Charles Taylor Monthly Trial Report (May 1, 2010 – May 31, 2010)
By Jennifer Easterday and Elena Marrs

1. Overview

Trial Chamber II at the SCSL continued to hear evidence from Defense witnesses this month in the case against Charles Taylor. Witnesses, all of whom were NPFL insiders, testified about the early days of the NPFL, and told the Court that Taylor did not supply the RUF with arms or ammunition. Witnesses further claimed that the NPFL did not use child soldiers or commit crimes against Liberian civilians—who, witnesses testified, welcomed and supported the NPFL.

Witnesses who appeared this month include:

1) DCT-131, Karnah Edward Mineh
2) DCT-226, Teman Edward Zaymay
3) DCT-228, Joseph Menson Dehmie

May also saw a motion in which the Prosecution requested to re-open its case and hear testimony from Naomi Campbell and others about Taylor allegedly giving Campbell a large rough-cut diamond/several rough-cut diamonds while at a fundraiser at Nelson Mandela's house in 1997. The motion spurred significant media coverage for the SCSL, as Campbell publicly denied that Taylor had given her diamonds but refused to cooperate with the SCSL Prosecution.[1]

This report summarizes witness testimony heard during the month of May and identifies important issues that have arisen at trial. As with previous WCSC monitoring reports, it is available at http://socrates.berkeley.edu/~warcrime/SL_Monitoring_Reports.htm.

2. Defense Themes and Strategies

This month the Defense continued the chronological approach to presenting its case, but turned away from evidence about the RUF and towards evidence about the NPFL. The Prosecution alleges that RUF tactics and crimes

[1] See, e.g., *BBC*, "Naomi Campbell may be subpoenaed by war crimes court," 20 May 2010, available at http://news.bbc.co.uk/2/hi/world/europe/10133754.stm; *The Wall Street Journal*, "War Crimes Prosecutors to Subpoena Naomi Campbell," 20 May 2010, available at http://online.wsj.com/article/SB10001424052748704513104575256460202824660.html?mod=WSJ_WSJ_US_News_5; ABC News, "Naomi Campbell Explodes after ABC News 'Blood Diamond' Questions," 22 April 2010; Taylor, Case No. SCSL-03-01-T-962, "Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses," 20 May 2010 [hereinafter "Three Additional Witnesses Motion"], ¶¶ 9 – 10.

mirrored those of the NPFL—thereby demonstrating Taylor's control over or influence on the RUF. To put this theory into doubt, the Defense elicited evidence about Taylor's rise to power in Liberia, NPFL training in Libya, NPFL treatment of civilians and alleged crimes, and early NPFL-RUF relations. The Defense also used its witnesses to discredit several Prosecution witnesses, especially ZigZag Marzah and Dauda Aruna Fornie.

3. Prosecution Themes and Strategies

The Prosecution attempted to discredit Defense witnesses by emphasizing prior inconsistent statements made by the witnesses and prior Defense witnesses. The Prosecution furthermore focused its cross-examination on crimes allegedly committed by the NPFL, including the use of child soldiers, torture, rape, and other maltreatment of civilians. Although the witnesses denied all such allegations, the Prosecution used findings of the Liberian Truth and Reconciliation Commission to discredit such testimony.

4. Legal and Procedural Issues

a. Taylor Absent from Court

For reasons discussed primarily in closed session, Taylor was unable to attend the proceedings on May 10, 2010, which led to an adjournment for the day.

b. Length of Defense Case

The Defense told the Court that it anticipated concluding its case late August or early September. In response, the Presiding Judge urged the Defense to trim the number of witnesses to the minimum necessary, given that the burden of proof in the case rests with the Prosecution and not with the Defense. The Defense team was reminded that the Court is under a duty to conduct an expeditious and efficient trial, and to this end has the power to ask the team to show cause as to why it cannot reduce the number of witnesses (though it made clear its reluctance to use this power.) Defense lead counsel, Mr. Courtenay Griffiths, QC, assured the Court that were it to be left solely to the Defense team, there would be a minimum of witnesses called. However, he noted, the selection of witnesses is Taylor's prerogative, with the Defense team acting on his instructions.

c. Naomi Campbell Motion

The Prosecution, in two separate motions, requested that the Court allow it to call three additional witnesses—Naomi Campbell, Carole White, and Mia Farrow—and issue a subpoena for Campbell.[2] In September 1997, Taylor purportedly gave Campbell a large rough diamond or several rough diamonds

[2] *Taylor*, Case No. SCSL-03-01-T-962, "Public with Confidential Annexes A and B Prosecution Motion to Call Three Additional Witnesses," 20 May 2010 [hereinafter "Additional Witnesses Motion"]; *Taylor*, Case No. SCSL-03-01-T-961, "Prosecution Motion for the Issuance of a Subpoena to Naomi Campbell," 20 May 2010 [hereinafter "Subpoena Motion"].

as a gift while he and she were in South Africa. The Prosecution argued that the three witnesses were necessary to prove a "central issue" to the Prosecution's case, namely that Taylor possessed rough diamonds, which the Prosecution has maintained he used to buy arms. Taylor has denied these allegations.[3]

In order to call the three additional witnesses, the Prosecution would have to reopen its case or call the witnesses in rebuttal. The Prosecution argued that although the Rules of Procedure and Evidence (RPE) do not afford the Prosecution the right to reopen its case, jurisprudence from other international criminal courts allows for it under certain limited circumstances. Namely, the Prosecution would have to prove that the evidence, despite due diligence, "could not have been identified and presented in the case in chief," and the Court would have to balance the probative value of the evidence against the "fairness to the accused of admitting evidence late in the proceedings."[4] The Prosecution submitted that its motion could only be denied if the need to ensure a fair trial substantially outweighed the probative value of the evidence.[5]

The Prosecution maintained that it had conducted due diligence in investigating information it received in June 2009, on a confidential basis, regarding the alleged gift to Campbell. Campbell's lawyer purportedly told the Prosecution that Campbell would not consent to be interviewed, and subsequent attempts by the Prosecution to contact Campbell or her lawyer were unsuccessful.[6] The Prosecution claimed that it had evidence from two others—actress Mia Farrow and Campbell's then-agent, Carole White—who can testify that Campbell did receive a diamond/diamonds from Taylor. Campbell allegedly told Farrow that, after a dinner for the Nelson Mandela Children's Fund at Mandela's residence, she was visited by several men who gave her a large diamond as a gift from Taylor.[7] White, also present at the dinner party, told the Prosecution that she personally heard Taylor say he wanted to give diamonds to Campbell, and personally saw diamonds delivered to Campbell by Taylor's men.[8]

This new evidence, the Prosecution averred, would corroborate other evidence indicating that Taylor received diamonds from the AFRC/RUF junta and that he arranged for arms to be shipped to the junta. This, the Prosecution argued, would "go to the heart" of the alleged joint criminal enterprise between Taylor and the AFRC/RUF.[9] The Prosecution argued that the evidence would directly contradict Taylor's testimony on the issue—that he never possessed rough diamonds.[10] Furthermore, because the evidence

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[3] Additional Witnesses Motion, ¶ 15; Subpoena Motion, ¶ 2.
[4] Additional Witnesses Motion, ¶ 5 (citing Prosecutor v. Delalic et al., Case No. IT-960210A, "Judgment," Appeals Chamber, 20 Feb. 2001, ¶ 283).
[5] Additional Witnesses Motion, ¶ 5.
[6] *Id.* at ¶¶ 9-10.
[7] *Id.* at ¶ 11.
[8] *Id.* at ¶ 12.
[9] *Id.* at ¶ 15.
[10] *Id.*

was properly disclosed to the Defense in a timely manner, the Prosecution denied that allowing the evidence would jeopardize Taylor's fair trial rights.

In the alternative, the Prosecution requested that the evidence be presented in rebuttal under Rule 85(A) of the RPE.[11] Rebuttal evidence, allowed at the Court's discretion, must "relate to a significant issue arising directly out of defense evidence which could not reasonably have been anticipated."[12] According to Trial Chamber II in the *AFRC* case, the Prosecution must establish (i) that the evidence arose extemporaneously during the Defense case-in-chief and was unforeseeable, and (ii) that the evidence "has significant probative value to the determination of an issue central to the determination of the guilt or innocence of the Accused."[13] The Prosecution relied on the same probative value arguments described above. It further argued that it could not have foreseen that Taylor would testify that he never possessed any diamonds (apart from a few jewelry items he owned) or that he was too busy with his presidential duties to direct the war in Sierra Leone. While Taylor described the trip to South Africa as an example of the official trips that took up his time, the Prosecution argued that the trip (and possibly others) was in fact undertaken on behalf of the AFRC/RUF junta.[14]

Additionally, in a separate motion, the Prosecution requested that the Court subpoena Campbell to appear as a witness pursuant to Rule 54 of the RPE. The Prosecution argued that the subpoena should be allowed because it is expected to elicit material evidence that cannot be obtained without judicial intervention.[15]

The Defense objected to both Prosecution motions. The Defense opposed the Prosecution's request to call additional witnesses on several grounds. First, the Defense submitted that no reasonable Court could find the anticipated evidence relevant to the charges against Taylor. Second, the Defense argued that the Prosecution failed to meet the legal standards required to either reopen its case or provide evidence in rebuttal. Third, the Defense invoked the need for finality to the proceedings, arguing that allowing the Prosecution to present additional evidence at this advanced stage in the trial would prejudice the administration of justice.[16]

The Defense asserted that the additional witnesses' anticipated testimony was of little probative value, and that this was outweighed by prejudice to the Accused. The Defense maintained that it would "stretch the imagination" for a fact finder to find a nexus between the anticipated testimony and the

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[11] *Id.* at ¶¶ 19-20.
[12] *Id.* at ¶ 20 (citing Prosecutor v. Brima et al., Case No. SCSL-04-16-T-582, "Decision on Confidential Motion to Call Evidence in Rebuttal," 14 Nov. 2006).
[13] Additional Witnesses Motion, ¶ 21 (citing Prosecutor v. Brima et al., Case No. SCSL-04-16-T-582, "Decision on Confidential Motion to Call Evidence in Rebuttal," 14 Nov. 2006).
[14] Additional Witnesses Motion, ¶¶ 24-25.
[15] Subpoena Motion, ¶¶ 12-18.
[16] *Taylor*, Case No. SCSL-03-01-T-969, "Defence's Response to Prosecution's Motion to Call Three Additional Witnesses," 31 May 2010 [hereinafter "Additional Witnesses Response"], ¶ 3.

Prosecution's gun-trafficking scenario.[17] Additionally, as support for its argument that allowing the witnesses would violate Taylor's fair trial rights, the Defense pointed to the Trial Chamber decision to deny the Prosecution's request to use Mia Farrow's declaration during Taylor's cross-examination, when the Court recognized that the declaration was highly prejudicial to Taylor.[18]

The Defense also noted that no trial before the Special Court had seen a successful application to reopen a party's case-in-chief.[19] The Defense acknowledged that international jurisprudence did indeed recognize a party's right to be "granted leave to re-open its case in order to present new evidence not previously available to it."[20] However, the Defense pointed out that this might only be done in "exceptional circumstances."[21] The Prosecution, the Defense submitted, failed to make a showing of these exceptional circumstances.

The Defense submitted that the Prosecution did not exercise due diligence in investigating pertinent evidence regarding Taylor's alleged possession of diamonds. More specifically, it maintained that the entire line of inquiry was the result of a fortuitous tip-off, and not of proactive investigative efforts by the Prosecution. Only after being informed of the alleged gift did the Prosecution begin its investigation of Taylor's 1997 trip to South Africa.[22]

The Defense also asked the Court to deny the Prosecution's request to hear the three additional witnesses in rebuttal. To this end, the Defense invoked the test for rebuttal evidence previously adopted by the Trial Chamber, namely that "rebuttal evidence must relate to a significant issue arising directly out of Defense evidence which could not reasonably have been anticipated."[23] According to the Defense, the sought after testimonies did not deal with new issues arising directly out of Defense evidence but with issues which should have been reasonably anticipated. Furthermore, the Defense cited an ICTR decision holding that, "when the proposed rebuttal evidence challenges the credibility of a witness, or other collateral matters, the

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[17] *Id.* at ¶ 17.
[18] *Id.* at ¶ 20; *Taylor*, Trial Transcripts, 14 January 2010, page 101 (line 24).
[19] *Id.* at ¶ 5 (citing Prosecutor v. Brima et al., Case No. SCSL-04-16-T-560, "Decision on Confidential Prosecution Motion to Reopen the Prosecution Case to Present an Additional Prosecution Witness," 28 Sept. 2006).
[20] Additional Witnesses Response, ¶ 5 (citing Prosecutor v. Brima et al., Case No. SCSL-04-16-T-560, "Decision on Confidential Prosecution Motion to Reopen the Prosecution Case to Present an Additional Prosecution Witness," 28 Sept. 2006, ¶ 17).
[21] Additional Witnesses Response, ¶ 5 (citing Prosecutor v. Had□ihasanovi□ & Kubura, Case No. IT-01-47-T, "Decision on the Prosecution's Application to Reopen its Case," 1 June 2005, ¶ 47; Prosecutor v. Brima et al., Case No. SCSL-04-16-T-560, "Decision on Confidential Prosecution Motion to Reopen the Prosecution Case to Present an Additional Prosecution Witness," 28 Sept. 2006, ¶ 22).
[22] Additional Witness Response, ¶ 11.
[23] *Id.* at ¶ 26 (citing Prosecutor v. Brima et al., Case No. SCSL-04-16-T-582, "Decision on Confidential Motion to Call Evidence in Rebuttal," 14 Nov. 2006, ¶ 32).

Chamber should exclude it in rebuttal."[24] Given that the anticipated evidence would "refute" claims made Taylor in his testimony, the Defense argued that it would challenge Taylor's credibility and as such should be rejected.

Lastly, the Defense argued that, since the Prosecution had already presented evidence during its case in chief regarding Taylor's alleged possession of diamonds, the anticipated testimonies would provide only cumulative evidence, which according to precedent should not be accepted in rebuttal.[25]

In arguing against the motion to subpoena Campbell, the Defense contended that Campbell's testimony would mainly generate media capital for the proceedings and not evidentiary capital necessary to try the case fairly.[26] Campbell's evidence, the Defense claimed, was of low probative value and only tangential to the real issues in the case. The Defense argued that the Prosecution based its motion on the premise that Campbell would differ from her public statements on the matter—in which she maintained that she did not receive any diamonds from Taylor—if she were called to testify. This, according to the Defense, contradicts SCSL Appeals Chamber jurisprudence that "an applicant cannot rely on speculative hopes that a witness' evidence might expand during his testimony in order to justify a request for a subpoena."[27] The Defense pointed out that the evidence was obtainable elsewhere—namely, the testimony of Farrow and White, and emphasized that Campbell was likely to be a hostile witness, and therefore not very helpful in advancing the Prosecution's goals. The Defense further pointed out that the Trial Chamber should be cautious about issuing an order that might not be enforceable due to the SCSL's lack of Chapter VII powers, and its dependence on voluntary cooperation of States.[28] In short, the Defense argued that whatever jurisdiction Campbell resided within, that country would have no obligation to enforce the SCSL subpoena.

In a reply on the matter, the Prosecution argued that SCSL Appellate jurisprudence provides that the Prosecution must only show a "reasonable basis" that the evidence is "likely to be" or that "there is at least a good chance" it is of material assistance to the Prosecution.[29] Moreover, the Prosecution argued that although Campbell denied receiving any diamonds

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[24] Additional Witnesses Response, ¶ 28 (citing Prosecutor v. Ntagerura et al, Case No. ICTR-99-46-T, "Decision on the Prosecutor's Motion for Leave to Call Evidence in Rebuttal Pursuant to Rules 54, 73, and 85(A)(iii) of the Rules of Procedure and Evidence," 21 May 2003, ¶ 32).
[25] Additional Witnesses Response, ¶ 29 (citing Prosecutor v. Ntagerura et al, Case No. ICTR-99-46-T, "Decision on the Prosecutor's Motion for Leave to Call Evidence in Rebuttal Pursuant to Rules 54, 73, and 85(A)(iii) of the Rules of Procedure and Evidence," 21 May 2003, ¶ 32).
[26] *Taylor*, Case No. SCSL-03-01-T-968, "Defence Response to Prosecution Motion for the Issuance of a Subpoena to Naomi Campbell," 31 May 2010 [hereinafter "Campbell Response"], ¶ 3.
[27] Campbell Response, ¶¶ 4-6 (citing Prosecutor v. Norman et al., Case No. SCSL-04-14-AR73-688, "Decision on Interlocutory Appeals Against Trial Chamber Decision Refusing to Subpoena the President of Sierra Leone," 11 Sept. 2006, ¶ 22).
[28] Campbell Response, ¶¶ 15-17.
[29] *Taylor*, Case No. SCSL-01-01-T-971, "Prosecution Reply to Defence Response to Prosecution Motion to Subpoena Naomi Campbell," 7 June 2010, ¶ 4 [hereinafter "Campbell Reply"].

from Taylor in one interview, this was a "limited and spontaneous response." Depending on the interpretation of "receive," they argued, this was not necessarily contradictory to anticipated evidence from Farrow or White.[30] According to the Prosecution, although Farrow and White have indicated they will testify, Campbell's testimony is material as she allegedly personally interacted with Taylor and was the recipient of the gift.[31] The Prosecution also argued that the risk of a non-cooperating state should not prevent the SCSL from issuing subpoenas.[32]

The Judges must now consider the motions and render their decisions.

d. Previously Adjudicated Facts from RUF Trial Judgment

Both the Defense and the Prosecution have requested that the Trial Chamber exercise its discretion pursuant to Rule 94(B) of the RPE[33] by taking judicial notice of previously adjudicated facts from the RUF trial.[34] According to SCSL jurisprudence, for the Trial Chamber to take judicial notice of a previously adjudicated fact, the following criteria must be met:

1. **The fact must be distinct, concrete and identifiable;**
2. **The fact must be relevant and pertinent to an issue in the current case;**
3. **The fact must not contain legal conclusions, nor may it constitute a legal finding;**
4. **The fact must not be based on a plea agreement or upon facts admitted voluntarily in an earlier case;**
5. **The fact clearly must not be subject to pending appeal, connected to a fact subject to pending appeal, or have been finally settled on appeal;**
6. **The fact must not go to proof of the acts, conduct, or mental state of the accused;**

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[30] *Id.* at ¶ 6.
[31] *Id.* at ¶ 8.
[32] *Id.* at ¶ 12.
[33] Rule 94(B) provides: "At the request of a party or of its own motion, a Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Special Court relating to the matter at issue in the current proceedings." Rules, Rule 94(B).
[34] *Taylor*, Case No. SCSL-03-01-T-928, "Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgment Pursuant to Rule 94(B)," 16 March 2010 [hereinafter "Defence Motion for Judicial Notice"]; Taylor, SCSL-03-01-T-935, "Prosecution Motion (with Appendix A and B) for Judicial Notice of Adjudicated Facts from the RUF Judgment," 31 March 2010 [hereinafter "Prosecution Motion for Previously Adjudicated Facts"]; *see also* Prosecutor v. Sesay et al., Case No. SCSL-04-15-T, Trial Judgment, 2 March 2009.

7. The fact must not be sufficient, in itself, to establish the criminal responsibility of the accused;
8. The fact must not have been reformulated by the party making the application in a substantially different or misleading fashion.[35]

Even if the proposed fact meets the above-stated criteria, the Trial Chamber must still balance taking judicial notice of the fact against the interests of justice, taking into account judicial economy and consistency of case law, on one side, and the fundamental right of an accused to a fair trial, on the other.[36] SCSL jurisprudence provides that taking judicial notice under Rule 94(B) creates a rebuttable presumption as to the accuracy of the fact—it does not shift the ultimate burden of persuasion, which remains with the Prosecution.[37]

The Defense argued that the forty-eight facts from the *RUF* trial judgment that it proposed for judicial notice are relevant to the modes of liability with which the Prosecution has charged Taylor.[38] The Defense contended that the facts were neither contentious nor involved legal conclusions. Judicial notice would ostensibly enable the Defense to streamline the evidence it would need to present during the remainder of its case and allow the Prosecution to streamline the evidence that it would need to address in its closing brief.[39] Moreover, the Defense submitted that Rule 94(B) does not specify at which stage in the proceedings an application for judicial notice must be raised[40] and that the Prosecution would not be disadvantaged if the Trial Chamber decided to judicially note the proposed facts at this stage in the proceedings.[41] The Defense argued that the Prosecution might have already led evidence to challenge the rebuttable presumption that would be established by judicial notice of the proposed facts,[42] or could challenge such rebuttable presumptions through cross-examination of Defense witnesses or by calling rebuttal evidence.[43]

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[35] *Taylor*, Case No. SCSL-03-01-T-765, "Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgment Pursuant to Rule 94(B)," 5 June 2009, ¶ 26.
[36] *Id.* at ¶ 28; Sesay Decision on Adjudicated Facts, ¶¶ 20, 21.
[37] *Taylor*, Case No. SCSL-03-01-T-765, "Decision on Defence Application for Judicial Notice of Adjudicated Facts from the AFRC Trial Judgement Pursuant to Rule 94(B)," 23 March 2009, ¶ 27; Prosecutor v. Sesay et al., Case No. SCSL-04-15-T-1884, "Decision on Sesay Defence Application for Judicial Notice to be taken of Adjudicated facts under Rule 94(B), 23 June 2008, ¶ 18.
[38] The facts the Defense proposed are related to, inter alia, the following issues: RUF ideology; RUF operational command structure; the RUF from November 1996 to May 1997; the RUF during the junta government: May 1997 to February 1998; the intervention: February 1998; Bombali and Koinadugu Districts: May to November 1998; the attack on Freetown: December 1998 to January 1999; and the RUF from February 1999 to September 2000. Defence Motion for Judicial Notice, Annex A.
[39] The Defense submitted that taking judicial notice of the proposed facts would result in them calling very few, if any, mid- to low-level RUF and AFRC witnesses. Defence Motion for Judicial Notice, ¶¶ 2, 11.
[40] *Id.* at ¶ 10.
[41] *Id.* at ¶ 12.
[42] *Id.*
[43] *Id.*

The Prosecution opposed the Defense Motion on several grounds. The Prosecution argued that the exercise of the Trial Chamber's discretion would be contrary to the interests of justice and would not promote judicial economy, and that the Defense had failed to satisfy several underlying criteria for judicial notice of adjudicated facts. The Prosecution submitted that SCSL jurisprudence supports the admission of adjudicated facts that do not "involve interpretation," such facts having to be determined on the merits in an adversarial setting.[44] The Prosecution also fought the Defense's judicial economy argument, observing that taking judicial notice of the proposed facts would not significantly impact the length of the trial, given its advanced stage.[45] Moreover, the Prosecution noted that the late filing of a motion for judicial notice of adjudicated facts is a factor *against* admission as the Prosecution had already completed its case and cross-examined the Accused as well as a significant percentage of Defense witnesses.[46]

In spite of these judicial economy arguments, the Prosecution also filed a motion for judicial notice of its own. First, the Prosecution sought legal notice of thirty-eight facts from the *RUF* trial judgment.[47] The Prosecution's arguments in support of its motion mirrored the Defense's arguments, namely, harmonization of judgments, promotion of judicial economy and streamlining pertinent issues for the final judgment.[48] However, the Prosecution did not elaborate on how taking judicial notice of the proposed facts would promote judicial economy or explain any distinctions between its positions on this issue.[49] Second, the Prosecution preemptively listed twelve facts that in its estimation, together with the facts proposed by the Defense, went to central issues in the case that have been extensively litigated, and thus should not be judicially noticed.[50] The Prosecution's position was that all facts relating to RUF and AFRC cooperation and involvement in the military activity that culminated in the invasion of Freetown in January 1999 should be determined only on evidence in the present case.[51] The Prosecution emphasized that the Trial Chamber could only weigh conflicting evidence that it had itself been able to hear and evaluate in terms of credibility and trustworthiness of sources.[52] In the alternative, the Prosecution argued that, if the Court decided to take notice of the facts listed in the Defense's application for judicial notice, it should also take judicial notice of the twelve

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[44] *Taylor*, Case No. SCSL-03-01-T-930, "Public with Annex A Prosecution Response to Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B)," 26 March 2010, ¶ 12.
[45] *Id.* at ¶ 14.
[46] *Id.* at ¶¶ 15, 16.
[47] Prosecution Motion for Previously Adjudicated Facts, Appendix A. The facts in Appendix A related to inter alia, intelligence reporting; AFRC and RUF alliance; the AFRC/RUF in Kono and Kailahun Districts (1998); attack against the civilian population; terrorizing the civilian population; child soldiers; looting; forced labor; sexual slavery; and physical violence.
[48] Prosecution Motion for Previously Adjudicated Facts, ¶ 22.
[49] *Id.* at ¶ 22; *c.f. Taylor*, Case No. SCSL-03-01-T-930, "Public with Annex A Prosecution Response to Defence Application for Judicial Notice of Adjudicated Facts from the RUF Trial Judgement Pursuant to Rule 94(B)," 26 March 2010, ¶¶ 14 – 16.
[50] Prosecution Motion for Previously Adjudicated Facts, ¶ 22.
[51] *Id.* at ¶ 25.
[52] *Id.*

additional facts.[53] The Prosecution submitted that these additional facts were necessary to provide a more complete and balanced picture of the RUF findings than would otherwise be presented if judicial notice were taken only of the facts put forward by the Defense.[54]

The Prosecution also argued that Rule 94(B) applications were not limited to a specific stage of the proceedings[55] and that it was not precluded from invoking the Rule after it had completed the presentation of the evidence in its case. The Prosecution averred that the motion could not have been brought prior to the delivery of the RUF Appeals Judgment on October 26, 2009, since only after the delivery of the Appeals Chamber's decision did it become possible to establish whether the proposed facts were finally adjudicated (*i.e.*, not included in, or affected by, any part of the decision).[56] Furthermore, the Prosecution submitted that the utility of seeking judicial notice of adjudicated facts could not have been properly assessed prior to the conclusion of the testimony of the Accused and the commencement of the testimony of other Defense witnesses.[57]

The Defense opposed the Prosecution motion, arguing that it did not promote the interests of justice as it was brought "in retaliation" and to give the Prosecution "a second chance at responding" to the Defense application.[58] The Defense asked the Trial Chamber not take judicial notice of any of the facts proposed by the Prosecution because doing so would violate the fair trial rights of the Accused and because the proposed facts did not meet the criteria for judicial notice of adjudicated facts.[59] The Defense pointed out that the Prosecution sought to introduce facts into the record more than a year after the closing of its case; however, it rejected this rationale as applied to its own application since the Defense's case is still ongoing.[60] Furthermore, the Defense submitted that taking judicial notice of the Prosecution's proposed facts would shift the burden of the production of evidence from the Prosecution to the Defense, thus negatively impacting the Accused's procedural rights and undermining judicial economy, as the Defense would potentially have to call additional witnesses or conduct further investigations.[61]

The judges now have the motion under consideration, but had not rendered a decision as of the publication of this report.

e. Judges Plenary Session: Change to Rules of Procedure and Evidence

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[53] *Id.* at ¶ 3.
[54] *Id.* at Appendix B. The facts included in Appendix B related to AFRC – RUF relations leading up to and during the 1999 Freetown invasion.
[55] Taylor Adjudicated Facts Decision, ¶ 32.
[56] Prosecution Motion for Previously Adjudicated Facts, ¶ 19.
[57] *Id.* at ¶ 21.
[58] *Taylor*, Case No. SCSL-03-01-T-941, "Defence Response to Prosecution Motion for Judicial Notice of Adjudicated Facts from the RUF Judgement," 12 April 2010.
[59] *Id.* at ¶ 5.
[60] *Id.* at ¶ 17.
[61] *Id.* at ¶ 18.

From May 26 to May 28, 2010, the Special Court held the 14th Plenary Meeting of Judges. The meeting was held in The Hague. The Registrar, Prosecutor, and Principal Defender briefed the Judges on a variety of issues, including the enforcement of sentences, the completion strategy, and residual issues. During the Plenary, the Judges amended Rule 81 of the RPE;[62] adopted the SCSL's 7th Annual Report; and re-elected Justice Jon Moadeh Kamanda as President of the Court and Justice Emmanuel Ayoola as Vice President.[63]

The change to the RPE concerns the publication of the daily transcript and the authorization of the Trial Chamber to allow photography or video or audio recording of the trial. The Judges added the following provision to Rule 81:

"(B) After the publication of the daily final public transcript, the record of proceedings shall not be amended except by order of the Chamber on its own motion or on the application of a party to the Chamber."

This addition highlights issues that the Judges of Trial Chamber II have had with the transcript publication process in the *Taylor* trial. In October 2008, while discussing protective measures granted to Prosecution witness TF1-076, it came to the Court's attention that the Witness and Victims Support (WVS) unit had been redacting the public transcripts without a specific Court order.[64] The Court ordered that the head of the WVS submit a report detailing how the WVS obtained the authority to make such redactions. According to the Registrar, who oversees the WVS, the redactions were done so as to remove any information identifying protected witnesses, pursuant to the SCSL's RPE and various Court orders regarding protective measures for witnesses in SCSL trials.[65] The Registrar noted that the permanent official record remained untouched by WVS.[66]

On May 12, the Trial Chamber took issue again with the Court Management Section's inclusion of errata in a transcript from 12 March 2008. Justice Sebutinde, concerned that the process of making errata resulted in two different transcripts in the trial record, held that the Court would not recognize the errata, and said the following:

> [. . .] [I]f there is an error done in translation, it's usually corrected during the Court and before the judges. But who does this kind of thing privately two years down the road to change the testimony of a witness because, in their opinion, the whole

[62] Pursuant to Rule 24(i) of the Rules of Procedure and Evidence.
[63] *See* SCSL Press Release, "Justice Jon Kamanda Elected Special Court President; Judges End Plenary," 31 May 2010, available at http://www.sc-sl.org/LinkClick.aspx?fileticket=dx4xgK1gDn0%3d&tabid=53.
[64] *See* Easterday, "Charles Taylor Trial Report (October 1 – 31, 2008)," UC Berkeley War Crimes Studies Center, 11.
[65] *Taylor*, Case No. SCSL-03-1-638, "Submission of the Registrar Regarding Redaction Practices by the Witnesses and Victims Section for the Purpose of Public Dissemination of Court Transcripts," 17 Oct. 2010, ¶ 11 [hereinafter "Registrar's Submission"].
[66] *Id.* at ¶ 12.

> **testimony was mistranslated? This is what we are wondering, whether this has been going on or whether this is a one-off thing. [. . .] First of all, we are shocked that proceedings can take place in court in whatever language the interpretation happens as it happens by people we trust the Court appointed knowing that they are capable of interpreting accurately. Two years down the road someone quietly determines to change the interpretation because they know better and actually publishes it as a correction of the official record. The Trial Chamber is the trier of fact. We do not recognize these additions and changes that are done behind the scenes. These changes rob the parties of an opportunity to comment on what was heard in court and frankly, I am shocked that this has been going on. I do not know how long this has been going on, but it's not good and it's not right. It is illegal; let me call it what it actually is. It is illegal for anyone, I don't care if it's the chief of languages, to change the official transcript outside of the court sitting, and I hope it doesn't happen again. We do not recognise it and we will go by the official record in this case.** [67]

The Registrar filed a submission in an attempt to provide clarity on the process by which transcripts may be corrected. The Registrar noted that she has a duty, pursuant to Rules 81(A) and Rule 33(A) of the RPE, to ensure that accurate records of the proceedings are kept and made public, as appropriate.[68] She submitted that, based on a procedure similar to that used at the ICTY and ICTR, and applied at all prior cases at the SCSL, the Court Management Section follows a process by which parties have the opportunity to review daily transcripts for accuracy, "in order to redact confidential information that may have been erroneously disclosed in open court, and/or correct typographical or interpretation errors."[69] Parties also have the opportunity to review the transcripts throughout the trial and inform the Court Management Section if they find any errors. Possible errors found by the Parties or by the Chambers are then vetted by the Court Management Unit by having the Language/Stenography unit check the transcript against audio recordings of testimony and translation. If the error relates to witness protection and requires a redaction, the entire transcript is re-issued. If the error requires other corrections, errata sheets are issued so as to allow the Parties and the Chambers to maintain their annotated transcripts. At times, requests for changes to the transcript are denied after the Court Management Section conducts its review.[70] The Registrar noted that "[t]his is the usual

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[67] *Taylor*, Trial Transcript, May 12, 2010, pgs. 11-12 (lines 11-17, 23-29, 1-11).
[68] Registrar's Submission, ¶¶ 4-5.
[69] *Id.* at ¶ 7.
[70] *Id.* at ¶ 13.

practice with regards to transcripts produced in international courts and most domestic jurisdictions,"[71] and concluded by emphasizing that no correction or modification of the record can be made unilaterally by a party.[72]

Although such errata are not frequent, requiring a Court order to make small changes in the transcripts (many errata corrections relate to errors such as spelling changes) could add further burden and inefficiency to the parties and Chambers. Following this change, the parties must make formal applications to the Court for changes to the transcripts, and wait for responses from the other party. It is unclear what the Chambers' review process for each requested change will be, or how this will affect the work of the Court Management Section. However, given the late stage in the life of the SCSL, it is unusual that Judges should make changes in procedure that would arguably decrease the efficiency of the trial, rather than increase it.

5. Witness Testimony

a. DCT-131, Karnah Edward Mineh

The tenth Defense Witness, Karnah Edward Mineh, continued his testimony this month.

i. Alleged civilian subduing tactics

Mineh's testimony contradicted that of Prosecution witness Joseph "ZigZag" Marzah, also a Liberian rebel fighter, who testified that some of the fear-inducing tactics used by the NPFL consisted of displaying human intestines at roadblocks and placing human heads on car bumpers and sticks. The Prosecution's thesis is that these alleged tactics provided the template for similar tactics used by the RUF in Sierra Leone. Mineh vehemently denied these assertions, rejecting Marzah's previous account: "What he explained to this court is not true."[73]

ii. Cross-Examination

1) Use of child soldiers by the NPFL

The Prosecution attempted to highlight internal contradictions in the Witness' testimony regarding NPFL's use of child soldiers. On direct examination, Mineh indicated that the NPFL did indeed use "children," but during his cross-examination, he defined the age of children as being between 30 and 35. He qualified his earlier statement by indicating that he was not referring to "little children." "Those who I have been talking about are people of 30 and above. I am not talking about little children," Mineh testified.[74] Furthermore, he adamantly denied the use of child soldiers by his own unit and evaded a direct

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[71] *Id.* at ¶ 9.
[72] *Id.* at ¶ 13.
[73] *Taylor,* Trial Transcript, May 3, 2010, pg. 6 (line 17).
[74] *Taylor,* Trial Transcript, May 3, 2010, pg. 14 (lines 18-19).

answer as to whether the practice was common among other units: "I said if it happened, it was never under my command."[75]

2) Treatment of civilians

The Witness indicated that his unit did not capture any civilians, but instead provided assistance to the ones displaced by the conflict. He claimed that civilians "came to [the NPFL] and we catered for them."[76]

The Witness firmly maintained that, unlike the AFL (Armed Forces of Liberia), the NPFL "treated civilians humanely" by welcoming them into controlled areas.[77] The Prosecution, however, pressed the issue of civilian mistreatment by citing the findings of the Liberian Truth and Reconciliation Commission relating to acts of torture, including rape and ill-treatment that took place in the areas supervised by the Witness in his capacity as superintendent of Nimba County.[78] Mineh denied knowledge of the violent episodes: "This matter, I did not see it because Nimba is large. Not everything reaches my desk."[79]

3) Revolutionary training in Libya

The Witness testified that Taylor visited the training camp for Liberian rebels at Tajura, Libya, three or four times during his stay there. This testimony was perhaps not entirely consistent that of Defense witness Yanks Smythe who told the Court that he never saw Taylor visit the site."[80] The Witness went on to state that he and Smythe had been at Tajura at the same time, but that he would not know if Smythe had not seen Taylor when Taylor visited the camp. The Judges will have to evaluate such nuances in determining the credibility of Mineh and Smythe, and determining whether their testimonies are in fact contradictory.

4) Plot to kill Charles Taylor

The Prosecution tried to establish that Charles Taylor personally approved the execution of anti-Taylor conspirators Anthony Mekunagbe, Oliver Varney, Sam Lato, and Degbeyee Debon, thus depriving them of due process of law. Mineh, however, declined to corroborate this thesis, indicating that, although he was aware of the executions and of the reasons behind them, he did not have direct knowledge regarding the actual decision-making process. His testimony seemed to support that of Taylor, who has denied allegations that he ordered the execution of the four men. He has maintained that they were investigated, tried, and sentenced to be executed according to the code of military conduct.

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[75] *Taylor,* Trial Transcript, May 3, 2010, pg. 17 (line 18).
[76] *Taylor,* Trial Transcript, May 3, 2010, pg. 16 (lines 24-25).
[77] *Taylor,* Trial Transcript, May 4, 2010, pg. 35 (lines 21-24).
[78] *Taylor,* Trial Transcript, May 4, 2010, pg. 37 (lines 26-27).
[79] *Taylor,* Trial Transcript, May 4, 2010, pg. 40 (lines 7-8).
[80] *Taylor,* Trial Transcript, May 3, 2010, pg. 52 (lines 7-8) (emphasis added).

b. DCT-226, Teman Edward Zaymay

The eleventh Defense Witness, Teman Edward Zaymay, was born on February 8, 1958. He belongs to the Gio ethnic group and originates from Nimba County. He was recruited into the AFL in 1979 and later joined the NPFL. Currently a farmer, the Witness is married with nine children.

i. Events leading up to the Nimba Raid

The Witness's testimony provided a chronological account of the events that preceded Charles Taylor's accession to power, beginning with the coup d'état that led to Samuel Doe's presidency. According to the Witness, Samuel Doe initially joined forces with Thomas Quiwonkpa to overthrow the Tolbert government. The coup was successful, Zaymay said, but the two leaders later had a falling out that led to Quiwonkpa—then Commanding General—leaving the country in 1983.

ii. Nimba Raid and repercussions

The Witness testified that during the Nimba Raid unidentified gunmen—allegedly from the Gio ethnic group—attacked the prosperous mining town of Yekepa, Nimba County. Specifically, Zaymay claimed that the attackers targeted the residence of Charles Julu, a prominent member of the Krahn ethnic group and then-commander of the Plant Protection Department at the Liberian-American Mining Company (LAMCO), killing his children. Zaymay told the Court that the attack had severe consequences for the Gio and Mano ethnic groups, whose members were thereafter marginalized and persecuted by President Doe's Krahn countrymen in the Armed Forces of Liberia. Zaymay depicted ethnically targeted arrests, which culminated with the killing of 300 Nimba children ranging "from 7 years old down to babies."[81] The events allegedly prompted Quiwonkpa's return, and his subsequent attempt to stage a coup against then-President Samuel Doe. The Witness testified that the coup was unsuccessful (with Quiwonkpa himself being killed), and consequently led to even harsher treatment of Nimba County citizens by presidential loyalists. Zaymay testified that citizens from Nimba County in the Liberian armed forces were selectively rounded up and executed. The Witness—also active in the Liberian army at that point—managed to flee, thus surviving.

iii. Tajura training and Charles Taylor leadership

The Witness told the Court that, along with 168 other men from Nimba County, he became part of a military group—the incipient NPFL—that was sent for training to Tajura, Libya. It was there that he allegedly first met Charles Taylor, the group's self-proclaimed de facto leader: "[F]rom today, I am your leader [. . .] I will lead you to Liberia to make a change," Taylor purportedly told the group.[82] While at Tajura, Zaymay testified that his position in the camp

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[81] *Taylor,* Trial Transcript, May 6, 2010, pg. 19 (line 8).
[82] *Taylor,* Trial Transcript, May 6, 2010, pg. 64 (lines 6-8).

as a Military Police commander providing security to Charles Taylor, allowed him to have close contact with the Accused. According to the Witness, the training lasted for two years, from 1987 to 1989.

iv. Return to Liberia

The Witness indicated that in 1989, upon completing the training at Tajura, the NPFL headed back to Liberia with the mission to overthrow Doe's government within 72 hours in a clean, swift move: "I was told by our leader at that time that this war would last for only 72 hours. It would not require much bloodshed."[83] According to Zaymay, the NPFL was to follow strict SOP ("standing operation procedure") guidelines: they were not to attack civilians, enter any foreign diplomatic residence, loot, or fire at friendly forces without orders. The Witness claimed that the attack commenced in Nimba County due to concerns that its citizens would be left vulnerable to government repercussions should the fighting have begun in Monrovia.

The Witness' description of the attack in Nimba County contained an episode that specifically raised the judges' attention: the killing by NPFL troops of a wounded prisoner of war (POW). Judge Doherty pressed the Witness about whether the NPFL had in fact killed the POW—he finally admitted that the POW had been killed. According to Zaymay, even though the prisoner was promised his life in exchange for his cooperation, insurgency leaders eventually ordered his killing, deeming it impractical to carry him or properly care for him. The killing understandably triggered heightened judicial scrutiny as it is against international law to execute prisoners of war who have laid down their arms and who have not first received a fair trial. The involvement of the Witness in the commission of such crimes could undermine his credibility in the eyes of the Judges.

Zaymay told the Court that even though the NPFL emerged successful from the Nimba episode, the attack on Moravia failed when Sam Tozay, a Special Forces officer, betrayed the insurgency and informed Samuel Doe.

v. NPFL – RUF arms trade

According to the Witness, NPFL support for the RUF was provided unbeknownst to Taylor by senior members of the NPFL—namely Anthony Mekunagbe and Timothy Mulibah—who sold arms captured by the NPFL to the RUF. In addition to providing guns to the RUF, Anthony Mekunagbe allegedly also facilitated the entry of the RUF into Sierra Leone. "[The RUF] entered though Lofa, through Anthony Mekunagbe's controlled area," Zaymay told the Judges.[84] According to the Witness, Anthony Mekunagbe and Timothy Mulibah were finally apprehended by Taylor and executed.

Zaymay's testimony appears to corroborate Taylor's testimony, during which he indicated that he disciplined several NPFL commanders because he found

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[83] *Taylor,* Trial Transcript, May 7, 2010, pg. 11 (lines 19-20).
[84] *Taylor,* Trial Transcript, May 11, 2010, pg. 22 (lines 16-17).

out that they were covertly providing assistance to the RUF, a move he opposed. The Prosecution's' theory of the case has been that that Taylor ordered the execution of Anthony Mekunagbe and Timothy Mulibah because he thought they were opposed to his leadership of the NPFL. Zaymay's testimony appears to contradict this assertion and solidify Taylor's account.

vi. NPFL use child soldiers

Another issue the Defense team has been focusing on is the alleged use of child soldiers by the NPFL. Zaymay consistently denied the use of children in combat, while acknowledging that some commanders, himself included, took displaced children under their protection and used them for household chores. When asked about the use of the term SBU ("Small Boys Unit"), the Witness indicated that it was adopted "just for fun,"[85] with the same argument being made for the army uniforms that the children were provided with. Furthermore, the Witness told the Court that the displaced children had an almost "adopted" status in the commanders' families, playing together with their biological children and sleeping in the same room with them. Lastly, the Witness denied having any knowledge regarding the alleged use of the SBU unit that was part of the Executive Mansion Guard for Taylor in the attack on Sierra Leone.

vii. NPFL treatment of civilian population

The Witness reinforced previous testimonies of Defense witnesses who told the Court that NPFL controlled areas were havens for civilians running from violence: "[T]he NPFL area was the only safe area for the civilians—that you will come, you get food, you eat, and there you sleep well. So everybody decided to run and come down to the NPFL-controlled area."[86] Zaymay said that existing forces and new recruits were briefed on the SOP, which forbade looting, rape, and attacks on civilians. The Witness claimed that those who disobeyed the SOP were punished and sometimes executed.

viii. Testimony of Prosecution witness Joseph "Zigzag" Marzah

As with previous witnesses, the Defense attempted to use Zaymay's testimony to compromise the reliability of Prosecution witness Joseph "Zigzag" Marzah. Marzah testified that he had a close relationship with Taylor, and thus positioned himself as being able to offer compromising information about Taylor's leadership of the NPFL and his involvement with the RUF. He furthermore indicated that for a portion of his membership into the NPFL, he fought under the command of Prince Johnson, before Johnson's troops defected from the NPFL. According to Marzah, under Prince Johnson's command, troops had to faithfully obey SOP guidelines regarding civilian treatment: "When you joined Prince Johnson [. . .] [a]t any time he saw something strange with you, he would either execute you, or you will go through military discipline, so there was no way you could play around with

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[85] *Taylor,* Trial Transcript, May 11, 2010, pg. 72 (line 25).
[86] *Taylor,* Trial Transcript, May 11, 2010, pg. 62 (lines 25-29).

civilians during Prince Johnson's administration."[87] However, Marzah claimed that when NPFL leader Taylor was present in the country, the disciplinary system crumbled: "When our leader himself was present in Liberia, there were more opportunities for us. We had a chance to do anything, like to loot, to rape. At the same time what you got was for you to be courageous and to battle for him."[88]

Zaymay fervently denied these allegations, pointing out that it was Taylor who had originally set in place the SOP guidelines, and claiming that therefore Taylor would not have later compromised them. According to Zaymay, the chief reason for NPFL's fast advancement to Monrovia was the informational and logistic support it received from the civilian population, who would not have provided this support, he claimed, had they been maltreated.

Zaymay told the Court that Marzah had a low ranking position in the NPFL (which in effect afforded him no contact with Taylor), was mentally ill and was addicted to drugs, which he allegedly also distributed to NPFL troops. According to the Witness, the drugs were strategically dropped by the ECOMOG in NPFL-controlled areas in order to weaken enemy troops. When NPFL leader Benjamin Yeaten learned about this, he purportedly disciplined Marzah.

ix. Cross-Examination

Prosecution strategy focused on impeaching the credibility of Zaymay by highlighting a series of factual inconsistencies between his testimony before the Court and his testimony before the Truth and Reconciliation Commission. The Prosecution also focused on the Witness's own admission of his strong support for Taylor and the NPFL cause, thus attempting to portray Zaymay as an ardent supporter, biased towards Taylor and willing to manipulate facts for the benefit of the Accused.

1) Recruitment into the NPFL and training

Prosecution counsel pointed out that in front of the Truth and Reconciliation Commission the Witness testified that it was Taylor who recruited him into the NPFL in the Ivory Coast; in front of the Court, however, he named Alfred Mehn, also known as the Godfather, as his recruiter. Zaymay attempted to rectify the discrepancy by indicating that he unintentionally made a mistake in his testimony before the Truth and Reconciliation Commission, but had not lied. He reiterated that Mehn had recruited him, but said that Mehn had acted under Taylor's orders. The Prosecution attempted to portray Zaymay as deliberately hiding information that could damage him. More specifically, Prosecution counsel pointed out that the Witness seemed to have hidden his training at Tajura from the Truth and Reconciliation Commission. Zaymay denied having intentionally hidden the information, and pointed out that it was widely known at that point that NPFL troops received their training in Libya. In

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[87] *Taylor,* Trial Transcript, May 12, 2010, pg. 27 (lines 21-26).
[88] *Taylor,* Trial Transcript, May 12, 2010, pg. 28 (lines 12-16).

the end, however, based on the record of the Truth and Reconciliation Commission, the Prosecution did admit that when asked directly whether he had received his training in Libya, the Witness had answered positively.[89]

2) Positions held within the NPFL

The Prosecution also focused on the leadership positions within the NPFL that the Witness alleged to have held. Zaymay was directly confronted with the testimony of Defense witnesses Yanks Smythe, Karnah Edward Mineh, and Taylor himself. During direct examination, the Witness testified that he led the 6th battalion in Bomi from the beginning of 1991 until November of that year. However, none of the previously mentioned witnesses testified to this fact, with Taylor referring to him only as "an Armed Forces of Liberia officer [. . .] one of the Special Forces."[90] Furthermore, the Witness himself made no mention of this position when interrogated by the Truth and Reconciliation Commission. Zaymay nevertheless reaffirmed his earlier testimony, telling the Court that previous witnesses might not have recalled him leading the 6th battalion due to the brief period of time that he held the position. As to the Truth and Reconciliation Commission, he indicated that its inquiry focused on the reasons behind his decision to join the NPFL and not the positions that he held throughout the duration of the conflict: "[The] TRC only asked me to explain what I knew about the Liberia war, what the cause was, what caused us to take arms against a constituted government. And I explained. They never asked me when I was a commander."[91]

3) NPFL treatment of civilian population

As part of its inquiry into NPFL treatment of civilian population, the Prosecution addressed the compensatory/sustenance system within the organization. According to the Witness, the troops had most of their food voluntarily provided by the civilian population, and did not loot in order to obtain it: "Whenever we captured a town, the citizens would give us foodstuffs and they welcome us and provide foodstuff for us."[92] Furthermore, the Witness indicated that starting in 1992, a formal NPFL remuneration system was set in place, with commanders receiving funds from the Ministry of Finance. Prosecution counsel, however, offered detailed rebuttals to Zaymay's testimony, quoting the testimonies of Karnah Edward Mineh and Taylor himself, who both had told the Court that NPFL only provided food—it did not pay salaries. Following this exchange, the Witness conceded that, while he did receive money to compensate the troops, he also received food supplies: "It might have been subsistence, [. . .] [b]ut I did receive money and I went and paid the soldiers, including food. I am not lying."[93]

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[89] *Taylor,* Trial Transcript, May 17, 2010, pg. 45 (lines 12-17).
[90] *Taylor,* Trial Transcript, May 17, 2010, pg. 71 (lines 12-14).
[91] *Taylor,* Trial Transcript, May 17, 2010, pg. 72 (lines 1-5).
[92] *Taylor,* Trial Transcript, May 18, 2010, pg. 7 (lines 8-10).
[93] *Taylor,* Trial Transcript, May 18, 2010, pgs. 12-13 (lines 26-27; lines 3-4).

Prosecution counsel confronted the Witness with the findings of the Truth and Reconciliation Commission, which ranked NPFL as the leading revolutionary group with regards to crimes against the civilian population, including rape, sexual slavery, and other dehumanizing forms of violence. Zaymay reaffirmed its earlier testimony by telling the Court that NPFL-controlled areas were the "best amongst all the safe areas for civilians,"[94] and that no crimes were committed based on his direct knowledge of the facts. "I never saw it. I never heard it," he claimed.[95]

4) Use of child soldiers

Zaymay told the Court under cross-examination that the NPFL never formally recruited child soldiers and that the commanders created their SBUs on their own initiative, and not at Taylor's direction. In support of the argument that children were not forced to join the NPFL, he testified that one of the three boys that he took under his protection was reunited with the boy's family when his parents came to him and claimed the boy. Furthermore, he indicated that he never saw Taylor with any SBUs.

c. *DCT-228, Joseph Menson Dehmie*

The twelfth Defense Witness, Joseph Menson Dehmie, is 41 years old and was born in Nimba County, Liberia. He belongs to the Gio ethnic group. While a member of the NPFL from 1990 to 1997 he raised to the rank of colonel. Specifically, he was a radio operator for the NPFL, and while in this position known by the pseudonym Bearcat. Currently, the Witness is a junior student at the African Methodist Episcopal University, Liberia, majoring in accounting.

i. Alleged RUF training at Bomi Hills

The Witness testified that he joined the NPFL willingly, while in exile following President Doe's persecution of citizens living in Nimba County. He received his training at Gborplay, Liberia, and subsequently became a radio operator for the NPFL.

More specifically, Defense counsel focused on the time the Witness spent at Bomi Hills as a radio operator, from September 1990 through September 1992. This interval is of high relevance to case as, according to Prosecution witness, Dauda Aruna Fornie (also known as DAF), it was at Bomi Hills around that time that about 300 RUF rebels received their advanced military training. Initially, Dehmie told the Court that there were no foreigners at Bomi Hills, just Liberians. However, later in his testimony, Dehmie did mention that Fornie, a Sierra Leonean, performed chores around the house for him. The Witness

[94] *Taylor,* Trial Transcript, May 18, 2010, pg. 16 (lines 27-28).
[95] *Taylor,* Trial Transcript, May 18, 2010, pg. 20 (line 27).

testified that Fornie came to him as a malnourished boy, looking for help. Dehmie vehemently denied having been aware of the fact that Fornie was an RUF member or a soldier, claiming that he learned about it for the first time as the Defense questioned him about it in Court.[96] Dehmie also denied having provided radio communication training for Fornie.[97]

ii. ULIMO attempt to unseat Charles Taylor

Dehmie testified about efforts made by the United Liberation Movement for Democracy in Liberia (ULIMO)—a rival rebel faction formed in Sierra Leone—to overthrow Charles Taylor as leader of the NPFL. To this end, Dehmie corroborated previous Defense witness's testimony that NPFL commanders General Degbon, Anthony Mekunagbe, One Man One, and Oliver Varney betrayed Taylor and conspired with ULIMO forces. According to Dehmie, the four were not successful, and were eventually apprehended, court-martialed, and executed.

iii. Alleged RUF training at Bomi Hills

The Witness was again confronted with the testimony of Dauda Aruna Fornie, who gave detailed descriptions of NPFL activity at Bomi Hills. Fornie claimed that he had privileged access to information because he was a member of the RUF radio unit. Fornie specifically testified that he had received messages and information from Dehmie. Furthermore, Fornie told the Court that Dehmie was the one who taught him radio communication. Again, Dehmie forcefully denied Fornie's testimony and attempted to dispel the Defense's argument that Fornie could have learned radio communication without his knowledge from General Degbon. Dehmie told the Judges "[DAF] was not trained. He didn't know radio operations."[98] Dehmie did, however, concede that even though his position required him to monitor all radio communication on NPFL frequencies, NPFL radios could potentially have used other frequencies for communication, and thus went undetected. Dehmie denied being aware of any exchange of radio operators between the NPFL and the RUF between 1991 and 1992.

iv. Locations of NPFL radio stations in Liberia

Defense counsel asked Dehmie to mark on a map of Liberia all radio stations in operation between the years 1995 – 1997[99]; locations are as follows:

- **Lofa County: Voinjama and Zorzor**
- **Bong County: Gbarnga**
- **Margibi County: Kakata**
- **Grand Bassa County: Buchanan**

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[96] *Taylor,* Trial Transcript, May 19, 2010, pg. 136 (lines 5-9).
[97] *Taylor,* Trial Transcript, May 19, 2010, pg. 130 (lines 8-12).
[98] *Taylor,* Trial Transcript, May 20, 2010, pg. 18 (lines 16-18).
[99] The radio stations were active intermittently, depending on NPFL control of the named areas; the specific time intervals are to be found in *Taylor,* Trial Transcript, May 20, 2010.

- **Nimba County: Tappita and Ganta**
- **Sinoe County: Greenville**
- **Grand Kru County: Barclayville**
- **Maryland County: Harper**

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