

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

MONDAY, 21 NOVEMBER 2005
9.39 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Candice Welsch Mr Matteo Crippa
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Peter Harrison Mr Alain Werner Mr Mark Wallbridge(Case Manager) Ms Hannah Hinton (intern) Ms Martine Durocher (intern)
For the Principal Defender:	NO APPEARANCE
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph Ms Salwa Chowdhury
For the accused Morris Kallon:	Mr Melron Nicol-Wilson Mr Charles Taku
For the accused Augustine Gbao:	Mr John Cammegh

1 [RUF21NOV05A - EKD]
2 Monday, 21 November 2005
3 [Open session]
4 [The accused Sesay and Kallon present]
09:30:02 5 [The accused Gbao not present]
6 [Upon commencing at 9.39 a.m.]
7 WITNESS: TF1-045 [Continued]
8 PRESIDING JUDGE: Good morning. Good morning, Mr Witness.
9 THE WITNESS: Good morning, sir.
09:38:36 10 PRESIDING JUDGE: Is the Prosecution ready to proceed to
11 move ahead with examination-in-chief of this witness?
12 MR HARRISON: Yes. I think the Court indicated that they
13 wished to finalise the exhibits from the previous witness before
14 we started.
09:38:50 15 PRESIDING JUDGE: Yes, if possible. If there is agreement
16 on that we would do that first. Mr Cammegh.
17 MR CAMMEGH: I think this is going to be Exhibit 57.
18 PRESIDING JUDGE: Exhibit 57, yes, indeed. This is your
19 tendering of I'm not sure how many statements, but of statements.
09:39:12 20 MR CAMMEGH: That's right. Your Honour has caught me for a
21 moment. Because I'm not sure exactly how many statements I am
22 tendering.
23 PRESIDING JUDGE: That why I am asking you.
24 MR CAMMEGH: I am still struggling to understand exactly
09:39:26 25 what is required and I was going to ask Your Honour for some
26 guidance.
27 PRESIDING JUDGE: Well, what is required is, I would
28 suggest to you, is relatively simple. Whatever statement you are
29 intending to use to show inconsistency and or contradiction

1 between what the witness has said while testifying and what he
2 may have said on another occasion and essentially and that you
3 used in court that you need to --

4 MR CAMMEGH: It is exactly what is required to be
09:39:52 5 underlined though that I think it would probably assist
6 everybody. Do I understand it correctly that Your Honours, first
7 of all, only require tracts of the statement that have been read
8 out and put to the witness verbatim?

9 PRESIDING JUDGE: Indeed.

09:40:12 10 MR CAMMEGH: The second thing - and this is something that
11 Mr Harrison and I have just been discussing - do Your Honours
12 require the entirety of a sentence to be put rather than merely
13 the relevant phrase, because, of course, some sentences have a
14 multifarious context? I would appreciate guidance on that just
09:40:35 15 so I know I am doing it properly.

16 JUDGE ITOE: Removing the phrase or phrases from sentences
17 would make no meaning. I think it is good to tender the whole
18 sentence and then underline the phrase. That's the way I look at
19 it.

09:40:51 20 MR CAMMEGH: The problem is, of course - and we have
21 encountered it here - a sentence - and I can't come up with one
22 off the top of my head - but there have been occasions, as I
23 found out, that a sentence may contain two or even three separate
24 assertions.

09:41:05 25 PRESIDING JUDGE: And when you did use that sentence as
26 such you only quoted the portion that you want tendered. You
27 skipped the other part.

28 MR CAMMEGH: Exactly. Exactly.

29 PRESIDING JUDGE: I do recall you would leave out some

1 names or some notations whatever it may be.

2 MR CAMMEGH: Yes. It would seem sensible to me not to
3 mislead the Court and just underline the relevant passage or
4 phrase and that is what I would submit would be the sensible
09:41:34 5 course, but I am in Your Honours' hands.

6 PRESIDING JUDGE: Justice Thompson would like to --

7 JUDGE THOMPSON: I was going to comment that myself, but
8 perhaps there could be devised a system whereby the sentence
9 could be underlined, since it is a whole sentence, and then the
09:41:48 10 phrase which is being highlighted for particular emphasis be
11 probably doubly underlined.

12 MR CAMMEGH: Very well.

13 JUDGE THOMPSON: Because it would seem to me that I would
14 not be able to appreciate the importance of a phrase, which is
09:42:06 15 part of a sentence, without appreciating the entire sentence.

16 MR CAMMEGH: That accommodates my query and I am happy to
17 proceed with that. Can I give Your Honours the statements which
18 I propose to exhibit on Augustine Gbao's behalf? They are - the
19 first statement, that is 5th February. I imagine that would
09:42:42 20 be --

21 PRESIDING JUDGE: 2004?

22 MR CAMMEGH: 2004. I imagine that will be Your Honours'
23 Exhibit 57A.

24 PRESIDING JUDGE: Yes.

09:42:53 25 MR CAMMEGH: Secondly, there is reference in the second
26 statement, which is 30th August 2004. Can we make that, please,
27 Exhibit 57B? The third document would be the statement --
28 rather, the additional information compiled between the 8th and
29 16th August of this year.

1 PRESIDING JUDGE: That is the one they call proofing.

2 MR CAMMEGH: Yes, indeed. Proofing on the 8th, 9th,
3 et cetera, August of this year.

4 PRESIDING JUDGE: So that will be Exhibit 57C.

09:43:45 5 MR CAMMEGH: C, please. And I think that will be all.
6 Indeed it is. So just three exhibits from me, please. Can I
7 thank Your Honours for tidying up. I think I am there now and I
8 shouldn't bother you with any more questions.

9 PRESIDING JUDGE: Good, thank you. Mr Prosecutor, before
09:44:06 10 we mark this as an exhibit, I understand you have had some
11 discussion with your colleague from the Defence?

12 MR HARRISON: Yes. Can I just clarify one point?

13 PRESIDING JUDGE: Yes.

14 MR HARRISON: I just wanted to clarify one point with
09:44:30 15 Mr Cammegh, if the page we have referred about 13683, if that is
16 one that is no longer being relied upon, the second paragraph,
17 the final paragraph in there.

18 MR CAMMEGH: I have crossed it out and I have written the
19 words "Please ignore". So it is a belt-and-braces approach that
09:44:54 20 I hope will fool no-one.

21 MR HARRISON: Then it is satisfactory to the Prosecution
22 that be tendered as an exhibit. There is no further comment the
23 Prosecution has on that. We do have our own exhibit.

24 PRESIDING JUDGE: That you will be tendering now?

09:45:09 25 MR HARRISON: Yes, I can do that right now.

26 PRESIDING JUDGE: Yes, we will finish with this right now.
27 Madam Court Officer, we are at 57D?

28 MS EDMONDS: Yes, sir.

29 PRESIDING JUDGE: Mr Jordash, we haven't asked you or

1 counsel for the second accused if you have any comments.

2 MR JORDASH: No, no, thank you.

3 PRESIDING JUDGE: Mr Nicol-Wilson, any comment on the --

4 MR NICOL-WILSON: No, Your Honour.

09:45:44 5 PRESIDING JUDGE: Thank you. These statements as described

6 by Mr Cammegh for the third accused are marked as Exhibit 57A, B

7 and C. And these are statements of 5 February 2004, 30 August

8 2004, and 8 to 16 August 2005 proofing.

9 [Exhibit No. 57A was admitted]

09:46:08 10 [Exhibit No. 57B was admitted]

11 [Exhibit No. 57C was admitted]

12 MR CAMMEGH: Thank you, that's right.

13 PRESIDING JUDGE: Mr Prosecutor?

14 MR HARRISON: The Prosecution has one exhibit with respect

09:46:26 15 to Witness TF1-366 which it asked to be admitted into evidence.

16 It is the proofing notes of 8 to 16 August 2005. The Prosecution

17 says that paragraph 21 and 22 of that are corrections to --

18 JUDGE ITOE: Proofing notes of?

19 PRESIDING JUDGE: Eight to 16 August 2005.

09:46:56 20 MR HARRISON: Yes. Prosecution says paragraphs 21 and 22

21 are corrections to page 6 of the statement dated 30 August 2004.

22 PRESIDING JUDGE: To page 6 in total?

23 MR HARRISON: Two-thirds of page 6. It is the sections

24 underlined by counsel for the first accused.

09:47:32 25 JUDGE THOMPSON: [Microphone not activated]

26 MR HARRISON: You're correct, but I think the reality is

27 that all three accused have used that page. It was first

28 indicated by the first accused.

29 PRESIDING JUDGE: So that is it for the Prosecution?

1 MR HARRISON: Yes, only paragraphs 21 and 22.
2 PRESIDING JUDGE: Counsel for the first accused?
3 MR JORDASH: No observations.
4 PRESIDING JUDGE: Mr Nicol-Wilson?
09:48:11 5 MR NICOL-WILSON: None, Your Honour.
6 PRESIDING JUDGE: Mr Cammegh.
7 MR CAMMEGH: No, thank you.
8 PRESIDING JUDGE: Very well. So this document is marked as
9 Exhibit 58. I just want to reiterate for the record that these
09:48:26 10 documents or statements are admitted in evidence for the limited
11 purpose of showing alleged inconsistency between what the witness
12 may have said in Court and what that same witness may have said
13 in other circumstances.
14 [Exhibit No. 58 was admitted]
09:48:48 15 So we are now back into the evidence of this witness,
16 TF1-045. Are you ready to move ahead with the evidence of this
17 witness, Mr Prosecutor?
18 MR HARRISON: Yes.
19 PRESIDING JUDGE: Please do so.
09:49:04 20 EXAMINED BY MR HARRISON: [Continued]
21 Q. Witness, I want to remind you that we are in an open
22 session and should you wish to refer to the person we have called
23 Mr A, you must remember to use "Mr A".
24 A. Yes, sir.
09:49:34 25 Q. And we want to simply try to continue on from where we left
26 off on Friday afternoon. You had told us that you had gone
27 mining in Tongo and that you had returned to XXXX. You told
28 the Court that in February of 1998 there was an ECOMOG
29 intervention pushing the AFRC out of Freetown. Do you remember

1 that?

2 A. Yes, sir.

3 Q. So we are now in Kenema. Were there any meetings held at
4 Kenema at this time?

09:50:26 5 A. Well, we held meetings, but it was later. It was not like
6 a meeting. What happened after Freetown fell to ECOMOG, the next
7 day when the Kamajors came and attacked us in Kenema after they
8 had attacked us and we too had attacked them, we dislodged them
9 from the town then the in afternoon we saw Mosquito went to Mamie
09:51:30 10 Saad, who was a Lebanese.

11 Q. Just pause for a moment. Who was it that Mosquito went to?

12 A. He went to Mamie Saad, called Mamie Talk-Talk.

13 Q. Who is Mamie Saad?

14 A. A Lebanese woman.

09:52:12 15 Q. What happened next?

16 A. After that -- he had some trucks with him. Then Mosquito
17 went and commanded that they should be seized from her. He
18 loaded some of his properties in them with some medicines he had.
19 He loaded everything inside. And all he had at NIC. So he left
09:52:45 20 the NIC building and went to the brigade.

21 Q. Just pause for a moment. First of all, what is the "NIC"?

22 A. National Insurance Company.

23 Q. What was going on there at the NIC?

24 A. There Mosquito was based. So after that all the properties
09:53:43 25 he had at NIC he loaded in the trucks. Then he took them to the
26 brigade. So we too, those of us who were RUF commanders there,
27 it became a concern to us, because he was our commander and we
28 were strongly looking forward to him, Mosquito. So when he did
29 that --

1 Q. Just pause for a moment. When you say "when he did that",
2 what are you referring to?

3 A. When he went and looted Mamie Sad's vehicles, the trucks
4 from her, and loaded his properties in them. Then he left where
09:54:49 5 he was where he had lived, where he was doing everything, and
6 then came to the brigade with the vehicles loaded with his
7 properties. He said he was sending them to Kailahun. So we
8 too -- I was there at the time, XXXXX was there, XXXXX
9 was there --

09:55:23 10 PRESIDING JUDGE: [Microphone not activated]

11 MR HARRISON: There was XXXXXX and then XXXXX.

12 PRESIDING JUDGE: XXXXXX.

13 MR HARRISON:

14 Q. I'm sorry to interrupt you, Witness. You said that Captain
09:55:37 15 XXXXX was there, XXXXX. Did you wish to continue?

16 A. Yes. Yes, sir. XXXXXX was there, an MP from AFRC called
17 Sergeant Junior was there. By then Lieutenant Denis was there.

18 Q. Just pause for a moment. Who is or who was
19 Lieutenant Denis?

09:56:09 20 A. He was an RUF soldier.

21 Q. When you say that they were "there", where are you talking
22 about?

23 A. At the brigade. We were all there sitting. All the people
24 I've mentioned, we were all together.

09:56:37 25 Q. Just pause for a moment.

26 A. So after we have --

27 Q. Where was the brigade?

28 A. In Kenema Town.

29 Q. I'm sorry, I interrupted you. You were saying you were all

1 at the brigade. Please continue.

2 A. So whilst we are sitting in the brigade, then we saw
3 Mosquito came with all those looted items together with Eddie
4 Kanneh, the resident minister for AFRC. So we too decided that
09:57:25 5 we know ourselves as long as Freetown had fallen and we've seen
6 Mosquito have loaded these properties in the trucks, then we
7 should leave the town. So we too, we were RUF members, we too
8 had families, we too had properties. So we too had wanted to
9 remove them from there. So went to him where he was, myself --

09:58:00 10 Q. Just pause for a moment. You say you went to "him". Who
11 are you talking about?

12 A. All of us, those that I have mentioned. Myself, XXXXX,
13 XXXXX, XXXXXX, XXXXX All of us went to meet Mosquito,
14 Sam Bockarie, and explained to him and said, "Mosquito, we have
09:59:03 15 heard and you too have said that Freetown has fallen. And now
16 you are moving out of the base for Kailahun. So what about our
17 own relatives, what are we to do about them?" So we too, he
18 explained to us, what I will tell whosoever is an RUF commander
19 or a soldier, where the government of AFRC is relied on, which
09:59:40 20 was Freetown, had fallen to the hands of ECOMOG. So he said, "So
21 Johnny Paul and the others are no more." So he said, "In Kenema
22 we too should not stay here until we are attacked like the way
23 they attacked them in Freetown. So it is now a time so all
24 soldiers should take whatever they want and make sure you report
10:00:18 25 to Daru."

26 Q. Just pause a moment. Who was it who said you should take
27 whatever you want?

28 A. Sam Bockarie.

29 Q. And who was that said to?

1 A. He spoke to myself, he spoke to XXXX, he spoke to XXXX,
2 he spoke to XXXXX, he spoke to XXXX. All of us went there. We
3 are all there when we asked him this question. Everybody was
4 there when he said to us that we should take whatever that would
10:01:35 5 be necessary for you, you should take it out of the town and then
6 we should leave, before we attack.

7 Q. Just pause a moment. What did you understand that to mean?

8 A. He too told us that -- because we too said we have our
9 properties that we should take along and we too have no vehicles,
10:02:14 10 we have seen him went and took a vehicle which was not his. And
11 we too saw there were some other vehicles in the town. So we too
12 realised. And then he said we should take whatever we want and
13 that we should leave Kenema Town before we were attacked. After
14 he had said all of that, Mosquito, so we too told all the
10:02:49 15 soldiers, the other soldiers --

16 Q. Pause a moment. What did you tell the soldiers?

17 A. We told them, said, "Well, this Sam Bockarie said it's
18 Operation Pay Yourself." From that time everybody, RUF and AFRC
19 soldiers, started looting whatsoever in Kenema. Vehicles,
10:03:34 20 Hondas, bicycles, rice, food, medicines, money. Whatever you
21 meet, if you are lucky enough, it was pay yourself, it would be
22 yours. I too took aXXXXXX there, which was an XXXXX, a brand new
23 one. I looted it.

24 Q. Just pause for a moment. Did you see looting?

10:04:28 25 A. Very seriously. Since when the message came out to all RUF
26 and AFRC soldiers in Kenema everybody started looting. That I
27 saw myself. I was also involved in it when I took a Honda.

28 Q. Please continue; what happened next?

29 A. So after we had looted Kenema, in the afternoon hours going

1 to night, until around twelve going to two in the morning, we
2 retreated and left there.

3 Q. Just pause for a moment. When you say you left "there",
4 are you referring to Kenema?

10:05:52 5 A. Yes, we left Kenema for Daru.

6 Q. Did anything else happen as you left Kenema?

7 A. Yes. Looting continued from Kenema up to, going to Daru.
8 Even the towns along the route like Segbwema, when we arrived
9 there, we looted there. I saw it myself and went and took an

10:06:38 10 XXXXXX, which was a XXXXXX. XXX took it to pack XXXX
11 luggages inside, then XX went with it.

12 PRESIDING JUDGE: And that was in Segbwema?

13 THE WITNESS: Yes, sir. Yes, sir.

14 MR HARRISON:

10:07:12 15 Q. You have talked about looting. Did anything else happen?

16 JUDGE ITOE: You said the XXXXXX belonged to who?

17 PRESIDING JUDGE: XXXX.

18 JUDGE ITOE: XXXXX.

19 THE WITNESS: The bike, the XXXXXX, which was a XXXXXX I

10:07:38 20 took, didn't belong to XXXXX. It was from XXXXX. The XXXX
21 belonged to XXXXX.

22 PRESIDING JUDGE: We understand. You were talking of a
23 Land Cruiser, XXXX.

24 MR HARRISON:

10:07:57 25 Q. You have talked about looting. Did anything else happen as
26 you left Kenema?

27 A. Yes. In Kenema so many people joined us, men, women. Some
28 were captured, some were willing to go, some were not willing to,
29 some were captured. All of us went to Daru. Even myself. My

1 niece called -- an RUF soldier called Ibrahim captured him in
2 Kenema.

3 Q. Witness, I want you to remember that you do not need to
4 give the names of any family member.

10:09:06 5 A. Am I to give the names of my family?

6 Q. No. I'm saying that you do not need to do that and you
7 should not do that.

8 PRESIDING JUDGE: While in open session.

9 MR HARRISON:

10:09:19 10 Q. While in open session, which we presently are.

11 A. Okay. So that my niece was captured in Kenema. When we
12 arrived in Daru in the morning, the very bike I took I was riding
13 it, passing through Daru, then I saw her on the street. I went
14 to her and asked her, I said, "What's the reason why you are
10:10:02 15 here?" And asked for my brother. I said, "Where is he?" He

16 said he hid from her yesterday when everything was in disarray in
17 Kenema, he never knew the way she went. They said -- she said
18 one RUF soldier captured her and forced her and rape her. She
19 said he brought her to Daru. So then I said if he is here. Then
10:10:42 20 I went to him and told him this one is my niece, she's yet here
21 and she's XXXXXXXX. So now that she's here, she will be
22 in my custody. If you need her you will meet me and I will talk
23 it. Then I took her from him.

24 Q. Just pause for a moment. You told the Court that some of
10:11:34 25 these men and women who were captured were not willing. What do
26 you mean by that?

27 A. There will be somebody, when something is happening and you
28 did not inform the person where you are going, then he will say
29 I'm going with you. That means he was willing to. But if you

1 meet somebody else and he is refusing to go with you and then you
2 capture him forcibly and then place her in a vehicle and say,
3 "You are my woman", or a small soldier, then that implies you
4 have to go with him, which implies that you are not willing.
10:12:25 5 That's force. The one that you are not taking along with you,
6 you see the person following you, then that implies the person
7 was willing.
8 Q. When you use the term "small soldier", what are you talking
9 about?
10:12:54 10 A. They were those kids, those that were captured in Kenema.
11 Those small children when you are captured, they call them
12 "SBUs", Small Boys Unit.
13 Q. How old were people in a Small Boys Unit?
14 A. Some would be 12, 13, 14.
10:13:43 15 MR TAKU: I'm sorry, Your Honour --
16 THE WITNESS: 15.
17 MR TAKU: I have not heard the foundation for this
18 question. He just asked what do you mean by "Small Boys Unit"
19 and there is no foundation for this question. I didn't hear the
10:13:52 20 foundation for this -- leading to this area.
21 PRESIDING JUDGE: What do you mean by "foundation" in this
22 respect? Are you saying it is not relevant?
23 MR TAKU: He has not given any evidence about Small Boys
24 Unit yet.
10:14:11 25 PRESIDING JUDGE: He just ask said they captured small
26 boys, small soldiers. Then he is asking a question about what he
27 meant by "small soldiers". has just given a definition about
28 what it means. He is now asking --
29 JUDGE ITOE: About the age.

1 PRESIDING JUDGE: Objection is overruled.
2 JUDGE ITOE: Yes.
3 MR HARRISON:
4 Q. You were starting to give some ages. Could you please
10:14:36 5 continue?
6 A. Yes, I said from 12 up to 16, 17.
7 Q. And the niece that you are talking about, how old was she
8 at the time?
9 A. She --
10:15:08 10 THE INTERPRETER: Your Honour, could the witness repeat his
11 answer? The interpreter didn't understand it well.
12 MR HARRISON:
13 Q. Mr Witness, if you could just repeat your answer so that
14 the interpreters can hear you.
10:15:24 15 A. He could be around 12 to 13.
16 Q. Do you know what --
17 THE INTERPRETER: Correction, interpreter. Instead of the
18 pronoun "he", it should be "she".
19 MR HARRISON:
10:15:51 20 Q. Do you know what these Small Boy Units were used for?
21 A. Yes. We were using them to hold -- to carry arms. They do
22 some domestic work. They used to pound rice, if where you go you
23 meet rice. They pound rice, they cook -- prepare it; launder
24 things for you. So if you are moving, you could give him, her
10:16:47 25 arms and he would be behind you.
26 Q. Did Small Boys Units do anything else?
27 A. Yes, they also fought.
28 Q. Did you yourself see Small Boy Units?
29 A. Yes.

1 Q. And did you see them with anyone?

2 A. Yes, I saw them. Almost -- a lot of RUF commanders had
3 small soldiers behind them. Majority of them.

4 Q. Where did you see Small Boys Units?

10:18:11 5 A. I had told you earlier that even when I was in Tongo there
6 were Small Boy Units, small soldiers. They were there.

7 Q. What about when you were in Kenema?

8 A. Small Boys Unit were there.

9 Q. You said this morning that women were captured as you were
10:19:01 10 leaving Kenema. Why were women captured?

11 MR JORDASH: Objection. I'm not sure this witness can
12 speak on behalf of every single person who captured a woman. Why
13 were women captured presumes there is a single reason. It is an
14 invitation to speculate in my submission.

10:19:31 15 PRESIDING JUDGE: Mr Harrison?

16 MR HARRISON: I can simply ask the question, if it is of
17 assistance to the Defence, what was your understanding of why
18 women were captured? Because he has already given the evidence
19 that women were captured.

10:19:46 20 MR JORDASH: I'm not sure that that, with all due respect,
21 gets around the problem. Whether it is him saying I know -- yes,
22 please.

23 JUDGE THOMPSON: Perhaps we should ask the witness to
24 excuse us for a brief while. Witness protection.

10:20:28 25 [The witness stood down]

26 MR JORDASH: The objection remains if I can validly object,
27 and I submit I can, to a question which asks a witness to say why
28 women were captured. The objection remains if the witness is
29 asked to explain his understanding of why women were captured.

1 There cannot, in my respectful submission, be a single reason or
2 even a number of reasons which this witness can simply be invited
3 to speculate about. If he knows why a particular woman or a
4 particular group of women, perhaps, were captured, and has some
10:21:58 5 knowledge of it - saw it, heard it, heard about it from somebody
6 else - then he can state that. But he can't simply state well, I
7 believe, I know, I understand. Sorry, he can say I know, but he
8 can't say I understand or I believe. That is simply speculative
9 and it is bordering on expert testimony.

10:22:22 10 JUDGE THOMPSON: May I ask a question. Ordinarily --
11 perhaps I shouldn't preface my question with that kind of
12 analysis. Ordinarily, this were just an ordinary witness, that
13 kind of objection would seem to have some merit from my
14 perspective, that he is being invited to give an opinion or
10:22:48 15 speculate in terms of what may well have been the reason behind
16 the practice of capturing women. But as an insider witness,
17 someone who is familiar with the culture which he is testifying
18 to, this culture -- alleged culture of violence and whatever the
19 culture is in terms of what they did as alleged in the
10:23:18 20 indictment, why would it be so difficult for him as a member of
21 the culture, well-practised in it, having such an encyclopedic
22 knowledge of the culture, and having participated in it, why
23 would it be difficult for him to tell us from that narrow
24 perspective alone as to why they captured -- allegedly captured
10:23:47 25 women? I would like to be enlightened on that and make the
26 distinction which I made.

27 MR JORDASH: I would answer in this way. Firstly, if this
28 witness was put forward as an expert witness, an expert witness
29 in --

1 PRESIDING JUDGE: Well, he is not. He is not. We are not
2 saying he is. He is not. He has not been accepted by the Court
3 as an expert witness. So the example that my brother Justice
4 Thompson was saying was an example. Not to say that this witness
10:24:14 5 is an expert. In fact, he qualified his statement by saying this
6 witness is an insider.

7 JUDGE THOMPSON: And part of a culture, which he is
8 testifying to.

9 PRESIDING JUDGE: As to his knowledge having been part of
10:24:27 10 that organisation. That is all we are saying. We are not saying
11 he is an expert.

12 MR JORDASH: Then he cannot give evidence of a culture,
13 because -- an expert could give evidence of a culture because the
14 culture would have been recognised as something which lends
10:24:44 15 itself to expert evidence. Or --

16 JUDGE THOMPSON: But before you go on, a culture of which
17 he has been a member, he has participated, he is alleged here
18 that he looted, he did this. "I was part of this culture." I
19 call that a culture; that is my own interpretation of that. If
10:25:05 20 he is giving us evidence as to what happened within this culture,
21 why should he not be able to say, in the context of the evidence
22 that he has given, we captured women because of so and so and so?

23 MR JORDASH: Because Your Honour's phraseology "culture"
24 sums up the problem. It presumes a culture. What we have heard
10:25:31 25 from this witness is not evidence of a culture, I would submit.
26 We have heard evidence of something that happened at a particular
27 moment.

28 PRESIDING JUDGE: Let's forget about culture. Let's use
29 the term that has been used as well, movement, RUF movement, how

1 they behaved and so on.

2 JUDGE THOMPSON: What I mean by culture.

3 PRESIDING JUDGE: [Overlapping speakers] RUF movement --
4 organisation.

10:25:52 5 JUDGE THOMPSON: Quite. It's a synonym of that.

6 MR JORDASH: I dispute, as part of the Defence case, that
7 there was a culture of capturing women.

8 PRESIDING JUDGE: We just told you, Mr Jordash, that if you
9 take issue with the word "culture", we will use the word
10:26:08 10 "movement", "organisation".

11 MR JORDASH: I take issue with any suggestion that in some
12 way one can collectivise the behaviour of some members of the
13 rebel group and suggest that it was a culture. If one looks at
14 the evidence of -- the ideology behind the RUF that we have heard
10:26:26 15 so far, if one looks at the documents which suggest that
16 ideology, if one looks at the evidence of people being killed for
17 raping, then one can say there is actually a culture to exactly
18 the opposite.

19 JUDGE THOMPSON: Well, one can say in fact that the term
10:26:38 20 ideology, too, could be used in the context as synonymous with
21 that of a culture. Here is an ideology, something built around
22 to implement, and when you implement the ideology you virtually
23 evolve a culture.

24 MR JORDASH: So we need to hear the evidence of an ideology
10:26:57 25 then which suggests that capturing women was part of the
26 movement. In the same way we have heard evidence of an ideology
27 that the opposite was true, therefore witnesses can say I was
28 trained in the ideology and this is my understanding of it.

29 JUDGE THOMPSON: I take your point. But then, you see, the

1 point I am making is why is he not qualified to talk about these
2 matters when he has already started talking about these matters.
3 The entire evidence he is leading is about this ideology, this
4 culture, this movement.

10:27:27 5 MR JORDASH: It is not about an ideology, culture or
6 movement. It is about a single movement from Kenema. If he
7 talks about an ideology, if he talks about a culture or a
8 movement which was prevalent in the RUF or the AFRC which
9 suggested capturing women was authorised, applauded, encouraged,
10:27:48 10 then he is perfectly entitled to go on to say what his
11 understanding of that culture, movement or ideology was. But we
12 are nowhere near that stage. We are at a single moment, leaving
13 Kenema, some RUF, some AFRC capturing women, full stop.

14 JUDGE THOMPSON: What about the whole concept of looting in
10:28:05 15 the context of an alleged Operation Pay Yourself?

16 MR JORDASH: Well, it is a particular operation ordered at
17 a particular time. There is no suggestion again that Operation
18 Pay Yourself was part of a culture which pervaded the whole of
19 the rebel groups. You can't extrapolate from a single movement
10:28:24 20 from Kenema and then say well, it was part of a movement, culture
21 and ideology of the RUF/AFRC or else the Defence may as well pack
22 up and go home.

23 PRESIDING JUDGE: I think we are getting out of the
24 scenario we are dealing with here. We don't want to get into
10:28:40 25 these arguments, Mr Jordash. You know there is evidence of a
26 different nature, but we are here, as you say, in the Kenema
27 scenario, leaving Kenema going to Daru, as such. The question
28 was what do you know? And you say he cannot answer that
29 question, what do you know about capturing of women? Well, we

1 don't know his answer. If he says "I know nothing", then your
2 objection has no value. If he says "I know, because", well, why
3 is it that question cannot be asked?

4 MR JORDASH: Because he cannot in any way answer the
10:29:13 5 question concerning why the AFRC or RUF were capturing women
6 without presupposing the culture and ideology of the RUF.

7 PRESIDING JUDGE: But we know from his evidence that he has
8 been in the RUF for a while at that particular moment, when we
9 are in Kenema, they are leaving Kenema. He has not been there as
10:29:34 10 part of that organisation just for the last 24 hours. He has
11 been part of that organisation for quite a while, and he has
12 moved up to a certain rank at that particular moment. He has
13 told us where he has been before, what he has been doing. So he
14 has -- I would say for myself that he has a certain knowledge,
10:29:52 15 insider knowledge of what is going on. So what does he know? I
16 mean, it is based on his own experience.

17 MR JORDASH: Not what does he know of the reasons. It is
18 not simply what does he know of capturing women.

19 PRESIDING JUDGE: He is an officer at that time in Kenema
10:30:09 20 and he has attended, we know, a meeting, according to his
21 evidence, with Sam Bockarie. Well, how do we know? Maybe that
22 is what he was told at that particular moment. How does he
23 know -- if he knows nothing, he will tell us. If he says, "Well,
24 it is because Bockarie told us you can do A, B and C, that is why
10:30:22 25 we did."

26 MR JORDASH: We are putting the cart before the horse.
27 Because he has been asked to give evidence of reasons but without
28 giving evidence of the reason why the capturing of women started
29 at the very beginning of the operation moving out of Kenema. If

1 he said, well, Sam Bockarie ordered the capturing of women for X
2 and Y reasons, then we are into some kind of factual evidence.
3 At the moment what we are into is opinion evidence as to why in
4 his view women were captured. There has been no order, no
10:31:00 5 direction, nothing which indicates that it was officially
6 authorised or instructed.

7 Unlike the looting, where we do have evidence of that. And
8 therefore the question why was looting going on, what was the
9 reasons for it, I wouldn't object to that. But this is simply
10:31:16 10 saying to the witness what's your opinion?

11 PRESIDING JUDGE: I don't think it is a question about
12 what's your opinion. As I say, we have evidence from this
13 witness that he has been part of that movement for a while. If
14 as part of their normal activities, of the RUF, when they go in a
10:31:39 15 village as such they capture women. Why is it that he cannot say
16 so? I am not saying that was case, but I am just giving that as
17 an example. And why would that be an opinion when he says that
18 is what I and my people have been doing? I am not saying this is
19 evidence, but assuming that would be the kind of evidence, you
10:31:53 20 say this is opinion evidence?

21 MR JORDASH: Well, he hasn't said "I and my people".

22 PRESIDING JUDGE: No, but you say to the Court if he is
23 asked that question he will then give an opinion and he should
24 not be giving an opinion -- go ahead.

10:32:08 25 MR JORDASH: If he had said I and my friend Joe, my friend
26 Michael, my friend Fred had captured women, he could be asked the
27 question why did they do that? Because he might have some
28 knowledge; it wouldn't be a speculative question seeking an
29 opinion. But simply we haven't had that evidence. We have

1 simply had some people were capturing women.

2 JUDGE THOMPSON: But the difficulty is that how can we
3 intellectually exclude from our mental framework the fact that
4 this witness is testifying from an institutional or perspective
10:32:47 5 of an organisation which he is part of? That is the difficulty.
6 How do you want us to completely exclude from the intellectual
7 process that we have an insider witness here who is talking about
8 again I use my word a culture to which he belongs, of which he
9 has been part? And he is telling you what the various dynamics
10:33:10 10 in that culture have been. Looting. Looting, as he says, when
11 so and so happens, and then capturing women. Why is it so
12 difficult for us to -- why do we want to exclude that kind of
13 evidence?

14 MR JORDASH: I am not suggesting we exclude it. I am
10:33:31 15 suggesting that it's elicited in a way that is based on fact and
16 not opinion.

17 JUDGE THOMPSON: But the difficulty here is that if he
18 tells us why they captured women, isn't it part of something that
19 he has already been knowledgeable of? In other words, he knows
10:33:52 20 why they used to do this. Why is it just an opinion evidence?
21 Suppose he says it is the practice to do this whenever we had
22 this kind of thing, or certain factors follow, this is the
23 practice. Whenever we get into a particular area, when we
24 achieve so and so, we capture people as part of our strategy, as
10:34:18 25 part of ideology. He is not an ordinary witness; that is my
26 difficulty.

27 MR JORDASH: Well, he is an ordinary witness for this case.

28 JUDGE THOMPSON: He is an insider witness.

29 MR JORDASH: For this case he is an ordinary witness.

1 [Overlapping speakers]

2 JUDGE THOMPSON: Ordinary, and I am not using the term
3 ordinary in the context of making a contradistinction between
4 ordinary and expert. I am talking about insider witness.

10:34:43 5 MR JORDASH: But what I am talking about is the fact that
6 almost 80 per cent of the witnesses here were in the rebel
7 groups.

8 JUDGE THOMPSON: Yes.

9 MR JORDASH: So insofar as the term ordinary, he is an
10:34:57 10 ordinary witness for this case. And if we are going to go down
11 the road where we say any witness in any rebel group is allowed
12 to give evidence of practice which includes places they haven't
13 been as well as places they have been, things they have seen and
14 things they haven't seen, things they have heard about and things
10:35:15 15 that they haven't heard about, then every witness effectively
16 becomes some kind of expert of the culture of the RUF.

17 JUDGE THOMPSON: No, they are insider witnesses. They are
18 members of an organisation. They have given evidence here about
19 ideology. Defence have, in fact, elicited evidence about the
10:35:34 20 ideology and when the indictment charges them as members of the
21 RUF movement - not just as individuals, but members of a
22 movement - with a particular ideology, with a particular
23 organisational focus. And my difficulty intellectually is how to
24 separate these witnesses from their macro kind of context in
10:35:57 25 which they come to give evidence from. That is my difficulty.
26 If he were just Witness X, talking about experiences that
27 happened during the war, I probably would have been along with
28 you on that line. But I am unable to make that intellectual
29 distinction between his role as an ordinary witness, if I accept

1 your characterisation, and his role as an insider witness of an
2 organisation in respect of which he has come to testify.

3 [RUF21NOV05B - SGH]

4 MR JORDASH: Well, I would object to any suggestion that
10:36:29 5 witnesses, by virtue of being members of these rebel groups, are
6 entitled to give evidence of what they have not seen at a
7 particular place in a particular time or have heard about at a
8 particular time, at a particular place. It is dangerous evidence
9 to have witnesses coming here and the Court accepting the fact
10:36:50 10 that they have been in the RUF for a long time means they are
11 entitled to extrapolate from that limited experience of being in
12 the rebel groups to the whole of the RUF. Because what it does
13 is it presumes a movement, and that's the Prosecution's case. It
14 is a movement with a cohesive ideology which was to brutalise the
10:37:05 15 civilians.

16 JUDGE THOMPSON: With the greatest respect, that line of
17 reasoning cannot be right. When those statements were disclosed
18 to you they were disclosed with all these kinds of things. They
19 were disclosed as statements from persons who belonged to a
10:37:27 20 movement in respect of which charges have been laid in the
21 indictment. I am not misrepresenting the indictment. They are
22 charged there by reason of the fact that they were part of an
23 ideological movement and it is my difficulty now to say -- and I
24 am unable to understand how we can now say that this witness
10:37:50 25 testifying before the Court is testifying merely as an ordinary
26 person who was a spectator - mere spectator - to RUF activities
27 simpliciter.

28 PRESIDING JUDGE: And to respond in part to your objection,
29 I just want to remind you that, according to our rules of

1 evidence, all relevant evidence is acceptable. As you know, the
2 rule that has covered the admissibility of evidence is relevancy
3 and flexibility. We have admitted and we do admit on a regular
4 basis hearsay evidence that would otherwise not be admitted in
10:38:33 5 some other forms of tribunals. In these tribunals we do admit
6 this kind of evidence quite freely, subject to any comments and
7 arguments you might wish to make in due course, not now. The
8 position you're espousing at this time, I'm not saying it's a
9 good or a bad one. All I am saying is yes, you will be entitled
10:38:54 10 to make those representations at the end of trial and if your
11 position is that this is not a culture because and because, well,
12 we'll listen. We have made no decision as to whether it is or
13 not, but we are saying that this is evidence that, on face of it,
14 appears to be relevant and we do not see why this witness cannot
10:39:11 15 testify as to what he knows or how his knowledge came about; is
16 it because he has been in that movement for 10 years or because
17 somebody told him the week before? We don't know.

18 Your objection is that it should not be admitted because he
19 is not an expert and therefore should not be testifying as to
10:39:31 20 this. That's basically the way I understand your objection.

21 MR JORDASH: No, because he is being invited to speculate.
22 We haven't heard of any ideological cause of the capturing of
23 women from Kenema, movement to Daru. We have heard nothing of
24 that kind. Simply because the Prosecution allege that there was
10:39:50 25 a culture of this in the whole of the RUF and AFRC, in no way
26 does that allow their own witnesses to come into the witness box
27 and pontificate on that culture without focusing and anchoring
28 their evidence as to what they have seen and what they have heard
29 about specifically. That's my objection. Rule 89(B) overrides,

1 or underpins, perhaps --

2 PRESIDING JUDGE: It does not override. It simply talks
3 about the fairness of the process.

4 MR JORDASH: Well, it underpins everything in this
10:40:22 5 courtroom, because what it does is it directs and obligates
6 Your Honours to only apply rules of evidence which best favour a
7 fair determination of the facts before it.

8 PRESIDING JUDGE: Yes.

9 MR JORDASH: Opinion evidence which traverses the whole of
10:40:43 10 Sierra Leone from a witness who is talking about a specific
11 attack in Kenema, in my respectful submission, that does not in
12 any way ensure a fair determination of that because it cannot --

13 PRESIDING JUDGE: That's your opinion.

14 MR JORDASH: It is my opinion [overlapping speakers]

10:40:55 15 PRESIDING JUDGE: That's an opinion we don't share.

16 MR JORDASH: [Overlapping speakers] the ICTY and the ICTR.

17 JUDGE THOMPSON: That's my difficulty. It's whether your
18 characterisation of this piece of evidence is opinion evidence or
19 not. That's my difficulty. I don't share it. I am in fact
10:41:09 20 saying that it is not an expert opinion. I do not see how having
21 regard to the charges in the indictment, the statements that were
22 disclosed to you, that this was a witness coming to talk about
23 RUF activities, their practices. I am finding it difficult to
24 see how I can now again, using your own language, extrapolate
10:41:33 25 that from the fact that he was allegedly part of a movement that
26 did certain things.

27 MR JORDASH: It's not that it's expert opinion that's the
28 problem. It's the fact that it is opinion which is the problem.
29 That's the substance of the complaint, because it can't be

1 anything but that if he is being asked to comment on why every
2 person who captured a woman might have done it.

3 JUDGE THOMPSON: But, counsel, it is trite learning that
4 also ordinary witnesses, if we accept it, can also exceptionally
10:42:02 5 give their opinion on certain matters. Exceptionally. Not as a
6 general rule, I agree. But I am in fact saying my difficulty
7 intellectually is to really transport this witness from an
8 insider witness into your pigeonhole of an expert witness. It's
9 a quantum leap.

10:42:26 10 MR JORDASH: I am not suggesting that the problem is that
11 he's an expert witness. I used that example to say that if he
12 was an expert witness he could give this evidence. What I am
13 suggesting is that opinion evidence is not allowed.

14 PRESIDING JUDGE: Why? Give me the rule as to where in
10:42:36 15 international criminal tribunals it is not allowed.

16 MR JORDASH: Well, it's not allowed at the ICTY and it's
17 not allowed at the ICTR. If Your Honours give me until the end
18 of the day I will come back --

19 PRESIDING JUDGE: Yes, I would like to see the
10:42:50 20 jurisprudence, but even if that were the case, I'm saying to you
21 that we are not limited as to the evidence that we can admit.
22 The only limit that we have is if it is relevant and it does not
23 affect the fairness of the process. I say to you that the
24 fairness of the process is not affected because you will be able
10:43:06 25 in cross-examination to clarify all of these issues if you want
26 to and that's part of the process and that's part of the fairness
27 of the process as well.

28 MR JORDASH: Well, with all due respect, it's not. Because
29 Your Honour's approach basically comes down to this: Let the

1 Prosecution adduce what they want, the Defence can cross-examine
2 on it and there's the fairness. Well, international courts,
3 domestic courts for many a year have recognised that
4 cross-examination can't cure all ills. It cannot cure opinion
10:43:39 5 evidence, it cannot cure evidence such as multiple hearsay which
6 makes it impossible to check. These rules which are implemented
7 in any court do not simply say all evidence is okay evidence, we
8 can sift it all at the end. It says even in international
9 tribunals we take an expansive approach to the evidence, however,
10:43:59 10 there are still occasions when we recognise that some evidence is
11 too dangerous, not challengeable and the Defence are put at --
12 not even actually just the Defence, a party is put at such a
13 disadvantage that it ought not to be allowed.

14 Now every objection I have made in the last two trial
10:44:21 15 sessions to any type of evidence in this courtroom is always met
16 with the same response, with all due respect. It is always met
17 with, "You can cross-examine". Well, I am sorry,
18 cross-examination does not cure everything.

19 JUDGE THOMPSON: But also if at the end of the day this
10:44:34 20 Court has wrongly admitted evidence, it can also be cured on
21 appeal where it is always a ground of appeal that there has been
22 wrong admission of evidence. You know, evidence has been wrongly
23 admitted. So it is not just cross-examination. Your remedies
24 are still open. But my difficulty, as I say, is that I am not
10:44:59 25 able to see why this witness cannot testify to these matters
26 since he was part of this culture.

27 I am saying "culture" meaning the RUF culture. I mean, you
28 can say it is not culture when you address us. But it would seem
29 to me that whether you call it a movement or an organisation,

1 they had certain norms and values which they actually propounded
2 and which, of course, they were intent in implementing. That is
3 the context in which I use it. All I am saying is all
4 allegations so far. But why should he not really tell us why in
10:45:41 5 their movement in specific instances they captured women?

6 MR JORDASH: Well, he can give evidence of why, in specific
7 instances, people captured women.

8 JUDGE THOMPSON: Yes.

9 MR JORDASH: I have no objection to that. I have an
10:45:56 10 objection to a presumption of a movement and an ideology and the
11 question presumes it. The question presumes it and invites an
12 opinion based on that presumption.

13 PRESIDING JUDGE: I can only suggest to you that there's
14 some of your colleagues that asked a question of witnesses, "What
10:46:14 15 about the RUF movement?" This is a standard question that is
16 being asked. So, I mean, this is a question not of this witness
17 but of many, many witnesses prior to this witness. So, I mean,
18 this is not a question -- it's not even a qualification by the
19 Court; this is asked by counsel in Court.

10:46:30 20 MR JORDASH: Well, there is nothing wrong with the
21 question, as a leading question, from a cross-examining party,
22 "Was there an RUF movement? What did the movement, as far as you
23 are concerned, have as its ideology?" That is quite different to
24 a party examining in chief a witness and simply asking, without
10:46:51 25 more, what were the reasons for X and Y? We haven't established
26 a --

27 PRESIDING JUDGE: No, but you are taking objection to the
28 fact that there was even an RUF movement. I am just saying to
29 you in response to that that this has been used commonly in this

1 Court, mostly by the Defence, to say, "Well, you as part of RUF
2 movement, did this and did that. Can you explain this?"

3 MR JORDASH: We can lead on that because we are not
4 examining --

10:47:15 5 PRESIDING JUDGE: I am not saying you cannot lead. I am
6 saying this is an expression that has been used by the Defence,
7 leading or not. And you took absolutely no objection to the use
8 of these words, whether it's leading or not leading. If it is
9 not admissible, according to you, it is not admissible.

10:47:31 10 MR JORDASH: Well, this is the problem that I am trying to
11 identify. The Prosecution haven't identified a movement of
12 capturing women through this witness. They have only identified
13 that women were being captured in Kenema on the way to Daru.
14 That is not a movement, unless the witness wants to say it. And
10:47:48 15 and if the witness wants to say it, then perhaps he can be asked
16 at that stage, if he gives evidence of it, of an ideology behind
17 the movement, and then perhaps we might be in the area of asking
18 this type of question. But we are a long way away from
19 establishing either a movement or an ideology through this
10:48:09 20 witness which involves the capturing of women.

21 PRESIDING JUDGE: Okay. When you are talking of ideology
22 and movement you are talking of movement and ideology about the
23 capturing of women. You are not talking of the overall RUF
24 movement ideology. Your objection is more specifically directed
10:48:24 25 to ideology having to do with the capture of women?

26 MR JORDASH: Yes.

27 PRESIDING JUDGE: Okay, fine.

28 MR JORDASH: I am not suggesting that there wasn't an RUF
29 movement. The details of it are obviously up for dispute, and

1 will be --

2 PRESIDING JUDGE: Obviously we are talking of a different
3 emphasis than what you are. You are saying that there is no
4 evidence that the ideology, whatever it might have been, didn't
10:48:48 5 necessarily encompass the capture of women.

6 MR JORDASH: Certainly --

7 PRESIDING JUDGE: And there is no evidence in this respect.

8 MR JORDASH: Not from this witness.

9 PRESIDING JUDGE: Not from this witness. It's a bit more
10:49:01 10 focused than I understood your objection to be.

11 MR JORDASH: Those are my submissions.

12 PRESIDING JUDGE: Mr Harrison, do you wish to speak to
13 this?

14 MR HARRISON: I know where we started from, but I am not
10:49:14 15 quite sure where we've ended up.

16 PRESIDING JUDGE: [Overlapping speakers] essentially what
17 was raised at the end. That there is no evidence, at least in
18 Court by the Prosecution with this witness, that there is any
19 ideology within the RUF to essentially capture women. And more
10:49:33 20 so about the Kenema, as such. When you ask the question, "What
21 do you know?", the objection is there is an implication by your
22 question that there was, as part of their ideology, the direction
23 to capture women wherever, in this case in Kenema. Am I
24 misquoting you, Mr Jordash?

10:49:52 25 MR JORDASH: That has put it better than I did.

26 PRESIDING JUDGE: So this is the objection.

27 MR HARRISON: The question was, "Do you know why women were
28 abducted?" He had already given the evidence that women were
29 abducted. There was an objection. I then made the suggestion

1 that I could modify --

2 JUDGE ITOE: But Mr Jordash's point is that even though
3 there is evidence that women were abducted, he has not given
4 evidence that he abducted women. The nearest he has come to that
10:50:36 5 point is the abduction of the niece who was captured by a soldier
6 and who he discovered in Daru and retrieved from this witness.
7 These are facts which are within his knowledge. I would imagine
8 that Mr Jordash's view is that even though there is evidence that
9 women were captured, he himself has not given evidence that he
10:51:02 10 did capture women. I think there is a distinction there. There
11 is something -- there is a missing link somewhere there which I
12 think is the basis of this contention. Because specifics are
13 very different, very distinct from generalities, which I think
14 Mr Jordash may be complaining about. I think if we proceeded
10:51:29 15 that way we would be able to get to somewhere.

16 MR HARRISON: I am sorry, if we proceeding by asking the
17 question or not asking the question?

18 PRESIDING JUDGE: The objection was as to your asking that
19 question, "What do you know?" That is the objection and we are
10:51:48 20 asking for your response to that objection.

21 MR HARRISON: But I thought Mr Jordash had said two-thirds
22 of the way through his objection that he was not objecting to the
23 question asking the witness what his knowledge was and that was
24 the original question.

10:52:14 25 PRESIDING JUDGE: Yes, but my understanding of the
26 objection was that this question should not be allowed because it
27 presupposes that the witness has knowledge of that this is part
28 of the ideology of the RUF to capture women on a regular basis,
29 as such. That is basically the essence of the objection.

1 MR HARRISON: My suggestion would be that I could then ask
2 the question, "Do you know why these women at Kenema were
3 abducted?"

4 PRESIDING JUDGE: That may be more focused. I gave an
10:52:52 5 example to Mr Jordash that maybe that at the meeting with
6 Bockarie they were told, "You capture women". I don't know. We
7 know that at that meeting there has been discussion about
8 looting, and he said, "Well, pay yourself." So maybe there were
9 discussions, or maybe there were not, about women. I don't know.

10:53:10 10 JUDGE THOMPSON: My understanding is that as long as the
11 answer does not invite, or the question does not invite the
12 witness to speculate --

13 PRESIDING JUDGE: Exactly.

14 JUDGE THOMPSON: Mr Jordash would like some specificity to
10:53:23 15 the particular situation and that if your answer does not invite
16 the witness to speculate, he is perfectly happy with that. But
17 if it does invite him to speculate then, of course, I think his
18 objection -- because that's where I see the shift now away from
19 the idea of the practice of capturing women to why specifically
10:53:41 20 the women in Kenema were captured after this particular --
21 perhaps that might neutralise the objection. I don't know.

22 PRESIDING JUDGE: I should add as well that as part of the
23 evidence that has been led in Court by this witness, by the
24 Prosecution, as to the abduction of women in Freetown as such,
10:53:57 25 this witness has already answered that they were abducted for sex
26 and housework. There has been no objection by the Defence in any
27 respect to that answer. He was already asked that question about
28 Freetown, and there was no objection. His answer was what he had
29 observed at that time. We were not talking of ideology at that

1 time, we were just talking of what he had seen and observed.

2 But the objection is sustained only in part because if we
3 are talking of ideology there might not be enough substantiation
4 at this time to go along. So with the change of question that
10:54:35 5 might be, we will see where we go and we know that you are going
6 to be observing very attentively what is going on and the
7 rephrasing of the question as suggested by the Prosecution might
8 answer both questions; might alleviate your concern and may allow
9 this witness to answer that question if he knows about it.

10:54:53 10 MR TAKU: Yes, Your Honour, we did not object to the
11 evidence given in respect of Freetown because of the time-line in
12 which this witness found himself in Freetown and the context in
13 which he testified. In Kenema he was saying he was present and
14 so that is the distinction. During the cross-examination
10:55:12 15 Your Honours will see why the time-line with which he has made
16 the allegations about what transpired in Freetown. We say
17 clearly he was not present and he was learning from other
18 sources, specifically from the meeting that took place in the --
19 allegedly took place in the officers' mess in Wilberforce and
10:55:28 20 elsewhere. So there is a distinction about the events which he
21 allegedly saw and those which he learnt from other sources. So
22 that is the reason why we didn't object at that time.

23 PRESIDING JUDGE: I am not sure I understand what you are
24 saying in this respect concerning the objection but that's fine;
10:55:45 25 your comments are noted. There is a distinction.

26 MR TAKU: Yes, Your Honour. I make this observation
27 because Your Honour said that he testified about these reasons
28 with regard to the rapes which allegedly took place in Freetown
29 and that we didn't object and I am just trying to --

1 PRESIDING JUDGE: Didn't object on the same basis. It is
2 not the fact that this evidence is not admissible. The objection
3 is a very precise and focused one that this witness should not be
4 speaking because there is no support to say that he had the
10:56:13 5 knowledge that there was a culture within the movement of doing
6 this. That's essentially the objection. It is not to the fact
7 that the witness may or may not testify as to rape and sexual
8 violence.

9 MR CAMMEGH: I won't delay the Court. Can I suggest the
10:56:32 10 Prosecution ask two questions. Number one, "Were you aware
11 personally of any capturing of women in Kenema?"

12 PRESIDING JUDGE: He is aware. He has already testified to
13 that, Mr Cammegh.

14 MR CAMMEGH: I just want to clarify everything. Number
10:56:46 15 two, "Are you able to say why those women were captured?" It
16 seems to me that if those two questions were asked it would suit
17 the Prosecution's purposes and it would suit Mr Jordash and it
18 would save a lot of time.

19 MR HARRISON: But that was the question that was objected
10:57:00 20 to. That was exactly the question that was objected to.

21 JUDGE ITOE: Well, you see, the problem as I see it here
22 is, as far as I can understand the position of the Defence, is
23 that it should not be conceived -- the capture of women and their
24 being sexually abused should not be conceived as a policy as part
10:57:39 25 of the culture of the RUF, because we have to be fair here. All
26 through the evidence we have followed witnesses who have talked
27 of ideological training in camps and so on and nowhere were they
28 trained on raping or looting and so on. On the contrary, they
29 were told that that was not right. Well, whether the

1 instructions were applied on the ground is another matter. It is
2 another matter.

3 But we have to be very, very careful because we cannot make
4 the assessment here, now, that it is an ideology or a culture.

10:58:26 5 It would be, I think, premature for us to make that conclusion at
6 this point in time. So if the Prosecution can avoid that line of
7 thought and to make the witnesses to address their minds to facts
8 which they witnessed, facts which they know, they can personally
9 testify to, I think we would move more objectively and avoid
10:58:44 10 these misunderstandings.

11 PRESIDING JUDGE: Can we call the witness back and proceed
12 along these lines, Mr Harrison?

13 MR HARRISON: Yes.

14 PRESIDING JUDGE: Thank you.

10:58:59 15 [The witness entered court]

16 JUDGE THOMPSON: You can proceed, Mr Harrison.

17 MR HARRISON:

18 Q. Witness, I just want to try to return to where we left off
19 before we took a break. You talked about a niece who had been
11:02:33 20 captured. Did you see any other women captured at Kenema?

21 A. Yes, they captured women. The AFRC and the RUF.

22 Q. Did you see this happen?

23 A. Yes.

24 Q. Do you know what happened to these women?

11:03:10 25 A. Yes. They were used as bush wives. They were used as
26 wives.

27 Q. What do you mean by the term "bush wife"?

28 A. When you capture a woman, there are no formalities in terms
29 of marriage. You take her. It is not for anything but to use

1 her as a woman, your wife. That is what I mean by bush wife.

2 Q. But what do you mean by the term "use her as a wife"?

3 A. Well, it is to have sex with her. You sex her. You cannot

4 stay with a woman without anything. You must -- she launders

11:04:18 5 your clothes, she cooks for you, you have sex with her.

6 Q. Earlier you said that some commanders had SBUs. Are you

7 able to say which commanders had SBUs?

8 A. Yes. In the RUF, from General Mosquito, General Mosquito

9 had, Morris Kallon had, Issa Sesay had. The commander, Mr A,

11:05:22 10 had. So everybody who was a commander in the RUF whom I knew,

11 they all had SBUs.

12 Q. Did you see with your own eyes commanders with SBUs?

13 A. Yes.

14 Q. Which commanders did you yourself see with SBUs?

11:06:15 15 A. My commander, Mr A, also had, Mosquito had, Issa Sesay had,

16 Morris Kallon had. I saw them, all of them.

17 Q. Where did you see SBUs with Issa Sesay?

18 A. I saw him with them in Buedu. I saw him with them in

19 Pendembu. I saw him with them in Makeni.

11:07:02 20 Q. When did you see SBUs with Issa Sesay in Buedu?

21 A. From '97 until we came together and I -- we understood

22 ourselves.

23 Q. I'm sorry, I didn't understand what you meant. You said

24 from 1997 until when you came together and understood yourselves.

11:07:35 25 What do you mean by that?

26 A. From 1997, when I came to understand Morris Kallon, Issa

27 clearly and understood Mosquito, because to see somebody is one

28 thing but to understand it is another. From that time I saw SBUs

29 with them throughout, 'til the disarmament.

1 Q. How old were the SBUs that you saw with Issa Sesay?
2 A. They were around 13, 14, 15, 16. So there was no estimate.
3 It was around that age. I saw the SBUs.
4 Q. Earlier you said that you saw SBUs with Morris Kallon.
11:08:49 5 Where did you see SBUs with Morris Kallon?
6 A. Morris Kallon, I have seen him with for longer. I saw him
7 in '94 in Zogoda. In '97 I saw him in Freetown here. In Buedu,
8 in Makeni.
9 Q. When was it that you saw SBUs with Morris Kallon?
11:09:30 10 A. I said from 1994.
11 Q. And was there --
12 PRESIDING JUDGE: Was the question you saw with Morris
13 Kallon in Buedu and the answer is from 1994?
14 MR HARRISON: I'm not sure about that. There may have been
11:09:59 15 a misunderstanding.
16 PRESIDING JUDGE: Okay.
17 MR HARRISON:
18 Q. The question was when did you see SBUs with Morris Kallon
19 in Buedu?
11:10:05 20 A. In '97.
21 Q. And you said you saw SBUs with Morris Kallon in Makeni.
22 When was that?
23 A. I saw him in 1999 -- '99, 2000.
24 Q. And I think you also said Freetown. When did you see SBUs
11:10:55 25 with Morris Kallon in Freetown?
26 A. '97.
27 Q. And how old were the SBUs that you saw with Morris Kallon?
28 A. From 13 to 17, 18 upwards.
29 Q. Witness, you have already told the Court that in Daru you

1 found your niece. What happened in Daru after you found your
2 niece?

3 A. After I had seen her, the next day we all decided --
4 myself, Manawa, Mosquito, other commanders, there were many. We
11:12:16 5 all decided that -- because Mosquito told us that even Daru,
6 where we were, too assembled, they too, ECOMOG have to take it
7 from us. So our property, we should carry them. Anywhere one
8 wants to base one's family within Kailahun, which was our
9 territory. So that day we all followed him. He was bringing --
11:12:55 10 taking his own things to Buedu. So we all followed him.

11 Q. All right, just pause a moment. What happened next?

12 A. From there we went, Mosquito was going to Buedu. So we
13 decided to take our people - myself - to Buedu.

14 Q. Just pause for a moment. What did you decide to take to
11:13:34 15 Buedu?

16 A. The family, the property that we looted, everything, were
17 the ones that we want to take to Buedu.

18 Q. What happened?

19 A. So after that there was some threats by ECOMOG everywhere,
11:14:09 20 that is ourself and AFRC. So while coming Mosquito said there
21 are some civilians who had surrendered that he had sent to
22 Kailahun for in investigations, to Augustine Gbao.

23 Q. When you say they were sent to Kailahun, are you referring
24 to the district or the town?

11:14:37 25 A. Kailahun Town itself.

26 Q. And you said they were sent to Augustine Gbao. Why were
27 they sent to Augustine Gbao?

28 A. It was for investigations. He was the security commander
29 for the RUF overall.

1 Q. What happened next?

2 A. When we reached there, we met Augustine Gbao and Mosquito.

3 Mosquito asked Augustine Gbao about the people whom he had been

4 sending for investigations.

11:15:41 5 Q. Just pause for a moment. Where is it that they speak?

6 A. In Kailahun Town.

7 Q. Are you present?

8 A. Yes, sir.

9 Q. And what did you hear being said?

11:16:08 10 A. Mosquito asked for the civilians, that he said they were

11 surrendered Kamajors for investigations, in Kailahun Town, to

12 Augustine Gbao. When we reached there, I too was there when

13 Mosquito asked Augustine Gbao about these people. Augustine Gbao

14 said that according to investigations the people were all

11:16:46 15 Kamajors. He said they were many people that were within that

16 area, which was Kailahun, so they should not live amongst us. So

17 Mosquito passed an order for them to all be killed. When we

18 killed them, I too involved in that killing.

19 Q. Right, just pause for a moment. What was it that Mosquito

11:17:35 20 said?

21 A. Mosquito said that we should kill them.

22 Q. And you used the word "them". Who are you referring to?

23 A. The civilians that he sent for investigations, whom

24 Augustine Gbao said that they were Kamajors. So he said we

11:18:05 25 should kill all of them.

26 Q. Who did Mosquito say this to?

27 A. When he said this, he called the MP commander. When he was

28 there -- that was we used to call him. He had his real name. He

29 was called Joe Vandí.

1 MR CAMMEGH: This is too fast, please. Could we just slow
2 down. It's very important. Thank you. Forgive me. Could we
3 take it from Mr Harrison asked Mosquito -- sorry, Mr Harrison
4 asked the witness who Mosquito made these comments to. Could we
11:18:56 5 take it from there.

6 MR HARRISON:
7 Q. If you could just remember that the interpreters are trying
8 to translate your words and there are people in the Court who are
9 trying to write down what you say. And if you could speak just a
11:19:19 10 little bit more slowly that would be appreciated. Where we had
11 stopped was I had asked you who was it that Mosquito said this to
12 and you were about to give your answer.

13 A. I told you that it was Augustine Gbao that we met. Both of
14 them spoke. Both of them spoke, Mosquito and Augustine Gbao. It
11:20:16 15 was to him that he said, "These people, we are going to kill all
16 of them. It was Mosquito that said that to Augustine Gbao."
17 From there he called the MP commander.

18 Q. Just pause for a moment. When you say "he called the MP
19 commander", who did that?

11:20:55 20 A. Mosquito. He sent for the MP commander.

21 Q. What is an MP commander?

22 A. Well, to us it was somebody who reinforces order. He takes
23 care of somebody that is bad. To us, that was how we saw them
24 operating.

11:21:41 25 Q. Do you know who was the MP commander?

26 A. Yes, the one that I saw at that time was Joe Vandí.

27 Q. And what happened next?

28 A. When he came, he asked the people. And the people that he
29 sent for investigations, that were in the jail, he said if they

1 were still there. He said yes.

2 Q. Just pause. Who is speaking?

3 A. It was Mosquito that was speaking to Joe Vandi, the MP
4 commander.

11:22:49 5 Q. And was anyone else present when they were speaking?

6 A. Many that I cannot call that I didn't know, the AFRC and
7 RUF. But I saw Augustine Gbao; he was there.

8 Q. What was Augustine Gbao doing when Mosquito was speaking to
9 Joe Vandi?

11:23:27 10 A. He was listening what was the order of Mosquito that he has
11 to pass to him.

12 Q. Do you know if there was a senior commander in Kailahun at
13 this time?

14 A. Yes. Augustine Gbao was one of the senior men. It was
11:23:56 15 there that he based as overall security commander for the RUF.

16 Q. And did Augustine Gbao have commanders above him?

17 A. Yes. General Mosquito himself, when he passed the order
18 for these people to be killed, he was above -- he was senior to
19 Augustine Gbao. At that time when I was present.

11:24:53 20 Q. Tell the Court about this order and what happened next.

21 A. So after that, there was an old police station near the
22 roundabout in Kailahun. It was there that the people were in
23 jail, in cells. From there the MP commander opened them, we
24 removed them in fives and we killed them.

11:25:29 25 Q. Just pause.

26 PRESIDING JUDGE: Can you go over that last part, please?

27 THE WITNESS: Yes. I said after the MP commander has
28 opened the jail, we removed the civilians in five, fives and we
29 killed them.

1 MR HARRISON: Just pause.

2 Q. What do you mean when you say you removed them in fives?

3 A. They were all in the same place, but we were not to shoot

4 them there. So we count them one by -- one after the other. If

11:26:28 5 we count from one to five, they come out, we execute them. So

6 that was what we did and we execute them.

7 Q. Just pause.

8 JUDGE ITOE: I don't understand.

9 MR HARRISON:

11:26:46 10 Q. If you could just take your time and explain to the court

11 what it was that happened.

12 JUDGE ITOE: The five, five thing. Can he be clear on

13 that, please.

14 MR HARRISON:

11:27:03 15 Q. If you could just take your time and try to explain in your

16 own words how it was the prisoners were dealt with.

17 A. They were people that they removed from the jail where they

18 were, they all stood. When we count five, one to five, we moved

19 them out at the junction, to come to us towards the junction.

11:27:47 20 Q. So once you had counted five of the prisoners, what would

21 happen?

22 A. We executed them. After having killed them, then the other

23 set came.

24 Q. Just pause for a moment. When you say "the other set

11:28:12 25 came", what are you talking about?

26 A. They came and they came to die.

27 PRESIDING JUDGE: You mean another group of five?

28 THE WITNESS: Yes, sir.

29 PRESIDING JUDGE: How it was done, you said, "they all

1 stood". What do you mean by that and where? And you said after
2 that "we moved them out to the junction". So can you go back
3 over that a little bit, please?

4 THE WITNESS: There were people. When they were brought,
11:28:58 5 where they were, was a cell-like. But there were many. So they
6 are not able to sit. They all stood in the cells. So when they
7 were opened, they all stood. When they were opened, they all
8 stood. So it was like that, we count them in fives and took them
9 out, where we the armed men were --

11:29:26 10 MR HARRISON:

11 Q. Just pause.

12 A. -- to execute them.

13 Q. So when they are taken out, where are they taken to?

14 A. We removed them outside. We took them from the jail room
11:29:47 15 to the outside. Going towards the junction in Kailahun, Kailahun
16 Town. There we killed them.

17 Q. What do you mean by the junction?

18 A. Well, it's a place where roads meet from Buedu, coming from
19 Buedu, the other coming from Kailahun and then the other leading
11:30:31 20 to the town, Kailahun Town. So, it was three roads meeting
21 point, that was the reason why -- that's the reason why I called
22 it a junction.

23 Q. You said they were counted in fives. Do you know who did
24 the counting?

11:31:01 25 A. Yes, it was the MPs. The name of the other MP that counted
26 them I never knew. But I saw it was an MP.

27 Q. Do you know who took these people to the junction?

28 A. Yes, sir. It was the MP that we removed them then the
29 AFRC/RUF soldiers. There were many. I cannot name them now

1 because I cannot recall so many of them. When they have been
2 removed by the MPs there, you see so many soldier we pushed them
3 to the junction until they have been killed.

4 Q. Where was it that the people were killed?

11:32:16 5 A. In Kailahun Town.

6 Q. Can you say where in Kailahun Town?

7 A. Yes. From the police junction at -- for the police station
8 at the junction within that area.

9 Q. All right. Tell the Court what you did.

11:32:58 10 A. I too killed up to five people there.

11 Q. How were the people killed?

12 A. We used arms. They were shot with arms. AK-47, G3, LAR,
13 pistol. They were killed with arms.

14 Q. Do you know what time of the day this happened?

11:33:54 15 A. The day I cannot recall because it's quite some time. I
16 have forgotten.

17 PRESIDING JUDGE: [Microphone not activated]

18 THE WITNESS: But then it was in February.

19 PRESIDING JUDGE: What type of time of day was it? Was it
11:34:06 20 morning, afternoon, evening?

21 THE WITNESS: No, it was during the day going towards in
22 the afternoon.

23 MR HARRISON:

24 Q. When the killing was taking place, where was Mosquito?

11:34:41 25 A. After -- when the killings commenced, Mosquito moved to go
26 to Buedu.

27 Q. You talked about your killing of people; what did you do
28 next?

29 A. Well, that was what I did. After we had killed them, then

1 we followed Mosquito with my properties, my relatives, to Buedu.
2 We arrived in Buedu for a few hours. Within two hours' time we
3 arrived in Buedu.
4 Q. Just pause.
11:35:29 5 A. Then we came back.
6 MR CAMMEGH: I didn't get the answer clearly. Was the
7 answer, "We followed Mosquito to our relatives"?
8 PRESIDING JUDGE: With our relatives.
9 MR CAMMEGH: With our relatives.
11:35:53 10 PRESIDING JUDGE: Yes.
11 MR CAMMEGH: Thank you.
12 JUDGE ITOE: And property, Mr Cammegh, and property.
13 MR CAMMEGH: Thank you.
14 MR HARRISON: And I think there was a location of Buedu as
11:35:58 15 well.
16 PRESIDING JUDGE: Yes. To Buedu, are you saying,
17 Mr Harrison?
18 MR HARRISON: I thought I was helping Mr Cammegh.
19 PRESIDING JUDGE: Yes, thank you.
11:36:16 20 MR CAMMEGH: Yes, it was just the relatives and the
21 property. Thank you.
22 MR HARRISON: If I could just ask the Court what its
23 preference is? This section would be another 15 minutes. I can
24 simply stop now or I can continue this section.
11:36:34 25 PRESIDING JUDGE: We should stop now and carry on after a
26 15-minute break. Court is adjourned for 15 minutes.
27 [Break taken at 11.37 a.m.]
28 [RUF21NOV05C - AD]
29 [Upon resuming at 12.04 p.m.]

1 JUDGE THOMPSON: Prosecution, continue, please.

2 MR HARRISON:

3 Q. Before the break you had said to the Court that Mosquito

4 had left and gone to Buedu; do you remember that?

12:05:00 5 A. Yes.

6 Q. When Mosquito left, was there a person in Kailahun Town who

7 was the most senior commander there?

8 A. Yes, Augustine Gbao was there.

9 Q. And was he the most senior person at Kailahun Town at that

12:05:32 10 time?

11 A. Yes, at that moment when we enter there.

12 Q. I think you said that the shooting began before Mosquito

13 had left.

14 A. Yes.

12:06:09 15 Q. Did the shooting continue after Mosquito had left Kailahun

16 Town?

17 A. Yes.

18 Q. Do you know how many people were killed in Kailahun Town

19 after Mosquito left?

12:06:47 20 A. Yes, the total was 65 people.

21 Q. How many people did you see killed?

22 A. The ones I saw -- because I saw the 65 people inside before

23 they were killed. But what I saw being killed before I left was

24 45, around 45.

12:07:32 25 Q. When you said around when you left, when was it that you

26 left?

27 A. Repeat your question. Repeat the question once more.

28 Q. You said you left.

29 A. Yes.

1 Q. Are you able to say how long you were in Kailahun Town
2 before leaving?

3 A. Yes, I was there for almost 25 to 30 minutes after the
4 firing had -- after the shooting had taken place.

12:08:36 5 Q. And during those 25 to 30 minutes that you were there,
6 where was Augustine Gbao?

7 A. He was in Kailahun Town.

8 Q. Do you know where in Kailahun Town?

9 A. Yes, he was around the junction where the incident took
12:09:16 10 place. But he had his base at the time. He had where he used to
11 sleep in Kailahun Town.

12 Q. Did you see Augustine Gbao at the time of these killings?

13 A. Yes, he was there. When it started I saw him there.

14 Q. And was he there until the time you left?

12:10:19 15 MR CAMMEGH: I think a better question would be, "How long
16 was he there?", please.

17 MR HARRISON:

18 Q. How long was he there?

19 A. Well, the time I saw him was when the killing started up
12:10:47 20 to, I mean, 10 minutes' time. After those periods I was not very
21 much concerned about him. I was only concerned about the
22 killing, where I placed my attention.

23 Q. You have already said that you left Kailahun Town. Where
24 did you go?

12:11:20 25 A. I followed Mosquito. We went to Buedu.

26 Q. What did you do when you went to Buedu?

27 A. I took xxxx there together with my xxxxxx that I
28 went with.

29 Q. What did you do next?

1 A. We were there, in two hours -- after two hours time, then
2 Mosquito said we should go back to Daru. Then we went. We left
3 Buedu and went to Kailahun.

4 Q. Just pause a moment. Who went back to Kailahun Town?

12:12:48 5 A. Myself, Mosquito too went there.

6 Q. What happened next?

7 A. When we arrived there we met Augustine Gbao there and the
8 MP commander, then the MP commander that the Mosquito gave the
9 orders. Then he said to Mosquito -- he said the mission given to
12:13:21 10 him to kill the people had been accomplished. He saw some
11 examples.

12 Q. Just pause a moment. Who said the mission had been
13 accomplished?

14 A. The MP commander.

12:14:05 15 Q. Before I interrupted you you said something about some
16 examples, please continue.

17 A. When we arrived there, the same people being killed that we
18 killed, I saw some heads that were cut off from the main body and
19 placed on the roads leading to Kailahun. Some were brought along
12:14:33 20 the road leading to Buedu. Just after the junction there is a
21 stream there. There they went and placed them. Some, you see
22 the blood at the junction where they were killed.

23 Q. Where did you say heads were placed?

24 A. The roads leading to Kailahun. Like the one from Buedu
12:15:32 25 coming to Kailahun, the other from Pendembu coming to Kailahun.

26 Q. What happened next?

27 A. After that incident myself, Mosquito and others, we
28 continued our journey and we went to Daru. We arrived there at
29 night. Then he said he wanted to see most of the RUF commanders.

1 Q. Just pause a moment. You have already told the Court that
2 you are not able to say what day this happened but it was in
3 February. Can you say what year?

4 A. It was in '97. Sorry, sir, '98. February 1998.

12:17:10 5 Q. You have already told the Court about the MP commander
6 telling Mosquito that the mission was accomplished. Were you
7 present when this was said?

8 A. Yes, I was there.

9 Q. Was anyone else there?

12:17:47 10 A. Yes, when we entered there Augustine Gbao was still there.

11 Q. The people who were killed, do you know who they were?

12 A. Well, they said they were Kamajors. But to my own
13 knowledge, I didn't see them with arms or any other thing. They
14 were like civilians. They were civilians.

12:18:38 15 Q. You said that you went to Daru. Tell the Court what
16 happened next.

17 A. When we arrived at Daru, together with Sam Bockarie and
18 others, he sent for me and Eagle. He called Manawa and other
19 commanders, including Major Gweh. Then he said Freetown had
12:19:43 20 fallen. He said so all major areas that we had occupied in the
21 country had fallen into the hands of ECOMOG. Then he said we
22 were RUF, we were called to join the AFRC. Now that the fighting
23 is going on, we hadn't a better organisation. So what we should
24 do as RUF, we still need to defend Kailahun where we had
12:20:33 25 occupied.

26 Q. Just pause a moment. You talked about defending Kailahun.
27 Was anything else talked about?

28 A. Yes. So after he had said that, then he said there is need
29 now to defend Kailahun. Then he said now that Freetown had

1 fallen -- he said Johnny Paul Koroma, like my commander Mr A,
2 General Issa, Morris Kallon, Johnny Paul Koroma, he said
3 everybody had left. He said they are going towards Kono, they
4 were in Kono. So he said Manawa should go and take care of the
12:22:10 5 main route leading to Daru coming from our zone, that is in the
6 Kuiva area, a village called Kuiva.
7 Q. Just pause a moment. Please continue.
8 A. He said Manawa should go and take care of that area. Then
9 he sent Eagle to take care of the other roads coming from
12:22:50 10 Kailahun to Daru, the roads leading through Kpaima. So he said
11 they should go there as commanders to take over. He would give
12 them the soldiers, the necessary reinforcement that should join
13 them to take care of the area. Then he said I and Major Gweh
14 should go and receive Issa, Johnny Paul Koroma and other
12:23:28 15 commanders. So after he had made that arrangement, he gave us
16 some manpower.
17 Q. Just pause a moment. Who gave you some manpower?
18 A. Sam Bockarie.
19 Q. Please continue.
12:24:08 20 A. He said we should go and wait for him. After he gave us
21 manpower he gave us a truck. We boarded the truck and he said we
22 should go and wait for him at Pendembu. We returned to Pendembu.
23 We were there almost an hour. He too arrived there at Pendembu.
24 Q. Just pause a moment. When you say "he too arrived there",
12:24:58 25 who are you talking about?
26 A. Sam Bockarie.
27 Q. What happened next?
28 A. When he arrived he gave us more -- he gave us some armed
29 men and ammunition, medicines. He said we should go and receive

1 Johnny Paul and Issa Sesay and my commander, ~~xxxxxx~~.

2 Q. These men that were given to you, who were they?

3 A. They were RUF fighters.

4 Q. What happened next?

12:25:59 5 A. The next morning, on that very day in the afternoon, we
6 crossed through Manawa. We attacked Manawa and captured there.
7 Then we were to go and re-open the road coming from Pendembu from
8 Bunumbu going all the way to Kono in the Gandorhun Gbane areas.
9 But we were unable because Kamajors were many there. So we too
12:26:52 10 took another route, which was a bush path coming through Sengema.
11 We went to Sandaru. We went Koindu Gieya. We attacked Koindu
12 Gieya. Kamajors were there, but we were unable to repel them.
13 We retreated and took another bush path.

14 Q. Just pause a moment. You were saying you took another bush
12:27:50 15 path. Please continue.

16 A. After we took that path, early in the morning we arrived at
17 Gandorhun Gbane. When we arrived there, I saw Issa Sesay there.
18 I saw Morris Kallon there. I saw ~~xxxxxx~~ there. After we had seen
19 them we reported to Issa Sesay that Mosquito sent us to go and
12:28:45 20 receive him and Johnny Paul, and the others that he thought
21 should join them. So, we were there for the rest of the day and
22 that very day we went attacked Gandorhun Gbane -- sorry, Koindu
23 Gieya.

24 Q. Just pause for a moment. Where was it that you attacked
12:29:22 25 that very day?

26 A. Koindu Gieya.

27 Q. And what happened there?

28 A. We were unable. We returned to Gandorhun Gbane. We were
29 there for the rest of the day. Then at night I saw my commander,

1 xxxx, Issa Sesay, they went towards Kono. Then in the morning, I
2 saw him, I saw Issa Sesay, I saw Kallon, I saw commander, xxxx, I
3 saw Johnny Paul Koroma himself, I saw his wife, I saw his child,
4 I saw his bodyguard Commander Rambo, Honourable Sammy. They were
12:30:36 5 all there and so many people that I cannot mention or recall. So
6 that very morning we held a meeting.

7 Q. Just pause a moment. Do you know where Issa Sesay, Morris
8 Kallon were coming from?

9 A. Yes, they came from Kono.

12:31:29 10 Q. And do you know if other commanders were in Kono?

11 A. Yes.

12 Q. Do you recall any of the names?

13 A. Yes, Superman was there, Denis Mingo, Rambo was there, who
14 were commanders in the RUF that I can recall. And they were
12:32:10 15 senior commanders.

16 Q. Do you recall any less senior commanders who were in Kono?

17 A. They were many. I cannot know now. These were the one
18 that I have concern over.

19 Q. You said that a meeting was called. What happened?

12:33:01 20 A. That particular meeting in that morning was for one. We
21 who went we should know the ones for whom he went for. Then Issa
22 made an argument for those that should leave, those that should
23 remain and those that should go with him. Then he gave
24 instructions to Kallon to remain in order for him to take care of
12:33:38 25 that area; the Kono axis.

26 Q. Just pause a moment. Which area was Kallon to remain in?

27 A. He should remain in Kono, where we were was in Kono
28 District.

29 Q. Who was at this meeting?

1 A. I was there, ~~xxxxx~~ was there, Issa Sesay was there, Morris
2 Kallon was there, Major Gweh was there, Johnny Paul was there,
3 Sammy was there.
4 Q. Who was Sammy?
12:34:56 5 A. He was an AFRC member. He was an honourable for the AFRC.
6 Q. Do you recall anyone else at the meeting?
7 A. These are the ones I can recall.
8 Q. Please continue. What happened next?
9 A. After General Issa had arranged those that should go and
12:35:51 10 those that should remain, during that morning we left. Issa
11 Sesay himself, Johnny Paul, Johnny Paul's wife, his child, ~~xxxxx~~,
12 Sammy, we all went. The same route that we used to come was the
13 one that we took to go. We went and crossed Baoma. It is by
14 Kailahun District. We crossed a river called River Moa until we
12:36:43 15 reached Kailahun. A vehicle took them to Buedu, Issa Sesay,
16 Johnny Paul, ~~xxxxx~~, they all went to Buedu.
17 Q. Just pause a moment. Was anyone in command of this group
18 that went from Gandorhun Gbane to Buedu?
19 A. Yes, commanders were there. The chairman himself was
12:37:37 20 there, Johnny Paul Koroma. Apart from that, Issa Sesay was
21 there. Also ~~xxxxx~~ was there. But Issa Sesay was the one that
22 Sam Bockarie sent us to. So he made the arrangement for those
23 that should follow him.
24 Q. So what did you do?
12:38:30 25 A. Well, I only came with them from there. When we reached
26 Kailahun we came with a vehicle. The other day I followed them
27 to Buedu.
28 Q. Did anything happen after you arrived at Buedu?
29 A. Yes, when I reached Buedu, I met them in a meeting, Issa,

1 Mosquito, Johnny Paul, with many other people that I cannot
2 recall now. Johnny Paul was trying to explain about the AFRC,
3 how it has fallen, how he had come to join Mosquito and the plan
4 he had to go to Liberia in order for them to be able to arrange
12:39:43 5 for better things that will help the war to continue. I met the
6 meeting in a problem because Mosquito passed an order to Issa in
7 order for Issa to take all the portion of Johnny Paul Koroma that
8 he went with.

9 Q. Just pause a moment. Did you say that an order was passed?

12:40:30 10 A. Yes. Mosquito passed an order to Issa.

11 Q. Please continue.

12 A. Issa placed Johnny Paul Koroma under gunpoint. He took
13 things from him which were diamonds. They were in a bag. After
14 that he did his own. He raped Johnny Paul Koroma's wife.

12:41:19 15 Q. Just pause a moment.

16 A. I said, he himself, General Issa, he raped Johnny Paul
17 Koroma's wife.

18 Q. How do you know that?

19 A. Well, I was in Buedu. The woman, when she came where the
12:41:56 20 vehicle dropped her, she was crying. I was there where she
21 explained that Issa raped her. He raped her.

22 Q. These diamonds that you were talking about, do you know how
23 many there were?

24 A. Well, I cannot give you the exact quantum because when they
12:42:47 25 removed them they gave them to one of xxxx SBU. He was the one
26 that held the bag.

27 THE INTERPRETER: Your Honour, could the witness take the
28 last part of his answer? It is not clear for the interpreter.

29 MR HARRISON:

1 Q. If you could just take your time and repeat your answer so
2 that the interpreter can translate for the Court.

3 A. Okay. When he had taken those diamonds, he gave them to --
4 the diamonds were with one of xxxx security. He held them,
12:43:41 5 Shabadu [phon] was by him. After everything, when they went to
6 where General Issa and Mosquito were, because they had just
7 opposite houses. Look at Mosquito's house, look at that of Issa.
8 It was a street that is just in the middle of them.

9 Q. I think you were trying to describe some locations. Could
12:44:08 10 you just take your time in doing that?

11 A. Yes, sir. After that process, the force was taking over
12 those things. They all went where they were, Issa and Mosquito.
13 If you are going to Liberia from Buedu the road leading to Dawa,
14 on the right-hand side, that was where Mosquito lived. On the
12:44:46 15 left was the place of Issa. When they took the diamonds to
16 Mosquito I didn't see the diamonds. But Shabadu, who was guiding
17 the diamonds and who was a senior security to Mosquito, he told
18 me that they were nine plastic diamonds that were in that bag.
19 The nine plastic diamonds, they were like the plastics in which
12:45:20 20 they put medicine.

21 Q. Just pause a moment.

22 A. Those medium ones.

23 Q. You have used the word "plastics"; what are you trying to
24 refer to?

12:46:00 25 A. The plastic that I am talking about were the ones in which
26 the diamonds were. They put the diamonds in them, in the
27 plastics and they put them in the bag. The plastics were -- if
28 you go to hospital if they give you tablets, the plastic that
29 they use to put the tablet. It was in those plastics that the

1 diamonds were. According to Shabadu, there were nine plastics
2 [indiscernible].

3 Q. Were you told where these diamonds came from?

4 A. Yes, later I knew that it was from Kono and Tongo. The
12:46:54 5 time that the AFRC took over, mining was going on. It was from
6 there that they had got these diamonds.

7 Q. Did someone tell you this?

8 A. Yes, I myself knew, but then later, where they took Johnny
9 Paul, when I went there with some soldiers to accompany him
12:47:27 10 there, when me and xxxxxx instructed me, he too said that
11 the diamonds were AFRC diamonds, the ones that they got from Kono
12 and Tongo. They were the diamonds.

13 Q. Can you tell us who it was that told you that?

14 A. Yes, it was Johnny Paul himself.

12:48:11 15 Q. These diamonds that you have been talking about, do you
16 know what happened to them?

17 A. Well, as far as I was able to understand they were with
18 Issa and Mosquito. Later Mosquito said that he was going to send
19 Issa to Liberia to take these diamonds in order for them to be
12:49:03 20 able to buy what we needed, arms and ammunitions, food medicine,
21 in order for us to prosecute the war until we were able to
22 achieve -- so the diamonds Issa took them from out of this
23 country and took them to Liberia.

24 Q. Did you ever hear what happened to these diamonds?

12:50:08 25 A. I did not hear about anything because when Issa went with
26 them what he did with them I didn't know. When he came what they
27 told us was that he should come with arms, ammunitions and
28 medicine. I didn't see them. And we were not called and
29 informed about the whereabouts of the diamonds. So, there was no

1 idea about it up to date. What I heard they said he said that
2 they were taken forcibly from him. He fell. So it may be that
3 he kept them somewhere and came and make the fool of us here.

4 Q. At this time that you were in Buedu, was there a commander
12:51:20 5 in Kono?

6 A. Yes. I said during that time, before we came, Kallon was
7 in charge. Issa Sesay assigned Kallon to be in charge. He was
8 in charge of that place.

9 Q. Of what place?

12:51:56 10 A. I said he was in Kono Town, Koidu.

11 Q. Did you hear of anything happening in Kono?

12 A. Yes, I heard. I heard, I did not see, but I heard that
13 there was some harassment was going on this Kono. They looted.
14 They even robbed the bank. I didn't go there, but I saw the
12:52:40 15 money that they brought in Koidu. I saw it in the parlour of
16 Mosquito, Sam Bockarie.

17 Q. What bank are you talking about?

18 A. It was a bank that was in Kono. I didn't know Kono much.
19 I didn't know where the bank was built, but it was a bank that
12:53:25 20 they broke open. I saw the money and they said it was from the
21 bank that they destroyed in Kono that they got the money. I saw
22 the bags.

23 Q. Do you know how the money got from Kono to Mosquito's?

24 A. I didn't know, but they -- what I was able to understand --
12:54:06 25 they said after we were in Buedu, we learned that the bank that
26 was in Kono was destroyed and all the money that was there had
27 been taken. So Mosquito passed an order to Kallon who was there
28 in order for him to take all the money from anybody who took it
29 from that bank and arrest him. I didn't see, but I saw -- I

1 didn't see when Kallon was arrested, but I saw the money in
2 Mosquito's house in Buedu. Mosquito himself.

3 Q. Are you able to say when it was that you saw the money at
4 Mosquito's house?

12:55:23 5 A. Yes, in 1998, around March, if I could remember. It was in
6 '98, around March.

7 Q. Have you ever heard of Giema?

8 A. Yes. I was in Kailahun, and Giema is in Kailahun.

9 Q. What is Giema?

12:56:23 10 A. Giema is a village that is in Kailahun District.

11 Q. Did anything happen in Giema in 1998?

12 A. Yes, what I knew in 1998, after we were in -- when we were
13 in Buedu, Mosquito said that he understood that Giema, there was
14 gold, diamond in Giema. So he decide to arrange for -- arrange a
12:57:08 15 mining operation for Giema. They mined there in 1998.

16 Q. Who mined there?

17 A. It was the RUF that was mining there.

18 Q. What kind of mining was it?

19 A. They mined there for diamonds and gold.

12:57:49 20 Q. Who did the actual digging?

21 A. We used civilians to do the mining; it was the civilians
22 that did the mining.

23 Q. How were those civilians treated?

24 A. Well, I was not there, how they were treated, but what I
12:58:29 25 knew was the general. It was the civilian that were used --
26 doing the mining. Except you are sick or you have a problem, but
27 without that, you must go there. You cannot remember refusing.

28 Q. What do you mean, "You must go there"?

29 A. You are forced to do it, to go there.

1 JUDGE ITOE: This particular one, did you see them forcing
2 them? Were you there?

3 THE WITNESS: I said I was not there, but according to how
4 they organised to do the mining, except somebody is sick or is
12:59:26 5 wounded, without that you would be forced to go there. That is
6 what I said.

7 MR HARRISON:

8 Q. Were you told about this mining by anyone?

9 A. Yes. Mosquito himself told me, xxxx himselfxxxx,
12:59:58 10 told me. He too went there. I saw him one day he went there
11 with his vehicle and returned.

12 Q. What did he tell you?

13 A. He said that the mining operation had been organised by RUF
14 at Giema. It was the civilians that were digging these diamonds
13:00:30 15 and gold.

16 Q. Do you know if any other commanders were aware of this
17 mining at Giema?

18 A. The Giema mining, yes, Mosquito knew about that, xxxxxxxx
19 commander, xxxxxxxx knew about that, Issa Sesay knew about that,
13:01:03 20 Augustine Gbao knew about that, Kallon knew about that mining.
21 Everybody knew. The commander that I have just mentioned, they
22 knew about the Giema mining.

23 PRESIDING JUDGE: Mr Prosecutor, it is 1.00 o'clock. Can
24 you shut this issue now or do we just carry on after lunch?

13:01:32 25 MR HARRISON: I think it is just a convenient to stop now
26 if the Court wishes.

27 PRESIDING JUDGE: The Court will adjourn until 2.30. Thank
28 you.

29 [Luncheon recess taken at 1.02 p.m.]

1 [RUF21NOV05D - CR]

2 [Upon resuming at 2.40 p.m.]

3 PRESIDING JUDGE: Mr Harrison, just before you proceed, I
4 would like to inform the parties that there might be some
14:41:28 5 confusion. There was a message today to say that there is an RUF
6 status conference on Friday. It should have read CDF status
7 conference and not RUF, obviously. And it is to inform all
8 parties as well that on Friday, this coming Friday, we will hear
9 or sit in a status conference in the morning for CDF. So in
14:41:51 10 order that you make the necessary arrangements for whatever you
11 may have on schedule for that day, Friday morning, at, I think it
12 is 9.30. Let me just check. 10 o'clock, we have a CDF status
13 conference and we will carry on with RUF in the afternoon as
14 normal. Just so you should know about that and take the
14:42:18 15 necessary steps to inform whoever you need to inform about that.

16 Thank you, we're ready to proceed, Mr Harrison, if you wish
17 to proceed. Just one second. In case my comments were not clear
18 enough, we will be sitting Wednesday morning as usual in the RUF.
19 So the RUF is on on Wednesday in the morning. Thank you.

14:42:57 20 MR HARRISON:

21 Q. We're going to try to continue from where we left off just
22 before the lunch break. You had told us about Giema and some
23 diamond and gold mining taking place there in 1998 and you said
24 that commanders, including Issa Sesay, Augustine Gbao and Morris
14:43:26 25 Kallon knew about this. Why do you say that they knew about it?

26 A. These people whose names I have called were members of the
27 RUF high command, so whatever happened, these people whose names
28 I have called, for instance, Issa Sesay, Morris Kallon,
29 Augustine Gbao, xxxxx, all these ones are members of the high

1 command within the RUF. So these people, anything like what I'm
2 describing here as what was going on, everything that was going
3 on within the RUF, they must be aware of that, particularly the
4 mining issue.

14:45:03 5 Q. Why do you say "particularly the mining issue"?

6 A. We are talking about the mining at Giema and when the
7 mining was begun, it was not started without the knowledge of
8 Morris Kallon, without the knowledge of Issa Sesay. They must be
9 aware in as much as it was an RUF exercise.

14:45:59 10 Q. In 1998, do you know if civilians were doing anything else
11 in Kailahun?

12 A. Yes. There was farming going on there. Farming was going
13 on there.

14 Q. Who was doing the farming?

14:46:33 15 A. The civilians, including the RUF.

16 Q. How do you know civilians were doing farming?

17 A. I myself, I saw it happen. At any time I returned from the
18 front line, I came xxxxx. When I came to xxxxx or Kailahun
19 or Pendembu, the surrounding villages, I saw farms wherein

14:47:10 20 civilians were the people that were working in those farms, and
21 they had farms for themselves, and I saw other farms that were
22 referred to as RUF government farms. In all those farms,
23 civilians were working there.

24 Q. What do you mean by an RUF government farm?

14:47:45 25 A. Well, RUF had civilians that were working for them in their
26 farms. That is the RUF farms. You have individual farms which
27 were different. The farms that they organised people in groups
28 in which people work in those farms were different farms. I saw
29 that happen too.

1 PRESIDING JUDGE: It's not clear to me which is farming in
2 and not --

3 MR HARRISON:

4 Q. If you could just try to take your time and explain to the
14:48:42 5 Court the differences in the farms.

6 A. Well, the RUF, there were some differences because we had
7 individual farms, that is, a farm that is prepared by an
8 individual. You would prepare it for yourself, you do it for
9 yourself and family. But for the RUF, they organised a group
14:49:14 10 known as the Army Agricultural Unit, AOU [as interpreted]. That
11 was meant purposely for the general farming of the RUF.

12 PRESIDING JUDGE: What is the abbreviation, the term you
13 used, AOU, which is?

14 MR HARRISON: Army Agricultural Unit.

14:49:50 15 Q. What did the Army Agricultural Unit do?

16 A. Within the RUF, the unit was purposely responsible for
17 organising civilians to make farms, to do farming for the RUF.

18 Q. How were these civilians treated?

19 A. Well, sometimes they were treated nicely, but when they
14:50:38 20 were doing the mining -- sorry, the farming -- when they said
21 this was for the government, that they were to work in the farms,
22 there was no choice open for the civilians, except you have to go
23 forcefully. If you refuse, you're either beaten up or any other
24 thing done to you. So that was going on.

14:51:16 25 MR JORDASH: Sorry, can we just go over that again just
26 because I just didn't follow it.

27 PRESIDING JUDGE: Which part, Mr Jordash? The very last
28 part where they were forcefully --

29 MR JORDASH: The "no choice". I didn't understand the

1 context of that. Thank you.

2 MR HARRISON:

3 Q. Witness, I think you were trying to describe how the
4 civilians were treated. The Court would appreciate it if you
14:51:45 5 could take your time and describe again what it was that you were
6 trying to tell us.

7 A. I said they organised it and the way they organised the
8 farming, if they say this is the particular day, that is to say,
9 like, this Monday will be the RUF day, no civilian within that
14:52:18 10 area had no right to do any other thing except to go and work in
11 the farm. You have to involve yourself in that farming.

12 Q. What do you mean when you say you had to involve yourself
13 in that farming?

14 A. You must go there. When you are asked to go there, you
14:52:49 15 must go there. This means that you involve yourself in that
16 particular farming.

17 Q. What would happen if a person didn't go?

18 JUDGE ITOE: Didn't we have an answer to that?

19 MR HARRISON: Mr Jordash didn't quite get the fullness of
14:53:17 20 the answer.

21 MR JORDASH: It's clarified for my purposes.

22 PRESIDING JUDGE: That part you had.

23 MR JORDASH: Yes, thank you.

24 PRESIDING JUDGE: We had part of it, but I had that they
14:53:33 25 would go forcefully, they would be beaten up and then he added
26 something and I missed that part.

27 MR HARRISON:

28 Q. The Court would like you to try and complete your answer.
29 You said if civilians didn't do it, they might be beaten up and

1 something else might happen. Could you please try to continue
2 that answer?

3 A. If you try to escape and you say, "We don't go to do the
4 farming," if you were captured, you would be beaten up. If you
14:54:15 5 are not beaten up, you would be sent into the cells or jailed
6 until somebody plead for you or you do the job itself before you
7 are set free.

8 Q. Where were these RUF government farms?

9 A. It was in Kailahun.

14:54:41 10 Q. Are you talking about Kailahun Town or Kailahun District?

11 A. They were in Kailahun Town, in the district and the
12 villages in the district.

13 Q. Are you able to say which villages these RUF government
14 farms existed in?

14:55:02 15 A. Yes, we were in Kailahun, Giema, Giehun, Pendembu, Baiwala,
16 Bomaru. All these areas there was government farming for the
17 RUF.

18 Q. Are you able to estimate for the Court about how many
19 civilians worked on these RUF government farms?

14:55:58 20 A. Well, I cannot say exactly because in certain circumstances
21 it could be 50 people, 40, 100 you would go to do the work. If
22 it involves clearing, you clear the bush; you do that job.

23 Q. What kind of farming was it?

24 A. Rice farming, they planted rice. Cassava, rice and swamp
14:56:50 25 farming, it is the same thing.

26 Q. When was it that you saw farming on these RUF government
27 farms?

28 A. From the time I arrived in Kailahun, '97, until the time of
29 the disarmament, farming was going on in Kailahun.

1 Q. I want to take you a little bit forward. Where were you
2 in October 1998?

3 A. October 1998, I was assigned at Kpaima. I was at Kpaima
4 with Eagle. I was assigned there. It was General Issa who
14:58:30 5 assigned me there.

6 Q. Just pause.

7 MR CAMMEGH: Just an inquiry. Is that Kpaima B-A-I-M-A?

8 MR HARRISON: It is unfortunately spelled often that way,
9 and it seems just as frequently G-B-A-I-M-A.

14:58:55 10 This is precisely the point where the Prosecution would be
11 asking for the second closed session. I can tell the Court that
12 it really does not consist of anything more than four questions.
13 We have tried to eliminate it in its entirety, but we simply
14 could not perceive a way to do it.

14:59:17 15 PRESIDING JUDGE: Which means?

16 MR HARRISON: Five to 10 minutes.

17 PRESIDING JUDGE: Mr Harrison, the closed session
18 application had been granted at the outset for the two phases as
19 you had requested. Therefore we can move on that without any
14:59:40 20 further application, simply carry on. We will just ask the Court
21 Management to make sure that we are now in a closed session.

22 For members of the public out there, you have just heard
23 the comments. We will be in a closed session, but for a very
24 short duration now, likely 10 minutes, no more. So you should
14:59:58 25 come back in 10 or 15 minutes. We will then go back in open
26 session. Thank you.

27 [At this point in the proceedings, a portion of the
28 transcript, pages 68 to 70, was extracted and sealed under
29 separate cover, as the session was heard in camera]

1 [Upon resuming at 3.22 p.m.]

2 [Open session]

3 PRESIDING JUDGE: Mr Prosecutor, your witness.

4 MR HARRISON:

15:22:25 5 Q. Tell the Court what happened at this meeting.

6 A. Well, at that meeting Mosquito told us that now ECOMOG and
7 the Kamajors have been pushing us out and now we have been
8 stationed in a very small place. Every day they launch the jets,
9 do raid, ECOMOG launching missiles, and that our Pa, who is Pa
10 Sankoh, was still under arrest in Freetown, and that he was in

11 the hands of the government. So he said that was not going down
12 well with him, that they had sentenced him to death. He went
13 further to say that what we had to do is not to be sitting always
14 on the defensive. In that position, we would never say anything

15:23:44 15 that the international community would take seriously, or even
16 the government. He said until we did something that would be of
17 concern to them, that is, the international community and the
18 government, then we would be able to register our demand. That
19 is, the release of Pa Sankoh. Whenever we are fighting, we would

15:24:16 20 ask and we would tell them until they would release Pa Sankoh,
21 otherwise there would be no solution, we'd continue fighting. He
22 said at the moment he wants us to fight, that he was ready, he is
23 organised, and he has got what our needs are, arms and
24 ammunition, which were of concern to us. So he said all those
15:24:44 25 have been available.

26 Q. Just pause a moment. When you say, "all those were
27 available", what are you referring to?

28 A. I said the arms and ammunition, medicines. They said now
29 he has them intact. So, what we were to do now --

1 Q. Just pause for a moment. Do you know how they became
2 available to Mosquito?

3 A. Well, I do know a bit, but I didn't see the transaction.
4 But I did see some ammunition, apart from the ones we captured
15:25:57 5 from the enemy forces. If we had any other, we got them from
6 Liberia. I myself, when I was in Buedu, I did see him going to
7 Liberia and returning.

8 Q. Saw who going to Liberia and returning?

9 A. General Mosquito.

15:26:31 10 Q. Please continue.

11 A. So he said that we should do one thing. The first is that
12 we should respect one another. That is, the commanders, those of
13 us who were at that meeting, that we should respect one another
14 and respect commands. Whosoever was a superior that passes a
15:27:02 15 command down to you, that command must be obeyed. That we should
16 have respect for one another. Because, he said, at the moment,
17 we were all brothers, and that we should come together to do
18 something that could save him and us. By so doing, he said we
19 should organise ourselves to recapture some towns that had been
15:27:33 20 captured by ECOMOG from us, that we should attack those towns,
21 recapture there so that we could bring them under our command --

22 Q. Just pause.

23 A. -- with destruction.

24 Q. Were any towns discussed?

15:28:08 25 A. Yes. He said that we had to attack Kono, Tongo; we should
26 attack Segbwema, Daru, Bunumbu, Kenema. All these areas he
27 stated in his statement when he was talking. So he said us for
28 Bunumbu, Segbwema, Daru, Kenema. He himself would organise,
29 together with brigade commander, Colonel Denis, in order to

1 attack these towns I have mentioned. Then he said General Issa
2 should join Morris Kallon in Kono in order to attack Kono up to
3 Makeni. In fact, after that meeting General Issa buttressed what
4 General Mosquito said and he emphasised the respect that we
15:29:36 5 should listen to commands and that no commander shall challenge
6 any command that had been passed down to him to do whatever he
7 had been asked to do. Because he said, as for him, he had
8 nothing to say, because when he goes, he would do exactly what
9 the movement wants. That is, to attack and recapture towns or to
15:30:01 10 do any instruction that Mosquito had given, because he had said
11 that if we captured any town, if there is a place that is capable
12 of being burnt, we should burn down there, and if there is a road
13 leading somewhere, if there is a need for us to blockade it, then
14 we should dig trenches in it just to blockade it. All this, he
15:30:27 15 said, we should do. He also said that we should attack the
16 particular town and that we should not feel -- and we should not
17 think about anything. We were defending the land.
18 Q. Pause. Who was it who said that?
19 A. Mosquito.
15:31:09 20 Q. Did he say anything else?
21 A. Yes, he said now that the enemies have increased, we do not
22 know a distinction between civilians and enemies, because the
23 civilians have taken up arms as well, called the Kamajors. Then
24 we had the ECOMOG, and they were the ones occupying so many
15:31:33 25 towns. That we should not -- they are afraid of anyone. That
26 is, if you saw a civilian and attempted to free him, and that
27 civilian turns against you and kills you, that should be your
28 funeral. So that we should kill. They gave us arms and
29 ammunition. I was there when they brought out arms and

1 ammunition for Issa, Issa Sesay, for him to take across to Kono
2 to attack Kono. We went back, we were given the ammunition.
3 Mosquito gave us the arms, medicines. Then he said we should go
4 to our various areas to organise ourselves to attack Segbwema,
15:32:28 5 Daru, Kenema.
6 Q. Just pause a moment. Did anyone else speak at this
7 meeting?
8 A. Yes. When he had spoken, General Issa also spoke. General
9 Issa, too, said the same thing. That the order that Mosquito has
15:33:03 10 given, we should implement -- every commander should implement
11 that order. Just like Mosquito said we should attack towns;
12 houses that were fit to be burned, we should burn them; those who
13 were fit to die, they should die; roads that were to be destroyed
14 should be destroyed. Because these guys had very heavy weapons.
15:33:29 15 Q. Just pause, please.
16 PRESIDING JUDGE: Would you take your witness back to
17 General Issa said the orders to be implemented and take it from
18 there.
19 MR HARRISON: Yes.
15:33:38 20 Q. If you could perhaps speak a bit slower. You said General
21 Issa talked about attacking towns, burning houses, those that
22 were fit to die should die. Can you please continue on?
23 A. Yes. He said that in the towns, the place that was fit to
24 attack, we should attack there and ensure that you capture the
15:34:08 25 town. Those who were fit to die should die. Whatever that was
26 good to be burned, you should burn down there. The road that we
27 wanted to blockade, we should do so. And after that, the
28 commanders were empowered, like Colonel Dennis who was the first
29 brigade commander, who was in Kailahun. He was the one who led

1 us. He organised us for that mission to attack Segbwema, Kenema,
2 Daru. General Issa Sesay went with arms and ammunition,
3 medicines, to go and attack Kono.

4 Q. Just pause a moment. Earlier in your evidence you talked
15:35:36 5 about something that would be of concern to the international
6 community and the government. What did you mean by that?

7 A. That is, when you are killing civilians, you burn houses,
8 you destroy roads, all those things, the international community
9 heard of them and the government, it would be of concern to them,
15:36:15 10 very seriously. So that whatever Mosquito says about a release
11 of our power, they would listen to him quickly just so that peace
12 would return.

13 Q. You said this was a mission. Was there any name for this
14 mission?

15:36:51 15 A. Well, we called it "Operation Spare No Soul".

16 Q. Before I interrupted you, you said General Issa was going
17 back to -- or going towards Kono. Could you please continue?

18 A. He said after the meeting, while we were going to our base,
19 Kpaima, where I came from, General Issa Sesay went to Kono with
15:37:53 20 arms and ammunition, medicines, in order to join Morris Kallon,
21 Akim, so that they would attack Kono. We went back to Kpaima and
22 we were organised with a commander as leader, who was Major
23 Gaddafi, who was promoted to lieutenant-colonel and mission
24 commander. It was for that reason that he was promoted to
15:38:36 25 lieutenant-colonel. He was mission commander amongst us to
26 attack Segbwema. We attacked Segbwema, we captured Segbwema. We
27 attacked Bunumbu and captured there. We attacked Daru, but we
28 were unable. We attacked Kenema, but we were unable. But we are
29 still in Segbwema, Dodola [phon], Bendu Junction, Bunumbu. All

1 those areas fell under our control. Then we heard over the news,
2 through communication, that Kono had been attacked, that General
3 Issa and others had attacked Kono, and Akim had come to Tongo and
4 has captured there. Morris Kallon and others went as far Makeni
15:39:43 5 and captured there. We heard all of that.

6 Q. Just pause there a moment. The Akim who went to Tongo, do
7 you know who he is?

8 A. Yes, I first knew him as an AFRC soldier. Later he joined
9 the RUF.

15:40:33 10 Q. You talked about an attack on Segbwema and Daru, Kenema.
11 Can you take your time and explain to the Court what it is, if
12 anything, that you saw happen?

13 A. Yes, we attacked Segbwema. Civilians died there. We burnt
14 down the place, we dug holes in the road. So we did exactly what
15:41:19 15 we were told to do. Because Segbwema was a risky point. It was
16 in between Kenema and Daru, and ECOMOG and Kamajors were based
17 there. We were in between them.

18 Q. Did you see anything else happen at Segbwema?

19 A. Well, that is what happened in Segbwema. We attacked
15:42:03 20 there, civilians died, we burnt down the town, we blockaded the
21 road.

22 Q. Continue on; what did you see after Segbwema?

23 A. After Segbwema, the attack that was going on in Segbwema,
24 that is where I was until the Lome Peace Accord in '99.

15:43:01 25 Q. Where were you on 6th January 1999?

26 A. January 6th, 1999 I was in **xxxxx**. I was still there.

27 Q. And you've talked about being in **xxxxx** up to the Lome
28 Peace Accord. Did anything happen to you after the Lome Peace
29 Accord?

1 A. Yes, after the peace accord, when delegates were sent -- we
2 sent delegates to Lome. After they had gone and everything had
3 gone through, they said Pa Sankoh was to come to Buedu from Lome
4 before he comes to Freetown. So we all went there to receive
15:44:24 5 him. While we were there to receive him -- we went to receive
6 him from Liberia, together with other commanders and General Issa
7 himself. We left from Buedu and went to a town in Liberia called
8 Foya Airfield. It was in this town that we went and waited for
9 Pa Sankoh and others, for them to arrive, so that we would all
15:45:04 10 come to Buedu. While we were there, we saw the helicopter arrive
11 and landed. I, General Issa and others went there. When we went
12 there, we saw Mosquito alight and he spoke to General Issa. We
13 didn't hear. But what I heard was that the Pa didn't come and
14 that he had come to Freetown, and from Freetown he would go
15:45:32 15 there. While we were all there, he turned around and saw us and
16 he said the Pa said we should send some security to go and guard
17 him. Then he pointed to somebody and said, "This man is one of
18 them." It was Mosquito himself who appointed xxxx 'til we came to
19 Buedu. We were there for two days, and the following day
15:45:56 20 Pa Sankoh himself went there.

21 Q. Just pause for a moment. I'm just going to take you back
22 to being at Foya, at the airfield. The helicopter lands.

23 A. Yes.

24 Q. What happens after the helicopter lands?

15:46:25 25 A. I said we went there. We saw Mosquito alight from the
26 helicopter. He and Issa Sesay greeted each other and they spoke.
27 But what I heard --

28 Q. Just pause for a moment. Please continue; what did you
29 hear?

1 A. I heard that Pa Sankoh did not come any longer to Buedu as
2 we were expecting on that day. He said Pa Sankoh had been taken
3 to Freetown, and from Freetown he would go to Buedu. But he said
4 that they should make security arrangements for him.

15:47:39 5 Q. Just pause.

6 A. We should come to Freetown.

7 Q. Who said they should make security arrangements?

8 A. It was Pa Sankoh who told Mosquito. It was Mosquito
9 speaking to Issa at this time.

15:48:01 10 Q. What happened next?

11 A. After that, we all came to Buedu. I, Issa, Mosquito and
12 the other people with him went. We all went to Buedu. We were
13 there for two days and Pa Sankoh come and went. We went there,
14 we slept one night in Buedu. The next day, we came to Kailahun.

15:48:29 15 From there they counted us up to xxxx, and we were given arms and
16 they said we should come to xxxxxx to come and xxxxxxxx,
17 and Pa Sankoh himself was there.

18 Q. Just pause.

19 JUDGE ITOE: When you say Pa Sankoh was there, he was in
15:49:02 20 Buedu? Was it in Buedu? You said Pa Sankoh himself was there.
21 Where?

22 THE WITNESS: In Kailahun. We left Buedu the next day.

23 MR HARRISON:

24 Q. Where was Pa Sankoh at this time?

15:49:30 25 A. He himself was with us from Buedu up to Kailahun.

26 Q. What do you do next?

27 A. From then on xxxx were given arms and xxxx came to the field in
28 Kailahun, the town field in Kailahun. The helicopter landed
29 there and xxxx boarded the helicopter and it took xxxx to Freetown at

1 xxxx where Pa Sankoh was, at the lodge. So xxxx were there as

2 xxxxx.

3 Q. When you say "we were there", are you including yourself in
4 a group?

15:50:20 5 A. xxxxxx there. That's why I said "xxxx".

6 Q. What happened to you next?

7 A. Well, after that xxxxx were there till all of xxxx, together
8 with Pa Sankoh, who had come to Freetown, when they brought xxxx in
9 that helicopter, they went for him and he, too, came on that same

15:50:55 10 day. He met xxxx. xxxxxxxxxxxx

11 for some months when a problem arose between Pa Sankoh and
12 General Mosquito, which was a problem that could have caused more
13 problems within the RUF leadership. So the Pa himself asked xxxx,
14 xxxxxxxxxx, all of xxxx who were xxxxx with him xxxx, he

15:51:36 15 said we should return to Segbwema; we should go and talk to our
16 brothers who were in Segbwema, to tell them not to listen to what
17 Mosquito was doing, that Mosquito had said he could stand on his
18 own and organise -- he organised armed men to come to Segbwema.
19 Whichever international observer who went --

15:51:14 20 [RUF21NOV05E - SV]

21 Q. Just pause for a moment. Please continue.

22 A. He said if any international observer who goes there
23 without his knowledge, they should arrest him and send him to
24 him. No ECOMOG should be allowed to go to our zone; that is,
15:52:51 25 places under RUF control in Kailahun. Luckily for us, we had
26 left Freetown and we were in xxxxxx.

27 Q. Pause for a moment.

28 JUDGE ITOE: Who is saying this, Mr Harrison?

29 MR HARRISON:

1 Q. Who said that?

2 A. It was Mosquito.

3 PRESIDING JUDGE: I must say I'm a bit lost. I understood
4 the witness to say that he was asked by Sankoh to go back to
15:53:18 5 Segbwema to meet with brothers. All of a sudden now we have
6 Mosquito talking about having to meet with brothers. So if you
7 could clarify that I'm, as I say --

8 MR HARRISON:

9 Q. You've told the Court that you were in Freetown as a
15:53:34 10 security for Pa Sankoh and --

11 A. That's what I'm explaining.

12 Q. Just pause for a moment. And you've told the Court that Pa
13 Sankoh instructed you to go to xxxxxxxx.

14 A. Yes.

15:53:55 15 Q. And you've said that you went with xxxxxxxx
16 A. Yes.

17 Q. Now, just take your time and tell us what, if anything,
18 happens when you go back to xxxxxxxx.

19 A. After Pa Sankoh had sent us there, when we arrived, I,
15:54:32 20 together with these people whose names I have mentioned, we met
21 the commander there, MO Rogers. We told him exactly what the Pa
22 had told us, which was Mosquito's plan that nobody should join
23 him at all to destroy the peace accord. So whoever he sends
24 there, who had come from Mosquito directly, who would have been
15:55:12 25 sent by Mosquito himself to Segbwema --

26 Q. Just pause for a moment. What is it you're trying to
27 explain about Mosquito and Segbwema?

28 A. I have explained Mosquito's plan -- that Mosquito's plan
29 was, as long as there was a problem between himself and Pa Sankoh

1 and that he was the one who had been fighting as commander until
2 Pa Sankoh had been released, and now that he has returned, they
3 were not seeing eye to eye. He said now that he is there in
4 Kailahun as commander --

15:56:06 5 Q. Just pause for a moment. When you refer to "he" being the
6 commander in Kailahun, who are you talking about?

7 A. Sam Bockarie himself. So he said that -- he, Sam Bockarie,
8 said no observer should go to Kailahun without his approval. He
9 said no ECOMOG should enter Kailahun without his approval. He
15:56:52 10 said any UN observer whom they capture, or international observer
11 whom they capture, who would have entered that territory, they
12 should send him -- they should send such a person to him in
13 Buedu. So he organised armed men, about 60 of them. He,
14 Mosquito --

15:57:30 15 Q. Please continue.

16 A. Mosquito organised armed men to send them to Segbwema to do
17 exactly what he had decided to do. He gave them the order to
18 come and join up with the soldiers in Segbwema, to dig more roads
19 and destroy the roads completely so that no international
15:58:02 20 observer or UN observer would ever go there in Kailahun without
21 his approval -- he, Mosquito. So luckily --

22 Q. Just pause. What happened next?

23 A. In the night the armed men whom Mosquito had sent from
24 Buedu, they arrived in Segbwema. They came and they told the
15:59:00 25 commander what their mission was; that is, MO Rogers. He
26 provided accommodation for them. They explained, just like I
27 have explained, that it was Mosquito who had sent them to come
28 and destroy the roads, to defend that particular road that leads
29 to Kailahun. So luckily we too had gone with a message from Pa

1 Sankoh that any of Mosquito's plans that he brings forth, the
2 soldiers should not obey, because it was meant to dent the peace,
3 because they were not listening to us. So we worked things out
4 and disarmed them.

16:00:13 5 Q. So what happened to Mosquito then?

6 A. It was not Mosquito. The men whom he sent, we disarmed
7 them. We put all of them in jail and we sent to General Issa.
8 Then General Issa said they should be in jail until he comes. We
9 were there, and at night I see General Issa with his convoy,

16:00:49 10 vehicles under armed men, many of them. They arrived. We
11 explained to General Issa himself that these people were sent by
12 Mosquito to come and dent the peace because he and the leader
13 were not seeing eye to eye at the moment. So he too took some
14 actions, wherein he passed an order and we beat up some of them

16:01:27 15 and some of them left the same night. I joined them. All of us,
16 including Morris Kallon, Issa, all of us went to Buedu. Before
17 we could reach Buedu in the morning --

18 Q. Just pause for a moment. You were saying that before you
19 could reach Buedu in the morning; what happened?

16:02:14 20 A. Before we could arrive in Buedu in the morning -- that is,
21 the previous day before we reached there -- during the noon
22 Mosquito had moved. He had finally left the country. He crossed
23 to Liberia. Well, we were there. Later we returned to xxxxxxxx.
24 General Issa and others left xxxx there.

16:02:53 25 Q. Right. Just pause. Can you say when it was that Mosquito
26 went to Liberia?

27 A. It was in '99. It is only the month now. It was in '99.

28 Q. And after Mosquito went to Liberia, did anything happen?

29 A. Yes, after he had left the place where he was, that his

1 position as field commander, General Issa took over that
2 position. He was then the field commander, while Pa Sankoh was
3 still the leader of the RUF. So I was there. Pa Sankoh sent
4 some instructions to xxxx. He said xxxxshould go to
16:04:32 5 Tongo because it was Akim who was there. But during that time
6 Akim was with Pa Sankoh and Akim was his bodyguard. So he said xx
7 shall go to Tongo so that we can talk to our brothers, the RUF
8 soldiers, about the disarmament and the mining that was on. That
9 we should inform them about the mining and the disarmament,
16:05:13 10 because he had told us as to how we could inform them. So we
11 were there --
12 Q. Just pause. You were talking about mining. Where was
13 mining going on at this time?
14 A. It was in Tongo.
16:05:38 15 Q. And was there a commander for mining at this time?
16 A. Well, the time I arrived there, the only commander I knew
17 that was the overall commander for the mining, he was Colonel
18 xxxx But as we arrived there, the next day he was changed.
19 General Issa replaced him with xxxxx. So I myself was there with
16:06:25 20 xxxxxxxx.
21 Q. Just pause for a moment. And did Banya have a commander?
22 A. Yes.
23 Q. Who was that?
24 A. General Issa.
16:06:51 25 Q. And you said that when you first arrived xxxxxx was
26 there?
27 A. It was Colonel Alpha who was there. But when I arrived,
28 the next day he was replaced. General Issa sent Banya to replace
29 him. He said xxxxxx shall take over, xxxxxxxx should report

1 in xxxx.

2 Q. Just pause for a moment. And was xxxxx replaced?

3 A. Yes. That was the formal procedure. Since it was an

4 assignment from the high command within the RUF, everybody

16:07:59 5 respected it.

6 Q. Okay. Who replaced xxxxx?

7 A. Well, as for xxxxxx, nobody replaced him as the brigade

8 commander until the end of the disarmament. He was there

9 throughout.

16:08:19 10 Q. I thought you were talking about the mining?

11 PRESIDING JUDGE: I thought you had said that xxxxx was the

12 mining commander in Tongo. Was he the brigade commander or the

13 mining commander?

14 THE WITNESS: He was the brigade commander. He was the

16:08:43 15 overseer of the entire mining initially. Later the mining

16 commanders were assigned.

17 MR HARRISON:

18 Q. And who were the mining commanders?

19 A. Well, Lieutenant-Colonel Death Squad was sent. He was

16:09:14 20 changed. They sent Abdul Razak. He was replaced. Issa sent

21 Morie Gibao. Issa changed him later. He came with this

22 something Swaray. He came with him and then the overall boss

23 later, he sent him. That was the mining minister for the RUF,

24 xxxxxxxx. He himself later came to Tongo.

16:09:59 25 Q. What was the name of the mining minister?

26 A. xxxxxxxx xxxxx

27 MR JORDASH: Could the witness say the name again, please?

28 PRESIDING JUDGE: This last name?

29 MR JORDASH: Yes, please.

1 THE WITNESS: xxxxxxxx.

2 MR HARRISON:

3 Q. Witness, are you able to recognise Issa Sesay today?

4 A. Yes, sir.

16:10:46 5 Q. Please look around the courtroom and tell us if you see

6 Issa Sesay?

7 A. Yes, sir. Look at him over there sitting. Just after the

8 security, the next man to him is Issa Sesay.

9 PRESIDING JUDGE: [Overlapping speakers] to the accused,

16:11:11 10 yes.

11 MR HARRISON:

12 Q. And, Witness, are you able to recognise Morris Kallon

13 today?

14 A. Yes.

16:11:20 15 Q. Please look around the courtroom and tell the Court if you

16 see Morris Kallon?

17 A. Just after the entrance where they are sitting. One

18 security, the next person is Morris Kallon. The one wearing the

19 white spectacles.

16:11:44 20 PRESIDING JUDGE: For the record, the witness indicates the

21 accused Kallon.

22 MR HARRISON: That concludes the examination.

23 PRESIDING JUDGE: Thank you, Mr Prosecutor. Mr Jordash,

24 are you ready to proceed now?

16:12:03 25 MR JORDASH: Yes, I am, as long as I've got just a moment

26 to set myself up.

27 PRESIDING JUDGE: Very well.

28 MR JORDASH: Thank you, I think I'm ready. Thanks.

29 PRESIDING JUDGE: You are ready?

1 MR JORDASH: As I'll ever be.

2 PRESIDING JUDGE: Then you may proceed for the first
3 accused.

4 MR JORDASH: Thank you.

16:14:50 5 CROSS-EXAMINED BY MR JORDASH:

6 Q. Good afternoon, Mr Witness.

7 A. Good afternoon.

8 Q. So you understand, I represent Mr Issa Sesay.

9 A. Yes, sir.

16:15:07 10 Q. And the first thing I'm going to do is ask you about your
11 meetings with the Prosecution. Am I right that you met the
12 Prosecution in early 2003, that's in January 2003. Do you
13 remember meeting them?

14 A. Yes, sir. I saw people during that time.

16:15:50 15 Q. Do you remember meeting a Joseph Saffa and -- well, let's
16 stick with Joseph Saffa. Do you remember meeting Joseph?

17 A. Yes.

18 Q. And Morie Lengor. Do you remember meeting that person?

19 A. Yes, sir.

16:16:13 20 Q. Were you interviewed on that occasion?

21 A. Yes.

22 Q. And was the interview conducted in Krio?

23 A. Yes. Mostly, yes.

24 Q. When you say mostly, what other language was used?

16:16:54 25 A. It was in Krio mostly. But since I can understand a bit of
26 English, that's why I said mostly.

27 PRESIDING JUDGE: There was Krio and English?

28 THE WITNESS: Well, it was in Krio that they asked me.

29 MR JORDASH:

1 Q. And was it Krio that you answered?
2 A. Yes.
3 Q. So at what stage did English play a part?
4 A. Well, they started asking me in English. Then I told them
16:17:33 5 that I do understand a bit of English, but I could only do things
6 well in Krio. That was what I told them.
7 Q. And so the interview was then conducted in Krio?
8 A. Yes, sir.
9 Q. So you understood what was being asked of you?
16:17:56 10 A. Yes.
11 Q. And you were comfortable answering in Krio to the questions
12 which were asked of you?
13 A. Yes.
14 Q. Were notes taken of what you said?
16:18:27 15 A. Yes.
16 Q. Were you asked then to sign a statement of what had been
17 noted?
18 A. Yes.
19 Q. Did you sign to confirm that what had been noted was your
16:18:47 20 truthful account?
21 A. Yes, although it wasn't read to me back, but I signed.
22 Q. Didn't the people who met you ask you to confirm that the
23 statement was true?
24 A. Well, he told me that. That was why I signed.
16:19:36 25 Q. Thank you.
26 PRESIDING JUDGE: He told you what?
27 THE WITNESS: He told me that, "This is your statement.
28 You should come and sign."
29 MR JORDASH:

1 Q. Did he say that you should sign it if it was true?
2 A. No, he did not tell me that.
3 Q. So why did you sign it?
4 A. I only saw people. They went. So I was afraid. Even
16:20:27 5 while we were discussing. When they put the document before me
6 to sign, I signed it really. I had spoken, I saw them wrote and
7 they asked me to sign and I too signed.
8 Q. Could I ask you to have a look, please, at a document and
9 confirm whether you can see your signature on it.
16:21:03 10 MR JORDASH: I've got a copy here if it's easier. It's not
11 marked.
12 PRESIDING JUDGE: Is this the handwritten one?
13 MR JORDASH: It is, Your Honour, at page 12959 to 12971.
14 PRESIDING JUDGE: 71?
16:21:26 15 MR JORDASH: 12971 is the last page.
16 Q. Do you see your signature on the bottom of the first page?
17 A. Yes, I have seen it.
18 Q. Would you like to move through the document page by page
19 and confirm each page whether it's your signature?
16:22:57 20 A. Yes.
21 Q. Every page signed by you?
22 A. Yes, I notice a signature resembling mine, yes.
23 Q. Well, do you notice your signature, Mr Witness?
24 A. Yes.
16:23:31 25 Q. Thank you. Did you meet the Prosecution on 26 February
26 2003 next?
27 A. Yes.
28 Q. Were you in Freetown?
29 A. Yes, in Freetown here.

1 Q. Did you meet John Berry?
2 A. Yes.
3 Q. Morie Lengor, did you meet that person again?
4 A. Yes.
16:24:04 5 MR JORDASH: Could I just ask that the document be taken
6 away from the witness, please?
7 Q. Did you also speak in Krio during the --
8 A. Yes.
9 Q. Was that interview taped as far as you're aware?
16:24:45 10 A. No.
11 Q. Was there somebody taking a written record of what you
12 said?
13 A. Yes, there was one woman that was operating the computer.
14 As I was talking, she was typing everything.
16:25:24 15 Q. Did you then -- and I'm moving to, Your Honours, page
16 13127. Did you then see the Prosecution on 1 March 2003 about --
17 well, either three or four days afterwards?
18 A. I did not hear you. Repeat your question.
19 Q. Did you next see the Prosecution about three or four days
16:26:00 20 after that meeting in Freetown?
21 A. Well, after here in Freetown, when I came and met them?
22 Q. My fault. You met them first of all as part of your second
23 interview in Freetown in February 2003. Did you meet them again
24 a few days later in Freetown, 2003?
16:26:59 25 A. No. From the time I came in 2003, February, when I left,
26 except in this year, 2005, when I came.
27 Q. Okay. Let me ask you this question: Did you see them
28 twice in Freetown in 2003, on two different days?
29 A. Yes. On two different days, yes.

1 Q. On that second occasion were you in the same place as the
2 first time you'd seen them in 2003?
3 A. When I met them where? Met them where, in Freetown here?
4 Q. Yes.
16:28:14 5 A. Yes, it was the same place.
6 Q. Was it the same people on both occasions who were
7 interviewing you?
8 A. Yes.
9 Q. Was there somebody taking down what you said, writing down
16:28:36 10 what you said?
11 A. Yes.
12 Q. Was the interview in Krio?
13 A. Yes, it was in Krio.
14 Q. Was there a translator on both occasions?
16:28:59 15 A. Yes.
16 Q. Did you next see the Prosecution in April and May of this
17 year?
18 A. Yes.
19 Q. Was the interview in Krio?
16:29:31 20 A. Yes.
21 Q. And then translated into English?
22 A. Yes, sir.
23 Q. What happened during those meetings?
24 A. During the meetings I was interviewed. They only
16:30:09 25 interviewed me.
26 Q. What do you mean when you say interviewed? What actually
27 happened? Describe it to us?
28 A. Well, I don't know. I only saw people. They went to me --
29 they asked me questions, so I never knew what they were up to.

1 Q. What kind of questions did they ask you? I'm trying to get
2 a picture of what went on. We weren't there, the judges weren't
3 there. Only you and somebody from the Prosecution were there.
4 What kind of questions were they asking you?

16:31:06 5 A. They asked me if I was an RUF member. I replied by saying
6 yes. What happened during the RUF? Those were the questions put
7 to me. Then I started explaining. Then they asked me my
8 experience as an RUF soldier and the things that I heard from
9 people when I was on RUF soldier. So those were the questions
16:31:37 10 put to me.

11 Q. So was this a wholly new interview or was it an interview
12 which was based on what you'd previously said?

13 A. Well, what you've heard me say in this Court, a lot of
14 which were due to the questions they posed to me. Those were my
16:32:18 15 responses to them.

16 PRESIDING JUDGE: Yes, Mr Harrison.

17 MR HARRISON: The Prosecution feels it has an obligation to
18 bring to the Court's attention a decision of Trial Chamber II
19 that touches on this type of questioning. It's a decision dated
16:32:51 20 15 June 2005 and it has a title "Decision on objection to
21 questions put by defence in cross-examination of witness
22 TF1-227". The Court ultimately takes a view that questions
23 relating to pre-testimony meetings between a prosecution lawyer
24 and a witness ought to be limited to the number of such meetings,
16:33:23 25 the dates of such meetings and their duration save in exceptional
26 circumstances, and then it goes on to indicate what those
27 exceptional circumstances might be. I'm noting the time and I'm
28 just wondering if the Court would find it convenient for me to
29 have several copies of this decision made and distributed so that

1 all parties can see it during the break and the Court can then
2 consider if it's something it wishes to have addressed or not.

3 PRESIDING JUDGE: Do you think -- sorry, Justice Itoe, go
4 ahead, please.

16:34:02 5 JUDGE ITOE: Yes, I just wanted to find out from
6 Mr Harrison in what context this particular decision fits as far
7 as these proceedings are concerned.

8 MR HARRISON: That context in that particular issue was --

9 JUDGE ITOE: Are you suggesting that Mr Jordash should not
16:34:17 10 ask certain questions, or that he should be limited in the
11 questions which he has to put to this witness?

12 MR HARRISON: If you were to apply this decision, you might
13 come to the conclusion that cross-examining counsel is limited to
14 asking questions where either bad faith is shown on the part of
16:34:44 15 the Prosecution or, alternatively, if the Defence is aware
16 through other witnesses of modifications of disclosed statements.

17 PRESIDING JUDGE: I'm not familiar with that decision. If
18 you want to give us a copy we will certainly look into it. But I
19 would appreciate as well that along the lines that my brother
16:35:22 20 Justice Itoe has just raised that you put it in context in that
21 particular Trial Chamber II. I take it from your comments that
22 you are essentially objecting because otherwise to the line of
23 questioning that is now being pursued by the counsel for the
24 first accused. I take it that's the purpose of your standing up
16:35:44 25 and then making reference to that decision.

26 MR HARRISON: Yes, it's an objection and there's an
27 existing decision and I'm just -- it's for this Court to -- I'm
28 trying to bring this to --

29 JUDGE THOMPSON: May I interrupt and say that I would have

1 thought that the proper way to proceed here is to formulate an
2 objection and once an objection is formulated and then we have
3 authorities, grounds stated and then the authorities in support
4 of the objection. I would have thought that's the way we proceed
16:36:20 5 and therefore I would say clearly my position would be, without
6 making any further comments, that it's premature. I would like
7 to hear the objection first.

8 MR HARRISON: Okay. The objection is this: As a matter of
9 principle, questioning of a witness where it is questioning
16:36:39 10 relating to the substance of communications between the
11 prosecuting lawyer and the witness --

12 JUDGE THOMPSON: If you can go slowly, please. As a matter
13 of principle, questioning of a witness, yes, where it relates?

14 MR HARRISON: To the substance of a pre-testimony meeting
16:37:03 15 between a prosecution lawyer and a witness --

16 MR JORDASH: Sorry to interrupt. Perhaps the witness could
17 be asked to leave.

18 MR HARRISON: I was just hoping to state the objection,
19 terminate, distribute the case to everyone and if the Court
16:37:26 20 wishes to pursue it we could then do it after the break.

21 PRESIDING JUDGE: Yes. [Microphone not activated]

22 JUDGE THOMPSON: It's a legal objection, isn't it?

23 PRESIDING JUDGE: [Microphone not activated]

24 MR JORDASH: I'm content with that.

16:37:43 25 JUDGE THOMPSON: Yes. Between a prosecution, yes?

26 MR HARRISON: And a witness is limited to the number of
27 meetings, the dates of the meetings and their duration save for
28 exceptional circumstances, which are suggested to be where
29 there's an allegation of misconduct on the part of the

1 Prosecution which is substantiated. Alternatively, where the
2 Defence is aware of any modification of disclosed statements made
3 in the course of a pre-testimony meeting.

4 JUDGE THOMPSON: And you are citing?

16:39:28 5 MR HARRISON: Yes.

6 JUDGE THOMPSON: So if we relate it now, having stated what
7 seems to me to be a proposition of law, you want to relate it to
8 the specific situation here now and that would guide me. In
9 other words, I'm sure it would guide my learned brothers, having
16:39:49 10 stated what you -- what is in fact essentially a proposition of
11 law, what is now the specific complaint in relation to and then
12 perhaps we'll have the witness [overlapping speakers]

13 JUDGE ITOE: Even though the witness [overlapping speakers]

14 JUDGE THOMPSON: Can retire. Yes, we'll ask the witness to
16:40:07 15 be escorted out for a while.

16 PRESIDING JUDGE: So we are in open session. Mr Security
17 Officer in the back of the gallery, can you confirm that there is
18 no members of the public out there, but we still have the TV
19 monitoring at this stage presumably, Madam Court Officer?

16:40:34 20 MS EDMONDS: Yes, sir.

21 PRESIDING JUDGE: Yes. So we will adjourn. They cannot
22 take the witness out because the TV monitoring is taking -- they
23 will record the presence of the witness. Before you can take the
24 witness out, we need to make sure that the TV's cameras are shut
16:41:04 25 off so the witness is not identified on the camera when he's
26 walking out.

27 MS EDMONDS: It's safe for the witness to move now.

28 PRESIDING JUDGE: Fine. The witness will be taken out and
29 we'll just carry on, because we want to know a bit more before we

1 break for the afternoon.

2 [The witness stood down]

3 JUDGE THOMPSON: We can then proceed.

4 MR HARRISON: Yes. The specific context is that the
16:42:17 5 Prosecution says that if this decision is correct, questioning
6 with respect to the content of the discussion or pre-testimony
7 discussion between witnesses and prosecution lawyers - although,
8 frankly, I think it should be with any lawyer - would fall afoul
9 of this principle which Trial Chamber II has sought to enforce.

16:43:19 10 I wasn't going to state anything more than that unless the
11 Court wished me to go forward. I was planning on getting
12 multiple copies of this decision.

13 PRESIDING JUDGE: We have a copy already in front of us.

14 MR HARRISON: I don't think defence counsel --

16:43:33 15 PRESIDING JUDGE: No, I was going to say that maybe if we
16 are to have a meaningful discussion on that accordingly the
17 defence bench should have a copy of it. But let me just say to
18 you very preliminarily, without looking into and discussing that,
19 I will need to be convinced that it has application to what is
16:43:50 20 going on at this particular moment. But we'll leave it for
21 further discussion.

22 JUDGE THOMPSON: And I would like to mention that of course
23 you are submitting this as an authority purely for its persuasive
24 value.

16:44:03 25 PRESIDING JUDGE: Not as binding.

26 JUDGE THOMPSON: Purely for its persuasive value as this
27 Court is not bound by the decisions of a court of concurrent
28 jurisdiction. Am I right?

29 MR HARRISON: I'm not sure. I'm in the Court's --

1 JUDGE THOMPSON: Well, I'd like you to know my own position
2 on that.

3 JUDGE ITOE: Let me put it the other way; our decisions
4 don't bind Trial Chamber II.

16:44:31 5 MR HARRISON: I think we've noticed that.

6 JUDGE ITOE: Right.

7 PRESIDING JUDGE: So we will pause for 15 minutes and make
8 copies available to the Defence. As we said, we have a copy so
9 don't make extra copies for us. Court is adjourned for 15
16:44:47 10 minutes.

11 JUDGE ITOE: And in fact it is such a bulky decision
12 that -- I would say it's bulky within the space of time that is
13 given to us --

14 PRESIDING JUDGE: Let's say 20 minutes.

16:44:55 15 JUDGE ITOE: I wonder if we can have a fruitful debate, but
16 let's come back.

17 [Break taken at 4.45 p.m.]

18 [RUF21NOV05F - EKD]

19 [Upon resuming at 5.16 p.m.]

17:17:09 20 PRESIDING JUDGE: We don't need the witness yet. We will
21 have to pursue these legal arguments. My brother, learned
22 Justice Thompson, has some additional questions for you before we
23 pursue that, Mr Harrison.

24 JUDGE THOMPSON: Mr Harrison, I have looked at the decision
17:17:31 25 of our learned justices of the second Trial Chamber. Of course,
26 one needs to study a little more. But I do have a problem of
27 legal characterisation which I would like you to enlighten me on.
28 That is, which specific questions so far put by counsel for the
29 first accused in your submission can properly be characterised as

1 questions going beyond the scope of what is permissible in
2 cross-examination in the sense of being questions relating to the
3 substance of pre-testimony meetings between the Prosecution and
4 the witness? Let me repeat that, because that is for me a
17:18:34 5 preliminary issue, even for the application of the principle of
6 law which you correctly propound from the decision of the second
7 chamber. Which specific questions put by counsel for the first
8 accused so far can properly be characterised as questions going
9 beyond the scope of what is permissible in cross-examination,
17:19:03 10 being questions relating to the substance of pre-testimony
11 meetings between the Prosecution and the witness here?

12 MR HARRISON: I don't unfortunately have a transcript and
13 my note is probably not as helpful as the Court's note. But my
14 recollection was that questions were asked as to the process and
17:19:34 15 what was discussed in the interview.

16 JUDGE THOMPSON: Quite right. I pose that question because
17 if you look at page 2 of the decision of the second Trial
18 Chamber, the submissions of the parties and paragraph 5 there,
19 the Prosecution filed the objection on these grounds: As a
17:19:53 20 matter of principle, the question goes beyond the scope of what
21 is permissible in cross-examination, being a question relating to
22 the substance of a pre-testimony meeting between a prosecution
23 lawyer and a witness. So if we are to apply the principle that
24 you propound, a preliminary issue is to resolve the problem of
17:20:22 25 legal characterisation in the context of the specific questions
26 here asked.

27 MR HARRISON: If I could draw the Court's attention,
28 because although that is what was a submission of the
29 Prosecution, it appears as if the Court has gone a step beyond

1 that. They don't see that as adequately addressing what the
2 Court perceived to be the problem. Because the Court went on at
3 paragraphs 19 and 20 to state something which I think is
4 considerably broader than what was originally brought to the
17:20:57 5 Court's attention.

6 JUDGE THOMPSON: I do agree with you. But you would agree
7 that does not dispose the need for legal characterisation. Your
8 objection, the substratum of your objection being that certain
9 questions now are being put which may well fall foul of the
17:21:16 10 principle which the Court broadened in that context.

11 MR HARRISON: Yes. If it is helpful, I can read into the
12 record paragraphs 19 and 20. If it is not helpful I won't
13 bother.

14 PRESIDING JUDGE: It is not helpful.

17:21:33 15 MR HARRISON: I won't bother.

16 PRESIDING JUDGE: Thank you.

17 JUDGE THOMPSON: We are being enlightened.

18 MR HARRISON: I also indicate that I think it also goes 19,
19 20, and the Prosecution would say it continues on to paragraphs
17:21:43 20 25 and 26, 26 actually being the response of the Court.

21 PRESIDING JUDGE: But again, to take it back to what
22 Justice Thompson has just raised, we are trying to understand the
23 substance of what I see now appears to be an objection on the
24 part of the Prosecution to a question or questions asked by the
17:22:10 25 Defence at this stage that will come in line more or less with
26 that decision of Trial Chamber II. Reading between the lines, I
27 don't know the background to this submission. But it would
28 appear in that case the questions being asked at that stage in
29 cross-examination were essentially dealing with what appears to

1 be improper conduct by the Prosecution, or allegations, or bad
2 faith, or trying to show that something bad went wrong at the
3 time. Obviously we in this Court have also stated that if the
4 Defence alleges bad faith or improper conduct, it is not
17:22:50 5 sufficient to just throw that in the air. They must establish
6 that and establish a prima facie basis for that. As I say,
7 again, my knowledge of that decision is in the last minutes. I
8 have read this and we will go back to it in some detail. But
9 that is why we are asking you these questions. Unless you say
17:23:15 10 this is not the case, fine, we will hear from you.

11 MR HARRISON: So far as I was aware, it is not the case the
12 Defence were alleging bad faith in that particular instance.
13 What the Prosecution says today, though, is that if Trial Chamber
14 II's decision should be enforced, and if the authority that it
17:23:42 15 relied upon, which was the Bizimungu decision, then the law would
16 seem to be as stated in Bizimungu, that questionings in the
17 absence of any substantiated allegation of misconduct must be
18 limited to the number of the meetings, the dates of the meetings
19 and the duration of the meetings. And according to what the
17:24:16 20 Court has done, that is it.

21 JUDGE ITOE: What of the content?

22 MR HARRISON: That is just it.

23 JUDGE ITOE: What of the content? Taking Bizimungu --

24 PRESIDING JUDGE: That's why we say. I mean, whatever that
17:24:32 25 decision may say, we have already ruled on many occasions as to
26 what is and what is not, and what the Defence in many instances
27 must do when they are alleging prior inconsistent statement. The
28 very first notion you have to establish is that first there has
29 been a statement, the statement was taken in such circumstances.

1 If they are to establish what are the circumstances, was it done
2 in the English language, was it done with interpretation? This
3 is the requirements that we say must be established. So, I don't
4 necessarily agree or disagree these decisions. All I am saying
17:25:13 5 is the Defence, when they are moving in the direction of using
6 prior statements given by a witness, they have to meet certain
7 requirements. Now, I am not saying necessarily that our decision
8 is inconsistent with that decision either. But certainly we have
9 said, and we have consistently said, that if you want to do this,
17:25:33 10 Mr Defence Counsel, because that is this case it may happen to
11 you when we go to the Defence as well, but this is the minimum
12 you have to establish, and we have made it very clear as to what
13 we expect.

14 So having said that, that is why I say when I read this
17:25:52 15 decision -- and we need to read it in the context of our own
16 decision to see if it can be applied consistently with our own
17 decision. Having said, that is why I am asking these questions
18 so we don't get into the wrong direction. Do you wish to add
19 anything before we turn to your colleague from the Defence?

17:26:09 20 MR HARRISON: I am not sure there is anything I could
21 usefully say, other than that the Prosecution understands it has
22 an obligation to bring decisions, whether for the Prosecution or
23 against the Prosecution.

24 PRESIDING JUDGE: That's fine.

17:26:23 25 MR HARRISON: I make no further submission in respect --

26 JUDGE THOMPSON: I can assure you that I appreciate that
27 enlightenment.

28 PRESIDING JUDGE: Mr Jordash, you wish to respond?

29 MR JORDASH: Only if Your Honours --

1 JUDGE THOMPSON: Contribute to the enlightenment of the
2 Court. You have read the decision. You probably might help us
3 conceptualise it in the context in which it was given.

4 MR JORDASH: At the moment I haven't seen the Bizimungu
17:27:08 5 decision.

6 PRESIDING JUDGE: We haven't either.

7 MR JORDASH: But I do submit that in the context of this
8 trial, in any event, where supplemental statements are
9 systematic, continuous and at the foot of the door of the
17:27:32 10 witness -- foot of the door of the Court before the witness gives
11 evidence, to prohibit inquiry into how those supplemental
12 statements came about would, in my respectful submission, prevent
13 the Trial Chamber from assessing whether those supplemental
14 statements are, as the Defence will in due course allege, the
17:27:57 15 product of witness efforts to assist, irrespective of the truth,
16 or whether in fact they do represent simply late memory recall by
17 a witness, additional detail being simply added to allegations
18 already made. I respectfully submit that this trial and the
19 Prosecution case requires that kind of inquiry. I have made the
17:28:36 20 point before, but this is a trial where I don't think that any
21 trial in any international tribunal have had supplemental
22 statements of the kind that has existed in this. So many, so
23 many modified details, so many additional details, as this case.
24 I do submit that when, in due course, we look at the substance of
17:29:08 25 the Prosecution case at the end of it, and we compare it to what
26 was disclosed in previous statements, we will be in a situation
27 which requires the question to be asked: How did this happen?
28 This is why cross-examination of these issues is now absolutely
29 crucial because that is the only way in which that question may

1 well be answered.

2 JUDGE THOMPSON: Out of curiosity, how extensive is your
3 research into supplemental statements in other tribunals? How
4 extensive has that been?

17:29:42 5 MR JORDASH: It's mainly speaking to colleagues.

6 JUDGE THOMPSON: Is that all? Is that a scientific kind of
7 approach?

8 MR JORDASH: I think it is the best approach. One won't
9 see it in the jurisprudence, one will see --

17:29:54 10 JUDGE THOMPSON: You can do scientific research on that.
11 Just to assume that we are the ones who have actually escalated
12 this trend without any scientific basis would seem to be
13 unjustified.

14 MR JORDASH: One can't see it from the jurisprudence
17:30:11 15 because there would be a decision which would either allow it to
16 happen or not, and then there would be no recourse back to the
17 appeal chamber or to a particular trial chamber. One can only
18 see this by speaking to other lawyers and asking them what occurs
19 in their trial and how the prosecution case develops during the
17:30:34 20 course of it and seeing what they answer to that. I think that
21 is the best way of assessing how common supplementary statements
22 are. And they are not as common, not even nearly, I would
23 respectfully submit.

24 JUDGE THOMPSON: I would prefer the scientific approach.

17:30:53 25 MR JORDASH: Well, I am not sure there is a scientific
26 approach --

27 JUDGE THOMPSON: A social scientific approach.

28 MR JORDASH: In due course, at the appropriate time, I
29 intend to lay this out as clearly as possible because, in my

1 respectful submission, it will be important for Your Honours to
2 consider and, if not here, then hopefully later for a court to
3 consider whether that was, in the end, fair. I think my feelings
4 on the subject I have made known and are clear.

17:31:27 5 PRESIDING JUDGE: We know, indeed.

6 MR JORDASH: I do submit, given this is happening, then the
7 only effective remedy, and I refer back to this morning, is
8 cross-examination.

9 JUDGE ITOE: Which we have always recommended, anyway.

17:31:42 10 PRESIDING JUDGE: Yes, and this is indeed, as part of your
11 cross-examination, that we allow this process to be carried on up
12 to now, I mean, until we had this objection by the Prosecution.
13 That is why we are quite happy to hear you on this, to say if
14 this is a proper way of dealing with this kind of situation or
17:31:59 15 not? We have allowed that to happen extensively, as you know,
16 with almost -- not almost, with all the witnesses where they have
17 made statements as such, and what are you doing now, as far as I
18 can see, is no different with what has been done with the
19 previous witness or previous witnesses, presuming that the line
17:32:19 20 of question you were asking was moving in that direction. I took
21 it to be that.

22 MR JORDASH: Well, they are. I won't continue, but I think
23 the witness's answer that he was effectively asked questions
24 again only supports the force in allowing cross-examination
17:32:40 25 because it demonstrates that we have a process which is perhaps
26 somewhat different to what we might expect, which is simply a
27 proofing process which goes through a statement rather than what
28 might be the case as a re-interviewing process. But the two are
29 important insofar as we need to know which is which and what is

1 happening.

2 PRESIDING JUDGE: We take it your position is you do not
3 agree with the Prosecution and/or that decision from Trial
4 Chamber II?

17:33:12 5 MR JORDASH: Yes.

6 MR TAKU: With due respect, Your Honour, I happen to be lay
7 counsel in the Bizimungu case and the context which Your Honour
8 raised is exactly what transpired. Because in that particular
9 case the prosecuting counsel was also the investigator, where,
17:33:34 10 back in Rwanda, he subsequently was promoted to prosecuting
11 counsel. In the course of cross-examination, learned counsel for
12 General Bizimungu, Mr Christopher Black tried to impinge his
13 reputation, his integrity and I think the judges would like to
14 step in to put a stop to that. So that is the context of it.

17:33:55 15 PRESIDING JUDGE: That was my reading. There was some bad
16 faith alleged somewhere or misconduct. As I say, I thank you
17 very much for your comments.

18 MR TAKU: Thank you, Your Honour.

19 PRESIDING JUDGE: Mr Cammegh.

17:34:07 20 MR CAMMEGH: I wasn't involved in any previous cases, on
21 the international scene that is. In support of Mr Jordash, can I
22 repeat the word I used some time ago but emphasising, as I did
23 then, I use it now in its neutral sense the word "integrity". I
24 am not for one moment suggesting any mala fides or anything like
17:34:27 25 that.

26 In my submission, these judgments should be made on a
27 case-by-case basis because everything is subjective and
28 everything is a matter of degree. If, by virtue of service of
29 various supplemental statements, it is seen by Defence counsel

1 that there is a divergence or the opening of a new front, if you
2 like, against any particular defendant which is not discovered
3 until that supplement is served, then, according to degree, it
4 must be right in principle that Defence counsel have the
17:35:08 5 opportunity to inquire as to the circumstances in which that new
6 disclosure occurred. I repeat, I use the word "integrity" in its
7 neutral sense because we have a duty to investigate the integrity
8 of the manner in which those statements were taken. No one is
9 saying that the Prosecution are not an independent body. What
17:35:34 10 they have a duty to do as an independent body, of course, is to
11 ensure that the evidence that they lay before this Court, because
12 that is, above all, the Prosecutor's duty: To place the evidence
13 before the Court. They have a duty to ensure that the integrity
14 or the method by which that evidence was brought together is
17:35:57 15 beyond reproach. Ergo, it is our duty, through
16 cross-examination, to ensure that that has properly been done.

17 So, as I say, on a case-by-case subjective basis, I would
18 suggest that to in any way encroach upon Defence counsel's
19 ability or right to question that process would not be right. I
17:36:25 20 don't think I can add any more.

21 JUDGE ITOE: I just had a question to address to
22 Mr Harrison. We have not, only in the Rules of this Court but
23 also in the Rules of the International Criminal Tribunal in
24 Rwanda and Yugoslavia, that is the duty, the obligation to
17:36:58 25 disclose statements to the Defence. I would like to imagine that
26 the purpose of this is to ensure that there is no trial by ambush
27 and that even if they're supplemental statements, they should be
28 disclosed so as to enable the Defence to follow the trend of the
29 statements which have been made by this witness before oral

1 testimony.

2 In this Court, we have placed our priorities, at least to
3 some extent, on oral testimony and if we have done this, we have
4 also laid as a principle in this Court the establishment of prior
17:37:39 5 inconsistencies, which are contained in our decision that you
6 know of. I mean, if we were to adopt the ratio in the Bizimungu
7 case, which talks of everything excepting, of course, commenting
8 on the content of the statements, I wonder what you think would
9 become of the reason there is on that behind the principle of
17:38:09 10 disclosure. Because it is, I would imagine, and as we have held,
11 premised on the understanding that the Defence has the right to
12 cross-examine the witness on those previous statements. If we
13 had to adopt this as the standard and to pre-empt the Defence
14 from cross-examining in detail on certain issues and exhibiting
17:38:39 15 certain portions of statements which have been highlighted in
16 this Court, I wonder what you think will become of the necessity
17 of the reasoning behind disclosure obligations. Because if the
18 statements were not supposed to be used to contradict these
19 witnesses, there would be no reason for the Statute to have
17:39:06 20 mandated an obligatory communication disclosure of these
21 statements to the Defence.

22 MR HARRISON: I can only suggest to the Court that what
23 Trial Chamber II may have had in the forefront of its mind was
24 that counsel is always entitled to ask questions about the
17:39:29 25 content of the statement. I think what Trial Chamber II was
26 trying to do was to say you cannot go behind the statement to try
27 to ask questions about what was being said in the meeting, and
28 what may be the inadequate foundation for that decision is when
29 it tries to equate --

1 JUDGE ITOE: What if the witness testifies that he had
2 attended a meeting and testifies on certain issues which we
3 consider crucial that may have formed part of the deliberations
4 in that meeting? Would you think that the situation would have
17:40:10 5 changed in respect to the facts that we are now -- the issue that
6 we now have in hand?

7 MR HARRISON: The problem would arise is if Trial Chamber
8 II was right in equating the relationship with the witness to
9 being akin to that of a client, then it would be problematic, but
17:40:33 10 I am not sure that is a fair description of the relationship. If
11 it is solicitor/client, then clearly the bulk of the law would
12 suggest you can't ask questions about that. But is the
13 relationship between a prosecutor and a witness the same as
14 between a solicitor and a client?

17:40:54 15 JUDGE THOMPSON: And that point has not yet been settled in
16 the international criminal jurisprudence.

17 MR HARRISON: I am just trying to point out -- I think
18 Mr Justice Itoe knows this already because that's why, I take it,
19 he's asking the question, but it seems as if Trial Chamber II was
17:41:13 20 simply saying that the confidential relationship between the
21 Prosecutor and the witness -- well, I'm not a hundred percent
22 sure that the law says there is a confidential relationship.

23 JUDGE THOMPSON: That is the point that has not been
24 settled, but Trial Chamber II has taken a position, which, of
17:41:36 25 course, seems to be based on municipal law.

26 MR HARRISON: Frankly, I don't know the origins.

27 JUDGE THOMPSON: Well, I think maybe it is a common law
28 kind of trend, but this is an issue which there is no settled
29 jurisprudence in the international criminal scene. I just wanted

1 to buttress what my brother was saying on that.

2 MR HARRISON: I don't think there is anything else I could
3 say that would assist the Court.

4 PRESIDING JUDGE: Are you still maintaining an objection?

17:42:07 5 MR HARRISON: Yes, the objection stands.

6 JUDGE ITOE: And we, I think --

7 MR HARRISON: Relying upon paragraphs 19 through to 26.

8 JUDGE ITOE: If you are still insisting on the objection,
9 one very important and crucial issue which you may wish to
17:42:23 10 address is whether the case there you are citing is in pari
11 materia with the situation we have in hand here now.

12 MR HARRISON: That, I say, it is. That is the starting
13 point, and the Prosecution says that it is.

14 JUDGE THOMPSON: We have listened very carefully to the
17:42:51 15 arguments on both sides and we will feel able to come with a
16 very -- a reasoned decision tomorrow morning as soon as we
17 resume. We need to deliberate a little on this.

18 PRESIDING JUDGE: Yes, Mr Harrison.

19 MR HARRISON: Because we have a few minutes, can I tell the
17:43:17 20 Court of a case management problem that has just arisen this
21 afternoon. I haven't informed Defence counsel, but I have just
22 been notified of an illness for the next witness. The next
23 witness was to be a significant, or a lengthy witness and was
24 important that the witness be heard because of certain
17:43:35 25 commitments that Mr Cammegh is committed to. What we are trying
26 to do is we are trying to determine the severity of the medical
27 condition. If it is something that can be managed, I will notify
28 the Court and Defence counsel tomorrow. We are hoping that at
29 worst the witness will simply be ill for three or four or five

1 days, and that if by chance we should need another witness to
2 come in and testify on Friday, we will be asking defence counsel
3 and the Court to allow us to bring in a short, brief witness. So
4 that as soon as possible on either Monday or perhaps early
17:44:21 5 Tuesday the next witness, 113, could testify, and maybe in that
6 way Mr Cammegh's other commitments would not be put in jeopardy.

7 PRESIDING JUDGE: Mr Cammegh.

8 MR CAMMEGH: I would be very happy with that. One thing
9 that Mr Harrison and I have discussed and agreed upon, and I am
17:44:40 10 sure it does not find objection with any of my learned friends,
11 were if it should be necessary for me to jump ahead of Mr Jordash
12 and cross-examine 113 first. I am pretty sure it finds favour
13 with all my learned friends. I hope it will find favour with the
14 Bench should it become necessary. But that is the method we
17:45:12 15 propose in the circumstances.

16 PRESIDING JUDGE: But for the time being, given any
17 assessment of the medical problem that this witness may suffer
18 from, if it is not of a short duration, then we will proceed
19 with -- you're suggesting to proceed with another witness with
17:45:27 20 the hope that this witness will be well enough to proceed next
21 week. That is basically what you are saying?

22 MR HARRISON: That is exactly what I am saying.

23 PRESIDING JUDGE: And you are saying if it is next week,
24 because of Mr Cammegh's commitments -- I don't know, but
17:45:42 25 presumably what you are saying is this witness will be here for
26 many, many days?

27 MR HARRISON: The Prosecution would anticipate almost a
28 full day for the direct examination.

29 PRESIDING JUDGE: We are talking of that witness?

1 MR HARRISON: 113.

2 PRESIDING JUDGE: 113.

3 MR HARRISON: The witness who is currently ill, 113.

4 PRESIDING JUDGE: Okay. I thought he was a witness who
17:46:03 5 would be there for a much longer period of time.

6 MR CAMMEGH: I wouldn't have thought 113 would be too long.
7 I think my cross-examination is probably going to be the longest
8 and I wouldn't have thought mine was going to be any more than --
9 I have been wrong before, but I would hope no more than half a
17:46:20 10 day. I think we will be all right.

11 PRESIDING JUDGE: I am not aware -- I am just looking at --
12 because I thought this was -- I know from looking at my notes
13 that there is one witness who appears will be there for a week or
14 so, but this is not the witness we are talking about.

17:46:35 15 MR CAMMEGH: This is essentially a Gbao witness. I think I
16 am right in saying that. I don't think he will be longer than
17 two -- well, three days.

18 PRESIDING JUDGE: That is fine. If it is acceptable to the
19 Defence I don't have any problem with that. We will have to make
17:46:46 20 do with what we have and hope that the witness gets better soon.
21 Mr Jordash, any problem with that?

22 MR JORDASH: I don't foresee a problem.

23 PRESIDING JUDGE: Mr Taku?

24 MR TAKU: Nothing, Your Honour.

17:47:01 25 PRESIDING JUDGE: So the Court is adjourned until 9.30
26 tomorrow morning. Thank you.

27 [Whereupon the hearing adjourned at 5.47 p.m.,
28 to be reconvened on Tuesday, the 22nd day of
29 November, 2005, at 9.30 a.m.]

EXHIBITS:

Exhibit No. 57A	6
Exhibit No. 57B	6
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WITNESSES FOR THE PROSECUTION:

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