPSON: Did you say we took judicial notice of
7 this?

8 MR CAMMEGH: No, Your Honour, I'm moving on.

9 Q. You told us about an event when the UNAMSIL peacekeepers
09:50:20 10 were abducted.

11 A. Yes.

12 Q. You can remember that event clearly in your mind, can you?

13 A. Yes.

14 Q. Was that when you first saw Augustine Gbao?

09:50:35 15 A. No.

16 Q. How long before that, do you think, did you first
17 see Augustine Gbao in Makeni?

18 A. After we've left the bush, it took a long time before I saw
19 him.

09:51:16 20 Q. By the time you say the UNAMSIL peacekeepers had been
21 abducted, how many times had you seen Augustine Gbao, do you
22 think in Makeni?

23 A. Before -- I don't understand.

24 Q. How many times had you seen Augustine Gbao before the
09:51:42 25 peacekeepers were abducted, as you tell us?

26 A. Well, from that time when we were in Makeni, everybody has
27 its freedom, his or her freedom of movement, so there were times
28 when he would pass by when, on my way to the market, and he would
29 come and pass me on the way to task force, and then I would see

1 him.

2 Q. what was his job in Makeni?

3 A. well, I don't know.

4 Q. was he a police officer?

09:52:22 5 A. I don't know.

6 Q. who was the chief of the RUF police, or the MPs, in Makeni
7 while you were living there?

8 A. well, I knew of one Pa Jalloh, Pa Jalloh.

9 Q. He was chief of police, was he, of RUF police?

09:52:55 10 A. well, I don't know, but I used to hear that he was the MP
11 commander. I don't know whether he was the chief of the MPs. I
12 couldn't tell.

13 Q. what did Augustine Gbao look like? Can you describe him?

14 A. I will try. He is short. He's not too dark. Then the
09:53:25 15 time when he was in Makeni, he had a projected belly, a small
16 belly.

17 Q. You saw him from time to time in the streets of Makeni, but
18 you don't remember what job he held there?

19 A. No. It was not all the time that I saw him. It was once
09:53:58 20 in a while when I saw him, but I really couldn't tell the work he
21 was doing.

22 Q. were you disarmed in Makeni?

23 A. Yes.

24 Q. And you gave up what, an AK-47, was it?

09:54:18 25 A. Yes.

26 Q. what did you have an AK-47 for?

27 A. To disarm.

28 Q. Yes, but what were you doing with an AK-47 before you
29 disarmed yourself?

1 A. Well, it was not mine. It was given to me so that I could
2 disarm.

3 Q. Who gave it to you?

4 PRESIDING JUDGE: Be careful. You don't have to say the
09:54:58 5 name per se. If Mr Cammegh wants to have the name, he may have
6 it written down.

7 MR CAMMEGH: I will move on to a different question.

8 JUDGE ITOE: You see, we have the name in evidence already.
9 If you want her to confirm the name, you can write it down and --

09:55:14 10 MR CAMMEGH: I'm happy to move to a different question.
11 It's not terribly important for my purposes, thank you.

12 Q. Madam witness, I would like you now to open the file in
13 front of you and turn to page 10730. That's 10730. It might
14 help you, Madam witness, if you turn to the fifth page of the
09:55:54 15 bundle. That's probably the easiest way to do it. Just turn to
16 the fifth page.

17 MR HARRISON: If I can just suggest, there are yellow
18 pieces of paper stuck on each of the individual statements with
19 the date of the statement written on it. I should think the
09:56:22 20 witness has already passed by what you are trying to draw her
21 attention to.

22 MR CAMMEGH: Thank you. I wasn't aware of that.

23 Q. Madam witness, if you would like to close the pages again,
24 please. Now, on those yellow pieces of paper -- you can open it
09:56:40 25 again. Do you see some yellow pieces of paper down the side?

26 A. Yes.

27 Q. Do you see one with a date on it, 30/06/04?

28 MR HARRISON: Unfortunately, I did 30th June.

29 THE WITNESS: Uh-huh.

1 MR CAMMEGH:

2 Q. Now, I want to address you to the bottom three lines of
3 this document, please. This is the second statement that was
4 taken from you, the first being on 29 October 2003. This is what
09:57:38 5 you told the Prosecution representative Sharan Parmar. You said
6 this:

7 "I fought during the war in surrounding villages of Buedu.
8 we were doing" --

9 THE INTERPRETER: Your Honour, could the counsel repeat and
09:57:58 10 slowly for the interpreter.

11 MR CAMMEGH:

12 Q. "I fought during the war in surrounding villages of Buedu.
13 we were doing food finding and I carried a gun. I fired a
14 gun. When we would go out, they would give you drugs, so
09:58:26 15 it is hard for me to remember who I fired my gun at."
16 Do you recall telling Sharan Parmar that particular story?

17 A. Yes.

18 Q. Would you now please turn to the date 26 October 2005? At
19 paragraph 1, it's apparent that you told the Prosecution
09:59:36 20 representative about two weeks ago the following:

21 "During the food finding missions the witness" - that's
22 you - "was not armed as stated in the interview notes of
23 30 June 2004."

24 Do you remember telling the Prosecution representative that
10:00:13 25 about two weeks ago?

26 A. Yes.

27 Q. Now what do you think, Madam Witness, changed between June
28 2004 and about two weeks ago for you to change your story?

29 A. Well, not that I only wanted to make a change. When we

1 were first interviewed, it was -- my head was just -- I was not
2 really composed that I would come here to give evidence.

3 Q. Perhaps now you would like to tell us which of those two
4 accounts is the truthful one: That you carried a gun and used it
10:01:16 5 in anger during food finding around Buedu; or that you were never
6 armed. Which is the truth?

7 A. I was not armed.

8 Q. Would you care to reconsider why it was that you were
9 disarming an AK-47 in 2000 to the UNAMSIL peacekeepers?

10:01:53 10 A. Well, the man with whom I was, it was he who gave me this
11 weapon to disarm.

12 Q. Isn't the truth this, Madam witness, that you, at all
13 times, between your arrival in Buedu and your eventual
14 disarmament six years later, were entitled to carry a gun? Is
10:02:30 15 that not true?

16 A. Well, it was -- I don't see it as a right for me to have a
17 gun. There's no right in me having the gun.

18 Q. Is it not the case that you used that gun in anger on more
19 than one occasion?

10:02:54 20 A. It was my first time. When we left the training base, I
21 did not carry any gun until the time when we disarmed. That was
22 the time I carried the gun.

23 Q. I suggest to you, Madam witness, that what you told the
24 prosecution in June 2004 was actually true, that you did fire a
10:03:13 25 gun, and I suggest that the gun that you gave up in 2000 was, in
26 fact, yours.

27 A. It was not my gun. I have come here and I have taken an
28 oath on the Bible and I continue to keep that oath that I never
29 carried an arm. I did not make any shot until the time of the

1 disarmament when I held a gun.

2 Q. My final question in relation to guns is this, Madam
3 witness: it's right, isn't it, that by virtue of the fact that
4 in June 2004 you told the Prosecution that you used and fired a
10:04:03 5 gun, and later, in October of this year, changed that story to
6 say that you never had a gun --

7 A. What happened --

8 Q. Can I finish the question? By virtue of those two
9 different stories, you have lied to the Prosecution; is that not
10:04:30 10 so?

11 A. I never thought of it wisely. As I've just said, that this
12 program, I didn't feel that this was something that will
13 continue. So that is why the first time when we met, I only gave
14 them this rough statement until the other year when I knew that
10:04:53 15 it was something realistic, then I started to recollect and I
16 composed myself in order to give my right statement.

17 Q. I'm going to move on to the subject of forced marriage now,
18 Madam Witness. You told this Court last Wednesday that various
19 commanders in the RUF, in Buedu, knew that girls were being taken
10:05:30 20 as wives. Do you remember telling the Court that?

21 A. Yes.

22 Q. Was that true?

23 A. Yes.

24 Q. You've told the Court today that you never
10:05:46 25 saw Augustine Gbao in Buedu; is that true?

26 A. Yes.

27 Q. How is it, then, that you were able to tell this Court last
28 Wednesday that Augustine Gbao knew that girls were being taken as
29 rebel wives? How were you able to give this Court that

1 information if you had never seen him in the town?

2 A. Well, I knew that when we were there, there were commanders
3 and when I used to ask my boss man, he used to tell me that, "I
4 am a commander now, but I have commanders who are on top of me."

10:06:32 5 So, within my conscience, I knew that they must know.

6 Q. So you just assume, do you, that Augustine Gbao must have
7 been one of those commanders?

8 A. Yes.

9 Q. And, secondly, that being one of those unnamed commanders,
10:06:55 10 he must have known about forced marriage; is that what you are
11 saying?

12 A. Well, I don't know them, but that I knew. It was obvious.

13 Q. In other words, Madam Witness, to be fair to you, when you
14 gave that answer last Wednesday, you were just giving the Court a
10:07:30 15 guess, were you?

16 A. I was not guessing. How would I guess?

17 Q. Augustine Gbao clearly, Madam Witness, was not a name that
18 was mentioned to you as a top commander when you were in Buedu,
19 was it?

10:07:59 20 A. They called him. My boss man called him.

21 Q. You are in no position, are you, to tell this Court what
22 was on Augustine Gbao's mind during that period?

23 A. I don't know the person. How would I be able to know the
24 person's mind?

10:08:24 25 Q. Thank you. You told the gentleman who sits on my right
26 here on Friday that you were in love with man B when you bore his
27 child. Do you remember telling us that?

28 A. Yes.

29 Q. How long did you remain with man B?

1 A. I stayed with him until when we came from the bush and when
2 we arrive in town, that was the time we dispersed.
3 Q. When you arrived in Makeni, do you mean?
4 A. Well, when we arrived in Kono, he left me there and he said
10:09:45 5 he was going to Makeni. From that time when he left me there, up
6 till now, I have not seen him.
7 Q. Very well. But you were in love with him, yes?
8 A. Yes.
9 Q. How long were you with him? Can you give us some idea how
10:10:03 10 long you were together?
11 A. I cannot tell.
12 Q. Try. Give us some idea. Was it less than one year? More
13 than two years? Just give us a rough idea, please, if you can?
14 A. I cannot actually tell the length of period we stayed
10:10:31 15 together.
16 Q. He was the father of your first surviving child. You must,
17 surely, Madam witness, have some idea how long the relationship
18 lasted?
19 A. No.
10:10:52 20 Q. Was it more than a week?
21 A. Eh. It's more than that.
22 Q. More than that month?
23 A. More than that.
24 Q. More than six months?
10:11:07 25 A. It was over a year, but I cannot tell you exactly.
26 Q. That's fine. Was man B a rebel?
27 A. Yes.
28 Q. Did he carry a gun?
29 A. Yes.

1 Q. Do you know if he used his gun?
2 A. I don't know.
3 Q. Was he an officer within the RUF?
4 A. No.
10:11:51 5 Q. Did he have a rank?
6 A. He had no rank.
7 Q. You told us about man A, do you remember?
8 A. Yes.
9 Q. Were you fond of man A?
10:12:19 10 A. Well, yes, I loved him. I like him.
11 Q. So you must have been very upset when you lost him?
12 A. Yes.
13 Q. Do you still have fond memories of man A?
14 A. No.
10:12:47 15 Q. You have another husband now, don't you?
16 A. Yes.
17 Q. I'll come back to man A a little later. Can you turn,
18 please, to the first statement. The date is 29 October 2003.
19 Now, Madam Witness, if you just want to turn three pages back.
10:13:46 20 Thank you, you can stop there. Now, this was your first
21 statement to the Prosecution in which you talk about Buedu. At
22 the very end you told the Prosecution representative this -- and
23 this, I'm hopeful, will be accepted by my learned friend is the
24 first time we read the name Gbao. It reads as follows:
10:14:15 25 "It was Superman and Gbao that led the men who kidnapped
26 the UNAMSIL personnel at Makoth. I know because I was in
27 Makeni."
28 Do you remember telling the Prosecution that?
29 A. Yes.

1 Q. I want you to go to your file again, please, and go to --
2 do you see on the yellow piece of paper a date, 19 and 20 July
3 2005? Have you got that?
4 A. Yes.
10:15:09 5 Q. Now, turn over the next page, please. Do you see there is
6 a number 8?
7 A. Yes.
8 Q. A paragraph number 8. I'm just going to read part of that
9 out to you, right. This is the information you gave to the
10:15:31 10 Prosecution, I assume, on 20 July this year. It is about three
11 months ago:
12 "Augustine Gbao and Superman had a meeting where they
13 planned an ambush of UNAMSIL trucks. They led a group to
14 Makoth" --
10:15:48 15 THE INTERPRETER: Your Honour, could the counsel go very
16 slowly for the interpreter.
17 MR CAMMEGH: I will try again.
18 Q. I'm going to read this back again to you, Madam witness:
19 "Augustine Gbao and Superman had a meeting where they
10:16:03 20 planned an ambush of UNAMSIL trucks. They led a group to
21 Makoth and laid the ambush."
22 Do you remember telling the Prosecution that on 20 July
23 this year?
24 A. Yes.
10:16:37 25 Q. Would you turn over to the next page. The date is
26 20 October 2005, a little over two weeks ago. Do you have that,
27 Madam witness?
28 A. Yes.
29 Q. It's paragraph one. Do you see that?

1 A. Yes.

2 Q. It reads as follows:

3 "It was Augustine Gbao and Morris Kallon who carried out an
4 ambush of UNAMSIL trucks at Makoth."

10:17:10 5 Superman was not present as stated in paragraph 8 of the
6 additional information of 19 and 20 July 2005, or, indeed, as
7 stated in your original statement of 29 October 2003, which we
8 just read out. Perhaps you can first of all tell me this: Do
9 you remember telling the Prosecution representative on 20 October
10:17:51 10 it was Kallon and not Superman? Do you remember telling them
11 that, or is this a mistake?

12 A. Yes.

13 Q. You remember telling them that; yes?

14 A. Yes.

10:18:11 15 Q. What happened, Madam Witness, between 20 July of this year
16 and 20 October of this year for you to change your mind and say
17 that it was Kallon and not Superman who was involved in the
18 organisation of the abduction of UNAMSIL?

19 A. Okay. During one night, I was lying and I started thinking
10:18:50 20 about the Special Court.

21 MR TOURAY: Your Honour --

22 PRESIDING JUDGE: Madam Witness, just wait, please.

23 MR TOURAY: Your Honour, this is evidence which is sought
24 to be elicited is directed at my client. It is evidence which
10:19:07 25 has connections with my client and not with my learned friend's
26 client, so I don't see how it could be --

27 JUDGE THOMPSON: Can we discuss it in the absence of the
28 witness?

29 MR TOURAY: Yes.

1 JUDGE THOMPSON: You want to expand on that?

2 MR TOURAY: Indeed so.

3 JUDGE THOMPSON: would the victims and witness Unit please
4 escort the witness out for the period of the discussion?

10:19:42 5 [The witness stood down]

6 JUDGE THOMPSON: We can proceed.

7 MR TOURAY: Thank you, Your Honour. My observation,
8 perhaps, which is also an objection, is the question posed by my
9 learned friend to the witness which, in my submission, has
10:21:17 10 nothing to do with his client, but my client. Having regard to
11 that, whatever answers that might be elicited by this witness
12 against my client will already be on record and we have no
13 further opportunity to deal with it. We have already
14 cross-examined. We feel such questions should not be allowed by
10:21:48 15 the Court in view of the embarrassing nature and the prejudicial
16 nature of the answers that might come out against the second
17 accused, which have nothing to do with Mr Gbao, my learned
18 friend's client in this matter.

19 PRESIDING JUDGE: Are you suggesting, Mr Touray, based on
10:22:16 20 the reasons you're advancing that counsel for the third accused
21 should be limited in his cross-examination and, therefore, not
22 allowed to explore that avenue?

23 MR TOURAY: Well, in so far as matters purely restricted
24 and directed to the second accused is concerned. The question
10:22:39 25 which he sought to pose was really directed against
26 Morris Kallon, not Gbao.

27 PRESIDING JUDGE: The question, as I understood it, was
28 attributed to the statement that the witness would have made, so
29 I don't recall the question was Kallon involved or not involved.

1 It was did you or did you not make that statement on that day.

2 MR TOURAY: So why did he involve Kallon or why was he not
3 involving the other one. That is the issue, because we know
4 that, all along, Gbao was involved. So merely coming out --

10:23:15 5 PRESIDING JUDGE: I'm not sure I agree with your
6 characterisation of the evidence of this witness. With reference
7 to Gbao -- but, we're here. Your objection is two-fold, if I
8 understand. On the one hand, the counsel for the third accused
9 should not be allowed, and I'm just underlining now, you're
10:23:40 10 suggesting the Court should not allow that cross-examination to
11 take place because it has implications for your client?

12 MR TOURAY: Yes.

13 PRESIDING JUDGE: Thank you.

14 [Trial Chamber conferred]

10:25:39 15 JUDGE THOMPSON: Mr Touray, unless I misunderstand you,
16 what is precisely the point of the objection and, also, I ask
17 this question particularly in regard to the context with which
18 we're dealing here, that these persons are charged jointly;
19 they're also being tried jointly. Of course, there are
10:26:09 20 safeguards, even in a joint trial, the Court should be very
21 vigilant to avoid any kind of prejudice that may result from not
22 treating the accused persons as if they were having a separate
23 trial, but the situation to me doesn't appear as simple as that,
24 having regard to the fact that the indictment also charges joint
10:26:40 25 criminal enterprise. So if you can satisfy me as to why this
26 particular line of cross-examination is impermissible purely on
27 the grounds of prejudice and what precisely is the prejudice
28 using the indictment as the road map.

29 MR TOURAY: Your Honour, all three accused persons and some

1 others not before this Court, are charged on the basis of a joint
2 criminal enterprise. In other words, there was some common
3 concert between them acting together. Now, we, on behalf of the
4 second accused, have cross-examined the witness and certain
10:27:43 5 evidence is already before you on record. We do not have a
6 second opportunity to unravel that further. We've laid our
7 cross-examination on rest, based upon the evidence already before
8 you.

9 Now, the third accused counsel is seeking to bring in
10:28:07 10 further evidence relating to the second accused purely not
11 relating to the first accused and the second accused together.
12 The statement made by the witness that -- there are three
13 statements made by the witness. One, that Augustine Gbao and
14 Superman were involved in the attack of UNAMSIL. Then there is a
10:28:35 15 third statement which says, "It was not Superman, it
16 was Augustine Gbao and Morris Kallon." Now, what counsel is
17 seeking to have before this Court is an explanation for the
18 inconsistency for bringing Morris Kallon at a later point. We
19 have already cross-examined on that. We do not have any further
10:29:02 20 opportunity to deal with that evidence again. If you allow this
21 line of cross-examination to go on, then we will be embarrassed
22 and prejudiced. This is what I'm saying.

23 JUDGE THOMPSON: In other words, there is no rule of law
24 which prevents this kind of cross-examination, it's just a
10:29:17 25 question of whether you will be, procedurally speaking, given the
26 opportunity to revisit the issue in case you think that you need
27 to deal with that on behalf of your client. The point is, as I
28 emphasise, there is, in fact, the presumption here, of course
29 which is merely an allegation, that certain things as you

1 suggested - you yourself agree - were done in pursuance of a
2 joint criminal design.

3 [RUF07NOV05B - AD]

4 MR TOURAY: Yes.

10:30:06 5 JUDGE THOMPSON: So at some point in time one has to
6 encounter this kind of scenario from counsel. When seeking to
7 cross-examine, the focus should be on whether the client on
8 behalf of whom he is cross-examining is charged individually or
9 is charged in the context of the common design. I am saying to
10:30:40 10 myself that I am not yet persuaded that there is a rule of law or
11 some principle which precludes this line of cross-examination.
12 Only, of course, conceding your point that it may be necessary,
13 having regard to the justice of the case and the need to protect
14 the interests of all the accused persons, to afford you an
10:31:04 15 opportunity to revisit the issue; in other words, with the leave
16 of the Court in cross-examination. That is my own thinking on
17 it.

18 MR TOURAY: Well, Your Honour, with this point, you see,
19 you might have a situation where perhaps almost every evidence
10:31:26 20 led against one particular accused has been neutralised by the
21 cross-examination and then another counsel gets up and implicates
22 that same accused person because of the joint criminal enterprise
23 allegation. Where are we then in the interests of fair trial?

24 JUDGE THOMPSON: You are right in posing that question. It
10:31:47 25 is that --

26 MR TOURAY: Where is the protection of the separate trial
27 although they are jointly charged?

28 JUDGE THOMPSON: That is a legitimate question. That is
29 right.

1 MR TOURAY: That is my concern.

2 JUDGE ITOE: I think the question to be asked at this stage
3 is whether each counsel representing the accused persons, each of
4 the accused persons should, to the extent that the trials even
10:32:23 5 though they are joint have to cater for the defences of each
6 accused person, one should want to really caution his mind as to
7 whether any defence team can adduce evidence or carry out his
8 cross-examination in a manner that prejudices the interests of
9 the co-accused person. Because here, although they are being
10:32:56 10 tried jointly, they are really being also tried separately,
11 because in the context of the joint trial the interests of each
12 accused person are protected by its defence team. Unless the
13 Court so permits, I do not think that a defence team can lead
14 evidence that prejudices the interests of a colleague's client,
10:33:26 15 if indeed Mr Cammegh's question were to be seen in this
16 perspective.

17 PRESIDING JUDGE: We will hear from Mr Cammegh on this.

18 MR CAMMEGH: The objection is ironic given the
19 concentration Mr Touray put on repeating Gbao's name over and
10:33:51 20 over again on Friday in relation --

21 PRESIDING JUDGE: Mr Cammegh, please, don't get into that.

22 MR CAMMEGH: Well, Your Honour, I feel that we have wasted
23 10 minutes or so on a complete red herring.

24 JUDGE ITOE: No, we have not wasted time. We are involved
10:34:02 25 in legal arguments, Mr Cammegh, and I don't think there is any
26 waste of time. I don't think that your colleague should be
27 treated as --

28 MR CAMMEGH: They are based --

29 JUDGE ITOE: May I finish, Mr Cammegh? I don't think

1 anybody who has had to speak here, including the Bench, has been
2 wasting time. That is the only observation I want to make. I
3 think we are involved to some legal arguments that would
4 certainly assist us in arriving at the proper determination in
10:34:29 5 this matter. It is the characterisation of a waste of time that
6 calls for this comment.

7 JUDGE THOMPSON: Let me respond too, that in fact I take
8 objection to that kind of characterisation and I call upon you as
9 counsel, an officer of the Court, to adjust your demeanour to the
10:34:51 10 decorum of this Court.

11 PRESIDING JUDGE: Mr Cammegh?

12 MR CAMMEGH: If Mr Touray had let me continue, he would
13 have seen that my cross-examination would have been to his
14 benefit. This is the second time the Kallon team have broken my
10:35:12 15 flow in the last two or so weeks that we have sat in here
16 through, once again, a complete misunderstanding. It is my case
17 that this witness's evidence is so fundamentally flawed that she
18 cannot be held as credible on anything at all. Part of that
19 relates to what happened in Makeni. If Mr Touray had just looked
10:35:31 20 a little further he would have noted that what I was coming, in
21 fact what I had already arrived at, indeed, was the fact that
22 this witness had changed her testimony over the Superman or
23 Kallon issue since first committing pen to paper in October 2003,
24 two years ago, as recently as just two weeks ago. She suddenly
10:35:59 25 changes her mind and says, "Oh no, it's not Superman; it's
26 Kallon." My question is: what has happened in the period
27 between July when she reiterated it was Superman and October?
28 what earth-shattering event has happened for her to change her
29 mind, or is it, in fact, that she doesn't know what she is

1 talking about? I would have hoped that that line of question
2 would have done nothing more than reinforce what Mr Touray was
3 doing the other day. It is relevant to Mr Gbao because, of
4 course, Mr Gbao is suspected as being one of the architects of
10:36:38 5 what happened in Makoth or Makeni in 2000. What I have to do is
6 try and undermine the credibility of any witness who says that he
7 was there or, more importantly, says that he was one of the main
8 architects. A method by which I can achieve that is to take this
9 witness to account on the fact that although she mentions Gbao,
10:37:08 10 she is chopping and changing on the identity of his cohort. If
11 she is doing that, how can we accept, given that this Court
12 requires a standard of proof beyond reasonable doubt, that she is
13 right about Gbao? I am sorry that the Kallon team seem to have
14 been completely oblivious to that. I would have thought that it
10:37:29 15 would have been as obvious as the nose on my face, but clearly I
16 shouldn't make such presumptions. That is why I say we have
17 wasted time, because what I was doing, which I would have
18 thought, and I am sure Mr Jordash would have noticed what I was
19 doing, was absolutely obvious. It was to the Kallon team's
10:37:47 20 benefit because it is again reinforcing their very point on
21 Friday that this witness doesn't know whether Kallon was there or
22 not.

23 JUDGE THOMPSON: But these are the presumptions that raise
24 this difficulty and why you seem to be so fond of characterising
10:37:59 25 issues which sometimes may appear simple to one counsel. Because
26 of the nature of the complexity of these issues we should have
27 the opportunity to have a healthy exchange of ideas on them.

28 MR CAMMEGH: We should always have that.

29 JUDGE THOMPSON: Yes, quite right. It is not right to say

1 that because your focus is this, it may not have come out very
2 clearly in what you were doing, and counsel has to be vigilant.
3 So why are you penalising counsel for being vigilant? It may
4 well be that counsel will concede after hearing your further
10:38:45 5 explanation.

6 JUDGE ITOE: I would add "vigilant" and "pre-emptive".

7 JUDGE THOMPSON: Yes. That is what he is being paid for.

8 MR CAMMEGH: I understand that.

9 JUDGE THOMPSON: He is being paid for that. It is only
10:38:55 10 when we get this kind of explanation and persuasive response from
11 you that we understand what you are trying to do. There are
12 times when you get up and start -- for example, you started on
13 something that I thought was a theological kind of exploration,
14 but when you said, no, that was not what you were trying to do, I
10:39:18 15 restrained myself. There shouldn't be any difficulty here. He
16 is right to raise the issue.

17 MR CAMMEGH: Your Honour, the reason I get a bit hot under
18 the collar is a very simple one. It is this: Your Honours may
19 rightly say it was pre-emptive and vigilant, and on this side of
10:39:37 20 the fence I would say it was rather impatient. But added to
21 that, Mr Touray --

22 JUDGE ITOE: Ask Mr Touray that, whether it was impatient.
23 That is for him to answer, not for us.

24 JUDGE THOMPSON: He is being paid for that.

10:39:48 25 MR CAMMEGH: On my side of the fence, that is how I
26 interpret it. It is exacerbated by the fact that Mr Touray,
27 without any foundation at all, makes an assertion while he is on
28 his feet that I am casting aspersions against his client. Now,
29 that was not what I was doing.

1 JUDGE ITOE: No, he did not say you were casting; he said
2 it was likely, he said he saw it coming, that it might. That is
3 what he said.

4 MR CAMMEGH: I think we have probably exhausted the point
10:40:22 5 now, with respect. I understand the point Your Honours are
6 making, and I concede that Your Honours understand my response.
7 But I can assure this Court that there is no cut-throat, there is
8 no conflict as far as I am aware in this case. If there were a
9 conflict between Kallon and Gbao over the Makeni incident, it
10:40:47 10 would be tactical suicide. It is not and has never been my
11 intention to draw a conflict there.

12 JUDGE THOMPSON: Well, an exchange of notes between both of
13 you could have resolved this issue.

14 MR CAMMEGH: It could indeed.

10:41:00 15 JUDGE THOMPSON: Perhaps the best thing to do now, at this
16 stage, so that we wind it up, is to hear what Mr Touray has to
17 say.

18 PRESIDING JUDGE: If I may, before you sit down,
19 Mr Cammegh, I would like to hear you on a principal approach to
10:41:12 20 this issue, because that is the second or third time, maybe not
21 with you, but as to whether one can cross-examination an issue
22 that may indeed have an impact on a co-accused like it was
23 alleged by Mr Touray. The principal approach and principal
24 question I want to pose to you is can we or should we limit your
10:41:39 25 cross-examination because of that given the fact that your
26 accused is jointly tried with the other two accused, but at the
27 same time the protection afforded to each and every accused in a
28 joint house should not be different than if they were tried
29 singly.

1 MR CAMMEGH: In my view the answer is emphatically: No,
2 there should be no restriction on counsel following down the
3 indictment on the issues they raise in cross-examination. If
4 there were a restriction, that would turn the age-old procedure
10:42:17 5 and common law rules on their head. It is part and parcel of
6 being one or two on a multi-handed indictment that you run the
7 risk of defendant's counsel further down raising issue which, by
8 virtue of you already having sat down and completed your
9 cross-examination, you are not at liberty to re-address or
10:42:41 10 re-open. I am afraid that is part and parcel of being higher up
11 on the indictment, always has been, always will be. Of course,
12 it isn't always as brutal as that for two reasons. First of all,
13 cut-throat defences are fairly rare; that is to say, where one
14 defendant further down the indictment is trying to expose a
10:43:12 15 defendant higher up and put the blame on him. Secondly, of
16 course, where a cut-throat defence exists or is likely to appear,
17 it is incumbent upon counsel involved to warn each other. That
18 is the gentlemanly way and the age-old way that it has been done,
19 otherwise a surprise attack would be a most unethical and, in my
10:43:36 20 submission, a reprehensible method of conduct. As a general
21 rule, there can be nothing to prohibit counsel further down the
22 indictment from casting aspersions, a phrase I just used, on
23 defendants further up if that is in line with their defence.

24 Another point that I should make in respect of my client,
10:43:55 25 of course, and it is rather a discrete point that applies to Gbao
26 alone, is I have no proper instructions and, therefore, I am not
27 in a position to posit a defence, much less am I in a position to
28 posit a cut-throat defence. I think this Court can be absolutely
29 satisfied that while I am on my feet representing Gbao that will

1 never occur. That is my response to Your Honour's question as to
2 the principle. It is a simple response. I conclude by saying
3 that as long as I am cross-examining witnesses in this trial
4 there is no conflict which should affect or concern any other
10:44:45 5 defendant, nor will there be.

6 PRESIDING JUDGE: Thank you.

7 JUDGE THOMPSON: Mr Touray, perhaps we should have a
8 response from you on this issue.

9 MR TOURAY: Thank you, Your Honour. As far as the remarks
10:45:15 10 of my learned friend are concerned, I, as defence counsel, with
11 all my years of experience as defence counsel, will never ask a
12 witness to explain an established inconsistency. If Mr Cammegh
13 had merely stopped at the point where he had already established
14 the inconsistency between statements made by this very witness,
10:45:48 15 that would have been alright for us. But going further to ask
16 the witness to explain why, that is the issue. I would never
17 have done that, because I know it would be fatal to our case.
18 Having given the explanation, you stop with it. This was why I
19 got up and raised the objection. The question was not only to
10:46:13 20 establish the inconsistencies, but he went further on to ask the
21 witness to explain why she had said two different things at the
22 same time, one after the other. That was merely highlighted
23 against our client, Morris Kallon, not Gbao. That is why we
24 raised the issue. I believe the Court ought to give a ruling on
10:46:43 25 that, because it is something we take very seriously.

26 JUDGE THOMPSON: You are not satisfied with counsel's
27 further exposition on this issue?

28 MR TOURAY: The exposition is going further to ask the
29 witness why there was this change with relation to our own

1 client. With Gbao, okay.

2 JUDGE THOMPSON: In other words, his explanation of the
3 strategy that he is adopting and the possible --

4 MR TOURAY: Impact.

10:47:09 5 JUDGE THOMPSON: -- impact, which he sort of profiles in a
6 very favourable light, does not persuade you?

7 MR TOURAY: It does not persuade me at all.

8 PRESIDING JUDGE: We will consult on the matter and come
9 back shortly.

10:47:32 10 MR CAMMEGH: Before Your Honour does, I wonder if this will
11 help, because I am keen for us not to spend too much time. I
12 would have finished by now. In my submission there is absolutely
13 nothing wrong -- in fact, I would be failing in my duty if I
14 didn't ask why. In fact, on Friday, as I was explaining to Your

10:47:52 15 Honours, my purpose was to ask why certain contradictions
16 existed. Perhaps, lest I offend Mr Touray, I can, now that the
17 contradiction has been established, simply cut to the chase and
18 put to the witness, "Because you have changed your story so late
19 in the day following a statement made in October 2003 you are

10:48:15 20 simply not credible on in this and you cannot be sure about Gbao
21 either?" If that will foreshorten matters, I am happy to deal
22 with it in that way. I think I have made the point already. I
23 would have liked an answer as to why this has happened, but I am
24 more concerned on the efficient running of this trial. It is not

10:48:36 25 a ruling that will be required in terms of recourse later on the
26 trial; I don't regard it as that important.

27 JUDGE ITOE: Mr Cammegh, I think your duty to your counsel
28 is to discredit this witness as far as you can --

29 MR CAMMEGH: So be it.

1 JUDGE ITOE: -- through contradictions that exist through
2 her oral testimony and the statements which you have before you.
3 wouldn't you think that you have established those contradictions
4 and that further questions on why, why, why are really not very
10:49:24 5 necessary.

6 MR CAMMEGH: This is the offer I am making: I am prepared
7 to leave it there and conclude in the way I just enunciated.

8 JUDGE ITOE: You have ample time to address this Court in
9 your submissions about the credibility of each witness who you
10:49:40 10 think is not credible --

11 MR CAMMEGH: Yes.

12 JUDGE ITOE: -- either in respect of viva voce evidence
13 which the witness has given, or in respect of a comparison that
14 you draw between the viva voce evidence and the previous
10:49:53 15 statements which the witness has had to make to the Prosecution.
16 I think these are matters which we have always said could be left
17 to addresses.

18 JUDGE THOMPSON: To support that, in fact, you would have
19 ample opportunity to proffer your own various theories as to why
10:50:13 20 those inconsistencies may well have in fact occurred. You could
21 come with a multiplicity of theories to persuade the court that,
22 in fact, this is why the witness went the way that the witness
23 allegedly went.

24 PRESIDING JUDGE: We will still pause to consult in spite
10:50:33 25 of your offer. What I draw from all of these comments is that
26 there shall be much more discussion and/or cooperation between
27 Defence counsel. You are the first one to say that maybe I
28 should have discussed and maybe I should have informed Mr Touray
29 of that. I can only invite all of you that expressly in cases

1 where you know you are going to be dealing with matters that may
2 cause some difficulties because it is a joint trial, I can only
3 invite you, if at all possible and feasible, to discuss before so
4 we avoid this kind of scenario. This is not a direction, this is
10:51:14 5 just a wish of the Court. Thank you, Mr Cammegh.

6 [Break taken at 10.55 a.m.]

7 [Upon resuming at 11.15 a.m.]

8 PRESIDING JUDGE: So before we took this pause, Mr Cammegh,
9 you had proposed to proceed in a particular way with the witness
11:15:37 10 with the question, and that should satisfy certainly the
11 requirements for the time being.

12 Mr Touray, I want to tell you and remind you again what we
13 have said in the past on many occasions: that any evidence that
14 may come out in cross-examination by one accused will not be used
11:15:57 15 as evidence against a co-accused if that evidence is to cause any
16 prejudice. This is part of the trial of a joint trial.
17 Obviously evidence elicited by you that may offend and prejudice
18 the first accused or third accused will not be used against them.
19 This is our duty to make sure that that evidence is there for the
11:16:17 20 purpose that you are trying to lead that evidence in
21 cross-examination. So the same applies here. Any evidence that
22 may have come out from the cross-examination by Mr Cammegh of
23 this witness will not be used against your client. That is a
24 fundamental rule that this court will apply, given that we are
11:16:32 25 proceeding in a joint trial.

26 But, at the same time, the rights of your accused and your
27 client are not to be prejudiced by the fact we are in a joint
28 trial. I want to reassure you of that and make sure, so the
29 record so reflects our concerns and our views on this.

1 MR TOURAY: I am satisfied, Your Honour. Much obliged.

2 PRESIDING JUDGE: Thank you. Can the Court officer and the
3 witness Protection Unit bring back the witness, please.

4 Mr Cammegh, in the meantime, you said before the break you had
11:17:09 5 only one or two questions.

6 MR CAMMEGH: Yes.

7 PRESIDING JUDGE: I hope you haven't changed your mind.

8 MR CAMMEGH: No.

9 JUDGE ITOE: We also think that learned counsel should be
11:17:25 10 very cautious when they are treading those grounds, eliciting
11 evidence which might backfire on any one of the Defence teams.
12 It is important for the purposes of fairness to endeavour not to
13 get there at all, if you can.

14 [The witness entered court]

11:19:26 15 PRESIDING JUDGE: Yes, Mr Cammegh, you may proceed.

16 MR CAMMEGH: Thank you, Your Honour.

17 Q. Madam witness, I want to stay with the UNAMSIL issue.
18 Perhaps it is just as well that I remind you of the various
19 statements that you have made in relation to the men who
11:19:51 20 organised the attack on UNAMSIL. I will just run them through
21 quickly one more time so we are all refreshed. First of all, you
22 agreed with me earlier that on 29 October 2003, two years ago,
23 you told the Prosecution, and I quote:

24 "It was Superman and Gbao that led the men that kidnapped
11:20:22 25 UNAMSIL personnel at Makoth. I know because I was in
26 Makeni."

27 You followed that up as late as July 20th this year, just
28 over three months ago, by telling the Prosecution this, and I
29 quote:

1 "Augustine Gbao and Superman had a meeting where they
2 planned an ambush of UNAMSIL trucks. They led a group to
3 Makoth and laid the ambush."

4 Just over two weeks ago, on 20 October, you spoke to the
11:21:21 5 Prosecution again, but you changed your story. You said it was
6 Augustine Gbao and Morris Kallon who carried out an ambush of
7 UNAMSIL trucks at Makoth; Superman was not present as stated in
8 paragraph eight of the additional information of 19 and 20
9 July 2005. Finally, in this room last Wednesday, I believe, you
11:22:01 10 stated, "Morris Kallon and Augustine Gbao called a meeting they
11 should attack UNAMSIL."

12 Madam witness, two years after you stated, "I know it was
13 Superman and Gbao because I was in Makeni", you changed your
14 story, didn't you?

11:22:38 15 A. Yes, because I did not recall well.

16 Q. But as late -- I will put it a different way -- no, as late
17 as July this year, just over three months ago, you were still
18 saying it was Augustine Gbao and Superman who organised the
19 attack, weren't you?

11:23:07 20 A. Yes, I said so because -- but, I forgot.

21 Q. Right. Leaving aside how it could possibly be that you
22 could make such a mistake for such a long time, the simple truth
23 is this, is it not, Madam witness --

24 A. Yes.

11:23:35 25 Q. -- that when it comes to the organisers of the UNAMSIL
26 abductions, you certainly do not know for sure whether Kallon was
27 involved?

28 A. He was involved.

29 Q. Because you changed your story so late in the day, having

1 confirmed that story at least twice and, furthermore,
2 Madam Witness, because you have changed your story about Superman
3 and Kallon, I suggest to you that you simply cannot be believed
4 when you say that Gbao was also involved in the abduction. Could
11:24:32 5 I be right about that?

6 A. Well, Issa was not there. Issa had left for Kono. During
7 that time it was Morris Kallon and Augustine Gbao were in Makeni.
8 Superman himself was in Freetown.

9 Q. Yes, and that is something that occurred to you for the
11:24:55 10 first time on 20 October this year, wasn't it?

11 A. Well, that was the time I recall very well because I knew
12 that whatever the situation may be, I will come to testify.

13 Q. So is the case this then, that when on 29 October 2003 and
14 again on 20 July 2005 you stated in writing to the Prosecution
11:25:30 15 that it was Superman rather than Kallon, you must have been lying
16 to the Prosecution, mustn't you?

17 A. Well, it wasn't lies. As I have told you, I did not recall
18 well. Then I went and made statement. I was taken unawares, so
19 can you understand. And something you have never done and
11:26:00 20 somebody says you should come and do it, it wouldn't be easy.

21 Q. I suggest that you lied to the Prosecution because you have
22 given two different names, Superman and Kallon. They cannot both
23 be true, can they?

24 A. Yes. Superman -- I only mentioned his name because his
11:26:31 25 name kept on coming. So the people that were involved in this
26 exercise were Morris Kallon and Gbao. Superman was not in
27 Makeni.

28 Q. The only reason you have mentioned Augustine Gbao, I
29 suggest, is because you would have known that at that time in

1 2000 he was the police chief in Makeni; isn't that right?

2 A. That is not the reason. In fact, I never knew he was the
3 police chief there. I only knew Pa Jalloh. I never knew
4 Pa Gbao's responsibilities.

11:27:22 5 Q. I suggest that when it comes to the abduction of UNAMSIL
6 you really don't know what you are talking about, do you? Do
7 you?

8 A. How wouldn't I know? How would I say something that I
9 never knew about?

11:27:43 10 Q. You told us yourself that when the abductions took place
11 you weren't even there, were you?

12 A. I wasn't at Makoth, but when they come with them in Makeni,
13 we saw them.

14 Q. At the very best, Madam Witness, I suggest you have just
11:28:06 15 been listening to idle gossip and drawing your own conclusions as
16 to who organised this abduction; isn't that right?

17 A. No, that is not so. I saw Augustine Gbao and the UNAMSIL
18 vehicle and I saw Morris Kallon in the UNAMSIL vehicle. So I am
19 not here to say what I heard but what I saw myself.

11:28:34 20 Q. Well, you certainly did not mentioned anything about
21 Morris Kallon in a UNAMSIL vehicle until late this year, did you?
22 You are just making it up, aren't you?

23 A. No, from the beginning I was saying it.

24 Q. You were saying it was Superman, that is right, isn't it?
11:28:57 25 You were saying it was Superman from the beginning.

26 JUDGE ITOE: Mr Cammegh, don't you think --

27 MR CAMMEGH: It is argumentative and I am going to move on.

28 JUDGE ITOE: Yes, please.

29 MR CAMMEGH: I am going to move on to a separate subject,

1 Madam witness. I am nearly finished.

2 Q. You told us earlier on, and I'm grateful, when you said you
3 never saw Augustine Gbao in Buedu. Do you remember telling us
4 that earlier this morning?

11:29:24 5 A. Yes.

6 Q. So it follows, doesn't it, that if you didn't see
7 Augustine Gbao in Buedu, you could not have seen Augustine Gbao
8 with some SBUs in Buedu. That would be fair, wouldn't it?

9 A. Yes.

11:29:36 10 Q. And for that reason, Madam witness, you cannot say whether
11 or not Augustine Gbao ever had any SBUs, can you?

12 A. Well, he should have, because when we are in the jungle,
13 all commanders had women. I did not see him, but I take it that
14 he had.

11:30:07 15 Q. That will do, thank you.

16 The last issue I want to raise with you is this, please.
17 Again, I want to remind you that I don't want you to say anything
18 that might draw your identity out in the open. You told us the
19 other day that you were -- the word you used impregnated by a man

11:30:45 20 we call A; correct?

21 A. Yes.

22 Q. You told me this morning that in actual fact you were in
23 love with A as well as -- before you fell in love with B;
24 correct?

11:31:03 25 A. Yes.

26 Q. And you had a baby with A, didn't you, but the baby died?

27 A. Yes.

28 Q. Remind us, please, where were you when A made you pregnant?
29 where were you?

1 A. I was in Buedu.

2 Q. Okay. Remind us, please, how old were you when A made you
3 pregnant with your first child, the one that didn't survive, how
4 old were you?

11:31:46 5 A. Well, I was over ten years old, but I wasn't up to 1X years
6 old.

7 Q. Right. So we know that you were born in 198X, don't we?
8 Is that right?

9 A. Yes. Yes.

11:32:04 10 Q. So your evidence is this is it, that that baby must have
11 been conceived in or around 199X, possibly 199X in Buedu; is that
12 right?

13 A. Which child?

14 Q. The first one, the one you had with A?

11:32:27 15 A. Yes.

16 Q. Can you go back, please, to your statement and go to page
17 1. would you like to open the blue file. I am going to read
18 something to you and I am going ask you to explain it. If you
19 would turn to the next page please, Madam witness.

11:32:51 20 PRESIDING JUDGE: Mr Cammegh, can I ask you to refer to the
21 page number.

22 MR CAMMEGH: I will. I am asking the witness to look at
23 statement dated 29 October 2003, the second page of that
24 statement which I have as 10727 and I am referring to line 3.

11:33:20 25 Editing it accordingly, I will read it as follows: "It was
26 whilst" -- sorry, Madam witness, have you got it? It is the
27 third line down. Do you have that?

28 "It was whilst I was in Makeni between 199X and 199X that
29 A" - the name that we have there we substituted for A - "an

1 RUF commander took me as his wife. I do not know the full
2 name of A. I do not know his present address. I went back
3 to Kailahun with A. I gave birth to a baby boy for him,
4 but I lost the child at Kailahun before he was given a
11:34:19 5 name."

6 THE INTERPRETER: Your Honour, could the counsel repeat the
7 last part of his question.

8 MR CAMMEGH: Certainly.

9 Q. "I gave birth to a baby boy for him, but I lost the child
11:34:35 10 at Kailahun before he was given a name." Now, this indicates,
11 Madam Witness, that your first child, the one who died was
12 conceived not in Buedu, but in Makeni. Was that child conceived
13 in Buedu or Makeni; which is right?

14 A. It was in Buedu. It wasn't in Makeni.

11:35:09 15 Q. So the statement that you gave on 29th October 2003 is
16 wrong, is it, when it states that the conception took place in
17 Makeni?

18 A. Yes, it is wrong. I was not pregnant in Makeni.

19 Q. Right. The second question is this: It makes clear,
11:35:35 20 doesn't it, that it was while you were in Makeni between 199X and
21 199X that the child was conceived. You were telling us in Court
22 it was in 199X, possibly '9X. Which is true, please?

23 A. Makeni -- it was not there I had become pregnant for A. I
24 was in the jungle when I was pregnant. Thereafter I gave birth
11:36:09 25 to the child and the child died.

26 Q. We are aware of that unfortunate outcome, but can you help
27 us with the date, please, because in the statement here that you
28 gave two years ago you stated that it happened between '9X and
29 '9X. Are those dates right or not?

1 A. I did not give any date. At any time I was interviewed I
2 told them that I could not call the dates. I could not recall
3 the year.

4 Q. Madam witness, the fact is that here we have in writing an
11:36:51 5 account in relation to the birth of your first child, an event, I
6 suggest which is not something you are likely to forget about,
7 which gives details in terms of location and date which are very
8 different from those to which you have testified in this room; is
9 that not so?

11:37:25 10 A. Well, it is the mind. It used to forget.

11 Q. So you would accept, would you, that the evidence that
12 you -- the account you gave in your statement is unreliable; is
13 that what you are saying?

14 A. Which statement?

11:37:54 15 Q. The statement I just read from, 29 October 2003, you are
16 saying, are you that the account in relation to the birth of your
17 child through A is unreliable; is that what you are saying?

18 A. I gave birth to a child for A, but it wasn't in Makeni.

19 Q. Do you accept, Madam witness, that the account that is
11:38:28 20 given in your statement of 29 October 2003 in relation to your
21 first-born child by A is unreliable, that we should not rely on
22 it; is that what you are saying?

23 A. The only thing that I could say, it wasn't in Makeni that I
24 gave birth to a child for A. I was in the jungle when I gave
11:39:01 25 birth to a child for A.

26 PRESIDING JUDGE: Can we move from that, Mr Cammegh. I
27 think you've made your point.

28 JUDGE THOMPSON: Why not leave the inference for the court.

29 MR CAMMEGH: Very well.

1 Q. Madam witness, what I have to suggest to you, I am afraid,
2 is that a very great deal of what you have told the Prosecution
3 during your statements is inaccurate; that is right, isn't it?
4 A. I have come, if I am aware that what I am saying is lies,
11:39:42 5 how would I come to this Court and hold the Bible to swear.
6 Q. Madam witness - and I am finishing now - as I have
7 indicated to you this morning, you have changed your story in
8 relation to many matters before even reaching this courtroom,
9 haven't you?
11:40:09 10 A. Yes.
11 Q. Therefore, Madam witness, I put it to you that this Court
12 can simply not rely on a single word you have said. would that
13 be fair?
14 A. Well, it is unfair for me because I have left all that I am
11:40:38 15 doing. If it were lies, I wouldn't have left what I am doing
16 then come to sit before this Court to say lies.
17 Q. Thank you Madam witness, you have been most helpful. Your
18 Honours, that is all I have. Thank you very much.
19 THE INTERPRETER: Your Honours, may the interpreter correct
11:40:57 20 the record?
21 JUDGE THOMPSON: Go ahead.
22 THE INTERPRETER: At some stages the interpreter
23 interpreted a segment of the witness's statement testimony as:
24 "when I asked my boss, he told me that there were other
11:41:16 25 commanders on top of him." This statement should have been
26 interpreted as: "when I asked my boss, he told me that there
27 were other senior commanders above him."
28 JUDGE THOMPSON: Ensure the records reflect the correction.
29 PRESIDING JUDGE: Mr Cammegh?

1 MR CAMMEGH: I don't think that is a controversial
2 distinction and I require no action to be taken. Thank you.

3 JUDGE THOMPSON: Re-examination?

4 MS ALAGENDRA: Your Honour, the Prosecution would like to
11:41:52 5 tender into evidence portions of three previous statements by the
6 witness. Two of the statements have already been tendered as
7 exhibits; namely, Exhibit 51 and Exhibit 52. Your Honour, in
8 relation to Exhibit 52, the matters which the Prosecution would
9 like to tender --

11:42:22 10 PRESIDING JUDGE: Just a second. 52 is which date?

11 MS ALAGENDRA: It is 20 July 2005. The matters in that
12 statement which the Prosecution seeks to tender are matters that
13 arose solely out of the cross-examination by the defence counsel
14 for the first accused. I believe that he does not have any
11:42:47 15 objections to these relevant paragraphs being underlined and
16 tendered into evidence without the witness being re-examined.
17 That is in relation to Exhibit 52, Your Honour.

18 PRESIDING JUDGE: Why would you tender that into evidence?

19 MS ALAGENDRA: During cross-examination counsel for the
11:43:11 20 first accused raised several matters which the witness had
21 previously stated in her previous statement, and the matters
22 which we want tendered into evidence merely correct what was
23 stated in the previous statement.

24 PRESIDING JUDGE: That is why I am asking why. As you know
11:43:31 25 at this stage and as part of cross-examination, the evidence of
26 these statements, or portions of these statements, have been
27 admitted for a very limited purpose. That is why I am asking you
28 the question as to what it is you are seeking to introduce and
29 for what purpose.

1 MS ALAGENDRA: Yes, Your Honour.
2 PRESIDING JUDGE: So we finish with 52. Which part exactly
3 of 52, if you can do that again for me?
4 MS ALAGENDRA: If I can state the paragraphs, Your Honour?
11:43:55 5 PRESIDING JUDGE: Yes, please.
6 MS ALAGENDRA: It is paragraph one, (a), (b) and (c). All
7 the sentences, Your Honour.
8 PRESIDING JUDGE: And it is the position of the Prosecution
9 that one (a), (b) and (c) are statements that have been adduced
11:44:16 10 and this is a change or a correction by the witness about this?
11 MS ALAGENDRA: Precisely, Your Honour.
12 JUDGE THOMPSON: Subsequent correction.
13 MS ALAGENDRA: The next part, Your Honour, is paragraph
14 four.
11:44:27 15 PRESIDING JUDGE: Same statement?
16 MS ALAGENDRA: The same statement, Your Honour.
17 PRESIDING JUDGE: Yes.
18 MS ALAGENDRA: The first two lines, and then the sentence
19 in (a).
11:44:38 20 PRESIDING JUDGE: Yes.
21 MS ALAGENDRA: And the sentence in (c). That is all for
22 this statement.
23 PRESIDING JUDGE: Thank you. You have 51 as well?
24 MS ALAGENDRA: Yes, Your Honour, 51. The Prosecution also
11:44:57 25 seeks to tender into evidence the statement of 20 October 2005,
26 particularly the first sentence of paragraph one. Your Honour,
27 we seek that this paragraph one, the first sentence of 20
28 October, and paragraph one, the sentence in that paragraph of
29 Exhibit 51.

1 PRESIDING JUDGE: That is the one you want?
2 MS ALAGENDRA: Tendered into evidence.
3 PRESIDING JUDGE: For the same purpose again?
4 MS ALAGENDRA: For the same purpose, Your Honour. Further,
11:45:39 5 these are paragraphs which have already been put to the witness
6 and we don't think it will be necessary for her to be re-examined
7 because it will be merely repeating the questions back to the
8 witness.
9 PRESIDING JUDGE: Thank you. Mr Jordash?
11:45:58 10 MR JORDASH: No objection.
11 PRESIDING JUDGE: Mr Touray?
12 MR TOURAY: I think it is Exhibit 51; that is, the
13 statement of proofing of 20 October 2005.
14 PRESIDING JUDGE: Yes, that is 51; you are right.
11:46:17 15 MS ALAGENDRA: Your Honour, that statement has not been
16 tendered into evidence yet, 20 October.
17 MR TOURAY: Is it not?
18 MS ALAGENDRA: No. Exhibit 51 is the statement of 26
19 October.
11:46:29 20 MR TOURAY: I believe we did tender during the
21 cross-examination one of the proofings.
22 MR HARRISON: Mr Touray did. My note is that yours was 19
23 and 20 July 2005.
24 MR TOURAY: Okay.
11:46:57 25 PRESIDING JUDGE: What was your objection, Mr Touray, if I
26 may?
27 MR TOURAY: I am still in doubt. I don't know what is the
28 position about the proofing of 20 October 2005.
29 MR CAMMEGH: Can I lend my voice to that? I thought I

1 heard my learned friend referring to this particular document. I
2 anticipate I was about to make exactly the statement point as
3 Mr Touray, which is that if the first sentence of paragraph one
4 is to be brought in then so should the following sentence.

11:47:59 5 PRESIDING JUDGE: You are still talking of the statements
6 of 19, 20 July?

7 MR CAMMEGH: No, 20 October this year. If my learned
8 friend for the Prosecution can confirm she is not seeking for
9 this to be tendered then I can sit down.

11:48:20 10 MS ALAGENDRA: Your Honour, we are seeking to tender the
11 first paragraph. In fact, I said the first sentence of the first
12 paragraph of the statement of 20 October. But we have no
13 objections to the whole paragraph being tendered in as evidence.

14 PRESIDING JUDGE: In my notes I don't have that to have
11:48:35 15 been tendered into evidence at all.

16 MS ALAGENDRA: No, Your Honour, it has not been tendered.

17 PRESIDING JUDGE: You are now moving to have that tendered
18 as an exhibit.

19 MS ALAGENDRA: Yes, Your Honour.

11:48:45 20 PRESIDING JUDGE: And as an exhibit for the purpose of the
21 first paragraph?

22 MS ALAGENDRA: Yes.

23 PRESIDING JUDGE: You are saying the first sentence of that
24 paragraph?

11:48:53 25 MS ALAGENDRA: We had initially asked for the first
26 sentence, but we have no objections to the whole paragraph being
27 tendered into evidence.

28 [RUF07NOV05C - CR]

29 PRESIDING JUDGE: Mr Touray first.

1 MR TOURAY: Indeed, Your Honour, in that case, we object to
2 the tendering of this document as an exhibit at this stage. No
3 foundation has been laid by the Prosecution as to whether the
4 proofing or the tendering of this document is in relation to a
11:49:27 5 re-examination of evidence already led. We don't know, or it has
6 not been clarified to us, as to whether it is in connection with
7 evidence in cross-examination adduced on behalf of the second
8 accused or perhaps the third accused. I don't know. So if it is
9 the intention of the Prosecution to re-examine or to tender this
11:50:06 10 document as a basis for re-examination, then it is our submission
11 that it ought to be done the proper way by way of re-examination
12 of the witness.

13 PRESIDING JUDGE: Mr Cammegh has, indeed, used that
14 statement extensively in his cross-examination.

11:50:39 15 MR TOURAY: This is what I'm saying. If he has used it,
16 can the Prosecution clarify whether in fact the basis of
17 tendering it is in respect of cross-examination done by the third
18 accused or on behalf of the third accused.

19 PRESIDING JUDGE: We will hear from the third accused first
11:50:56 20 and proceed from there. Mr Cammegh?

21 MR CAMMEGH: Your Honour is right. I did refer to this
22 statement. The precise portion that I actually read out word for
23 word in paragraph 1 comprised the first two sentences.

24 PRESIDING JUDGE: Up to the ambush?

11:51:11 25 MR CAMMEGH: That's right. The final sentence, I don't
26 want to be pedantic, but it shouldn't strictly be exhibited
27 because no reference was made to when the ambush took place by
28 this witness. Indeed, the only two sentences that I read were
29 those sentences ending with July 2005. So I've got no objection

1 to those being exhibited.

2 PRESIDING JUDGE: You accept, Mr Cammegh, that this is a
3 portion of that statement that you did put to this witness as
4 part of your cross-examination?

11:51:47 5 MR CAMMEGH: Quite so. Thereby I have no objection to it
6 going in.

7 PRESIDING JUDGE: Mr Touray, you were mentioning the fact
8 that you didn't know if it was or was not.

9 MR TOURAY: As long as it doesn't affect our case we have
11:51:57 10 no objection.

11 PRESIDING JUDGE: well, again, as you know, this is
12 tendered for a very limited purpose. Whether it is the
13 Prosecution or the Defence, this is there for a very limited
14 purpose. It is not there for the proof of its content per se, it
11:52:11 15 is to show that on one occasion the witness would have said A and
16 on a different occasion may have, and it is only to assist the
17 Court in making a determination about credibility. That's all.
18 It is no evidence of more than that. It doesn't go to evidence
19 that your client was there or was not there, absolutely not. So
11:52:27 20 if you are concerned about that, this is not evidence for that
21 purpose.

22 MR TOURAY: As Your Honour pleases.

23 MR HARRISON: If I can just assure defence counsel that if
24 in future we have to go through the same process, in future it
11:52:46 25 will be the same principal position that will be adopted, and
26 that is these are tendered simply as corrections, the prior
27 inconsistency can still be referred to. This is not the final
28 word, it is simply a correction, and Defence can continue on as
29 it would otherwise with any other document they would seek to be

1 a prior inconsistent statement.

2 JUDGE THOMPSON: Yes, Mr Jordash.

3 MR JORDASH: Although I have to say, on behalf of the first
4 accused, there are times I would object to such a procedure and
11:53:24 5 want it dealt with through a re-examination and hear what the
6 witness has to say about that correction.

7 JUDGE THOMPSON: Okay.

8 JUDGE ITOE: It can be done on a case-to-case basis. We
9 can't accept that, Mr Harrison, as a rule.

11:53:40 10 MR HARRISON: It's the principle that will be the same; the
11 prior inconsistency remains, we are not seeking in any way to try
12 to say that there never was a prior inconsistency.

13 JUDGE THOMPSON: We'll take it that it's settled then,
14 there are no objections. So the document will be received in
11:54:00 15 evidence and marked Exhibit 53.

16 [Exhibit No. 53 was admitted]

17 MR HARRISON: Is it the Court's preference that when the
18 Prosecution is having something underlined the Prosecution would
19 do it with two lines for some assistance, so it doesn't get too
11:54:22 20 confusing?

21 JUDGE THOMPSON: You can devise any hieroglyphics you think
22 would be useful.

23 MR HARRISON: Well, that's my suggestion; the Prosecution
24 when it is doing it itself, it will use two lines under the
11:54:35 25 sentence to make it clear to the parties.

26 PRESIDING JUDGE: Again for clarity of the record, we're
27 talking here of the additional information provided by TF1-314
28 and it is in the Court's record at page 16861 and it is the first
29 sentence of the first paragraph that ends on "20th July 2005".

1 MR CAMMEGH: Your Honour, with respect, I think it was the
2 first two sentences.
3 PRESIDING JUDGE: First two.
4 JUDGE THOMPSON: That's right.
11:55:07 5 MR CAMMEGH: Did I hear correctly, that is Exhibit 53? I'm
6 a bit lost.
7 PRESIDING JUDGE: 53. So that concludes your
8 re-examination?
9 MS ALAGENDRA: Yes, Your Honour, it does, thank you.
11:55:27 10 PRESIDING JUDGE: Madam Witness, we thank you very much.
11 That concludes your evidence in this Court. We wish you good
12 luck in the future. Thank you. You will be assisted by the
13 witness Protection Unit. Just wait a few moments, please.
14 [The witness withdrew]
11:56:00 15 PRESIDING JUDGE: Mr Prosecutor, while we're doing this,
16 can I inquire as to what is next for the Prosecution?
17 MR HARRISON: Yes. The next witness is TF1-366. This is
18 one that I had indicated at the status conference there would be
19 an application made for the entirety of the evidence to be heard
11:56:19 20 in closed session.
21 JUDGE THOMPSON: This is an insider witness?
22 MR HARRISON: Yes. Otherwise, I should say, no formal
23 designation as category C was ever made.
24 PRESIDING JUDGE: You mean at the time the witness was
11:56:41 25 given a pseudonym there was no qualification as to status?
26 MR HARRISON: Protection measures were offered, but not as
27 the additional category C which is the voice distortion. If I
28 can advise the Court, it will take approximately five minutes to
29 have the witness brought here because we have taken certain

1 measures for the witness who is leaving to not have any exposure
2 to the witness who will be testifying. He's within the confines
3 of the Special Court perimeter, but he's not in this particular
4 building.

11:57:21 5 I'm in the Court's hands. If you would like to hear the
6 closed session application now or wait until I can assure the
7 Court that the witness is actually in the courtroom, or in the
8 Court building, I should say.

9 PRESIDING JUDGE: I will hear your application now. As you
11:57:46 10 know, the application needs to be made in closed session in any
11 way. We will take your word that the witness is indeed available
12 and will be here shortly. There is no use to just call the
13 witness in for you to say you want to make an application now.
14 we will hear your application and we will have to move into a
11:58:04 15 closed session to hear your application. But for the indication
16 for the public attending the trial at this time, can you give us
17 some indication about the time line that this witness is to
18 testify?

19 MR HARRISON: The Prosecution anticipates that this witness
11:58:17 20 will finish on wednesday. It will take all of tomorrow.

21 PRESIDING JUDGE: For the Prosecution case?

22 MR HARRISON: Yes, for the Prosecution case. I don't wish
23 to pre-empt Defence counsel, but the Prosecution would say that
24 the evidence-in-chief will not complete before sometime
11:58:40 25 wednesday.

26 PRESIDING JUDGE: Thank you. Mr Jordash, I know I will not
27 ask you to limit yourself, but I would imagine, based on that,
28 that it would be safe to say that cross-examination will be at
29 least a day, day and a half?

1 MR JORDASH: I would have thought so.

2 PRESIDING JUDGE: which means, essentially, probably the
3 remainder of the week.

4 MR JORDASH: I agree.

11:59:04 5 PRESIDING JUDGE: Thank you. For members of the public, we
6 have to hear this application for closed session. As you have
7 heard counsel from both sides, if this application is granted it
8 is likely that we are going to be in a closed session for the
9 remainder of the week. So we are now moving into a closed
11:59:22 10 session. We will give our decision about the closed session
11 shortly after the lunch break and from that moment on you are
12 going to know if it is to be in closed session or not. Thank you
13 very much.

14 Can we get the information from Court Management that we
11:59:47 15 are in a closed session configuration?

16 MR HARRISON: If I can just indicate, the Prosecution does
17 have a copy of what would be Exhibit 53. I don't think it was
18 actually circulated to Defence counsel to look at the underlining
19 and then actually handed to Court Management.

12:02:26 20 [At this point in the proceedings, a portion of the
21 transcript, pages 52 to 67, was extracted and sealed under
22 separate cover, as the session was heard in camera.]

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1 [RUF07NOV05D-RK]

2 [Open session]

3 [Upon resuming at 2.38 p.m.]

4 PRESIDING JUDGE: So Madam Court Officer, are we in open
14:37:01 5 session?

6 MS EDMONDS: Yes, we are in open session, Your Honour.

7 PRESIDING JUDGE: Thank you. Justice Thompson.

8 Mr witness, just wait, please.

9 THE WITNESS: Okay.

14:37:20 10 [Ruling]

11 JUDGE THOMPSON: This is a written reasoned ruling of the
12 Trial Chamber on the application of the Prosecution for the
13 entire testimony of witness TF1-366 to be heard in closed
14 session. Recognising Article 17(2) of the Statute of the special
14:37:43 15 Court for Sierra Leone which provides that "the accused shall be
16 entitled to a fair and public hearing subject to measures ordered
17 by the Special Court for the protection of victims and
18 witnesses", and in pursuance of Rule 75 and Rule 79(A)(ii) of the
19 Rules of Procedure and Evidence of the aforesaid Special Court,
14:38:10 20 the Trial Chamber rules that, considering the nature of the
21 information disclosed to the Court by the Prosecution in support
22 of the application, the testimony of witness TF1-366 shall be
23 heard in closed session.

24 This exceptional procedure is required for this witness
14:38:34 25 primarily because, as submitted by the Prosecution, if the whole
26 of the witness's testimony is given in public, his identity will
27 thereby be disclosed with the possibility of his personal
28 security and that of his family be jeopardised.

29 The Trial Chamber therefore holds that if the whole of this

1 witness's testimony is given in public it would reveal his
2 identity, thereby putting his personal security and that of his
3 family at grave risk. The application, as already indicated, is
4 granted.

14:39:20 5 PRESIDING JUDGE: So Madam Court Officer, can we go back in
6 closed session now and carry on with the evidence of this witness
7 in examination-in-chief.

8 THE WITNESS: We're going to do this in closed session?

9 PRESIDING JUDGE: Yes, we are moving into closed session
14:40:00 10 now. Was it the witness who was asking? Yes, Mr Witness, we
11 will be in a closed session. We're just waiting for the signal
12 to tell us that we are in a closed session.

13 THE WITNESS: Okay.

14 [At this point in the proceedings, a portion of the
15 transcript, pages 70 to 119, was extracted and sealed under
16 separate cover, as the session was heard in camera.]

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EXHIBITS:

Exhibit No. 53 48

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-314 2

CROSS-EXAMINED BY MR CAMMEGH 2

WITNESS: TF1-366 54

EXAMINED BY MR HARRISON 54