



U.C. Berkeley War Crimes Studies Center  
Sierra Leone Trial Monitoring Program  
Weekly Report

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Trial Chamber I - RUF Trial  
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### Summary

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**Witness TF1-045:** Insider Testimony  
Testimony in Closed Session

#### Summary

Trial Chamber I spent almost the entirety of this week in closed session for the cross examination of witness TF1-366. On Friday afternoon the prosecution moved on to call witness TF1-045 in open session.

#### Witness Profiles at a Glance

*Witness TF1-366* testified as a Group 1, Category C insider. He testified in Mende in closed session, and no further information about him or the content of his testimony is publicly available.

*Witness TF1-045* also testified as a Group 1, Category C insider. He testified in Krio with voice distortion. The witness's testimony began in closed session with questions to personal details. He stated that he had been working close to a high commander of the RUF who was referred to as Mr "A". However, for the most part the examination in chief he was heard in open session with use of voice distortion.

#### Witness TF1-366: Insider Testimony (closed session)

The majority of this week's trial was again held in closed session, with defense teams continuing cross-examination of witness TF1-366 until midday on Friday. Because testimony elicited in closed session is not publicly available, monitoring reports are constrained to procedural issues.

#### Procedural Issues: Comments from the Bench on the Length of Examinations

The bench raised concerns about the growing length of cross-examination by the defense. Counsel for the first accused raised the same arguments he made the week prior, noting that by permitting the prosecution to make unfounded assertions, the bench left defense teams no choice but to fill in the holes left by the prosecution. He added that it might take the prosecution one minute to make an assertion that then requires 15 minutes of cross-examination.

Judge Thompson seized this opportunity (albeit in closed session) to comment on the “intricacies of international criminal trials”, noting the challenge of reconciling the “very important” need for expedition with the need for thoroughness in presentation of both the prosecution and defense cases. Referencing observations from the RUF status conference that this case is progressing more slowly than comparable ones, Judge Thompson stated that the bench “is not particularly troubled about what criticism is made about whether we are proceeding expeditiously or not”, concluding that fairness is the Court’s ultimate concern.

Judge Itoe reiterated Judge Thompson’s comments about expeditiousness, but he apparently also wished to defend the Court before its critics. Employing an unfortunate reference to medieval capital punishment, he noted that “it is very difficult to resort to the guillotine”, implying that while the bench may be in a position to cut off direct or cross examination, it is reluctant to do so. He commented that “before rushing into a criticism as to how we are proceeding” outsiders should note that the Court is “very much preoccupied by the principle of fairness” and has been “very tolerant, if not over-tolerant” of extensive examinations by both parties.

#### Procedural Issues: Premature Conclusions from the Bench?

During cross-examination in closed session, counsel for the first accused had asked the witness how Charles Taylor could have coordinated a specific attack.<sup>1</sup> In a moment of unusual judicial intervention, Judge Itoe preempted the witness’s answer and responded to counsel’s question saying, “He was the head of the movement.” Defense counsel attempted to correct the judge’s assertion, noting that Charles Taylor was *alleged* to be the head of the movement, and that there was no information on record or indeed even an allegation from the prosecution that he had coordinated this specific attack. Judge Itoe suggested that counsel continue with his cross-examination because the witness seemed to be getting confused.

#### Witness TF1-045 – Insider Testimony

##### *Command structure and communication between the RUF and the AFRC by the time of the Freetown Coup in 1997*

Witness TF1-045 was met Mr “A” in Liberia during the time the coup was carried out in Sierra Leone. According to the witness, prior to the coup, Mr “A” had been under arrest in Ivory Coast. The witness heard about the coup through the media (BBC) and radio communication. The witness heard a radio communication between Mr “A” and Mosquito (aka Sam Bockarie, allegedly a senior RUF commander) about Johnny Paul Koroma (aka “JPK”), the chairman of the AFRC, claiming that the RUF should join the AFRC. Mr “A” informed the witness that Foday Sankoh, the alleged RUF leader, who was under arrest in Nigeria by that time, passed the order to Mosquito that the latter should get command from him through Johnny Paul Koroma (aka “JPK”), the AFRC leader. According to the witness Sankoh ordered the RUF to join the AFRC Council so that the two factions could form one government.

Witness TF1-045 subsequently went back to Sierra Leone together with his commander, namely to Kenema, where they met Mosquito in late May 1997. Mr “A” went on to Freetown while the witness stayed in Kenema together with Mosquito.

#### *Mining*

The RUF indictment alleges that the three accused in the RUF case, Issa Hassan Sesay, Morris Kallon and Augustine Gbao, together with the three AFRC accused, shared a common plan, purpose or design (joint criminal enterprise) which was to take any actions necessary to gain and

<sup>1</sup> While the details of this specific attack were discussed in court, the substance of that information cannot be repeated here as the trial was in closed session.

exercise political power and control over the territory of Sierra Leone, in particular the diamond mining areas. The natural resources of Sierra Leone, in particular the diamonds were to be provided to persons outside Sierra Leone in return for assistance in carrying out the joint criminal enterprise.

The prosecution also alleged that the RUF was under the command of Charles Taylor. They rely mainly on evidence that supports the fact that mining activity that took place in the eastern part of Sierra Leone of which Taylor had knowledge. The OTP presume that the RUF received financial support, training, weapons and other support from Charles Taylor and in exchange for such support, the RUF provided him with diamonds from these Sierra Leonean mines.<sup>2</sup>

Mining activity was allegedly carried out primarily in Tongo Field and throughout Kenema district. The witness was, according to his testimony, two times in the Tongo Field for the purpose of mining. From July until September 1997, he was in Tongo together with Major Gweh, who was an AFRC commander who was subordinate to Mosquito. Yamao Kati held the overall command in Tongo by that time. Both of them, Major Gweh and Yamao Kati, reported to Mosquito. The witness saw himself Captain Yamao Kati reporting to Mosquito about security issues, about the mining activity and about fights. Captain Yamao Kati's deputy was Captain Eagle, an RUF.

Witness TF1-045 stated that Major Gweh carried out private mining activity for Mosquito. The witness explained that there were two different types of mining: there was centralised mining for the AFRC on one hand and private mining for a particular commander on the other. Some commanders used to have their own personal staff to carry out the private mining. The witness stated that Tactical, a senior bodyguard to Mosquito, was in charge with personal mining for his commander. Further the witness stated that he saw "Boys" in Tongo – alleged to be a bodyguard to Issa Sesay, as the witness learned later. He was also involved in the mining in the area. According to the witness, the main mining site in the Tongo Field was the Cyborg Pit, a claim that has been supported by other witnesses testifying to events that took place in Tongofield at that time.

In December 1997, the witness went back to Tongo for the second time to mine for his commander, Mister "A". By that time, Jalloh and Eagle are alleged to have had the command over mining in Tongo. They gave him accommodation and he was provided with civilians who carried out the physical work in the mines for him. When the Kamajors attacked the RUF in Tongo, the witness left Tongo for Kenema and finally stopped mining by the end of 1998.

In February 1998, he heard a radio communication of his commander and saw BBC broadcast about the ECOMOG invention into Freetown and that they had forced AFRC out of the city.

The witness also gave evidence about how the mining was organised. According to the witness, there was an institution in charge of the administration of civilians that were involved in the mining, called the OC secretariat. A person called Sergeant Junior was the head of the secretariat. The secretariat used to distribute the civilians to the soldiers in the morning before the mining started. Additionally, a committee was set up comprising of senior civilians who identified the mining sites valued the diamonds that were mined. The witness was once present in the secretariat when a diamond was valued and handed over to Mosquito. According to the witness the committee was also initially in charge of collecting civilians to do the mining.

The mining in the Tongo Field was only allowed during fixed hours. If a group of miners entered the area outside of the set mining hours, they were beaten or shot at by the guards. The witness saw this happening himself and he was an eyewitness to three civilians and two soldiers who belonged to the mining group being shot dead.

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<sup>2</sup> See Indictment Prosecutor vs. Charles Ghankay Taylor, Case No. SCSL-03-I, dated 3 March 2003, at paras. 22 to 25. Available at <http://www.sc-sl.org/Documents/SCSC-03-01-I-001.html>.

The witness stated that most of the guards who watched over the Cyborg Pit were child soldiers (most of whom belonged to RUF, though some were AFRC soldiers). The witness explained that, unlike the adult guards who would first talk to the intruders, the boys would beat up or shoot at "illegal" miners without the slightest hesitation.

#### *Abduction and forced labour*

After a while, the committee could not find enough civilians to carry out the mining. At this point the rebels changed the procedure for recruitment, and AFRC and RUF soldiers went out themselves to capture civilians and forced them to do the mining in the Tongo Field, perhaps suggesting evidence of forced labour. The captured civilians would first be brought to the secretariat and equipped with shovels and other mining tools, and then they would be brought to the fields. He saw up to 500 civilians going to the mines every day. The civilians did the physical work in the mines, and the witness stated that they were treated badly. According to the witness, the civilians were, when they were captured, occasionally forced to take off their clothes except the underwear. He stated that they had to carry out the mining work undressed in order to prevent their escape. The civilians were not provided with any food at this time.

#### *Looting, burning and rapes in Tongo*

According to the witness, the AFRC and RUF soldiers scattered around in Tongo during the nights and went out for looting, burning and rapes. Once, a fight broke out between civilians and soldiers when the civilians were trying to defend themselves. One civilian is alleged to have been killed in that incident. The civilians to the secretariat would report clashes of that kind. The witness further revealed that he was present when at one occasion a soldier was punished for the killing of a civilian. However, the RUF indictment does not include any charges of looting, burning or rape in Kenema district.

#### *Meetings of the AFRC/RUF Council in Freetown in September 1997*

In September 1997, Mr "A" came to Tongo to take the witness to Freetown. When they arrived in Freetown, Witness TF1-045 saw Issa Sesay, Morris Kallon, Colonel Isaac, Rambo, Eldred Collins, Gibril Massaquoi, JP Koroma and Kowas (the AFRC army chief of staff), who all were Supreme Council members, including the witness' commander Mr "A". Witness TF1-045 gave evidence about meetings of the Supreme Council held in Freetown that he attended. The meetings took place at the Wilberforce Barracks, at the UE Building and two at Johnny Paul Koroma (aka "JPK")'s residence. The witness did not attend the last two meetings but accompanied his commander and was waiting outside of the building within the compound. His commander briefed him about the key topics of those two meetings afterwards.

One key issue discussed at the first meeting was the command structure within the AFRC/RUF Council. The witness saw a sheet pinned on the wall that illustrated the hierarchy. The chart showed Johnny Paul Koroma (aka "JPK") as the chairman of the AFRC government, Foday Sankoh was listed as the Vice Chairman, Mr Koroma was the chief of defense staff, Sam Bockarie (aka Mosquito) held the fourth position, fifth was the army chief of staff, followed by Issa Sesay. According to that chart, Eldred Collins had the ministerial post "Trade and Industry" and Peter V Vandy, a Vanguard for RUF, held "Energy and Power".

At the meetings, the problem of the increase of incidents of harassment by the AFRC in Freetown that included looting and rapes was also discussed. Those who attended the meeting discussed the lack of respect of the soldiers towards the commanders. Johnny Paul Koroma (aka "JPK") addressed the Council members and claimed that the situation had to be put under control. The witness stated that their leader (Foday Sankoh) was under arrest by that time. During the time of Sankoh's absence, Steve Bio stepped into his position and represented Foday Sankoh. The pressure placed on the Supreme Council by the international community was also discussed, as was the progress of ammunition deliveries.

### Testimony in Closed Session

In total, Trial Chamber I has dedicated almost two full weeks to witness TF1-366, with three days for examination in chief and six full days for cross examination by all three defense teams. The entirety of this time was spent in closed session and thus there is no information about this witness's testimony available to the public.

Each time the Court is moved to enter a closed session, the Trial Chamber must balance concerns for the protection and safety of that individual witness against the rights of the accused to a fair and public trial. In past sessions Trial Chamber I has explicitly noted the nexus between "fair" and "public", and repeatedly expressed its reluctance to enter into closed session. But the bench is also forced to remember the particular security demands resulting from the Court's *in situ* status.

In the case of witness TF1-366, the prosecution requested the closed session based in part on fear for the safety of the witness and his family members, noting reports that a "member of the public" had already "approached" the witness on behalf of one of the accused. But it is important to note that almost two full weeks of this five-week long trial session have already been conducted without public access.<sup>3</sup> There are three weeks remaining in this trial session, and the prosecution has informed the court that its next witness will need to provide portions of his testimony in closed session as well.

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<sup>3</sup> The sixth trial session in the RUF case is scheduled from 2 November 2005 to 8 December 2005.