



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

**Special Court Monitoring Program Update #24  
Trial Chamber I - CDF Trial 4 March 2005**

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The court lost a trial day on Monday as the judges continued deliberations on a matter raised in the chamber last Friday. The bench had to decide whether to hear testimony from witnesses pertaining to a portion of the CDF consolidated indictment that had been stayed pending further action by the Appeals Chamber. The following day the court delivered its ruling to go forward with witness testimony relating to Moyamba, a district “crime base” which was added to the consolidated indictment without a formal amendment to the original indictment. Three witnesses from this crime base were heard later in the week, and they testified regarding looting, burning, and killing by Kamajors in this southwestern district of Sierra Leone. The outcome of the pending ruling by the Appeals Chamber will determine whether this evidence can be used in the case against the first accused.

Continuing evidence relating to Tongo Field was given by two witnesses this week, and three additional witnesses described events that allegedly transpired in the Moyamba district. Although cannibalism is not an enumerated crime, it figured in the testimony of one Tongo Field witness, and this testimony could be used to support existing indictment counts. The chamber also heard testimony for the first time from a prosecution investigator, the first witness to be brought by court order, who was called on the basis on a successful motion by the defense to clarify issues regarding a written statement from a witness who appeared in the previous trial session.

In anticipation of the opening of the case next week, an AFRC status conference was held by Presiding Judge Doherty on Tuesday in the second trial chamber. Timeliness and efficiency were of considerable concern at the status conference, and the prosecution expressed hope that they will finish presenting their evidence before the summer recess. They announced that they had filed a revised list of 63 core witnesses that they expect to call, and they added that they may seek to tender transcripts from prosecution witnesses in the RUF case. Counsel for the first accused commented that some of the words used in the prosecutor’s opening statement in the RUF trial appeared “boxed and ready for media attention,” and he cautioned the prosecution to avoid using overly charged language in its opening statement next week. Judge Doherty noted that opening statements should be confined to evidence that will be brought in the case.

Ruling regarding Moyamba crime base witnesses

The bench was still deliberating on Monday as to whether it would hear evidence from Moyamba crime base witnesses. Last week the prosecution indicated that it was prepared to go forward with testimony from this group of witnesses; however, the inclusion of the Moyamba crime base is still in contention, since the chamber previously ruled to stay certain portions of the consolidated indictment that had not been included in the initial indictment, and this November 2004 ruling is currently under appeal. Since counsel for the first accused had originally brought the motion that resulted in the stay, the prosecution approached Norman's team and proposed an agreement to hear testimony from these witnesses in order to avoid delaying the proceedings while gathering alternative witnesses. If the appeal is successful, none of the evidence from the Moyamba crime base witnesses will be used against the first accused. If the appeal is unsuccessful, the bench will need to grant the prosecution leave to amend the indictment in order for this testimony to be considered.

In their majority opinion read aloud in court, Judges Boutet and Thompson granted the proposal on the grounds that it was in the interests of judicial economy and it would not prejudice the rights of the first accused, since his team had adequate time to prepare to cross-examine the witnesses. They further indicated that they would revisit the relevance of the evidence after the Appeals Chamber made a ruling. Presiding Judge Itoe delivered a separate dissenting opinion in which he claimed that hearing evidence on stayed issues in the interests of judicial economy would violate the rights of the accused.

#### Witness profiles

*Witness TF2-016*. Witness TF2-016 is 46 years old and was born in Lalehun town, Tongo Field. He went to school for fifteen years. He works as a farmer. The witness testified in Krio.

*Witness TF2-053*. Witness TF2-053 is 47 years old and was born in the Bompali District. He currently resides in Tongo Field. He speaks Krio, Loko, and some Mende. He testified in Krio.

*Witness TF2-073*. Witness TF2-073 is 65 years old and was born in the town of Sembehun in the Moyamba district. He currently resides in Sembehun, and he works as a farmer. He is married with children. The witness is able to read and write English, and he speaks Mende, Krio, and English. He testified in English.

*Witness TF2-168*. Witness TF2-168 is 64 years old and was born in Bradford in the Moyamba district. He is a farmer, and he is married with seven children. He testified in Krio.

*Witness TF2-173*. Witness TF2-173 was the 56<sup>th</sup> witness of the prosecution. He was also born in Bradford in the Moyamba district. He is married with children. The witness is a power saw operator, and he speaks Temne and Krio. He testified in Krio.

#### Further testimony regarding attacks in Tongo Field

Two witnesses testified about events in and around Tongo Field corroborating evidence from witnesses heard in the last several weeks. Witness TF2-016 testified regarding looting and burning of property, including the burning of his father's house, and he stated that the Kamajors forced civilians to carry looted property for them. His testimony focused in particular on the killing of two men in Lalehun, a town in the vicinity of Tongo Field. The killings were allegedly ordered by Kamajor commander Bimba Aruna, who also figured in the testimony of a witness from the previous week in relation to this same incident. As with three witnesses from the previous week, Witness TF2-053 testified regarding the Kamajor attack at the National Diamond Mining Corporation (NDMC) headquarters in late 1997. His testimony further implicated Deputy Battalion Commander Keikula Kamabote in civilian deaths at the headquarters, and he touched upon the selection of members of tribal groups for targeted killings.

*Witness TF2-016: Unlawful killings in Lalehun and alleged cannibalism*

Witness TF2-016 testified that Kamajors arrested quarter head Aruna Konewa and brought him to the town barri, where he was accused of being a collaborator, and the Kamajors commander ordered for him to be killed. After the order was issued, a group of Kamajors allegedly took Konewa to the school compound, where his throat was cut and his stomach slit open. The witness further testified regarding the killing of town speaker Brima Conteh, corroborating the testimony from Witness TF2-013 the previous week; both witnesses testified that they saw Brima Conteh on a forced march to Lalehun carrying a cement block on his head, and both stated that he was killed at a banana plantation near the road leading to Kenema. The witness testified that Conteh was killed in the same manner as Konewa; after his throat was cut and his stomach slit open, he was decapitated and his head was paraded in town. The witness further stated that both men had parts removed that were subsequently eaten by the Kamajors. Although the prosecutor was initially reluctant to lead evidence regarding cannibalism because it is not a count in the indictment, Judge Boutet pointed out that it could be considered under threats to a civilian population, and it may therefore fall under another indictable offense.

Under cross-examination the witness clarified that he was not present at either of the two killings but he saw the corpses afterward, which appeared to contradict what he had stated about the killing of Konewa under direct examination. The witness also agreed that the Kamajors in Tongo were from disparate groups and were operating under different commanders, a point which was also agreed to by Witness TF2-047 last week.

*Witness TF2-053: killings at NDMC headquarters and destruction of houses*

Continuing the testimony from the last several weeks on alleged atrocities in Tongo Field, including unlawful killings and burning of property, Witness TF2-053 gave corroborating evidence regarding the killings at the NDMC headquarters in late 1997. The witness stated that he heard gunshots from his house, and he took his family to the NDMC headquarters at the urging of AFRC soldiers. He stated that AFRC soldiers took off their uniforms and fled when the headquarters came under attack by the Kamajors. Once the Kamajors established control, commander Kamabote selected two women and instructed them to point out rebels among the gathered civilians. The Kamajors immediately shot two men who were singled out by the women; the witness stated that over ten people were shot in this manner. The witness later fled with his wife and family toward Kenema, and on the way he was stopped along the road by groups of Kamajors and asked to state his tribe. Upon arriving in Kenema, he spoke with a woman who claimed that she had been captured along with the witness's son in Talama. She told the witness that she watched as his son was struck on the head with a machete by Commander Kamabote when he admitted that he was a member of the Loko tribe and was related to an AFRC soldier. The witness also heard that his house had been burned, which he verified when he later returned to Tongo.

Moyamba crime base testimony

The chamber began hearing testimony on the contested Moyamba crime base this week, and a total of three witnesses were called to support allegations of unlawful killings as well as destruction and looting of civilian owned property [1]. Testimony ranged from property theft to the brutal murder of one witness's wife. In each of the three cases, the witnesses were cross-examined by counsel for the second and third accused, with Norman's team asking further questions when necessary. As explained above, the court is awaiting a pending decision from the Appeals Chamber before it can determine whether these allegations will be weighed against the first accused.

Complex political and personal alliances formed the background of testimony of the first witness, as it became clear that both counsel for the second and third accused had pre-existing relationships with him. Both cases raised potential conflicts of interest, as counsel for the third accused had assisted the witness in retrieving his stolen property from counsel's client, and counsel for the second accused stated that a member of the team was the current legal representative of the witness.

*Property theft and alleged killings in Sembehun town*

Witness TF2-073 was the first of the Moyamba crime base witnesses to appear before the trial chamber. He stated that he was considered a senior member within his community, a position of respect, and his testimony centered around the theft of his property in Sembehun town, evidence which was led in support of count 5 (pillage) in the indictment. In particular, the witness's testimony implicates third accused Allieu Kondewa in directing Kamajor attacks against villagers.

The witness described the relations between civilians and the Kamajors based in Sembehun town as fairly cordial interrupted by sporadic harassment up until November of 1997, when a number of other Kamajor groups arrived from Gbangbatoke, Tihun, and Talia. At this point harassment of civilians and property theft increased sharply, and the witness recounted examples from individuals he knew who had property stolen by Kamajors in the town. His testimony primarily focused on a specific incident at his house, when a group of Kamajors entered and threatened him at gunpoint. They announced that they were sent by the High Priest Kondewa to raid and obtain resources for the war, and they checked his garage for arms and ammunition. After seeing his car in the garage, the Kamajors sent for reinforcements and told the witness that they wanted the car for errands. When the witness pointing out that Kondewa had announced during a recent visit to Sembehun that Kamajors should not harass and loot property from civilians, the Kamajors allegedly broke into his house, beat up his children, and stole his car, generator, and other properties from the garage. The witness stated that his brother was a Kamajor, and he subsequently saw the witness's car in Kondewa's possession at the CDF base in Talia. The witness's brother pleaded to Norman and Kondewa to return the car, but his pleas were ignored.

The witness left the country for Abidjan, Cote d'Ivoire and returned to Sembehun town in May of 1998. Upon his return he heard that his car was in Kondewa's possession in Bo town, and he tried to recover his car by approaching the ECOMOG anti-looting commission in Freetown. The witness later spotted Kondewa driving into Sembehun town in his car, and the public gallery was clearly amused as the witness described the third accused "relaxing at the back" of his car with the words "King Konde" painted on it. He managed to retrieve the car through the support of various authorities.

The witness's final testimony concerned the alleged killing of two men who had been led into the bush and shot by local Kamajors. The witness investigated the killings and discovered a body floating in the river. At a subsequent meeting summoned by the local chief, eight Kamajors confessed to the killing, and the witness wrote a report to the district office in Moyamba town which prompted a police investigation of the matter.

Testimony became personally charged when the witness described how he had sought help from the Deputy Minister of Internal Affairs, Charles Margai, who allegedly gave the witness a letter which was instrumental in securing the return of his car. Margai was seated in the courtroom as lead counsel for Kondewa, and when the prosecutor asked the witness whether he saw him in the chamber, the Presiding Judge asked him to move on with his evidence. Lead counsel for the second accused stated that their team could not cross-examine the witness due to a conflict of interest: the witness was a client of the Sierra Leonean attorney on the team.

Under cross-examination for the third accused, which was conducted by another member of the team rather than Charles Margai himself, counsel established that the witness had political aspirations and is a member of the Sierra Leone People's Party (SLPP), to which President Kabbah and Margai himself both belong. The witness stated that there had been a national appeal by the government of Kabbah for financial assistance to the Kamajor movement, and he had been in an organization that donated a substantial amount of money to the movement. He further stated that he was not entirely satisfied with the content of Margai's letter because Margai had stated that Kondewa was merely keeping the witness's car in safe custody, which the witness did not agree with. However, revealing the deeper political and personal issues at stake in the relationships between the witness, counsel, and the accused, the witness took the opportunity to state for the record that he was grateful to Margai for what he had done.

*Property theft and unlawful killings in Bradford town*

Witness TF2-168 stated that he had been living in the town of Bradford in Ribbi chiefdom until the end of 1996. Since rebels had occupied Bradford and had been taking the rice of the local farmers, the witness left with his family for Freetown. About one year later he heard that the rebels from Bradford had moved on to Freetown, and he returned to Bradford. The witness established that CDF forces were based in Bumpenh at the time, and there was an ECOMOG presence in Bradford. After ECOMOG troops departed, the CDF moved into Bradford in March of 1998. On 8 March a commander by the name of Obai called a meeting of the Bradford townspeople and informed them that Chief Hinga Norman had placed him in charge of the area between Bumpenh and Ribbi. Obai departed for Bumpenh after the meeting, but on 19 March he returned once again with his troops and raided the town. The witness stated that his property was stolen, including his rice, and the troops retreated to Bumpenh. Obai's troops returned again on 23 March and met up with another Kamajor group. The combined groups fired on the townspeople, but the civilians retreated into the bush and there were no casualties.

The witness testified that the Kamajors returned again two days later, and the witness ran into the bush with his family, but they split up in two different directions. The witness hid in the bush as the Kamajors caught his wife, and he watched as they brought her to Kakpata, the head of the Kamajors, while he was lying in the bush approximately 50 feet away. Kakpata demanded that the witness's wife turn over the bundle that was tied around her waist, which the witness stated contained 1.6 million Leones. The witness alleged that Kakpata asked his men if they would like to shoot the woman, and she was then fatally shot twice by Kamajors in the presence of the witness's granddaughter. The Kamajors then departed for town, and the witness testified that he buried his wife several days later after he was able to get help from other villagers.

Witness TF2-173 testified regarding the killing of a civilian woman, Marie Sankoh, in Bradford in 1998. This witness corroborated evidence from the previous witness that commander Obai was in charge of the Kamajors in Ribbi chiefdom, and he established that Obai was taking orders from Chief Hinga Norman. Kamajors invaded the town, and the witness saw them kill Sankoh with a cutlass and a gun. The witness was shot in the hand, and he later sought medical attention in Freetown. When he returned to Bradford two months later, he discovered that his house had been occupied by Commander Kakpata, the same commander who was allegedly responsible for killing Witness TF2-168's wife.

Court-ordered testimony of prosecution investigator

Questions regarding the manner in which witness statements are prepared have emerged frequently at trial. Last week a witness denied any connection to a statement that was allegedly taken during an interview with the witness, and the uncertainty surrounding this connection was compounded by the fact that the witness was illiterate. Issues with translations and paraphrasing have commonly been raised under cross-examination regarding witness statements. This week the court heard testimony from a prosecution investigator who had been called in as a result of a

successful application by defense counsel to clarify the discrepancies between his written statements and his oral testimony.

During the first week of the third CDF trial session, Witness TF2-021, a child soldier, refuted significant parts of the evidence from his witness statements during oral testimony. Defense counsel for the first accused applied to have the two investigators called in, and in a December ruling the bench stated that “some clarifications from the OTP investigators will provide an evidentiary basis upon which TF2-021 can be judged....some explanation as to why he has repudiated significant portions of his out-of court statements may assist the Court in accurately evaluating his credibility.” [2]

The court heard testimony from Virginia Chitandra, a gender crimes investigator from Zimbabwe, who described the statement-taking process to the trial chamber. She explained that the interviewer would hand-write the statement on a witness statement sheet. She would ask the potential witness if he or she had questions or if there was something that she had not asked, and at the end of the process she would ask her interpreter to read the full statement back to the witness in the witness’s language. If the witness agreed with the accuracy of the statement, he or she was asked to sign the statement or mark it with a thumbprint.

Regarding this particular witness, Chitandra noted that she had failed to record the name of the interpreter on the witness statement cover sheet. She also disclosed that the interpreter had a connection to the witness and was not a licensed interpreter. She further stated that there may have been a few occasions in which she felt the interpreter may not have understood her question, and she would need to ask the question again. As to the truth of the statement, Chitandra expressed that she accepts it in its entirety: she noted that she has a system that she follows in order to ensure that the witness agreed to what was written.

1.) Paragraph 24 (d) of the 5 February 2004 Consolidated Indictment includes allegations regarding Kamajor operations in the Moyamba District in the period between October 1997 and December 1999.

2.) Ruling on Defense Oral Application to Call OTP Investigators Who Took Down in Writing Statements of Prosecution Witness TF2-021, 7 December 2004, paragraphs 20-21.